

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

**Planning Committee – 7 February 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 The 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. It was advised that the application will not be deemed to be refused unless and until reasons for refusal have been recorded and approved by members.
- 1.2 The item was further reported to the 10<sup>th</sup> January 2017 Planning Committee with an item report setting out the issues and confirming the recommendation of officers to approve the application. At the meeting itself members again did not accept the recommendation and resolved that the application be refused. Reasons for refusal were not formulated by members and the application was deferred in order to require a parking survey of the street to be undertaken and consideration of the impact of the development upon amenity by virtue of 'other disturbance'.
- 1.3 Since the 10<sup>th</sup> January 2017 the Council has received notification from the Planning Inspectorate that an appeal has been made against the non-determination of the application and the start date of the appeal is 18<sup>th</sup> January 2017. Prior to June 2015 on receipt of such an appeal the jurisdiction to determine the application would transfer to the Welsh Ministers as an appeal. However, in June 2015, The Town and Country Planning (Development Management Procedure)(Wales)(Amendment) Order 1995 came into effect. Article 9 of the Order provides Local Planning Authorities with an additional period of four weeks to determine the planning application on receipt of such an appeal. The expiry of the four weeks ends on 7<sup>th</sup> February 2017 following which time the decision would transfer to the Planning Inspectorate.
- 1.3 A copy of the report to Planning Committee on 6<sup>th</sup> December 2016 and item report of 10<sup>th</sup> January 2017 is attached as Appendix A.

## **2.0 Main Issues**

- 2.1 Members did not formulate clear grounds for refusing the application at the previous committee meeting. It is not proposed to re-issue the advice in relation to the key issues which have already been well documented in the committee report of 6<sup>th</sup> December 2016 and the more recent Item Report of 10<sup>th</sup> January 2017 other than to provide comment on the issues raised by members at the January 2017 committee.

- 2.2 Members will need to be aware of the advice on the award of costs in planning appeals in Welsh Office Circular 23/93: Award of Costs incurred in Planning and other (including Compulsory Purchase Order) Proceedings'. 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.

#### Car Parking and Highway Safety

- 2.3 With regard to 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.
- 2.4 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 reasons would need to be provided to justify a reason for refusal and departing from adopted parking standards.
- 2.5 At the January 2017 committee members discussed the matters relating to car parking and highway safety and members considered that the provision of a car parking survey of the road would enable further consideration of issues of parking and highway safety.
- 2.6 The Highway and Transportation Section installed a camera to record street parking in Lewis Street. The camera survey covered the period from approximately 11 am on Tuesday 24<sup>th</sup> January 2017 to 8am on Wednesday 25<sup>th</sup> January 2017. This covered traffic movements and parking demand within the street for daytime and overnight during that period.
- 2.7. The camera survey indicates that for most of the time significant capacity was available for parking, however, there was a period from 6pm on Tuesday 24<sup>th</sup> where additional demand took place and subsequent footage indicated parking congestion up until 9:30 pm, when cars then began to disperse. This would appear to be attributable to people attending the Church and vehicles were gone by 10pm. The street remained relatively quiet with significant spare capacity for the remainder of the night continuing into the morning where the last footage recorded at 8am showed spare capacity.
- 2.8. The survey, although only taken over a period of one day, demonstrates that there is capacity within Lewis Street for parking notwithstanding that the proposal does not result in a requirement for additional parking. On this basis officers have no reason to depart from the advice given to officers and remain of the view that the application is acceptable on its planning merits.

## Noise, Nuisance and Disturbance

- 2.9 During the January 2017 committee meeting potential concerns were raised regarding HMOs causing noise issues over and above that of dwellinghouses and comments were made about consideration of providing sound proofing measures. Officers have further consulted with the Pollution Control Section. They confirm that the property is located in an area where development is exposed to relatively high noise levels, however, it is reasonable to attribute this to the highway network into Swansea near the application site. They further confirm that it would not be reasonable to request acoustically treated active ventilation units. Further comments received advise that there is no data to support the statement that HMOs cause more of a noise problem than non-HMOs and the same goes from HMOs causing less of a noise problem than non HMOs.
- 2.10 On the basis of the above there is no reason to conclude that the proposed HMO would result in noise or disturbance issues over and above that of a dwellinghouse or require that sound proofing works are undertaken.

### **3.0 Conclusion**

- 3.1 My original report to Planning Committee on 6<sup>th</sup> December 2016, and Committee of 10<sup>th</sup> January 2017 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.
- 3.2 Clear reasons need to be given and if members do not resolute reasons for refusal the application will continue to be decided as an appeal against non-determination by the Planning Inspectorate. Similarly if members do resolve reasons to refuse the application the appeal process will continue and the Authority will be required to produce a Written Statement documenting the evidence surrounding the reasons for refusing the application.

### **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.

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<i>Date of</i>	<i>30<sup>th</sup> January 2017</i>	<i>Document Name:</i>	<i>3 Lewis Street –</i>
<i>Production:</i>			<i>2016/1604</i>