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## LATE REPRESENTATIONS

**Committee** PLANNING COMMITTEE

**Date and Time  
of Meeting** THURSDAY, 2 FEBRUARY 2023, 1.30 PM

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

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**PLANNING COMMITTEE**

**2<sup>ND</sup> FEBRUARY 2023**

AMENDMENT SHEET / LATE REPRESENTATIONS

Agenda Item 5a (Page 9)

<b>APPLICATION NO.</b>	<b>22/02170/REM</b>
<b>LOCATION:</b>	Tramshed, Pendyris Street, Grangetown, Cardiff, CF11 6QP
<b>PROPOSAL:</b>	Removal of Condition 1 of 21/01813/MJR to enable permanent permission for late night events

ADDITIONAL REPRESENTATION:

**FROM:** Applicant

**SUMMARY:**

The applicant has provided additional information on the need for the permanent late events to assist with the economic viability of the premises:

“We highlighted in our previous planning statement, the importance to Tramshed of the late licenses to enable the applicant to operate viably with the revenue they generate. 12 months on from the issue of the temporary planning permission, the situation has only worsened for the sector. Utility bills have increased by 300% at Tramshed, wage bills have increased by 23% and operational costs across the board are increasing exponentially. With the impact the cost of living crisis being felt on people’s disposable income and ability to spend money on non-luxury items, the importance of the late licenses has only become even more essential. In December, Tramshed has 2,000 people less through the doors but the same number of events compared to 2021. Three annual Christmas parties were cancelled due to business needing to either downgrade, or simply not provide, their Christmas event. In short, Tramshed needs as many opportunities to trade to increase revenue, sales volumes and provide enough hours for staff, security and management to work.

12 months ago the late-night events had become an increasingly important part of Tramshed’s revenue stream, now they are simply a life line for the venue to continue to operate for the foreseeable future and key to ensuring that this culturally valuable and unique asset to the City is not lost”

**RESPONSE:**

The further representation from the applicant is noted. The matter of the importance of the events to the music venue have been noted in the Committee Report at para’s 9.4 and 9.12.

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<b>APPLICATION NO.</b>	<b>22/02308/FUL</b>
<b>LOCATION:</b>	Land Off Lewis Road, Splott, Cardiff
<b>PROPOSAL:</b>	Demolition of buildings, removal of hardstanding areas, reprofiling of site and associated works

REPORT CLARIFICATION

ED: BUTETOWN SPLOTT

The heading of the report refers incorrectly to Butetown. The site is within Splott.

ADDITIONAL REPRESENTATION:

**FROM:** Agent

**SUMMARY:**

The agent requests that condition 5 (Contamination Land Measures (Hot Spot Remediation Strategy and Verification Plan)) is removed. The agent notes that the proposed enabling works are not proposed to be deep enough to come into contact with the identified contamination, which is located 3m below ground level. There is no reference to 'hot spot' removal in any of the supporting documents and therefore the agent states that it is not appropriate to refer to the identified contamination. They note that any betterment of existing contamination will be carried out in association with any subsequent application. The agent states that no contamination betterment works are proposed as part of the enabling works and as such, this condition is not relevant. Condition 8 (Unforeseen Contamination) should provide sufficient reassurance in the event that contamination is unexpectedly encountered during the enabling works.

**RESPONSE:**

Condition 5 was originally requested by Natural Resources Wales (NRW). They have since reviewed the agent's submissions and confirm that condition 5 can be removed. They state that as part of any formal planning application for further development on site they will be requesting their full suite of land contamination conditions.

Paragraph 8.3 of the Committee Report is therefore no longer relevant. Condition 5 (Contamination Land Measures (Hot Spot Remediation Strategy and Verification Plan)) is thus no longer required and will be deleted, with all subsequent conditions re-numbered accordingly.

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<b>APPLICATION NO.</b>	22/01718/MJR
<b>LOCATION:</b>	<b>MOORLAND ROAD DAY CENTRE, MOORLAND ROAD, SPLOTT, CARDIFF, CF24 2LG</b>
<b>PROPOSAL:</b>	Demolition of the existing Moorland Community Centre and the proposed development of 13 independent living flats for older persons, community facility and associated works

REPORT CLARIFICATION

Members should note that the report incorrectly refers to the 8.12.22 Committee date (the date the matter was originally due to be reported to Committee), instead of the 2<sup>nd</sup> February 2023.

ADDITIONAL CONDITION

The following additional condition is recommended to be included by the Transportation Officer:

*Crossover Condition*

20. *The existing vehicle access shall be closed and full height kerb re-instated, and the adjacent dropped kerbs reinstated as full height kerb, before the development is brought into beneficial use.*

*Reason: To ensure that the use of the proposed development does not result in any safety or pedestrian accessibility concerns.*

The condition is required to be imposed to ensure the existing crossover which provides vehicular access to the site is reinstated as a full height kerb, in the interests of pedestrian safety. This condition was incorrectly omitted from the previous report.

