



Dinas a Sir Abertawe

Hysbysiad o Gyfarfod

Fe'ch gwahoddir i gyfarfod

## Pwyllgor Cynllunio

**Lleoliad:** Siambr y Cyngor, Neuadd y Ddinas, Abertawe

**Dyddiad:** Dydd Mawrth, 4 Medi 2018

**Amser:** 2.00 pm

**Cadeirydd:** Cynghorydd Paul Lloyd

**Aelodaeth:**

Cynghorwyr: C Anderson, P M Black, L S Gibbard, M H Jones, M B Lewis,  
R D Lewis, P B Smith, A H Stevens, D W W Thomas, L J Tyler-Lloyd a/ac T M White

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### Agenda

Rhif y Dudalen.

- 1 Ymddiheuriadau am absenoldeb.
- 2 Datgeliadau o fuddiannau personol a rhagfarnol.  
[www.abertawe.gov.uk/DatgeliadauBuddiannau](http://www.abertawe.gov.uk/DatgeliadauBuddiannau)
- 3 **Cofnodion:** 1 - 5  
Cymeradwyo a llofnodi cofnodion y cyfarfod(ydd) blaenorol fel cofnod  
Cywir.
- 4 Eitemau i'w gohirio/tynnu'n ôl.
- 5 Penderfynu ar Geisiadau Cynllunio o dan Ddeddf Cynllunio Gwlad 6 - 92  
a Thref 1990.
- 6 Apelio Penderfyniad - 199 St Helens Avenue, Brynmill, Abertawe, 93 - 97  
SA1 4NE.

**Cyfarfod Nesaf:** Dydd Mawrth, 2 Hydref 2018 ar 2.00 pm

Huw Evans  
Pennaeth Gwasanaethau Democraidd  
Dydd Mawrth, 28 Awst 2018

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Cyswllt: Gwasanaethau Democraidd - 636923

# Agenda Item 3



City and County of Swansea

## Minutes of the **Planning Committee**

Council Chamber, Guildhall, Swansea

Tuesday, 7 August 2018 at 2.00 pm

**Present:** Councillor P Lloyd (Chair) Presided

**Councillor(s)**

C Anderson  
R D Lewis  
D W W Thomas

**Councillor(s)**

M H Jones  
P B Smith  
L J Tyler-Lloyd

**Councillor(s)**

M B Lewis  
A H Stevens  
T M White

**Apologies for Absence**

Councillor(s): P M Black and L S Gibbard

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### 16 Disclosures of Personal and Prejudicial Interests.

In accordance with the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

### 17 Minutes.

**Resolved** that the Minutes of the Planning Committee held on 3 July 2018 be approved and signed as a correct record.

### 18 Items for Deferral/Withdrawal.

None.

### 19 Provisional Tree Preservation Order - TPO 646.

The Tree Officer presented a report on 'Provisional Tree Preservation Order TPO 646 Land at: Llwyn Teg, Heol Iscoed, Heol Islwyn, Gelli Deg, & Gelli Rhedyn (2018)'

An update to the report was provided to include late observations.

**Resolved** that the Tree Preservation Order TPO 646: Land at: Llwyn Teg, Heol Iscoed, Heol Islwyn, Gelli Deg & Gelli Rhedyn, be approved with the omission of trees T5 and T16.

### 20 Determination of Planning Applications under the Town & Country Planning Act 1990.

A series of Planning Applications were presented on behalf of the Head of Planning & City Regeneration.

Amendments/updates to this schedule were reported and are indicated below by (#)

**Resolved** that: -

- 1) the undermentioned planning applications **Be Approved** subject to the conditions in the report and/or indicated below(#):

**(Item 1) Planning Application 2018/0585/FUL – Replacement Dwelling at The Tillers, Marsh Road, Llanrhidian, Swansea**

A visual presentation was provided.

**(Item 2) Planning Application 2018/1286/FUL – Change of use from residential (Class C3) to 5 bed HMO for 4 people (Class C4) at 25 Danygraig Road, Port Tennant, Swansea**

Robert Hughes (Agent) addressed the Committee.

Councillors Joe Hale and Clive Lloyd (Local Members) addressed the committee and spoke against the application.

**(#) (Item 3) Planning Application 2018/1323/FUL - Change of use from residential (Class C3) to 5 bed HMO for 4 people (Class C4) at 22 Rhyddings Park Road, Brynmill, Swansea**

Councillors Peter May and Nick Davies (Local Members) addressed the Committee and spoke against the application.

An update was provided to the report to include late objections from Councillor Irene Mann (Local Member)

**(#) (Item 4) Planning Application 2018/1329/FUL - Change of use from residential (Class C3) to 7 person 7 bedroom HMO, including the installation of a handrail to rear garden and steps at 134 King Edwards Road, Brynmill, Swansea**

Councillors Peter May and Nick Davies (Local Members) addressed the Committee and spoke against the application.

An update was provided to the report to include late objections from Councillor Irene Mann (Local Member)

**(#) (Item 6) Planning Application 2017/1930/FUL – Demolition of existing building and replace with two storey building with accommodation in the roof space, incorporating an office on the ground floor and two self-contained, 2 bedroom maisonettes on the upper floors at Swansea Jack, 130 Oystermouth Road, Swansea**

A visual presentation was provided.

Roger Goodwin (Local Resident) addressed the Committee and spoke against the application on behalf of local residents.

Councillor Fiona Gordon (Local Member) addressed the Committee and spoke against the application.

An update was provided to the report to include a late e-mail of both objection and support to the application.

Additional Condition added as follows:

No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during demolition and construction; and
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To reduce the likelihood of obstruction of the highway, danger to road users, to conserve public health and local amenity, to ensure satisfactory standard of sustainable development and in order to ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.

**(Item 7) Planning Application 2018/1263/RES – Construction of multi storey car park (details of access, appearance, landscaping, layout & scale pursuant to condition 6 of outline planning permission 2015/1584 granted on 10 November 2015) at Plot A9, Swansea Waterfront, Swansea**

Councillor Joe Hale and Councillor Clive Lloyd addressed the committee and spoke in respect of the parking provision and parking charges in the area.

- 2) the undermentioned planning applications **Be Refused** for the reasons outlined below:

**(#) (Item 5) Planning Application 2018/1386/FUL - Change of use from residential (Class C3) to 5 bedroom HMO for 5 people (Class C4) at 6 Lewis Street, St Thomas, Swansea**

Matthew Gray (Agent) addressed the Committee

Councillor Clive Lloyd and Councillor Joe Hale addressed the Committee and spoke against the application

An update to the report was provided to include 4 late additional objections.

The application was refused contrary to Officer recommendation for the following reasons: -

1)The proposal, in combination with existing Houses in Multiple Occupation (HMOs) within Lewis Street will result in a harmful concentration and intensification of HMOs in the small street (15% being HMOs which is above the 10% threshold suggested in research by Welsh Government in "Houses in Multiple Occupation: Review and Evidence Gathering – Report of Findings (April 2015)". Such impact will result in damage to the character of the street and to social cohesion with higher levels of transient residents and fewer long term households and established families which will lead in the long term to the wider community not being balanced and self-sustaining. As a result the proposal is contrary to Policy HC5 criterion (ii) of the City and County of Swansea Unitary Development Plan (2008) and the National Policy aims set out in Planning Policy Wales (Edition 9, November 2016) of creating sustainable and inclusive mixed communities.

2)The proposed HMO, by virtue of its siting in Lewis Street will result in the sandwiching of an existing dwellinghouse (No. 7) between two HMOs (No. 8 and the application property No. 6). This will lead to a significant adverse effect upon the residential amenities of the occupiers of No. 7 Lewis Street by virtue of isolation between two non-family units and increased comings and goings from two adjoining HMOs which will lead to increased noise and disturbance and is contrary to Policy HC5 criterion (i) of the City and County of Swansea Unitary Development Plan (2008).

**(#) (Item 8) Planning Application 2017/2606/FUL – Demolition of existing building and construction of purpose built student accommodation (PBSA) building between 6-14 storeys (up to 414 bedrooms – a mixture of cluster flats & studio apartments) with ancillary ground floor communal facilities, bicycle & bin storage, with ground floor commercial unit (Class A3) and associated infrastructure works, landscaping and car parking (4 spaces) at Land North Of Jockey Street, Swansea**

A visual presentation was provided.

Mr Wynne – Chairman of Swansea MENCAP Society (owners of the adjacent building) addressed the Committee and spoke against the application on behalf of the Society. He raised concerns over parking issues and the possible effect of access for service users, particularly to the clubhouse. The Society provides a valuable service to vulnerable service users and their families.

James Banks (Agent) addressed the Committee.

An update to the report was provided to include late comments from the Pollution Control Team suggesting an amendment to Condition 17

The application was refused contrary to Officer recommendation for the following reasons: -

1)The proposed development by reason of its design including height, scale and massing on a constrained development site will impact to an unacceptable degree upon the character and appearance of the area and be contrary to the requirements of Policies EV1 and EV2 of the City and County of Swansea Unitary Development Plan (Adopted 2008).

2)The proposed development will provide 4 car parking spaces to serve 414 students and ground floor uses. The level of proposed parking is considered to be inadequate to serve the Student Accommodation which as a result will place pressure on the surrounding streets, result in indiscriminate parking arising and result in harm to highway safety in the area contrary to the requirements of policies EV1 and AS6 of the City and County of Swansea Unitary Development Plan and Supplementary Planning Guidance 'Parking Standards' (Adopted March 2012).

3) the undermentioned planning application **Be Deferred** under the **two stage voting process** for a further report on the reasons for refusal:

**(Item 9) Planning Application 2018/1023/FUL – Construction of purpose built student accommodation between 7 and 9 storeys (591 bedspaces) with ancillary community facilities/services, 1 no. Class A3 ground floor unit, car and cycle parking, servicing area, refuse store, associated engineering, drainage, infrastructure and landscaping public realm at Plot A1, Kings Road, Swansea**

Prior to deferral:

A visual presentation was provided.

Nigel Fletcher (Waste Management - Swansea Council) addressed the Committee and spoke against the application in respect of the Waste Management Section.

Matthew Halstead (Agent) addressed the Committee

Councillor Clive Lloyd and Councillor Joe Hale (Local Members) addressed the Committee and spoke against the application.

## **21 Abergelli Power Limited (APL) - Gas Fired Power Station Item Report.**

Andrew Ferguson, Principal Planning Officer, presented an update report relating to the Abergelli Power Limited, Gas Fired Power Station submission for a development consent order for the proposal at Felindre.

**Resolved** that the Committee note the Council's relevant representations regarding the above.

The meeting ended at 4.55 pm

**Chair**

# Agenda Item 5

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: 4 September 2018

<b>Bay Area</b> Team Leader Liam Jones - 635735	<b>Area 1</b> Team Leader: Ian Davies - 635714	<b>Area 2</b> Team Leader: Chris Healey - 637424
Castle Mayals Oystermouth St Thomas Sketty Uplands West Cross	Bonymaen Clydach Cwmbwrla Gorseinon Landore Llangyfelach Llansamlet Mawr Morryston Mynyddbach Penderry Penllergaer Penyrheol Pontarddulais Townhill	Bishopston Cockett Dunvant Fairwood Gower Gowerton Killay North Killay South Kingsbridge Lower Loughor Newton Penclawdd Pennard Upper Loughor

**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, Member 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 pages 77 and 78 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	2018/1515/ADV	Land At Heol Ddu Farm, Birchgrove, Swansea, SA7 9NS  <b>3 internally illuminated high level signs, one internally illuminated 4m height barrier - cantilever right, 2 internally illuminated key seller signs, one internally illuminated double-menu sign, one banner frame sign and various non illuminated directional signs</b>	Approve
2	2018/0930/RES	Land South Of Glebe Road, Loughor, Swansea, SA4 6SR  <b>Reserved Matters - details of the access - pursuant to outline planning permission 2013/0617 granted 30th October 2017 for Residential development comprising of up to 92 dwellings with associated access, drainage and public open space</b>	Approve
3	2018/1429/FUL	4 Badminton Gardens, Ravenhill, Swansea, SA5 5DT  <b>Retention and completion of detached outbuilding</b>	Approve
4	2018/1467/FUL	45 Westbury Street, Swansea, SA1 4JW  <b>Change of use from residential (Class C3) to a 5 bed 5 person HMO (Class C4) with replacement rear dormer and removal of chimney stack</b>	Approve
5	2018/1512/FUL	123 Rhyddings Terrace, Brynmill, Swansea, SA2 0DR  <b>Change of use from residential (Class C3) to a 6 bed HMO for 6 people (Class C4)</b>	Approve
6	2018/1562/FUL	47 Gwydr Crescent, Uplands, Swansea, SA2 0AB  <b>Change of use from residential to 7 person 7 bed HMO</b>	Approve
7	2018/1665/FUL	45 Ysgol Street, Port Tennant, Swansea, SA1 8LF  <b>Change of use from 2 self-contained flats (Class C3) to a 9 bed HMO (Sui Generis) for 9 people with associated fenestration alterations</b>	Refuse
8	2018/1723/FUL	55 St Stephens Court, Maritime Quarter, Swansea, SA1 1SG  <b>Change from residential (Class C3) to HMO for 5 people (Class C4)</b>	Approve





## Planning Committee – 4<sup>th</sup> September 2018

Item 1 (Cont'd)	Application Number:	2018/1515/ADV
2018/1515/ADV	3 internally illuminated high level signs, one internally illuminated 4m height barrier - cantilever right, 2 internally illuminated key seller signs, one internally illuminated double-menu sign, one banner frame sign and various non illuminated directional signs	PDE
2010/1548	Demolition of farm bungalow (application for Prior Notification of Proposed Demolition)	PNRE Q 04.11.2010
2003/2400	Residential development (renewal of outline planning permission 98/1144 granted 30th November 1998)	APP 04.02.2004
2003/2077	Variation of condition 02 of planning permission 2001/1903 granted on 26th March 2002 to allow for the extension of time in which to submit a reserved matters application for a further period of 3 years	WDN 23.01.2004
2001/1903	Variation of condition 02 of planning permission 98/1144 dated 30th November 1998 to allow an extension of time in which to submit a reserved matters application	APP 28.03.2002

### Response to Consultations

The application was advertised on site. To date, 83 objections have been submitted to this application, from 69 separate addresses. 16 of the objections did not provide comments. The remaining objections are summarised as follows:

- Response from Costa states they "do not believe the Drive-Thru, which will not be visible from the M4, will generate additional traffic but rather draw upon the traffic that already passes through the area, offering drivers a respite during their journey.

### Item 1 (Cont'd)

Application Number:

2018/1515/ADV

We have already reduced the height of the pole sign to 4 meters and removed the signage panel from the eastern side of the site, which would have faced the new housing. The pole signage will not be visible to M4 traffic until you reach the roundabout level and as with all our Drive-Thru's the sign and lighting of any signage will be switched off when the store is closed between 10pm and 6am. We'll be hiring 18-20 local team members all of who will play an active role in supporting the local community and whether that's daily litter picks in and around the site, utilising the store to host a chatty cafe and community groups or supporting local charity initiatives." Consider this - Costa has removed the signage panel on the eastern side as they have acknowledged it would have impacted the new houses. They have admitted the lighting would have an impact on the new houses therefore the lighting will have an impact on the residents who already live here.

- Plan not to scale and are misleading.
- Quantity of signage is excessive, particularly for a residential area.
- Car lights using the Drive Thru will shine into habitable room windows on Dan y Coed Road opposite.
- Banner sign would clutter the roadway and should be moved.
- Size and illuminance levels of signage should be reduced as they generate additional light pollution.
- The 4m height barrier would allow large vans into the site that would require reversing within the site and could generate mayhem at peak times.
- Height barrier should not be chain mounted as this allows large vans to use the Drive Thru.
- Significant noise and air pollution increases as a result of this development, particularly with the crowning of nearby trees increasing noise and air pollution impact further.
- Not in keeping with the surrounding residential area, resulting in an adverse visual impact.
- Would generate litter.
- Removal of much needed green space in Birchgrove.
- Was supposed to be residential only.
- An unofficial motorway service station/service station by stealth.
- Levels of illumination are high to attract motorway traffic.
- Plans altered to allow protected trees to be removed from site.
- Would impact on roosting sites for bats.
- Unnecessary as already a Costa in neighbouring Llansamlet and plenty of coffee shops in the vicinity.
- Would generate traffic flow problems in an already busy area.
- Pointless exercise in the ongoing pretence of a fair process. Planners help to sweep aside objections, advise applicants, ignore the wishes of councillors whilst avoiding responsibility to advise councillors and undermine committee. Appears to be no mechanism to reject an application. Committee's purpose appears purely to agree with officers.
- Consultation is equally futile as objections are not considered.
- Councillors held in contempt by officers.
- Environment already overrun by company adverts and unnecessary fast food establishments. Do not need additional controversy and upset for residents for the greed of businesses.

## Planning Committee – 4<sup>th</sup> September 2018

Item 1 (Cont'd)

Application Number:

2018/1515/ADV

- No consultation from developers with residents.
- The development will de-value properties sited near a proposed fast food outlet.
- Developers not truthful about their intentions, which are to entice as much motorway traffic as possible.
- Will generate safety issues for cyclists and pedestrians.
- Costa is not wanted in Birchgrove.
- The Costa and signage will make people ill thinking about the local impact.
- Disgraceful that the Council is putting money before the lives of local people.
- Development passed without any public support.
- Layout of entry and exit road, window microphones, delivery vehicles, litter etc will cause misery and discomfort for residents.
- Planning should put in conditions to ensure residents are protected from all the problems a drive through will generate.
- Concern for the youth as the community has been eroded by people who have no regard for the people their decisions affect the most. Over 400 signed the petition and many continue to object to this proposal, cannot all be wrong?
- Concerns whether the affordable houses will be built. Several examples of developments approved with green spaces, shops, play areas etc. that never materialise.
- Identified as residential site in LDP.
- Application for development submitted Dec.2017 and approved June 2018. Question why Costa signage contractor was measuring the area in December. Have no faith in supposedly fair, transparent and democratic process.
- Committee have twice dismissed the concerns of hundreds of people, including two Assembly Members and the Traffic Division of the Police, and no doubt concerns raised now will be dismissed once again.
- Plans for the site include the removal or crowning of every tree, many of which were planted many years ago by the Council to protect privacy of residents and protect from increased traffic noise.
- Poor decisions have been made by the Council, such as the bendy bus, and the drive through is another bad idea. Wrong decisions result in tax payer's money being used to put them right.
- Opportunity to ensure Costa are not able to do whatever they like. Put measures in place to protect residents rather than a corporation.
- Disruption of natural light, additional unnecessary energy and disruption to the natural environment would have a potential impact on the physical and mental well-being of the community. Further advice should be sought.
- Cropping the trees will reduce the only thing that will provide any type of pleasant relief from this unsightly development.
- Lights may distract drivers on the M4.
- No regard for health and safety of local residents.
- No need for a Costa here as many residents are elderly and have no use for a facility like this.
- Another site for anti-social behaviour to ensure local residents have a miserable life.
- Planning Policy Wales states those involved in the planning process are expected to put people and their quality of life now and in the future at the centre of decision making.
- Signage more suitable for an Enterprise Zone and not a residential area.

