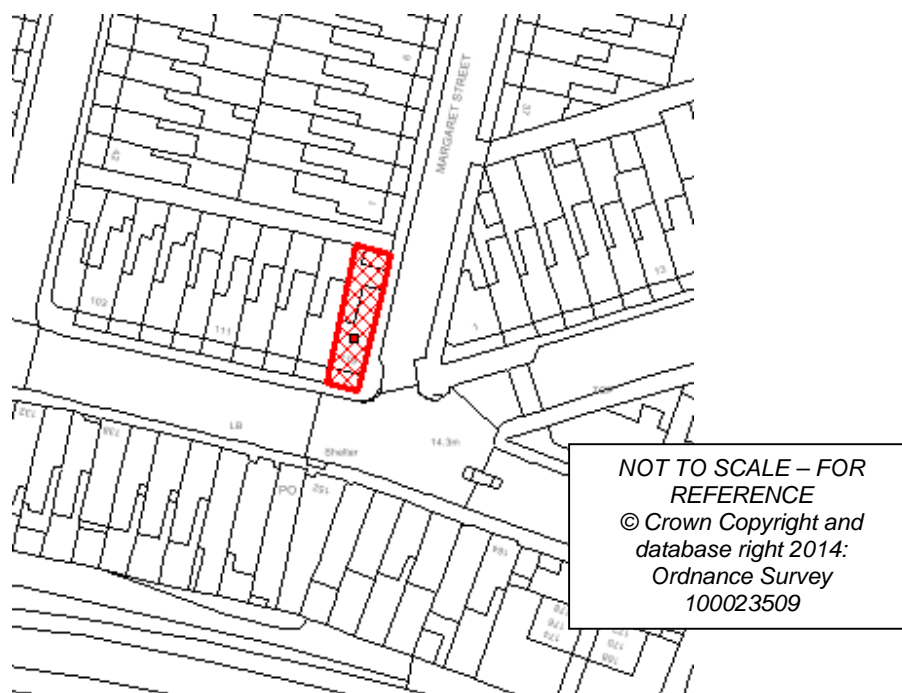


## Planning Committee – 5<sup>th</sup> June 2018

Item 1	Application Number:	2018/0653/FUL
	Ward:	St. Thomas - Bay Area
Location:	119 Port Tennant Road, Port Tennant, Swansea, SA1 8JQ	
Proposal:	Change of use from residential (Class C3) to 6 bed HMO for 6 occupants (Class C4)	
Applicant:	B Ryan	



### **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 - AS6 - Parking/Accessibility

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

## Planning Committee – 5<sup>th</sup> June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/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	Proposal	Status	Decision Date
2017/0035/FUL	Retention of use of first floor as nail bar and tanning salon	APP	20.02.2017
2017/2624/FUL	Change of use from dwelling house (Class C3) to 7 bedroom HMO (Sui Generis) and construction of rear roof extension	REF	14.02.2018
2018/0653/FUL	Change of use from residential (Class C3) to 6 bed HMO for 6 occupants (Class C4)	PDE	

### APPRAISAL

This application has been called to Committee for decision at the request of Councillor Joe Hale.

### RESPONSES 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. 113 and 117 Port Tennant Road, No. 1 Margaret Street and No. 1 Gwynne Terrace on 9th April 2018.

A site notice was also posted within the vicinity of the application site on 13th April 2018.

Eight individual letters of objection have been received which are summarised below:

- o Too many HMO properties in the area
- o Increase in noise
- o Parking problems
- o A public enquiry should be held in relation to HMOs
- o Increase in anti-social behaviour
- o To grant this application would not be fulfilling the Wellbeing of Future Generations Act
- o Not sustainable development

## Planning Committee – 5<sup>th</sup> June 2018

**Item 1 (Cont'd)**

**Application Number:**

2018/0653/FUL

A petition containing 33 signatures has also been received with the comments on the petition stating:

*"I Mr Pete Kane is the main petitioner. I object to this change of use on the grounds that this is a very busy part of Port Tennant Road, with heavy traffic use - and a recognised service parking problem. Although the Planning Dept will argue - This is a long road, this small part of Port Tennant Road already has 7 HMO's in the immediate vicinity & this further 6 bedded one will result in further parking problems & pollution - & in our opinion over intensification which is already changing the character of the area - If this is passed we will have 8 out of 10 houses as HMOs in a small terrace"*

### **Pollution Control**

No objection

### **Description**

Full planning permission is sought for the change of use of a residential dwelling (Class C3) to a HMO for 6 people at No. 119 Port Tennant Road, Port Tennant.

The application property is a two storey, end of terrace dwelling currently occupied as a four bedroom dwelling house.

Plans indicate internal changes consist of amending the existing lounge on the ground floor to provide 2 bedrooms along with the removal of an existing shower room. 4 bedrooms are to remain on the first floor although internal modifications are proposed to increase the size of the bedroom to the front of the property and amending the bedroom/bathroom at the rear of the property to provide a larger bedroom with separate toilet and shower facilities.

### **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 and the resultant impact of the use upon the residential amenities of the area and highway safety, having regard to the provisions of Policies EV1, EV40, 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 document entitled 'Swansea Parking Standards'.

### **Site History**

A previous application (2017/2624/FUL), which proposed the change of use of the dwelling into a HMO for 7 people, along with a dormer roof extension, was refused planning permission on 14th February 2018 for the following reasons:

## Planning Committee – 5<sup>th</sup> June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

1. *The proposed change of use of the dwelling to a HMO for 7 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 outlook from an internal habitable room 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 rear dormer, by virtue of its siting and design would represent an incongruous and disproportionate form of development which fails to respect the character and appearance of the existing property and the wider surrounding street scene, contrary to Policies EV1, HC5 and HC7 of the City and County of Swansea Unitary Development Plan (Adopted November 2008) and the Supplementary Planning Guidance document entitled 'A Design Guide for Householder Development' (Adopted June 2008).*

### 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 2 people living in them.

It is acknowledged that large concentrations of HMOs can bring their own problems to local areas, however whilst the Local Authority has produced a Supplementary Planning Guidance (SPG) document related to HMOs this has yet to be formally adopted and thus does not carry any weight.

Policy HC5 of the City and County of 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 harmful concentration or intensification if 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.

## Planning Committee – 5<sup>th</sup> June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

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?

Regard needs to be given to the fact that 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 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.

The scheme involves the provision of three small windows at first floor level facing towards the neighbouring property at No. 117, however, these are proposed to serve three rooms serving as two separate shower rooms along with a separate WC with basin. It is likely that these windows would be obscurely glazed to serve these rooms and furthermore the windows actually replace a larger non obscure bedroom window. In effect the change results in a net benefit to the privacy of future and neighbouring occupiers.

One of the concerns raised in relation to the former scheme was the lack of an outlook from the downstairs bedroom due to the existence of a shower room. This revised scheme now includes a window serving the ground floor bedroom through the removal of the shower room thus overcoming the concerns raised. The second floor bedroom has been removed from the scheme thus taking the total number of bedrooms from 7 in the refused scheme to 6 in this revised scheme.

Given the amendments made it is considered that the proposed use of the building as a HMO for 6 people will not result in an over intensification of the use of the building. There will therefore be no detrimental impact upon the residential amenity of the future occupiers of the dwelling.

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant a refusal of this application in this instance. The proposal is 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 high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in antisocial 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.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 1 (Cont'd)**

**Application Number:**

2018/0653/FUL

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 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 there are three registered HMO properties along Port Tennant Road (as of 22nd May 2018) (Nos 71, 105 and 117). In addition to this Nos. 107 (Ref: 2016/1149) and 101/101A Port Tennant Road (ref: 2016/1553) have been granted planning permission for conversion into HMOs thus resulting in a known total of 5 HMOs. A check has been made on Rent Smart Wales which provides a public register for all landlords in Wales who rent properties and 9 properties along Port Tennant Road (within the SA1 8JQ postcode) are registered for rental purposes, however, this would include all forms of rental and not be limited to solely HMO uses.

