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## LATE REPRESENTATIONS

**Committee** PLANNING COMMITTEE

**Date and Time of Meeting** WEDNESDAY, 9 NOVEMBER 2016, 2.30 PM

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

8 **Late Representations** (*Pages 1 - 14*)

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**LATE REPRESENTATIONS SCHEDULE**  
**PLANNING COMMITTEE – 9<sup>TH</sup> NOVEMBER 2016**

<b>PAGE NO. 25</b>	<b>APPLICATION NO. 16/00256/MJR</b>
<b>ADDRESS:</b>	<b>LAND TO REAR OF 90 MINNY STREET</b>
<b>FROM:</b>	Berry Smith Lawyers
<b>SUMMARY:</b>	<p>We have been instructed by our client, Mr Kevin Donnelly, in relation to the above Application.</p> <p>At a meeting of the Development Control Committee on 12th October 2016 ("the Meeting"), Members resolved to defer the Application for a third time, after deferrals from two previous Committees meetings to enable Members to undertake two separate site visits. We understand that the decision to defer the Application at the Meeting was to allow Officers to draft a single reason for refusal in respect of overdevelopment ("the Reason"). If the Reason is the basis upon which the Appeal would be refused, it would be contrary to the advices previously given by your Development Control Officer ("DCO") and Planning Officers that this would not be valid reason to refuse planning permission for the Application.</p> <p>We are advised that the Application will now be determined at the next meeting of the Committee on 9 November 2016, at which time the Reason will be presented to Members to support a decision to reject the Application. We write to advise you that should such a decision be made, our client will Appeal the same.</p> <p>Whilst Members are entitled to reach a decision contrary to the recommendation of Officers, particularly the DCO, such decisions must be justified by reference to legitimate planning reasons. We are not aware that any legitimate planning reason has been given for any refusal and that the Members intend to rely solely on the Reason to justify the refusal of the Application.</p> <p>More particularly, it was evident from comments of Members at the Meeting that they were approaching the Application not on the correct basis of a positive presumption in favour of development, but rather on what grounds the Application could be refused. We refer you to Circular 23/93 "the award of costs in planning and other proceedings" highlights at Annex 3(7) which states that:</p> <p><i>"a planning authority should not prevent, inhibit or delay development which could reasonably be permitted, in light of the development plan, so far as it is material to the application, and of any other material considerations.</i></p>

Annex 3(8) states that:

*"Reasons for refusal should be complete, precise, specific and relevant to the application. In any appeal proceedings the authority will be expected to produce evidence to substantiate each reason for refusal, by reference to the development plan and other material considerations. If they cannot do so, costs may be awarded against a planning authority. Each reason for refusal will be examined for evidence that the provisions of the development plan, and relevant advice in Department planning guidance ... and any relevant judicial authority, were properly taken into account; and that the application was properly considered in light of these and other material considerations. In any such proceedings, authorities will be expected to produce evidence to show clearly why the development cannot be permitted."*

In this case, the professional technical advice of your DCO was that the proposal is acceptable in all regards, including overdevelopment. Indeed, the DCO reminded Members of the Committee of the history behind the Application, including the extensive discussions he had with our client, both before and during the Application, such that he was able to recommend that it should be accepted. Further, the DCO presented Members with evidence to demonstrate that the overall of provision of amenity space on-site far exceeded the standards set out within your SPG. The Officer even went as far as to warn Members that it would be difficult to defend or justify the Reason for refusal at an appeal.

Notwithstanding this very clear advice, Members presented no evidence at all to the Committee to counter this professional advice.

This Application is for the regeneration of a vacant brownfield site, where planning policy at all levels is supportive fully of the type of proposed development. It will provide purpose built high quality student accommodation in Cardiff, for which there is an acknowledged shortfall, and assist in reducing the pressure on the existing housing stock in Cardiff for student houses in multiple occupation.

