

Taflen Ddiweddarau

Agenda Item no. 5 Determination of Planning Applications

Item	App. No.	Site Location	Officer Rec.
1	2023/1680/FUL	65 Windmill Terrace, St Thomas, Swansea, SA1 8DN	Approve
2	2023/0744/FUL	<p>42 Bryn Road, Brynmill, Swansea, SA2 0AP</p> <p>The following additional condition (Condition 5) should be included within the recommendation;</p> <p>The use of the property as a HMO shall be limited to a maximum of 9 persons at any one time occupying the property in accordance with the internal layout indicated on Plan No.1.02 H amended floor plan received 22nd August 2023.</p> <p>Reason: In order to restrict the use of the property to that applied for, in order to safeguard the amenities of neighbouring occupiers and the amenities of future occupiers of the HMO and to provide for suitable levels of internal space to serve the occupiers and in accordance with Policies PS2 and H9 of the Swansea Local Development Plan (2010-2025).</p> <p>Red line boundary on the Site Location Plan included in the agenda pack is incorrect and does not include the garage located to the rear of 44, Bryn Road.</p> <p>An Amended Site Location Plan has been received on 28th September 2023 Plan No. 0.01B which demonstrates the inclusion of 3 scaled parking spaces to the rear of the application site.</p> <p>1 late letter of representation has been received raising the following concerns:</p> <ul style="list-style-type: none">• Removal of street sign;• Property already occupied;• Query regarding the correctness of the Council's HMO concentration test figure.	Approve

Agenda Item 6

City and County of Swansea
Dinas a Sir Abertawe

Report of the Head of Planning & City Regeneration
to Chair and Members of Planning Committee

DATE: 3rd October 2023

Bay Area Team Leader: Hayley Kemp Tel: 07970 680580	Area 1 Team Leader Eilian Jones Tel: 07929 822781	Area 2 Team Leader: Chris Healey Tel: 07970 680562
Castle Cockett Mayals Sketty St Thomas Uplands Waterfront Waunarlyydd West Cross	Bonymaen Clydach Cwmbwrla Gorseinon and Penyrheol Landore Llangyfelach Llansamlet Llwchwr Morrison Mynyddbach Penderry Penllergaer Pontarddulais Pontlliw and Tircoed Townhill	Bishopston Dunvant and Killay Fairwood Gower Gowerton Mumbles Penclawdd Pennard

Members are asked to contact the relevant team leader for the ward in which the application site is located, should they wish to have submitted plans and other images of any of the applications on this agenda displayed at the Committee meeting.

Phil Holmes
BS(Hons), MSc, Dip Econ
Head of Planning & City Regeneration



TWO STAGE VOTING

Where Members vote against officer recommendation, a two stage vote will apply. This is to ensure clarity and probity in decision making and to make decisions less vulnerable to legal challenge or awards of costs against the Council.

The first vote is taken on the officer recommendation.

Where the officer recommendation is for “approval” and Members resolve not to accept this recommendation, reasons for refusal should then be formulated and confirmed by means of a second vote.

The application will not be deemed to be refused unless and until reasons for refusal have been recorded and approved by Members. The reason(s) have to be lawful in planning terms. Officers will advise specifically on the lawfulness or otherwise of reasons and also the implications for the Council for possible costs against the Council in the event of an appeal and will recommend deferral in the event that there is a danger that the Council would be acting unreasonably in refusing the application.

Where the officer recommendation is for “refusal” and Members resolve not to accept this recommendation, appropriate conditions should then be debated and confirmed by means of a second vote. For reasons of probity, Members should also confirm reasons for approval which should also be lawful in planning terms. Officers will advise accordingly but will recommend deferral if more time is required to consider what conditions/obligations are required or if he/she considers a site visit should be held. If the application departs from the adopted development plan it (other than a number of policies listed on page 83 of Part 3 of the Constitution) will need to be reported to Council and this report will include any appropriate conditions/obligations.

The application will not be deemed to be approved unless and until suitable conditions have been recorded and confirmed by means of a second vote.

Where Members are unable to reach agreement on reasons for refusal or appropriate conditions as detailed above, Members should resolve to defer the application for further consultation and receipt of appropriate planning and legal advice.

Contents

Item	App. No.	Site Location	Officer Rec.
1	2023/1680/FUL	65 Windmill Terrace, St Thomas, Swansea, SA1 8DN Change of use from a residential dwelling (Class C3) to 4 bed HMO property (Class C4)	Approve
2	2023/0744/FUL	42 Bryn Road, Brynmill, Swansea, SA2 0AP Change of use of 3 flats to a HMO for up to 9 people (Unique Use Class)	Approve

Item 1 (Cont'd)

Application Number:

2023/1680/FUL

Description of Development

Full planning permission is sought for the change of use of 65 Windmill Terrace from a 2 bedroom residential dwelling (Class C3) to a 4 bedroom HMO (Class C4) for 4 people.

The original plans indicated that there will be two bedrooms, a hallway, a communal lounge, kitchen and utility room to the ground floor and two bedrooms and a bathroom with a separate WC to the first floor with the addition of refuse and cycle storage provision to the rear garden area.

Amended plans were received on the 20th September 2023 changing the internal layout to now propose one bedroom, communal lounge, hallway, kitchen and bathroom on the ground floor and three bedrooms on the first floor. This was to address concerns regarding the poor outlook from the proposed communal area and which now results in an overall improved layout for the property.

Relevant Planning History

None.

Planning Policy

The National Development Framework: Future Wales - the National Plan 2040

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 9 - Resilient Ecological Networks and Green Infrastructure

Policy 28 - National Growth Area - Swansea Bay and Llanelli

Planning Policy Wales (11th Edition) 2021

Good Design Making Better Places

3.3 Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surroundings area.

3.4 Design is an inclusive process, which can raise public aspirations, reinforce civic pride and create a sense of place and help shape its future. For those proposing new development, early engagement can help to secure public acceptance of new development. Meeting the objectives of good design should be the aim of all those involved in the development process and applied to all development proposals, at all scales.

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Adopted Swansea Local Development Plan (2010-2025)

PS 2 Placemaking and Place Management - development should enhance the quality of places and spaces and should accord with relevant placemaking principles.