## Planning Committee – 4<sup>th</sup> September 2018

### Item 1 (Cont'd)

Application Number:

2018/1515/ADV

- Concerns over the legality of the original application and questionable intentions of the development company to hide their original plans by applying on an incremental basis to diminish the concerns of residents and moderate the number of legitimate questions raised by the LPA.
- By developing the commercial aspect first, questions are raised over the underlying intention of the developers and place doubt on whether the affordable housing will be built.
- The developer should be instructed to first develop the housing to minimise the risk of them developing the commercial element further and closing operations before the rest of the scheme is completed.
- This expansion on the original plans clearly fails to comply with the UDP, namely Policies EV40, EV1 and EV2.
- If this application was submitted with the original application, the LPA would have had little option but to reject the submission for failure to comply with the UDP.
- A neighbour adjacent to the site states they were not notified of the development, raising concerns over the legality of the original application and impinging his legal right to make representations.
- Proximity to a number of junctions which are already far too busy.
- 4m tall Costa sign would peer over properties on Dan y Coed Road.
- Residents do not appear to have rights and the applicants seem to have a carte blanche to do what they want.
- Breach of condition 10 of the original consent which stated the scheme shall be implemented in accordance with the mitigation measures contained within the Hawkeswood Ecology "Bat Roost Assessment, Trees and Building" dated Dec. 2017.
- New lighting should project towards the ground, no more than 3m high and no light trespass to surrounding gardens.
- The signage and road alterations would constitute street clutter.
- A pedestrian safety audit needs to be undertaken to see if the street level signs will obstruct the view of children and pedestrians crossing the road.
- The level of illumination (600 cdm<sup>2</sup>) is excessive for a residential area, adding to the noise and air pollution already present. Potential breach of Article 8 of the Human Rights Act.
- The signage will cause light spill beyond the boundary, which can impair sleep, cause annoyance, compromise an existing dark landscape and affect natural systems (plants, animals, insects etc.).
- Strongly object to removal of 50 yr old oak tree to form part of the car park. The tree was protected in 1998 but now no record of the TPO.
- Would you want this on your doorstep?
- Why build a Costa on a Japanese knotweed infested piece of land at the side of a dangerous road?
- No purpose to the lighting, you cannot see the site from many arms of the junction due to the trees on the interchange. Proposed high sound barriers in the area (being a Noise Priority 2) around the interchange will obscure any view from the M4 and slip roads.
- Prominent location on a busy roundabout with 6 access roads. Trees being removed will make this development clearly visible from all sides.

## Planning Committee – 4<sup>th</sup> September 2018

Item 1 (Cont'd)

Application Number:

2018/1515/ADV

- The Costa Drive Thru within local retail parks do not have 4m signs, which appears to be to attract motorway traffic. Already a Costa at service station in Swansea less than 7miles away.
- A confusing road layout and increased traffic likely to cause more accidents.
- Why 4m for the height barrier when largest transit vans are under 2m high? Will 26ft long and 26 tonnes lorries which are 3.9m or lower be encouraged to use this also?
- We pay Council Tax in order to have satisfying roads and a nice community, which Birchgrove has a reputation for. A motorway stop is not needed and we do not want this Costa on our doorsteps.
- I hope planning notice that the tip of the height restrictor is 8m and not 8km from the kerb on the not to scale drawing supplied.
- Less signage required given visibility of building and the signs should be lowered. Parc Tawe Costa has lower level signage. Reducing the height of the signage would allow a reduced height in the building.
- 11-1 votes against should not have got past the first planning meeting and the second meeting was a total farce.
- Photos in support are misleading, showing trees in height of summer and which are to be cropped or removed altogether.
- One of the first areas in Swansea to have the new white council lighting systems in place to reduce light pollution which will now be under floodlight.
- Other fast food outlets signage in retail parks are at 550cdm2 illuminance levels. In residential areas 250cdm2 are recommended. 600cdm2 is unsuitable.

### Highways Authority

No highways objections.

### Pollution Control

Please add the following conditions:

Glare/overspill from the lighting installation shall be controlled adequately such that no statutory nuisance impact results on any residential property located on Dan Y Coed Road, or any other residential dwelling.

The applicant should be informed that the installation will be expected to comply with all applicable current guidance/ advice.

### Ecology

No objection to the proposal, however, they have requested that the relevant advice notes be added.

### **Background**

This application is reported to committee for decision following a call-in request from Councillor Ryland Doyle and as the objection threshold has been reached.



**Item 1 (Cont'd)**

**Application Number:**

2018/1515/ADV

### **Description**

Advertisement consent is sought for the placement of 3 no. internally illuminated high level signs, 1 no. internally illuminated 4m height barrier - cantilever right, 2 no. internally illuminated key seller signs, 1 no. internally illuminated double menu sign, 1 no. banner frame sign and various non-illuminated directional signs at the yet to be built Costa' Drive Thru 'sited on land off Heol Ddu, Birchgrove.

The proposed signage is sought in connection with the recent planning permission granted on 8th June 2018, for mixed-use development comprising 23 residential dwellings and Coffee Shop with Drive Through Facility and associated works (ref: 2017/2677/FUL).

Following the consultation period, concerns were raised with and clarification sought from the agent acting on behalf of SRT Developments Ltd. Subsequently, the scheme was amended and the following alterations and clarification were provided:

- 1) The totem sign was removed from the application.
- 2) The banner frame sign was repositioned to a less conspicuous position away from the main access.
- 3) The hatching on the site plan was removed to correspond with the approved planning drawings.
- 4) The reference to temporary signage was removed.
- 5) An amended site plan was provided incorporating the above alterations.

### **Issues**

This application relates to the provision of signage at the site only and notwithstanding the widespread issues raised by objectors, consideration of the application is limited to the impact of the proposed signage on amenity and public safety having regard to Policy EV14 of the City and County of Swansea Unitary Development Plan 2008. There are in this instance no additional issues to consider under the provisions of the Human Rights Act.

### **Amenity**

Notwithstanding the comments contained in the objections, which predominantly relate to the recently approved mixed use development comprising 23 residential dwellings and coffee shop with drive through facility, the signage contained within the application is considered commensurate with a development such as this. Whilst the location is not sited within a Retail or Enterprise Park such as other recently approved coffee shops/drive through units (Costa Drive Thru in Parc Tawe, Costa Drive Thru off Heron Way, Llansamlet and Starbucks at St Davids Retail Park, Llansamlet), the location of the signage is at the far western end of the site, closest to the roundabout junction and residential properties do not form part of the immediate streetscene in this location. The nearest properties are on Dan y Coed Road and Peniel Green Road, which are separated from the site by the B4291 and a high brick wall and established line of trees or by garages and landscaping respectively. Furthermore, the properties clearly front onto Dan y Coed Road and Peniel Green Road whereas the commercial unit and signage largely front the B4291 and roundabout junction.

### Item 1 (Cont'd)

Application Number:

2018/1515/ADV

The totem sign originally proposed has been removed from the application and the banner sign has been relocated to a less conspicuous location away from the access to the site, which has addressed concerns relating to the totem, visual clutter and proliferation of signage within the western elevation of the site. The remaining signage is comparable to signage contained at other coffee shops with drive through facilities located around Swansea. The concerns relating to an impact on residential amenity by virtue of excessive illumination levels are noted. However, the level of illumination and separation distance to residential properties (the nearest being 45m from elevation to nearest high level sign, both on Dan y Coed Road and Peniel Green Road) is such that the existing levels of illumination from traffic and street lighting is considered in excess of that which is proposed and no adverse increase would occur.

The proposed signage, therefore, is considered to represent an acceptable form of advertisement at this location.

### Public Safety

Provided that the signs are maintained in accordance with manufacturer's instructions and with the standard advertisement conditions attached hereto, there should be no adverse impact on public safety. The Highway Authority has not objected to the proposal. The signage is all contained within the site, the majority of which is sited at high level and sited away from the surrounding footways and roadways so that no access or highway safety concerns are raised. Landscaping details are to be submitted under the previous consent (conditions 6 and 7) which will further assist in buffering the signage from the nearby highways.

Concerns relating to the size of the height barrier, potential for use by larger vehicles and the unconfirmed height restrictor levels are not considered significant. The height barrier is specified as a maximum of 4m in height, the same height as that at the height barrier at the Parc Tawe unit where large vehicles are not able to use the drive through, with a significantly lower level of clearance below the barrier, once the chain restrictor sign is erected.

### Other issues

Whilst a high level of objection has been submitted to this application, the vast majority of issues and concerns raised relate to the overall development rather than the application for signage itself. Issues relating to amenity and highway safety have been addressed within the report. However, the remaining relevant issues are addressed accordingly:

#### Air, Noise and Light Pollution

It is noted that pollution control has not objected to the proposed signage. In addition, there are separate powers available to the Council should a statutory nuisance occur in relation to neighbouring properties. As statutory nuisance is covered by separate legislation, it would not be appropriate to add the condition requested by Pollution Control Officers. However, it would be prudent to include an advice note informing the applicant of their duties in this regard. Objectors have raised concerns over the level of illumination (550-600 candelas per metre squared) and proximity to neighbouring properties. However, the majority of the illuminated signage faces towards the roundabout and adjacent roads, with the nearest properties on Dan y Coed being approximately 38m from the nearest high level sign (from sign to rear boundary), with the nearest habitable room window being approximately 45m distant.

### Item 1 (Cont'd)

Application Number:

2018/1515/ADV

Similarly, the nearest high level sign to properties on Peniel Green Road is also approximately 45m distant, and perpendicular to these properties. It is of note that the level of illumination is in line with the relevant advertisement regulations for signage of this size (up to 2m<sup>2</sup> - 1000cdm<sup>2</sup>, up to 10 m<sup>2</sup> - 600cdm<sup>2</sup>).

It is not considered that the signage would generate any impact on noise or air pollution levels.

#### Trees

The proposed signage will not require the removal of any additional trees on site. None of the trees present on the development site are protected by a TPO or by virtue of being in a conservation area. An arboricultural impact assessment was considered as part of the planning permission for the development of the site and suitable mitigation will be considered via the submission of a tree protection plan and landscaping details conditioned to the aforementioned planning permission (conditions 6 and 7).

#### Ecology

Concerns have been raised by objectors over the level of illumination and potential conflict with the Ecological report submitted with the original consent, with resultant mitigation measures subsequently conditioned to said consent. It is of note that the majority of the proposed illuminated signs are on elevations which front onto the roundabout and main roads. There is no illumination proposed on the eastern elevation facing towards the centre of the site. All lighting would be switched off when the store is closed (10pm-6am) as confirmed by a response from Costa to an objector and by the agents acting on behalf of the applicant. Lighting from street lights and headlights of vehicles using the B4291, Peniel Green Road and the motorway are likely to be far greater than that of the signs.

The Council's ecologist has not objected to the proposals, however, they have suggested the developer may wish to consider a reduced level of illumination to minimise any potential disturbance of protected species. In accordance with Technical Advice Note 7: Advertisements, consideration has been given to available guidance on the illumination of the advertisements and it is considered the illumination is in accordance with the recommended levels. It would be prudent to remind the applicant, via an advice note, of their obligations under condition 16 of the previous consent to be mindful of the ecological impact of lighting within the site.

#### Motor Way Service Station

The application is for signage to an approved coffee shop and drive through and the development is not of the scale of a motorway service station. It is not considered that the signage proposed would be conspicuous to users of the motorway, with viewpoints largely obscured in both directions until directly under the interchange, and beyond the point of exit from the motorway in either direction.

### **Conclusions**

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 WCFG Act").

**Item 1 (Cont'd)**

**Application Number:**

2018/1515/ADV

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 WCFG Act and consider that this recommendation is in accordance with the sustainable development principle 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 WCFG Act.

Having regard to all material planning considerations, including the Human Rights Act, the signage is considered to be an acceptable form of development that would have a satisfactory impact on visual amenity and would not impact upon current highway safety standards. The signage therefore complies with the provision of Policy EV14 of the City and County of Swansea Unitary Development Plan 2008.

**Recommendation**

**Grant Advertisement Consent, subject to the following conditions;**

- 1 (a) All advertisements displayed and any site used for the display of advertisements shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
- (b) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
- (c) When an advertisement is required, under these Regulations, to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
- (d) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (e) No advertisement shall be sited or displayed so as to obscure or hinder the ready interpretation of any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: To comply with the requirements of The Town and Country Planning (Control of Advertisements) Regulations 1992, Part 3 (13 & 14).

- 2 The advertisements hereby permitted shall be displayed in accordance with the following approved proposed plans: SP532 - P100 REV B (site location plan), received 17th July 2018, 26836 PAGE 5 REV 4 (proposed site plan 1:500), 26836 PAGE 6 REV 4 (proposed site plan 1:300), 26836 PAGE 7 REV 4 (proposed elevations), 26836 PAGE 8 REV 4 (tray sign), 26836 PAGE 9 REV 4 (proposed components), 26836 PAGE 10 REV 4 (height barrier - cantilever right), received 14th August 2018.

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

**Item 1 (Cont'd)**

**Application Number:**

2018/1515/ADV

**Informatives**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV14 and EV40 of the City and County of Swansea Unitary Development Plan 2008.
- 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 reminded of their duty to in relation to statutory nuisance impact results on any residential property located on Dan Y Coed Road, or any other residential dwelling, as a result of glare/overspill from the lighting installation. The applicant should be mindful that the installation will be expected to comply with all applicable current guidance/ advice.
- 4 Consideration (in terms of lighting design and use) must be given to bats and otters, and relevant guidelines should be consulted.

The lighting strategy should identify those areas/features on site that are particularly sensitive for bats, otters, and other protected species that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging. It should also show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory, or having access to their breeding sites and resting places. It may be prudent to consider reducing the illumination level of all internally illuminated signage as part of the lighting strategy for the site, in line with the mitigation measures identified in the Hawkeswood Ecology "bat roost assessment, trees and building" dated December 2017.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy until the lighting is removed from the site. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

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## Planning Committee – 4<sup>th</sup> September 2018

**Item 2 (Cont'd)**

**Application Number:**

2018/0930/RES

UDP - AS10 - Traffic Management and Highway Safety  
 Accessibility - Incorporation of appropriate traffic management measures in new developments.  
 (City & County of Swansea Unitary Development Plan 2008)

**Site History**

<b>App Number</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
2017/0934/DOC	Discharge of condition 4 of Planning Permission 2015/1934 granted 13th November 2015	APP	20.06.2017
2017/0938/DOC	Discharge of condition 4 of Planning Permission 2015/1934 granted 13th November 2015	WDN	02.05.2017
2017/1002/FUL	Retention and completion of two storey side/rear extension with rear balcony and replacement side/rear conservatory	APP	20.09.2017
2018/0930/RES	Reserved Matters - details of the access - pursuant to outline planning permission 2013/0617 granted 30th October 2017 for Residential development comprising of up to 92 dwellings with associated access, drainage and public open space.	PDE	
2018/1537/RES	Residential development comprising of up to 92 dwellings with associated access, drainage and public open space (Details of access, appearance, landscaping, layout and scale) pursuant to Planning Permission 2013/0617 granted 30th October 2017.	PCO	

## Planning Committee – 4<sup>th</sup> September 2018

Item 2 (Cont'd)		Application Number:	2018/0930/RES
2018/1571/DOC	Discharge of conditions 5 (Japanese Knotweed), 11 (Construction Pollution Management Plan), 14 (Retention and Protection of Trees), 19 (Maintenance of the Surface Water System), 24 (Levels) and 26 (Future Management and Maintenance of the Proposed Streets) of planning permission 2013/0617 granted 30th October 2017	PCO	
2016/1644	Non-Material Amendment to Planning Permission 2015/1934 granted 13th November 2015 to square of the sun lounge and replace the roof with a pitched roof	APP	06.09.2016
2015/1934	Two storey side extension and rear conservatory	APP	13.11.2015
2015/0088	Two storey side extension and single storey rear extension	REF	16.03.2015
2014/1506	Two storey side extension and single storey rear extension	REF	08.12.2014

### RESPONSE TO CONSULTATIONS

The application was advertised by way of a number of site notices and 7 nearby properties were directly consulted.

TWO LETTERS OF OBJECTION have been received which raise the following (summarised) material planning concerns/comments:

- Listed buildings in proposed access route
- Mine shaft in area of proposed planning
- Impact on wildlife and Greenland area
- Impact on traffic as yet more development planned in area making the route in and out of Loughor more gridlock than it already is
- Vibration damage to buildings if plans go ahead
- Light pollution of new proposed 92 dwellings with associated street lighting



### Item 2 (Cont'd)

Application Number:

2018/0930/RES

- Noise pollution of proposed access route
- The effect of the siting of the main access road and roundabout to a major housing development of up to 92 houses directly in front of the main entrance of Mariah Chapel
- Visitors to the Chapel can currently park opposite the Chapel (within the carriageway). This space will be lost if the proposed access road and roundabout is constructed. Traffic congestion will be created during times when community events, weddings or funerals are held at the Chapel if this space is lost.

### Llwchwr Town Council

The Council believes this application to relate to layout directly in front of Moriah Chapel. It is further believed that, at present, there is no provision for a dropping off area for the Chapel which is world renowned and receives many visitors. The Council therefore wishes to object to the application on this ground but would withdraw the objection if a suitable dropping off area is provided.

### Dwr Cymru / Welsh Water

Dwr Cymru Welsh Water (DCWW) were extensively consulted on the original application (Ref: 2013/0617) and by letter response dated 31st July 2013 (Ref: PLA0002042) offered no objection subject to recommended conditions and advisory notes. Accordingly, we have no objection to this application for approval of reserved matters subject to compliance with the requirements of drainage related conditions imposed on the outline planning permission, namely conditions 18 - 21.

### Head of Transportation and Engineering

#### Initial Comments

This is a Reserved Matters application for the new access into the Land South of Glebe Road Loughor. The principle of a mini roundabout being used for the access has already been established.

I have concerns with the layout provided, outlined below:

1. Inadequate forward visibility for vehicles exiting estate, this is shown as 30m @ 4.5m, this should be 50m. Visibility is restricted by the existing wall, fence and bus stop.
2. Inadequate deflection for vehicles travelling West to East, too easy for drivers to straight line the roundabout, pinch on exit due to splitter island position.
3. Concerns over the vehicle tracking, shows large amount of unused carriageway to the South East quadrant, also very tight for large vehicles turning right out of the estate access.
4. Pedestrian Safety:
  - i. Inadequate visibility both for and of pedestrians crossing development access.
  - ii. Inadequate visibility both for and of pedestrians crossing Glebe Road South to North, visibility compromised by radius and location of bus stop.

## Planning Committee – 4<sup>th</sup> September 2018

### Item 2 (Cont'd)

Application Number:

2018/0930/RES

- iii. Skew crossing across Eastbound carriageway Glebe Road. Can this be straightened? Concerns over the hatch area to the North, where pedestrians will wait to cross. This is particularly concerning given the issues listed in point 2.
5. Access to the driveways at 62 and 64 Glebe Road appears compromised, has this been tracked?
6. It is still thought a mini roundabout could be made to operate safely, however in its current format Highways object to this application.  
I would also recommend a stage 1 Road Safety Audit be carried out to support any amended proposals.

### Final Comments

Following initial comments on the application, the applicant has provided an amended drawing S278-101 Rev B together with a swept path analysis and a Road Safety Audit (RSA) undertaken by Lime Transport.

I can confirm that the major deficiencies with the design have been addressed.

As noted in the RSA there remain some items of concern, however I am comfortable that these can be dealt with at the detailed design stage.

