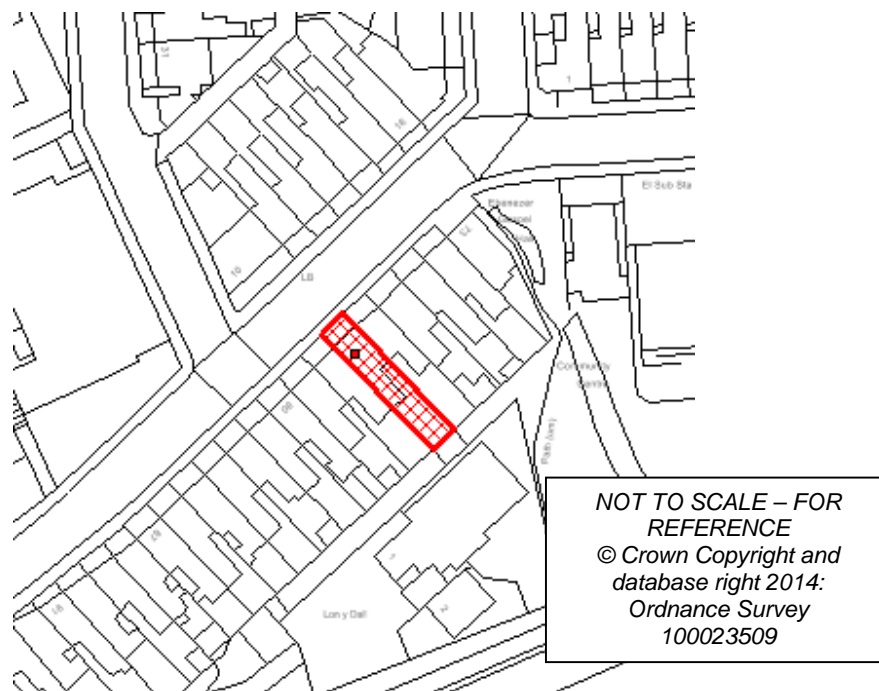


**Planning Committee – 3<sup>rd</sup> July 2018**

<b>Item 1</b>	<b>Application Number:</b>	2018/0802/FUL
	<b>Ward:</b>	St. Thomas - Bay Area
<b>Location:</b>	<b>78 Ysgol Street, Port Tennant, Swansea, SA1 8LE</b>	
<b>Proposal:</b>	<b>Change of use from residential (Class C3) to HMO (Class C4) for 3 people</b>	
<b>Applicant:</b>	<b>Mr David Bullard Rent In Time Limited</b>	



### **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 – 3<sup>rd</sup> July 2018

Item 1 (Cont'd)

Application Number:

2018/0802/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
2018/0802/FUL	Change of use from residential (Class C3) to HMO (Class C4) for 3 people	PDE	

### APPRAISAL

This application has been called to Committee at the request of Councillors Joe Hale and Clive Lloyd.

### RESPONSES TO CONSULTATIONS

#### Public Response

Thirty six (4 of which are identical) letters of objection have been received which are summarised below:

- o Community is being ruined
- o No houses for younger members of the community to buy or rent
- o The HMO will be rented to students who have no care or regard for the community
- o Too many HMOs
- o Insufficient parking
- o Anti-social behaviour
- o Increase in traffic is a risk to families walking to school each day
- o There are several unlicensed HMOs in the street
- o If these application continue to be accepted the area is going to become an over run student village
- o The properties are used by students 44 weeks of the year then left empty
- o Fly tipping
- o Noise and nuisance from HMO properties
- o Negative impact on family life
- o Increase in student population
- o Public inquiry should be held

**Dwr Cymru** - No objection subject to an advisory note.

#### Description

Full planning permission is sought for the change of use of a residential dwelling (Class C3) to a HMO for 3 people (Class C4) at No. 78 Ysgol Street, Port Tennant.

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 1 (Cont'd)**

**Application Number:**

2018/0802/FUL

The application property is a two storey, mid-terrace dwelling currently occupied as a three bedroom dwelling house along Ysgol Street.

There are no internal changes proposed in that the use would utilise the existing 3 first floor bedrooms with no changes to the kitchen, sitting room or living room on the ground floor. No external alterations are proposed and as such the proposal will have no impact upon visual amenity.

### **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 (SPG) 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 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

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 1 (Cont'd)**

**Application Number:**

2018/0802/FUL

(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 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 as a HMO for up to three people 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 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 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 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 is one registered HMO property along Ysgol Street (as of 22nd June 2018). It is however acknowledged that there may be other properties along Ysgol Street which have been used as HMOs pre March 2016. It should also be noted that outside of the Castle and Uplands wards, only larger properties are captured under Mandatory Licensing.

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 1 (Cont'd)**

**Application Number:**

2018/0802/FUL

As a result there may be instances where HMOs exist in the area, albeit that they would have been implemented prior to the use class change in February 2016 and are not subject to licensing requirements.

Notwithstanding this, a check has been made on Rent Smart Wales which provides a public register for all landlords in Wales who rent properties and ten are registered. However this register does not indicate whether or not the properties are used as a HMO or rented out and occupied as a single dwellinghouse.

It is also noted that No. 57 Ysgol Street (2016/3406/FUL) was granted planning permission for its change of use from a residential dwelling to a HMO on appeal on 19th June 2017.

On the basis of the character of the area and the addition of one HMO in to the street the application is considered to be acceptable in that it would not result in a harmful concentration or intensification of HMOs in the area.

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

There are no external alterations proposed at the property.

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

Under the Adopted SPG 'Parking Standards' (page 16) reference is made to the parking requirement for a HMO, in terms of residents parking, being 3 spaces for up to 6 sharing and 1 space per additional bedroom. The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations 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 can be noted that the existing dwelling offers no off-street parking. Parking is restricted to resident permit holders and parking is restricted alongside Danygraig Primary School.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 1 (Cont'd)

Application Number:

2018/0802/FUL

Some of the objections to the application have been received on the basis that the school already brings parking issues to the area 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 3 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 the SPG provides that no additional 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 within 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.

In view of the above and the proposal being for a 3 person HMO 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, refuse storage can be provided within the rear yard.

