

# **Report of the Head of Planning and City Regeneration**

**Planning Committee – 10<sup>th</sup> January 2017**

**PLANNING APPLICATION REF: 2016/1604**

**Change of use from residential (Class C3) to HMO for 4 people (Class C4)**

**3 Lewis Street, St Thomas Swansea SA1 8BP**

## **1.0 Background**

- 1.1 This application was reported to Planning Committee on the 6<sup>th</sup> December 2016 with the recommendation that planning permission be approved subject to conditions. Members did not accept the recommendation but resolved that the application be deferred under the two stage voting process so that they could seek further advice and guidance with respect formulating a reason(s) for refusing the development. The application will not be deemed to be refused unless and until reasons for refusal have been recorded and approved by Members.
- 1.2 In reaching a decision Members will need to consider advice on the award of costs in planning appeals in Welsh Officer Circular 23/93 : 'Award of Costs incurred in Planning and other (including Compulsory Purchase Order) Proceeding'. The circular states that Planning Authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers, or received from statutory bodies or consultees. However, they will be expected to show they had reasonable planning grounds for taking a decision contrary to such advice, and be able to produce relevant evidence to support the decision. If they fail to do so, costs may be awarded against the Authority.
- 1.3 A copy of the report to Planning Committee on 6<sup>th</sup> December 2016 is attached as Appendix A.

## **2.0 Main Issues**

- 2.1 Members did not formulate clear grounds for refusing the application at the committee meeting, however, comments are made below on the various key material planning considerations that need to be taken into account in this instance having specific regard to the criteria of Policy HC5 of the City and County of Swansea Unitary Development Plan. There are no external physical alterations proposed so in this instance the main material planning considerations are noise, nuisance and disturbance, the concentration and intensity of HMO's in the area, car parking and refuse arrangements. More detailed comment is provided in each of the sub-headings below.

### Noise, Nuisance and Disturbance

- 2.2 As documented in the officer report the proposal would result in the increase of one bedroom to provide a four bedroom property. A large family could occupy the property under the lawful use, and the number of bedrooms could be increased to four without requiring planning permission.

There is no evidence before the Authority to suggest that the level of noise, nuisance and disturbance associated with the proposed use as a HMO, for use for up to four persons, would generate significant noise, nuisance or disturbance over and above that of a family home. As a result officers do not consider that refusal of the application on this basis could be warranted. The Police and the Councils Environmental Health Department have the power to tackle antisocial behaviour and other noise related issues. If Members disagree with this and take a view that the change of use would result in harm to amenity particularly by virtue of noise and disturbance evidence will need to be provided in order to demonstrate this harm. Policy HC5 criteria (i) is of relevance and members will need to demonstrate that there would be a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance to justify refusal on this basis.

### 2.3 Concentration and Intensity of HMO's

There are no existing known HMO's along Lewis Street and so it would not be possible to argue that the introduction of a new single four bedroom HMO would result in a harmful concentration or intensification of HMOs in the area under the provisions of Policy HC5 criteria (ii). There is no evidence to suggest that approval of this application would result in any material harm on this basis. Whilst the formulation of a Supplementary Planning Guidance document for HMOs may impose percentage restrictions on the number of HMOs in areas, it is not considered reasonable to impose a blanket ban upon them within specific areas. It should be recognised that HMOs provide a valuable and important contribution towards the provision of affordable housing.

### Car Parking and Highway Safety

- 2.4 With regard car parking, it is clear that there is no off-street dedicated car parking available for use by the HMO given the terraced nature of the property with no rear parking provision. Similarly, however, there is no off-street car parking available for the existing dwellinghouse. Parking on the street is laid out and restricted as a Controlled Parking Zone. The Adopted SPG Parking Standards does not seek additional parking provision for small scale HMOs given that there would be a requirement for 3 parking spaces for the existing 3 bedroom property and 3 spaces for up to 6 sharing as part of a HMO. The Highway Authority has been consulted and raised no objection to the application and conditions have been suggested to control the number of persons residing as part of the HMO to 4 and for cycle parking provision.
- 2.5. Should members take a contrary view to officers and consider that the application is not acceptable on grounds of car parking and highway safety clear evidence would need to be provided to justify a reason for refusal and departing from adopted parking standards.