I recommend no highway objections are raised to the application.

### **Ecology Officer**

The application is for the access to a residential development, for which consent was granted in 2017. The application will involve felling a number of trees to facilitate the roundabout and access road.

Initial bat surveys of the entire development site were conducted in 2009, with follow-up surveys in 2011. Bat surveys are considered to be out-of-date after two years, therefore the 2011 survey can no longer be considered valid. As a number of trees were identified as having potential bat roost features in 2011, their condition is likely to have deteriorated since then, and ivy cover will have increased; therefore their potential as bat roosts is now greater. There is also potential for birds to nest in the trees and undergrowth.

Bats and nesting birds are given legal protection under the Wildlife and Countryside Act 1981 (as amended), and bats and their roosts are also protected under The Conservation of Habitats and Species Regulations 2017. I therefore recommend that a condition be added requiring any tree felling to take place between 1st October and 28th February only, when the probability of encountering a roosting bat or nesting bird is minimal.

### **APPRAISAL**

This application seeks approval for one of the 'reserved matters' (access) relating to Outline Planning Permission 2013/0617 granted on 30th October 2017 for 92 dwellings.

### Item 2 (Cont'd)

Application Number:

2018/0930/RES

This reserved matters application is being reported to Committee for determination as it relates to a development of 92 dwellings.

The site is located centrally within the urban settlement of Loughor and will be accessed via one vehicle access point from Glebe Road. The northern site boundary backs onto houses and a petrol station, the western boundary is heavily wooded and runs along a public footpath, the eastern boundary abuts an area of open land and the southern boundary adjoins an area of green wedge. The application site extends to five fields, four of which benefit from a land allocation for housing development, the fifth is not allocated and lies within the adjoining green wedge and will be used to provide an attenuation pond and wetland habitat for the development.

Moriah Chapel, the adjacent School building and the railings, are all Grade II listed with separate records (LB 479/479/480) and face Glebe Road directly opposite the site. They are constructed of local pennant stone with slate roofs and are largely unaltered and provide a heritage anchor to an area otherwise lacking in features of interest. Much of the significance of these buildings lies in the connection to Evan Roberts and the Welsh Revival in the early 1900's, and for this reason the Chapel attracts many visitors.

The 3.81 ha site is irregular in shape and falls steadily downwards in a southerly direction providing vistas out from the site to the hillsides on the opposite side of the estuary. As the land slopes down from Loughor, it meets the railway line and A484 bypass at the bottom of the valley where the Afon Lliw River flows out to the Loughor Estuary to the west.

The patchwork of fields which make up the site is defined by well-established trees and hedgerows which are in themselves a significant constraint. A group Tree Preservation Order has been placed on a number of hedgerows and trees that cross the site.

A former mine shaft sits in the North West corner of the site and no development is intended within this area.

The site is allocated as a housing site under Policy HC1 (105) of the City & County of Swansea Unitary Development Plan 2008 (UDP).

### Background Information

There are two other separate applications relating to the 2013/0617 planning permission, which are currently being assessed:

- Reserved Matters Application (2018/1537/RES) for "Residential development comprising of up to 92 dwellings with associated access road, drainage and public open space (Details of access, appearance, landscaping, layout and scale) pursuant to Planning Permission 2013/0617 granted 30th October 2017." This application will be reported to Planning Committee in due course.
- Discharge of Condition application (2018/1571/DOC) for "Discharge of conditions 5 (Japanese Knotweed), 11 (Construction Pollution Management Plan), 14 (Retention and Protection of Trees), 19 (Maintenance of the Surface Water System), 24 (Levels) and 26 (Future Management and Maintenance of the Proposed Streets) of planning permission 2013/0617 granted 30th October 2017."

**Item 2 (Cont'd)**

**Application Number:**

2018/0930/RES

### **Main Issues**

The main issue for consideration with regard to this application relate to the acceptability of the proposed access arrangements in highway safety terms having regard to Policies the EV1, AS1, AS2, and AS10 City & County of Swansea Unitary Development Plan (2008). There are no overriding issues for consideration under the provisions of the Human Rights Act.

### **Access and Highway Safety**

The site benefits from outline planning permission (2013/0617) for residential development. That application was supported by a Transport Assessment, and this showed that it was considered that the site could be developed for up to 92 dwellings in terms of vehicular movements.

The outline planning permission was subject to a S106 agreement, which included a sum of £92,000 for the funding of local road safety enhancements at the site, which shall be paid prior to the occupation of the first (1st) dwelling on the site.

The site has a frontage onto Glebe Road of approximately 50m. The details within this application show that a new mini roundabout will be located within Glebe Road which will provide the means of access to the proposed residential dwellings. The scope of the works of this application relate solely to the new access roundabout, which will also require a S278 agreement from the Local Highway Authority. This application does not include the actual access road into the site.

The submitted details show:

- A new mini roundabout on Glebe Road to facilitate the new access into the site, opposite the Moriah Chapel.
- The new footpaths will tie into the existing footpaths on the southern side of Glebe Road.
- The existing white chevron lines and double yellow lines outside the Moriah Chapel will be removed in order to accommodate the new mini-roundabout.
- The provision of a new pedestrian crossing to the east of the new roundabout on Glebe Road (across the existing grass verge) and a new pedestrian crossing over the new access road to the south of the proposed roundabout.

The exiting pull-in layby outside the Dragon Plaza Takeaway shop (adjacent to Moriah Chapel) on the northern side of Glebe Road is to remain in situ.

The existing access to residential properties on the northern side of Glebe Road will not be altered.

The Head of Transportation and Engineering considers that the proposed access is acceptable and would accord with the provisions of Policies EV1, AS1, AS2, and AS10 of the UDP. On that basis, the proposal is considered to be acceptable in terms of highway and pedestrian safety.

**Item 2 (Cont'd)**

**Application Number:**

2018/0930/RES

## **Ecology**

The outline planning permission included a condition which stated: "The development shall be carried out in accordance with the recommendations contained within Section 6 of the approved Extended Phase 1 Habitat Survey Report by Middlemarch Environmental received on the 30th July 2013. Reason: In the interest of protecting the ecology of the site and surrounding area".

Section 6 of this document set out a number a mitigation measures required to be undertaken by the developer, in the interests of trees, bats and nesting birds.

It is noted that the Council's Ecology Officer has requested the imposition of a condition which only permits tree felling to take place outside the bird nesting season (1st October to 28th February). However, Section 6.3 of the Extended Phase 1 Habitat Survey Report already limits tree felling to these months. Thus, the imposition of a tree felling/bird nesting condition is not necessary.

## **Response to Consultations**

Matters relating to listed buildings, mine shafts, wildlife and greenland, traffic impacts, and light pollution were considered during the determination of planning application 2013/0617 and are not therefore considered to be relevant to this reserved matters application. It should also be noted that the proposed roundabout does not physically impact on any listed building, nor is it considered to affect the setting of any listed building.

Matters relating to vibration damage to buildings is not a material planning consideration.

With regard to the concerns by the friends of Moriah Chapel regarding the siting of the access, the principle of this was considered during the determination of planning application 2013/0617. No conditions were imposed as part of the 2013/0617 permission that required the provision of the creation of parking provision for the Chapel.

## **Conclusion**

Having regard to all material planning considerations, including the provisions of the Human Rights Act, the details of the access, pursuant of outline planning permission 2013/0617 granted on 30th October 2017 for 92 residential units, are considered to be acceptable in terms of the impacts upon access & highway safety and therefore complies with the provisions of policies EV1, AS1, AS2, and AS10 of the Unitary Development Plan 2008.

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 principle 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.

## Planning Committee – 4<sup>th</sup> September 2018

Item 2 (Cont'd)

Application Number:

2018/0930/RES

**RECOMMENDATION: APPROVE** subject to the following condition

- 1 The development shall be carried out in accordance with the following approved plans and documents:

1752-S278-106 - HIGHWAY DETAILS-SHEET 1 OF 2  
1752-S278-106-1 - HIGHWAY DETAILS-SHEET 2 OF 2  
1752-S278-111 - ROAD SIGN & MARKINGS  
1752-S278-113 - LAND TRANSFER & DEDICATION PLAN  
Received 20th April 2018.

SITE LOCATION PLAN received 13th June 2018.

S278-112 REV B - TRACKING (REFUSE AND CAR)  
S278-101 REV B - PROPOSED ROUNDABOUT LAYOUT  
Received 6th July 2018.

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

### Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, AS1, AS2 and AS6
- 2 **It must be noted that the awarding of planning permission, does not constitute permission to work on the public highway.** The Developer must enter into a section 278 agreement, and should contact the Highway Management Group, The City and County of Swansea, Guildhall Offices, c/o The Civic Centre, Swansea SA1 3SN prior to carrying out any work. Please contact the Senior Engineer Highways Management - Network e-mails to [networkmanagement@swansea.gov.uk](mailto:networkmanagement@swansea.gov.uk) Tel. no. 01792 635380
- 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). Bats and their roosts are also protected under The Conservation of Habitats and Species Regulations 2017.

**Item 2 (Cont'd)**

**Application Number:**

2018/0930/RES

- 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.

- 5 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
- 6 You are advised to comply with the conditions in outline planning permission 2013/0617 granted on the 30th October 2017.
-







## Planning Committee – 4<sup>th</sup> September 2018

Item 3 (Cont'd)		Application Number:	2018/1429/FUL
2015/0752	Single storey side/rear extension (application for a Certificate of Proposed Lawful Development)	IL	06.05.2015
2013/1782	Variation of condition 1 of Planning Permission 2008/0243 granted 17th December 2008 to extend the period of time for a further 5 years to commence works	APP	30.01.2014
2013/0518	Variation of condition 1 of Planning Permission 2008/0243 granted 17th December 2008 to extend the period of time for a further 5 years to commence works	WDN	10.12.2013
2008/0243	Construction of 3 no. detached dwellings	APP	17.12.2008

### RESPONSE TO CONSULTATIONS

Neighbours: The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 11 and 14 Beverley Close and 3 and 5 Badminton Gardens. No letters of objection have been received.

### APPRAISAL

This application is reported to Committee for determination, as the applicant is a Councillor of this Council (Cllr Mike Durke).

### Proposal

Full planning permission is sought for the retention and completion of a detached outbuilding in the rear garden of 4 Badminton Gardens, Ravenhill. The application property is a two storey semi-detached house situated on the south-eastern side of the cul de sac.

A site visit made on the 10th August 2018 confirmed that only the concrete base of the proposed outbuilding has been laid which is set off the adjoining neighbouring boundary by approximately 1.1m. The proposed outbuilding measures 2.2m wide, 5.5m long and features a mono-pitched roof with an eaves height of 2.3m ridge height.

The proposed outbuilding would be sited in the rear garden area of the site, which is sited at a lower ground level than the host dwelling. The proposed outbuilding is to be constructed using breeze blocks faced with (waney edged) wooden cladding and brown marley tiles to match the host dwelling.

**Item 3 (Cont'd)**

**Application Number:**

2018/1429/FUL

### **Policy Issues**

The primary issues in the consideration of this application relate to the impact of the proposal on visual and residential amenity as well as highway safety, having regard to Policies EV1 and EV2 of the City and County of Swansea Unitary Development Plan 2008 (UDP). The application is also considered with regard to the Council's Supplementary Planning Guidance (SPG) document entitled "A Design Guide for Householder Development".

### **Visual Amenity**

The Council's 'Design Guide for Householder Development (2008)' specifically refers to domestic garages and outbuildings and states at paragraph 7.1 that the "... buildings must be used for `purposes incidental to the enjoyment of your house', and not for commercial purposes or as separate residential accommodation ... As with extensions and alterations to your house the location and design of your garage ... should respect the character and appearance of your property, the relationship of your property with neighbouring houses and the overall streetscene".

Paragraphs 7.3 - 7.5 state that "... A garage ... must be smaller in scale and subservient to the main house ... (and) ... must not adversely affect your neighbour's enjoyment of their garden or house. A garage ... should not cause overshadowing, overlooking or be overbearing to a neighbour's property including their garden ..."

The outbuilding will be sited to the rear of the host dwelling, within the lower part of its rear curtilage. There are several garages and outbuildings in other rear gardens of surrounding neighbouring properties. The scale, design and appearance of the building is considered to be acceptable and is typical of a garden shed/outbuilding. It is therefore considered that the proposed outbuilding will have an acceptable impact on the visual amenities of the host property and the surrounding area in general, in accordance with Policies EV1 and EV2 of the City and County of Swansea Unitary Development Plan 2008 (UDP).

### **Residential Amenity**

With regard to residential amenity, the outbuilding is not considered to have an unacceptable overbearing or overshadowing impact on any neighbouring properties, particularly as the outbuilding is sited within a lower garden area, with neighbouring properties sited either at an elevated position or some 20m away. Furthermore, the outbuilding is not considered to give rise to any overlooking impacts, given the lack of any windows contained within its elevations. It is also noted that no objections have been received from neighbours.

### **Highway Considerations**

There are no access and highway safety concerns in relation to the proposed development. The proposal has no impact on the parking areas serving the host dwelling.

**Item 3 (Cont'd)**

**Application Number:**

2018/1429/FUL

**Conclusion**

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 principle 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.

Having regard to all material planning considerations, including the Human Rights Act, the proposal is considered to represent an acceptable form of development, complying with the criteria of Policies EV1 and HC7 of the adopted City & County of Swansea Unitary Development Plan (2008) and the guidance contained in the Supplementary Planning Guidance document 'A Design Guide for Householder Development' (2008).

**RECOMMENDATION**

**APPROVE** subject to the following condition

- 1 This planning permission relates to the following approved plans and documents: HG.18.46.OS site location plan and block plan, HG.18.46-01 Proposed Floor Plans & Elevations, received 6th August 2018. Email from applicant (specifying facing materials), received 20th August 2018.

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

**Informatives**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1 and HC7
  - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
-



## Planning Committee – 4<sup>th</sup> September 2018

Item 4 (Cont'd)

Application Number:

2018/1467/FUL

UDP - HC5 - Houses in Multiple Occupation

Proposals for the conversion of dwelling or non-residential properties to HMO's will be permitted subject to a set of defined criteria including the effect upon residential amenity; harmful concentration or intensification of HMO's in an area, effect upon the external appearance of the property and the locality; effect on local car parking and highway safety; and adequate refuse storage arrangements. (City & County of Swansea Unitary Development Plan 2008)

### Site History

#### App Number

2018/1467/FUL

#### Proposal

Change of use from residential (Class C3) to a 5 bed 5 person HMO (Class C4) with replacement rear dormer and removal of chimney stack

#### Status

PDE

#### Decision Date

### APPRAISAL

This application has been called to Committee for decision at the request of Councillor Irene Mann.

### RESPONSE TO CONSULTATIONS

**Public Response** - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 49 and 50 Catherine Street and Nos. 44 and 46 Westbury Street on 5th July 2018. A site notice was also posted within the vicinity of the application site on 6th July 2018.

One letter of objection has been received, which can be summarised:

- Negative impact on social cohesion.
- There are a number of unlicensed properties.
- Negative impact on the value of residential dwellings.
- Increased noise and disturbance.
- Anti-social behaviour.
- Mess and rubbish
- Loss of Council Tax paying properties.
- Parking issues.

One petition of objection has been received comprising 48 signatures.

The comments on the petitions are as follows:

*"1. It will add to the existing percentage and therefore capacity levels of HMOs in the area.*

**Item 4 (Cont'd)**

**Application Number:**

2018/1467/FUL

*2. It will affect the general amenity of the area and will lead to an already harmful over-concentration of HMOs in the area.*

*3. The application is contrary to aims of The Future Generations Act 2015 Planning Policy Wales 2015 (to promote and provide mixed tenure and sustainable communities".*

**Description**

Full planning permission is sought for the change of use from a residential dwelling (Class C3) to a 5 bed 5 person HMO (Class C4) with a replacement rear dormer and removal of chimney stack at No. 45 Westbury Street.

The application property is a mid-terraced split level dwelling presenting a two storey façade to the street and three storey rear elevation. The dwelling has a single storey rear extension and rear dormer.

Since its original submission in July 2018 the applicant has submitted amended plans in relation to the proposed rear dormer which introduces a consistent catslide roof and a set back from the rear wall. It is on the basis of the amended plans (Received 16 August 2018) that the application is considered.

**Principle of Use**

The application property is an existing residential dwelling and would change to a property in shared occupation as a HMO. This would therefore remain in residential use and its principle is considered to be acceptable as set out by Policy HC5 of the Unitary Development Plan. Regard shall be given therefore to the assessment criteria listed in the policy which relate to material planning considerations including residential amenity, concentrations of HMOs, visual amenity, highway safety and refuse storage arrangements.

The criteria of Policy HC5 are as follows:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification of HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality,
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided

The criterion of the above is addressed below:

**Item 4 (Cont'd)**

**Application Number:**

2018/1467/FUL

Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?

On the basis of the information provided, it is acknowledged that the proposal does not include the creation of any additional bedrooms. A large family could occupy the property under the extant lawful use of the premises (i.e. 5 bedroom dwelling) and it is likely that the overall nature of the use for 5 unrelated individuals would increase the intensity in the use of the building. Whilst this is the case there is no evidence to suggest that this increase in use would represent a 'significant adverse effect upon residential amenity' having regard to potential for noise, nuisance or other disturbance as referred to in the policy. There is anecdotal evidence of problems arising from HMOs in that they can create problems such as antisocial behaviour, waste and litter but such amenity issues do not arise exclusively from a HMO use and could also be generated by a dwelling in C3 use.

It is not considered that the use of the premises for up to 5 people as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced as a dwelling house.

As such, the use of the property as a 5 bedroom HMO is not considered to result in an increase in noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the Swansea UDP.

Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple occupation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study also revealed common problems associated with a high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on school through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation: Practice Guidance (February 2016). Within this it is identified that HMOs provide a source of accommodation for certain groups which include students and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.



Item 4 (Cont'd)

Application Number:

2018/1467/FUL

From viewing the Council's own HMO register there are 26 properties on Westbury Street that are registered HMOs and two further properties that have planning permission for a change of use to a HMO, and there are approximately 68 properties on Westbury Street. The street percentage of HMOs (including the properties with existing planning permission but not on the register) would therefore change from approximately 41% to 43% on approval and implementation of the application.

It is clear that approval of the application would result in the addition of a further HMO in an area that already comprises a high concentration of HMOs, however, whilst this is the case there has been no evidence that leads conclusively to the conclusion that approval of this application would result in a harmful concentration or intensification of HMOs in this area or the street in general. Regard can be given to a number of Planning Inspectorate decisions in relation to HMO applications which have been refused by the Council but subsequently allowed on appeal. In those decisions, Planning Inspectors have stated that with no adopted Supplementary Planning Guidance on the matter, whether or not a proposal is harmful depends on planning judgement, and have gone on to suggest that there has been no conclusive evidence to prove harm to the area in those cases.

For example in dealing with an appeal at No. 57 St Helens Avenue (ref: 2016/1688) which would result in the concentration of HMOs along St Helens Avenue going from 40% to 41% the appeal inspector found that given the existing circumstances in the Ward that the conversion to a HMO would *"not cause any material harm to the character and amenity of the area"*. Furthermore the Inspector stated; *"whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area"*. At 96 King Edwards Road (ref: 2016/1380) the inspector noted the existence of 52% of dwellings being HMOs as well as the existence of a draft SPG for HMOs, but given the draft nature of the SPG was unable to attach any significant weight to it. On the evidence before him he concluded there would be no material harm and allowed the appeal. Further information of these decisions and other relevant decisions relating to HMO proposals have been appended in below paragraphs.