The DCO and your Planning Officers have reviewed the Application thoroughly and no technical objection is raised by any internal or external statutory consultee. It is their professional, objective view that the Application ought to be

	<p>granted planning consent. In this context, should the Members refuse consent, we have advised our client that this would constitute an unreasonable and irrational decision, such that our client should seek, and will be awarded, his costs of any appeal.</p> <p>The proposals made at the Meeting are of course not yet binding, so we would invite the Members to reconsider their proposed actions, and their position, before the meeting on 9 November 2016.</p>
	<p>We look forward to receiving confirmation that the Reason will not be adopted at the forthcoming meeting and that the Application will be granted.</p>
<b>REMARKS:</b>	<p>The comments are noted.</p>

<b>PAGE NO. 78</b>	<b>APPLICATION NO. 16/00660/MJR</b>
<b>FROM:</b>	Highways and Transportation
<b>SUMMARY:</b>	<p>Highways and Transportation consultation response dated 2.11.16 states:</p> <p>I refer to the above application and would confirm that the submission has been assessed and is considered to be acceptable in transport terms subject to the following comments, conditions and S106:-</p> <p><u>Conditions:</u></p> <ul style="list-style-type: none"> <li>• Standard Cycle Parking condition C3S;</li> <li>• Retain Parking Within Site – Standard condition E3D;</li> <li>• Provision of Road Before Occupation of Dwelling – Standard condition C3K;</li> <li>• Construction management plan condition – No part of the development hereby permitted shall be commenced until a scheme of construction management has been submitted to and approved by the Local Planning Authority. The plan shall include as required, but not limited to details of site hoardings, site access and wheel washing facilities. Construction of the development shall be managed strictly in accordance with the scheme so approved. Reason: In the interests of highway safety and public amenity;</li> <li>• Highway works condition – No part of the development hereby permitted shall be commenced until a scheme of environmental improvements to the footway on Schooner Way adjacent to the site and</li> </ul>

the creation of the new residential access has been submitted to and approved in writing by the LPA. The scheme shall include, but not be limited to, provision of the new and improvement of the existing site accesses, and the lifting/relaying/resurfacing of the remaining footway as may be required, including as required the renewal or resetting of sunken or damaged kerbs, channels and edging. The agreed scheme to be implemented to the satisfaction of the LPA prior to beneficial occupation of the site. Reason: To ensure the reinstatement of the adjacent public highway in the interests of highway and pedestrian safety and to facilitate access to the proposed development;

- Parking Allocation Plan – No part of the development hereby permitted shall be occupied until details of how the available car park spaces will be allocated to incoming residents has been submitted to and agreed in writing with the LPA. Reason: To ensure the residents are aware/informed of their parking allocation, to avoid conflict/confusion.

S106 financial contribution:

A Section 106 financial contribution of £15,000 is required towards the investigation and installation of vehicle activated Concealed Entrance (or other as appropriate) traffic signage and associated traffic Orders/localised traffic calming as may be required. The signage would be located in advance of 'S' bend on Schooner Way, prior to entering the corners from either direction, to advise drivers of the location of the entrance and provide advanced warning of the possibility of emerging traffic.

Additional Recommendations:

Welcome Pack – The applicant is requested to provide future residents with a welcome pack upon their arrival, detailing sustainable transport options available in the area, to help promote sustainable transport. Leaflets and advice in connection with production of the packs are available from - [Transport.Policy@cardiff.gov.uk](mailto:Transport.Policy@cardiff.gov.uk)

The highway works condition and any other development related works to the existing adopted public highway are to be subject to an agreement under Section 278 Highways Act 1980 between the developer and Local Highway Authority.

In accordance with Parking Policy, the applicant is advised that incoming residents of the new development will not be eligible to apply for resident parking permits on adjacent streets, where such schemes are currently in force or are

enacted in the future.

Comments:

The adopted Access, Circulation and Parking Standards SPG identifies that zero to one car parking space per dwelling should be provided for all residential development within the Central Area. The SPG guidance also identifies that flats and apartments should be provided with a minimum of one cycle parking space per dwelling. The proposed development of 185 predominantly one and two bed dwellings is therefore considered to be parking policy compliant with the proposed 85 car parking spaces and 201 cycle parking spaces. The ancillary ground floor retail space is also being provided with 12 cycle parking spaces. The provision and retention of both the car and cycle parking is subject to requested conditions.