ER 2 Strategic Green Infrastructure Network - Green infrastructure will be provided through the protection and enhancement of existing green spaces that afford valuable ecosystem services. Development that compromises the integrity of such green spaces, and therefore that of the overall green infrastructure network, will not be permitted. Development will be required to take opportunities to maintain and enhance the extent, quality and connectivity of the County's multi-functional green infrastructure network in accordance with the green infrastructure principles set out in the policy.

ER 8 Habitats and Species - Development proposals that would have a significant adverse effect on the resilience of protected habitats and species will only be permitted where they meet specific criteria.

ER 9 Ecological Networks and Features of Importance for Biodiversity - Development proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Particular importance will be given to maintaining and enhancing the connectivity of ecological network. Development that could have an adverse effect on such networks and features will only be permitted where meet specific criteria are met.

T 5 Design Principles for Transport Measures and Infrastructure - provides design criteria that the design of the new development, including supporting transport measures/infrastructure must adhere to.

T 6 Parking - proposals must be served by appropriate parking provision, in accordance with maximum parking standards, and consider the requirements for cycles, cars, motorcycles and service vehicles. In those instances where adequate parking cannot be provided on site, or is judged not to be appropriate, the developer will be required to provide a financial contribution towards alternative transport measures where appropriate. The provision of secure cycle parking and associated facilities will be sought in all major development schemes.

Proposals on existing car parks that would reduce parking provision will not be permitted where the loss of the parking facility would result in outcomes specified in the policy.

H 9 Housing in Multiple Occupation - Proposals for the conversion of a dwelling or non-residential property to a House in Multiple Occupation (HMO) will only be permitted where they comply with relevant policy principles.

Supplementary Planning Guidance:

The Authority has adopted the SPG 'Houses in Multiple Occupation and Purpose Built Student Accommodation in Swansea' in December 2019, (hereafter referred to as the HMO SPG). The HMO SPG expands and supports Policy H9 and includes an explanation of the radius calculation methodology. This document is referenced in the amplification text of Policy H 9 on page 140 of the LDP.

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Furthermore the SPG 'Placemaking Guidance for Residential Development' adopted 2021, is considered to provide further guidance on the interpretation of Policy PS2. The SPG 'Car Parking Standards' adopted March 2012, also provide further information and guidance in regard to Policy T 6 and this is referenced on page 236 of the LDP. Finally the SPG 'Development and Biodiversity' was adopted February 2021, and expands upon Policies ER 2, ER 8 and ER 9.

Consultations:

Local Highways Authority: - The property currently operates as a 2-bedroom residential dwelling. There is no off-road parking associated within the property and this is the case with the majority of the dwellings on the street, on street parking is a mix of restricted parking in the form of resident only bays, and unrestricted.

No off-road parking is being proposed. With reference to current SPG parking guidelines, houses in multiple occupation for up to 6 people sharing will be treated as a large single household. As the number of bedrooms (4) is within this limit then there is no requirement to provide any additional car parking. There is currently no off-road parking associated with the property and the property as a whole would benefit from the resident parking scheme in force in the area, and would only be entitled to two permits in total. It is unlikely that a refusal on highway safety grounds would be sustained at appeal, particularly as waste and cycle storage is indicated as being proposed in the rear garden area.

On balance, there are no highway objections subject to the waste and cycle storage being laid out in accordance with the approved plans, prior to beneficial occupation of the HMO and being maintained as such thereafter.

Policy and Placemaking Officer: - Comments as below:

All HMO planning proposals submitted to the Planning Authority for determination are subject to Policy H 9 of the adopted Swansea Local Development Plan (LDP). Such proposals should also be considered with reference to the Council's adopted Supplementary Planning Guidance (SPG) entitled 'Houses in Multiple Occupation and Purpose Built Student Accommodation'. The abovementioned LDP Policy and supporting SPG identify a number of criteria that HMO proposals are required to address. Full consideration should be given by the Planning Authority to all the relevant criteria to determine whether a HMO proposal is acceptable. A number of these would lead to a potentially harmful concentration of HMOs. The purpose of these is to help establish, at the specific time the test is done, if a proposed new HMO would give rise to an SPG are:

Test 1 - 'Radius Test' Within the defined HMO Management Area (shown on the LDP Proposals Map), HMO proposals should not lead to more than 25% of all residential properties within a 50 metre radius of the proposal being HMOs. Outside the HMO Management Area, HMO proposals should not lead to more than 10% of all residential properties within a 50m radius of the proposal being HMOs.

Test 2 - 'Small Streets Test' HMO proposals within 'small streets' that do not breach the 50m radius maximum threshold will not be supported if the proposal would create a disproportionate over concentration of HMOs within that street .

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Test 3 - 'Non-sandwiching Test' The development would not result in a Class C3 dwelling being 'sandwiched' between adjoining HMO properties.

Based on an analysis of the publicly available information and evidence available to me at this time, the following provides the results of the HMO Concentration Test in relation to No. 65 Windmill Terrace, St Thomas, Swansea, SA1 8DN.

Test 1 - 'Radius Test' The application property is outside the HMO Management Area designated in the Swansea LDP, as illustrated on the Proposals Map. Being outside the management area, the concentration HMO threshold "ceiling" to be applied in this instance is to avoid the number of HMOs within a 50 metre radius of the application site exceeding 10% as a proportion of all residential units. Figure 1 provides a plan showing the properties identified as falling within the radius, as drawn from the relevant point on the application property. In order to produce the HMO Concentration Test, having regard to the data available to me in the Local Land & Property Gazetteer and on the use classes and HMO licensing records of properties within the radius, I have shown on the plan below (Figure 1) those properties that appear to be classed as HMOs.

On this basis the outputs of Test 1 are as follows:

Within a 50 metre radius of the application property there are 26 residential units and according to my records no properties are existing HMOs. If the application property was approved for a HMO (Class C4) use I have calculated that on this basis the concentration percentage would be 3.85% within the 50m radius and therefore would be below the 10% threshold. See Figure 1 below:



Figure 1 - HMO Concentration Radius Test

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Test 2 - 'Small Streets Test'

The application property is not considered to be on a small street and so the 'small street' criteria as set out in LDP Policy H9 and the 'HMOs and Purpose Built Student Accommodation' Supplementary Planning Guidance (SPG)' does not apply in this case.

Test 3 - 'Non-sandwiching Test'

The change of use of the application property to a HMO (Unique Use) would not result in a C3 residential dwelling being 'sandwiched' between adjoining HMOs sharing the same street frontage.

