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SYLWADAU HWYR

Pwyllgor PWYLLGOR CYNLLUNIO

**Dyddiad ac amser
y cyfarfod** DYDD MERCHER, 7 CHWEFROR 2018, 10.00 AM

Os gwelwch yn dda gweler ynghlwm Cynrychiolaeth Atodlen hwyr a dderbyniwyd mewn perthynas â cheisiadau i gael ei benderfynu yn y Pwyllgor Cynllunio hwn

Sylwadau Hwyr 07.02.18 (*Tudalennau 1 - 48*)

Mae'r dudalen hon yn cael ei adael yn wag yn fwriadol

LATE REPRESENTATIONS SCHEDULE
PLANNING COMMITTEE – 7TH FEBRUARY 2018

| | |
|-------------------|---|
| PAGE NO. 1 | APPLICATION NO. 15/02960/MNR |
| ADDRESS: | 30 SPRINGFIELD GARDENS |
| | |
| FROM: | Cllr McKerlich |
| | |
| SUMMARY: | See Attached |
| REMARKS: | <p>Section 1 – refer to paragraphs 8.10, 8.11, 8.12 and 8.17 of Officer’s report.</p> <p>Section 2 – refer to paragraphs 8.11, 8.12 of Officer’s report.</p> <p>Section 3 – refer to paragraph 8.2 of Officer’s report.</p> <p>Section 4 – refer to paragraph 8.11 of Officer’s report.</p> <p>Sections 5, 6 7, 8 & 9 – refer to Drainage Engineers advice in Section 8.3 of Officer’s report.</p> <p>Section 10 – refer to Transportation Officer’s advice in Section 5.1 of Officer’s report.</p> <p>Section 11 – refer to paragraph 8.14 of Officer’s report.</p> <p>Section 12 – refer to paragraph 8.7 of Officer’s report.</p> <p>Section 13 - refer to Drainage Engineers advice in Section 8.3 of Officer’s report.</p> <p>Section 14 – refer to paragraph 8.2 of Officer’s report.</p> |

Submission from the Morganstown Community Against the Development of 30 and 38 Springfield Gardens

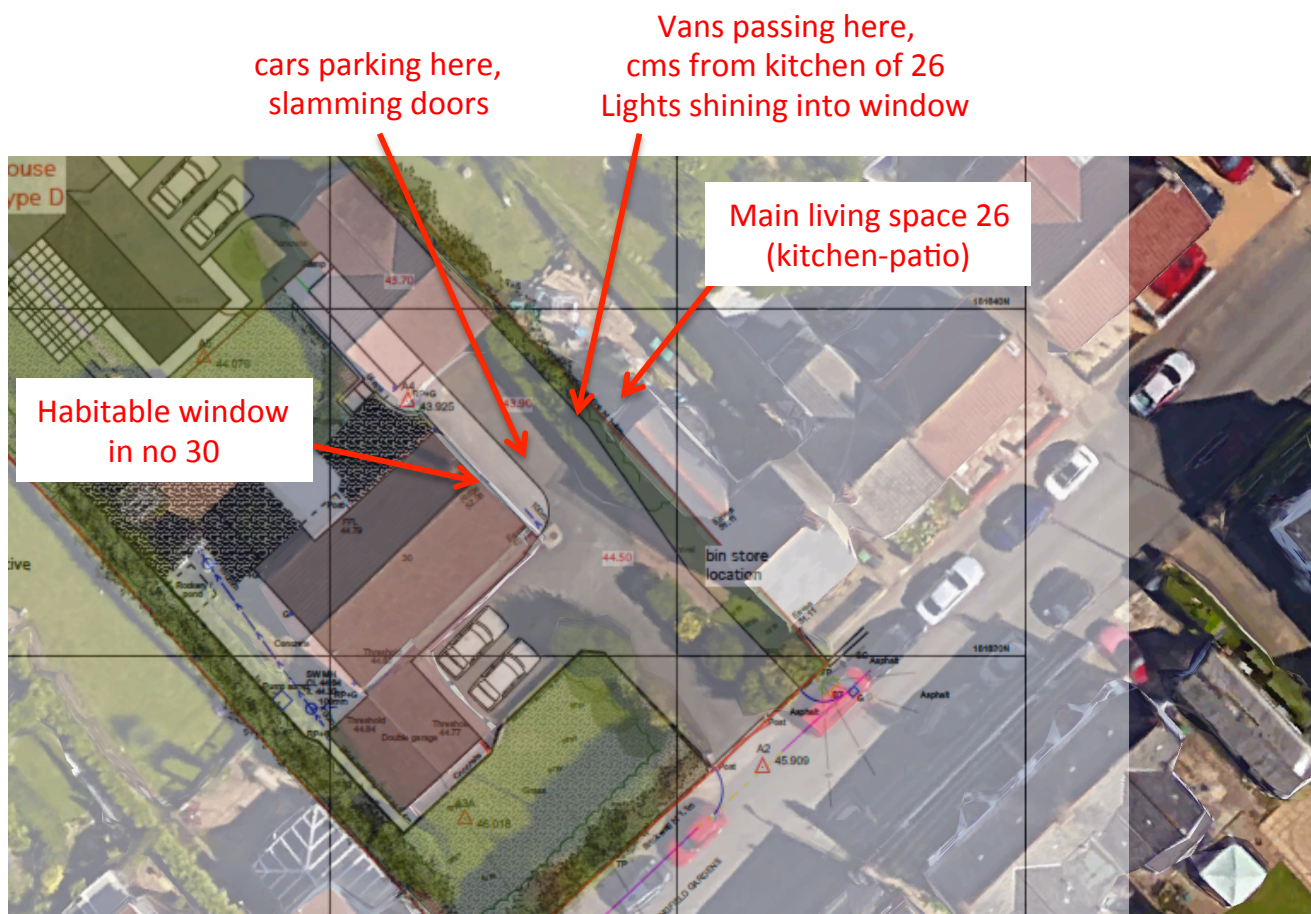
We hope you will consider the numerous objections our community has to this application. Caroline Lear (Professor of Earth Science) and Trevor Bailey (PhD in Geology) have researched the local geology and consulted expert hydrogeologist Dr Mark Cuthbert.

1. Consistency of Decision is a material consideration

- Overturning a previous decision without solid reason is legally risky
- Previous application was for two houses (smaller impact than current proposal)
- Previous refusal was for loss of privacy and amenity
- Privacy and amenity remain important material considerations
- Application should be refused to ensure consistency of decision

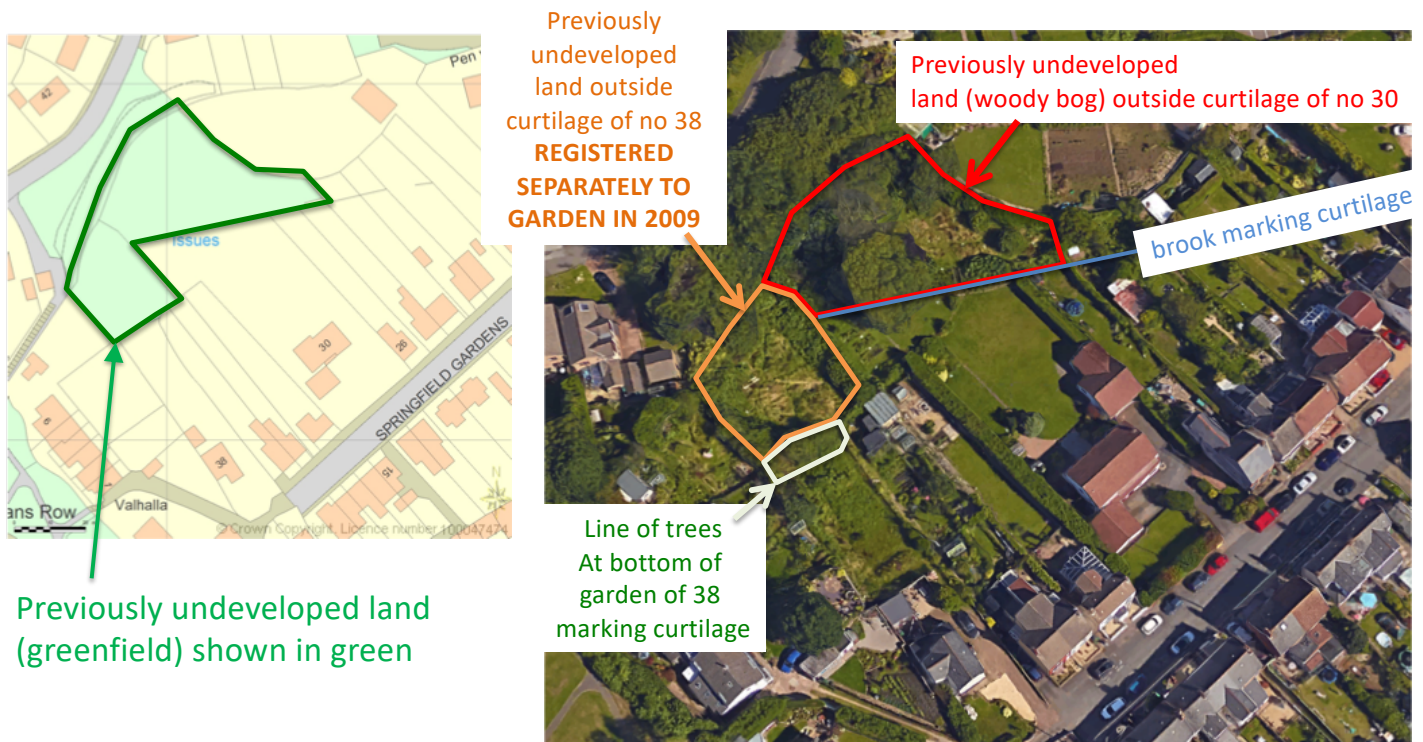
2. Loss of Privacy and Amenity to 26 and 30 Springfield Gardens

- Loss of amenity (noise, headlights, fumes) and privacy to numbers 26 and 30.
- Strong enough to be grounds for previous refusal
- Access road runs down entire length of narrow garden of 26
- 2D noise assessment cannot simulate impact of new road on this sloping site.



3. Building on a Greenfield Site

- Parts of proposed development area are beyond the curtilage of nos 30 and 38.
- These areas used to be a woody bog and community allotments
- Categorised as **previously undeveloped** (Figure 4.4 Planning Policy Wales).



Several mature trees destroyed by developer. Area will recover if not developed.

4. Loss of Amenity and Green Space

- The open green space is a major residential amenity of the neighbouring houses on Ravensbrook, Springfield Gardens and Teamans Row.
- The seclusion and freedom from the sight and noise of traffic is the main reason that residents choose to live on Teamans Row.