### **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.*

## Planning Committee – 3<sup>rd</sup> July 2018

Item 1 (Cont'd)

Application Number:

2018/0802/FUL

*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. 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"*.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 1 (Cont'd)

Application Number:

2018/0802/FUL

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

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

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

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

In this case the inspector noted that 52% of dwellings in the area were HMOs and in allowing the appeal stated *"whilst I recognise the cumulative effects that development can have, there is no identified threshold supported by evidence to demonstrate the point at which any further HMO's would have an adverse effect on the amenity or character of the area."*



## Planning Committee – 3<sup>rd</sup> July 2018

Item 1 (Cont'd)

Application Number:

2018/0802/FUL

*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."*

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.*

## Planning Committee – 3<sup>rd</sup> July 2018

Item 1 (Cont'd)

Application Number:

2018/0802/FUL

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". This appeal decision is of particular relevance as the property is located along the same street as the current application site. The Inspector noted that the proposed demolition of the rear garage would improve access to 1 off-street car parking space and the provision of 5 cycle parking spaces would facilitate alternative modes of transport. Subject to such facilities being secured by condition I am satisfied that the proposal would not result in harmful effects on parking or highway safety. The Inspector also noted that whilst the occupation of the property by 5 adults would have the potential to increase the number of vehicles associated with No. 57, the specific effects of the appeal proposal on the street would not be significant. The Inspector noted concerns raised by residents about parking and the high demand being cited by photos provided by a resident. The appeal was allowed.

It is recognised that the existing application property (No. 78) is somewhat different to No. 57 as it does not have vehicular rear access and therefore no access to any off street parking provision. However the appeal at no. 57 was not only allowed on this basis and it is considered that the other appeal decisions which have been referred and the Parking Standards SPG (referred to above) are all relevant in the determination of this application.

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.*"

## Planning Committee – 3<sup>rd</sup> July 2018

Item 1 (Cont'd)

Application Number:

2018/0802/FUL

*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 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 neighbouring properties and highway safety, having regard to 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 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. Approval is recommended.

### RECOMMENDATION

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

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan, received 9th May 2018. Property floor plan - existing and proposed, received 25th April 2018.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 The HMO shall not be occupied until facilities for the secure undercover storage of a minimum of 3 bicycles and refuse storage have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority and they shall be retained for the lifetime of the use.  
Reason: In the interests of providing facilities for sustainable transport and general visual and residential amenity.

### Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV40, AS6 and HC5.

**Planning Committee – 3<sup>rd</sup> July 2018**

**Item 1 (Cont'd)**

**Application Number:**

2018/0802/FUL

- 2 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 – 3<sup>rd</sup> July 2018

Item 2

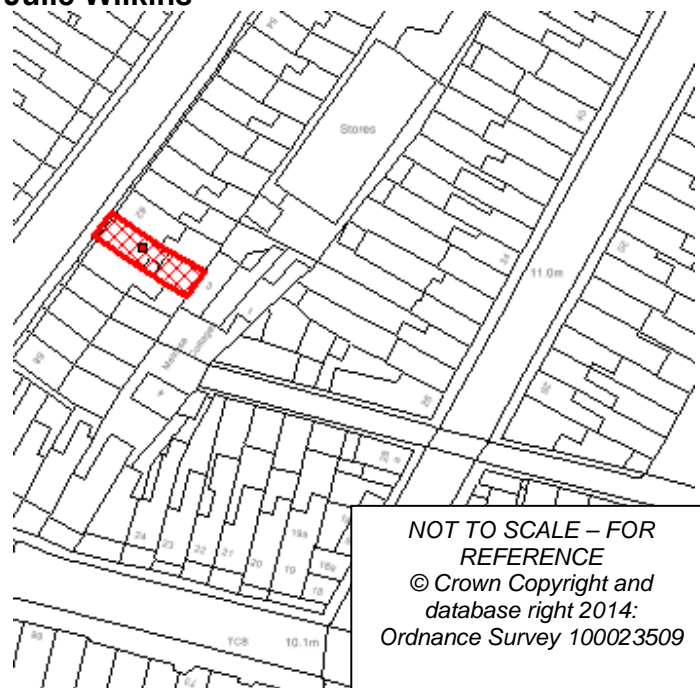
Application Number: 2018/0730/FUL

Ward: Uplands - Bay Area

Location: 63 Westbury Street, Central Swansea, Swansea, SA1 4JN

Proposal: Change of use from a 5 bedroom residential (Class C3) to 5 bed HMO for 5 people (Class C4) and rear roof extension with Juliet balcony

Applicant: Mrs Julie Wilkins



### **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)

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

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

## Planning Committee – 3<sup>rd</sup> July 2018

Item 2 (Cont'd)

Application Number:

2018/0730/FUL

### Site History

#### App Number

2018/0730/FUL

#### Proposal

Change of use from a 5 bedroom residential (Class C3) to 5 bed HMO for 5 people (Class C4) and rear roof extension with Juliet balcony

#### Status

PDE

#### Decision Date

## APPRAISAL

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

## RESPONSE TO CONSULTATIONS

**Public Response** - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 2-3 Melrose Cottages, Catherine Street and Nos. 62 and 64 Westbury Street on 9th May 2018. A site notice was also posted within the vicinity of the application site on 14th May 2018.

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

- o The high number of HMOs in the local area.
- o Parking
- o Problems in terms of noise, disturbance and anti-social behaviour.

One petition of objection has been received comprising 30 signatures from 30 separate addresses.

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."*

**HMO Team** - I have been asked to respond in relation to the above planning application and can confirm the following. I inspected the property on 19th December 2017 in relation to an HMO Advisory Service request from the owner Mrs Wilkins. Mrs Wilkins was provided with a scheme of works in relation to Means of Escape in Case of Fire and maintenance works order to make the property suitable for five occupiers. This also included the provision of a dormer to increase the headroom on the staircase accessing the second floor proposed bedroom. The current amenities are suitable for a five bed HMO. The property on completion of the specified works would therefore be suitable as a five bed HMO.

**Pollution Control** - Raised no objection.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 2 (Cont'd)

Application Number:

2018/0730/FUL

### Description

Full planning permission is sought for the change of use from a 5 bed residential (Class C3) to a 5 bedroom HMO for 5 people (Class C4) and rear roof extension with Juliet balcony at No.63 Westbury Street.

The application property is a mid-terraced split-level dwelling that presents a two storey façade to the street and a three storey elevation to the rear, with a small front dormer.

The application includes the installation of a roof dormer with a Juliet balcony to the rear elevation.

### Principle of Use

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

The criteria of Policy HC5 are as follows:

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

The criterion of the above is addressed below:

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

On the basis of the information provided the proposals would not result in any increase in the number of bedrooms and as such it is not considered that the use of the premises for up to 5 people as a HMO would result in an unacceptable intensification of the use of the building over and above that which could be experienced as a dwelling house. There is anecdotal evidence of problems arising from HMOs in that they can create problems such as antisocial behaviour, waste and litter but such amenity issues do not arise exclusively from a HMO use and could also be generated by a dwelling in C3 use.