### Refuse Arrangements

- 2.3 A sufficient level of space in which to provide refuse storage can be provided to the rear of the property and this can be adequately controlled via an appropriately worded condition. There is no evidence to suggest that the use of the property as a HMO for up to four people would generate specific refuse issues over and above the extant use of the property as a residential property. There are powers under Environmental Health legislation to control the management of such properties in this respect.

### **3.0 Conclusion**

3.1 My original report to Planning Committee on 6<sup>th</sup> December 2016 recommended approval of the application and I have received no evidence to change this recommendation. However, it is recognised that the Committee may not accept my recommendation and should this be the case, any decision to refuse the application will need to take into account my advice given above and in the officer report.

### **4.0 Recommendation**

4.1 The application be approved in accordance with the recommendation set out in Appendix.

If however the Committee does not consider that the application should be approved, the reason(s) for refusal should take into account the advice given above.

*Contact Officer:* Ryan Thomas      *Extension No:* 5731  
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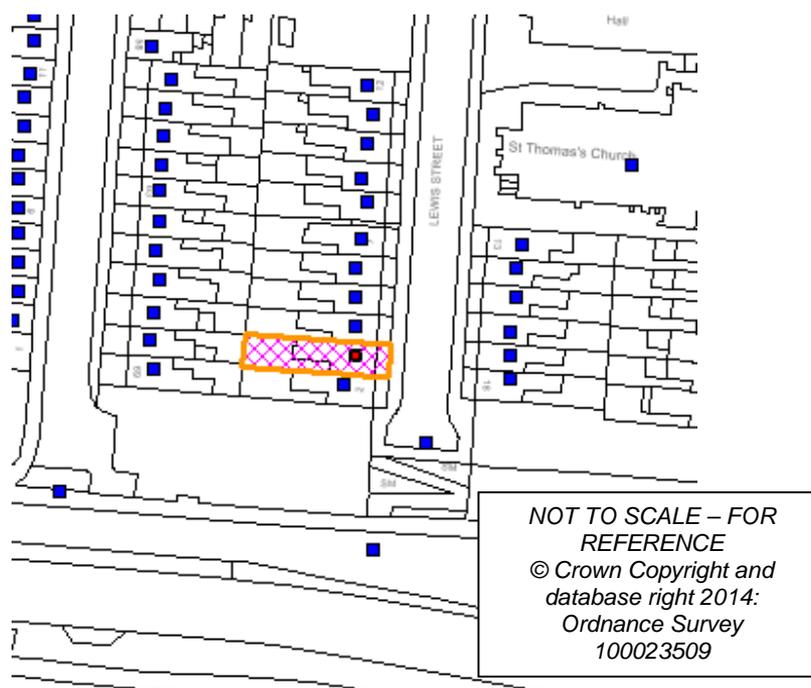
## APPENDIX A

**ITEM** **APPLICATION NO:** 2016/1604  
**WARD:** St. Thomas - Bay Area

**Location:** 3 Lewis Street St. Thomas Swansea SA1 8BP

**Proposal:** Change of use from residential (Class C3) to 4 bedroom HMO (Class C4)

**Applicant:** Mr Brian Harris



### **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 - 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
2016/1604	Change of use from residential (Class C3) to 4 bedroom HMO (Class C4)	PDE	

## 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. 67, 68 & 69 Sebastopol Street and Nos. 2 & 4 Lewis Street and through display of a site notice dated 24th August 2016. FIFTEEN LETTERS OF OBEJCTION have been received which are summarised as follows:

1. Noise and disturbance;
2. Antisocial behaviour including litter;
3. Increased on-street car parking pressure;
4. Highway safety;
5. Health implications;
6. Loss of community spirit and cohesion;
7. Change in the character of the area;
8. Loss of value of properties; and
9. Precedent for similar development.