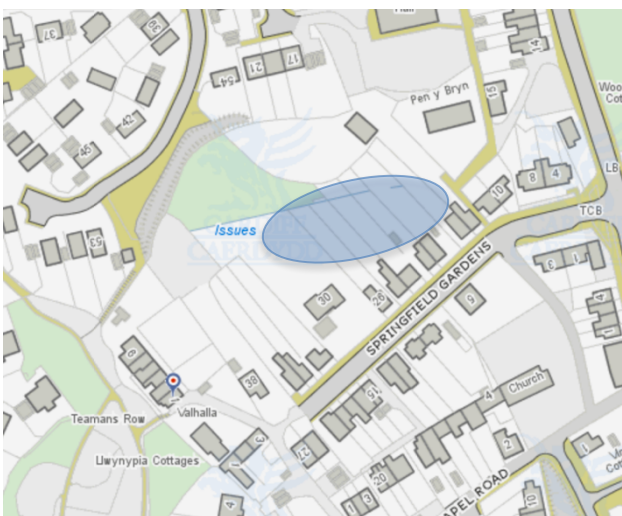
5. Information submitted must be proportionate to known flood history

- Planning report states “It is worth noting the application is classified as a ‘minor’ development and as such, the information submitted must be proportionate.”
- But proposed development area has a known history of major flooding (one resident recalls swimming there), and neighbouring gardens already flood annually. Flooding has been reported to Council prior to application.
- The area has complex geology and hydrogeology, including a nearby major geological boundary, lenses of permeable gravels and impermeable clays, groundwater fed springs, subsurface flows of water, and a thick peat deposit holding water.
- The Drainage Strategy / FCA does not include ANY of this key information, and therefore has NOT demonstrated either low (or reduced) flood risk to proposed and existing properties.
- Flood risk (surface and groundwater) to **many existing properties** and sewage pumping station is a major concern, regardless of size of development.



Clear evidence for flood risk

16 Springfield Gardens after just 2 days of rain



Many existing properties would be affected by flooding

Together, this demands that a ‘proportionate’ surface and groundwater flood risk assessment would take note of all the information provided above.

6. Increased flood risk to existing downstream existing properties

- Drainage strategy/FCA assumes *all* runoff enters brook relatively *quickly*.
- If true, development wouldn't increase volume of water entering existing culverts, and flow rate could be reduced by flow controllers, reducing flood risk.
- However, the catchment contains a large, thick deposit of peat, which can swell and absorb water, attenuating runoff flows. This acts as our **neighbourhood's sustainable drainage solution** (an important amenity ignored in the plans).
- Development would pave over peat attenuation store, and runoff would be piped direct into brook. This could increase total water volume *and* flow rates into culvert compared to current situation.
- Hydraulic properties of peat are extremely complex and variable, and have not been analysed on site in different weather conditions. Building over the peat could increase flood risk.

Detailed geological map showing peat deposit. Likely to be thousands of years old, and thick. This acts as our neighbourhood's Sustainable Drainage Solution, but would be paved over by the development.



7. Groundwater Flood Risk

- Brook flows from groundwater springs, and proposed development area has history of flooding.
- Water table is near the surface in this area.
- Neighbouring gardens suffer from flooding whilst the culvert has spare capacity. This area has very complex hydrogeology, and it cannot be assumed that land above the culvert (including proposed development area and sewage pumping station) is immune from groundwater flooding.

Flooding above culvert in 16 Springfield Gardens following 2 days of rain. This occurs several times per year (not predicted by drainage strategy calculations).



Position of water table after 2 weeks of dry weather in 16 Springfield Gardens.

- WSP consultants state long-term groundwater monitoring is required to assess the current groundwater flood risk (via FOI request) but this has not been done, and Planning Officers have removed this condition. The evidence above suggests the risk is high.
- **It is common practice to use historical information to gauge future flood risk, why has it been ignored here?**

8. Flood Risk could increase in short to medium term future

- Groundwater emerges in proposed development area (springs).
- About a decade ago the 'bog' was much wetter than today – permanently impassable and frequent flooding.
- Cause of change unknown – possibilities include quarry dewatering (see below) or changing weather patterns on decadal timescales (e.g., UK's extreme rainfall events are controlled by the North Atlantic Oscillation).
- CEMEX Ltd currently dewater. Quarry has finite reserves, *when* they cease dewatering, groundwater within and around quarry void *will* rise, potentially increasing flows to area. Whilst far from certain, CEMEX Ltd hydrogeologist agrees impossible to rule out this scenario (as of February 2018). End to dewatering is a medium-term certainty, not a hypothetical scenario. *Sustainable* houses should outlive quarry operations and natural climate variations.
- Bottom line: Our community knows the bog is **currently abnormally dry**. To some extent the cause is irrelevant. It may well revert back to its typical oversaturated conditions (that produces the peat), with more frequent groundwater flooding. This would not be predicted even from seasonal monitoring.

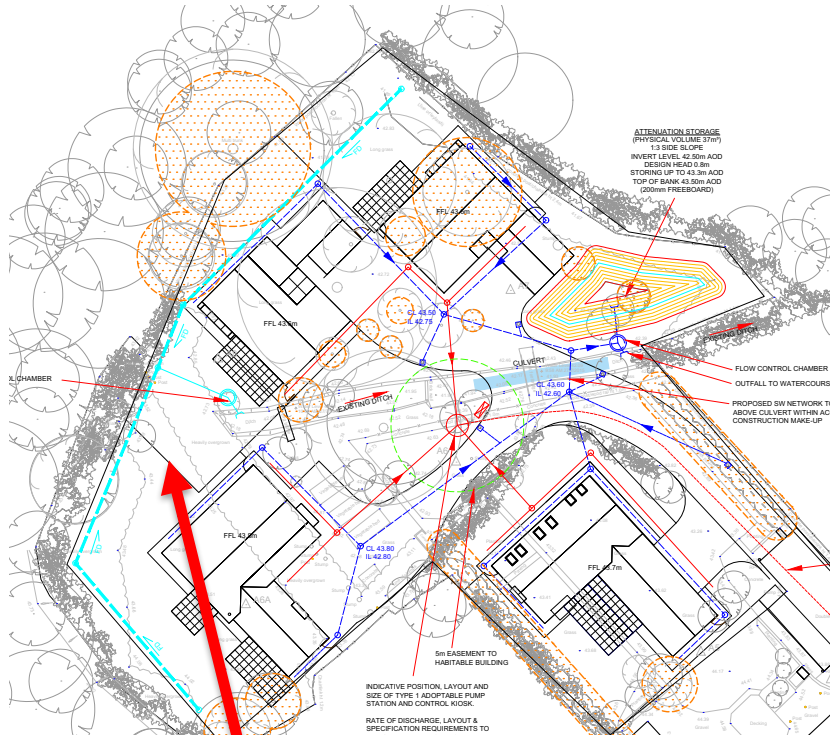


[January 30th 2018 – CEMEX Ltd hydrogeologist revised his original estimates of water table AODs provided in letter to committee 8/1/18 but still maintains quarry closure could increase flows to area].

Email from CEMEX Ltd: “Cessation of quarry dewatering could result in increased groundwater flow to the spring given that the spring is down hydraulic gradient of 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.”

9. Applicant has not provided all details required for Drainage Strategy

- Drainage strategy should include a map showing all manholes, pipes and culverts.
- Manhole over piped subsurface stream in proposed development area has not been disclosed (despite applicant strimming this area):



Manhole observed during Site Visit 31/1/18

- What is the route of the subsurface stream? Does it pass under a proposed house?
- How many other manholes / subsurface streams have not been disclosed to Drainage Officers?
- Developer has felled trees in the wood and strimmed the land, but not managed to provide data from infiltration tests.

10. Increased vehicles and decreased parking

- Parking on Springfield Gardens is oversaturated.
- Satellite image below shows a typical daytime scene.



- In evenings some residents forced to park as far away as Ty Nant Pub.



- Local residents know if they park nose to nose they can fit 7 cars from no 30's driveway to top of Springfield Gardens.
- Widening driveway will remove one more precious space.
- One more shift worker parking far from home (e.g. by Ty Nant pub).

11. Unstable soil banks

- NW and SW facing boundaries comprise unstable soil banks, one of which suffered a partial collapse last year which was not noticed by the applicant's engineer.

12. Overdevelopment of land

- Tight development, garden spaces only just reaching the minimum required.
- A smaller development would not entail building on greenfield sites near groundwater springs, culverting the biodiverse brook, or building close to unstable banks.

13. Cardiff Council Policy on Culverts

- Cardiff Council's policy: "In considering new development proposals...Culverting should not be considered until other options have been thoroughly explored".
- Given the approval of Cardiff's LDP, the increase in housing stock (of just the 2 houses which necessitate the culvert) doesn't justify the 'last resort' option of culverting a biodiverse brook.

14. Sustainability

- A Material Consideration, should be considered for every Council decision.
- Cardiff's LDP is designed to create an increase in sustainable housing stock.
- The planning report does not contain any reference to sustainability.
- 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.
- Highways Officer states that the access road will be used for overspill parking, with no footway it will not be safe for children to walk to local park.
- Drainage conditions contain no details on possible groundwater "mitigation" – engineering solutions for groundwater flooding tend to be energy-intensive dewatering pumps.

In summary, we believe there are many good reasons why this development should be refused permission. The developer has underestimated the complexity of the hydrogeological environment and the significance of the impact the development would have on the local area and its amenities. We understand the Council will draw up its own reasons, but we consider there are at least four matters which justify refusal:-

- Its adverse impact on the amenities of neighbouring residents through noise and disturbance, loss of privacy, loss of vegetation and availability of parking;
- Its failure to recognise and to address flood risk from groundwater and surface water or to prepare an adequate drainage strategy;
- Its unsustainable location;
- Its poor design (over development).

Many thanks for your consideration, the Morganstown Community Against the Development of 30 and 38 Springfield Gardens.