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 2 (Cont'd)**

**Application Number:**

2018/0730/FUL

The proposed rear dormer with Juliet balcony would allow some views of the rear amenity spaces of neighbouring properties. However it is not considered that these views would be a significant harmful increase relative to the views already available from the rear first floor habitable room windows. There would not be any unacceptable increases in overbearance or overshadowing.

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant 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 26 properties on Westbury Street that are registered HMOs and one further property that has planning permission for a change of use to a HMO, and there are approximately 68 properties on Westbury Street. The street percentage of HMOs (including the property with existing planning permission but not on the register) would therefore change from approximately 40% to 41% on approval and implementation of the application.

It is clear that approval of the application would result in the addition of a further HMO in an area that already comprises a high concentration of HMOs, however, whilst this is the case there has been no evidence that leads conclusively to the conclusion that approval of this application would result in a harmful concentration or intensification of HMOs in this area or the street in general. Regard can be given to a number of Planning Inspectorate decisions in relation to HMO applications which have been refused by the Council but subsequently allowed on appeal.



## Planning Committee – 3<sup>rd</sup> July 2018

Item 2 (Cont'd)

Application Number:

2018/0730/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.

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

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

The proposed rear roof dormer extension, given its scale and flat roof, is considered to be out of keeping with both the existing pitched roof and that of the wider area. However it is noted that the proposed dormer would be within the limits of the permitted development rights for householders (provided for under the Town and Country Planning (General Permitted Development) Order 1995 (as amended in Wales in 2013) and therefore would not require planning permission. It is noted that the permitted development rights apply to dwellinghouses, however Planning Inspectorate advice has stated that: *Houses in Multiple Occupation, including those which fall within Class C4 can benefit from the permitted development rights granted to dwellinghouses by the GDPO.*

On this basis, regardless of the potential visual change to the character of the property, it is considered that HMOs benefit from permitted development rights and accordingly the dormer is acceptable given the fall back position in that the applicant could erect the dormer extension without planning permission. The information supplied indicates that the existing attic space is in use as a bedroom and there would be no net change in number of bedrooms as a result of the dormer extension.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 2 (Cont'd)

Application Number:

2018/0730/FUL

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

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

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

The application does not include the provision of any onsite parking spaces and the provision of 2 cycle storage spaces contained within the front garden with an additional covered storage area to the rear garden. However it can be noted that the existing 5 bedroom residential dwelling has a shortfall of 3 parking spaces under current Authority standards. The proposal will therefore not represent any change in the parking conditions relative to what already exists onsite.

It is noted that it is desirable for HMOs to provide covered cycle storage spaces up to the number of bedrooms within the property. However taking into account of the fact that the rear garden is only accessible through the house and is on a lower level to the street, the proposed uncovered space to the front garden is considered acceptable in this instance. On this basis along with the fact that the site lies within walking distance of a range of facilities on Brynymor Road, the city centre and major bus routes it is not considered that the application will result in any adverse effects on local car parking and highway safety.

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

In view of the above, the proposal is not considered to have any greater impact on highway safety or parking over and above the existing extant use of the property, actually resulting in improved 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 front of the property.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 2 (Cont'd)

Application Number:

2018/0730/FUL

### 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 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. 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.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 2 (Cont'd)

Application Number:

2018/0730/FUL

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

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

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

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

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

## Planning Committee – 3<sup>rd</sup> July 2018

Item 2 (Cont'd)

Application Number:

2018/0730/FUL

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

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

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

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

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

### 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."*

## Planning Committee – 3<sup>rd</sup> July 2018

Item 2 (Cont'd)

Application Number:

2018/0730/FUL

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

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

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

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

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

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 2 (Cont'd)**

**Application Number:**

2018/0730/FUL

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 5 bedroom HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan.

Regard has been given to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under Part 2, Section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WCFG Act"). In reaching this decision, the Local Planning Authority has taken account of the ways of working set out at Part 2, Section 5 of the WCFG Act and consider that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the public bodies' well-being objectives set out as required by Part 2, Section 9 of the WCFG Act.

### **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 25th March 2018. Floor plans received on 31st May 2018. A100 REV B proposed North and South elevations, A101 REV B section 1 and 4, A102 REV B existing and proposed attic floor plan, A106 REV B detail 0 received 6th June 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 secure and undercover storage for a minimum of three bicycles to the rear, two non-covered bicycles to the front garden and the refuse storage facilities as indicated on the floor plan received on 31st of May 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.

**Planning Committee – 3<sup>rd</sup> July 2018**

**Item 2 (Cont'd)**

**Application Number:**

2018/0730/FUL

**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 – 3<sup>rd</sup> July 2018

### Item 3 (Cont'd)

Application Number:

2018/0951/S73

#### UDP - EV4 - Public Realm

New development will be assessed against its impact on the public realm. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - EV33 - Sewage Disposal

Planning permission will normally only be granted where development can be served by the public mains sewer or, where this system is inadequate, satisfactory improvements can be provided prior to the development becoming operational. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - EV35 - Surface Water Run-Off

Development that would have an adverse impact on the water environment due to:

- i) Additional surface water run off leading to a significant risk of flooding on site or an increase in flood risk elsewhere; and/or,
- ii) A reduction in the quality of surface water run-off.

Will only be permitted where it can be demonstrated that appropriate alleviating measures can be implemented. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - EV36 - Development and Flood Risk

New development, where considered appropriate, within flood risk areas will only be permitted where developers can demonstrate to the satisfaction of the Council that its location is justified and the consequences associated with flooding are acceptable. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - EV38 - Contaminated Land

Development proposals on land where there is a risk from contamination or landfill gas will not be permitted unless it can be demonstrated to the satisfaction of the Council, that measures can be taken to satisfactorily overcome any danger to life, health, property, controlled waters, or the natural and historic environment. (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 - HC1 - Housing Sites

Allocation of housing sites for 10 or more dwellings. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - HC11 - Higher Education Campus Development

Higher education campus development will be permitted subject to compliance with the defined set of criteria. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - R16 - Major New Development Waste Management Facilities

Proposals for major new developments will be required to incorporate adequate and effective waste management facilities. (City & County of Swansea Unitary Development Plan 2008)

## Planning Committee – 3<sup>rd</sup> July 2018

### Item 3 (Cont'd)

**Application Number:**

2018/0951/S73

#### UDP - EC1 - General Employment Sites

Allocation of employment land to meet the needs of the local economy. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - EC2 - SA1 Swansea Waterfront

Development within the SA1 Swansea Waterfront defined area shall accord with specific criteria. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - EC6 - Local Shopping Centres and Neighbourhood Facilities

The provision of appropriate small-scale local shopping and neighbourhood facilities will be encouraged within local shopping centres and areas of acknowledged deficiency in order to meet local need. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - AS1 - New Development Proposals

Accessibility - Criteria for assessing location of new development. (City & County of Swansea Unitary Development Plan 2008).