Neighbour comments:

Response to Consultation

The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) through neighbour notification letters sent on 9th August 2023 and via site notice.

A 40 name PETITION OF OBJECTION was received, but no reasons for the objections were cited on the petition itself.

In addition, FIVE INDIVIDUAL LETTERS OF OBJECTION were received including an objection from the Local Ward Member, which are summarised as follows:

1. This application will lead to more traffic.
2. House more suited to a 3 bed HMO.
3. Rooms are smaller than stated in the HMO standards.
4. Concerns over noise levels.
5. Concerns regarding increased parking as a result of the proposal due to existing severe parking problems and safety for pedestrians due to design of the road.

APPRAISAL

Main Issues

The main issues to consider in the determination of this application relate to the impact upon visual and residential amenities, highway safety and ecology having regard to the prevailing provisions of the relevant development plan policies and National Policy guidance. There are considered to be no additional issues arising from the provisions of the Human Rights Act.

Principle of Use

In terms of the principle of use, reference must be made to Policy H 9 of the Local Development Plan and the HMO SPG, specifically the radius approach contained within the Policy and SPG. Policy H 9 states that outside of the HMO Management Area a limit of 10% of all residential properties within a 50m radius can be HMOs.

The application site is located outside of the HMO Management Area and so within a 50-metre radius of the application property there are 26 residential units and according to records no properties are existing HMOs. If the application property was approved for a HMO (Class C4) use, then on this basis the concentration percentage would be 3.85% within the 50m radius which is below the 10% threshold as stated in Policy H9. It would also not result in the 'sandwiching' of a residential dwellinghouse, nor is it part of a small street. Therefore, the concentration would not be over the 10% threshold and as such, would comply with the requirements of Policy H9 of the Swansea LDP 2010-2025.

Accordingly, the principle of the use is acceptable and as such would not result in an unacceptable level of concentration of HMOs which would be to the detriment of the social cohesion of the surrounding area through an over-intensification leading to an unbalanced and unsustainable community contrary to the provisions of Policies PS2 and H9 of the adopted Swansea Local Development Plan 2010 - 2025, the adopted SPG: Houses in Multiple Occupation and Purpose Built Student Accommodation (December 2019) and the aims of creating sustainable and inclusive mixed communities. Therefore, the proposal is considered acceptable in principle, however this is subject to it having an acceptable impact on other planning matters such as visual amenity, residential amenity, highway safety and ecology.

Visual Amenity

There are no external changes proposed to the property apart from the installation of a cycle store to the rear and as such, it is not considered that this change of use would have any harmful impact upon the visual amenity of the property or the wider surrounding area, in accordance with Policies PS2 and H9 of the Swansea Local Development Plan (2010-2025).

Residential Amenity

The Authority's HMO SPG recommends that single bedrooms should provide at least 6.5sqm of useable floor area, 10.2sqm for a double, 10.5sqm for a kitchen serving over 5 people and an additional amenity room. From reviewing the submitted amended plans, it is noted that all bedrooms exceed the minimum standard for single rooms, with bedroom 1 and 3 exceeding the minimum standard for a double room, albeit the submitted plans only propose 4 single person bedrooms. According to the licensing standards and the Council's SPG guidance, a kitchen used by 1-5 people should be a minimum of 7m². There is no specific size for a communal area stated in these regulations, only that it should be appropriate for the number of residents. It is considered that the change in ground floor layout now ensures that the communal lounge area is large enough and provides a much better outlook for future residents. On that basis, it is considered that the level and standard of accommodation is acceptable and would be adequate for the number of future occupants of the building.

In regard to neighbouring amenity, the proposed internal alterations would not result in any unacceptable impacts in terms of increased overbearing or overshadowing. In terms of overlooking the proposal would not see the introduction of any habitable room side elevation windows compared to the existing layout, and therefore would not allow additional views of neighbouring private amenity spaces. In terms of noise and disturbance the use of the property by 4 unrelated individuals may result in additional levels of activity in the property and the wider area, however, it is not considered that the use of the property as a 4 bed HMO would result in an unacceptable intensification of the use of the building over and above that which could be experienced as a dwelling.

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Accordingly, the proposal can be considered to have an acceptable impact in regard to neighbouring and future residential amenity impacts and therefore accords with Policy PS2 of the Swansea Local Development Plan (2010-2025).

Parking and Highway Safety

With reference to current SPG parking guidelines, houses in multiple occupation for up to 6 people sharing will be treated as a large single household. As the number of bedrooms (4) is within this limit then there is no requirement to provide any additional car parking. There is currently no off-road parking associated with the property and the property as a whole would benefit from the resident parking scheme in force in the area and would only be entitled to two permits in total. It is unlikely that a refusal on highway safety grounds would not be sustained at appeal, particularly as waste and cycle storage is indicated as being proposed in the rear garden area.

The Authority's Highways Officer has raised no objection as the proposal is not considered to have any greater impact on highway safety or parking over and above the existing extant use of the property as a dwelling subject to a condition to ensure that the waste and cycle storage are laid out in accordance with the approved plans prior to beneficial occupation of the HMO. On that basis it is not considered that the development would result in any unacceptable impacts on highway safety and therefore accords with Policies PS2 and T6 of the Swansea Local Development Plan (2010-2025) and the Council's Adopted Supplementary Planning Guidance Parking Standards (March 2012).

Ecology

Policy 9 of Future Wales states that in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated. Policy ER 9 of the LDP supports this and states that proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Whilst the applicant has not indicated any measures as part of the application, if approved, it would be necessary to secure a scheme of ecological enhancement measures by condition to ensure that a net benefit is provided to biodiversity.

Responses to Consultations

As advised above, no actual reasons were cited in the petition of objection so nothing can be addressed in this regard. However, with regards to the other issues raised in the letters of objection, these have been addressed above within the appraisal section of the report.

Imposition of Conditions

Condition 3 limits the number of occupiers of the dwelling and is imposed given that the nature of a C4 use class would generally allow the property, without planning permission to be occupied by 6 people - a different proposal to that contained within the planning application and submitted plans. The key issue here is that once the property is approved as a C4 HMO and is set out as per the approved plans the description of the development being for 4 people would have no defined status in preventing such a change occurring without a separate restrictive condition being imposed.