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| PAGE NO. 50 | APPLICATION NO. 16/03067/MNR |
| ADDRESS: | LAND OFF MILL ROAD, TONGWYNLAIS |
| FROM: | Neighbouring and local residents |
| SUMMARY: | <p>Following consultation on the amended plans, some eleven further representations have been received objecting to the application. In summary, the objections/concerns are as follows;</p> <p>There is little change from original plans and previously submitted objections remain;</p> <p>The site is located in an area sensitive to development, on the southern slopes of Castell Coch, which is a scheduled ancient monument, and close to a Special Area of Conservation and a Site of Special Scientific Interest (SSSI). The proposed dwelling will be prominent, over-bearing and will detract from the visual amenity of immediate neighbours and from further afield;</p> <p>Permitting the development will lead to a presumption of further development even though historical planning records show earlier refusal on grounds of site sensitivity, amenity and highways considerations;</p> <p>The building will deprive views of Castell Coch to passers-by including the many tourists who visit the monument;</p> <p>Adverse effects on highway safety / convenience of road users. Any further access on to Mill Road would pose significant dangers due to existing heavy traffic and parking demands and the alignment of the road;</p> <p>The potential spreading of the Japanese knotweed across the site and neighbouring gardens;</p> <p>The content of the ecology survey is questioned. Destruction of habitats for a wide variety of wildlife:</p> <p>Loss of privacy;</p> <p>Drainage/flooding concerns remain.</p> |
| REMARKS: | Attention is drawn to paragraphs 8.10-8.19, 8.21 and 8.25 of the officer report. |

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| PAGE NO. 50 | APPLICATION NO. 16/03067/MNR |
| ADDRESS: | Land off Mill Road, Tongwynlais |
| FROM: | Cllr Mike Jones Pritchard |
| SUMMARY: | The Councillor advises that he will be requesting a site visit in respect of the application. He also confirms that he will be declaring an interest as he wrote a letter of objection to the application early last year and will sit as a ward member and not as a planning committee member |

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| REMARKS: | Noted |
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| PAGE NO. 50 | APPLICATION NO. 16/03067/MNR |
| ADDRESS: | LAND OFF MILL ROAD, TONGWYNLAIS |
| FROM: | Tongwynlais Community Council |
| SUMMARY: | <p>The Community Council objects to the application for the following reasons (summary):</p> <p>There has already been an application submitted to Cardiff City Council for a residential development on this land historically, which was rejected.</p> <p>The plans shows a large area marked as “future residential development”, but there are no plans or documentation to support this development making it impossible to calculate the full impact of the proposal.</p> <p>Having regard to scale of the dwelling and its siting on top of an embankment the overall impact for residents on Mill Road is more reflective of a 5-6 storey building than a two storey house. This will make a very imposing building having a dominating effect on properties on Mill Road, Castle Road, Castell Coch View and Wellington Street.</p> <p>The proposed dwelling will offer no privacy for any resident to the property and will enable its occupiers to see directly into the rear windows and gardens of properties on Wellington Street.</p> <p>It is also not in keeping with any other dwelling on Mill Road, Castle Road or Wellington Street, which all have the front elevation facing the road.</p> <p>To build a property of the size proposed may require building up the embankment to provide support and prevent any subsidence. This would involve using the embankment to the side of the applicant’s land which belongs to Cardiff City Council and not the applicant.</p> <p>Any further development on the plot of land would require a new access road to be cut into the embankment, as the single track lane shown on the plans is not adequate to support traffic from the existing properties, without the added impact of further residential or construction vehicles needing access to the site.</p> <p>Alongside the area for development is a public footpath that is well used by local residents, as well as tourists to the</p> |

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| | <p>village who often mistake it for access to Castell Coch. The proposed 1.8 metre fencing will make this footpath into a dark alleyway and completely remove the current open aspect which is an attraction of the site.</p> <p>The proposed dwelling will not be screened by trees in the surrounding area as the majority have already been removed and destroyed by the applicant.</p> <p>The applicant had begun clearing the area of land prior to ecological and wildlife surveys being conducted, which may be considered to be a deliberate attempt to remove any wildlife and provide misleading information. The area is known to be rich in wildlife with foxes, badgers, hedgehogs, voles, toads and slowworm. Many of these are protected species under the Wildlife and Countryside Act 1981.</p> <p>The area of land is also known to have Japanese knotweed, which was noted in the ecological survey.</p> <p>This area of land is one of the remaining green spaces in the village and provides an iconic view of Castell Coch for all who travel to the village and those travelling along the M4 or on the A470. Any development on the land would give the impression that this Ancient Monument is set in amongst a housing estate and would do nothing to preserve or enhance its setting. The scale of the development would impede the view of Castell Coch for residents on Mill Road and Castell Coch View, having a detrimental effect on the enjoyment of the village.</p> <p>Traffic congestion is problematic in Tongwynlais particularly on Mill Road, which is heavily used by commuters from Caerphilly and those wishing to avoid the M4 and A470. Throughout the day cars are parked on both sides of Mill Road making it difficult for traffic to flow and adding to congestion. Any additional residential development will increase traffic and congestion in what is already a very problematic area and have a negative effect on highway safety.</p> <p>Any development on this land will have an impact on drainage and would impact on existing drains on Mill Road, Merthyr Road and Wellington Street. . Any surface water run-off from this elevated land may cause potential problems for residents on Wellington Street and Mill Road and could cause a flood risk.</p> <p>The LDP shows the land as a non-strategic housing site, reference H1.9 with an estimate of five dwellings. It is therefore already assumed prior to the application that the</p> |
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| | <p>land is appropriate for housing long before any surveys had been conducted.</p> <p>The Community Council, noting the amended plans, comments that the proposed dwelling will still be dominating in its intended location and overbearing for properties on adjacent Mill Road and Wellington Street. It states that the design of the property is still not in keeping with other properties in the village and that its objections to the application still apply.</p> |
| REMARKS: | Refer to paragraphs 8.3, 8.10 - 8.22, 8.23 and 8.25 of the Officer report. |

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| PAGE NO. 50 | APPLICATION NO. 16/03067/MNR |
| ADDRESS: | LAND OFF MILL ROAD, TONGWYNLAIS |
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| FROM: | Head of Planning |
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| SUMMARY: | |
| REMARKS: | <p>Add following additional condition:</p> <p>The first floor windows in the west facing elevation of bedroom 2 shall be non-opening below a height of 1.7 metres above internal floor level, glazed with obscure glass and thereafter be so retained.</p> <p>Reason: To ensure that the privacy of adjoining occupiers is protected in accordance with Policy KP5: Good Quality and Sustainable Design of the Cardiff Local Development Plan.</p> |

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| PAGE NO. 75 | APPLICATION NO. 17/00489/MNR |
| ADDRESS : | 51 LLANTRISANT STREET |
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| FROM: | Agent |
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| SUMMARY: | <p>The Agent would like the Committee Members to be made aware of the following recent appeal decisions within the vicinity of the application site.</p> <p>The appeal decisions at No.36 Wyeverne Road, Cardiff (17/3169335) relates to an application for an almost identical proposal.</p> <p>Despite the LPA's adopted SPG, the inspector concluded that ' <i>Having regard to all the evidence that is before me, I conclude that the proposal would not cause any adverse effects on the amenity and/or character of the area, and it</i></p> |

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| | <p><i>would comply with the objectives of LDP Policies H5 and KP5.'</i></p> <p>To my knowledge, the LPA do not have any new evidence to contradict the inspectors conclusion or decision.</p> <p>I would be grateful if the attached email could be attached to the application file, as this may be required as evidence if the application is refused and subsequently my client appeals the decision.</p> <p>Please refer to attached Appeal Decisions.</p> |
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| REMARKS: | Noted |

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 10/05/16

Ymweliad â safle a wnaed ar 10/05/16

gan Alwyn B Nixon BSc(Hons) MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 22/06/16

Appeal Decision

Hearing held on 10/05/16

Site visit made on 10/05/16

by Alwyn B Nixon BSc(Hons) MRTPI

an Inspector appointed by the Welsh Ministers

Date: 22/06/16

Appeal Ref: APP/Z6815/A/15/3140589

Site address: 16 Rhymney Terrace, Cardiff CF24 4DE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Quin & Co Ltd against the decision of Cardiff County Council.
- The application Ref 15/02571/MNR, dated 14 October 2015, was refused by notice dated 11 December 2015.
- The development proposed is change of use from a dwellinghouse to an 8 bedroom house in multiple occupation (HMO – sui generis) along with a single storey rear extension, rear dormer roof extension, insertion of 2 No. roof lights to the pitched roof and associated internal alterations.

Appeal Ref: APP/Z6815/A/15/3140590

Site address: 17 Letty Street, Cardiff CF24 4EJ

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Quin & Co Ltd against the decision of Cardiff County Council.
- The application Ref 15/02538/MNR, dated 13 October 2015, was refused by notice dated 10 December 2015.
- The development proposed is single storey rear extension, rear dormer roof extension, insertion of 2 No. roof lights in pitched roof, associated internal alterations and change of use from C3 to HMO Sui Generis.

Appeal Ref: APP/Z6815/A/16/3141810

Site address: 93 Richards Street, Cardiff CF24 4DD

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Quin & Co Ltd against the decision of Cardiff County Council.
- The application Ref 15/02805/MNR, dated 10 November 2015, was refused by notice dated 24 December 2015.
- The development proposed is single storey rear extension, rear dormer roof extension, insertion of 2 No. roof lights in pitched roof, associated internal alterations and change of use from C3 property to 8 bedroom house in multiple occupation (sui generis).

Decision

Appeal 1: APP/Z6815/A/15/3140589

1. The appeal is allowed and planning permission is granted for change of use to an 8 bedroom house in multiple occupation (HMO – sui generis) and a single storey rear extension, rear dormer roof extension, insertion of 2 No. roof lights to the pitched roof and associated internal alterations at 16 Rhymney Terrace, Cardiff CF24 4DE in accordance with the terms of the application, Ref 15/02571/MNR, dated 14 October 2015, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Appeal 2: APP/Z6815/A/15/3140590

2. The appeal is allowed and planning permission is granted for change of use to an 8 bedroom house in multiple occupation (HMO – sui generis) and a single storey rear extension, rear dormer roof extension, insertion of 2 No. roof lights to the pitched roof and associated internal alterations at 17 Letty Street, Cardiff CF24 4EJ in accordance with the terms of the application, Ref 15/02538/MNR, dated 13 October 2015, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Appeal 3: APP/Z6815/A/16/3141810

3. The appeal is allowed and planning permission is granted for change of use to an 8 bedroom house in multiple occupation (HMO – sui generis) and a single storey rear extension, rear dormer roof extension, insertion of 2 No. roof lights to the pitched roof and associated internal alterations at 93 Richards Street, Cardiff CF24 4DD in accordance with the terms of the application, Ref 15/02805/MNR, dated 10 November 2015, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Procedural and Background Matters

4. The three appeals concern very similar proposals by a single appellant at three separate addresses within the same group of terraced streets in Cathays. The proposals were refused permission by the Council for identical reasons. Given the similarities in the appeals and the evidence advanced and nature of the issues in each case, a joint hearing was held at which the cases were heard together. Notwithstanding this, however, I have considered each case as a separate proposal and reached my decision on each appeal based on its individual merits.
5. In each case the application to the Council was partnered by a separate application seeking planning permission for the physical alterations and extensions to the property comprised in the appeal proposals, but without seeking a change of use of the property to an 8 bedroom HMO. The Council has approved these other applications. At each of the three properties, therefore, an extant planning permission exists for the physical alteration and enlargement of the house to the same extent as sought by the appeal proposals. The works authorised by these permissions are well underway at each of the properties; in the case of 16 Rhymney Terrace they are largely complete.
6. At the time that the Council determined the appeal applications the development plan in force comprised the Cardiff Local Plan (adopted in 1996); the Council additionally

relied on policies in the deposited written statement of the Cardiff Unitary Development Plan (UDP) (to 2016), which was produced in October 2003. However, the Council has subsequently adopted the Cardiff Local Development Plan (LDP) 2006-2026. The LDP now comprises the development plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004 and replaces the former local plan and UDP written statement as the local planning policy context for the determination of these appeals.