#### UDP - AS2 - Design and Layout

Accessibility - Criteria for assessing design and layout of new development. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - AS5 - Walking and Cycling

Accessibility - Assessment of pedestrian and cyclist access in new development. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - AS6 - Parking/Accessibility

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

### Site History

<b>App Number</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
2017/2644/PRE	PRE APP - Construction of a building to provide 620 student bed spaces, ancillary communal facilities, a café (use class A3) external landscaping and associated works.	MIXPR E	20.02.2018

## Planning Committee – 3<sup>rd</sup> July 2018

<b>Item 3 (Cont'd)</b>	<b>Application Number:</b>	2018/0951/S73
2018/0373/NMA	Purpose Built Student Accommodation - Non Material Amendment to planning permission 2016/1511 granted 29th June 2017 to vary Conditions 6 (Wind Mitigation); 12 (Drainage); 19 (Sound Insulation); 21 (Noise Mitigation); 23 (Landscaping) from pre-commencement requirements to approval prior to commencement of superstructure works	APP 16.03.2018
2018/0382/DOC	Purpose Built Student Accommodation - Discharge of conditions 8 (Contamination), 11 (Piling Operations), 14 (Historic environment) 15 (CPMP) of planning permission 2016/1511 granted 29th June 2017	APP 28.03.2018
2018/0951/S73	Construction of purpose built student accommodation between 7 and 9 storeys (500 bedspaces) with ancillary community facilities/services, 1 no. Class A3 ground floor unit, car and cycle parking, servicing area, refuse store, associated engineering, drainage, infrastructure and landscaped public realm - Section 73 application to vary Condition 2 (Plans - revised building footprint / envelope) of planning permission 2016/1511 granted 29/06/2017	PDE

## Planning Committee – 3<sup>rd</sup> July 2018

Item 3 (Cont'd)		Application Number:	2018/0951/S73
2018/0966/NMA	Non Material Amendment to planning permission 2016/1511 granted 29th June 2017 to allow amendments to the layout of the basement	APP	25.05.2018
2018/1023/FUL	Construction of purpose built student accommodation between 7 and 14 storeys (667 bedspaces) with ancillary community facilities/services, 1 no. Class A3 ground floor unit, car and cycle parking, servicing area, refuse store, associated engineering, drainage, infrastructure and landscaped public realm	PCO	
2006/0974	Erection of enclosed bin store area	APP	28.06.2006

### RESPONSE TO CONSULTATIONS

The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) through the display of site notices and in the local press on 14 May, 2018. No response.

**Natural Resources Wales** - do not object to the variation of the condition but refer to the comments made in response to the original application.

**Dwr Cymru / Welsh Water** - No objection. Standard Conditions recommended.

**Council's Drainage Engineer** - We have no concerns with the application, all previous recommended conditions remain relevant.

**Glamorgan Gwent Archaeological Trust Ltd** - You will recall from our responses to the earlier submissions for this development, that we recommended archaeological mitigation works due to the potential for the survival of early peat layers, and more recent industrial remains.

You will recall from our most recent letter of 9 March 2018 that an Archaeological Written Scheme of Investigation (WSI) for the proposed development has been received from Wessex Archaeology (dated February 2018, document reference 202710.1) and that this document meets current professional standards and is fit for purpose. The changes to the layout of the building do not alter our response and are minor in nature; the need for archaeological mitigation remains, and the archaeological WSI is still fit for purpose.

**Pollution Control Team** - we would impose the same conditions again.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 3 (Cont'd)

Application Number:

2018/0951/S73

**Highway Observations** -There are no highway objections to the amended plan list.

### APPRAISAL

#### Application Site and Surroundings

The application site is known as plot A1 within the SA1 Swansea Waterfront development and provides an important gateway when approaching the City Centre from the East along Fabian Way. It comprises of a roughly rectangular parcel of land to the West of Kings Road and bounded by the River Tawe and the promenade riverside walkway. The site was previously used as a temporary car park but this has now closed.

#### Background

Planning permission for the construction of a purpose built student accommodation between 7 and 9 storeys (500 bedspaces) with ancillary community facilities/services, 1 no. Class A3 ground floor unit, car and cycle parking, servicing area, refuse store, associated engineering, drainage, infrastructure and landscaped public realm was granted under a Planning Appeal on 29 June, 2017 (Ref:2016/1511).

Since the Appeal decision, the current developer has submitted a Non Material Amendment application to planning permission 2016/1511 to vary the wording of Conditions 6 (Wind Mitigation); 12 (Drainage); 19 (Sound Insulation); 21 (Noise Mitigation); 23 (Landscaping) from pre-commencement requirements to approval prior to commencement of superstructure works (Ref:2018/0737/NMA). The Local Planning Authority considered that these minor changes would be non material to the scheme and the NMA application was subsequently approved.

Additionally, an application to discharge conditions 8 (Contamination), 11 (Piling Operations), 14 (Historic environment) 15 (CPMP) has been approved (Ref:2018/0382/DOC) and also a further Non Material Amendment has been granted to allow amendments to the layout of the basement retaining a total of 26 no car parking spaces (Ref: 2018/0966/NMA). Development work has recently commenced on site in accordance with the approved scheme ref: 2016/1511.

Separate to the above members are informed that there is a further planning application for a revised proposal for a purpose built student accommodation development on the site which is currently being considered and which will reported to the Planning Committee in due course (Ref: 2018/1023/FUL).

#### Current Section 73 Proposal

This current application is submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary the Plans Condition (2) of planning permission 2016/1511 and relates to a revised building footprint and envelope. As indicated above, it is proposed to amend the internal configuration of the basement, and in terms of the footprint, the changes largely relate to squaring off the northern and southern blocks and moving the central block slightly to the south which will result in revised internal floor plan arrangements. The revised proposal will also result in minor changes to the external appearance of the building including the fenestration arrangement, however, the overall height and building envelope would not exceed that of the approved scheme.

Item 3 (Cont'd)

Application Number:

2018/0951/S73

As a Section 73 application, the only matter which can be considered is the conditions to which the application relates and the permission itself is not a matter for consideration. The approval of a Section 73 effectively grants a new planning permission and the Local Planning Authority may decide that planning permission should be granted subject to conditions differing from those subject to the previous planning permission.