It is also acknowledged that there may be other properties along Port Tennant Road which have been used as HMOs pre March 2016 and reference from objections received suggests there are additional HMOs in the area suggesting a figure of 7 in total. It should be noted that outside the Castle and Uplands Wards, only larger properties are captured by Mandatory Licensing and as a result there may be instances where HMOs exist in the area albeit that they are not subject to licensing requirements and prior to February 2016 when the use class changed would not have required planning permission.

Whilst comments in objection refer to the application site forming part of a 'small stretch of road' in the shopping area of Port Tennant Road the block is amongst a mixed use of commercial and residential properties forming part of Port Tennant Road which is a long road comprising of approximately 200 properties. Taking the numbers quoted in representations of there being 7 HMOs which would extend to 8 HMOs on approval of this application this would result in an increase from approximately 2.5% to 4% of HMOs in the street. It is difficult to argue that an additional HMO would result in a harmful concentration in this area.

Particular reference here can be made to Planning Inspectorate appeal decisions which are appended in below paragraphs whereby inspectors have consistently set out that 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 and hence it would be difficult to resist a HMO in this location which is a mixed commercial and residential area.

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

It is proposed to remove the existing ground floor shower room and replace with a window which is proposed to serve a bedroom. It is also proposed to insert an additional two windows to the side elevation of the dwelling at first floor level.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 1 (Cont'd)**

**Application Number:**

2018/0653/FUL

These alterations are very minor and could be carried out without the need for planning permission. It is also considered that as the dormer from the previous application (2017/2624/FUL) has been removed from the current scheme, that the second reason for refusal has been sufficiently overcome.

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

Under the Adopted Parking Standards SPG (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 would be akin to that of a C3 dwellinghouse. On this basis the Local Planning Authority has assessed such applications on the fall-back position of the existing dwellinghouse including any existing parking it has to offer and the potential traffic generated from the proposal. In effect where an existing dwellinghouse has no parking and a new HMO of similar residential nature is proposed it is generally considered to be unreasonable to require additional parking unless it can be demonstrated that the proposal would result in potential harm to highway safety in the area.

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 respect of the character of the street it is noted that the existing dwelling offers no off-street car parking. Objections to the application have been received on the basis of existing parking issues and that further parked cars would result in an increased risk of accidents. Whilst this is noted there is no evidence to suggest that a 6 person HMO would be materially different in terms of highway movements and parking demand than that of a dwellinghouse. Furthermore it is unreasonable to use a planning application for a HMO to address any existing highway constraints in an area.

Given that the SPG states that no additional car parking is required for a HMO for up to 6 persons over and above that of a dwellinghouse which has no parking, the application is considered to be acceptable in respect of its potential highway impacts. There is adequate space to the rear of the property to provide for a suitable level of cycle storage which will encourage use of sustainable travel.

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 the below paragraphs.

## Planning Committee – 5<sup>th</sup> June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

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, in compliance with Policies EV1, EV40, HC5 and AS6 of the City and County of Swansea Unitary Development Plan.

Appropriate refuse storage arrangements can be provided

As above, refuse storage can be provided within the rear yard and this can be controlled via an appropriately worded condition.

### Material Planning Appeal Decisions

Members attention should 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. 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."*



## Planning Committee – 5<sup>th</sup> June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

*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 up to 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. 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."*

## Planning Committee – 5<sup>th</sup> June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

*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 Avenue - 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.*"

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.*

## Planning Committee – 5<sup>th</sup> June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

*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.

57 Ysgol Street- APP/B6855/A/17/3170117 - 2016/3406/FUL - 19 June 2017

This appeal related to refusal of planning permission for a 5 person HMO. The reason given for refusal related to concern about the impact of the proposal upon living conditions of neighbouring residents with regard to nuisance, noise and disturbance. The Inspector noted that any impact would be of a similar nature to that of a dwelling stating *"the occupation of the property by 5 unrelated individuals would be little different in intensity to the dwelling's potential use by a family under the existing C3 use. Any nuisance, noise or disturbance arising from the proposed use, such as conversations taking place in the garden or inside, noise from TVs or stereos, doors slamming, occupants arriving or leaving, etc., would be similar in nature to those which might be generated by the existing use. As a consequence any resulting nuisance, noise or disturbance would not be unacceptable"*. The Inspector noted concerns raised by residents about parking and the high demand being cited by photos provided by a resident. He accepted that the use of the property by 5 adults would have the potential to increase the number of vehicles but considered that the specific effects of the proposal on the street as a whole would not be significant. He cited the sustainable location of the proposal and the provision being made for 1 off-street parking space and considered the appeal proposal acceptable on its highway impacts. The appeal was allowed.

## Planning Committee – 5<sup>th</sup> June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/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.

### Conclusions

It is considered that the Local Planning Authority has no evidence to suggest that the use of this property as a 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 the neighbouring properties and highway safety, in accordance with Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan. It is therefore considered that the proposal has sufficiently overcome the previous reasons for refusal.

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 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. 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.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 1 (Cont'd)**

**Application Number:**

2018/0653/FUL

2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan & block plan, existing and proposed rear elevation, proposed ground floor plan, proposed first floor plan, proposed side elevation/section from west side, existing side elevation from Margaret St (unchanged), received 29th March 2018.

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

3 The development shall not be occupied until facilities for the secure and undercover storage of a minimum of 6 cycles and storage of refuse have been provided in accordance with details to 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 sustainability and to encourage alternative forms of transport and to safeguard the visual amenity of the locality and the residential amenities of future occupiers.

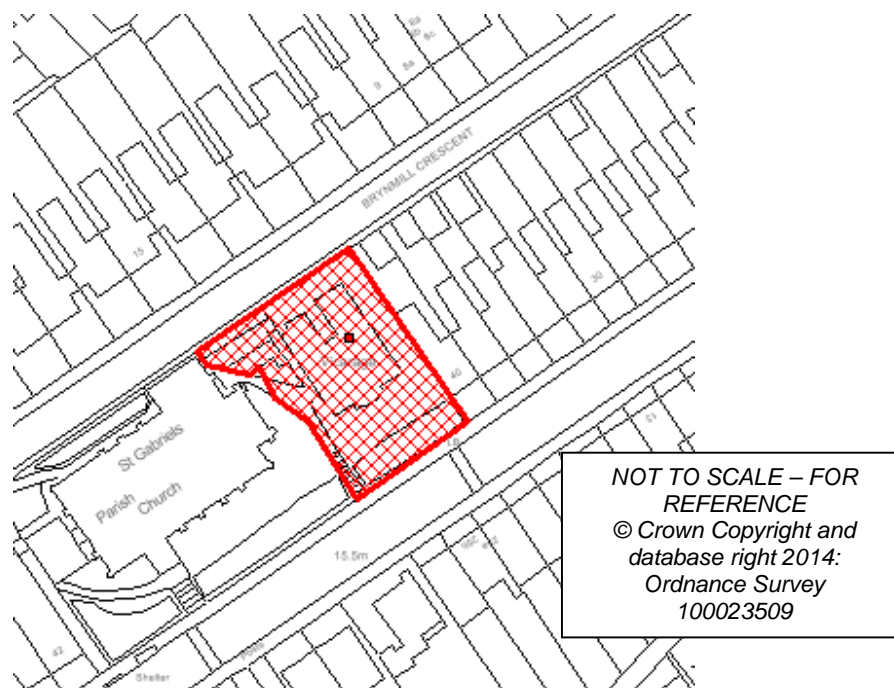
### **Informatives**

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: EV1, EV40, AS6 and HC5.