7. At the time of the Council's decisions the authorised use of the three properties the subject of these appeals was in each case a dwellinghouse falling within Class C3 of the Use Classes Order. However, the Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2016 amended the scope of Class C3 and introduced a new Class C4 Houses in Multiple Occupation. This change does not alter the position as regards the proposed HMO uses, since in each case this would still be sui generis as the occupation of the enlarged properties would exceed the limit of six residents to which the new Class C4 applies. However, there was some disagreement at the hearing as to whether the three properties should be regarded as benefiting from a Class C3 or a C4 use at present, following the introduction of Class C4. Following the hearing I sought further evidence from the Appellant and the Council on this matter, and allowed an opportunity for each to comment on the additional evidence provided by the other. I have taken this additional material into account in reaching my decisions.
8. At the Hearing an application for costs was made by Quin and Co Ltd against the Council. This application is the subject of a separate Decision.

Main Issues

9. The main issue is the same for each appeal. In each case it is the effect of the proposal on the amenity and character of the area, having regard to objectives of maintaining sustainable and balanced communities, and whether the proposal conflicts with prevailing planning policies in this respect.

Reasons

10. The Council says that with the adoption of the new LDP the key development plan policies against which the proposals must now be judged are LDP policies H5 *Sub-Division or Conversion of Residential Properties* and W2 *Provision for Waste Management Facilities in Development*. The adoption of the LDP does not alter the Council's stance in relation to the appeal proposals; it regards the thrust of LDP policies H5 and W2 as similar to that of the former draft UDP, in particular policies 2.22 and 2.74. Although the Council has also provided details of LDP policies KP5 *Good Quality and Sustainable Design* and T5 *Managing Transport Impacts* it does not consider that there is a conflict with these two policies in any of the present cases.
11. LDP policy H5 permits conversions to flats or HMOs where four separate provisos are met. The Council's position is the same in respect of 16 Rhymney Terrace, 17 Letty Street and 93 Richards Street. In each case it considers that the conversion proposal is acceptable as regards internal and external layout and space standards (proviso i), safeguarding the amenity of existing nearby residents in terms of general disturbance, noise and overlooking (proviso ii) and parking provision (proviso iv). From my assessment of each site and its surroundings I find no reason to disagree with this. However, the Council considers in each case that the proposal conflicts with proviso iii

of policy H5, namely that the cumulative impact of such conversions will not adversely affect the amenity and/or the character of the area.

12. The objectives of policy H5 are to support the creation of attractive sustainable development for self-contained flats and HMOs and to promote good design and layout. The supporting text to the policy also notes that the subdivision of a residential building into smaller residential units can be an important source of housing, giving a new lease of life to buildings which might be redundant or economically unviable in their current use.
13. The three properties all lie within the same dense complex of residential streets close to the concentration of university buildings and facilities nearby. The area has a high proportion of HMOs, reflecting (in part at least) the high demand from students for conveniently located accommodation. Using the measure of percentage of other properties in HMO use within a 50 metre radius of each appeal site, the Council says that 59% of the properties around 16 Rhymney Terrace are already in HMO use and that the figures for 17 Letty Street and 93 Richards Street are 54% and 50% respectively.
14. In order to assess the implications of each proposal it is necessary to establish the existing position as regards the potential occupancy of each property. The context for this altered on 25 February 2016, with the introduction of the new Class C4 use, covering HMOs consisting of 3-6 unrelated persons. Prior to this, such properties fell within the Class C3 dwellinghouse use.
15. The appellant's final comments dated 26 March 2016 stated that the three appeal properties were all in use as shared accommodation as of 25 February 2016 when the new 3 – 6 person HMO C4 use class came into effect. At the hearing the Council's officers questioned this in relation to 93 Richards Street and 16 Rhymney Terrace, pointing out that only 17 Letty Street is licenced for multiple occupancy. The appellant's response was that it does not necessarily follow from this that the properties were not being used in this way as a matter of fact. I also heard from a local Councillor that 93 Richards Street was solely occupied by an elderly lady at least until late 2014, and there is correspondence from this address which appears to corroborate this. Since the recently-permitted alterations were in each case well underway or virtually complete at the time of my inspection, no indication of the nature of the most recent pattern of occupancy was apparent at any of the properties.
16. In response to my request for further evidence from the main parties concerning the occupancy of the appeal properties as at 25 February 2016 the appellant has submitted a tenancy agreement and HMO licence in respect of 17 Letty Street demonstrating that the property was occupied as a HMO from at least 2012. Copies of assured shorthold tenancy agreements relating to 93 Richards Street and 16 Rhymney Terrace dated 19 February 2016 and 6 June 2015 respectively have also been provided. In the case of 93 Richards Street it is said that the property was occupied by unrelated building contractors who were living at the property up to 22 April 2016 whilst they were finishing off the renovation of the property. This is said to be a common arrangement between the building contractors and Quin & Co Ltd to keep living costs down for the contractors concerned whilst in Cardiff, but was also undertaken to ensure that when the regulations changed, the use became Class C4 HMO on the appointed day. A HMO licence was not applied for because of the limited period that the contractors would have been in situ and because the intention was to apply for a "sui generis" HMO use. As regards 16 Rhymney Terrace, the tenancy agreement is for occupation of the house by unrelated building contractors for six

months following purchase by the owners thus establishing a Class C4 use before they moved out to enable more comprehensive building works to take place. Again a HMO licence was not applied for because of the limited time that the contractors would be in situ and also because the intention was to apply for a "sui generis" HMO use.

17. The Council accepts that 17 Letty Street was a Class C3 dwelling operating as a HMO prior to 25 February 2016, and therefore comes within the new Class C4 use following the change to the Use Classes Order. However, it contends that at the time the applications were considered and at the relevant date of 25 February 2016 the use of 93 Richards Street and of 16 Rhymney Terrace was a Class C3 family home and not a house in shared multiple use. In support of this position the Council has provided email responses from its Council tax, private sector housing and electoral services sections confirming that the records held by these sections contain no evidence that either 93 Richards Street or 16 Rhymney Terrace was in multiple occupation at or prior to 25 February 2016.
18. In relation to the disputed 93 Richards Street and 16 Rhymney Terrace the appellant has provided documentary evidence which supports his statement that both properties had the benefit of a multiple occupancy use when the new Class C4 came into effect. Whilst the Council says that none of its various record systems contain any evidence that the properties have acquired a HMO use, the information provided by the Council does not to my mind negate the appellant's evidence. The assured shorthold tenancy agreements are a clear demonstration of a formal (albeit somewhat calculated) multiple occupancy arrangement in place at each property prior to the effective date of the new Class C4.
19. In the light of all of the above I am satisfied that 93 Richards Street and 16 Rhymney Terrace, along with 17 Letty Street, could (and in all probability would) be used as HMOs accommodating up to 6 people regardless of the outcome of these appeals. The essential question concerning each appeal is therefore the difference that occupation of the property concerned by 8 unrelated persons as opposed to 6 would make as regards the character and amenity of the locality.
20. Each of the three proposals is acknowledged by the Council to be acceptable in itself as regards the resulting standard of development for its occupants, the quality of design of the alterations concerned and any effects on the living conditions of adjoining occupiers.
21. The Council considers that each proposal would result in unacceptable cumulative harm to amenity because the increased proportion of transient residents in the area and proliferation of vacant properties in the summer months would lead to less community cohesion and place higher demands on social, community and physical infrastructure. In relation to this last matter, particular emphasis is placed on the resulting burden on waste management and street cleansing services. Other matters including higher numbers of complaints of noise and disturbance, worse crime statistics, a proliferation of letting boards and disruption caused by the associated building works are also cited as adverse consequences of a high number of conversions to HMO use. The Council pointed to recent Welsh Government-backed research and evidence from its own monitoring of different wards within Cardiff which supported its position.
22. I recognise that a high concentration of HMO use within an area may give rise to issues of the kind that the Council and others present at the hearing have described. However, whilst proviso iii of LDP policy H5 requires that the cumulative impact of

such conversions should not adversely affect the amenity and/or the character of an area, and this is echoed by advice at paragraph 9.3.3 of Planning Policy Wales (PPW), I do not consider that in any of these cases a change from occupancy by 6 unrelated persons to occupancy by 8 persons on the same basis would have any material effect on the character or amenity of the locality within which the appeal property concerned is situated, particularly since HMO use is already established as an equally present use alongside family housing. Whilst I understand the Council's general concern that many small intensifications of HMO use may cumulatively cause increased issues of social cohesion and undermine the balance and sustainability of a local community over time, the newly-adopted LDP policy H5 does not suggest any particular point beyond which further intensification of HMO occupancy will be considered less favourably. Although the Council is preparing supplementary planning guidance (SPG) which aims, amongst other things, to provide specific guidance on this point, this draft SPG has only just gone out for public consultation, and will need to be reviewed in the light of the responses received before being considered for adoption by the Council. Accordingly I do not find that the draft SPG attracts any weight at this time.

23. Since the 3 properties are likely to continue in HMO use even if the appeals were not to succeed the proposals will make no difference to the number and proportion of properties in HMO use in their respective locations within the Cathays ward. Whilst I acknowledge that occupancy of each property by a larger number of unrelated persons may bring with it marginally greater issues of domestic rubbish control and street litter, these are matters largely for management and resolution via effective organisation of services and community engagement strategies. Although the Council contends in each case that the proposals conflicted with draft UDP policy 2.74 (now replaced by LDP policy W2 *Provision for Waste Management Facilities in Development*), it accepts that adequate provision of facilities for the storage, recycling and other management of waste can be made at each property to cater for the proposal. Conditions can be imposed to ensure that this occurs. Consequently I conclude that all 3 proposals comply with policy W2, and are capable of meeting the standards set out in the Council's *Waste Collection and Storage Facilities* SPG.
24. I have also considered the points made concerning the proliferation of letting boards in areas of high HMO concentration, and the effect of builders' skips in the street. However, I understand that the Council regulates the former; and I do not regard the temporary presence of skips as a justifiable reason to withhold permission. In any event, the physical alterations to all 3 properties have already been granted permission, and the works are substantially underway or nearing completion in each case. Whilst I accept that the occupancy of properties by groups of students may on occasion result in noisy behaviour I do not regard the minor change in the level of occupancy of each property as likely to materially change the prevailing character or amenity of the neighbourhood. Other measures are available to tackle persistent nuisance or disturbance.
25. Set against these contended adverse effects on character and amenity, the proposals contribute to the maintenance and improvement of the physical fabric of the neighbourhood. In addition, the proposals contribute to meeting the city's housing need for students and single working people, in a location close to the university and the city centre.