### **Townscape and Visual Impact**

The proposed building which is set to be located on the gateway approach into the city along Fabian Way would be a key element and therefore needs to be appropriate in terms of its mass, form and design and respond to the context of the surrounding urban environment in a positive manner. The policy position, set out primarily in policies EV1, EV2, EV4, EC2, AS2 and CC5, and supported through Supplementary Planning Guidance requires that new development be, amongst other criteria, appropriate to its local context in terms of scale, height, massing, elevational treatment, materials and detailing, layout, form, mix and density. Furthermore development should integrate effectively with adjacent spaces and the public realm to create good quality townscape.

The proposal would introduce a significant level of student accommodation which will increase the vitality of the SA1 regeneration area in very close proximity to the city core. It is an independent proposal that complements the UWTSd proposals for the Innovation Quarter in the southern area of SA1.

In respect of the principle of the development at this location, the Council refused the original planning application for the development based upon its alleged conflict with the SA1 Masterplan in terms of the form of use being proposed, however, the inspector in reaching a decision on the appeal concluded "*whilst I acknowledge that the development would represent a clear departure from the approved masterplan, I consider the general principle of location the proposed purpose built student accommodation at the appeal site to be acceptable and in accordance with the general thrust of Policies EC1 and EC2 of the adopted UDP.*"

The Council had raised concern and refused the original application based upon its scale, form and design and its impact upon the character and appearance of the area, the Appeal Inspector however concluded that the "*proposed development would be appropriate to its local context in terms of its scale, height, massing, elevational treatment, materials and detailing, layout, form, mix and density. I also consider that it would integrate effectively with adjacent spaces, create a good quality townscape and represent a suitable design solution given the overall vision of creating a mixed use urban place through the SA1 regeneration, whilst also creating a 'gateway' building upon a key approach into the city centre. Accordingly, I find no conflict with Policy EV1 which seeks to ensure that new developments accord with the principles of good design. For the same reasons, I also find no conflict with Policy EC2 which, amongst other things, seeks to ensure that developments within SA1 Swansea Waterfront area integrate with existing areas and are of a high standard of design.*"

Further to the above the original application was also refused due to the extent of the parking provision resulting in increased pressure for on-street parking to the detriment of highway safety in the surrounding area.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 3 (Cont'd)

Application Number:

2018/0951/S73

However, the Inspector concluded on this issue *"On the basis that the arrival and departure of students, as well as on-going traffic, cycle and pedestrian matters could be adequately regulated by an approved Travel Plan, and that issues of indiscriminate parking could be effectively enforced through civil enforcement processes, I see no reason why the proposed development would give rise to levels of indiscriminate parking that would represent a material threat to highway safety. Consequently, I find that the proposed development would accord with the general thrust of Policy AS6 of the adopted UDP which is framed within the context of preventing developments that would give rise to vehicle congestion and/ or highway safety concerns. I note the conflict with the adopted parking standards. However, for the reasons set out above, I consider the departure from such standards to be wholly justified in this case."*

As indicated above, this Section 73 application relates to changes to the approved footprint which will result in revised internal floor plan arrangements, and in terms of the changes to the external appearance of the building, these relate to the fenestration arrangement and the external materials consisting of brick and large glazed windows remain consistent to the approved scheme. The changes being proposed are considered to be minor material changes to the consented scheme and given that there will be no change to the overall height, the building envelope would not exceed that of the consented scheme and the elevation changes result in no significant alteration to the overall design or form of development it is considered that the development is acceptable in relation to its townscape and visual impact and complies with the requirements of policies EV1 and EC2 of the Unitary Development Plan.

### Other Conditions

As indicated in above paragraphs several of the details reserved under the conditions have been approved and the wording of the conditions therefore needs to be updated to reflect the current situation and in particular with reference to the condition discharge application references.

### Section 106

As part of the former appeal decision the applicant entered into a Unilateral Undertaking under Section 106 of the Town and Country Planning Act (1990) which provided for the payment of a highway infrastructure contribution of £99,000 and provisions to manage student car parking. In order to ensure that this new permission is also bound to the original terms, a variation to the Unilateral Undertaking or a new Section 106 Planning Obligation will be required as part of the planning permission.

### Conclusion

It is considered that the variation of the planning conditions set out on planning permission 2016/1511 results in an acceptable form of development in this instance that complies with the requirements of policies set out in the City and County of Swansea Unitary Development Plan (Adopted 2008). Approval is therefore recommended subject to the developers entering into a Section 106 Agreement in relation to future car parking management, provision of a planning obligation amounting to £99,000 for specific enhancements to the pedestrian and public transport network and subject to a schedule of planning conditions to control the development and its form.



## Planning Committee – 3<sup>rd</sup> July 2018

Item 3 (Cont'd)

Application Number:

2018/0951/S73

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.

There are considered to be no additional issues arising from the provisions of the Human Rights Act.

### RECOMMENDATION

**APPROVE, subject to the completion of a new Section 106 Planning Obligation Unilateral Undertaking (UU) / Deed of Variation re-instigating the existing provisions of the UU submitted under the Appeal to Planning Permission ref: 2016/1511 as specified below:**

#### Highway Infrastructure

- o Financial contributions to the sum of £99,000 to fund:
  - a. Fabian Way / King's Rd junction. Relocation of the Fabian Way pedestrian crossing phase to a more conventional location to the East side of the junction in order to improve pedestrian connectivity.
  - b. Fabian Way / King's Road junction. Introduction of bus priority, for buses exiting King's Road. Use of pole mounted card reader, to enact priority call for buses serving SA1 in order to improve public transport.
  - c. Amendments to inbound Fabian Way bus lane. Remove the dedicated bus stage, and remodel the island to create a give way arrangement to allow buses to reach the front of the queue in order to improve public transport.
  - d. Eastbank Way / Delhi St: Modifications to triangular island in centre of junction to allow vehicles from Second Tawe bridge to progress towards Fabian Way when right turn link is full in order to improve public transport.

#### Car Parking Management

- o The provision of a mechanism to deal with the control of 'on-site' car parking through the production and agreement of a Tenancy Agreement.

#### Section 106 Management and Monitoring Fee

Costs incurred against the management of the obligation are based upon 2% of the value of the planning obligations = £1980.