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Whilst the imposition of such a condition could be considered unduly restrictive as part of a blanket approach, what needs consideration here is whether the change from 4 to 6 people would bring adverse harm to the living conditions of future occupiers and those of existing neighbouring residents having regard to Policies PS2 and H9 of the Swansea Local Development Plan. In allowing an increase in the numbers of occupiers to occur without scrutiny of a planning application the change could allow additional bedrooms to be created which would provide for a different layout to that approved. This could have detrimental impacts upon future occupiers by reason of resulting in cramped living conditions and reduced shared spaces. For example additional occupiers would likely result in the need for extra bedrooms within the property. This could only be achieved by amending the layout of the approved HMO thus resulting in either smaller bedrooms or removing the shared living room. This could result in bedrooms without windows and generally a lack of shared space which would be unacceptable to both amenity and the future well-being of the occupiers. It is therefore considered that this condition is both reasonable and necessary and reasonable in this instance and that any alterations to the number of occupiers would be subject to planning control.

Conclusion

In conclusion and having regard to all material planning considerations, it is considered that the proposal would not have an unacceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties, ecology or highway safety, having regard to Policies PS1, PS2, H9 and T6 of the Swansea Local Development Plan, the Houses in Multiple Occupation and Purpose Built Student Accommodation SPG and the Parking Standards SPG.

Regard has been given to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle under Part 2 Section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this recommendation, the Local Planning Authority has taken account of the ways of working set out at Part 2, Section 5 of the WBFG Act and consider that this recommendation is in accordance with the sustainable development principles through its contribution towards one or more of the public bodies well-being objectives set out as required by Part 2 Section 9 of the WBFG Act.

RECOMMENDATION

APPROVE, subject to the following conditions;

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: 2327-01 Location Plan, 2327-05, Proposed Cycle Storage Details received on 7th August 2023, plan No.02A amended floor plan received 20th September 2023.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

Planning Committee – 3rd October 2023

Item 1 (Cont'd)

Application Number:

2023/1680/FUL

- 3 The use of the property as a HMO shall be limited to a maximum of 4 persons at any one time occupying the property in accordance with the internal layout indicated on plan nos. 02 A amended floor plan received 20th September 2023.
Reason: In order to restrict the use of the property to that applied for, in order to safeguard the amenities of neighbouring occupiers and the amenities of future occupiers of the HMO and to provide for suitable levels of internal space to serve the occupiers and in accordance with Policies PS2 and H9 of the Swansea Local Development Plan (2010-2025).
- 4 Prior to the first beneficial occupation of the units hereby approved, the waste and cycle storage must be installed on site as shown on plan no. 2327-05 received on 7th August 2023
Reason: For the avoidance of doubt and in the interests of sustainability occupiers and in accordance with Policies PS2, H9 and T6 of the Swansea Local Development Plan (2010-2025).
- 5 Prior to the commencement of development, a scheme of Ecological Enhancement Measures and an Implementation Timetable shall be submitted to and approved in writing by the Local Planning Authority. The Ecological Enhancement shall thereafter be undertaken in accordance with the approved scheme and Implementation Timetable and retained thereafter for the lifetime of the development.
Reason: In the interests of biodiversity and to provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales and ER 9 of the Swansea Local Development Plan (2010-2025).

Informatives

- 1 The development plan covering the City and County of Swansea comprises Future Wales: The National Plan 2040 and the Swansea Local Development Plan (LDP) (2010-2025). The following policies were relevant to the consideration of the application:
Policies 1, 2, 9, 28 of Future Wales
Policies PS2, T6, ER9, H9 of the LDP.
 - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
 - 3 The applicant is advised to contact the HMO Team of Swansea Council to confirm if an HMO License is required.
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Planning Committee – 3rd October 2023

Item 2

Application Number:

2023/0744/FUL

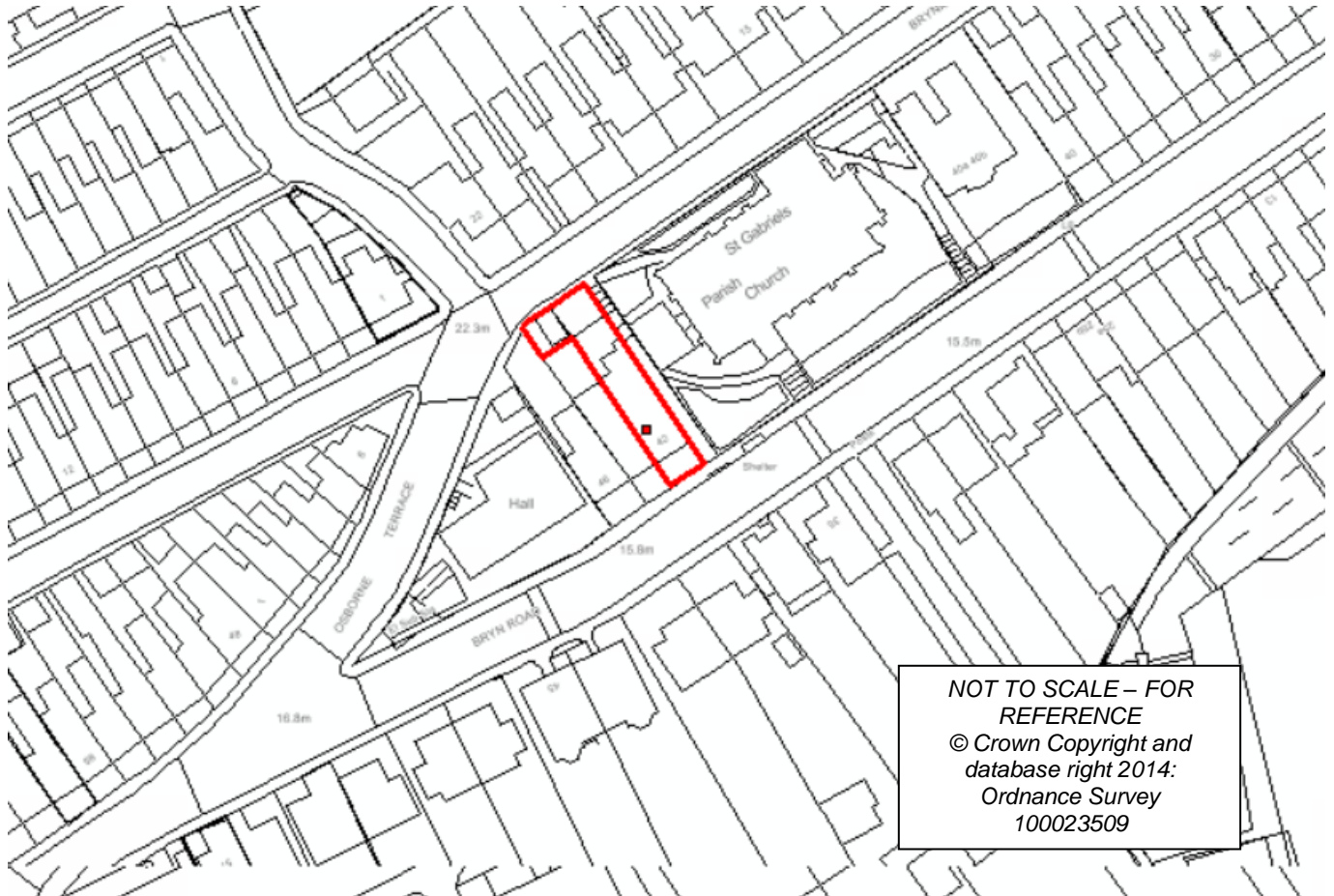
Ward:

Uplands - Bay Area

Location: 42 Bryn Road, Brynmill, Swansea, SA2 0AP

Proposal: Change of use of 3 flats to a HMO for up to 9 people (Unique Use Class)

Applicant: Mr Bal Birla Swan Letting



Procedural

This application is being reported to Planning Committee for decision because it has been 'called in' by the Local Ward Member and a petition of objection of more than 30 signatures from different people at different addresses has been submitted, thus reaching the call-in threshold.

The application was originally submitted for a change of use from 3 residential flats to a 10 bed HMO, however this has since been amended to a 9 bed HMO due to concerns regarding proposed room size and outlook. Following receipt of amended plans, the application was re-registered, re-consulted and re-advertised.

Item 2 (Cont'd)

Application Number:

2023/0744/FUL

Site Location

The application site is positioned within the Swansea urban area, local ward of Uplands and the defined HMO Management Area. The given address is: 42 Bryn Road, Brynmill, Swansea, SA2 0AS. The application is located adjacent to St Gabriel Church and is surrounded by similarly designed residential properties. The site is currently served to the rear with a double garage and a pedestrian access runs along the side of the property adjacent to the church linking Bryn Road to Brynmill Cres.

Description of Development

The application seeks a change of use of 3 residential flats to a HMO for up to 9 people. The proposal includes fenestration alterations such as the insertion of an access door into the west side elevation and front and rear rooflights. Internally the resultant building will contain 2 ensuite bedrooms and an open plan lounge/living room to the ground floor, 3 ensuite bedrooms, a bathroom and a lounge to the first floor, 2 ensuite bedrooms and a bedroom to the second floor and an ensuite bedroom to the roof space. The application also proposes the demolition of the existing garage located to the rear of the site and the creation of a hardstanding area to provide 3 off street parking spaces.

Amended plans were received on 22nd August 2023 showing the relocation of the bin and bike store to the rear of the property and the insertion of a door into the west side elevation of the property which now allows all occupiers to gain access to the rear external amenity area including the bike and bin store via the communal lounge area.

Relevant Planning History

- An application for the change of use of the ground floor to a doctors surgery was approved on 18/12/86, subject to a S106, ref: 86/1296/03.
- An application for the relaxation of condition D on planning consent 2/1/86/1296/03, which restricted occupation of the upper floors by the ground floor doctors surgery was approved on 12/01/88, ref: 87/1621/12.
- An application to convert the property to two self contained flats and one maisonette and single storey rear extension was approved on 22/10/02, ref: 2002/1623.

Planning Policy

The National Development Framework: Future Wales - the National Plan 2040

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Item 2 (Cont'd)

Application Number:

2023/0744/FUL

Policy 3 - Supporting Urban Growth and Regeneration - Public Sector Leadership
Policy 9 - Resilient Ecological Networks and Green Infrastructure

Planning Policy Wales (11th Edition) 2021

Good Design Making Better Places

3.3 Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surroundings area.

3.4 Design is an inclusive process, which can raise public aspirations, reinforce civic pride and create a sense of place and help shape its future. For those proposing new development, early engagement can help to secure public acceptance of new development. Meeting the objectives of good design should be the aim of all those involved in the development process and applied to all development proposals, at all scales.

4.1.50 A design-led approach to the provision of car parking should be taken, which ensures an appropriate level of car parking is integrated in a way which does not dominate the development. Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. Planning authorities must support schemes which keep parking levels down, especially off-street parking, when well designed. The needs of disabled people must be recognised and adequate parking provided for them.

4.1.51 Planning authorities must require good standards of car parking design, which do not allow vehicles to dominate the street or inconvenience people walking and cycling. Car parking should be overlooked by surrounding properties, to provide natural surveillance.

Adopted Swansea Local Development Plan (2010-2025)

PS 2 Placemaking and Place Management - development should enhance the quality of places and spaces and should accord with relevant placemaking principles.

ER 2 Strategic Green Infrastructure Network - Green infrastructure will be provided through the protection and enhancement of existing green spaces that afford valuable ecosystem services. Development that compromises the integrity of such green spaces, and therefore that of the overall green infrastructure network, will not be permitted. Development will be required to take opportunities to maintain and enhance the extent, quality and connectivity of the County's multi-functional green infrastructure network in accordance with the green infrastructure principles set out in the policy.

ER 8 Habitats and Species - Development proposals that would have a significant adverse effect on the resilience of protected habitats and species will only be permitted where they meet specific criteria.

Item 2 (Cont'd)

Application Number:

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ER 9 Ecological Networks and Features of Importance for Biodiversity - Development proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Particular importance will be given to maintaining and enhancing the connectivity of ecological network. Development that could have an adverse effect on such networks and features will only be permitted where meet specific criteria are met.

T 5 Design Principles for Transport Measures and Infrastructure - provides design criteria that the design of the new development, including supporting transport measures/infrastructure must adhere to.