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## Planning Committee – 5<sup>th</sup> June 2018

**Item 2** **Application Number:** 2018/0659/FUL  
**Ward:** Uplands - Bay Area  
**Location:** 40A And 40B Bryn Road, Brynmill, Swansea, SA2 0AP  
**Proposal:** Change of use of 2 residential units from dwelling (Class C3) into 2 separate HMO - comprising 1 no. 5 bed HMO for 5 occupants and 1 no. 6 bed HMO for 6 occupants (Class C4)  
**Applicant:** Mr Jez Fage



### **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 - AS6 - Parking/Accessibility

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

## Planning Committee – 5<sup>th</sup> June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/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	Proposal	Status	Decision Date
2018/0659/FUL	Change of use of 2 residential units from dwelling (Class C3) into 2 separate HMO - comprising 1 no. 5 bed HMO for 5 occupants and 1 no. 6 bed HMO for 6 occupants (Class C4)	PDE	
2013/1316	Addition of pitched roof to vestry	APP	02.12.2013
2008/1856	Single storey annexe with glazed link to western elevation of main church	APP	14.01.2009

### APPRAISAL

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

### RESPONSES 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. 40 Bryn Road and St Gabriels Parish Church, Bryn Road on 9th April 2018.

A site notice was also posted within the vicinity of the application site on 11th April 2018.

Seven individual letters of objection have been received which are summarised below:

- o Increase in anti-social behaviour
- o Parking is a problem in the area
- o Increase in rubbish.
- o Negative impact on social cohesion and the character of the local area,
- o Lack of details in the submission in regard to how the building meets fire safety standards or those in regard to asbestos.
- o HMO's are badly managed and maintained.
- o Highway safety issues due to the presence of a local crèche.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 2 (Cont'd)**

**Application Number:**

2018/0659/FUL

Three objecting petitions have been received one containing 39 signatures, one 30 signatures and the final having 4 signatures.

The comments on the petitions are as follows:

*"We the undersigned object to the above planning application on the grounds that we believe that it will add to an already harmful concentration of HMOs in the area, have a detrimental impact on the environment of the immediate neighbourhood and attract more cars causing parking difficulties on the street."*

*"We object to the proposal to convert the Vicarage, Bryn Road, SA2 0AP, a beautiful building of local historical interest, into two HMOs for a total of 11 people (Application 2018/0659/FUL). The application indicates that there are currently no parking spaces, and none will be provided. This contravenes the Parking Standards SPG. Being an old building with insufficient parking provision for its current use class is not a reason to invite it to be inhabited by 11 people with no parking provision. Kerbside parking pressure in Bryn Road is extremely high, as is HMO intensification, which has reached harmful levels."*

### **Dwr Cymru**

The application appears to rely on existing sewer connections and no new connections are to be made with the public sewerage system. Nonetheless, for the avoidance of doubt we would be grateful if you could provide the developer with the following advisory note:

The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

### **Highway Authority**

Change of use of property from dwelling (Class C3) into 2 separate HMO dwellings comprising 1 no. 5 bed HMO for 5 occupants and 1 no. 6 bed HMO for 6 occupants (Class C4). The property is currently split into 2 dwellings comprising one 3 bed apartment and one 4 bed apartment. Parking requirements for dwellings of this size are 1 space per bedroom with a maximum requirement of 3 spaces. There is currently no parking provision for either of the dwellings other than on street. On street parking in the vicinity is in very high demand and is a mix of restricted and unrestricted and resident permit holders only bays. Residents of the existing properties are eligible to apply for residents parking permits.

With regard to the change of use, current City & County of Swansea Parking Standards allow for up to 6 people sharing facilities without the need for any additional parking and houses in multiple occupation will be treated as a large single household. On that basis, as with the current use, a maximum of 3 spaces is required per dwelling and therefore there is no material difference in requirements or provision despite the overall number of bedrooms increasing by 4.



## Planning Committee – 5<sup>th</sup> June 2018

**Item 2 (Cont'd)**

**Application Number:**

2018/0659/FUL

The property is in an accessible location such that it would benefit from sustainability points to warrant a reduction in parking provision, being within walking distance of a local school, the university, excellent transport links, a range of local amenities and the national cycle network. Due to the absence of parking, residents of the dwellings will be eligible to apply for residents parking permits up to a maximum of 2 per dwelling. Cycle parking has been included in the proposals and its inclusion can mitigate for the lack of parking provision.

Taking all matters into consideration, despite understandable concerns from existing residents regarding further pressure being placed on the available on street parking I do not consider that a refusal from Highways could be justified at appeal and therefore recommend that no highway objections are raised to the proposal subject to:

1. Cycle parking to be provided in accordance with the submitted details prior to beneficial occupation of the HMO.

### **Pollution Control**

The Authority's Pollution Control Department were consulted but made no comment on the application.

### **Description**

Full planning permission is sought for the change of use of 2 residential units from dwelling (Class C3) into 2 separate HMO - comprising 1 no. 5 bed HMO for 5 occupants and 1 no. 6 bed HMO for 6 occupants (Class C4) at No's 40A And 40B Bryn Road, Brynmill.

The application property was originally constructed as the Vicarage serving the neighbouring St Gabriels Church. The building has been heavily extended to the rear and previously subdivided into two separate residential units, although neither has their own private external amenity space. 40A has a lounge, toilet, reception room, dining room and kitchen to the ground floor and four bedrooms and a bathroom to the first floor. 40B has a lounge, dining room and kitchen to the ground floor and three bedrooms and a bathroom to the first floor. The proposed plans indicate that the lounge and reception room to the ground floor of 40A will both be converted to bedrooms. The internal layout of the ground floor of 40B will also be altered to have two bedrooms, dining room and kitchen.

### **Main Issues**

The main issues in the consideration of this application relate to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of neighbouring occupants and highway safety, having regard to Policies EV1, EV40, 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 document entitled 'Swansea Parking Standards'.

## Planning Committee – 5<sup>th</sup> June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

### 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 been historically 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.

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?

Regard needs to be given to the fact that a family could occupy each of the two properties under the extant lawful use of the premises and as such it is not considered that the use of one premises for 5 occupants and the other for 6 as a HMO would result in an unacceptable intensification of the use of the buildings 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 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 City and County of Swansea Unitary Development Plan.

## Planning Committee – 5<sup>th</sup> June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

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 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, increased 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). 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.

It is noted from the Council's own HMO register that there are 77 registered HMOs (as of 22nd May 2018), giving a concentration of approximately 50% within the street. The proposed conversion of two residential units to HMOs will therefore result in a concentration of approximately 51.4%, an increase of 1.4%. 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 further HMOs 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"*.

## Planning Committee – 5<sup>th</sup> June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

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 will not result in any material changes to the external fabric of the building and therefore would not impact visual amenity of the host properties or 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. 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 dwellings would require 3 onsite parking spaces for each property.

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 shared space for bicycle storage between the two properties but no parking spaces, leaving a shortfall of six parking spaces on site. However it can be noted that both of the existing residential dwellings have a shortfall of 3 parking spaces under current Authority standards. The proposal will therefore overall represent no change in parking spaces onsite compared to existing conditions.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 2 (Cont'd)**

**Application Number:**

2018/0659/FUL

On this basis along with the fact that the site lies within walking distance of a range of facilities at Brynymor Road 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.

The Authority's Highways Officer raises no objection to the application given the above. It is considered reasonable to require full details of the cycle storage area given that the layout plans show only an area for storage and not the defined spaces or design of the store.

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 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.

### Appropriate refuse storage arrangements can be provided

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

### 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. The issue raised in connection with regard to whether the proposal meets building standards and asbestos removal are not material planning considerations but controlled by separate legislation.

The concerns raised about parking and highway safety are noted and have been appraised in the above paragraphs. Whilst it can be accepted that the proposal generates a requirement for 6 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 two dwellinghouse's with no off-street parking that in themselves 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.

### **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.

## Planning Committee – 5<sup>th</sup> June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

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. 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.

## Planning Committee – 5<sup>th</sup> June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

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. 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."*

## Planning Committee – 5<sup>th</sup> June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

*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 Avenue - 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."*

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."*



## Planning Committee – 5<sup>th</sup> June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

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. 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.

### Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of two properties as a 5 bedroom and 6 bedroom HMO respectively, 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.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 2 (Cont'd)**

**Application Number:**

2018/0659/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 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.