On consideration of the change in the percentage of HMOs in the street within an already highly concentrated area, the absence of an appropriate formal percentage or other similar calculation based approach, the absence of empirical evidence and an Adopted SPG defining the level at which harm ensues, as well as the stance taken by Planning Inspectors on appeal, it cannot be regarded that approval of this application would result in a harmful concentration of HMOs in the area and thus the proposal complies with the aims of this criterion.

There would be no adverse effect upon the external appearance of the property and the character of the locality

The proposed rear roof dormer would replace an existing small catslide dormer that is built into the roof form. The original submission provided for a dormer that was not in line with the Authority Standards in that it lacked any set-back from the eaves of the dwelling and its roof was of an awkward form. The applicant has since amended the dormer to provide for a 0.2m set back from the eaves and altered the roof so one catslide / sloped roof as opposed to a make up of a flat and sloped roof.



**Item 4 (Cont'd)**

**Application Number:**

2018/1467/FUL

Given the siting of the dormer to the rear of the property coupled with the existence of other dormers in the area and the amendments made it is considered that the dormer will have an acceptable impact upon the character and appearance of the host property and wider area.

There would be no significant adverse effect on local car parking and highway safety

The Authority's Parking Standards SPG requires that HMO properties have 3 car parking spaces for up to 6 sharing, The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations would be akin to that of a C3 dwellinghouse. In terms of the SPG the proposed 5 bedroom 5 person HMO would generate a requirement for 3 onsite parking spaces, as would the existing residential dwelling.

The SPG provides worked examples of use of the standards (page 9), however, this does not include reference to HMO proposals other than reference to a conversion of a dwelling into 3 separate flats. In that particular example where the number of parking spaces cannot be provided on site it suggests that 'if possible' spaces should be provided at the rear of the premises and that if the site is too small to provide parking and kerbside parking pressure is not evident then an allowance of on-street parking immediately outside the property may be possible. It also refers to local circumstances dictating the approach to be taken. Whilst having regard to the general advice in relation to conversions into flats the Local Planning Authority must assess the application on the basis of the potential impacts arising from the proposal and whether this would harm highway safety in the area.

The application does not include the provision of any onsite parking. However it can be noted that the existing 5 bedroom residential dwelling has a shortfall of 3 parking spaces under current Authority standards. The proposal will therefore not represent any change in the parking conditions relative to what already exists onsite. It is considered that the cycle storage at the rear of the site is appropriate. On this basis along with the fact that the site lies within walking distance of a range of facilities on Brynymor Road, the city centre and major bus routes it is not considered that the application will result in any adverse effects on local car parking and highway safety.

In dealing with appeals on highways and parking grounds inspectors have had regard to the SPG as being guidance only and have taken account of the fall-back position of existing uses as well as local circumstances when considering similar proposals. Full details of these decisions have been appended in below paragraphs.

In view of the above, 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, actually resulting in improved onsite parking provision, and is therefore in compliance with the provisions of Policies EV1, HC5, EV40 and AS6 of the City and County of Swansea Unitary Development Plan.

Appropriate refuse storage arrangements can be provided

Bin storage is provided to the back garden.

Item 4 (Cont'd)

Application Number:

2018/1467/FUL

Response to objectors

The issues raised in respect of social cohesion, high concentration of HMOs, increased noise, disturbance, rubbish and anti-social behaviour are addressed in the above report. The concerns raised about parking are noted and have been appraised in the above paragraphs. Whilst it can be accepted that the proposal generates a requirement for 3 parking spaces regard needs to be given to the fact that Parking Standards SPG is Guidance and this should not be applied slavishly to planning applications. Regard should be given to the fall back position here which is that of a dwellinghouse with no off-street parking that in itself can potentially generate a high level of demand for parking. Reference can be made to appeal decisions in which Planning Inspectors treat the SPG as 'guidance' with particular similarities being noted with the Rosehill Terrace Appeal referred to in below paragraphs.

This application has considered all relevant Local Authority Policy considerations and the aims of The Future Generations Act 2015 and Planning Policy Wales 2015. The HMO will be available for any person and offers low cost rental accommodation to a wide range of demographics.

In terms of the presence of any unlicensed properties, it is not considered that this information is material to the determination of this application but details of the individual properties can be reported to the HMO licencing team or Planning Enforcement. The potential impact on the value of neighbouring properties of approval of this application is not a material planning consideration, nor is the loss of Council Tax.

**Material Planning Appeal Decisions**

Members attention can be drawn to a series of past appeal decisions by the Planning Inspectorate in connection with similar applications for HMOs.

These appeals principally covered matters relating to concentrations of HMOs, amenity space and highway safety and form useful background information in respect of the application of planning considerations and the Adopted SPG Parking Standards.

22 St Albans Road, Brynmill - APP/B6855/A/10/2137679 - 2010/0266 - 26 January 2011

This appeal related to the creation of a seven bed HMO from an existing 6 bedroom HMO and a single reason for refusal relating to a failure to provide any parking to mitigate the impact of the development on demand for on-street parking in the area. The inspector allowed the appeal and stated *"I saw during my visit areas reserved for permit holders and double yellow lines restricting parking in the vicinity of road junctions. This endorses the Council's submission that the area is subject to heavy pressure for on-street parking. The appellant indicates that incoming tenants are advised that the area will not support vehicle parking and this approach has resulted in the property being free of tenant parking for the last two academic years. However, no evidence has been presented to indicate that such an approach is enforceable. However, the appeal site is in an urban location and I saw alternative forms of public transport area available in the vicinity of the site. Given the minimum parking standards are no longer appropriate, I do not consider the provision of an additional bedroom at this property would result in such an increase in on-street parking that it would have a significant adverse effect on local car parking and highway safety.*

## Planning Committee – 4<sup>th</sup> September 2018

Item 4 (Cont'd)

Application Number:

2018/1467/FUL

*I have had regard to all other matters raised but find nothing to sway me from my conclusion that the proposal would not be contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan"*

The Crescent, 132 Eaton Crescent, Uplands - APP/B6855/A/14/2219261 - 2013/1598 -25 September 2014

This appeal related to a change of use from a guest house to a 10 bedroom HMO and the scheme was refused on concerns about lack of parking. In the assessment the inspector noted the Council requirement for 9 parking spaces and that there was a shortfall of 4 spaces on site. The inspector noted the Council's concerns about the residents permit system being oversubscribed but from visits observed a good number of parking spaces being available. Whilst acknowledging the increase in number of people that could lead to increased activity stated "*even so, whilst the proposal does not provide the level of parking suggested by parking guidelines, the proposal does provide for five off road parking spaces and two residents parking permits are available with the property. The permits do not give access to dedicated spaces but do allow parking within the regulated and unregulated areas on the street, increasing choice*". The sustainable location of the site was noted by the inspector stating it "*is situated within walking distance of the wide range of services, and facilities, and public transport opportunities that the city offers. It is also close to the University and other employment opportunities.*" The inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

4 Rosehill Terrace, Swansea - APP/B6855/A/14/2225154 - 2014/0764 - 14 January 2015

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety. On the issue of living conditions the inspector noted that the provision of amenity space would be largely unchanged and whilst being modest it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space.

The inspector stated "*Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists*". On the issue of highway safety 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces. In concluding that the scheme would be acceptable the inspector stated "*I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality*".

8 Alexandra Terrace, Brynmill - APP/B6855/A/16/3156916 - 11 November 2016

This appeal related to a proposal for a HMO for upto 6 people. The inspector considered that the key issues were the effect of the development on the character of the area in terms of ensuring a mixed and balanced community and highway safety with reference to vehicle parking.

Item 4 (Cont'd)

Application Number:

2018/1467/FUL

The inspector noted the high concentration of HMOs in the area which equates to 42% in the street and the concerns about impacts upon a cohesive and sustainable community but considered that that the proposal would not run counter to the objectives of securing a sustainable mixed use community. She stated *"whilst I acknowledge the transient nature of multiple occupancy dwellings and note the evidence submitted in relation to age and economic profiles and household tenure, there is no detailed evidence before me to demonstrate that the resulting property would be occupied by students or that its change of use would materially alter existing social structures and patterns"...* *"the proposed use clearly serves to meet a particular housing need and the surrounding area offers a broad mix of uses"*. On the issue of highway safety and parking the inspector noted that car parking is near saturation levels and witnessed high levels of on-street parking on her site visit. The inspector noted that only 1 parking space could be provided but stated *"However, the area is well served by facilities and services and incorporates good access to public transport links, which would reduce the necessity to have access to a private vehicle. I also note that 8 Alexandra Terrace was originally a six bedroom family home and would have had similar parking demands. Moreover, the Council operates a residential permit zone in the area which could be utilised to minimise such problems for those residents that are reliant on the use of a private car. For these reasons, I do not consider the level of evidence provided to justify the refusal of planning permission"*. The appeal was allowed.

105, Rhyddings Terrace, Brynmill - APP/B6855/A/16/3161603 - 2016/1316 - 10 February 2017

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the inspector stated *"Whilst I do not dispute that there are a number of HMOs nearby, there is limited evidence before me to indicate that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. Further, although many dwellings nearby appear to be in good or very good physical condition, some of the environmental issues cited are not exclusive to their use as HMOs."* He went on to say; *"The appeal development has resulted in a modest increase in the number of bedrooms within the property. Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission. There is little evidence before me to demonstrate that the use of the property as an HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. Whilst I note that the bedrooms appear large enough to accommodate double beds, any substantial increase in occupation would require separate planning permission."*

96 King Edwards Road - APP/B6855/A/16/3165057 - 2016/1380 - 19 April 2017

In this case the inspector noted that 52% of dwellings in the area were HMOs and in allowing the appeal stated *"whilst I recognise the cumulative effects that development can have, there is no identified threshold supported by evidence to demonstrate the point at which any further HMO's would have an adverse effect on the amenity or character of the area. The ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, but there is little evidence that directly relates this to an unbalanced or unsustainable community."*



## Planning Committee – 4<sup>th</sup> September 2018

Item 4 (Cont'd)

Application Number:

2018/1467/FUL

*In fact, the census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to support local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMO's but given its draft status I am unable to attach any significant weight to it."*

57 St Helens Avenue - APP/B6855/A/16/3165327 - 2016/1688 - 25 April 2017

*In allowing this appeal the inspector stated "The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students. However, although I understand local concerns, it would appear to be the case that HMOs in this area are already established alongside family housing in fairly balanced numbers. An additional HMO in this location would not result in any material change to existing circumstances. In addition, whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. Whilst the ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, there is little evidence that directly relates this to an unbalanced or unsustainable community. The census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. The appeal property is in an accessible and sustainable location and although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."*

124 St Helens Avenue - APP/B6855/A/17/3167108 - 2016/1038 - 4 May 2017

*In this case the inspector made similar conclusions as to the case at No. 57 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns about the transient population the inspector stated "Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type.*

*Although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it." The appeal was allowed.*

Item 4 (Cont'd)

Application Number:

2018/1467/FUL

26 Pinewood Road, Uplands - APP/B6855/A/17/3170653 - 2016/1249 - 20 June 2017

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the inspector related to the impact of the proposal on the character and amenity of the area by reason of the level of use of the property having regard to the number of HMOs in the locality. The inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and given there is no adopted SPG on this matter stated "*whether or not a proposal is harmful depends on planning judgement*". He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building. Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use. On the issue of concentrations of HMOs the inspector found 'little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community. On concerns raised about lack of parking the inspector stated: "*whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users*". The appeal was allowed.

199 St Helens Avenue, Brynmill - APP/B6855/A/18/3200196 - 2018/0161/FUL - 22 January 2018

This appeal related to a proposal for a 6 person HMO and the principal issue considered by the inspector related whether the development would conflict with local and national planning policies which seek to secure and maintain sustainable and inclusive mixed communities. The inspector made similar conclusions as to the cases at No. 57 and 124 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns over increased parking pressures the inspector stated "*Much of the street is the subject of permit holders only parking restrictions. The area lies in a sustainable location where many services are within easy walking distance with good public transport to others.*" The appeal was allowed.

### **Conclusion**

It is considered that the Local Authority has no evidence to suggest that the use of this property as 5 bedroom HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan.

**Item 4 (Cont'd)**

**Application Number:**

2018/1467/FUL

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 decision, 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 principle 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: BUILDINGHMO/01 existing and proposed front elevations, BUILDINGHMO/02 existing and proposed rear elevations, BUILDINGHMO/04 proposed left side elevation, BUILDINGHMO/06 proposed right side elevation, BUILDINGHMO/08 proposed roof plan, BUILDINGHMO/09 existing and proposed basement floor plan, BUILDINGHMO/10 existing and proposed ground floor plan, BUILDINGHMO/11 existing and proposed 1st floor plan, BUILDINGHMO/12 existing and proposed 2nd floor plan, BUILDINGHMO/14 proposed site plan, BUILDINGHMO/15 location plan received dated 14.08.2018 Received on 16 August 2018.

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

- 3 The bin storage area and the bike shed as set out on drawings BUILDINGHMO/04 proposed left side elevation, BUILDINGHMO/06 proposed right side elevation, BUILDINGHMO/14 proposed site plan received on 16 August 2018 shall be available for the beneficial use of the residents and shall thereafter be retained and not used for any other purpose.

Reason: In the interests of sustainability and to encourage alternative forms of transport and to safeguard the visual amenity of the locality and the residential amenities of future occupiers.

**Informatives**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV40, AS6 and HC5.
- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.





## Planning Committee – 4<sup>th</sup> September 2018

Item 5 (Cont'd)

Application Number:

2018/1512/FUL

UDP - AS6 - Parking/Accessibility

Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)

### Site History

#### App Number

2018/1512/FUL

#### Proposal

Change of use from residential (Class C3) to a 6 bed HMO for 6 people (Class C4)

#### Status

PDE

#### Decision Date

### APPRAISAL

This application has been called to Committee for decision at the request of Councillor Irene Mann.

### RESPONSE TO CONSULTATIONS

**Public Response** - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to No.125 Rhyddings Terrace, Brynmill on 11th July 2018. A site notice was also posted within the vicinity of the application site on 17th July 2018.

One individual letter of objection has been received, which is summarised below:

- Over intensification of property.
- Noise disturbance
- The required ensuite bathrooms are unlikely to be installed
- Increased parking issues.
- Proposed bike racks have no external access and are unlikely to be used.
- Negative impact on social cohesion

Two petitions of objection have been received one comprising 40 signatures and the other 8 signatures.

The comments on the petition are as follows:

- 1. It will add to the existing percentage and therefore capacity levels of HMOs in the area.*
- 2. It will affect the general amenity of the area and lead to an already harmful over-concentration of HMOs in the area.*
- 3. The application is contrary to the aims of The Future Generations Act 2015 Planning Policy Wales 2015 (to promote and provide mixed tenure and sustainable communities).*
- 4. This petition is supported by Uplands councillors Irene Mann and Peter May.*

**Item 5 (Cont'd)**

**Application Number:**

2018/1512/FUL

**HMO Team** - As the property is situated in the Additional Licensing area the owner will need to apply for an HMO licence. From the layout plans, the proposed layout for the property lacks sufficient bathroom amenities and does not meet the current Licensing Standards. The applicant should seek relevant advice from this Department.

### **Description**

Full planning permission is sought for the change of use from a residential dwelling (Class C3) to a 6 person 6 bed HMO (Class C4) at No.123 Rhyddings Terrace Brynmill.

The application property is a two storey end of terrace currently used as a dwelling house with 4 bedrooms.

### **Principle of Use**

The application property is an existing residential dwelling and would change to a property in shared occupation as a HMO. This would therefore remain in residential use and its principle is considered to be acceptable as set out by Policy HC5 of the Unitary Development Plan. Regard shall be given therefore to the assessment criteria listed in the policy which relate to material planning considerations including residential amenity, concentrations of HMOs, visual amenity, highway safety and refuse storage arrangements.

The criteria of Policy HC5 are as follows:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification of HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided

The criterion of the above is addressed below:

Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?

On the basis of the information provided, it is acknowledged that the proposal results in an increase of two bedrooms to provide a six bedroom property. A large family could occupy the property under the extant lawful use of the premises and it is likely that the overall nature of the use for 6 unrelated individuals would increase the intensity in the use of the building.

**Item 5 (Cont'd)**

**Application Number:**

2018/1512/FUL

Whilst this is the case there is no evidence to suggest that this increase in use would represent a 'significant adverse effect upon residential amenity' having regard to potential for noise, nuisance or other disturbance as referred to in the policy. There is anecdotal evidence of problems arising from HMOs in that they can create problems such as antisocial behaviour, waste and litter but such amenity issues do not arise exclusively from a HMO use and could also be generated by a dwelling in C3 use.

The submitted information shows that the internal changes consist of altering Reception Rooms 1 and 2 into 2 bedrooms, whilst providing an ensuite within an existing bedroom on the first floor. A Reception Room and Kitchen area are retained to serve future occupiers and it is not considered that the use of the premises for up to 6 people as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced as a dwellinghouse.

As such, the use of the property as a 6 bedroom HMO is not considered to result in an increase in noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the Swansea UDP.

Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple occupation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study also revealed common problems associated with a high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on school through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation: Practice Guidance (February 2016)'. Within this it is identified that HMOs provide a source of accommodation for certain groups which include students and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

From viewing the Council's own HMO register there are 37 properties on Rhyddings Terrace which are registered HMOs and one property which has planning approval to convert to a HMO but is not on the register, and there are 95 individual properties including flats on Rhyddings Terrace.

Item 5 (Cont'd)

Application Number:

2018/1512/FUL

The street percentage of HMOs would therefore change from approximately 40% to 41% on approval and implementation of the application. It is noted that there is already a high level of HMOs in the street and the surrounding area. However it could be argued that given the existing high concentration the character of the street has already changed with regard to the number of HMOs relative to residences.

It is clear that approval of the application would result in the addition of a further HMO in an area that already comprises a high concentration of HMOs, however, whilst this is the case there has been no evidence that leads conclusively to the conclusion that approval of this application would result in a harmful concentration or intensification of HMOs in this area or the street in general. Regard can be given to a number of Planning Inspectorate decisions in relation to HMO applications which have been refused by the Council but subsequently allowed on appeal. In those decisions, Planning Inspectors have stated that with no adopted Supplementary Planning Guidance on the matter, whether or not a proposal is harmful depends on planning judgement, and have gone on to suggest that there has been no conclusive evidence to prove harm to the area in those cases.

For example in dealing with an appeal at No. 57 St Helens Avenue (ref: 2016/1688) which would result in the concentration of HMOs along St Helens Avenue going from 40% to 41% the appeal inspector found that given the existing circumstances in the Ward that the conversion to a HMO would *"not cause any material harm to the character and amenity of the area"*. Furthermore the Inspector stated; *"whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area"*. At 96 King Edwards Road (ref: 2016/1380) the inspector noted the existence of 52% of dwellings being HMOs as well as the existence of a draft SPG for HMOs, but given the draft nature of the SPG was unable to attach any significant weight to it. On the evidence before him he concluded there would be no material harm and allowed the appeal. Further information of these decisions and other relevant decisions relating to HMO proposals have been appended in below paragraphs.