**If the Section 106 Obligation is not completed within 3 months of the foregoing resolution then delegated powers be given to the Head of Planning and City Regeneration to exercise discretion to refuse the application on the grounds of non-compliance with policies AS1,AS6, EV1, EV3 and HC17 of the City and County of Swansea Unitary Development Plan (November 2008) and subject to the following conditions:**

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 3 (Cont'd)** **Application Number:** 2018/0951/S73

- 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: W0152A - Site Boundary showing Consented and Proposed Scheme Outlines; W0153A - Site Boundary showing Proposed Scheme Outlines; W0318-0310A Elevations Sheet 1; W0318-0311A Elevations Sheet 2; W0318-0312A Elevations Sheet 3; W0318-0313A Elevations Sheet 4; W0318-0314A Elevations Sheet 5; and W0318-0315A Elevations Sheet 6 - plans received 24 April, 2018; W0318A - 281A - 289A - Floor Plans - Additional plans received 31 May, 2018.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Prior to the development of any superstructure works, samples of all external finishes together with their precise pattern and distribution on the development shall be submitted to and approved in writing by the Local Planning Authority. Composite sample panels shall be erected on site for the duration of the works and the development shall be carried out in accordance with the approved details.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.
- 4 Prior to the commencement of any superstructure works, details of the following at a scale of 1:10 or other appropriate large scale shall be submitted to and approved in writing by the Local Planning Authority:

  - o Typical window in its opening, including vent and spandrel panel;
  - o Colonnade, including soffit;
  - o Parapet;
  - o Inset top floor including cap;
  - o Typical external door opening.

The development shall thereafter be carried out in accordance with the approved details.  
Reason: In the interests of visual amenity
- 5 Prior to the commencement of any superstructure works, details of all public realm works, including details of the parking for a refuse truck, shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter take place in accordance with the approved details.  
Reason: In the interests of visual amenity and the character and appearance of the area.
- 6 Notwithstanding the details shown on the approved plans, details of all wind mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any superstructure works. The proposed mitigation measures shall be referenced to a revised wind analysis and shall be implemented in accordance with the approved scheme prior to the first beneficial occupation of the building hereby permitted and retained thereafter for the lifetime of the approved development.  
Reason: In the interests of visual amenity and to ensure that the wind mitigation measures create an acceptable wind microclimate in and around the development.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 3 (Cont'd)

Application Number:

2018/0951/S73

- 7 Prior to the occupation of the development, a Refuse and Recycling Strategy (including the provision of storage facilities within the site) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented and operated in accordance with the approved Refuse and Recycling Strategy for the lifetime of the development.  
Reason: To enable the developer to present a coherent plan for the provision of waste management and collection from the site.
- 8 The development shall be implemented in accordance with the Geo-environmental Desk Study, Geotechnical / Geo-environmental Interpretative Report and the Remediation Implementation and Verification Plan approved under condition discharge ref: 2018/0382/DOC.  
Reason: Natural Resources Wales considers that the controlled waters at this site are of high environmental sensitivity, being, adjacent to the River Tawe and contamination is known/strongly suspected at the site due to its previous industrial uses.
- 9 Prior to occupation of any part of the approved development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.  
Reason: To demonstrate that the remediation criteria relating to controlled waters have been met, and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.
- 10 Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.  
Reasons: To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.
- 11 The development shall be implemented in accordance with the Foundation Works Risks Assessment approved under condition discharge ref: 2018/0382/DOC.  
Reason: In order to protect residential amenity and to prevent pollution of controlled waters from inappropriate methods of piling.

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 3 (Cont'd)** **Application Number:** 2018/0951/S73

- 12 Prior to the commencement of any superstructure works, the developer shall prepare a strategy for the comprehensive and integrated drainage of the site showing how surface water and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority. This scheme shall include details of a sustainable drainage system (SuDS) for surface water drainage and/or details of any connections to a surface water drainage network. The development shall not be brought into beneficial use until the works have been completed in accordance with the approved drainage scheme, and this scheme shall be retained thereafter to serve the development.  
Reason: To ensure that a satisfactory comprehensive means of drainage is achieved and that no adverse impact occurs to the environment and to minimise surface water run-off.
- 13 Notwithstanding the submitted information provided in the DAS Addendum that confirms that PV panels will be concealed on the areas of roof behind the parapets full, or the provisions of Part 43 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales), full details of all PV panels and their siting shall be submitted to and approved in writing by the Local Planning Authority. The panels shall be retained thereafter in their approved position.  
Reason: In the interests of visual amenity to ensure that the panels are not a discordant feature on the skyline.
- 14 The development shall take place in accordance with the Written Scheme of Investigation for an Archaeological Watching Brief approved under Condition discharge ref: 2018/0382/DOC. A final report shall be submitted to the Local Planning following the completion of all the archaeological work.  
Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.
- 15 The development shall be implemented in accordance with the Construction Environment Plan (CEP) approved under condition discharge ref: 2018/0382/DOC.  
Reason: In order to mitigate potential environmental pollution issues during construction works.
- 16 Prior to the beneficial use of the development, a quantitative assessment of NO<sub>2</sub> pollutant concentrations at the façade of the proposed development shall be undertaken (in line with National Air Quality Objectives) in parallel with the assessment of the on-site combustion plant to ensure that the combined effects of both pollution sources on future residents are fully assessed and mitigated if required. The assessment shall be submitted to and approved in writing by the Local Planning Authority prior to the first beneficial occupation of the building hereby approved.  
Reason: In the interests of amenity having regard to air quality.
- 17 Prior to the beneficial use of the development, a scheme which specifies the provisions to be made for the control of ventilation and fume extraction shall be submitted to and approved in writing by the Local Planning Authority. Such works that form part of the approved scheme shall be completed before the premises are occupied and retained thereafter to serve the development.  
Reason: In the interests of the amenity of future occupiers.

## Planning Committee – 3<sup>rd</sup> July 2018

### Item 3 (Cont'd)

Application Number:

2018/0951/S73

- 18 Prior to the beneficial use of the development, a scheme which specifies the provisions to be made for any condensing units relating to refrigeration and freezing of products shall be submitted to and approved in writing by the Local Planning Authority. Such works that form part of the approved scheme shall be completed before the premises are occupied.  
Reason: In the interests of the amenity of future occupiers.

- 19 Prior to the commencement of any superstructure works, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide the following:

All habitable rooms exposed to external road traffic noise in excess of 63 dBA Leq 16 hour (free field) during the day (07.00 to 23.00hrs) or 57 dBA Leq 8 hour (free field) at night (23.00 to 07.00 hours) shall be subject to sound insulation measures. These measures should ensure that all such rooms achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour at night as set out in BS 8233:2014 Guidance on sound insulation and noise reduction for buildings.

The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be provided with mechanical ventilation units so that future residents can keep their windows closed. No habitable room shall be occupied until the approved sound insulation and ventilation measures have been installed in that room and the approved scheme shall be retained for the lifetime of the development hereby approved.

Reason: To protect the proposed residential use against noise arising from the existing traffic use of the area.