### **RECOMMENDATION**

#### **APPROVE subject to the following conditions:**

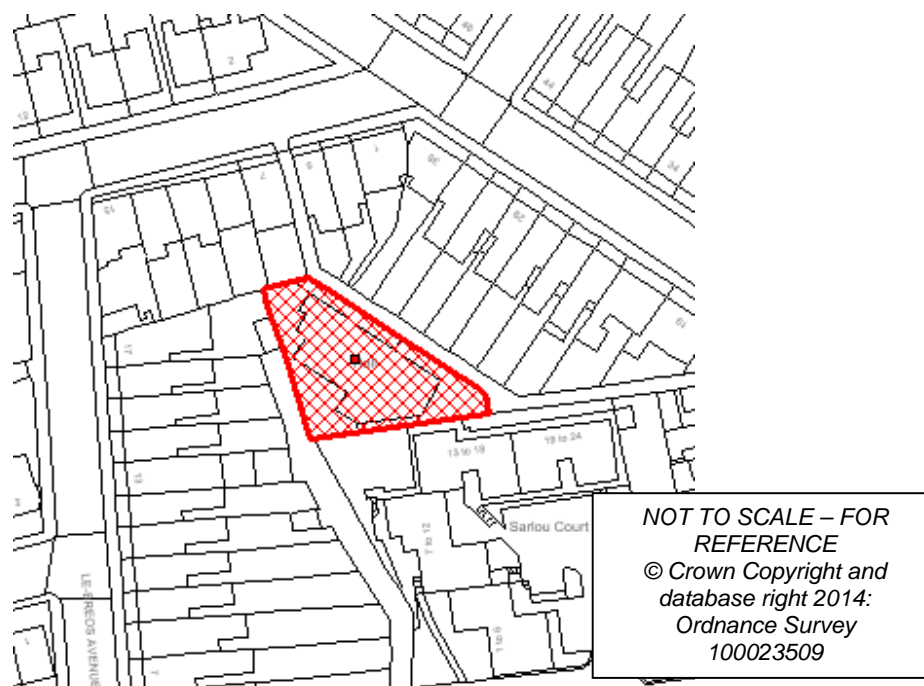
- 1 The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan received on 15th March 2018. Refuse and cycle storage received on 27th March 2018. Proposed ground floor, proposed first floor received on 1st May 2018.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Notwithstanding the submitted details full details of facilities for the secure and undercover storage of eleven 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 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.
  - 3 The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991.
-

## Planning Committee – 5<sup>th</sup> June 2018

<b>Item 3</b>	<b>Application Number:</b>	2018/0661/FUL
	<b>Ward:</b>	Uplands - Bay Area
<b>Location:</b>	<b>Twizzle Lodge, Hawthorne Avenue, Uplands, Swansea, SA2 0LP</b>	
<b>Proposal:</b>	<b>Conversion of existing building to provide 8 no. student residential units, addition of 2 front rooflights, 3 rear rooflights and alterations to fenestration</b>	
<b>Applicant:</b>	<b>Mr Singh</b>	



### **Background Information**

#### **Policies**

##### **UDP - EV2 - Siting**

The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).

##### **UDP - EV3 - Accessibility**

Proposals for new development and alterations to and change of use of existing buildings will be required to meet defined standards of access. (City & County of Swansea Unitary Development Plan 2008)

##### **UDP - HC6 - Flat Conversions**

Proposals for the conversion of larger dwellings and vacant or under-utilised commercial and industrial buildings to flats or similar will be permitted subject to a set of defined criteria including the effect upon residential amenity; overintensive use of the dwelling or building, 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 – 5<sup>th</sup> June 2018

### Item 3 (Cont'd)

Application Number:

2018/0661/FUL

UDP - AS6 - Parking/Accessibility

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

UDP - EV1 - Design

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

### Site History

App Number	Proposal	Status	Decision Date
2018/0119/FUL	Conversion of existing building and construction of single storey side extension to provide 13 no. student residential units	WDN	05.03.2018
2018/0661/FUL	Conversion of existing building to provide 8 no. student residential units, addition of 2 front rooflights, 3 rear rooflights and alterations to fenestration	PDE	
2004/2923	Retention of two non illuminated fascia signs	APP	08.03.2005
2004/0052	Installation of fire exit door on front elevation, replacement of garage door with window and installation of lower ground floor fire escape door	APP	16.03.2004

### APPRAISAL

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

### RESPONSES 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. 11, 12, 13, 14, 15, 16, 17 Le Breos Avenue, Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 Sarlou Court, Nos. 17, 17A, 19, 21, 23, 25, 27, 29, 31, 33, 35 Hawthorne Avenue, and Nos. 1, 3, 5, 7, 9, 11, 13, 15 Pinewood Road on 13th April 2018.

Four site notices were also posted within the vicinity of the application site on 16th April 2018.

## Planning Committee – 5<sup>th</sup> June 2018

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

Thirty one individual letters of objection have been received which are summarised below:

1. Existing over saturation of students in the local area.
2. Lack of onsite parking and the strain put on current on street parking.
3. Loss of social cohesion with families replaced by students.
4. Negative impact on community.
5. Lack of demand for development demonstrated by empty HMOs on the market.
6. Antisocial behaviour, litter and noise disturbance.
7. Inappropriate refuge provision.
8. Application represents an over intensification of the site.
9. Access lanes are inappropriate for emergency service vehicles.
10. Suggestion that tenants would be banned from having cars is unenforceable.
11. Inappropriate to suggest that third party building management can ensure noise disturbance is kept to a minimum.
12. Recent Appeal Court Decisions have shown that S106 agreements are inappropriate for applications control access to parking permits or tenants having cars.
13. The impact of parking/traffic is not the same as the nursery which would have had use only during certain times of the day.
14. Overlooking.
15. The number of flats does not mean 8 occupants as there could be as many as 16.
16. Concerns over how the building work going to be completed given the poor access.
17. Lack of maintenance of rented properties.
18. Highway safety concerns.

Four objection petitions have been received one containing 90 signatures, one containing 8 signatures, one containing 6 signatures and one containing 1 signature.

The comments on the petitions are as follows:

*"We the undersigned object to the above planning application on the grounds that we believe that is an over intensive use of the site, will have a detrimental impact on the environment of the immediate neighbourhood and attract more cars causing parking difficulties on the street."*

*"I strongly object to the plan to convert the existing building (Twizzle Lodge, SA2 0LP) to a house of multiple occupation, on the grounds that I believe it would be an over-intensive use of the site and will have a detrimental impact on the environment of the immediate neighbourhood (Pinewood Road, Hawthorne Avenue, Victoria Street, Uplands). Access to the site is by a narrow lane and there is only parking for two cars on the property, therefore resulting in more cars parking on the adjacent streets (Hawthorne Avenue, Pinewood Road, and Victoria Street). The street parking is already overstretched, and this would cause stress between neighbours. There are already two HOMO in Pinewood Road as well as several in Hawthorne Avenue close to the site. It is also reasonable to suspect an increase in noise from the proposed eight individuals plus their visitors, both in the property and grounds, as well as when going to and leaving the building particularly late at night, which would disturb neighbours in this currently reasonably quiet, family residential area."*

## Planning Committee – 5<sup>th</sup> June 2018

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

### Highway Authority

The Authority Highways Officer made the following comment:

A previous planning enquiry for the change of use to six student accommodation units was consulted on by Planning and the Highways recommendation was one of refusal due to the lack of parking (2016/1707 refers). A further application for 13 units was submitted and following a potential recommendation of refusal was withdrawn by the applicant.

Highways were also consulted as part of the statutory PAC process by Asbri Planning for the change of use to 13 flats, no such PAC has been undertaken for this proposed change of use to eight units as it falls below the threshold. The Highways response on the previous consultations was that they would not support the proposed development for the reasons as previously identified, namely lack of parking and inadequate access. The same concerns remain for this application.

Building Control also have concerns regarding the suitability of the access points for emergency vehicles, and whilst they are not part of the planning process (they become involved post consent) their concern echoes the Highways issues.

The design and access statement has highlighted the fact that no vehicular access is available to the site but there are two pedestrian points of access, linking to Pinewood Road and Hawthorne Avenue. It has not been demonstrated how plant and machinery/materials would access the site nor the emergency services which would be more important given the 24 hour usage at the site that would be generated by the use as residential.

