

# Report of the Head of Planning and City Regeneration

Planning Committee – 6 June 2017

## PLANNING COMMITTEE APPEAL DECISIONS

### 1.0 Background

- 1.1 The purpose of this report is to review those planning applications which have been refused by the Council at Planning Committee stage, following officer recommendations for approval, but subsequently considered at appeal by the Planning Inspectorate.
- 1.2 Since April 2017 there have been 4 such applications all of which have been allowed by the Planning Inspectorate on the respective dates listed below.:

2016/1380	96 King Edwards Road	Allowed 19 April 2017
2016/1688	57 St Helens Avenue	Allowed 25 April 2017
2016/3085/S73	Land South Of Fabian Way	Allowed 25 April 2017
2016/1038	124 St Helens Avenue	Allowed 4 May 2017

### Appeal Decisions

- 1.3 Below is a summary of the key issues raised by the appointed Planning Inspectors in the appeals considered. An appraisal is provided and full copies of the appeal decisions are appended to this report as Appendices 1-4.
- 1.4 **Appeal Reference APP/B6855/A/16/3165057, Application Reference 2016/1380, 96 King Edwards Avenue, Swansea - Change of use from residential dwelling (Class C3) to an 7 bed HMO, single storey rear extension and installation of 1st floor French doors with balcony on rear elevation**

The inspector noted the high level of HMOs in the area with King Edwards Road reporting 53% of dwellings being HMOs. She referred to the local concerns but considered that HMOs in this area are already established alongside family housing in fairly balanced numbers. She considered that an additional HMO in this location would not result in a material change to existing circumstances.

The cumulative effects were considered that whilst recognising these potential effects the inspector pointed to there being no identified threshold supported by evidence to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. It was noted that the Uplands ward area has a high student population and a large proportion of private rented accommodation but that there was little evidence that this directly relates to an unbalanced or unsustainable community. Concerns about the transient nature of the population were not verified by tangible evidence. Comment was made by the inspector about students and whilst noting that they are generally away from the area during holiday periods they are also likely to support local facilities such as sport centres, libraries and shops.

The inspector noted concerns about potential issues of rubbish management and litter as well as anti-social behaviour but considered these matters are capable of being addressed by police enforcement, HMO licensing and street cleansing/community engagement strategies.

The appeal was allowed subject to conditions including that the development takes place in accordance with the approved plans, that details of cycle storage for four cycles, refuse storage details and a flush fitting balustrade in connection with the rear extension be agreed in writing.

**1.5 Appeal Reference APP/B6855/A/16/3165327, Application Reference 2016/1688, 57 St Helens Avenue , Swansea - dormer window and replacement with velux type window.**

In this appeal the inspector identified that 40% of dwellings within the street were in HMO use and that evidence suggested 49% of the Uplands Ward population are students. Whilst understanding local concerns the inspector considered that HMOs are already established alongside family housing in fairly balanced numbers. She also noted that the census data shows a good mix of tenure types with over 46% in private ownership, either owner or outright with a mortgage.

The inspector referred to the concerns about the transient nature of populations associated with HMOs and the effects upon community facilities but, in the same fashion as the appeal at King Edwards Avenue noted that there were no details of which community facilities are being affected in the area or to what extent, or how such effects correlate with HMO accommodation. Reference was made to students supporting local facilities.

Again the inspector considered that concerns about the potential issues of rubbish management and litter, as well as anti-social behaviour, are matters capable of being addressed by police enforcement, HMO licensing and street cleansing/community engagement strategies.

The appeal was allowed subject to conditions including that the development takes place in accordance with the approved plans and details of cycle storage for six cycles and refuse storage be agreed in writing.