When considering an appropriate level of parking provision, along with policy considerations, I must take into account the location of the site, proximity to public transport, community services and amenities etc. In which regard it is noted that the centre point of the site is within 200m of in-bound and out-bound bus stops on Schooner Way and within 375m and 550m of additional stops and services on Lloyd George Avenue and Tyndall Street respectively. The site is also within 1km of Bute Street rail station and 1.5km of both Central and Queen Street stations, and the city centre, with access to employment, shops, entertainment and other facilities. The site is therefore in a location where walking, cycling and public transport are considered to offer viable daily alternatives to use of a private car.

Comparison of the previous, permitted uses of the site with the proposed residential development suggests that there will be a minor increase of 4% and 2% during the AM and PM peak hour respectively, amounting to a combined weekday peak hour increase of up to 29 two-way trips. This calculated increased peak hours traffic equates to one additional vehicle on Schooner Way every two minutes, which it is considered will be imperceptible to road users and in any event is within normal daily fluctuations.

The proposed development is also considered to be of a type, predominantly one and two bed apartments, that will attract residents who are less reliant on the ownership and use of a car than might otherwise be the case (family dwellings for example).

I am therefore satisfied that the proposed development is parking policy compliant and otherwise acceptable as



	<p>submitted and that any objection on traffic or car parking grounds would not withstand challenge.</p> <p><u>Conclusion:</u>  Given the nature of the proposed development, along with the availability of sustainable walking, cycling and bus public transport options, I must conclude that an objection on parking or traffic grounds would be unsustainable and any reason for refusal on this basis would not withstand challenge. I therefore have no objection to the application subject to the above requested conditions and S106.</p>
<b>REMARKS:</b>	None. Requested conditions/ 106 contribution/ recommendation have been added – see other late rep.

<b>PAGE NO. 78</b>	<b>APPLICATION NO. 16/0660/MJR</b>
<b>FROM:</b>	Head of Planning
<b>SUMMARY:</b>	<p>1. Recommended conditions to be revised to correct errors and incorporate Highways and Transportation late representation, as follows:</p> <ul style="list-style-type: none"> <li>• Omit conditions 10 (opening hours) and 11 (delivery times). These conditions are not required as they duplicate conditions 3 and 4.</li> <li>• Amend condition 12 (plant Noise) to read: <i>The rating level of the noise emitted from fixed plant and equipment on the site shall achieve background - 10dB at the nearest noise sensitive premises when measured and corrected in accordance with BS 4142: 2014 (or any BS amending or superceding that standard). Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.</i></li> <li>• Omit condition 18 (Residential Travel plan).</li> <li>• Substitute condition 19 (Highway Works) with the following: <i>No part of the development hereby permitted shall be commenced until a scheme of environmental improvements to the footway on Schooner Way adjacent to the site and the creation of the new residential access has been submitted to and approved in writing by the LPA. The scheme shall include, but not be limited to, provision of the new and improvement of the existing site accesses, and the lifting/relaying/resurfacing of the remaining footway as may be required, including as required the renewal or resetting of sunken or damaged kerbs, channels and edging. The agreed scheme to be implemented to the satisfaction of the LPA prior to beneficial occupation</i></li> </ul>

	<p><i>of the site. Reason: To ensure the reinstatement of the adjacent public highway in the interests of highway and pedestrian safety and to facilitate access to the proposed development.</i></p> <ul style="list-style-type: none"> <li>• <i>Add the following Parking Allocation Plan condition: No part of the development hereby permitted shall be occupied until details of how the available car park spaces will be allocated to incoming residents has been submitted to and agreed in writing with the LPA. Reason: To ensure the residents are aware/informed of their parking allocation, to avoid conflict/confusion.</i></li> </ul> <p>2. <u>S106 financial contribution:</u> <i>Para 9.2 second bullet point to read: A financial contribution of £15,000 towards the investigation and installation of vehicle activated Concealed Entrance (or other as appropriate) traffic signage and associated traffic Orders/localised traffic calming as may be required.</i></p> <p>3. <u>Additional Recommendation:</u> <i>The following recommendation to be added: The applicant is requested to provide future residents with a welcome pack upon their arrival, detailing sustainable transport options available in the area, to help promote sustainable transport. Leaflets and advice in connection with production of the packs are available from - <a href="mailto:Transport.Policy@cardiff.gov.uk">Transport.Policy@cardiff.gov.uk</a></i></p>
<b>REMARKS:</b>	None.