On consideration of the change in the percentage of HMOs in the street within an already highly concentrated area, the absence of an appropriate formal percentage or other similar calculation based approach, the absence of empirical evidence and an Adopted SPG defining the level at which harm ensues, as well as the stance taken by Planning Inspectors on appeal, it cannot be regarded that approval of this application would result in a harmful concentration of HMOs in the area and thus the proposal complies with the aims of this criterion.

There would be no adverse effect upon the external appearance of the property and the character of the locality

The proposal doesn't include any external alterations and therefore there would not be any unacceptable impacts on the visual character of the local area.

There would be no significant adverse effect on local car parking and highway safety

The Authority's Parking Standards SPG requires that HMO properties have 3 car parking spaces for up to 6 sharing and 1 space per additional bedroom.

### Item 5 (Cont'd)

Application Number:

2018/1512/FUL

The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations would be akin to that of a C3 dwellinghouse. In terms of the SPG the proposed 6 bedroom 6 person HMO would generate a requirement for 3 onsite parking spaces.

The SPG provides worked examples of use of the standards (page 9), however, this does not include reference to HMO proposals other than reference to a conversion of a dwelling into 3 separate flats. In that particular example where the number of parking spaces cannot be provided on site it suggests that 'if possible' spaces should be provided at the rear of the premises and that if the site is too small to provide parking and kerbside parking pressure is not evident then an allowance of on-street parking immediately outside the property may be possible. It also refers to local circumstances dictating the approach to be taken. Whilst having regard to the general advice in relation to conversions into flats the Local Planning Authority must assess the application on the basis of the potential impacts arising from the proposal and whether this would harm highway safety in the area.

The application has proposed the creation of a space for the storage of 6 bikes but no onsite parking, leaving a shortfall of three parking spaces on site. However it can be noted that the existing 4 bedroom residential dwelling has a shortfall of 3 parking spaces under current Authority standards. The proposal therefore overall represents no change in the situation onsite. On this basis along with the fact that the site lies within walking distance of a range of facilities at Uplands District Centre and provision can be made on site for cycle storage provision to support sustainability it is not considered that the application will result in any adverse effects on local car parking and highway safety.

In dealing with appeals on highways and parking grounds inspectors have had regard to the SPG as being guidance only and have taken account of the fall-back position of existing uses as well as local circumstances when considering similar proposals. Full details of these decisions, which includes an appeal decision at 105, Rhyddings Terrace have been appended in below paragraphs.

In view of the above, 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, actually resulting in improved on site parking provision, and is therefore in compliance with the provisions of Policies EV1, HC5, EV40 and AS6 of the City and County of Swansea Unitary Development Plan.

### Response to objectors

The issues raised in respect of social cohesion, high concentration of HMOs, over intensification of the property, increased noise, disturbance and anti-social behaviour are addressed in the above report. The issue raised in connection with the likelihood of the ensuite bathrooms being installed is not strictly a planning issue as the ensuite bathrooms are required to satisfy the HMO licence requirements. The requirements of the licence will still need to be met in addition to planning permission. The proposal is considered to conform to the aims of The Future Generations Act 2015 Planning Policy Wales 2015.

### Item 5 (Cont'd)

Application Number:

2018/1512/FUL

The concerns raised about parking are noted and have been appraised in the above paragraphs. Whilst it can be accepted that the proposal generates a requirement for 3 parking spaces regard needs to be given to the fact that Parking Standards SPG is Guidance and this should not be applied slavishly to planning applications. Regard should be given to the fall-back position here which is that of a dwellinghouse with no off-street parking that in itself can potentially generate a high level of demand for parking. Reference can be made to appeal decisions in which Planning Inspectors treat the SPG as 'guidance' with particular similarities being noted with the Rosehill Terrace Appeal referred to in below paragraphs. In terms of bike storage it was noted on the site visit that the rear garden and therefore bike storage can be accessed externally via a door to the side boundary – wall.

### Material Planning Appeal Decisions

Members attention can be drawn to a series of past appeal decisions by the Planning Inspectorate in connection with similar applications for HMOs. These appeals principally covered matters relating to concentrations of HMOs, amenity space and highway safety and form useful background information in respect of the application of planning considerations and the Adopted SPG Parking Standards.

#### 22 St Albans Road, Brynmill - APP/B6855/A/10/2137679 - 2010/0266 - 26 January 2011

*This appeal related to the creation of a seven bed HMO from an existing 6 bedroom HMO and a single reason for refusal relating to a failure to provide any parking to mitigate the impact of the development on demand for on-street parking in the area. The inspector allowed the appeal and stated "I saw during my visit areas reserved for permit holders and double yellow lines restricting parking in the vicinity of road junctions. This endorses the Council's submission that the area is subject to heavy pressure for on-street parking. The appellant indicates that incoming tenants are advised that the area will not support vehicle parking and this approach has resulted in the property being free of tenant parking for the last two academic years. However, no evidence has been presented to indicate that such an approach is enforceable. However, the appeal site is in an urban location and I saw alternative forms of public transport area available in the vicinity of the site. Given the minimum parking standards are no longer appropriate, I do not consider the provision of an additional bedroom at this property would result in such an increase in on-street parking that it would have a significant adverse effect on local car parking and highway safety. I have had regard to all other matters raised but find nothing to sway me from my conclusion that the proposal would not be contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan"*

#### The Crescent, 132 Eaton Crescent, Uplands - APP/B6855/A/14/2219261 - 2013/1598 -25 September 2014

This appeal related to a change of use from a guest house to a 10 bedroom HMO and the scheme was refused on concerns about lack of parking. In the assessment the inspector noted the Council requirement for 9 parking spaces and that there was a shortfall of 4 spaces on site. The inspector noted the Council's concerns about the residents permit system being oversubscribed but from visits observed a good number of parking spaces being available.



Item 5 (Cont'd)

Application Number:

2018/1512/FUL

Whilst acknowledging the increase in number of people that could lead to increased activity stated *"even so, whilst the proposal does not provide the level of parking suggested by parking guidelines, the proposal does provide for five off road parking spaces and two residents parking permits are available with the property. The permits do not give access to dedicated spaces but do allow parking within the regulated and unregulated areas on the street, increasing choice"*. The sustainable location of the site was noted by the inspector stating it *"is situated within walking distance of the wide range of services, and facilities, and public transport opportunities that the city offers. It is also close to the University and other employment opportunities."* The inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

4 Rosehill Terrace, Swansea - APP/B6855/A/14/2225154 - 2014/0764 - 14 January 2015

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety. On the issue of living conditions the inspector noted that the provision of amenity space would be largely unchanged and whilst being modest it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space. The inspector stated *"Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists"*. On the issue of highway safety 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces. In concluding that the scheme would be acceptable the inspector stated *"I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality"*.

8 Alexandra Terrace, Brynmill - APP/B6855/A/16/3156916 - 11 November 2016

This appeal related to a proposal for a HMO for upto 6 people. The inspector considered that the key issues were the effect of the development on the character of the area in terms of ensuring a mixed and balanced community and highway safety with reference to vehicle parking. The inspector noted the high concentration of HMOs in the area which equates to 42% in the street and the concerns about impacts upon a cohesive and sustainable community but considered that that the proposal would not run counter to the objectives of securing a sustainable mixed use community. She stated *"whilst I acknowledge the transient nature of multiple occupancy dwellings and note the evidence submitted in relation to age and economic profiles and household tenure, there is no detailed evidence before me to demonstrate that the resulting property would be occupied by students or that its change of use would materially alter existing social structures and patterns"... "the proposed use clearly serves to meet a particular housing need and the surrounding area offers a broad mix of uses"*. On the issue of highway safety and parking the inspector noted that car parking is near saturation levels and witnessed high levels of on-street parking on her site visit.

Item 5 (Cont'd)

Application Number:

2018/1512/FUL

The inspector noted that only 1 parking space could be provided but stated *"However, the area is well served by facilities and services and incorporates good access to public transport links, which would reduce the necessity to have access to a private vehicle. I also note that 8 Alexandra Terrace was originally a six bedroom family home and would have had similar parking demands. Moreover, the Council operates a residential permit zone in the area which could be utilised to minimise such problems for those residents that are reliant on the use of a private car. For these reasons, I do not consider the level of evidence provided to justify the refusal of planning permission"*. The appeal was allowed.

105, Rhyddings Terrace, Brynmill - APP/B6855/A/16/3161603 - 2016/1316 - 10 February 2017

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the inspector stated *"Whilst I do not dispute that there are a number of HMOs nearby, there is limited evidence before me to indicate that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. Further, although many dwellings nearby appear to be in good or very good physical condition, some of the environmental issues cited are not exclusive to their use as HMOs."* He went on to say; *"The appeal development has resulted in a modest increase in the number of bedrooms within the property. Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission. There is little evidence before me to demonstrate that the use of the property as an HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. Whilst I note that the bedrooms appear large enough to accommodate double beds, any substantial increase in occupation would require separate planning permission."*

96 King Edwards Road - APP/B6855/A/16/3165057 - 2016/1380 - 19 April 2017

In this case the inspector noted that 52% of dwellings in the area were HMOs and in allowing the appeal stated *"whilst I recognise the cumulative effects that development can have, there is no identified threshold supported by evidence to demonstrate the point at which any further HMO's would have an adverse effect on the amenity or character of the area. The ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, but there is little evidence that directly relates this to an unbalanced or unsustainable community. In fact, the census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to support local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMO's but given its draft status I am unable to attach any significant weight to it."*



## Planning Committee – 4<sup>th</sup> September 2018

Item 5 (Cont'd)

Application Number:

2018/1512/FUL

57 St Helens Avenue - APP/B6855/A/16/3165327 - 2016/1688 - 25 April 2017

In allowing this appeal the inspector stated *"The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students. However, although I understand local concerns, it would appear to be the case that HMOs in this area are already established alongside family housing in fairly balanced numbers. An additional HMO in this location would not result in any material change to existing circumstances. In addition, whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. Whilst the ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, there is little evidence that directly relates this to an unbalanced or unsustainable community. The census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. The appeal property is in an accessible and sustainable location and although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."*

124 St Helens Avenue - APP/B6855/A/17/3167108 - 2016/1038 - 4 May 2017

In this case the inspector made similar conclusions as to the case at No. 57 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns about the transient population the inspector stated *"Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."* The appeal was allowed.

26 Pinewood Road, Uplands - APP/B6855/A/17/3170653 - 2016/1249 - 20 June 2017

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the inspector related to the impact of the proposal on the character and amenity of the area by reason of the level of use of the property having regard to the number of HMOs in the locality. The inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and given there is no adopted SPG on this matter stated *"whether or not a proposal is harmful depends on planning judgement"*. He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building.

Item 5 (Cont'd)

Application Number:

2018/1512/FUL

Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use. On the issue of concentrations of HMOs the inspector found 'little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community. On concerns raised about lack of parking the inspector stated: *"whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users"*. The appeal was allowed.

199 St Helens Avenue, Brynmill - APP/B6855/A/18/3200196 - 2018/0161/FUL - 22 January 2018

This appeal related to a proposal for a 6 person HMO and the principal issue considered by the inspector related whether the development would conflict with local and national planning policies which seek to secure and maintain sustainable and inclusive mixed communities. The inspector made similar conclusions as to the cases at No. 57 and 124 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns over increased parking pressures the inspector stated *"Much of the street is the subject of permit holders only parking restrictions. The area lies in a sustainable location where many services are within easy walking distance with good public transport to others."* The appeal was allowed.

## Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of this property as 6 bedroom HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan.

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 WCFG Act"). In reaching this decision, the Local Planning Authority has taken account of the ways of working set out at Part 2, Section 5 of the WCFG Act and consider that this recommendation is in accordance with the sustainable development principle 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 WCFG Act.

**Item 5 (Cont'd)**

**Application Number:**

2018/1512/FUL

**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: Site location plan received on 11th July 2018. Location plan - cycles and waste/recycling bins received on 16th July 2018. REV 1A existing and proposed floor plans received on 23rd July 2018.

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

- 3 Details of facilities for the secure and undercover storage of six cycles shall be submitted to and approved in writing by the Local Planning Authority. 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.

**Informatives**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV40, AS6 and HC5
  - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
-

## Planning Committee – 4<sup>th</sup> September 2018

Item 6

Application Number:

2018/1562/FUL

Ward:

Uplands - Bay Area

Location:

47 Gwydr Crescent, Uplands, Swansea, SA2 0AB

Proposal:

Change of use from residential to 7 person 7 bed HMO

Applicant:

Swan Lettings Swan Lettings



### Background Information

#### **Policies**

UDP - EV1 - Design

New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).

UDP - EV40 - Air, Noise and Light Pollution

Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC5 - Houses in Multiple Occupation

Proposals for the conversion of dwelling or non-residential properties to HMO's will be permitted subject to a set of defined criteria including the effect upon residential amenity; harmful concentration or intensification of HMO's in an area, effect upon the external appearance of the property and the locality; effect on local car parking and highway safety; and adequate refuse storage arrangements. (City & County of Swansea Unitary Development Plan 2008)

## Planning Committee – 4<sup>th</sup> September 2018

Item 6 (Cont'd)

Application Number:

2018/1562/FUL

UDP - AS6 - Parking/Accessibility

Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)

### Site History

#### App Number

2018/1562/FUL

#### Proposal

Change of use from residential to 7 person 7 bed HMO

#### Status

PDE

#### Decision Date

### APPRAISAL

This application has been called to Committee for decision at the request of Councillors Peter May and Irene Mann.

### RESPONSE TO CONSULTATIONS

**Public Response** - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos.46 and 49 Gwydr Crescent on 19th July 2018. A site notice was also posted within the vicinity of the application site on 26th July 2018.

Three individuals have provided four letters of objection, which are summarised below:

- Parking concerns.
- Loss of social cohesion from high concentration of HMO's
- Negative impact on schools and local businesses
- Litter and general negative environmental impacts
- Increased noise and disturbance.
- Anti-social behaviour.

One petition of objection has been received comprising 31 signatures.

The comments on the petitions are as follows:

- "1. It will add to the existing percentage and therefore capacity levels of HMOs in the area.*
- 2. It will affect the general amenity of the area and lead to an already harmful over-concentration of HMOs in the area.*
- 3. The application is contrary to the aims of The Future Generations Act 2015 Planning Policy Wales 2015 (to promote and provide mixed tenure and sustainable communities)*

**HMO Team** - I can confirm that this property is currently not recorded as a licensed HMO on our database.

**Item 6 (Cont'd)**

**Application Number:**

2018/1562/FUL

**Description**

Full planning permission is sought for the change of use from a residential dwelling (Class C3) to a 7 person HMO with associated car parking at No.14 Gwydr Crescent, Uplands.

The application property is a three storey mid-terrace currently used as a dwellinghouse with 6 bedrooms.

**Principle of Use**

The application property is an existing residential dwelling and would change to a property in shared occupation as a HMO. This would therefore remain in residential use and its principle is considered to be acceptable as set out by Policy HC5 of the Unitary Development Plan. Regard shall be given therefore to the assessment criteria listed in the policy which relate to material planning considerations including residential amenity, concentrations of HMOs, visual amenity, highway safety and refuse storage arrangements.

The criteria of Policy HC5 are as follows:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification of HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality,
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided

The criterion of the above is addressed below:

Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?

On the basis of the information provided, it is acknowledged that the proposal results in an increase of one bedroom to provide a seven bedroom property. A large family could occupy the property under the extant lawful use of the premises (i.e. 6 bedroom dwelling) and it is likely that the overall nature of the use for 7 unrelated individuals would increase the intensity in the use of the building. Whilst this is the case there is no evidence to suggest that this increase in use would represent a 'significant adverse effect upon residential amenity' having regard to potential for noise, nuisance or other disturbance as referred to in the policy. There is anecdotal evidence of problems arising from HMOs in that they can create problems such as antisocial behaviour, waste and litter but such amenity issues do not arise exclusively from a HMO use and could also be generated by a dwelling in C3 use.



**Item 6 (Cont'd)**

**Application Number:**

2018/1562/FUL

It is not considered that the use of the premises for up to 7 people as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced as a dwelling house, or indeed as the historic use of the property as a 6 bedroom HMO.

The proposed floor plans show that 6 of the proposed 7 bedrooms are already laid out as bedrooms across the three floors of the property and each are of a suitable size and served by a window. The proposed plans show that the large existing bathroom on the first floor plan would be altered to a bedroom (bedroom 3) with a new bathroom and shower room formed in the space adjoining. A rear garden court is to be retained for use by residents and the ground floor accommodates a large kitchen and living room which would be retained. As such there will be suitable living conditions for future residents in the property.

As such, the use of the property as a 7 bedroom HMO is not considered to result in an increase in noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the Swansea UDP.

Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple occupation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study also revealed common problems associated with a high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on school through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation: Practice Guidance (February 2016). Within this it is identified that HMOs provide a source of accommodation for certain groups which include students and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

From viewing the Council's own HMO register there are 40 properties on Gwydr Crescent which are registered HMOs with one other having an extant planning permission for a HMO conversion, and there are 75 properties on Gwydr Crescent, including flats. The street percentage of HMOs would therefore change from approximately 55% to 56% on approval and implementation of the application.

Item 6 (Cont'd)

Application Number:

2018/1562/FUL

It is noted that there is already a high level of HMOs in the street and the surrounding area. However it could be argued that given the existing high concentration the character of the street has already changed with regard to the number of HMOs relative to residences.

It is clear that approval of the application would result in the addition of a further HMO in an area that already comprises a high concentration of HMOs, however, whilst this is the case there has been no evidence that leads conclusively to the conclusion that approval of this application would result in a harmful concentration or intensification of HMOs in this area or the street in general. Regard can be given to a number of Planning Inspectorate decisions in relation to HMO applications which have been refused by the Council but subsequently allowed on appeal. In those decisions, Planning Inspectors have stated that with no adopted Supplementary Planning Guidance on the matter, whether or not a proposal is harmful depends on planning judgement, and have gone on to suggest that there has been no conclusive evidence to prove harm to the area in those cases.

For example in dealing with an appeal at No. 57 St Helens Avenue (ref: 2016/1688) which would result in the concentration of HMOs along St Helens Avenue going from 40% to 41% the appeal inspector found that given the existing circumstances in the Ward that the conversion to a HMO would *"not cause any material harm to the character and amenity of the area"*. Furthermore the Inspector stated; *"whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area"*. At 96 King Edwards Road (ref: 2016/1380) the inspector noted the existence of 52% of dwellings being HMOs as well as the existence of a draft SPG for HMOs, but given the draft nature of the SPG was unable to attach any significant weight to it. On the evidence before him he concluded there would be no material harm and allowed the appeal. Further information of these decisions and other relevant decisions relating to HMO proposals have been appended in below paragraphs.

On consideration of the change in the percentage of HMOs in the street within an already highly concentrated area, the absence of an appropriate formal percentage or other similar calculation based approach, the absence of empirical evidence and an Adopted SPG defining the level at which harm ensues, as well as the stance taken by Planning Inspectors on appeal, it cannot be regarded that approval of this application would result in a harmful concentration of HMOs in the area and thus the proposal complies with the aims of this criterion.

There would be no adverse effect upon the external appearance of the property and the character of the locality

No external alterations are being proposed and therefore the proposal would not adversely impact the character of the locality.