- 20 Prior to the beneficial use of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority that restricts the flow of sound energy through party walls and floors between the commercial and residential class uses within the development. The scheme supplied shall achieve a minimum DnT,w - (Ctr) of 50dB for the ceiling/floor between the commercial and residential uses and be verified by the appropriate testing methodology upon completion.  
Reason: To protect the proposed residential use against noise emanating from the commercial activity.

- 21 Prior to the commencement of any superstructure works, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide the following:

All building services plant noise shall be designed to achieve a rating level (dBLArTr) that does not exceed the representative night time background sound pressure level (LA90,15min) in accordance with BS4142:2014: Methods for rating and assessing industrial and commercial sound. The building services plant shall thereafter be installed and maintained in accordance with the approved scheme.

Reason: To protect the existing and proposed residential uses against noise from building services plant.

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 3 (Cont'd)**

**Application Number:**

2018/0951/S73

- 22 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking or amending that Order), Part 24 of Schedule 2 shall not apply to the development hereby permitted.  
Reason: In the interests of amenity and to prevent unacceptable discordant features within the skyline.
- 23 Notwithstanding the details submitted as part of the application, no superstructure works shall take place until there has been submitted to and approved in writing by the Local Planning Authority a fully detailed scheme of landscaping including species, spacing's and height when planted of all new planting.  
Reason: In the interests of maintaining a suitable scheme of landscaping to protect the visual amenity of the area and soften the urban environment.
- 24 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first beneficial occupation of the building(s) or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.  
Reason: In the interests of maintaining a suitable scheme of landscaping to protect the visual amenity of the area and soften the urban environment.
- 25 No vinyls or other obscure glazing shall be applied at any time to the ground floor A3 unit glazing or space listed as Ancillary Space on the approved plans.  
Reason: To ensure active, attractive and transparent shopfront and spaces which will maintain and enhance vitality at street level and avoid dead frontages.
- 26 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 sustainability and to prevent unacceptable highway congestion
- 27 Notwithstanding the submitted details, the development shall not be occupied until facilities for the secure storage of cycles have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority and they shall thereafter be retained in perpetuity.  
Reason: In the interests of providing suitable facilities for sustainable transport
- 28 Prior to the first beneficial occupation of the development, car parking arrangements shall be clearly demarcated within the site in accordance with Plan Ref. W0318-2000 Rev F: Basement GA approved under Non-Material Amendment ref: 2018/0966/NMA. The parking spaces shall remain available for the designated use in perpetuity.  
Reason: To ensure that the development is provided with adequate car parking provision.

## Planning Committee – 3<sup>rd</sup> July 2018

### Item 3 (Cont'd)

**Application Number:**

2018/0951/S73

- 29 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:
- 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; 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.

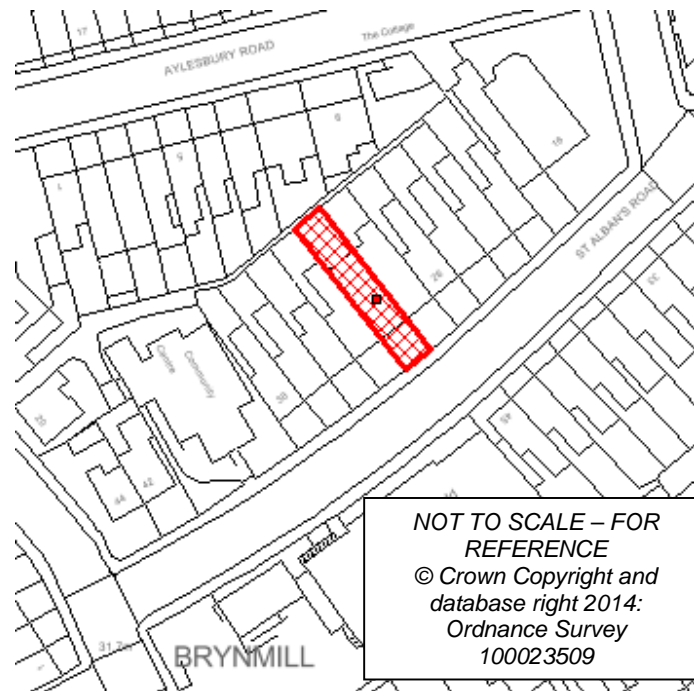
Reason: To ensure the management and movement of vehicles related to the development in the interests of the public safety and amenities of the area, and to protect future resident's amenity.

### Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV2, EV3, EV4, EV33, EV35, EV36, EV38, EV40, HC1, HC11, HC17, R16, EC1, EC2, EC6, AS1, AS2, AS5, AS6.
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## Planning Committee – 3<sup>rd</sup> July 2018

<b>Item 4</b>	<b>Application Number:</b>	2018/0954/FUL
	<b>Ward:</b>	Uplands - Bay Area
<b>Location:</b>	<b>30 St Albans Road, Brynmill, Swansea, SA2 0BP</b>	
<b>Proposal:</b>	<b>Change of use from a 4 bed residential (Class C3) to a 5 bedroom HMO for 5 people (Class C4)</b>	
<b>Applicant:</b>	<b>Mr David Dolman</b>	



### **Background Information** **Policies**

#### UDP - EV1 - Design

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

#### UDP - EV40 - Air, Noise and Light Pollution

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

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

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



## Planning Committee – 3<sup>rd</sup> July 2018

Item 4 (Cont'd)

Application Number:

2018/0954/FUL

UDP - AS6 - Parking/Accessibility

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

### Site History

App Number	Proposal	Status	Decision Date
2018/0954/FUL	Change of use from a 4 bed residential (Class C3) to a 5 bedroom HMO for 5 people (Class C4)	PDE	

### APPRAISAL

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

### RESPONSE TO CONSULTATIONS

**Public Response** - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 28 and 32 St Albans Road on 27th April 2018. A site notice was also posted within the vicinity of the application site on 4th May 2018.

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

- o Negative impact on social cohesion.
- o Too high a concentration of HMOs in the local area.
- o Parking problems.
- o Rented accommodation is more likely to fall into disrepair.
- o Noise, disturbance and anti-social behaviour.

One petition of objection has been received comprising 37 signatures from 37 separate addresses.

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."*

**HMO Team** - I would advise that the conversion of 30 St Albans Road will need to be carried out fully in accordance with the requirements for HMOs. The property will also require licensing under the City and County of Swansea's Mandatory HMO Licensing scheme. Application for this must be made prior to the property being occupied.

**Pollution Control** - We have no pollution concerns regarding this planning application.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 4 (Cont'd)

Application Number:

2018/0954/FUL

### 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.

### Description

Full planning permission is sought for the change of use from a 4 bed residential (Class C3) to a 5 bedroom HMO for 5 people (Class C4) at No.30 St Albans Road, Brynmill.