Conditions

26. I have considered the conditions suggested by the Council in the event that the appeals might succeed; the suggested conditions are very similar in each case,

reflecting the similarity of the developments concerned. Although physical alterations to each property pursuant to the alternative applications submitted to the Council have in each case commenced, I have decided that the conditions relating to these works should be re-imposed here, since it is plainly the appellant's intention to implement these permissions in preference to those already granted.

27. I shall impose conditions relating to the provision of cycle storage facilities and waste bin storage facilities, to ensure that these are properly provided in an appropriate location as part of the developments, in the interests of amenity. Conditions are also needed relating to the treatment of the boundaries of each site in the area of the rear extension, in order to safeguard the privacy of adjoining occupiers. For the same reason I shall impose a condition in each case to prevent the flat roof of the extension being used for amenity or recreational space by future occupants. Finally, I shall impose matching external materials conditions, to ensure that the developments harmonise with their surroundings.

Conclusion

28. Overall, I conclude that in each of these cases the proposal would not materially harm the amenity or character of the area and would not materially undermine objectives of maintaining sustainable and balanced communities. The proposals accord with LDP policy W2. There is an element of tension with proviso iii of LDP policy H5 in relation to the potential cumulative adverse effects of an overconcentration of HMO developments on the character and/or amenity of an area. However, given my conclusion that each property already benefits from an existing shared use by unrelated persons and the minor degree of change in these terms associated with each proposal I find no material conflict with LDP policy H5 or national guidance as contained in PPW. In addition, each proposal would make a small contribution to meeting housing need for students or other single persons within central Cardiff. Having regard to all matters raised I find that the balance of considerations indicates that permission should be granted in each case, subject to the conditions set out below.

Alwyn B Nixon

Inspector

Schedule of Conditions - APP/Z6815/A/15/3140589: 16 Rhymney Terrace, Cardiff CF24 4DE

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - A101 Ground Floor Proposed
 - A102 First Floor Proposed
 - A103 Second Floor Proposed
 - A104 Elevations As Proposed
 - A104A Elevations As Proposed
 - A105 Site Plan As Proposed
- 3) Prior to first occupation of the altered premises at least two undercover and secured cycle spaces shall be provided within the rear garden and shall thereafter be retained and maintained at all times.
- 4) Prior to first occupation of the altered premises one 240 litre bin and one 140 litre bin for general waste and one 25 litre bin for food waste shall be provided within the rear garden, and shall thereafter be retained.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order amending, revoking or re-enacting that Order) no windows shall be inserted in the side elevation of the single storey rear extension facing No. 14 Rhymney Terrace.
- 6) Prior to the beneficial use of the ground floor rear extension a 1.8m high solid means of enclosure shall be erected along the boundary between the application site and No. 18 Rhymney Terrace opposite the extension facing that property. This means of enclosure shall be retained at all times.
- 7) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used on the existing building.
- 8) Prior to its beneficial use, the rear dormer hereby approved shall be finished in materials to match the roof of the existing dwelling.
- 9) The flat roof of the extension hereby approved shall not be used for any type of external amenity space or recreational space whatsoever.

Schedule of Conditions - APP/Z6815/A/15/3140590: 17 Letty Street, Cardiff CF24 4EJ

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - A107 Site – As Proposed
 - A108 Ground Floor As Proposed

- A109 First Floor Proposed
 - A110 Second Floor As Proposed
 - A111 Elevations As Proposed
 - A112 Elevation As Proposed
- 3) Prior to first occupation of the altered premises at least two undercover and secured cycle spaces shall be provided within the rear garden and shall thereafter be retained and maintained at all times.
 - 4) Prior to first occupation of the altered premises one 240 litre bin and one 140 litre bin for general waste and one 25 litre bin for food waste shall be provided within the rear garden, and shall thereafter be retained.
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order amending, revoking or re-enacting that Order) no windows shall be inserted in the side elevation of the single storey rear extension facing No. 19 Letty Street.
 - 6) Prior to the beneficial use of the ground floor rear extension a 1.8m high solid means of enclosure shall be erected along the south eastern boundary of the curtilage of the site adjacent to the extension. This means of enclosure shall be retained at all times.
 - 7) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used on the existing building.
 - 8) Prior to its beneficial use, the rear dormer hereby approved shall be finished in materials to match the roof of the existing dwelling.
 - 9) The flat roof of the extension hereby approved shall not be used for any type of external amenity space or recreational space whatsoever.

Schedule of Conditions - APP/Z6815/A/16/3141810: 93 Richards Street, Cardiff CF24 4DD

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - A107 Site Plan As Proposed
 - A108 Ground Floor As Proposed
 - A109 First Floor As Proposed
 - A110 Second Floor As Proposed
 - A111 Elevations As Proposed
 - A112 Elevation As Proposed
- 3) Prior to first occupation of the altered premises at least two undercover and secured cycle spaces shall be provided within the rear garden and shall thereafter be retained and maintained at all times.

- 4) Prior to first occupation of the altered premises one 240 litre bin and one 140 litre bin for general waste and one 25 litre bin for food waste shall be provided within the rear garden, and shall thereafter be retained.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order amending, revoking or re-enacting that Order) no windows shall be inserted in the side elevation of the single storey rear extension facing No. 95 Richards Street.
- 6) Prior to the beneficial use of the ground floor rear extension a 1.8m high solid means of enclosure shall be erected along the south west boundary of the curtilage of the site adjacent to the extension. This means of enclosure shall be retained at all times.
- 7) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used on the existing building.
- 8) Prior to its beneficial use, the rear dormer hereby approved shall be finished in materials to match the roof of the existing dwelling.
- 9) The flat roof of the extension hereby approved shall not be used for any type of external amenity space or recreational space whatsoever.

APPEARANCES

FOR THE APPELLANT:

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| Jeremy Peter MRTPI | Agent for the Appellant |
| John Pinn MA | Appellant |

FOR THE LOCAL PLANNING AUTHORITY:

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| James Moore BSc, MSc | Principal Planner, Cardiff County Council |
| Owen Rees | Development Control Planner, Cardiff County Council |
| Mark Hancock BA Hons, MRTPI | Development Control Planner, Cardiff County Council |
| Jennifer Sadler MSc | Waste Strategy Officer, Cardiff County Council |
| Violet Lee | Waste and Minimisation Strategy Officer, Cardiff County Council |

INTERESTED PERSONS:

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| Cllr Elizabeth Clark | Cathays Ward Member, Cardiff County Council |
| Cllr Sarah Merry | Cathays Ward Member, Cardiff County Council |
| Cllr Chris Weaver | Cathays Ward Member, Cardiff County Council |
| Richard Brydon | Local resident; Chairman, Police and Communities Together for Cathays area |
| Eva Broughton | Local resident |

DOCUMENTS HANDED IN AT THE HEARING

- 1 Statistical data submitted by Council showing correlation between crime rates and concentration of HMOs.
- 2 Council's draft SPG – Evidence concerning relationship between environmental issues and concentration of HMOs.
- 3 Documents illustrating issues attributed to the level of multiple occupancy housing in Cathays Ward, submitted by Cllr Clark
- 4 Analysis of HMO concentration around 16 Rhymney Terrace
- 5 Correlation between waste-related issues and incidence of HMOs.

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 04/04/17

gan **P J Davies BSc (Hons) MA MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 25.05.2017

Appeal Decision

Site visit made on 04/04/17

by **P J Davies BSc (Hons) MA MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 25.05.2017

Appeal Ref: APP/Z6815/A/17/3169335

Site address: 36 Wyeverne Road, Cardiff CF24 4BH

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Yapp against the decision of Cardiff County Council.
- The application Ref 16/02547/MNR, dated 18 October 2016, was refused by notice dated 27 January 2017.
- The development proposed is ground and first floor rear extension, hip to gable loft conversion and conversion from C4 HMO to 8 bed sui generis HMO.

Decision

1. The appeal is allowed and planning permission is granted for ground and first floor rear extension, hip to gable loft conversion and conversion from C4 HMO to 8 bed sui generis HMO at 36 Wyeverne Road, Cardiff CF24 4BH in accordance with the terms of the application, Ref 16/02547/MNR, dated 18 October 2016, subject to the conditions in the attached schedule.

Main Issue

2. The Council does not object to the proposed extensions and roof alterations and I do not disagree. The main issue relates to the change of use and its effect on the character and amenity of the area.

Reasons

3. The appeal property is a mid-terrace property operating as a house in multiple occupation (HMO) under Use Class C4¹. It is therefore capable of lawful occupation by up to 6 persons, and the appeal seeks to increase this occupation to 8 persons, a *sui generis* HMO use. The property is situated in the Cathays Ward in a dense residential area close to Cardiff University and the city centre, where there is an existing high concentration of properties in similar use. Indeed the Council's supplementary planning guidance on HMOs² (SPG) establishes that 58% of the City's HMOs are located in Cathays.

¹ Town & Country Planning (Use Classes) Order 1987 as amended

² Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance Approved October 2016

4. Policy H5 of the Cardiff Local Development Plan (LDP) permits HMO conversions subject to a number of criteria including that the cumulative impact of such conversions should not adversely affect the amenity and/or character of the area. Policy KP5 is also relevant insofar as it seeks good quality and sustainable design by, amongst other things, providing a diversity of land uses to create balanced communities.
5. The SPG records the impacts that high concentrations of HMOs clustered in small geographical areas can have. These include a greater demand for infrastructure such as waste collections and on street parking, a higher proportion of private rented housing and transient residents, potentially leading to less community cohesion and undermining community facilities, a proliferation of vacant properties during holiday periods, and an impact on crime. The occurrence of these issues is supported by Welsh Government research³ and in the Cathays Ward itself the SPG contains empirical data such as incidences of street cleansing enforcement and crime which indicate that these are issues relevant to the local context. Nonetheless, the appeal property is already operating as a HMO, and my assessment of the impact of the proposed development is limited to 2 additional residents.
6. The information contained in the SPG identifies the higher than average calls made to the Council's waste management department in terms of street cleansing requests and enforcement in the Cathays Ward. However, the Council's Waste Management Service does not object to the proposal and refuse storage provision exists to the front of the property. In the context of this dense residential environment, waste from 2 additional residents would not be substantial and would not place any serious demands on the Council's waste collection service, which would already be servicing the property in any event. The SPG also highlights population and demographic change with Cathays containing a high proportion of private rented housing. In addition, 76.5% of people are aged between 15 – 29, with only a small proportion of residents aged 0 – 15. Nonetheless, and as paragraph 4.5 of the SPG explains, demographic change cannot be used as a determinant of something that is positive or negative. I am not aware of any direct or quantified evidence to confirm that an additional 2 residents would have any material effect on existing community or social infrastructure. Similarly, because the appeal property is an existing HMO, any consequences that might arise from the vacation of the property at certain times of the year would be insignificant.
7. I have had regard to the data in the SPG which purports to show a general link between high concentrations of HMOs and crime and anti-social behaviour. I also note the statistics provided by South Wales Police which relate to incidents in the vicinity of Wyeverne Road specifically. However, I have little information to suggest that an additional 2 residents would materially increase the risk of crime. Whilst pointing to the link between HMOs and crime, South Wales Police have no strong objection to the development and advocate an advisory approach to crime prevention and security measures in this case.
8. The SPG identifies a threshold at which the level of HMOs is deemed to be such that it has a detrimental impact upon the community. In Cathays this is set at 20% within a 50 metre radius of the proposed HMO, and evidence provided by the Council indicates that 72% of the properties surrounding the appeal property are HMOs. As the appeal property is an existing HMO, the proposal would not contribute to the existing breach

³ Houses in Multiple Occupation (HMOs) review – Report of findings May 2015

of the threshold in this case. Nevertheless, paragraph 5.10 of the SPG states that an existing Class C4 HMO will not automatically be permitted to become a *sui generis* HMO. The SPG explains that this is because if the concentration in the area is high, then by definition a larger HMO use will only likely heighten the issues caused by HMOs. Even so, my assessment against this threshold is again based on the effects that 2 additional residents might have. As the 20% threshold has been significantly exceeded, the character and amenity of the area is already substantially changed, and the impact of 2 additional residents, cumulatively or otherwise, would be negligible.