The current use at the site is as a day nursery. The planning application form refers to 8 units of proposed market housing with no reference being made to the use class for purpose built student accommodation. It is not therefore clear as to what is actually being proposed.

In terms of the parking standards there is a demand associated with the nursery use albeit that no dedicated parking is available within the curtilage, and all parking has to take place in and around the surrounding streets. The parking requirements for a day nursery in a converted unit are 1 space per 2 staff. The use as a nursery would have had some element of parking associated with it; long term for the staff and short term for the pick-ups/drop offs for the parents bring the children to nursery. The vehicular movements would have been largely concentrated during the daytime hours whereas the main demand in the area is for overnight parking.

Taking the proposed residential accommodation as flats then the requirement is one space per flat plus one space per five units for visitors. This equates to 10 car parking spaces. None are being provided. If the purpose built student (PBSA) accommodation category is used then the requirement is for 2 car parking spaces. Again none are being proposed. The use of the PBSA Category relies on the developer and residents entering into Section 106 agreement to restrict car ownership but as the standards are not being met then this is not considered an option. There is also the issue of the enforceability of any resident being denied the opportunity to apply for a parking permit with a valid address based on recent case law.

## Planning Committee – 5<sup>th</sup> June 2018

### Item 3 (Cont'd)

**Application Number:**

2018/0661/FUL

The surrounding streets are in high demand in terms of requests for the limited supply of resident permit holders only bays. There are more permits issued than there are spaces available currently and it is considered that the proposed development would add to the general overdemand that exists on the streets surrounding the site.

Whilst the design and access statement suggests that the use of tenancy agreements would be sufficient to ensure that no students would bring cars to within a 3 mile radius of the site I have to disagree. If that was the case then student accommodation would be everywhere with no associated parking. If this development was allowed with no car parking it is considered that there would be serious repercussions both on highway safety grounds with the indiscriminate parking that would arise, and also due to the detriment that would occur to the existing residents who currently struggle to get a parking space near to their houses.

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

1. Failure to provide adequate parking to mitigate for the 8 new flats 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 street to the detriment of the existing residents.
3. The access to the site for emergency vehicles is below standard and as such there are concerns regarding the safety of the residents due to the inaccessibility of the site to cater for emergency service access.
4. The applicant has not demonstrated that the site could be accessed during the construction phase by plant/machinery/materials without detriment being caused adjacent to the access lanes on Pinewood Road, Le Breos Avenue and Hawthorne Avenue to the detriment of highway safety.

### **Drainage Officer**

The Authority Drainage Officer was consulted but gave no response on the application.

### **Pollution Control**

The Authority Pollution Control Officer offered no comment for the application.

### **Welsh Water / Dwr Cymru**

Welsh Water / Dwr Cymru made the following comment:

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

**SEWERAGE** Further to our consultation response (Ref: PLA0032561) to recently withdrawn planning application 2018/0119/FUL, we can confirm that Dwr Cymru Welsh Water have been previously informed of the proposed development and consulted, as a 'Specialist Consultee', in accordance with Schedule 1C Article 2D of the Town & Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 3 (Cont'd)**

**Application Number:**

2018/0661/FUL

Therefore, in accordance with our previous response, we would request that the following Condition and Advisory Notes are included, if minded to grant planning consent, to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets:

### Condition

No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system. Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com).

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

### WATER SUPPLY

Dwr Cymru Welsh Water has no objection to the proposed development.

### South Wales Police Designing out Crime Officer

No response was received from the consultation letter.

### Description

Full planning permission is sought for the change of use of Twizzle Lodge, Hawthorne Avenue, Uplands from a day nursery to 8 no. student residential units along with the addition of 2 front rooflights, 3 rear rooflights and alterations to fenestration.

The proposed building is a non-descript two storey detached building which is situated within the urban area of Uplands, behind the established building line. The proposal will result in the provision of a laundry room, cleaner store, communal kitchen with store, games room and toilet at lower ground floor level, reception, visitor toilet, communal lounge and toilets, quiet lounge, plant room and 5 apartments at ground floor level, and 3 apartments at first floor level.



## Planning Committee – 5<sup>th</sup> June 2018

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

Plans indicate that each apartment will have a bathroom and open plan kitchen/bedroom/living room and whilst accessed through internal corridors and have communal facilities would be self-contained residential units.

This application follows a previous application submitted in January 2018 at the same site (Ref: 2018/0119/FUL) proposing '*Conversion of existing building and construction of single storey side extension to provide 13 no. student residential units*'. That application was withdrawn in March 2018 following concerns raised by the Local Planning Authority regarding intensification of the building for 13 occupiers along with potential car parking issues as a result of the intensification. This revised application has been submitted in response in an attempt to overcome the concerns.

### Issues

The main issues for consideration with regard to this application relate to the acceptability of the use at this location in terms of its principle, visual amenity, residential amenity and highway safety having regard to policies EV1, EV2, EV3, HC6 and AS6 of the City and County of Swansea Unitary Development Plan 2008. There are, in this instance, considered to be no additional overriding considerations arising from the provisions of the Human Rights Act.

### Principle of Development

The site in question is situated in a primarily residential area. The site is allocated as white land under the provision of the Swansea UDP Proposals Map and as such Policy HC6 of the Swansea UDP allows for the conversion of commercial buildings such as this to self-contained units of accommodation subject to compliance with the identified set criteria.

The policy states: *"proposals for the conversion of larger dwellings and vacant or underutilised commercial and industrial buildings to flats or other self-contained units of accommodation will be permitted subject to satisfaction of the following criteria:*

- (i) In the case of buildings with an employment use, it can be demonstrated that the current or previous use is no longer viable,*
- (ii) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance,*
- (iii) The development would not result in an over-intensive use of a dwelling or building,*
- (iv) There would be no significant adverse effect on the external appearance of the property and the character of the locality,*
- (v) There would be no significant adverse effect on local car parking and highway safety, and*
- (vi) Appropriate refuse storage arrangements can be provided.*

In general planning terms it could be considered that the existing use as a nursery is inappropriate in a predominantly residential setting and its conversion to a residential nature would generally be in-keeping with the immediate neighbouring properties. It is noted that an increased number of students in a previously family area can have a negative impact with regard to a potential loss of social cohesion. However the proposal will not result in any loss of dwellings but rather the creation of residential accommodation. Therefore this form of use at this location is acceptable in principle.

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

### Visual Amenity

In terms of visual impact the proposal will only involve very minor alterations including some fenestration alterations and a re-siting of the front entrance, which are not considered to have any unacceptable visual impacts. As such the development will not result in an unacceptable impact on the visual amenities of the host building or the character and appearance of the area in compliance with the provisions of Policies EV1 and HC6 of the Swansea UDP.

### Residential Amenity

With regard to residential amenity it is not considered that the proposed alterations would result in any unacceptable overbearing or overshadowing impacts. In terms of overlooking the proposed windows at site ground level are not considered to allow any unacceptable views of neighbouring private amenity spaces. The proposed first floor windows to the South East elevation serve en-suite bathrooms rather than habitable spaces and therefore would be expected to be obscurely glazed and could be controlled to be obscure and fixed shut by a planning condition. The windows to the North East elevation are separated from the rear gardens of Hawthorne Avenue by a public lane and therefore any overlooking is considered acceptable as it is not direct. The windows and rooflights to the South East similarly look towards an access lane rather than true amenity space. The first floor window serving 'Community Lounge' faces the external shared amenity space of the neighbouring flats, as this is not true private amenity space here overlooking is considered acceptable.

Turning to the impact on residential amenities with regard to noise and disturbance it is noted that the proposal would remove a non-conforming use from a primarily residential area. The existing D1 use would allow lawful use of the property, amongst other things, as a nursery, clinic, health centre, education facility or gallery. The existing use and other lawful uses would therefore generate a level of noise and foot traffic not normally associated with a residential area. It is noted that potential users of a D1 use would be most likely to utilise the building during daytime hours, this could also result in high concentrations at certain times of the day such as early morning or late afternoon.