<b>PAGE NO. 78</b>	<b>APPLICATION NO. 16/00660/MJR</b>
<b>FROM:</b>	Housing Strategy
<b>SUMMARY:</b>	<p>Housing Strategy consultation response dated 1.11.16 accepts the transfer of the Courtenay Road, Splott site to an approved RSL for the delivery of a 100% affordable housing scheme of 30 dwellings, prior to implementation of the Wharf scheme.</p> <p>Details to be agreed as part of the 106 negotiations.</p>
<b>REMARKS:</b>	See cttee report paras 8.26 to 8.28 and para 9.2.

<b>PAGE NO. 100</b>	<b>APPLICATION NO. 16/1592/MJR</b>
<b>ADDRESS:</b>	<b>SITE OF FORMER FLATS 11-20 TY-TO-MAEN CLOSE, OLD ST MELLONS</b>
<b>FROM:</b>	Applicant
<b>SUMMARY:</b>	Submits a site management plan to clarify responsibilities for the future maintenance of the site.
<b>REMARKS:</b>	Submitted in response to the request of Natural Resources Wales (NRW) that dormice mitigation areas fall outside of the curtilage of individual plots (see paragraph 6.5). Noted. Amend condition 2 to include (xxiii) Site Management Plan 3521_PA_004 Revision A.

<b>PAGE NO. 100</b>	<b>APPLICATION NO. 16/1592/MJR</b>
<b>ADDRESS:</b>	<b>SITE OF FORMER FLATS 11-20 TY-TO-MAEN CLOSE, OLD ST MELLONS</b>
<b>FROM:</b>	Frances Clarke and Nigel Voyle, 25 Ty To Maen Close
<b>SUMMARY:</b>	<p>Does not oppose the development but have grave concerns and strong objections to the design and layout of the amended application. They consider the Committee report to be misleading, unfair and weighted towards the developer's vision as follows:</p> <ul style="list-style-type: none"> <li>(i) Objections are listed in paragraph 7.11 but no reasons have been included therefore just looks like complaints. Their reasons should be included as without them they carry no weight and do not have any substance;</li> <li>(ii) Section 8 of the report uses the word 'consider' on multiple occasions suggesting objections regarding road position, existing green space, density and design and appearance of the dwellings have been answered. This is subjective and is coloured by the perspective of the writer;</li> <li>(iii) Paragraph 8.22 (ii) does not quote paragraphs 4.3.1 and 4.11.9 of Planning Policy Wales. Questions how the proposed design meets the needs of existing residents, how their quality of life has been at the centre of the decision-making, and how the development relates to its existing surroundings;</li> <li>(iv) The 'Infill Sites' Supplementary Planning Guidance does not appear to have been applied to the application. Seeks an explanation how the proposed</li> </ul>