There would be no significant adverse effect on local car parking and highway safety

The Authority's Parking Standards SPG requires that HMO properties have 3 car parking spaces for up to 6 sharing and 1 space per additional bedroom. The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations would be akin to that of a C3 dwellinghouse.



**Item 6 (Cont'd)**

**Application Number:**

2018/1562/FUL

In terms of the SPG the proposed 7 bedroom 7 person HMO would generate a requirement for 4 onsite parking spaces.

The SPG provides worked examples of use of the standards (page 9), however, this does not include reference to HMO proposals other than reference to a conversion of a dwelling into 3 separate flats. In that particular example where the number of parking spaces cannot be provided on site it suggests that 'if possible' spaces should be provided at the rear of the premises and that if the site is too small to provide parking and kerbside parking pressure is not evident then an allowance of on-street parking immediately outside the property may be possible. It also refers to local circumstances dictating the approach to be taken. Whilst having regard to the general advice in relation to conversions into flats the Local Planning Authority must assess the application on the basis of the potential impacts arising from the proposal and whether this would harm highway safety in the area. In dealing with appeals on highways and parking grounds Planning Inspectors have had regard to the SPG as being guidance only and have taken account of the fall-back position of existing uses as well as local circumstances when considering similar proposals. Full details of these decisions have been appended in below paragraphs.

The application has not proposed the creation of onsite parking spaces, leaving a shortfall of four parking spaces on site. However it can be noted that the existing 6 bedroom residential dwelling has a shortfall of 3 parking spaces under current Authority standards. The proposal therefore having regard to the Parking Standards SPG creates a demand for 1 additional on-site parking space compared to existing conditions.

In terms of assessment of potential impacts it is noted that the property is sited adjacent to the Uplands District Centre and frequent bus transport to the city centre in a sustainable location. Furthermore the street itself is subject to Traffic Regulation Order's with double yellow lines on the application property side of the street and permit holders only restrictions to a lot of the remaining section of road. The Parking SPG allows a reduction of the standards where dwellings (and in this case HMOs) are close to amenities and transport links. On balance given the highly sustainable location of the proposed HMO, the lack of an additional parking space can be considered acceptable in this instance. It is noted that no provision of bicycle storage has been proposed on the submitted plans, however it is considered necessary to secure a covered cycle storage area for a minimum of 7 bikes, to encourage sustainable transport.

In view of the above, the proposal is not considered to result in a harmful impact upon parking and highway safety in the area in compliance with the provisions of Policies EV1, HC5, EV40 and AS6 of the City and County of Swansea Unitary Development Plan.

Appropriate refuse storage arrangements can be provided

Details of bin storage have not been provided and this can be secured by condition.

Response to objectors

The issues raised in respect of social cohesion, high concentration of HMOs, increased noise, disturbance and anti-social behaviour are addressed in the above report.

Item 6 (Cont'd)

Application Number:

2018/1562/FUL

It is accepted that high concentrations of HMOs in a local area can negatively impact certain local amenities such as school numbers. However as discussed above there is no evidence that the number of HMOs in this instance would result in an unacceptable impact on the character of the local area. The application is considered to comply with the aims of The Future Generations Act 2015.

The concerns raised about parking are noted and have been appraised in the above paragraphs. Whilst it can be accepted that the proposal generates a requirement for 4 parking spaces regard needs to be given to the fact that Parking Standards SPG is Guidance and this should not be applied slavishly to planning applications. Regard should be given to the fall-back position here which is that of a dwellinghouse with no off-street parking that in itself can potentially generate a high level of demand for parking. Reference can be made to appeal decisions in which Planning Inspectors treat the SPG as 'guidance' with particular similarities being noted with the Rosehill Terrace Appeal referred to in below paragraphs. A recent decision, as annotated below, in the case of 199 St Helen's Avenue the inspector had regard to the sustainable location of the site as well as the existence of permit holders only parking restrictions in much of the street.

### Material Planning Appeal Decisions

Members attention can be drawn to a series of past appeal decisions by the Planning Inspectorate in connection with similar applications for HMOs. These appeals principally covered matters relating to concentrations of HMOs, amenity space and highway safety and form useful background information in respect of the application of planning considerations and the Adopted SPG Parking Standards.

22 St Albans Road, Brynmill - APP/B6855/A/10/2137679 - 2010/0266 - 26 January 2011

*This appeal related to the creation of a seven bed HMO from an existing 6 bedroom HMO and a single reason for refusal relating to a failure to provide any parking to mitigate the impact of the development on demand for on-street parking in the area. The inspector allowed the appeal and stated "I saw during my visit areas reserved for permit holders and double yellow lines restricting parking in the vicinity of road junctions. This endorses the Council's submission that the area is subject to heavy pressure for on-street parking. The appellant indicates that incoming tenants are advised that the area will not support vehicle parking and this approach has resulted in the property being free of tenant parking for the last two academic years. However, no evidence has been presented to indicate that such an approach is enforceable. However, the appeal site is in an urban location and I saw alternative forms of public transport area available in the vicinity of the site. Given the minimum parking standards are no longer appropriate, I do not consider the provision of an additional bedroom at this property would result in such an increase in on-street parking that it would have a significant adverse effect on local car parking and highway safety. I have had regard to all other matters raised but find nothing to sway me from my conclusion that the proposal would not be contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan"*

## Planning Committee – 4<sup>th</sup> September 2018

Item 6 (Cont'd)

Application Number:

2018/1562/FUL

The Crescent, 132 Eaton Crescent, Uplands - APP/B6855/A/14/2219261 - 2013/1598 -25 September 2014

This appeal related to a change of use from a guest house to a 10 bedroom HMO and the scheme was refused on concerns about lack of parking. In the assessment the inspector noted the Council requirement for 9 parking spaces and that there was a shortfall of 4 spaces on site. The inspector noted the Council's concerns about the residents permit system being oversubscribed but from visits observed a good number of parking spaces being available. Whilst acknowledging the increase in number of people that could lead to increased activity stated *"even so, whilst the proposal does not provide the level of parking suggested by parking guidelines, the proposal does provide for five off road parking spaces and two residents parking permits are available with the property. The permits do not give access to dedicated spaces but do allow parking within the regulated and unregulated areas on the street, increasing choice"*. The sustainable location of the site was noted by the inspector stating it *"is situated within walking distance of the wide range of services, and facilities, and public transport opportunities that the city offers. It is also close to the University and other employment opportunities."* The inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

4 Rosehill Terrace, Swansea - APP/B6855/A/14/2225154 - 2014/0764 - 14 January 2015

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety. On the issue of living conditions the inspector noted that the provision of amenity space would be largely unchanged and whilst being modest it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space. The inspector stated *"Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists"*. On the issue of highway safety 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces. In concluding that the scheme would be acceptable the inspector stated *"I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality"*.

8 Alexandra Terrace, Brynmill - APP/B6855/A/16/3156916 - 11 November 2016

This appeal related to a proposal for a HMO for upto 6 people. The inspector considered that the key issues were the effect of the development on the character of the area in terms of ensuring a mixed and balanced community and highway safety with reference to vehicle parking. The inspector noted the high concentration of HMOs in the area which equates to 42% in the street and the concerns about impacts upon a cohesive and sustainable community but considered that that the proposal would not run counter to the objectives of securing a sustainable mixed use community.

Item 6 (Cont'd)

Application Number:

2018/1562/FUL

She stated *"whilst I acknowledge the transient nature of multiple occupancy dwellings and note the evidence submitted in relation to age and economic profiles and household tenure, there is no detailed evidence before me to demonstrate that the resulting property would be occupied by students or that its change of use would materially alter existing social structures and patterns"... "the proposed use clearly serves to meet a particular housing need and the surrounding area offers a broad mix of uses"*. On the issue of highway safety and parking the inspector noted that car parking is near saturation levels and witnessed high levels of on-street parking on her site visit. The inspector noted that only 1 parking space could be provided but stated *"However, the area is well served by facilities and services and incorporates good access to public transport links, which would reduce the necessity to have access to a private vehicle. I also note that 8 Alexandra Terrace was originally a six bedroom family home and would have had similar parking demands. Moreover, the Council operates a residential permit zone in the area which could be utilised to minimise such problems for those residents that are reliant on the use of a private car. For these reasons, I do not consider the level of evidence provided to justify the refusal of planning permission"*. The appeal was allowed.

105, Rhyddings Terrace, Brynmill - APP/B6855/A/16/3161603 - 2016/1316 - 10 February 2017

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the inspector stated *"Whilst I do not dispute that there are a number of HMOs nearby, there is limited evidence before me to indicate that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. Further, although many dwellings nearby appear to be in good or very good physical condition, some of the environmental issues cited are not exclusive to their use as HMOs."* He went on to say; *"The appeal development has resulted in a modest increase in the number of bedrooms within the property. Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission. There is little evidence before me to demonstrate that the use of the property as an HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. Whilst I note that the bedrooms appear large enough to accommodate double beds, any substantial increase in occupation would require separate planning permission."*

96 King Edwards Road - APP/B6855/A/16/3165057 - 2016/1380 - 19 April 2017

In this case the inspector noted that 52% of dwellings in the area were HMOs and in allowing the appeal stated *"whilst I recognise the cumulative effects that development can have, there is no identified threshold supported by evidence to demonstrate the point at which any further HMO's would have an adverse effect on the amenity or character of the area. The ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, but there is little evidence that directly relates this to an unbalanced or unsustainable community. In fact, the census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type."*



## Planning Committee – 4<sup>th</sup> September 2018

Item 6 (Cont'd)

Application Number:

2018/1562/FUL

*Although students are generally away from the area during holiday periods, they are also likely to support local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMO's but given its draft status I am unable to attach any significant weight to it."*

57 St Helens Avenue - APP/B6855/A/16/3165327 - 2016/1688 - 25 April 2017

In allowing this appeal the inspector stated *"The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students. However, although I understand local concerns, it would appear to be the case that HMOs in this area are already established alongside family housing in fairly balanced numbers. An additional HMO in this location would not result in any material change to existing circumstances. In addition, whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. Whilst the ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, there is little evidence that directly relates this to an unbalanced or unsustainable community. The census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. The appeal property is in an accessible and sustainable location and although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."*

124 St Helens Avenue - APP/B6855/A/17/3167108 - 2016/1038 - 4 May 2017

In this case the inspector made similar conclusions as to the case at No. 57 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns about the transient population the inspector stated *"Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."* The appeal was allowed.

26 Pinewood Road, Uplands - APP/B6855/A/17/3170653 - 2016/1249 - 20 June 2017

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the inspector related to the impact of the proposal on the character and amenity of the area by reason of the level of use of the property having regard to the number of HMOs in the locality.

Item 6 (Cont'd)

Application Number:

2018/1562/FUL

The inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and given there is no adopted SPG on this matter stated "*whether or not a proposal is harmful depends on planning judgement*". He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building. Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use. On the issue of concentrations of HMOs the inspector found 'little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community. On concerns raised about lack of parking the inspector stated: "*whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users*". The appeal was allowed.

199 St Helens Avenue, Brynmil - APP/B6855/A/18/3200196 - 2018/0161/FUL - 22 January 2018

This appeal related to a proposal for a 6 person HMO and the principal issue considered by the inspector related whether the development would conflict with local and national planning policies which seek to secure and maintain sustainable and inclusive mixed communities. The inspector made similar conclusions as to the cases at No. 57 and 124 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns over increased parking pressures the inspector stated "*Much of the street is the subject of permit holders only parking restrictions. The area lies in a sustainable location where many services are within easy walking distance with good public transport to others.*" The appeal was allowed.

## Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of this property as 7 bedroom HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan.

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 decision, 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 principle 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.

**Item 6 (Cont'd)**

**Application Number:**

2018/1562/FUL

**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: 01 title and block plan, 04 proposed plans received on 16th July 2018.

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

- 3 Details of facilities for the secure and undercover storage of seven cycles and storage of refuse shall be submitted to and approved in writing by the Local Planning Authority. 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.

**Informatives**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV40, AS6 and HC5.
  - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
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## Planning Committee – 4<sup>th</sup> September 2018

### Item 7 (Cont'd)

Application Number:

2018/1665/FUL

#### UDP - HC5 - Houses in Multiple Occupation

Proposals for the conversion of dwelling or non-residential properties to HMO's will be permitted subject to a set of defined criteria including the effect upon residential amenity; harmful concentration or intensification of HMO's in an area, effect upon the external appearance of the property and the locality; effect on local car parking and highway safety; and adequate refuse storage arrangements. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - AS6 - Parking/Accessibility

Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)

### Site History

App Number	Proposal	Status	Decision Date
2018/1665/FUL	Change of use from 2 self-contained flats (Class C3) to a 9 bed HMO (Sui Generis) for 9 people with associated fenestration alterations	PDE	
99/0895	SINGLE STOREY SIDE/REAR EXTENSION TO EXISTING WORKSHOP TO PROVIDE STORAGE FACILITIES	WDN	14.07.2000

### APPRAISAL

This application has been called to Committee at the request of Councillors Clive Lloyd and Joe Hale with a request for a site visit.

### RESPONSES TO CONSULTATIONS

The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to No. 44 Ysgol Street and the posting of a site notice within the vicinity of the application site.

45 letters of objection have been received to date (22 August 2018) which are summarised below:

- Parking is already a problem in the area
- Anti-social behaviour
- Families from the area are being driven out
- Too many HMOs in the area already

**Item 7 (Cont'd)**

**Application Number:**

2018/1665/FUL

- Ysgol Street is on a main bus route and existing car parking issues causes problems with manoeuvring.
- Local amenities can't cope with extra demand
- Family homes are needed
- Detrimental impact on the community
- Impact on house values
- Already a high number of unlicensed HMOs on the street
- Refuse will be left in gardens
- 10% of HMOs on a street is the tipping point
- Does not comply with Policy HC5
- There are currently 524 students within the St Thomas ward
- Over intensification of student housing

**Pollution Control Team - No objection**

**Highway Authority -**

The Head of Transportation and Engineering was consulted and responded with the following comments:

The current layout provides bedrooms on the ground floor and 2 bedrooms on the first floor making 4 bedrooms in total. There is an existing car parking area which provides parking for several vehicles. In line with the parking standards for anything over six persons that an additional parking space is required for each extra bedroom, in this instance this equates to three new car parking spaces being required.

The submitted plans show a new space detailed number 5 but this is inaccessible due to the restricted width of the rear access lane. Similarly space 1 (which would require a new vehicular crossover wouldn't be supported over concerns regarding proximity to the junction. Space 4 is also below the standard dimensions. Therefore the scheme is being considered with no additional useable car parking spaces.

Whilst the scheme does include a small element of cycle parking storage this does not remove the requirement for car parking to be provided to mitigate for the increase in numbers of residents.

I recommend that this application be refused on the grounds that:

1. Failure to provide adequate parking to mitigate for the additional residents will have a detrimental impact on highway safety for both vehicles and pedestrians due to an increase in indiscriminate parking on the surrounding streets.
2. The additional vehicles that are not catered for within the curtilage would be vying for the unrestricted spaces on the street to the detriment of the existing residents

**Item 7 (Cont'd)**

**Application Number:**

2018/1665/FUL

### **Description**

The application property, No. 45 Ysgol Street, is a two storey end of terrace dwelling currently occupied as two, two bedroom flats. The property is located at the junction of Ysgol Street with Danygraig Road and its curtilage comprises of a narrow tapered garden to the side extending around to a small rear amenity space which includes a single storey outbuilding. The boundary enclosures consist of a brick wall to the frontage of Ysgol Street, a closeboarded fence with double access gates and a rendered outbuilding facing Danygraig Road. Part of the boundary enclosure has been removed revealing the existing space between the pavement and the side wall of the property in which there is a small area of grass.

Full planning permission is sought for the change of use of the 2 flats into a 9 bedroom HMO (Sui Generis) for 9 people. The floor plans indicate that the existing floor spaces will be utilised and various door/fenestration alterations throughout including removal of the upper floor bay window and access on the principal Ysgol Street elevation. The floor plans indicate that the ground floor will accommodate 5 bedrooms, a kitchen, bathroom, W.C and shower room whilst the first floor will accommodate 4 bedrooms and a kitchen.

The submitted proposed block plan indicates the provision of 5 vehicle parking spaces to be provided accessed off Danygraig Road and whilst not shown as part of the application details it can be noted that in order to provide these spaces an existing outbuilding on the site would need to be demolished as part of the development.

### **Main Issues**

The main issues for consideration during the determination of this application relate to the principle of this form of use at this location, the resultant impact of the use upon the residential amenities of existing and proposed residents, visual amenity and highway safety, having regard to the provisions of Policies EV1, EV40, AS2, AS6 and HC5 of the City and County of Swansea Unitary Development Plan (2008). The application is also considered with regard to the Council's Supplementary Planning Guidance (SPG) document entitled 'Swansea Parking Standards' along with regard given to the 'Places to Live Residential Design Guide' SPG (Adopted January 2014).

### **Principle of Use**

Until March 2016 planning permission was not required for the use of a property as a HMO for up to 6 people and as such there has historically been a large concentration of HMO properties in some parts of Swansea which has happened predominantly without planning permission being required.

Following concerns raised by Local Authorities throughout Wales in respect of areas with a high concentration of HMOs an amendment to the Use Class Order was made, introducing a separate C4 use for HMO properties with more than two people living in them. The amendment was made in order to safeguard the confidence of residents in areas with large numbers of HMOs, while at the same time protecting the rights of those people living in them.

Item 7 (Cont'd)

Application Number:

2018/1665/FUL

Policy HC5 of the Swansea Unitary Development Plan supports the conversion of dwellings to HMOs subject to compliance with set criteria:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance.
- (ii) The development would not contribute to a harmful concentration or intensification of HMOs in a particular area.
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality.
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided.

The criterion of the above is addressed below:

Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?

The existing property comprises of two, two bedroom flats, contained in a typical end of terrace setting along Ysgol Street with its side elevation fronting Danygraig Road. The planning history at the site reveals that the property has previously been in commercial use (retail / store) and following a refusal for conversion into 3 separate flats in April 1990 (ref: 90/0202/03) permission was granted in 1990 for conversion into two residential units (ref: 90/1166/03).

In considering the impact upon residential amenity regard here needs to be given to the fact that the use of the existing property as two separate 2 bedroom flats has the potential to generate activity greater than that of a typical dwellinghouse, however, the constrained floor space of both flats, with only two bedrooms per unit, would suggest that the number of occupants would be limited to upto 4 persons per unit. The level of a typical family unit would usually be less than 6 people.

The proposal involves changing the use of the property from flats to a 9 person HMO which would likely go further in scale than the existing level of activity and use that would be provided within the two flats (C3). Clearly the proposal 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 property would not doubt attract additional visits to and from the premises being occupied by more people but it would be difficult to argue that this would be harmful.

Having said this, however, good planning and design extends not only to the living conditions of neighbouring occupiers but to the living conditions of future residents and in this particular case the residents of the proposed HMO. Regard can be made to the 'Places to Live Residential Design Guide' SPG (Adopted January 2014). Whilst providing advice in relation to large scale housing development it does provide key principles in relation to privacy and amenity and states in relation to the design of rooms, at page 61 "*homes should have a convenient layout for everyday living with adequate storage and space to move about*".