Consideration is also given to the fact that the property is accessed via two pedestrian tracks which could result in increased disturbance at unsociable times, however, this is also dedicated access for the existing use. On balance the proposed residential use is considered to be a more appropriate and in-keeping with the other residential properties and 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. It can also be argued that any noise, disturbance or antisocial behaviour could be dealt with by the police. It is therefore considered that the proposal would have an acceptable impact on the residential amenities of neighbouring residential units, in compliance with policies EV1 and HC6.

A further consideration is that the internal room size of a number of the proposed flats falls short of that recommended by the Authority's SPG 'Places to Live Residential Design Guide'. It is noted however, that these measurements are advisory and the proposed residential block will have a number of communal areas. It is considered here that the communal areas would in this instance overcome the shortfalls of the internal room sizes.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 3 (Cont'd)**

**Application Number:**

2018/0661/FUL

The access lane measures approximately 2m wide and therefore access by a fire engine would not be possible, as this requires a lane width of 3.7m. It also appears that any fire engine would fail to get within 60m of the furthest habitable room from the front door, which is short of fire safety standards. However, it is accepted that the existing lawful use of the building may already fall short of current standards and that fire regulations are controlled by separate regulations to planning. It would be unreasonable to refuse planning permission on this basis.

On balance of the above issues it is considered that the proposal provides for a suitable land use of the site and it has been designed in such way to provide for an acceptable impact upon neighbouring occupiers and acceptable living conditions for future residents. Subject to the imposition of conditions to require certain details and measures it is considered that the development complies with the requirements of policies EV1 and HC6 in relation to amenity impacts.

### **Highway Safety**

The Authority's Highways Officer has raised an objection to the proposal due to the lack of onsite parking provision and inadequate access to the site. It is noted that the applicant has suggested that residents could be restricted from parking their cars nearby by their tenancy agreements and this could be controlled by a Section 106 agreement.

In the objection to this application the Highway Officer sets out that when taking the proposed residential accommodation as flats (given that they are proposed as being self-contained) then the requirement which is set out in the Parking Standards SPG is one space per flat plus one space per five units for visitors. This equates to a demand for 9 car parking spaces and it is noted that none are being provided. If the purpose built student (PBSA) accommodation category is used then one space per twenty five beds is required equating to 1 car parking space and again refers to none being proposed. The use of the PBSA Category relies on the developer entering into Section 106 agreement to restrict car ownership by students as part of the development but as the standards are not being met then the Highway Officer considers that this not considered an option.

The Local Planning Authority does use Section 106 to manage parking issues (as advocated for in the Parking Standards SPG) but must give regard to recent appeals and case law where inspectors and the courts have raised concern with such approaches particularly where it relies on placing responsibility upon the landlord to control matters which lie outside of their control such as highways.

In an appeal decision at Plot A1, Kings Road, Swansea on 29 June 2017 (Ref: APP/B6855/A/16/3164052 and 2016/155) the inspector, when considering proposal for a unilateral undertaking to control tenancy agreements under section 106 with the provision that no students shall bring cars to the site stated 'concerns have been raised as to whether such a covenant is reasonable and enforceable and I share those concerns' but also stated 'however, no firm evidence has been provided to demonstrate that such covenants have failed to provide an adequate solution in other cases where they have been used'. The case was in relation to a 500 bedspace new build student scheme and given there was some parking being provided and the sustainable nature of the site the inspector did not consider such an obligation would be necessary in that instance.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 3 (Cont'd)**

**Application Number:**

2018/0661/FUL

In a slightly different but related circumstances in the Court of Appeal in *R (Khodari) v Royal Borough of Kensington and Chelsea* [2017] EWCA Civ 333 issue was raised relating to a Section 106 agreement. Planning permission had been granted for the conversion of a house into eight units. The conversion required internal alterations only. An agreement was entered into under section 106 of the Town and Country Planning Act 1990 that the development would be 'permit free'. This meant that any owner or occupier of the new residential units would not be entitled to apply for a parking permit. The court considered the validity of the section 106 agreement and set out that giving that section 106 requires that the person making an agreement has an 'interest in land', such an obligation which related to a restriction on the highway could not fall within section 106.

On the basis of the above it is considered that whilst section 106 would provide an appropriate mechanism to deal with onsite parking and ensure management of provided for onsite spaces through tenancy agreements it would not provide an appropriate mechanism in this instance to deal with the concerns raised in relation to lack of parking and concerns with intensification of vehicular movements and demand for parking in the wider area. Given the nature of the scheme being backland development with no onsite parking provision it would be very difficult to monitor or enforce such an obligation at this site. It is relevant to note that the advice provided at pre-application stage to the applicant was prior to the above mentioned cases which do form a new material consideration.

The applicant has pointed in the submitted Design and Access Statement to the site being within a sustainable location, close to essential services, facilities and public transport routes and provision is being made for a bicycle store and this is noted. Furthermore the proposed use must be balanced against the existing D1 use, which currently allows the building to be converted to a health centre, school, museum, etc. It is considered that the potential uses of the site would generate an amount of visitor traffic and under the current parking standards; it is considered that a nursery in a converted property would generate demand for 1 space per 2 full time staff equivalents. It would be reasonable to consider that the existing building would likely require 2 onsite parking spaces.

It is noted that the proposed accommodation would not strictly be considered self-contained bedsits or apartments. Whilst each room has its own cooking facilities the building contains a number of communal areas including two lounges, games room, kitchen and laundry room and by design the building as a whole is one planning unit as student accommodation. The shared facilities and relatively small rooms fit within the function of purpose built student accommodation, with students being the proposed occupants. This can be secured through an appropriate planning condition controlling both the nature of the use and number of occupiers. In this regard there would still be a proposed shortfall in parking onsite, however, this would be consistent with the number of spaces required by the last use of the property and other existing lawful uses. Furthermore the proposed site is within close proximity to the Uplands District Centre and dedicated bus routes and it is generally accepted that student accommodation is less reliant on private motor vehicle than that of a full time residential occupier/family.

On balance, taking into account the sustainable location and the exiting deficiency of the lawful use of the building compared to current parking standards, it is not considered that the proposal in its revised form for a reduced number of occupants (8 instead of 13) would result in an unacceptable impact on highway safety.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 3 (Cont'd)**

**Application Number:**

2018/0661/FUL

It is also noted that if a residential use is not appropriate in such a sustainable location then it is unlikely any of the existing lawful uses would be suitable on highway grounds. In this instance therefore the Local Planning Authority notes the objection of the Highway Authority, however, for the above reasons, considers the scheme complies with the requirements of the Policies EV1, EV3 and AS6 of the UDP.

### **Neighbours**

With regard to the above objections points 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 18 have been considered above and the level of objection does add weight to the considerations of the application. With regard to the demand for this type of development in the local area, this is not a material planning consideration and is set by market factors. The proposed method of construction is not a material planning consideration but controlled by separate legislation. Finally the level of maintenance of the property post implementation of any consent is not a material planning consideration.

### **Conditions**

In order to control the nature of the development and address the concerns raised through public consultation it is considered necessary to impose certain conditions relating to the development. A condition to limit the development to student accommodation is necessary including a limit to the number of occupiers given the concerns about a lack of parking, particularly for full time residential accommodation including concerns about amenity. A condition to require a cycle storage facility which is undercover and secure is appropriate including refuse storage details is necessary. The provision of a Travel Plan and an Operational Management Plan via condition will deal with concerns relating to the transport arrangements for students attending the site including dealing with issues raised by residents about potential future concerns including maintenance, safety, security and complaints procedures. An obscure glazing condition can be used to limit any potential overlooking from windows identified in the above report and the condition recommended by Welsh Water can be imposed as part of the scheme. The conditions to be imposed are required to make the development acceptable and accord with the requirements of Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' (October 2014).