THREE PETITIONS OF OBECTION were also received with 50, 44 and 33 signatures which reiterate concerns above.

Dwr Cymru/Welsh Water: Request for standard condition and informative.

Pollution Control Division: I have viewed the application and have the following comment to make:

In 2012, Welsh Government carried out strategic noise mapping to meet the requirements of the Environmental Noise Directive (Directive 2002/49/EC) and the Environmental Noise (Wales) Regulations 2006 (as amended). The maps show that the proposed development is exposed to noise levels in excess of 65dB LAeq,16 and 60dBLnight. According to TAN11: Noise (1997) the development falls into Category C. In Category C planning permission should not normally be granted. Where it is considered that permission should be given, for example, because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.

In this circumstance, it would not be reasonable to request acoustically treated active ventilation units but if during renovations the façade windows are being replaced it would be advisable for the applicant to contact the Division regarding any mitigation measures.

Highways:

The current Parking Standards allow for upto six people in a property without the need for any additional parking. Prior to the introduction of the C4 Classification (for between 3 and 6 persons) in March 2016 upto six people could share without the need for planning permission.

Given that the parking standards do not reflect the new use class C4 and based on recent appeal decisions I do not consider that a refusal from highways could be justified at appeal despite my ongoing concerns regarding the cumulative impact of increasing sizes of HMO's in the area.

As part of the HMO SPG currently being drafted a review of the existing parking standards which specially relate to HMO's and purpose built student accommodation will be included. This should be in place by March 2017 and will take into account data specific to Swansea and not generic information for Wales as a whole. In the interim the existing SPG on parking is the relevant document that any Inspector would use in a Planning appeal situation.

This application is for a change of use from C3 to C4 (For 4 persons) hence it is still below the six person threshold.

No dedicated car parking is available for use by the dwelling. Parking on the street is laid out and is covered by the Controlled Parking Zone that exists in this and the surrounding streets. The HMO would be eligible for two parking permits, as would be the case if it was a single dwelling so there is no change in that regard.

There is a rear yard area where cycle parking could be provided to mitigate for the lack of car parking facilities.

On that basis I recommend that no highway objections are raised to the proposal subject to:

1. The dwelling being used by no more than 4 persons in the interest of highway safety.
2. Cycle Parking to be provided in accordance with details to be submitted for approval to the LPA, to mitigate for the lack of car parking availability.

#### APPRAISAL:

This application was initially reported to be considered at the 1 November 2016 Planning Committee, however, it was deferred by members for a site visit.

#### Description

Full planning permission is sought for the change of use from residential (Class C3) to a 4 bedroom HMO (Class C4) at No. 3 Lewis Street, St Thomas, Swansea.

The existing dwelling is two storey 3-bedroom terrace property which is situated on the edge of the suburban area of St. Thomas in close proximity of Fabian Way and SA1 beyond. The area comprises rows of traditionally designed terraced properties.

No external alterations are proposed and as such the proposal will have no impact on visual amenity.

#### Main Issues

The main issues for consideration during the determination of this application relates to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of the area and highway safety having regard for the provisions of the Swansea UDP and the Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

## Principle of Use

Up 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 been historically a large concentration of HMO properties in some parts of Swansea which has happened predominately 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 2 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.

It is acknowledged that large concentrations of HMOs can bring their own problems to local areas, however the Local Planning Authority has not produced any evidence or Supplementary Planning Guidance as of yet to quantify the harm caused by the concentration of these types of uses.

Policy HC5 of the Swansea UDP supports the conversion of dwellings to HMOs subject to compliance with the 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 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 criteria 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, the proposal would result in an increase of one bedroom to provide a four bedroom property. A large 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 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 dwelling house.