T 6 Parking - proposals must be served by appropriate parking provision, in accordance with maximum parking standards, and consider the requirements for cycles, cars, motorcycles and service vehicles. In those instances where adequate parking cannot be provided on site, or is judged not to be appropriate, the developer will be required to provide a financial contribution towards alternative transport measures where appropriate. The provision of secure cycle parking and associated facilities will be sought in all major development schemes.

Proposals on existing car parks that would reduce parking provision will not be permitted where the loss of the parking facility would result in outcomes specified in the policy.

H 9 Housing in Multiple Occupation - Proposals for the conversion of a dwelling or non-residential property to a House in Multiple Occupation (HMO) will only be permitted where they comply with relevant policy principles.

Supplementary Planning Guidance:

The Authority has adopted the SPG 'Houses in Multiple Occupation and Purpose Built Student Accommodation in Swansea' in December 2019, (hereafter referred to as the HMO SPG). The HMO SPG expands and supports Policy H9 and includes an explanation of the radius calculation methodology. This document is referenced in the amplification text of Policy H 9 on page 140 of the LDP.

Furthermore the SPG 'Placemaking Guidance for Residential Development' adopted 2021, is considered to provide further guidance on the interpretation of Policy PS2. The SPG 'Car Parking Standards' adopted March 2012, also provide further information and guidance in regard to Policy T 6 and this is referenced on page 236 of the LDP. Finally the SPG 'Development and Biodiversity' was adopted February 2021, and expands upon Policies ER 2, ER 8 and ER 9.

Consultations:

HMO Team:

The applicant will need to apply for an HMO Licence under the requirements of the Licensing Scheme.

The applicant is advised to contact the HMO Team in order to receive appropriate advice in relation to Means of Escape and Fire Precautions as well as the amenities required at the property.

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Ecology:

Bats:

Please include the standard Bats Informative.

Nesting birds:

Please include the standard breeding birds informative.

Ecological enhancements:

Condition:

As per recommendations contained within the Bat Survey Report, a scheme of Ecological Enhancement Measures shall be provided within or to the walls of the buildings together with an implementation plan. The ecological enhancements shall be shown on an architectural drawing submitted to the LPA for approval. The approved Ecological Enhancement Measures shall be fully provided no later than 6 months within the completion of the development and shall be retained as such in perpetuity.

The ecological enhancements shall comprise:

- 1 no. Beaumaris Woodstone bat box (or similar) to be erected on the north-east elevation of the property
- 1 no. housemartin nest cup to be erected under the eaves on the north-west elevation of the new extension

Highways:

42 Bryn Road is a large dwelling currently split into 3 separate flats, 1 x 1 bed, 1 x 2 bed and 1 x 3 bed.

The parking demand generated is one space per bedroom so for all 3 flats this equates to 6 spaces. The existing property has 2 off road spaces in the rear garage.

This application is for the conversion to a 9 bedroom HMO, parking requirements for an HMO are such that for up to 6 bedrooms it should be considered as a single dwelling house with a maximum requirement of 3 spaces. Each additional bedroom generates demand for 1 additional space.

This will therefore equate to a total demand of 6 spaces.

The application is proposing to demolish the rear garage which will generate sufficient space for an additional parking space (3 in total).

As such both the extant and proposed uses generate the same parking demand, and as the application proposes to construct an additional off road space, the net effect on the surrounding highway is positive in that there is a reduction in demand of 1 space.

As such highways would not wish to object to the proposals.

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Strategic Planning and Placemaking:

All HMO planning proposals submitted to the Planning Authority for determination are subject to Policy H 9 of the adopted Swansea Local Development Plan (LDP). Such proposals should also be considered with reference to the Council's adopted Supplementary Planning Guidance (SPG) entitled 'Houses in Multiple Occupation and Purpose Built Student Accommodation'.

The abovementioned LDP Policy and supporting SPG identify a number of criteria that HMO proposals are required to address. Full consideration should be given by the Planning Authority to all the relevant criteria to determine whether a HMO proposal is acceptable. A number of these criteria set out 'tests' that are used to inform the decision making process on whether proposals would lead to a potentially harmful concentration of HMOs. The purpose of these is to help establish, at the specific time the test is done, if a proposed new HMO would give rise to an acceptable concentration of HMOs in a given area or not. The 'tests' set out in the LDP Policy and SPG are:

Test 1 - 'Radius Test'

Within the defined HMO Management Area (shown on the LDP Proposals Map), HMO proposals should not lead to more than 25% of all residential properties within a 50 metre radius of the proposal being HMOs.

Outside the HMO Management Area, HMO proposals should not lead to more than 10% of all residential properties within a 50m radius of the proposal being HMOs.

Test 2 - 'Small Streets Test'

HMO proposals within 'small streets' that do not breach the 50m radius maximum threshold will not be supported if the proposal would create a disproportionate over concentration of HMOs within that street

Test 3 - 'Non-sandwiching Test'

The development would not result in a Class C3 dwelling being 'sandwiched' between adjoining HMO properties.

Based on an analysis of the publicly available information and evidence available at this time, the following provides the results of the HMO Concentration Test in relation to No. 42 Bryn Road, Brynmill, Swansea SA2 0AP

The application property is located inside the HMO Management Area designated in the Swansea LDP, as illustrated on the Proposals Map. Being inside the management area, the concentration HMO threshold 'ceiling' to be applied in this instance is to avoid the number of HMOs within a 50 metre radius of the application site exceeding 25% as a proportion of all residential units. Figure 1 provides a plan showing the properties identified as falling within the radius, as drawn from the relevant point on the application property.

In order to produce the HMO Concentration Test, having regard to the data available to me in the Local Land & Property Gazetteer and on the use classes and HMO licensing records of properties within the radius. On this basis the outputs of Test 1 are as follows:

Within a 50 metre radius of the application property there are 26 residential units and according to my records 3 properties are existing HMOs. If the application property was approved for a HMO (Class C4) use I have calculated that on this basis the concentration percentage would be 15.38% within the 50m radius and therefore would be below the 25% threshold as shown in Figure 1 below:



Figure 1 - HMO Concentration Radius Test

Test 2 - 'Small Streets Test'

The application property is not considered to be on a small street and so the 'small street' criteria as set out in LDP Policy H9 and the 'HMOs and Purpose Built Student Accommodation' Supplementary Planning Guidance (SPG)' does not apply in this case.