Agenda Item 5e

<b>APPLICATION NO.</b>	22/02949/WTPPP
<b>LOCATION:</b>	<b>WOODLAND ADJOINING MAIN ROAD, GWAELOD-Y-GARTH, CARDIFF</b>
<b>PROPOSAL:</b>	Completion of works to woodland path, provision of porous surfacing with no-dig construction where the new permanent path surfacing yet to be constructed would be in excess of 20% of currently unsurfaced ground within a root protection area

REPORT CLARIFICATION

HEADING: LOCAL MEMBER OBJECTIONS AND PETITION

Members should note that the report did not indicate in the heading that there were Local Member Objections and a Petition.

Below are comments received from the Local Ward Members:

Councillor Rhys Livesy:

It's clear there are concerns from the community of Gwaelod y Garth on this issue. The whole city of Cardiff would benefit from the council implementing robust procedures ensuring greater involvement from Tree Officers from the beginning through to completion of such ideas and projects in future, together with greater communication and consultation with communities caring passionately about their green spaces and protected trees.

As a result of this application I would welcome the technical report which will be produced regarding any threat to the trees identified and urge that it gives greater clarity on the threat to the ongoing health of them. For example, does the new path cause any greater threat to the trees due to root coverage (or for any other reason) than the original path did?

I believe the report will be public and open to scrutiny and I ask that this is done and communicated as fully as possible with the community so that they too can judge the results.

The issue paramount to this path is its safety due to incidents reported formally and informally; an issue that may or may not be addressed by this TPO application. Residents have legitimate concerns about this form of solid surface path in a wooded area, once debris lands on it (such as rubble, acorns or similar and leaves for example). And therefore, whether that can be considered as part of this application, or it needs to follow another process, this needs to be considered with some urgency. The path's intentions were always good and there is/was support for it which I should also reflect; but it could only exist with the users utmost safety in mind, especially when as a route to school for children; all specifications and the suitability of its construction for this location (including ongoing maintenance/clearance) should be considered before any final outcome.

I would also be interested in finding out what environmentally related damage could be caused by removing the path (to the trees and their root systems, unrecyclable waste, heavy machinery, embedded carbon); as has been suggested in the local petition, and depending on the technical assessments mentioned above.

Councillor Brown Reckless:

This TPO application has led to extensive local opposition in Gwaelod-Y-Garth, including a petition that is going to the Council which has been signed by I understand over 280 residents - a very considerable proportion of the village.

Given this, and in support of the views of the community, I object to this application, and ask that you carefully reconsider taking into account the legitimate thoughts and concerns of local residents.

## ADDITIONAL REPRESENTATIONS

**FROM:** Julian Wilkes

### **SUMMARY:**

Notes that there is no indication that the views of the Ward Councillors (who object) nor those of the community of Gwaelod Y Garth have been made available to the Committee. 95% of the village of Gwaelod Y Garth have indicated that they are opposed to the above planning application and we hope that members of the Planning Committee have been made aware of this fact; at present we have no evidence that members of the Planning Committee have received the documentation.

### **RESPONSE:**

The views of the local ward Members have now been provided as part of the amendment sheet (above). As is standard practice on all planning and related applications, all representations received on the application are made available online, and are summarised in the Officer's report. As such, representations are not circulated directly to Members.

**FROM:** Julian Wilkes

### **SUMMARY:**

The Planning Committee have direct access to the Tree Officer report but without knowledge of the background to this issue it is not possible for Members to make an informed decision.

### Background

In May 2022, on the instruction of Mr Matthew Price of Cardiff Council Transport Policy, a 140m long rubber-surfaced path was installed linking lower School Lane, Gwaelod Y Garth in the direction of the village school on Main Road through a woodland protected by a Tree Preservation Order (TPO) and within a Conservation Area. There was no consultation with the community prior to this activity, an error that Mr Price has stated he subsequently regrets. Within days of commencement of the path Mr Price received numerous complaints from local people that the rubber path was dangerous for pedestrians, that it was damaging protected trees, that it was unnecessary/unwanted and that it was inappropriate for a protected woodland in a Conservation Area. The village recognised that the stated purpose of the rubber path, Safe Routes to Schools, was laudable but residents pointed out that there was already a perfectly safe route to the village school via upper School Lane, a route that is without a single reported accident, and that the new rubber path through the woodland was considerably more hazardous and damaging to TPO trees than the pre-existing natural stone/soil woodland path already well-used by many parents and pupils for access to school.

The village asked that works were postponed until proper public consultation was undertaken - this was refused.