9. The development would provide adequate living standards for its future occupiers and given the existing concentration of HMOs in the vicinity, it would be unlikely to lead to any significant residential amenity problems such as general disturbance or noise. In addition, provision for cycle parking can be secured by planning condition so that there would be no undue effects on existing parking demand in the area. Moreover, the appeal property is in an accessible and sustainable location close to shops, public transport and other community and recreational facilities. It would make an, albeit minor, contribution to the diversity of land uses in the area and provide a small but important source of housing without upsetting the existing community balance.
10. Having regard to all the evidence that is before me, I conclude that the proposal would not cause any adverse effects on the amenity and/or character of the area, and it would comply with the objectives of LDP Policies H5 and KP5.
11. I have considered the Council's suggested conditions. In addition to the standard commencement and plans compliance conditions, I have attached a condition restricting occupation to 8 persons in order to safeguard living standards for future occupiers. In the interests of privacy I have imposed conditions relating to window glazing and restricting the use of the flat roof area. A condition relating to external materials is also necessary to ensure that the extensions are in keeping with the surroundings. As set out in my reasoning, a condition requiring the provision of cycle parking would ensure that the development has a minimal effect on existing car parking demand in the interests of highway safety, and it would provide a sustainable choice of transport. I have amended the wording of the suggested condition so that it is more precise. I have also removed the requirement for undercover storage as I consider that this would be onerous and would potentially reduce the external amenity space available to the residents of the HMO.

Other Matters

12. I have taken account of other appeal decisions, including those made in respect of 26 and 34 Wyeverne Road. Nonetheless, these decisions were made prior to the adoption of the Council's SPG which is a material consideration in this case. Although the appellant expresses concern over the consultation process and the content of the SPG, this is not a matter for my jurisdiction in this case.
13. In reaching my decision, I have taken account of the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WCFG Act.

Conclusions

14. For the above reasons, and having regard to all other matters raised, I conclude that the appeal is allowed.

P J Davies

INSPECTOR

Schedule of Conditions

- 1) The development shall begin not later than five years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans and documents: Front, Rear and Side Elevations Proposed Plan No. BWD2/A/4/a; Ground Floor Proposed Plan No. BWD2/5/a/b; First Floor Proposed Plan No. BWD2/6/a; Second Floor Proposed Plan No. BWD2/A/5/a.
- 3) No more than 8 occupants shall reside at the property at any time.
- 4) Prior to the use of the property as an 8 person sui generis house in multiple occupation, 8 secured cycle parking spaces shall be provided and shall thereafter be retained for this purpose at all times.
- 5) The upper floor windows in the side elevation facing No 38 Wyeverne Road shall be obscurely glazed and non-opening below a height of 1.7 metres above internal floor level and thereafter so be maintained.
- 6) The flat roof of the single storey extension hereby approved shall not be used at any time as a sitting out or other recreational area.
- 7) The materials to be used in the construction of the external surfaces of the ground and first floor rear extensions and the roof alterations hereby permitted shall match those used on the equivalent elements of the existing building.

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| PAGE NO. 87 | APPLICATION NO. 17/01292/MJR |
| ADDRESS : | LAND AT SUFFOLK HOUSE, TRADE STREET, BUTETOWN, CARDIFF |
| FROM: | Head of Planning |
| SUMMARY: | Typing error in condition 17 'Prior to <u>completion</u> of the development.....' |
| REMARKS: | Amend condition 17 to read: 'Prior to commencement of development.....' |

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| PAGE NO. 239 | APPLICATION NO. 17/01963/MJR |
| ADDRESS: | LAND OFF MYNACHDY ROAD, GABALFA |
| FROM: | Councillors Wood and Taylor (Gabalfa) |
| SUMMARY: | <ul style="list-style-type: none"> • The plans [as amended] do not appear to give any consideration to cyclists, there are no dedicated cycle paths or other adjustments to accommodate their use at this junction. I would note the speed of the traffic on the slip road, the positioning of the junction on a bend as well as being on a hill, this is likely to increase the risk to cyclist. This oversight is particularly concerning given the planning application cites sustainable transport as a key element of the development and is used to attempt to justify the parking provision and scale of the development proposed. • The approach to the junction is situated on a bend and vehicles exiting the junction will cross the line of traffic, the topography at this location will mean vehicles will face uphill towards the junction which partially obscured the view for vehicles on the slip road. • The proximity of the vehicular access road to the boundary with the railway/network rail land is a concern, the incline of the road surface up to Radyr Place junction requires embankments as can be seen in the plans. To prevent any potential risk of land slip onto the railway/network rail, I would urge the planning committee to consider a retaining wall along this section as a requirement. • The plans provide for tactile paving at the junction, these |

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| | should be angled to face each other, e.g. perpendicular to the road. The curbs should also be dropped at this location. |
| REMARKS: | <p>Concerns regarding provision for cyclists within the revised access arrangement for the site are noted. The detailed design of the access road and junction with Radyr Place would be controlled by way of condition 12. The LPA would consider the accessibility of the site access for pedestrians, cyclists and vehicles when determining any application to discharge this condition. The Operational Manager – Transportation raises no objection to the revised location of the access subject to this condition.</p> <p>The location of tactile paving and other such detailed design matters would be considered as part of any discharge of condition application for the access.</p> <p>The Operational Manager – Transportation raises no objection to the revised location of the access on highway safety grounds. Additionally, part of the s106 contribution sought would be used to improve the accessibility of the site for pedestrian and cyclists and may involve the provision of raised tables or other such speed reducing measures.</p> <p>The gradient of the proposed access road and any requirement for the provision of a retaining wall to protect Network Rail’s land would be considered as part of any submission in discharge of Condition 12.</p> |

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| PAGE NO. 239 | APPLICATION NO. 17/01963/MJR |
| ADDRESS: | LAND OFF MYNACHDY ROAD, GABALFA |
| FROM: | Mr Iain Claridge |
| SUMMARY: | <p>I note Cllr. Wood’s very sensible thoughts on the dangers of the Radyr Place junction as now proposed by L(00)021 REV B PROPOSED SITE PLAN 1-200 SHEET 1 and that this junction plan is essentially the same as that dated January 2018 and put on the website as 8592- 510_P1 for application 17/00985/MJR.</p> <p>I also note that the 5 covering letters to Certificate B notices put on the 17/01963/MJR documents at 15 January do not show the actual Certificate B notice and therefore fail to make clear whether permission is being sought for 17/01963/MJR (350 flats plus community centre) or 17/00985/MJR (249 flats no community centre. This, together with the developer’s continued interest in</p> |

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| | <p>advancing the planning process for 17/00985/MJR, requires further clarification for residents to know exactly what is being asked for.</p> <p>I note from today`s South Wales Echo that the Mynachdy Institute trustees have now resigned and the "council is taking steps to secure the building". Clearly the residents now need to know who now owns and controls the building.</p> <p>I presume the Certificate B served on the council`s Strategic Estates was with reference to the site`s importance for possible Metro development and rail electrification rather than in anticipation of the council taking over the institute.</p> <p>I therefore remind the council that the trustees who have now resigned held the lease only in haphazard continuation from the Mynachdy Welfare Association and wish to be informed of the current legal ownership of the Institute. As the application 17/01963/MJR includes the re-development of the Institute I do not see how it can go forward until ownership is settled and a proper consultation carried out.</p> |
| <p>REMARKS:</p> | <p>The acceptability of the amended entrance junction has been considered in paragraphs 8.13 -8.16 of the Committee Report.</p> <p>Application ref: 17/00985/MJR is a discharge of condition application relating to outline planning application ref: 11/00863/DCI. There is no requirement for notice to be served on landowners, or leaseholders, for such applications. The notices served on 15th January relate to the planning application under consideration (17/01963/MJR).</p> <p>The Mynachdy Institute were consulted on the proposed development on three separate occasions. How they communicate with trustees or locals is not a material consideration in the determination of this application. No objection has been received from the Welfare Association regarding the application proposal.</p> <p>The applicants have confirmed and demonstrated that they have served the appropriate notice on all parties within an interest in the land to enable the application to be determined. The LPA have no reason to question this.</p> <p>The potential future provision of the South Wales Metro is considered in paragraph 8.8 of the committee report.</p> |

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| | <p>The ownership of the Mynachdy Welfare Association is a property matter and not a material consideration in the determination of this planning application.</p> <p>Notice was served under Certificate B on the Strategic Estates Department of the Council as the Council holds the freehold interest in the Mynachdy Welfare Association building/land.</p> |
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| PAGE NO. 239 | APPLICATION NO. 17/01963/MJR |
| ADDRESS: | LAND OFF MYNACHDY ROAD, GABALFA |
| FROM: | Julie Morgan AM |
| SUMMARY: | <p>I need to make the following late representations on behalf of my constituents in respect of the above application. I am sorry I have been unable to bring these to your attention sooner.</p> <p>Notice to Owners of Title WA47283</p> <p>In my representations of 4th December 2017 I drew attention to the fact that the applicant's Certificate Bin its application did not include the owners of the land on which the Mynachdy Institute stands, Title WA4 7283 since which time the application has been amended. The applicant relies on a letter dated 15th January 2018 for discharge of its obligation to bring the amended application to the attention of the owners of this title. I do not accept that the applicant has complied with Art 10, Town and Country Planning (Development Management Procedure) (Wales) Order 2012/801.</p> <p>The applicant has served notice by a letter addressed to the Mynachdy Institute at the Mynachdy Institute. This is a serious procedural error. As reasonable enquiry of the Land Registry shows as of today - see accompanying Copy of Title registers issued and easily obtained by on-line search by my office this morning costing £3 - the title is still vested in 3 trustees who hold on behalf of the Mynachdy Welfare Association (MWA). Lawful service on the MWA and its trustees is only achieved by service on the addresses given in the Proprietorship Title of the Register. I submit that the applicant has not taken reasonable steps to ascertain the names and addresses of every such person as required by Art 10(1)(b) of the Order. The Order does not permit an applicant to substitute its own short cut to service. The Order requires the names and addresses of owners to be</p> |

ascertained and failing that provides a long stop arrangement where there is difficulty, viz, by publication of a notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated. Beyond all shadow of doubt, the applicant has not complied with Art. 10.