**1.6 Appeal Reference APP/B6855/A/17/3166411, Application Reference 2016/3085/S73, Land South of Fabian Way, Swansea - Variation of condition 3 of planning permission 2015/2223 granted 27/09/2016 (Erection of a detached tyre and auto-care centre and two detached units (Class A3)) to allow for the use of the tyre centre from 08.30 to 18.00 hours Monday to Saturday**

The inspector identified that the main issue in this case was the effect that varying the disputed condition would have on the living condition of nearby residents.

In deciding the appeal the inspector noted that although the tyre and auto-care centre would be close to Bevans Row, the planning permission includes conditions relating to the provision of an acoustic fence on the eastern boundary and furthermore a condition relating to sound proofing. She further noted the presence of a buffer of trees which would assist in enhancing the measures. She noted the presence of Fabian Way, the industrial character of the area and the ability of the A3 units to be open on Saturday afternoons and considered that any impact upon living conditions would be negligible. The appeal was allowed and the relevant condition varied to remove the requirements of the original condition and allow the tyre centre to open on a Saturday afternoon.

**1.7 Appeal Reference APP/B6855/A/17/3167108, Application Reference 2016/1038, 124 St Helens Avenue, Swansea - Change of use from residential (Class C3) to 5 bedroom HMO (Class C4)**

The inspector noted the level of HMOs in the area being around 40% and similarly to other HMO appeals referenced above found there was no evidence to suggest that this would result in unbalance of the community or any harm in terms of social cohesion. Again issues relating to concerns about refuse storage could be dealt with by others.

In relation to concerns about lack of parking and despite the applicant offering that a space for parking be provided to the rear the inspector considered that given the accessible location of the appeal property, and that a change from a family dwelling to a HMO would not result in any material increase in parking demand a condition relating to the provision and retention of a rear parking space would not be necessary.

The appeal was allowed subject to conditions including that the development takes place in accordance with the approved plans and details of cycle storage for five cycles and refuse storage be agreed in writing.

**2.0 Consideration of the issues**

- 2.1 Each planning application must be considered on its own merits having regard to the development plan and members are provided with an officer report and recommendation which sets out the relevant issues before making a decision on individual applications. Clearly members can, when sound planning reasons are given, vote contrary to the advice and recommendation of officers, however, the applicant has the opportunity to appeal the decision to the Planning Inspectorate.
- 2.2 In the cases identified above, in relation to proposed HMOs, the inspectors have found little evidence to support assertions that the addition of a further HMO would harm the character or amenity of the areas concerned. They have noted the high percentage prevalent in those streets and areas in general but have made it clear that without evidence of harm the Local Planning Authority is not able to sustain a refusal of such applications.
- 2.3 Further to this they have noted the concerns about high student populations in the areas along with private rented accommodation but state that there is little evidence that directly relates this to an unbalanced or unsustainable community. In fact, as the decisions refer to, the census data points to a good mix of tenure types. Additionally concerns about the transient nature of HMOs could not be linked directly to effects on community facilities and reference has been made in relation to students providing support for local facilities such as sport centres, libraries and shops.
- 2.4 In dealing with the appeals the inspectors have taken note of the sustainable location of sites and in connection with the appeal at 124 St Helens Avenue had determined that the provision of a single parking space, offered by the applicant, was unnecessary given that a family dwelling changing to a HMO would not amount to a material increase in parking. Members should note that this gives the Local Planning Authority less control had that application been approved subject to the conditions suggested by officers.

2.5 The above appeals were considered by written representations and as a result, could not be the subject of an application for costs by interested parties. However, following the introduction of new legislation by the Welsh Government, appeals on planning applications received from 5<sup>th</sup> May 2017 can now be the subject of an award of costs if the appeal is considered by way of written representations. Furthermore, an Inspector can award costs against an interested party if it is considered that party has behaved unreasonable in the determination process/appeal process even if an application for an award of costs has not been made by another interested party. Members therefore need to ensure that when making decisions contrary to officer advice, sound planning reasons which can be evidenced and sustained at appeal, are given.

### **3.0 Recommendation**

3.1 The appeal decisions be noted.

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