### **Conclusion**

Having regard to all material planning considerations including the Human Rights Act, the proposal is therefore considered to represent an acceptable form of development that accords with the criteria set out in Policies EV1, EV2, EV3, AS6 and HC6 of the City and County of Swansea Unitary Development Plan 2008. Accordingly, approval 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 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 – 5<sup>th</sup> June 2018

Item 3 (Cont'd)

Application Number:

2018/0661/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: Location plan, received on 15th March 2018. TL/P/06 REV A proposed site layout plan, TL/P/08 REV A proposed floor plans, TL/P/09 REV A proposed elevations received 28th March 2018. TL/P07 REV B proposed floor plans received 5th April 2018. TL/P/10 REV D proposed elevations received 12th April 2018.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 The building shall be used for Student Accommodation by Registered Students only and occupied by no more than 8 Registered Students at any one time.  
  
A Registered Student means a student registered to study at a Swansea Educational Establishment. A Swansea Educational Establishment includes any of the following educational establishments (including their successors in title) within Swansea being: Swansea University, University of Wales Trinity St David; Gower College Swansea; or any other such educational establishment as shall be approved in writing by the Local Planning Authority.  
  
Reason: In order to limit the development student accommodation only in the interests of protecting the amenities of neighbouring occupiers and in the interests of highway safety.
- 4 Notwithstanding the submitted details full details of facilities for the secure and undercover storage of a minimum of eight 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 sustainability and to encourage alternative forms of transport and to safeguard the visual amenity of the locality and the residential amenities of future occupiers.
- 5 The development shall be carried out in accordance with a Travel Plan to be submitted to and approved in writing by the Local Planning Authority prior to any beneficial use of the development.  
Reason: In the interests of providing facilities for sustainable transport.
- 6 Prior to the first beneficial occupation of the development, an Operational Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Operational Management Plan shall specify:

## Planning Committee – 5<sup>th</sup> June 2018

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

- a) The arrangements for the general maintenance and management of the site, including external amenity / landscape space;
- b) The arrangements for servicing deliveries;
- c) The parking and traffic management incentives and arrangements, with particular reference to the beginning and end of term pick-up and drop-off arrangements;
- d) Measures proposed in relation to site safety and security including fire safety; and
- e) The Procedures in place for minimising and managing community complaints, a point of contact for each academic year and full details of the community complaint procedures.

The development hereby permitted shall thereafter be implemented in accordance with the approved Operational Management Plan for the lifetime of the development.

Reason: In the interests of ensuring that the operational implications of the student development are acceptable having regard to neighbouring amenity.

- 7 Before the development hereby permitted is brought into use, the four window(s) at 'Ground Floor' in the Side Elevation (Drg No. TL/P/09 REV A) serving two WC rooms shall be fitted with obscured glazing to a minimum level 3, details of which shall first be submitted to and approved in writing by the Local Planning Authority and any part of the window(s) that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.

Reason: In the interests of conserving the privacy and amenity of adjoining properties.

- 8 No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

### 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, EV2, EV3, HC6 and AS6 .
- 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 may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

## Planning Committee – 5<sup>th</sup> June 2018

**Item 3 (Cont'd)**

**Application Number:**

2018/0661/FUL

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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## Planning Committee – 5<sup>th</sup> June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/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	Proposal	Status	Decision Date
2018/0846/FUL	Change of use from residential (Class C3) to four bed four person HMO (Class C4)	PDE	

### APPRAISAL

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

### 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. 36 and 40 Hawthorne Avenue on 20th April 2018. Two site notices were also posted within the vicinity of the application site on 27th April 2018.

Eight individual letters of objection have been received, which are summarised below:

- o Parking concerns.
- o Loss of social cohesion from high concentration of HMO's
- o Increased noise and disturbance.
- o Access for emergency vehicles.
- o Refuse area to the rear is inappropriately sited.
- o Lack of noise insulation between dwellings.

Two petitions of objection have been received one comprising 37 signatures and the other 27 signatures.

The comments on the petitions are as follows:

*"We the undersigned object to the above planning application on the grounds that we believe that it will add to an already harmful concentrations of HMOs in the area, have a detrimental impact on the environment of the immediate neighbourhood and attract more cars causing parking difficulties on the street."*

## Planning Committee – 5<sup>th</sup> June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

*"We object to the proposal to convert 38 Hawthorne Avenue, Uplands, Swansea, SA2 0LR into a 4 bedroom House in Multiple Occupation. (Application 2018/0846/FUL). If approved it will add to the existing over-density of HMOs in Uplands and Brynmill contrary to existing planning policy. The number of vehicles parking at or near the premises and the increased amount of refuse being put out will disrupt the residential amenity of the area and harm the quality of life of the existing residents."*

### APPRAISAL

#### Description

Full planning permission is sought for the change of use from a residential dwelling (Class C3) to a 4 person HMO at No. 38 Hawthorne Avenue, Uplands.

The application property is a two storey mid-terrace currently used as a dwelling house with 3 bedrooms. Plans indicate the only internal amendment is the change from a reception room into a bedroom on the ground floor with an amendment of the study into a reception room.

#### 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?

## Planning Committee – 5<sup>th</sup> June 2018

**Item 4 (Cont'd)**

**Application Number:**

2018/0846/FUL

Regard needs to be given to the fact that a 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 four 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 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 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.

From viewing the Council's own HMO register there are 14 properties on Hawthorne Avenue which are registered HMOs (as of 22nd May 2018) and there are 92 properties on Hawthorne Avenue. The street percentage of HMOs would therefore change from approximately 15.2% to 16.3% on approval and implementation of the application. It is noted that there is a high concentration of HMOs in the Uplands and wider Brynmill area, but a relatively low concentration in this street itself.

It is clear that approval of the application would result in the addition of a further HMO and an increase in the concentration of HMOs within the street. It is not, however, considered that the resultant number of HMOs within the street 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.

## Planning Committee – 5<sup>th</sup> June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

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 4 bedroom 4 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.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 4 (Cont'd)**

**Application Number:**

2018/0846/FUL

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 3 bedroom residential dwelling has a shortfall of 3 parking spaces under current Authority standards. The proposal will therefore not impact the availability of parking spaces onsite compared to existing conditions. 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 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.

### Appropriate refuse storage arrangements can be provided

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

### 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. The issue raised in connection with emergency services access is not considered to be impacted by the proposed change of use. The refuse storage area to the rear is considered acceptable, especially accounting for the lack of appropriate space to the front of the property.

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.

### **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.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 4 (Cont'd)**

**Application Number:**

2018/0846/FUL

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. 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.

## Planning Committee – 5<sup>th</sup> June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

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. 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"*.



## Planning Committee – 5<sup>th</sup> June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

*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 Avenue - 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."*

### 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."*

## Planning Committee – 5<sup>th</sup> June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

*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. 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.

### Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of this property as 4 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.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 4 (Cont'd)**

**Application Number:**

2018/0846/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 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.

### **RECOMMENDATION**

#### **APPROVE subject to the following conditions:**

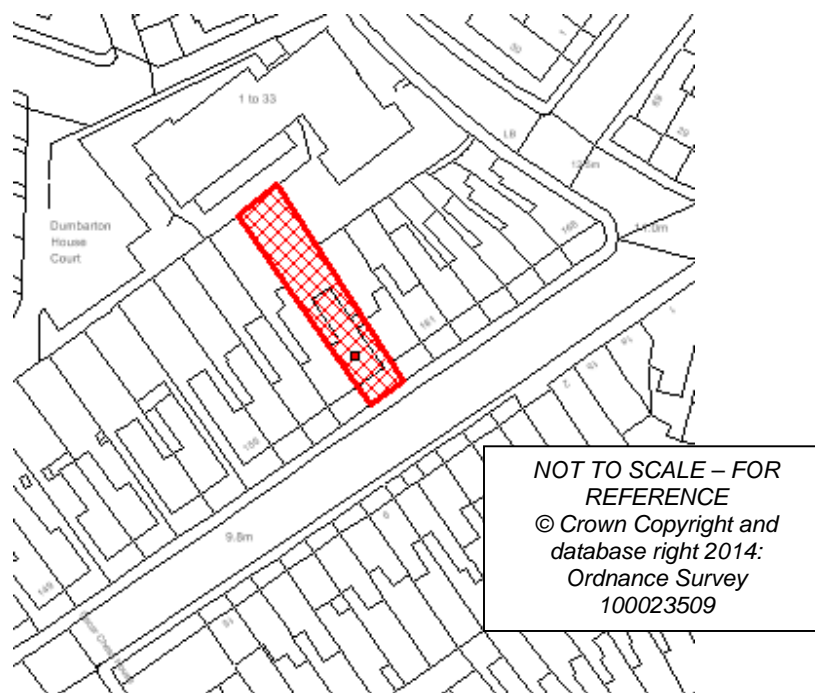
- 1 The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan, block plan received on 9th April 2018. Proposed ground floor, proposed first floor, bicycle rack details received on 13th April 2018.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Notwithstanding the submitted details full details of facilities for the secure and undercover storage of a minimum 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 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 – 5<sup>th</sup> June 2018