A further aggravating factor in this case is that the Council, its Leader and its lawyers are aware that for some years the Mynachdy Institute has been in the control of a group of persons who have been acting unconstitutionally in the affairs of the MW A. I understand that since Christmas this group has purported to give up the keys of the Institute to the Council rather than account to the MWA members in a constitutional way. Accordingly, the Mynachdy Institute has over the last month been in the exclusive control (but not possession) of the Local Authority, apparently boarded up, which means that the applicant's letter dated 15th January 2018 could not possibly have reached the trustees named in the Proprietorship Register.

Throughout this application the applicant has approached matters in a seemingly slapdash way when it comes to third party interests. This is wholly unsatisfactory. It is in the applicant's interests to comply with the letter of the law otherwise any planning determination made on the application will be open to challenge by judicial review in the High Court.

Proposed Metro Stop on the Planning Application Site

In the pre-planning document put out to the public by the developer in its consultation it promised a Metro stop on the site, subject to Welsh Government funding. Residents who called at the developer's drop in consultation event on 5th July 2017 were encouraged to believe that this was an important attraction of the scheme. The developer thereby created a legitimate expectation on the part of residents that space for such a stop would be built into their plans. Indeed mention of provision for a Metro stop in the central courtyard is made at paragraph 6.16 of the planning statement formulated during the pre-application consultation. This is published on the LP A's website.

The Welsh Government has not ruled out such a stop on the site. It is reasonable to expect the LPA to enquire of the Welsh Government what arrangement should be made to preserve such potential future development (which, for example, could be protected by the imposition of a planning condition).

Mynachdy already residents feel neglected, left behind and ignored. They lost their bus service despite protesting about the difficulties this would cause many elderly and disabled people in the community. There is a strong feeling that the authorities do not listened to them. There is a special obligation on the Council to stand up for them and properly investigate what can be done to put them on the Metro map and preserve that opportunity, if possible.

In his report to the Planning Committee the Development Manager argues that future potential use is not a relevant planning consideration. The same point was made by the Planning officer responsible for handling the case, Nick Beckley, at the site visit. He said "we can't take possible plans about the Metro into account" or words to that effect. I submit this is not a correct statement of the law.

The correct approach is not for the LPA to exclude a future potential use per se, but to determine whether there are exceptional circumstances which make a future potential use a material planning consideration - see *Lisle-Mainwaring v Carroll* (2017] EWCA Civ 1315. The LPA can only do that if adequate enquiries have been made on the future potential use by either itself or the developer and these are put before the Planning Committee.

The case for holding that there are exceptional circumstances is stronger here because (i) the applicant introduced the issue in its pre-application consultation in an attempt to induce residents to support the scheme; (ii) taking it into account is not fatal to the developer's application: it is not as if it is an entirely different use of the site.

Japanese Knotweed

I have also specifically been asked by residents to raise with the LPA the danger of Japanese Knotweed. I am told until about 4 or 5 months ago there was a notice erected at the site, approximately where a new entrance is proposed, warning of the presence of this invasive species. The notice has been subsequently removed. As you will know, the invasive root system and strong growth of this plant can damage concrete foundations, buildings, flood defences, roads, paving, retaining walls and architectural sites. Safe disposal of the plant material without spreading is known to be very difficult. Knotweed is classed as controlled waste in the UK, and disposal is regulated by law. Residents are very concerned that shortcuts will be taken to their detriment.

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| | <p>Conclusions</p> <p>For the first two above reasons, in my submission the application should be further adjourned for matters to be rectified. This is a controversial application and it is important that the LPA takes special care not to expose itself to legal challenge for its processing and assessment of the application.</p> <p>If ultimately planning consent is given on an adjourned meeting, then a specific condition should be imposed dealing with the detriment posed by the invasive plant, Japanese Knotweed.</p> <p>I would be grateful if these representations could be circulated to the Planning Committee as Late representations.</p> |
| <p>REMARKS:</p> | <p>The applicants have stated that they have served the appropriate notice, under Certificate B, on all relevant parties.</p> <p>The Council has been informed by the Mynachdy Welfare Association, that as at the 7 January 2018 all trustees and members of the management committee had resigned.</p> <p>The application has been advertised by the LPA in the local press and on site (including site notices for the amended plans). As such, it is considered that the Local Planning Authority has undertaken its statutory duties in publicising the application.</p> <p>With regard to concerns raised over Japanese Knotweed, conditions are proposed to ensure that any land contamination is appropriately dealt with.</p> <p>With regard to the Metro</p> <p>An application for planning permission has to be determined on its own merits in accordance with the provisions of the development plan and to ‘any other material considerations’.</p> <p>The legal case quoted (Lisle-Mainwaring v Carroll (2017] EWCA Civ 1315) held that only in “exceptional circumstances’ would an alternative proposal be a material</p> |

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| | <p>consideration. Even in such an exceptional case, if the alternative proposal was to be a material consideration, it could not be inchoate or vague, and there had to be a real possibility of it being implemented in the foreseeable future.</p> <p>As detailed in the Committee Report, there is currently no certainty regarding the proposed Metro, what form one might take or what infrastructure would be necessary if delivered. As such, restricting development or imposing conditions at this time would be considered unreasonable.</p> |
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| PAGE NO. 239 | APPLICATION NO. 17/01963/MJR |
| ADDRESS: | LAND OFF MYNACHDY ROAD, GABALFA |
| FROM: | Andrew Bates – Geraint John Planning Ltd |
| SUMMARY: | <p><u>Comments received in response to the late representation from Julie Morgan AM.</u></p> <p>Serving of Notice and General Notification of the Proposed Scheme</p> <p>The applicant has discharged its procedural duty in serving notice (twice) upon the Council (as owner of site upon which the Institute stands). Notice has also been served upon the following:</p> <p>The Trustees of the Mynachdy Welfare Institute; The Local Highways Authority; The Welsh Government; and Western Power Distribution.</p> <p>In addition to the above, the applicant complied with the statutory requirement and undertook the PAC public consultation process, which involved writing to the surrounding neighbours and displaying site notices in numerous locations around the application site providing the opportunity to review the proposed scheme and make comment. In addition to the required consultation above the applicant also held a community consultation event at the Mynachdy Institute in July 2017 where all local people were invited to view and comment upon the proposed scheme. Meetings with trustees were held and on-going discussions were entered into with trustees prior to and following the public consultation event.</p> |

In addition to all of the above consultation which has taken place the LPA have undertaken two rounds of public consultation including an advertisement within the press.

Potential Metro Station

Julie Morgan claims that in the *'pre-planning document put out to the public by the developer in its consultation it promised a Metro stop on site, subject to Welsh Government funding'*.

Paragraph 6.16 of the submitted planning statement states:

'The proposed courtyard is also positioned roughly within the centre of the site and opposite the proposed pedestrian access into the site from Mynachdy Road (which is also adjacent to the retained vehicular access to the railway which is secured for Railtrack use in the event of an emergency). This position would be the most logical to allow for future provision of and access to a new metro railway station, for which we understand there is a medium-long term aspiration'.

At no stage has a promise been made to provide a railway station within the site – this is clearly not within the applicant's gift and outside of his control.

Julie Morgan AM also states that: *'The Welsh Government has not ruled out such a stop on the site'*. It is unfortunate that the language used by the AM is so negative – it sounds like the provision of a railway stop on this site is quite unlikely. It would be of significant advantage to the applicant if a station were to be provided on the site, as it would further improve the connectivity and attractiveness of the site to potential residents. The applicant stands by its previous indication that the scheme has been designed in such a way which could facilitate the delivery of the station by the Welsh Government and would be happy to work with the Welsh Government to try and achieve this potential goal. It is also worthy of note that the approved (extant scheme) once implemented would not offer this opportunity due to the design of the site layout.

Japanese Knotweed

The applicant was required to clear the site of Japanese Knotweed by the imposition of a Condition upon the extant planning permission for the student accommodation development of the site. The applicant takes its responsibilities very seriously in this regard as a responsible

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| | neighbour and has already instructed a qualified contractor to undertake this programme of treatment to eradicate the invasive species. |
| REMARKS: | Comments noted |

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| PAGE NO: 305 | APPLICATION NO. 17/02129/MNR |
| ADDRESS | 639 NEWPORT ROAD |
| FROM: | Head of Planning |
| SUMMARY: | Front page of report states that the application is within the Llanrumney Ward, note that this is a typographical error and the application is actually within the Rumney Ward. |
| REMARKS: | Noted |

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| PAGE NO. 305 | APPLICATION NO. 17/02129/MNR |
| ADDRESS : | 639 NEWPORT ROAD |
| FROM: | A Mills – 641 Newport Road |
| SUMMARY: | <p>States that object to amended plans, particularly concerned that accommodation within roofspace would adjoin own bedroom and extension would be overbearing and overshadow own property</p> <p>Concern that amalgamation of property with adjacent care home would lead to overlooking of front of property from front garden area. Also concerned that future residents/staff members could 'step' over existing low wall into own garden.</p> <p>Loss of family home and use as a business premises</p> <p>Loss of parking/parking problems associated with the care home</p> |
| REMARKS: | <p>Alterations to property would have to meet the requirements of building regulations in terms of soundproofing.</p> <p>The amended extension is considered acceptable and is noted would adjoin rear/side extension to no. 641</p> <p>Note that front garden area could be utilised currently as an amenity area for occupants of no. 641. If sufficient concern members could condition it so that an enclosure is constructed to front side boundary to prevent</p> |

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| | <p>overlooking/loss of security.</p> <p>Policy H4 of the approved LDP allows for conversion of residential dwellings to community uses (doctors surgeries, residential home and child-care facilities) within residential areas. It is also noted that the existing dwelling house could be used by up to six people living together as a single household receiving care (supported housing scheme) without the requirement for planning permission.</p> <p>The Operational Manager, Transportation raised no objections to the proposal</p> |
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| PAGE NO. 320 | APPLICATION NO. 17/02464/MJR |
| ADDRESS: | FORMER HIGHFIELDS CENTRE, 18 ALLENSBANK ROAD, HEATH, CARDIFF |
| FROM: | Two Residents of Heathmead |
| SUMMARY: | We would like to support the housing development on the former Highfields site. The need for social housing in Cardiff is not only urgent but vital. The needs of people requiring Social housing should be of paramount importance and would be a small step towards housing families with social needs. We would welcome more developments like this, not only in Heath area but throughout Cardiff. |
| REMARKS: | The need for affordable housing has been referred to within the report. |