	<p>development complies with paragraphs:</p> <ul style="list-style-type: none"> <li>a) 2.14 maintain usable amenity space or garden for new and existing dwellings, maintains spacing between buildings that respects layout pattern in the vicinity, maintains appropriate scale and massing and respects the building line;</li> <li>b) 2.15 parking should not intrude on front gardens where they contribute to the area's character, parking should be designed and sited to encourage street frontage to access dwellings and car-dominated frontages that harm the street scene, and/or create blank frontages at the ground floor will not be accepted;</li> <li>c) 3.10 site analysis, design vision and character analysis of the adjacent townscape/landscape must be prepared as part of the Design and Access Statement;</li> <li>d) 3.11 the 'Residential Design Guide' sets out design characteristics that should inform a character analysis: locally distinct patterns of street and spaces, urban grain/built form relationships, local or strategic views, building envelope (scale, mass, form, height, roof form), detailing and visual richness (window profiles, timberwork, building entrances, materials), layout (plot widths, set backs), topographical microclimate and ecological features, and local patterns of landscape (front garden treatments, street trees);</li> <li>e) 3.15 proposals must respect the urban grain and consider locally distinct patterns of streets and spaces including...street form, predominant housing layouts or garden sizes;</li> <li>f) 3.19 plot ratios should reflect those prevailing in adjacent properties;</li> <li>g) 3.20 the spaces between adjacent buildings often have as much impact on the character of the areas as the form of the buildings themselves...Where existing plot boundaries form a distinctive part of the street scene, these boundaries should be retained and replicated through appropriate building design and landscape treatment;</li> <li>h) 3.27 the appropriate density of a scheme will be determined by the existing urban grain, character and context of the surrounding area, preservation of natural and manmade features, appropriate development capacity, provision of adequate garden space and parking provision and proximity to public transport;</li> </ul>
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	<ul style="list-style-type: none"> <li>i) 3.28 the Council supports a range of density solutions provided that they relate well to their surroundings;</li> <li>j) 3.47 new driveways should be appropriate to their context. New driveways serving rear garden development should be positioned to minimise the noise disturbance to neighbouring dwellings;</li> <li>k) 4.3 all new residential dwellings should maintain useable and appropriate external amenity space.</li> <li>l) 4.9 new developments should allow for adequate privacy for the occupiers of the proposed buildings as well as for neighbouring properties. Normally, a minimum of 21 metres should be maintained between principal windows to habitable rooms;</li> <li>(v) The development pattern of Ty To Maen Close east of the site reduces in dwelling amount from 10 dwellings furthest east to 6 dwellings immediately east;</li> <li>(vi) A separation distance of 17.5m appears to be contrary to the guidance in the Infill Sites SPG;</li> <li>(vii) Reversing refuse vehicles a short distance (15-20m) alongside a footpath is highly dangerous and totally unacceptable. No attention has been given to the impact of this road on current residents;</li> <li>(viii) The Council Officers do not live on Ty To Maen Close otherwise they may have a completely different viewpoint;</li> <li>(ix) Requests that Officers name a few features in the new development that adhere, reflect, enhance, compliment or even remotely resemble the current design and layout.</li> </ul>
<p><b>REMARKS:</b></p>	<ul style="list-style-type: none"> <li>(i) The report is considered to be fair and balanced, summarising the planning issues before making a recommendation for Planning Committee to consider; the fact that objections have not been listed in full does not diminish their weight or substance;</li> <li>(ii) The report is written in the Head of Planning's name and it is the job of the planning officer to use his professional judgement in making a recommendation to Committee having considered all the material issues;</li> <li>(iii) A thorough public consultation has been undertaken throughout the processing of the application, the relationship of the proposed development with neighbouring properties and the impact upon the area has been considered in reaching a recommendation to Committee;</li> </ul>