Test 3 - 'Non-sandwiching Test'

The change of use of the application property to a HMO (Unique Use) would not result in a C3 residential dwelling being 'sandwiched' between adjoining HMOs sharing the same street frontage.

It is important to note that the results of the HMO Concentration Test set out in this response are based on an assessment by the Planning Authority of the information and evidence that is available to me at this time, and that these results would be subject to change if new or different information was confirmed relating to the location of HMOs within the area.

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Neighbour comments:

The final version of the development under consideration was advertised on site on 13/07/23, with 1 resident on Bryn Road and any previous individual objectors consulted on the same date.

6 letters of objection from 5 objectors were received, which are summarised below:

- Not compliant with LDP Policy or the SPG
- Loss of 3 flats that provide family accommodation
- Lack of adequate facilities for future occupants
- Anti-social behaviour and noise from the HMO occupants
- Oversaturation of HMOs in the local area
- Impact on social cohesion from an excessive number of HMOs and contrary to Wellbeing of Future Generations Act (Wales) 2015
- Impact on parking
- Increase in litter from refuse
- Lack of notification of residents and complaints that notices have been removed.
- The justification of the property as an exception to Policy H9 is not sufficient in terms that the property was not advertised for long enough, is not in a state of disrepair and questions that the evidence is fraudulent.
- Questions over the ability of the Landlord to run the property.

In addition 2 petitions of objection have been received, one with 35 signatures stating:

We the undersigned object to the above planning application on the following grounds:

1. *It will alter negatively the residential balance of the existing community.*
2. *It will negatively impact on residential amenity (noise, increase in litter and pressure on parking)*
3. *It will add to the existing percentage and therefore the capacity levels of HMOs in the area.*
4. *The application is contrary to the aims of The Wellbeing of Future Generations Act (Wales) 2015 Planning Policy WALES 2015 (To promote and provide mixed tenure and sustainable amenities)*

The second petition of 53 signatures stated:

We the undersigned strongly object to family occupied houses being turned into HMOS. The properties in question are No.42 Bryn Road application No 2023/0744/FUL and No.60 Bryn Road application No 2023/0783. Bryn Road has already been swamped by this Council allowing so many properties to be given HMO status.

APPRAISAL

Main Issues

In view of the above-mentioned policy context the key issues to consider in this planning application relate to the principle of the use of the dwellinghouse as a HMO, impact upon visual amenity, impact upon the residential amenities of neighbouring occupiers and future occupiers, ecology, along with parking and highway safety impacts.

Principle of Use

In terms of the principle of use, reference must be made to Policy H 9 of the Local Development Plan and the HMO SPG, specifically the radius approach contained within the Policy and SPG. Policy H 9 states that within the HMO Management Area a limit of 25% of all residential properties within a 50m radius can be HMOs. The application site is located within the HMO Management Area and within a 50m radius of the application property there are 26 residential units and according to records held 3 of the properties are existing HMOs. If the proposed HMO was approved the concentration percentage would be 15.38%. It would also not result in the 'sandwiching' of a residential dwellinghouse, nor is it part of a small street.

On that basis it is clear that the proposed conversion of the property to a single HMO would be compliant with LDP Policy H9, as it would not result in the breach of the 25% concentration allowance within a 50m radius. The application is supported by justification for the conversion of the property for conversion to a HMO, however this is not considered necessary given the results of the concentration test. It cannot be considered that the proposal would result in an unacceptable increase in the number of HMOs in the immediate local area in compliance with LDP Policy H9. Therefore, the proposal is considered acceptable in principle, however this is subject to it having an acceptable impact on other planning matters such as visual amenity, residential amenity, highway safety and ecology.

Visual Amenity

The proposal includes the installation of one front and one rear rooflights, and minor external alterations such as the insertion of an access door into the west elevation. The existing garage located to the rear of the property is considered to be in a poor state of repair and its demolition and creation of a hardstanding area for parking is considered acceptable and a visual improvement to the area. Whilst these proposed changes would have some visibility from public vantages, it is not considered that there would be any unacceptable impacts on the visual amenity of the building or character of the local area and is therefore considered to comply with Policy PS2 of the Swansea Local Development Plan (2010-2025).

Residential Amenity

The Authority's HMO SPG recommends that single bedrooms should provide at least 6.5sqm of useable floor area, 10.2sqm for a double, 10.5sqm for a kitchen serving over 5 people and an additional amenity room. All bedrooms exceed the minimum standard for single and double rooms, with the exception of bedroom 6 which is a single room only. However, it is also noted that the roof space bedroom had a reduced head height due to the roof space, however there is sufficient standing space to accommodate a single bedroom. In terms of shared amenity space, the occupants would be provided with two unique areas, which are of a sufficient size for the number of occupants. It is noted that both amenity spaces suffer from a poor outlook and natural lighting due to the raised rear garden and the fact that the windows face the neighbouring extension. However it is noted that this reflects the existing circumstances for habitable rooms in the flats and it can be considered that all bedrooms are provided with acceptable window openings. Whilst it is noted that the occupants will have little private external amenity space, due to the bike and bin storage, it is accepted that overall a HMO creates less demand for external amenity areas compared to family homes.

The recently submitted amended plans now show the insertion of a door into the western elevation of the property which now allows all occupiers to gain access to the rear external amenity area including the bike and bin store via the communal lounge area. On that basis, it is considered that the level and standard of accommodation is acceptable and would be adequate for the number of occupants of the building.

In regard to neighbouring amenity, it is not considered that the proposed alterations would result in any unacceptable impacts in terms of increased overbearing or overshadowing. In terms of overlooking the proposal would not see the introduction of any habitable room side elevation windows compared to the existing layout, and therefore would not allow additional views of neighbouring private amenity spaces. In terms of noise and disturbance the use of the property by 9 unrelated individuals will result in additional levels of activity in the property and the wider area, however, it cannot be regarded that this in itself would have a significant effect upon residential amenity of neighbouring occupiers. The current use of the property as three individual flats would itself create noise and disturbance. The proposal would no doubt attract additional visits to and from the premises being occupied by more people but it would be difficult to argue that this in itself would be harmful. It is noted that an objector has highlighted noise and antisocial behaviour issues in the area, and blames this on the high number of HMOs. However whilst anecdotal evidence does support this, in planning terms a HMO is still residential in nature and most suitably sited in urban residential areas. Furthermore, previous appeal decisions have shown that Inspectors do not support the supposition that HMOs have a significantly more negative impact in these regards compared to C3 residential dwellings. It is also noted that ultimately HMOs can be let to anyone and it cannot be said that all occupants of these properties are more likely to result in antisocial behaviour compared to flats and single dwellings. Finally, antisocial behaviour, particularly in the public realm, maybe a criminal matter that should be reported to the police.