As such, the proposed use will not result in unacceptable 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 accommodation (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 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 on from the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation Practice Guidance (February 2016) HMOs. Within this it is identified that HMOs provide a source of accommodation for certain groups which include students temporarily resident 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 Councils own HMO register, there are currently no known HMOs along Lewis Street, however that is not to say that there aren't any in this location which have been used pre March 2016. Given the Local Planning Authority has no record of any other HMO properties on Lewis Street, the use of this property as a HMO would not result in a harmful concentration of HMOs in this particular area.

In the absence of a percentage or other similar calculation based approach, it is difficult to determine what number of HMOs in an area would constitute a 'harmful concentration'. Given there are limited numbers of HMOs in this area, without empirical evidence it is regarded that this is not a harmful concentration such that it complies with the aims of this criterion.

In support of the Councils position on this matter regard needs to be had for a recent appeal decision at No 8 Alexander Terrace (Ref: 2016/0873). The application was refused by Members contrary to Officer recommendation for the following reasons:

1. The proposal, in combination with existing Houses in Multiple Occupation (HMOs) within Alexandra Terrace 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. Insufficient information has been provided to demonstrate that additional off-street car parking provision can be provided within the site curtilage to serve the use of the property as a HMO. Accordingly the proposal, for up to 6 residents, would increase the demand for on-street parking in an already congested area and as such would be detrimental to the existing residents / car owners and the free flow of traffic, contrary to the requirements of Policy HC5 criterion (iv) and Policy AS6 of the Swansea Unitary Development Plan (2008).

Whilst the Inspector acknowledged the transient nature of multiple occupancy dwellings, the percentage of properties under an existing HMO licence amounting to 42% in the street and noted the evidence submitted in relation to age and economic profiles and household tenure, she concluded that there was no detailed evidence before her 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.

Furthermore it was felt that the proposed use would clearly serve to meet a particular housing need and the surrounding area offers a broad mix of uses. For these reasons the Inspector did not consider that the appeal proposal would run counter to the objectives of securing a sustainable mixed use community.

Additionally, whilst it was felt the development resulted in an increased population density, the site is sustainably located and provides accommodation that would be suitable for students or young professionals studying or working nearby. Whilst the Inspector acknowledged the concerns raised about the occupancy fluctuations during the summer months, she did not consider it would have a significant adverse effect on the local community particularly as many students remain in the local area to undertake seasonal jobs or volunteering activities and many people living in the local area will similarly take family holidays at this time. On this basis the appeal was allowed.

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

No dedicated car parking is available for use by the dwelling. Parking on the street is laid out but is not restricted. There is a rear yard area where cycle parking could be provided to mitigate for the lack of car parking facilities. In view of the above, the Head of Transportation and Engineering has recommended that no highway objections are raised to the proposal subject to:

1. The dwelling being used by no more than 4 persons in the interest of highway safety; and
2. Cycle parking to be provided in accordance with details to be submitted for approval to the LPA, to mitigate for the lack of car parking availability.

Appropriate refuse storage arrangements can be provided

An area for bin storage is proposed to the rear of the property.

#### Response to Consultations

Notwithstanding the above, fifteen letters of objection have been received and three petitions of objection which raised concerns relating to noise and disturbance, local car parking and highway safety and the concentration or intensification of HMOs in the area. The issues pertaining to which have been addressed above.

Issues in respect of antisocial behaviour including noise and the management of refuse collection are covered under separate legislation via Environmental Health or the Police and as such cannot be taken into consideration during the determination of this application. With regard to concerns in respect of impact of the proposal on health and loss of value of properties, these issues are not material planning considerations.

## Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of this property as 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, AS6 and HC5 of the Swansea UDP and approval is recommended.

## 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: block plan, site location plan received on 10th August 2016. Existing and approved floor plans, dated 22nd August 2016.  
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 four 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, highway safety and general amenity.
- 4 No more than four residents shall live at the property, as part of the HMO hereby approved, at any one time.  
Reason: In order to control the density of the development, in line with the proposal, having regard to the scale of the existing use and parking provision within the locality.

## INFORMATIVES

- 1 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
  - 2 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, HC5 and AS6.
-