Item 7 (Cont'd)

Application Number:

2018/1665/FUL

In the case of the proposals the floor plans provided indicate that the spaces within the property will be compromised particularly in terms of the level of accommodation to be provided to occupants. On the ground floor the proposals show there are 5 bedrooms, a kitchen, a bathroom, a W.C and shower room. On the first floor there are proposed to be four bedrooms and a kitchen. Apart from the small kitchens on the ground and first floor there is no communal living space within the property. The occupants would therefore have to spend the majority of their time within their bedrooms which is not considered acceptable for the wellbeing and health of the future occupants of the dwelling. The bedrooms proposed vary in size with the largest being approximately 13m<sup>2</sup> and the smallest being approximately 7.4m<sup>2</sup>.

Page 62 of the Places to Live Residential Design Guide refers to outdoor amenity and states that *"in addition to providing adequate space, it is important to ensure that outdoor amenity provision is useable (i.e. provide adequate space for sitting, outdoor dining, garden items"*. There is a rear garden and a very small piece of land to be made available to the side, however, the majority of the space is proposed to be used for vehicle parking. There would be a very limited amount of space for drying clothes, keeping rubbish or enjoyment of the garden and overall this would not be adequate for 9 adults living independently. This concern is considered to add weight to the overall concern about the intensification of the property in being used as a 9 person HMO in that the property is not of a sufficient scale to provide this level of accommodation.

On the basis of the lack of living space creating unacceptable living conditions for the future occupiers, and therefore over intensification of the property, compounded by lack of suitable outdoor amenity space, it is considered that the proposal runs contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan and advice provided in the Places to Live Residential Design Guide SPG.

Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple occupation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study also revealed common problems associated with high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on schools through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation: Practice Guidance' (February 2016).

**Item 7 (Cont'd)**

**Application Number:**

2018/1665/FUL

Within this it is identified that HMOs provide a source of accommodation for certain groups which include students and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set out above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

It is noted from the Council's own HMO register that one property is registered along Ysgol Street (as of 22 August 2018). It is however acknowledged that there may be other properties along Ysgol Street which have been used as HMOs pre March 2016. It should also be noted that outside the Castle and Uplands wards, only larger properties are captured under Mandatory Licensing. As a result there may be instances where HMOs exist in the area, albeit that they would have been implemented prior to the use class change in February 2016 and are not subject to licensing requirements.

Five planning applications have been granted for the change of use of Nos. 78, 22, 89, 57 and 54 Ysgol Street (Class C3) to HMO (Class C4), planning applications 2018/0802/FUL, 2017/1952/FUL, 2016/3617/FUL, 2016/3406/FUL (granted on appeal) and 2016/3388/FUL refer.

A check has been made on Rent Smart Wales which provides a public register for all landlords in Wales who rent properties and 24 properties are registered, some of these are however properties which have been converted to several flats. This register does not indicate whether or not the properties are used as a HMO or rented out and occupied as a single dwellinghouse.

There are approximately 98 properties along Ysgol Street. Five planning applications have been granted for the conversion of dwellinghouses to HMOs, and there is one registered HMO, therefore the percentage of HMOs currently in the street is approximately 6.1%. If the current application was to be approved his percentage would increase to approximately 7.1%.

On the basis of the character of the area, the addition of one HMO to the street is unlikely to create a harmful concentration or intensification of HMOs in the area.

There would be no adverse effect upon the external appearance of the property and the character of the locality

As indicated above the principal external changes relate to fenestration and door changes as well as introduction of additional parking off Danygraig Road. The key change to the principal elevation facing Ysgol Street is the removal of the upper floor bay window to be replaced with a standard window, removal of both doors and re-siting of one main access to be located off Danygraig Road. Given that upper floor bay windows are not characteristic of the street this is considered to be an acceptable alteration. The front unorthodox single storey extension would be retained, however, generally its appearance will be improved with the removal of a door and new windows to match the upper floor window. The removal of pedestrian access off Ysgol Street is not an ideal solution given that this is the principal elevation, however, it will assist somewhat in reducing impact of visits to and from the property upon residents along Ysgol Street given the new access door would be positioned off Danygraig Road a further distance from the nearest neighbour. Its visual impact upon the character of the street area is considered to be minimal.



Item 7 (Cont'd)

Application Number:

2018/1665/FUL

Generally the facade changes will result in a visual improvement, however, the scheme also involves the creation of a large area of exposed car parking which will be highly prominent along Danygraig Road particularly through the loss of the outbuilding, removal of gates and puncturing of the boundary enclosure for an additional space near the pedestrian access which has already occurred on site with part removal of the boundary enclosure. The lack of any frontage or side enclosure will result in visual prominence in the street scene to the detriment of the character and appearance of the area. Whilst it can be accepted that the existing boundary treatments are not of particular visual merit the scheme will nonetheless create a visually prominent area of car parking where Danygraig Road meets the rear access lane. Whilst conditions could be used to provide for new boundary enclosures this could have the potential to limit the sizes and usability of the proposed parking spaces. On balance therefore the visual impact is unacceptable and conflicts with the requirements of this criterion in that there will be an 'adverse effect upon the character of the locality'.

There would be no significant adverse effect on local car parking and highway safety

Under the Adopted SPG 'Parking Standards' (Page 16) reference is made to the parking requirement for a HMO, in terms of residents parking, being 3 spaces for up to 6 sharing and 1 space per additional bedroom. The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations of a 6 person HMO would be akin to that of a C3 dwellinghouse. The situation at the application site is slightly different however and given that there are two flats within the property then the SPG sets out that there should be one space per bedroom. Given there are 4 bedrooms across the 2 flats then there is demand for 4 existing parking spaces to serve both flats. Clearly the application property as it exists does not provide that level of parking and whilst there is no existing block plan submitted setting out the dimensions of spaces on site the application form states that there are 2 existing spaces. In the case of the proposed HMO 9 bedrooms are proposed so according to the SPG this results in a requirement for 6 parking spaces overall on site to serve the HMO use.

Clearly the potential vehicular generation of two flats needs to be weighed against the potential generation of traffic and demand for parking from the proposed HMO. Taking a balanced approach having regard to the fall-back position given the existence of 2 spaces for the flats (which is deficient of 2 spaces overall in respect of the SPG) then it is considered that this scheme should provide for a minimum of 4 adequate parking spaces being provided on site.

Whilst the application block plan shows the provision of 5 parking spaces to serve the HMO in considering the application the Highway Authority has raised objection on both the lack of parking for the proposed future residents and the parking spaces not being sufficient. For example in response the Highway Authority refer to 3 additional spaces being required (above that of a dwellinghouse use) (total of 5 spaces) although here the use is actually two existing separate flats which would equate to demand for 2 additional spaces above the existing 2 spaces.

In terms of provision the scheme shows that whilst there are to be 5 spaces to the rear/side of the site and adjoining the rear access lane one of these spaces (number 5) is inaccessible due to the restricted width of the rear access lane and one of the spaces (number 4) is below the standard dimensions.

**Item 7 (Cont'd)**

**Application Number:**

2018/1665/FUL

Further to this concerns are raised in relation to the safety of providing a space near to the junction with Ysgol Street (number 1). Given that three of the proposed five spaces do not meet the standards required by the Highway Authority, and therefore the result is only two appropriate parking spaces being provided, it is not considered that sufficient car parking is being provided in accordance with the SPG Parking Standards.

The applicant has demarcated a small dedicated area for cycle storage and whilst the site lies in a fairly sustainable location for future residents the fact that it will provide accommodation for 9 separate residents, coupled with the existing parking issues in the area as evidenced in consultation responses received from local residents, leads to the conclusion that the site is not appropriate for the level of accommodation being proposed. The concerns of the Highway Authority are valid in that there will be a failure to provide for adequate parking provision to mitigate for the additional residents and this will have a detrimental impact upon highway safety both in terms of vehicles and pedestrians at and near the application site due to a likely increase in indiscriminate parking on the surrounding streets which will also impact existing residents in the area. On this basis the application is considered to be unacceptable in respect of its impact upon highway safety and parking in the area and conflicts with the requirements of policies EV1, HC5, AS2 and AS5 of the Adopted Unitary Development Plan and advice contained with the Parking Standards SPG.

The submitted Design and Access Statement suggests that two additional parking spaces could be provided by sacrificing the existing green space alongside the property, however, acknowledges that this would do little to improve the external appearance of the property and would actually compound further the concerns raised in above paragraphs regarding the impact of the car parking area upon visual amenity in the street scene. Furthermore it is unlikely that this space could provide spaces that meet the recognised standard size of parking space of 4.8m x 2.6m on site. As such this would not be an appropriate option to overcome the concerns being raised in this instance.

Appropriate refuse storage arrangements can be provided

Whilst there are concerns with the amount of outdoor amenity space given the intensification of the property as a 9 person HMO it is considered that suitable refuse storage arrangements could be provided through an appropriate planning condition. This would not, however, overcome the concerns raised in relation to intensification of the use of the property and visual amenity concerns.

**Conclusions**

Following assessment of the application whilst it can be regarded that the principle of providing for a HMO at the property would be acceptable the proposed change of use of here would result in an over intensification of the property which would create unacceptable living conditions for the future occupiers. In addition the requirement for adequate car parking has not been met leading to a detrimental impact upon highway safety and parking in the area. Furthermore the creation of an open car parking area leads to harm to the visual amenity of the street scene and character of the area.

**Item 7 (Cont'd)**

**Application Number:**

2018/1665/FUL

On balance of all relevant planning matters therefore it is considered that the development is contrary to the requirements of Policies EV1, HC5, AS2 and AS6 of the City and County of Swansea Unitary Development Plan (2008) and advice provided within the Places to Live Residential Design Guide SPG (2008) and Parking Standards SPG (2012). Accordingly refusal is recommended.

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 WCFG 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 WCFG 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 WCFG Act.

## **RECOMMENDATION**

### **REFUSE for the following reasons:**

- 1 The proposed change of use of the property to a HMO for 9 people would create an over intensive form of development which will not provide satisfactory living conditions for the future occupiers of the property by reason of a lack of living space and lack of outdoor amenity space for all future residents, contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan (Adopted November 2008) and advice provided within the 'Places to Live Residential Design Guide' SPG (Adopted January 2014).
- 2 The proposed car parking spaces are considered to be below standard and the failure to provide adequate and safe parking to mitigate for the impacts arising from 9 separate residents as part of a HMO will have a detrimental impact upon highway safety for both vehicles and pedestrians and impact upon the availability of off road parking to the detriment of existing residents contrary to Policies EV1, HC5, AS2 and AS6 of the City and County of Swansea Unitary Development Plan (Adopted November 2008) and the Parking Standards SPG (Adopted March 2012).
- 3 The proposed development by virtue of the creation of a large expansive and highly visible car parking area with a lack of screening boundary treatment will result in adverse harm to the character and appearance of the street scene along Danygraig Road contrary to the requirements of Policies EV1 and HC7 of the City and County of Swansea Unitary Development Plan (Adopted November 2008).

## **Informatives**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV40, HC5, AS2 and AS6.
- 2 **PLANS**  
Site location plan, 218 o60 03 block plan, 218 660 02 proposed floor plans & elevations, received 25th July 2018.



Item 8 (Cont'd)

Application Number:

2018/1723/FUL

UDP - EV40 - Air, Noise and Light Pollution

Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)

**Site History**

App Number	Proposal	Status	Decision Date
2018/1723/FUL	Change from residential (Class C3) to HMO for 5 people (Class C4)	PDE	

**RESPONSE TO CONSULTATIONS**

**Public Response** - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 54 & 56 St Stephens Court on 8th August 2018. A site notice was posted within the vicinity of the application site on 10th August 2018.

To date 22nd August 2018 - Twenty four individual letters of objection have been received from local residents which are summarised below:

- Noise and disturbance from students late into the night
- Anti-social behaviour
- Social problems cause by HMO occupants, noise day and night and students ruin any sense of community
- Parking concerns, will increase parking problems
- Difficult to promote social cohesion when a significant proportion of the population is transient.
- Devaluation of property
- Marina already has too many rental properties
- Plenty of student accommodation in student areas around Swansea
- Marina is not suitable for HMO houses
- Concerns in relation to rubbish, students not following refuse recycling rules and problems with property maintenance.
- Security risks are increased
- Any development that increases the percentage of students is in breach of the Draft LDP
- This is a cul de sac and noises bounces around
- There is already an abundance of rentals and social housing

**HMO Licensing Team** - This property is in the Council's HMO Additional licensing area and the owner will need to apply for an HMO licence.

**Item 8 (Cont'd)**

**Application Number:**

2018/1723/FUL

**APPRAISAL**

This application has been called to Committee for decision at the request of Councillor Sybil Crouch.

**Description**

Full planning permission is sought for the change of use from a residential dwelling (Class C3) to a HMO for up to 5 people (Class C4) at 55 St Stephens Court.

The application property is a three storey mid-terrace town house currently used as a dwelling house with 4 bedrooms. Plans indicate the only internal amendment is the change of the living room into a 5th bedroom. The ground floor already provides a bedroom, utility room, shower room and internal access to the garage. The first floor would utilise the lounge as a 5th bedroom, the kitchen and dining room would be retained as shared living/dining area, the third floor already provides 3 bedrooms, (1 with en-suite bathroom) and an additional bathroom. As currently exists there is an external bin storage area for household waste/recycling and ample room within the property to accommodate a household bin. There is a utility room and garage which could accommodate cycle parking, as well as communal cycle parking which is available externally within St Stephens Court.

**Principle of Use**

The application property is an existing residential dwelling and would change to a property in shared occupation as a HMO. This would therefore remain in residential use and its principle is considered to be acceptable as set out by Policy HC5 of the Unitary Development Plan. Regard shall be given therefore to the assessment criteria listed in the policy, which relate to material planning considerations including residential amenity, concentrations of HMOs, visual amenity, highway safety and refuse storage arrangements.

The criteria of Policy HC5 are as follows:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification of HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality,
- (iv) There would be no significant adverse effect on local car parking and highway safety, and;
- (v) Appropriate refuse storage arrangements can be provided

The criterion of the above is addressed below:



**Item 8 (Cont'd)**

**Application Number:**

2018/1723/FUL

Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?

Regard needs to be given to the fact that a large or extended family could occupy the property under the extant lawful use of the premises and as such it is not considered that the use of the premises for up to five people as a HMO would result in an unacceptable intensification of the use of the building over and above that which could be experienced as a dwellinghouse. There is no evidence to suggest that this proposal would result in any harm to neighbouring occupiers by virtue of noise, nuisance or other disturbance.

As such, it is not considered that there is any evidence to demonstrate that the proposed use will result in unacceptable noise and disturbance, which could reasonably warrant the refusal of this application. The proposal is therefore considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the City and County of Swansea Unitary Development Plan.

Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple occupation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study also revealed common problems associated with a high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on school through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation: Practice Guidance (February 2016). Within this it is identified that HMOs provide a source of accommodation for certain groups which include students and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

This Council's HMO Team has advised that the property is in the Council's HMO Additional licensing area and the owner will need to apply for an HMO licence. There is no separate register for the Marina and all HMO's are recorded on the central register.

From viewing the Council's own HMO register there appears to be only two properties in Trawler Road, which are registered as HMO's (as of 22nd August 2018), No. 23 Marina Villas for 4 people and No.26 Marina Villas for 4 people. There are no HMO's currently registered in St Stephens Court.

Item 8 (Cont'd)

Application Number:

2018/1723/FUL

It is clear that approval of the application would result in the addition of a HMO into St Stephens Court where there are currently no registered HMO properties. It is not, however, considered that the introduction of a HMO property within St Stephens Court would result in a harmful concentration or intensification of HMOs in this area or the street in general. Regard can be given to a number of Planning Inspectorate decisions in relation to HMO applications which have been refused by the Council but subsequently allowed on appeal. In those decisions, Planning Inspectors have stated that with no adopted Supplementary Planning Guidance on the matter, whether or not a proposal is harmful depends on planning judgement, and have gone on to suggest that there has been no conclusive evidence to prove harm to the area in those cases.

For example in dealing with an appeal at No. 57 St Helens Avenue (ref: 2016/1688) which would result in the concentration of HMOs along St Helens Avenue going from 40% to 41% the appeal inspector found that given the existing circumstances in the Ward that the conversion to a HMO would "not cause any material harm to the character and amenity of the area". Furthermore the Inspector stated; "whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area". At 96 King Edwards Road (ref: 2016/1380) the inspector noted the existence of 52% of dwellings being HMOs as well as the existence of a draft SPG for HMOs, but given the draft nature of the SPG was unable to attach any significant weight to it. On the evidence before him he concluded there would be no material harm and allowed the appeal. Further information of these decisions and other relevant decisions relating to HMO proposals have been appended in below paragraphs.

In the absence of an appropriate formal percentage or other similar calculation based approach, the absence of empirical evidence and an Adopted SPG defining the level at which harm ensues, as well as the stance taken by Planning Inspectors on appeal, it cannot be regarded that approval of this application would result in a harmful concentration of HMOs in the area and thus the proposal complies with the aims of this criterion.

There would be no adverse effect upon the external appearance of the property and the character of the locality

The proposal does not include any material alterations to the external fabric of the dwelling and therefore the visual amenity of the host property and character of the local area would not be negatively impacted.

There would be no significant adverse effect on local car parking and highway safety

The Authority's Parking Standards SPG requires that HMO properties have 3 car parking spaces for up to 6 sharing and 1 space per additional bedroom. The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations would be akin to that of a C3 dwellinghouse. In terms of the SPG the proposed 5 bedroom 5 person HMO would generate a requirement for 3 onsite parking spaces.

The SPG provides worked examples of use of the standards (page 9), however, this does not include reference to HMO proposals other than reference to a conversion of a dwelling into 3 separate flats.

**Item 8 (Cont'd)**

**Application Number:**

2018/1723/FUL

In that particular example where the number of parking spaces cannot be provided on site it suggests that 'if possible' spaces should be provided at the rear of the premises and that if the site is too small to provide parking and kerbside parking pressure is not evident then an allowance of on-street parking immediately outside the property may be possible. It also refers to local circumstances dictating the approach to be taken. Whilst having regard to the general advice in relation to conversions into flats the Local Planning Authority must assess the application on the basis of the potential impacts arising from the proposal and whether this would harm highway safety in the area.

It can be noted that the existing 4 bedroom residential dwelling has 2 parking spaces, (1 garage space and 1 space outside) a shortfall of 1 parking space under current Authority standards. The proposal will therefore not impact the availability of parking spaces onsite compared to existing conditions. Moreover, it is noted that St Stephens Court is an unadopted street and the local authority has no jurisdiction regarding parking permit issue etc. The Management Company are responsible for enforcing parking and the parking courts themselves are patrolled by a private management company who enforce against indiscriminate parking. There are traffic orders on the surrounding streets and yellow lines to prevent indiscriminate parking. Fisherman's Way leading to St Stephens Court, has double yellow lines and parking restrictions are enforced.

On this basis, along with the fact that the site lies within walking distance of a range of facilities within the City Centre, is well connected to the main bus routes, and provision can be made on site for cycle storage provision to support sustainability, it is not considered that the application will result in any adverse effects on local car parking and highway safety, that can be demonstrated to be so harmful to warrant a recommendation of refusal.

In dealing with appeals on highways and parking grounds inspectors have had regard to the SPG as being guidance only and have taken account of the fall-back position of existing uses as well as local circumstances when considering similar proposals. Full details of these decisions have been appended in below paragraphs.

In view of the above, 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, and is therefore in compliance with the provisions of Policies EV1, HC5, EV40 and AS6 of the City and County of Swansea Unitary Development Plan.