	<p>(iv) The Infill Sites document is guidance which is supplementary and assists with the application of development plan policy. It should be read in the context of Planning Policy Wales and Policy KP5 (Good Quality and Sustainable Design) of the Local Development Plan (2016):</p> <ul style="list-style-type: none"> <li>a) Amenity space has been considered in paragraph 8.8; whilst the proposed layout is different to the existing 'Radburn' layout on Ty To Maen Close, the proposed layout offers an acceptable design solution to the redevelopment of the site. The 'Radburn layout,' where dwellings are accessed via the rear was a design solution adopted in the 1960s. It is no longer used as a solution today as it was considered to encourage anti-social behaviour due to a lack of surveillance over parking areas. The South Wales Police Crime Prevention Design Advisor has no objection to the proposed layout, subject to a lighting condition (paragraph 6.6); scale and massing has been considered in paragraph 8.4;</li> <li>b) The home zone layout aims to give pedestrians and cars equal priority. Landscaping is proposed along the access drive to avoid car dominance. No blank frontages will be created;</li> <li>c) The design and access statement accompanying the application is considered to be satisfactory as a supporting document to the application;</li> <li>d) As c;</li> <li>e) The amended proposals are considered to make efficient use of this brownfield site whilst respecting scale of the surrounding area;</li> <li>f) The density of the development is comparable to the surrounding area;</li> <li>g) The spaces between existing and proposed dwellings is considered to be acceptable;</li> <li>h) The density is considered to be appropriate for this brownfield site located within an existing residential area characterised by two-storey dwellings;</li> <li>i) The proposed design solution is supported and makes satisfactory provision for amenity space, car parking, cycle storage and refuse provision. Relevant conditions are attached;</li> <li>j) The development is considered to be consistent with this advice;</li> <li>k) The amenity space provision is considered to be acceptable;</li> <li>l) Paragraphs 8.7 and 8.8 cover residential amenity considerations. 21 metres between rear elevations is usually expected, with a reduction for front</li> </ul>
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	<p>elevations where circumstances allow;</p> <p>(v) Noted however it is considered that 8 no. dwellings on the site is not considered to be an over-development;</p> <p>(vi) See (I);</p> <p>(vii) Council Officers are satisfied that the waste collection and transportation arrangements for vehicle access are satisfactory;</p> <p>(viii) This is not accepted as officers have given their professional view on the merits of the amended application;</p> <p>(ix) Officers are required to assess the merits of the application against policy and guidance and this is taken place. Views expressed by the neighbour to the contrary are noted however the design has to be assessed against other material considerations. The presence of dormice habitat, a European Protected Species, has implications on the most appropriate site layout, as well as other factors including the most efficient re-use of the site and the need to safeguard residential amenity. There is not considered to be any justifiable planning reason for refusing permission for the amended application on design grounds.</p>
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<b>PAGE NO. 100</b>	<b>APPLICATION NO. 16/1592/MJR</b>
<b>ADDRESS:</b>	<b>SITE OF FORMER FLATS 11-20 TY-TO-MAEN CLOSE, OLD ST MELLONS</b>
<b>FROM:</b>	Applicant
<b>SUMMARY:</b>	<p>Following discussions at the Committee Site Visit on 2 November, they submit a plan showing the proposed houses in relation to the now demolished flats. The proposed houses will be significantly further away from the existing houses than the old flats. Also submits an updated site plan which is consistent with the management plan, a section showing the proposed dwellings in relation to the existing dwellings and the now demolished flats, and photos of the old flats.</p> <p>They advise that the site is subject to a number of constraints that prevent the relocation of the road to the west of the houses as proposed by local members and residents:</p> <p>(i) The proposed development is a front-to-front arrangement with existing dwellings on Ty To Maen Close. Plots 1-6 are set 24m and plots 7 &amp; 8 are set 17.5m from existing dwellings in response to the Tree Officer's comments relating to the effect of existing trees on amenity space in rear</p>

	<p>gardens;</p> <ul style="list-style-type: none"> <li>(ii) The proposed arrangement is preferred by Secured-by-Design;</li> <li>(iii) The existing hedge on the west boundary contains dormice, a European Protected Species.</li> </ul> <p>They did consider alternative layouts to relocate the road to the west following their public consultation exercise however they have major constraints which impact significantly on the scheme:</p> <ul style="list-style-type: none"> <li>(i) One option was to maintain a front-to-front relationship with the existing dwellings but relocate the road to the rear (following the 'Radburn' layout). To accommodate the road, the dwellings would need to move to 16m from the existing dwellings, which would have a significant detrimental effect on the value of new properties and creates an un-policed rear lane;</li> <li>(ii) A second option was to face the proposed housing to the west. Whilst this would allow the existing path to remain, it would create a rear garden boundary to the back of the footpath and impact the open nature of this space. Furthermore, a distance of 21 metres will need to be provided for privacy reasons, leaving only 9.5m width to the hedge, which is too narrow to accommodate a road and parking space</li> </ul> <p>The amended proposal is acceptable to the Tree Officer, applicant and the Secured by Design and it is their view that the current layout is the most appropriate and makes a positive contribution to the area.</p>
<b>REMARKS:</b>	Noted, the amended plan before Committee must be determined on its planning merits. Amend Condition 2(ii) to refer to revision F.