The village asked for a meeting with Officers on site - this was refused.

The village asked that a tree assessment in accordance with BS5837:2012 was undertaken and a TPO application made - this was refused.

After accidents were reported on the rubber path the village asked to see the relevant Risk Assessments - this was refused.

Finally in December 2022, over 7 months after the damaging rubber path works were installed, Mr Price made a TPO application but this was only for an unfinished 15m section of the path route- the application ignored the damage caused to protected trees over the full 140m length of the rubber path. The TPO application has been the only means for the community of Gwaelod Y Garth to be publicly consulted about the rubber path hence the enormous and unprecedented response to the TPO application resulting in overwhelming public objection.

### Tree Damage

Cardiff Council has a legal responsibility to administer TPO regulations and in this regard it must lead by example in order to demonstrate to the general public that legislation regarding protected trees should be adhered to and respected. In this case Cardiff Council has unnecessarily installed a rubber path, against the wishes of the community, over the roots of protected trees along a 140m length of woodland (not 15m as implied by the TPO application) and illegally piled 20-25 tonnes of clay spoil over the protected tree roots; this illegal activity causing damage to TPO trees is admitted in the Tree Officer's report Sections 9.5 and 9.15. The Tree Consultant appointed by Cardiff Council (his report is available on the planning portal) confirms that damage has been caused to protected trees by the installation of the rubber path. Cardiff Council should not and must not, by law, damage trees covered by a TPO. If Cardiff Council provides TPO consent to itself to damage protected trees in its ownership not a single TPO tree within the County boundary will be safe from felling or damage due to the precedent set by this case. Every relevant planning appeal will refer to this case as an example of how Cardiff Council consented to damage to protected trees.

This TPO application to damage protected trees should never have been made; the rubber path, unwanted by the community, dangerous and damaging as it is, should not have been installed in the first place. The logical conclusion is to refuse TPO consent which will result in the removal of the rubber path and cessation of damage to protected trees.

### Accidents

Since the rubber path was installed there have been over 30 recorded accidents on this path due to the unsuitability of the surface on the steep gradients within the woodland. There have been a number of injuries (backs, ankles, shoulders, arms, concussion etc) but most notable was a multiple leg fracture to a female pensioner that required a five week stay in hospital; this case is now subject to a legal claim against the Council for substantial damages. This TPO application seeks consent to damage protected trees in pursuit of the installation of a rubber footpath so hazardous that Cardiff Council have had to now physically block the path against public access in order to prevent further accidents that might lead to additional claims for damages. It makes no sense to provide TPO consent to install a path that cannot be used by the public because it is too dangerous. The damage to TPO trees caused by the rubber path is confirmed by the Tree Officer, the Council's Tree Consultant and hundreds of objectors so the sensible course of action is to refuse TPO consent resulting in removal of the damaging/hazardous rubber path followed by the restoration of the original and perfectly safe woodland path.



## Petition

All attempts by residents of Gwaelod Y Garth to consult, liaise or meet with relevant Officers over the matter of the rubber path have been met with refusal. All letters of advice or objection to Transport Policy are now ignored by Officers. As a result of this refusal by Officers of Cardiff Council to engage with the community, the village of Gwaelod Y Garth undertook a petition exercise against the TPO application in early January 2023. The petitioners were responded to by 234 properties in the village (effectively 50% of village households were at home during petition hours) of which a single person said that they supported the rubber path and 15 people said they did not want to be involved; the remaining respondents, nearly 300 of them, objected to the damage caused by the rubber path. This equates to 95% of the village of Gwaelod Y Garth who object to the TPO application on the grounds that the proposals are damaging to protected trees. This level of objection to a TPO application in Cardiff is historically unprecedented and indicates that members of the Planning Committee should consider the overwhelming public opposition to the damage to protected trees when deliberating this matter. It should also be noted that, in addition to the opposition of almost the entire village, all three Ward Members, Cllrs Catriona Brown-Reckless, Andrea Gibson and Rhys Livesy, have publicly voiced their opposition and concerns in relation to this TPO application. In consideration of the democratic principle, only two Officers of Cardiff Council appear to support the TPO application against the views of all Ward Members and the entire community of Gwaelod Y Garth (population 1,500). It is hoped by the village of Gwaelod Y Garth that members of the Planning Committee would recognise the full extent of the opposition to this TPO application by residents and Ward Members alike and seek to refuse the application thus restoring the original natural woodland footpath to its former glory.

### **RESPONSE:**

The further representations from Mr Wilkes are noted and are circulated to Planning Committee Members prior to the meeting as part of this late representations / amendment sheet.

Only matters relating to the impact on trees may be considered under this application. As the report has emphasised, all other concerns related to the decision to install the pathway in question are outside of the remit of this application.

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