Accordingly, the proposal can be considered to have an acceptable impact in regard to neighbouring and future residential amenity impacts and therefore accords with Policy PS2 of the Swansea Local Development Plan (2010-2025).

Parking and Highway Safety

The Authority's Parking Standards SPG advised that C3 dwellings with 3 or more bedrooms create a demand for 3 parking spaces. HMO's require 3 parking spaces for 3-6 bedrooms with every additional bedroom requiring an additional parking space. On that basis the existing 3 flats with a total of 6 bedrooms would generate a demand for 6 parking spaces with only two provided on site. Whereas the 9 bed HMO would also create a demand for 6 spaces, and is served by 3 parking spaces through the demolition of the existing garage. Therefore, the proposal would result in the reduction in the shortfall of spaces on site from 6 to 4.

It could also be argued that the site is in a sustainable location and the SPG allows for a maximum reduction of two spaces per unit, so long as there is one space per unit. On that basis, the existing demand for spaces would be reduced from 6 to 3, with a shortfall of 1 space. However this standard would also be applied to the proposed unit, with a reduction in the demand for spaces to 4 and a shortfall of 1 space, accounting for the increase in the number of onsite spaces.

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The Authority's Highways Officer has raised no objection to the proposal and there would not be any increase in the shortfall of parking on site compared to existing circumstances. On that basis it is not considered that the development would result in any unacceptable impacts on highway safety and therefore accords with Policies PS2 and T6 of the Swansea Local Development Plan (2010-2025) and the Council's Adopted Supplementary Planning Guidance Parking Standards (March 2012).

Ecology

The application was supported by a preliminary roost assessment, which demonstrated that no protected species would be unacceptably impacted by the proposal and that bat and bird boxes are provided. This is considered to be a reasonable requirement and in line with local and national legislation could be secured by condition. However the Authority cannot insist on certain brands of boxes as there may be just as suitable alternatives. Any consent will require ecological enhancements to be provided via condition and the Developer will need to provide suitably durable boxes as part of any proposal and agreed by the Authority in order to comply with Policy ER9 of the Swansea Local Development Plan (2010-2025).

Response to Objectors

In regard to the objections and concerns raised by the neighbouring residents, the matters regarding parking, social cohesion, residential amenity, anti-social behaviour, litter, noise, the principle of development and consideration of relevant local and national policy have been considered above. Regarding the questions over the validity of the evidence provided to justify the proposal as an exception to LDP Policy H9, as explained above, approval of this application would not be an exception to the policy. On that basis there is no need for justification for the HMO and the evidence was not a material consideration in the determination of the application.

In regard to the complaint in relation to public consultation, the Local Planning Authority (LPA) is required by the Planning Act to undertake appropriate publicity and advertising of planning applications with members of the public. For applications of this scale and nature the requirement is to send consultation letters to any neighbouring properties that directly adjoining the boundary with the application property. The LPA exceeded this requirement by erecting a site notice and then a replacement notice was re-erected once the LPA was made aware that the original site notice had been removed. Whilst the second and third notices were also removed it is considered that the Authority has taken appropriate steps to advertise the application in line with statutory requirements and there is no need for further consultation. The consultation response to the planning application suggests that the publicity exercise provided sufficient notice to the local community.

Finally, who the Landlord or Developer is, is not a material planning consideration and any decision is based on the merits of the proposed development.

Conclusions

In conclusion it is considered that the proposal represents an acceptable form of development which would have an acceptable impact in regard to visual amenity, residential amenity and highway safety.

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Therefore, it is considered that the development is compliant with the requirements of Policies PS2, H9, RP2, ER2, ER8, ER9, T5 and T6 of the Swansea Local Development Plan and advice provided within the Houses in Multiple Occupation and Purpose Built Student Accommodation in Swansea SPG, Placemaking Guidance for Residential Development, Development, Biodiversity and Development and Parking Standards.

Regard has been given to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle under Part 2 Section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this recommendation, the Local Planning Authority has taken account of the ways of working set out at Part 2, Section 5 of the WBFG Act and consider that this recommendation is in accordance with the sustainable development principles through its contribution towards one or more of the public bodies well-being objectives set out as required by Part 2 Section 9 of the WBFG Act.

RECOMMENDATION

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: 1.02 H proposed plans, 3.02 proposed elevations received on 22nd August 2023. 0.01 A site location plan received on 31st August 2023.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Notwithstanding the submitted plans, details of facilities for the secure and undercover storage of nine cycles and storage of refuse shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved commences. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.
Reason: In the interests of providing facilities for sustainable transport and general amenity, in accordance with LDP Policies PS2, T6 and H9.
- 4 A scheme of Ecological Enhancement Measures (in the form of bird and bat boxes for a range of species to be provided within the site) shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved commences. The approved details shall be fully provided no later than 6 months within the completion of the development and shall be retained as such in perpetuity.
Reason: In the interests of ecology and biodiversity enhancement, in accordance with LDP Policies PS2 and ER9.

Informatives

- 1 The development plan covering the City and County of Swansea is the Swansea Local Development Plan. The following policies were relevant to the consideration of the application: Policies PS2, H9, RP2, ER2, ER8, ER9, T5 and T6.

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- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
- 3 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 2017. This legislation implements the EC Habitats & Species Directive in the UK making it an offence to capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal whether a bat is present at the time or not. It is also an offence to recklessly / intentionally to disturb such an animal.

If evidence of bats is encountered during site clearance e.g. live or dead animals or droppings, work should cease immediately and the advice of the Natural Resources Wales sought before continuing with any work (0300 065 3000).

- 4 Birds may be present in this building and grounds please note it is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:
- Kill, injure or take any wild bird
 - Take, damage or destroy the nest of any wild bird while that nest in use or being built
 - Take or destroy an egg of any wild bird

No works should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests either in vegetation or buildings immediately before the vegetation is cleared and/or work commences on the building to ensure that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.