Appropriate refuse storage arrangements can be provided

An external bin compound area for refuse for residents of St Stephens Court is provided within the parking court. There is ample room within the property for daily household waste bins. The proposed arrangements will be no different to the existing arrangements.

**Response to objectors**

The issues raised in respect of social cohesion, high concentration of HMOs, increased noise, disturbance and anti-social behaviour are addressed in the above report. Refuse storage is no different to the existing situation.

Item 8 (Cont'd)

Application Number:

2018/1723/FUL

Matters relating to anti-social behaviour, noise, illegal parking, rubbish collections and littering are more properly controlled under other Environmental Health legislation/Management Company, parking enforcement and Police powers.

The concerns raised about parking are noted and have been appraised in the above paragraphs. Whilst it can be accepted that the proposal generates a requirement for 3 parking spaces regard needs to be given to the fact that Parking Standards SPG is Guidance and this should not be applied slavishly to planning applications. Regard should be given to the fall back position here which is that of a dwellinghouse with 2 off street parking spaces (one in the garage on one outside). Reference can be made to appeal decisions in which Planning Inspectors treat the SPG as 'guidance' with particular similarities being noted with the Rosehill Terrace Appeal referred to in below paragraphs.

**Material Planning Appeal Decisions**

Members attention can be drawn to a series of past appeal decisions by the Planning Inspectorate in connection with similar applications for HMOs. These appeals principally covered matters relating to concentrations of HMOs, amenity space and highway safety and form useful background information in respect of the application of planning considerations and the Adopted SPG Parking Standards.

22 St Albans Road, Brynmill - APP/B6855/A/10/2137679 - 2010/0266 - 26 January 2011

*This appeal related to the creation of a seven bed HMO from an existing 6 bedroom HMO and a single reason for refusal relating to a failure to provide any parking to mitigate the impact of the development on demand for on-street parking in the area. The inspector allowed the appeal and stated "I saw during my visit areas reserved for permit holders and double yellow lines restricting parking in the vicinity of road junctions. This endorses the Council's submission that the area is subject to heavy pressure for on-street parking. The appellant indicates that incoming tenants are advised that the area will not support vehicle parking and this approach has resulted in the property being free of tenant parking for the last two academic years. However, no evidence has been presented to indicate that such an approach is enforceable. However, the appeal site is in an urban location and I saw alternative forms of public transport area available in the vicinity of the site. Given the minimum parking standards are no longer appropriate, I do not consider the provision of an additional bedroom at this property would result in such an increase in on-street parking that it would have a significant adverse effect on local car parking and highway safety. I have had regard to all other matters raised but find nothing to sway me from my conclusion that the proposal would not be contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan"*

The Crescent, 132 Eaton Crescent, Uplands - APP/B6855/A/14/2219261 - 2013/1598 -25 September 2014

This appeal related to a change of use from a guest house to a 10 bedroom HMO and the scheme was refused on concerns about lack of parking. In the assessment the inspector noted the Council requirement for 9 parking spaces and that there was a shortfall of 4 spaces on site.

Item 8 (Cont'd)

Application Number:

2018/1723/FUL

The inspector noted the Council's concerns about the residents permit system being oversubscribed but from visits observed a good number of parking spaces being available. Whilst acknowledging the increase in number of people that could lead to increased activity stated *"even so, whilst the proposal does not provide the level of parking suggested by parking guidelines, the proposal does provide for five off road parking spaces and two residents parking permits are available with the property. The permits do not give access to dedicated spaces but do allow parking within the regulated and unregulated areas on the street, increasing choice"*. The sustainable location of the site was noted by the inspector stating it *"is situated within walking distance of the wide range of services, and facilities, and public transport opportunities that the city offers. It is also close to the University and other employment opportunities."* The inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

4 Rosehill Terrace, Swansea - APP/B6855/A/14/2225154 - 2014/0764 - 14 January 2015

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety. On the issue of living conditions the inspector noted that the provision of amenity space would be largely unchanged and whilst being modest it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space. The inspector stated *"Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists"*. On the issue of highway safety 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces. In concluding that the scheme would be acceptable the inspector stated *"I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality"*.

8 Alexandra Terrace, Brynmill - APP/B6855/A/16/3156916 - 11 November 2016

This appeal related to a proposal for a HMO for upto 6 people. The inspector considered that the key issues were the effect of the development on the character of the area in terms of ensuring a mixed and balanced community and highway safety with reference to vehicle parking. The inspector noted the high concentration of HMOs in the area which equates to 42% in the street and the concerns about impacts upon a cohesive and sustainable community but considered that that the proposal would not run counter to the objectives of securing a sustainable mixed use community. She stated *"whilst I acknowledge the transient nature of multiple occupancy dwellings and note the evidence submitted in relation to age and economic profiles and household tenure, there is no detailed evidence before me to demonstrate that the resulting property would be occupied by students or that its change of use would materially alter existing social structures and patterns"... "the proposed use clearly serves to meet a particular housing need and the surrounding area offers a broad mix of uses"*.



Item 8 (Cont'd)

Application Number:

2018/1723/FUL

On the issue of highway safety and parking the inspector noted that car parking is near saturation levels and witnessed high levels of on-street parking on her site visit. The inspector noted that only 1 parking space could be provided but stated "*However, the area is well served by facilities and services and incorporates good access to public transport links, which would reduce the necessity to have access to a private vehicle. I also note that 8 Alexandra Terrace was originally a six bedroom family home and would have had similar parking demands. Moreover, the Council operates a residential permit zone in the area which could be utilised to minimise such problems for those residents that are reliant on the use of a private car. For these reasons, I do not consider the level of evidence provided to justify the refusal of planning permission*". The appeal was allowed.

105, Rhyddings Terrace, Brynmill - APP/B6855/A/16/3161603 - 2016/1316 - 10 February 2017

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the inspector stated "*Whilst I do not dispute that there are a number of HMOs nearby, there is limited evidence before me to indicate that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. Further, although many dwellings nearby appear to be in good or very good physical condition, some of the environmental issues cited are not exclusive to their use as HMOs.*" He went on to say; "*The appeal development has resulted in a modest increase in the number of bedrooms within the property. Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission. There is little evidence before me to demonstrate that the use of the property as an HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. Whilst I note that the bedrooms appear large enough to accommodate double beds, any substantial increase in occupation would require separate planning permission.*"

96 King Edwards Road - APP/B6855/A/16/3165057 - 2016/1380 - 19 April 2017

In this case the inspector noted that 52% of dwellings in the area were HMOs and in allowing the appeal stated "*whilst I recognise the cumulative effects that development can have, there is no identified threshold supported by evidence to demonstrate the point at which any further HMO's would have an adverse effect on the amenity or character of the area. The ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, but there is little evidence that directly relates this to an unbalanced or unsustainable community. In fact, the census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to support local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMO's but given its draft status I am unable to attach any significant weight to it.*"



Item 8 (Cont'd)

Application Number:

2018/1723/FUL

57 St Helens Avenue - APP/B6855/A/16/3165327 - 2016/1688 - 25 April 2017

In allowing this appeal the inspector stated *"The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students. However, although I understand local concerns, it would appear to be the case that HMOs in this area are already established alongside family housing in fairly balanced numbers. An additional HMO in this location would not result in any material change to existing circumstances. In addition, whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. Whilst the ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, there is little evidence that directly relates this to an unbalanced or unsustainable community. The census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. The appeal property is in an accessible and sustainable location and although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."*

124 St Helens Avenue - APP/B6855/A/17/3167108 - 2016/1038 - 4 May 2017

In this case the inspector made similar conclusions as to the case at No. 57 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns about the transient population the inspector stated *"Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."* The appeal was allowed.

26 Pinewood Road, Uplands - APP/B6855/A/17/3170653 - 2016/1249 - 20 June 2017

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the inspector related to the impact of the proposal on the character and amenity of the area by reason of the level of use of the property having regard to the number of HMOs in the locality. The inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and given there is no adopted SPG on this matter stated *"whether or not a proposal is harmful depends on planning judgement"*. He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building.

Item 8 (Cont'd)

Application Number:

2018/1723/FUL

Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use. On the issue of concentrations of HMOs the inspector found 'little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community. On concerns raised about lack of parking the inspector stated: *"whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users"*. The appeal was allowed.

199 St Helens Avenue, Brynmill - APP/B6855/A/18/3200196 - 2018/0161/FUL - 22 January 2018

This appeal related to a proposal for a 6 person HMO and the principal issue considered by the inspector related whether the development would conflict with local and national planning policies which seek to secure and maintain sustainable and inclusive mixed communities. The inspector made similar conclusions as to the cases at No. 57 and 124 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns over increased parking pressures the inspector stated *"Much of the street is the subject of permit holders only parking restrictions. The area lies in a sustainable location where many services are within easy walking distance with good public transport to others."* The appeal was allowed.

### Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of this property as a 5 bedroom HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan.

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 WCFG Act"). In reaching this decision, the Local Planning Authority has taken account of the ways of working set out at Part 2, Section 5 of the WCFG Act and consider that this recommendation is in accordance with the sustainable development principle 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 WCFG Act.

**Item 8 (Cont'd)**

**Application Number:**

2018/1723/FUL

**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: Site location plan, block plan, proposed floor plan, received on 6th August 2018.

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

- 3 The integral garage and car parking space shall be used for car parking and cycle storage, solely for the benefit of the occupants of the HMO of which it forms part and their visitors, and for no other purpose and shall be permanently retained as such thereafter.

Reason: To make sure that car parking and cycle storage provision is retained for use by occupants of the HMO to ensure no detriment to the parking provision available for existing residents of St Stephens Court.

**Informatives**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV40, AS6 and HC5.
  - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
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## Report of the Head of Planning and City Regeneration

Planning Committee – 4 September 2018

### Planning Appeal Decision Item Report

Planning Application Reference: 2018/0161/FUL  
Planning Appeal Reference: APP/B6855/A/18/3200196

### Change of use from residential dwelling house (Class C3) to six bedroom HMO (Class C4)

199 St Helens Avenue, Brynmill, Swansea, SA1 4NE

#### 1.0 Background

- 1.1 A planning application was received by the Council on 26<sup>th</sup> January 2018 proposing a change of use of the dwelling into a six bedroom HMO.
- 1.2 The application was recommended for approval subject to conditions by officers, although given there was a call in request received, and receipt of a petition in excess of 30 signatures, it was required to be reported to the next planning committee for decision. The application was presented by officers at the 6<sup>th</sup> March 2018 Planning Committee.
- 1.3 At the committee meeting Members did not accept the officer recommendation citing concerns relating specifically to the proposal to change the property to a HMO having regard to its impact upon the character of the area and social cohesion in the area.
- 1.4 The application was refused by the Council by decision notice dated 13<sup>th</sup> March 2018 for the following reason:

*The proposal, in combination with existing Houses in Multiple Occupation (HMOs) within St Helen's Avenue will result in a harmful concentration and intensification of HMOs in the street and wider area. This cumulative impact will result in damage to the character of the area and social cohesion with higher levels of transient residents and fewer long term households and established families. Such impact will lead in the long term to communities which are not balanced and self-sustaining. As a result the proposal is contrary to Policy HC5 criterion (ii) of the Swansea Unitary Development Plan (2008) and the National Policy aims set out in Planning Policy Wales (Edition 8 January 2016) of creating sustainable and inclusive mixed communities.*

#### 2.0 Planning Appeal

- 2.1 Following the decision of the Council to refuse planning permission the applicant appealed to the Planning Inspectorate ('PINS'). This appeal was lodged as a valid appeal on 24<sup>th</sup> April 2018.
- 2.2 The appeal was considered by an independent Planning Inspector appointed by the Welsh Ministers and was allowed on 26<sup>th</sup> July 2018. A copy of the appeal decision is appended to this report.
- 2.3 The inspector considered that the main issue in this appeal was whether the development would conflict with local and national planning policies which seek to secure and maintain sustainable and inclusive mixed communities.

### **3.0 Planning Assessment**

- 3.1 In the decision report the inspector noted the research document in connection with HMOs which identified problems and the general concerns about over concentration of HMOs across parts of the City. He noted that the Council's concerns that this concentration is linked to the physical deprivation of the ward and the seasonality of demand for local services, however, confirmed that this was not supported by evidence of any specific harm. Without a threshold the inspector focuses on the scheme before him and noted similar decisions at King Edwards Road and Alexandra Terrace.
- 3.2 In respect of the percentage of HMOs in the street the inspector set out the estimate that this would increase from 41.12% to 41.58% and considered this to be a negligible impact on the ratio of HMOs to dwellinghouses in the street. He noted the concerns raised in the petition about issues of antisocial behaviour and other problems along with an effect on social cohesion but stated "*there is no evidence that the use of this building would be at odds with the relatively high density residential character of the street, which includes flats within an adjacent property*".
- 3.3 Whilst not a reason for refusal in response to issues raised in connection with parking pressures the inspector noted that the site lies in a sustainable location where many services are within easy walking distance with good transport to others and that the scheme accords with the adopted Parking Standards SPG.

### **4.0 Conclusion**

- 4.1 This decision by the Planning Inspectorate reinforces the recommendations made by officers in that there is difficulty in refusing an application for a HMO where there is little or no evidence to clearly set out that a single HMO would impact upon the character of the area to a harmful degree. The absence of a criteria based approach and specific evidence of the harm in terms of concentrations or intensification of HMOs in particular areas ensues that each application must be determined on its own merits.

### **5.0 Recommendation**

- 5.1 The appeal decision be noted.

**Contact Officer:** Liam Jones **Extension No:** 5735



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## Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 17/07/18

gan Hywel Wyn Jones BA (Hons) BTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 26/07/18

## Appeal Decision

Site visit made on 17/07/18

by Hywel Wyn Jones BA (Hons) BTP  
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 26/07/18

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**Appeal Ref: APP/B6855/A/18/3200196**

**Site address: 199 St Helens Avenue, Brynmill, Swansea, SA1 4NE**

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Jones against the decision of the City and County of Swansea Council.
  - The application (ref: 2018/0161/FUL), dated 22 January 2018, was refused by notice dated 13 March 2018.
  - The development proposed is a change of use from residential dwelling house (Class C3) to six bedroom HMO (Class C4).
- 

### Decision

1. The appeal is allowed and planning permission is granted for a change of use from residential dwelling house (Class C3) to six bedroom HMO (Class C4) at 199 St Helens Avenue, Brynmill, Swansea, SA1 4NE in accordance with the terms of the application (ref: 2018/0161/FUL), dated 22 January 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

### Procedural Matter

2. The appellant's name in the above banner heading is taken from the planning application form. The appeal form refers to the company name, G&E Properties.

### Main Issue

3. The main issue is whether the development would conflict with local and national planning policies which seek to secure and maintain sustainable and inclusive mixed communities.

### Reasons

4. The appeal property is a three-storey terraced house within a primarily residential area close to a range of shops and other services. The properties in the street are generally well maintained. Several 'to let' and other signs indicate that some of the properties are in multi occupation or have been subdivided to flats. The Council advises that of the 214 residential properties in the street, 88 are registered as houses in multi occupation (HMOs).
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5. Policy HC5 of the City and County of Swansea Unitary Development Plan (UDP) (2008) is supportive of HMO use provided 5 criteria are satisfied. The Council takes issue with the second criterion which seeks to ensure that proposals do not contribute to a harmful concentration or intensification of HMOs in a particular area. This aim is consistent with the objectives of Planning Policy Wales Edition 9 to ensure that housing development, or the cumulative effects of development, does not damage an area's character and amenity.
6. The Council refers to research documents, including one commissioned by Welsh Government in April 2015, which identify the particular problems that can arise from an over-concentration of HMOs in residential areas. This work informed a recent amendment to the Use Classes Order which distinguishes between properties used as dwellinghouses (class C3) and those used as HMOs by up to 6 residents (C4).
7. I have noted the general concerns that the Council has raised with regard to the over-concentration of HMOs within parts of the City. Within the Uplands Ward it states that 49% of the population are students compared to the city wide figure of 13%, and suggests that the figure may be higher in parts of Brynmill closest to the University. It asserts that this concentration is linked to the physical deprivation in the ward and the seasonality of demand for local services. However, such general concerns are not supported by evidence of any specific harm, such as empirical details of local facilities that are harmed by the seasonality of demand. The Council has commenced work on producing supplementary planning guidance (SPG) which would seek to control HMOs as well as meeting the increase in demand for such accommodation. As it has yet to be adopted the Council does not refer to it in support of its case.
8. In terms of the scheme before me the officer's committee report acknowledged that there was no evidence to demonstrate that the scheme would lead to a harmful concentration of HMOs. Whilst the Council considers that it would be contrary to policy HC5 there is no threshold or other indicator in the policy relating to the cumulative effects of this type of development which would be breached by the proposal. In the absence of a transparent, evidence-based framework for dealing with the cumulative effects of HMOs I have focussed my attention on the merits of the scheme before me. In doing so I note that this is an approach adopted in recent appeal decisions<sup>1</sup> in nearby King Edward's Road and Alexandra Terrace to which the appellant has drawn my attention.
9. The impact of changing the use of the appeal property would have a negligible impact on the ratio of HMOs to dwellinghouses in the street<sup>2</sup>. I concur with the officer's report on the application which stated that the scheme would not lead to an unacceptable harmful concentration of HMOs. I have noted the petition presented to the Council in objection to the planning application and accept that there will be incidents of anti-social behaviour and other problems related to HMOs that can have an effect on community cohesion. However, there is no evidence that the use of this building would be at odds with the relatively high density residential character of the street, which includes flats within an adjacent property.
10. The amplification to policy HC5 recognises the positive role HMOs play within the housing market, providing low-income groups and in particular students, with a source

<sup>1</sup> APP/B6855/A/16/3165057 & APP/B6855/A/16/3156916

<sup>2</sup> The Council estimates that the percentage of properties in the street used as HMOs would increase from 41.12% to 41.58%.

of affordable accommodation, as well as recognising the adverse effects of too many HMOs on the character of established residential areas.

11. On the main issue I conclude that the proposed development does not conflict with local and national policies to secure and maintain sustainable and inclusive mixed communities. Accordingly the scheme complies with policy HC5 of the UDP.

*Other Matter*

12. I have noted the concern raised in the petition over parking pressures, which is a consideration identified in criterion (iv) of policy HC5. Much of the street is the subject of permit holders only parking restrictions. The area lies in a sustainable location where many services are within easy walking distance with good public transport to others. The Council has confirmed that the scheme accords with its adopted Parking Standards SPG.

*Conditions*

13. I have considered the conditions suggested by the main parties in the light of the Circular 16/2014: The Use of Planning Conditions in Development Management. In addition to the standard conditions to control the commencement of works and to ensure that they are undertaken in accordance with the submitted details I agree that a condition to require cycle storage is reasonable to encourage non-car modes of transport. The potential increased demand for refuse storage means that a condition to require suitable provision is also necessary.

**Conclusions**

14. I have taken into account the other matters raised in objection to the scheme but none lead me away from my findings on the acceptability of the proposal.
15. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Hywel Wyn Jones*

INSPECTOR

**Schedule of Conditions**

- 1) The development shall begin not later than five years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans: location plan received on 22 January 2018, proposed ground floor plan, proposed first floor plan and proposed second floor plan received by the Local Planning Authority on 26 January 2018.
- 3) Details of facilities for the secure and undercover storage of six cycles and storage of refuse shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities 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.