**Item 5** **Application Number:** 2018/0943/FUL  
**Ward:** Uplands - Bay Area  
**Location:** 159 King Edwards Road, Brynmill, Swansea, SA1 4LW  
**Proposal:** Change of use from residential (Class C3) to 5 bed HMO for 5 people (Class C4)  
**Applicant:** Mr Norik Essave Vanegh



### **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 - AS6 - Parking/Accessibility

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

## Planning Committee – 5<sup>th</sup> June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/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	Proposal	Status	Decision Date
2018/0450/FUL	Change of use from a residential (Class C3) to 5 bedroom 5 person HMO (Class C4) and replacement of rear extension pitched roof with a flat roof	REF	20.04.2018
2018/0943/FUL	Change of use from residential (Class C3) to 5 bed HMO for 5 people (Class C4)	PDE	

### APPRAISAL

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

### RESPONSES 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. 158, 158 Flat 1, 158 Flat 2 and 160 King Edwards Road, No. 8 Martyr's Reach, No. 5 St. Helens Avenue and Nos. 1 to 33 Dumbarton House Court on 27th April 2018.

A site notice was also posted within the vicinity of the application site on 4th May 2018.

One letter of objection was received, which can be summarised as follows:

- o Impact on social cohesion

A petition of objection was received containing 43 signatures.

The comments on the petitions are as follows:

*"We the undersigned object to the above planning application on the grounds that we believe that it will add to an already harmful concentration of HMOs in the area, have a detrimental impact on the environment of the immediate neighbourhood and attract more cars causing parking difficulties on the street".*

## Planning Committee – 5<sup>th</sup> June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

**HMO Team** - I can confirm that the proposal for the conversion of this property would result in a two storey HMO for five occupiers, which under the Housing Act 2004 comes within the Additional HMO licensing requirements.

As such the owner would need to make an application to license the property prior to letting. Details are on our website [www.swansea.gov.uk/hmolicensing](http://www.swansea.gov.uk/hmolicensing)

**Tree Officer** - A yew tree is protected by TPO 398 served in 1995 that is located over the rear boundary of the property. Under Section 197 of the Town and Country Planning Act 1990 it is the LPA's duty to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation of trees that contribute to amenity.

No objection.

The proposed change of use will have no impact on the protected tree.

### Description

Full planning permission is sought for the change of use of a residential dwelling (Class C3) to a 5 bedroom 5 person HMO (Class C4) at No.159 King Edwards Road, Brynmill.

The application is a two storey, end of terrace dwelling, with a single storey side lean to and two storey rear extension, currently occupied as a dwellinghouse. Floor Plans submitted indicate the ground floor is laid out to three sitting rooms, kitchen and store whilst the upper floor contains three bedrooms and a bathroom. The plans indicate that internally two of the ground floor sitting rooms will be converted to bedrooms and the store into a bin and cycle store, with the first floor bathroom being divided into two.

This application is made as an amendment to a previously refused application for a change of use from a residential (Class C3) to 5 bedroom 5 person HMO (Class C4) and replacement of rear extension pitched roof with a flat roof (Ref: 2018/0450/FUL). This application was refused due to the negative visual impact of the resultant flat roofed rear extension, however, the principle of the change of use was considered acceptable. The current application no longer includes any alterations to the roof of the two storey rear projection. The previous reason for refusal is stated below:

*The proposed flat roof extension to the existing two storey rear extension, by virtue of its inappropriate design, appearance and size, fails to respect the scale, character and appearance of the host dwelling, to the detriment of the visual amenities of the locality contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan 2008.*

### Main Issues

The main issues for consideration during 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 to the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan (2008).

## Planning Committee – 5<sup>th</sup> June 2018

**Item 5 (Cont'd)**

**Application Number:**

2018/0943/FUL

The application is also considered with regard to the Council's Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

### **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 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 whilst the Local Planning Authority has produced an SPG related to HMOs which includes purpose built student accommodation this is currently at consultation stage and until formally adopted does not carry any weight.

Policy HC5 of the City and County of 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 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?

Regard needs to be given to the fact that a 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.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 5 (Cont'd)**

**Application Number:**

2018/0943/FUL

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 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 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, increased 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). 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 90 properties on King Edwards Road which are registered HMOs out of a total number of 165 properties on the street. It is noted that Nos.35 (2017/0388/FUL), 144 (2017/0259/FUL) and more recently 145 (2018/0159/FUL) have had permission granted for use as a HMO in the last year but do not appear on the register. No. 145 had previously been used as a HMO whilst the permission granted related to conversion to a 7 bedroom HMO.

Therefore the potential number of HMO's on the street could rise to 94. Taking into account the previous approvals the concentration of HMO properties is approximately 56.4%, which would increase to approximately 57% on approval of this application.

There are a number of recent applications in the local area for HMOs that were refused and subsequently overturned by Appeal Inspectors. Application No. 2016/1688 (57 St Helens Avenue) was refused by virtue of the fact that the proposed increase in concentration from 40% to 41% would 'result in a harmful concentration and intensification of HMOs'. The 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'.



## Planning Committee – 5<sup>th</sup> June 2018

**Item 5 (Cont'd)**

**Application Number:**

2018/0943/FUL

This appeal decision is further backed up by a similar decision for the creation of a HMO at No.96 King Edwards Avenue, (App No.2016/1380). This application was refused on the grounds of a high concentration in the local area, but again this reason was rejected by the Inspector on the basis that the Authority has no supported threshold in which the concentration becomes harmful. This appeal is particularly relevant to this application as it is on the same street.

It is clear that approval of the application would result in the addition of a further HMO into a ward area that already comprises a concentration of HMOs, however whilst this is the case there is no empirical evidence that leads conclusively to the conclusion that approval of this additional HMO would result in a harmful concentration or intensification of HMOs in this area or street.

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'. As such whilst this application will result in further concentration of HMOs it cannot be regarded that this is a harmful concentration such that it 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 includes only internal works and a minor resizing to one of the first floor side bathroom windows. It is therefore considered that the proposals would not result in any unacceptable visual impacts.

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

Under the current Authority Parking Standards SPG, HMO properties for up to 6 persons have no requirement for additional parking over and above that of a dwelling house. It is therefore noted that whilst the property has no provision for parking onsite, the proposed change of use does not require any additional spaces to be provided. Furthermore, there is not considered to be any space onsite where a parking area could be created. The site is also in a highly sustainable location close to local amenities and public transport.

The applicant has provided a secure cycle storage facility as part of the submission.

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 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

As above, the refuse storage can be provided within the existing side lean-to extension.

Response to objectors

The issues raised in respect of social cohesion and high concentration of HMOs are addressed in the above report. The concerns raised about parking are noted and have been appraised in the above paragraphs.

## Planning Committee – 5<sup>th</sup> June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

### 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. 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.

## Planning Committee – 5<sup>th</sup> June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

### 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 up to 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. 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.

## Planning Committee – 5<sup>th</sup> June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

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 Avenue - 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."*

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."*

## Planning Committee – 5<sup>th</sup> June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

*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. 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.

### 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.

## Planning Committee – 5<sup>th</sup> June 2018

**Item 5 (Cont'd)**

**Application Number:**

2018/0943/FUL

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.

### **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 plan, location plan, proposed elevations, proposed floor plans received on 23rd April 2018.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Prior to the first occupation of the development hereby approved, the bicycle and the refuse storage facilities as indicated on the proposed floor plan received on 23rd April 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.
-