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| PAGE NO. 320 | APPLICATION NO. 17/02464/MJR |
| ADDRESS: | FORMER HIGHFIELDS CENTRE, 18 ALLENSBANK ROAD, HEATH, CARDIFF |
| FROM: | Head of Planning |
| SUMMARY: | Amend wording of condition 15 to avoid any ambiguity as what is required by this condition and which part of the site this condition relates to. |
| REMARKS: | <p>Condition 15 be reworded as follows:-</p> <p>15. The garden centre parking area identified on drawing 3511 PA 003 Rev E shall be constructed in accordance with that drawing prior to the commencement of any other development on the existing garden centre parking area identified green on drawing 3511 PA 300.</p> |

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| PAGE NO. 320 | APPLICATION NO. 117/02464/MJR |
| ADDRESS: | FORMER HIGHFIELDS CENTRE, 18 ALLENSBANK ROAD, HEATH, CARDIFF |
| FROM: | The Chair of Heath Residents Association |
| SUMMARY: | <ol style="list-style-type: none"> 1. The balconies will directly overlook the bungalows and will be a further invasion of privacy and also allow for further noise to be heard. 2. Mr. Davies stated that a screen of trees would be planted adjacent to the perimeter fencing of the bungalows. I have spoken to residents who feel, as I do, that this will close them in even more and would clearly effect their view and skyline. 3. The movement of the entrance/exit to the south, thus bringing it closer to Heathmead entrance/exit, will cause further problems as the junctions will be in such close proximity. 4. Although there has been a site visit the full impact on the residents in the bungalows was only seen by Mr. Clemence as the Chair of the Committee declined the invitation to enter a bungalow. The full impact is not seen from the garden. Unless Mr. Davies, the case officer, has been in bungalows he also will not realise the full impact and therefore any input on this should come from Mr. Clemence. 5. I, together with many others, do not feel that the time for consultation was sufficient at any stage in this process. As stated by your officer this is a major development. In this last stage it has been stated by Mr. Clemence that 14 days was, in his opinion, sufficient time to respond and that the 14 days should run from the last amended piece of information. The last additional information to be considered was not recorded until 23rd January 2018, which means the time to respond should still be running. 6. Finally there were questions asked at the site meeting that did not receive an answer which does not seem to comply with the rules regarding site visits. |
| REMARKS: | <p>The issue of privacy, noise, the benefit of additional tree planting along the eastern site boundary, the improved repositioned vehicular access (which will be some 60m from the Heathmead access), the assessment of the impact of the development on vulnerable occupants of adjoining bungalows and the adequacy of the publicity period have all been addressed within the report.</p> <p>The vehicle tracking information submitted on 23 January</p> |

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| | <p>2018 was additional information for the Transportation Officer not an amendment to the planning application. The Head of Planning did enter within a bungalow adjoining the application site during the Committee site visit. The Head of Planning continues to concur with the assessment of the case officer.</p> <p>Committee site visits are to enable Members to make a visual assessment of the site and its surroundings. Members' questions in respect of factual matters concerning site conditions regarding this development were addressed at the Committee site visit.</p> |
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| PAGE NO. 320 | APPLICATION NO. 117/02464/MJR |
| ADDRESS: | FORMER HIGHFIELDS CENTRE, 18 ALLENSBANK ROAD, HEATH, CARDIFF |
| FROM: | The Neighbourhood Services Officer |
| SUMMARY: | <p>The Neighbourhood Services Officer states that:</p> <p>I can confirm that the plant noise assessment has already been conducted in the November 2017 report. So long as the equipment specified in that report; Zehnder Comfoair 160, is installed on the development no further noise assessment shall be required.</p> |
| REMARKS: | In view of proposed condition 23 and the recent comments of the Neighbourhood Services Officer proposed condition 24 (noise assessment) can now be omitted and condition 25 renumbered accordingly. |

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| PAGE NO. 320 | APPLICATION NO. 117/02464/MJR |
| ADDRESS: | FORMER HIGHFIELDS CENTRE, 18 ALLENSBANK ROAD, HEATH, CARDIFF |
| FROM: | A local resident |
| SUMMARY: | <p>A local resident says that on page 2 of Passivhaus Primer: Designer's Guide 'A guide for the design team and local authorities' by BRE that you do not need to have this crammed block of flats to achieve Passivhaus and also that where possible the building ought to be approximately South Facing (opposite to Highfields orientation).</p> <p>It then goes on to say however that with good planning Passivhaus can also be realised where a south facing</p> |

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| | <p>orientation is not possible, although the annual heating demand may increase by 30-40% as a result. Other sources of information also state there will be increased construction cost due to extra insulation and heat shading.</p> <p>You can make it work but it is massively sub-optimum and so how on earth is this good value for money?</p> <p>Attached to this representation are the contents of an email which he says is from BRE stating;-</p> <p>As you note, the density of the site isn't really a Passivhaus issue, except if the developers are using Passivhaus as a reason to justify higher densities. Therefore I do not want to comment on the scheme specifically, and indeed have not reviewed the drawings for the scheme. However, the following information might help you:</p> <ol style="list-style-type: none"> 1. There is no reason why Passivhaus can't be delivered at the higher form factors you mentioned; as you point out in your letter, this is evident from the form factor of the terraced houses, which will also achieve Passivhaus. 2. As a general rule of thumb, it will be cheaper to achieve the Passivhaus standard on a project with a lower form factor <p>I realise that this doesn't really help with your question but, as noted above, the density decision isn't really Passivhaus related. It seems to be more to do with the economics of the site.</p> |
| REMARKS: | Passivhaus is addressed within the report. The BRE document Passivhaus Primer – Introduction says that “The most important principle of Passivhaus is insulation”. |

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| PAGE NO. 386 | APPLICATION NO. 17/02538/MNR |
| ADDRESS : | 70 GELIGAER STREET |
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| FROM: | Agent |
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| SUMMARY: | <p>Further to the decision at January's Planning Committee the following has been received from the Agent</p> <p>Dear Simon/Stuart</p> <p>This application was considered at the last meeting of Planning Committee, when it was deferred. I note from the video of that meeting that the reason for the deferment was</p> |

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| | <p>to allow time to enable officers to draft reasons for refusal to be considered at the next meeting. The reasons have now been drafted.</p> <p>Should the draft reasons be adopted by Committee, the applicant has instructed me to act on his behalf to appeal the decision.</p> <p>However, the applicant wishes to avoid the unnecessary costs of an appeal, and hopes, since the application remains undetermined, that the Committee will reconsider its stance and approve the application as originally, and as still recommended by officers.</p> <p>Additionally, it seems to me that there is an important additional material consideration of which your Committee should be aware. Although the officer report makes reference to 2 appeal decisions issued since the Council's adoption of the HMO SPG, it is silent on another significant matter.</p> <p>That is, since the appeal decision on 36 Wyeverne Road, the Council has itself granted permission during the course of the past few months to at least 7 proposals involving change of use from class C4 to a <i>sui generis</i> HMO. These are at:</p> <p>37 Coburn Street (17/01285) 74 Richmond Road (17/01282) 119 Richards Street (17/01541) 20 Wyeverne Road (17/02027) 52 May Street (17/02167) 75 Cathays Terrace (17/02252) 122 Lisvane Street (17/02654)</p> <p>All but one are within the Cathays Ward, and the circumstances in all the cases are virtually identical to that currently under consideration. The reasoning in the appeal decision at 36 Wyeverne Road was correctly cited as a weighty material consideration in all these recent cases.</p> <p>Consistency in planning decisions, as a matter of law, is a material consideration, and your members, in my view, should be made fully aware of this. It would be considered unreasonable if they were not to adopt the same stance as adopted by the Council in the cases referred to above, where the circumstances are virtually identical.</p> <p>Moreover, they should be made aware, in my view, of parts of Welsh Government's Development Management Manual -</p> |
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| | <p>section annexe 12: Award of Costs, notably para 1.10, which provides that:</p> <p><i>The ability for parties to be awarded costs is intended (in part): To encourage local planning authorities to exercise properly their development management responsibilities, to rely only on reasons for refusal that stand up to scrutiny on the planning merits of the case and not to add to development costs through avoidable delay.</i></p> <p>It is also considered that the contents of para 3.10 (b) & (c), together with para 3.11 (a)(d)(e) & (f) of the Annexe are also relevant and Committee, in my view, should be made aware of them.</p> <p>I would be grateful if you would make the Committee aware of my client's concerns and emphasise to members that his prime objective in instructing me to write in these terms is to avoid the unnecessary costs of an appeal to all parties, including the City's taxpayers.</p> <p>Finally, should members decide to approve, given the nature of part of the discussion at the last meeting, the applicant would have no objection to a condition requiring an increase in the number of secured cycle spaces - to a maximum of 7.</p> |
| REMARKS: | With respect to the issues raised by the agent, should members wish to be apprised of these issues details will be available at Planning Committee. |

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| PAGE NO. 410 | APPLICATION NO. 17/2615/MJR |
| ADDRESS: | LAND ON THE NORTH AND SOUTH SIDE OF JOHN STREET, CALLAGHAN SQUARE, BUTETOWN, CARDIFF |
| FROM: | Applicant |
| SUMMARY: | <p>Applicant email received 2nd February 2018. Further to our phone call we would be grateful if you could slightly amend condition 36 as follows:</p> <p>Original <i>Unrestricted vehicular access to the railway arches and existing Network Rail assets <u>via John Street</u> and the access road immediately in front of units 1-8, in accordance with <u>dwg. no. 3034-PL-122A</u>, shall be maintained at all times. Reason: To ensure that existing access arrangements to the Network Rail Arches are retained.</i></p> |

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| | <p>Amended <i>Unrestricted vehicular access to the railway arches and existing Network Rail assets <u>from a publicly adopted highway</u> and the access road immediately in front of units 1-8, in accordance with dwg. no. 3034-PL-122A, shall be maintained at all times. Reason: To ensure that existing access arrangements to the Network Rail Arches are retained.</i></p> <p>Condition 36 to be amended accordingly.</p> |
| REMARKS: | None. |

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| PAGE NO. 453 | APPLICATION NO. 17/03055/MNR |
| ADDRESS : | 69 BRITHDIR STREET, CATHAYS |
| FROM: | Shared Regulatory Services – Pollution Control |
| SUMMARY: | No objection to the planning application |
| REMARKS: | Noted |