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

The application includes internal remodelling, including the division of the existing lounge/dining room into two rooms to create an additional bedroom.

### 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

## Planning Committee – 3<sup>rd</sup> July 2018

Item 4 (Cont'd)

Application Number:

2018/0954/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?

On the basis of the information provided, it is acknowledged that the proposal results in an increase of one bedroom to provide a five bedroom property. 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 5 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 dwelling house. There is anecdotal evidence of problems arising from HMOs in that they can create problems such as antisocial behaviour, waste and litter but such amenity issues do not arise exclusively from a HMO use and could also be generated by a dwelling in C3 use.

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant 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 27 properties on St Albans Road which are registered HMOs, and there are approximately 46 properties on St Albans Road. The street percentage of HMOs would therefore change from approximately 59% to 61% on approval and implementation of the application. It is noted that there is already a high level of HMOs in the street and the surrounding area.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 4 (Cont'd)

Application Number:

2018/0954/FUL

However it could be argued that given the existing high concentration the character of the street has already changed with regard to the number of HMOs relative to residences.

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

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

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

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

The proposals do not include any external alterations and therefore the character of both the property and surrounding area is considered to be unaffected.

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

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

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 4 (Cont'd)**

**Application Number:**

2018/0954/FUL

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

The application does not include the provision of any onsite parking spaces but does propose the provision of cycle storage contained within the rear garden, leaving a shortfall of 3 parking spaces onsite. However it can be noted that the existing 4 bedroom residential dwelling has a shortfall of 3 parking spaces under current Authority standards. The proposal will therefore not represent any change in the parking conditions relative to what already exists onsite. On this basis along with the fact that the site lies within walking distance of a range of facilities at Uplands District Centre and provision can be made on site for cycle storage provision to support sustainability it is not considered that the application will result in any adverse effects on local car parking and highway safety.

In dealing with appeals on highways and parking grounds inspectors have had regard to the SPG as being guidance only and have taken account of the fall-back position of existing uses as well as local circumstances when considering similar proposals. Full details of these decisions 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 objection with regard to the potential for rented properties to fall into disrepair is not a material planning consideration.

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.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 4 (Cont'd)

Application Number:

2018/0954/FUL

Reference can be made to appeal decisions in which Planning Inspectors treat the SPG as 'guidance' with particular similarities being noted with the Rosehill Terrace Appeal referred to in below paragraphs.

### Material Planning Appeal Decisions

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

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

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

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

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

## Planning Committee – 3<sup>rd</sup> July 2018

Item 4 (Cont'd)

Application Number:

2018/0954/FUL

The inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

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

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

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

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

## Planning Committee – 3<sup>rd</sup> July 2018

Item 4 (Cont'd)

Application Number:

2018/0954/FUL

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

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

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

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

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."*



## Planning Committee – 3<sup>rd</sup> July 2018

Item 4 (Cont'd)

Application Number:

2018/0954/FUL

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

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

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

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

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

## Planning Committee – 3<sup>rd</sup> July 2018

Item 4 (Cont'd)

Application Number:

2018/0954/FUL

### Conclusion

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

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: 04.18.30S.D3 REV A site location & block plans, 04.18.30S.D2 REV B proposed floor plans received on 25th 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 five cycles shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.  
Reason: In the interests of providing facilities for sustainable transport and general amenity.

### Informatives

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

**Planning Committee – 3<sup>rd</sup> July 2018**

**Item 4 (Cont'd)**

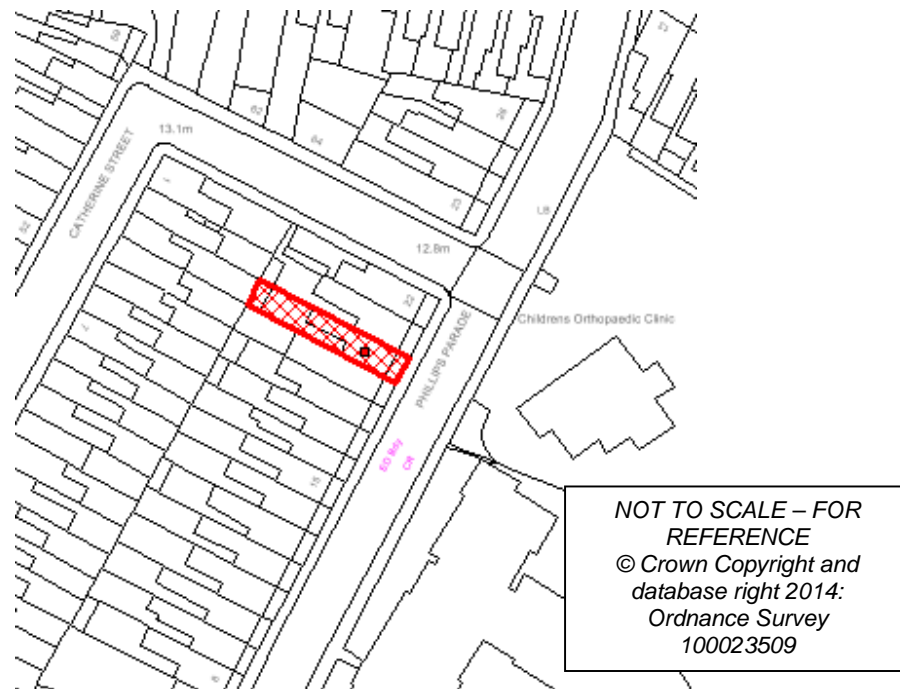
**Application Number:**

2018/0954/FUL

- 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 – 3<sup>rd</sup> July 2018

**Item 5** **Application Number:** 2018/1054/FUL  
**Ward:** Uplands - Bay Area  
**Location:** 20 Phillips Parade, Swansea, SA1 4JL  
**Proposal:** Change of use from residential (Class C3) to a 4 bed HMO for up to 6 people (Class C4)  
**Applicant:** Mr Steve Adams



### 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 – 3<sup>rd</sup> July 2018

Item 5 (Cont'd)

Application Number:

2018/1054/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
2017/2530/PRE	PRE-APP Change of use from residential (Class C3) to 4 bed HMO (Class C4) or conversion into 2 self contained flats	MIXPR E	04.01.2018
2018/1054/FUL	Change of use from residential (Class C3) to a 4 bed HMO for up to 6 people (Class C4)	PDE	

### APPRAISAL

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

### RESPONSE TO CONSULTATIONS

**Public Response** - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 2, 3 & 4 Phillips Parade and Nos 19 & 21 Catherine Street on 15th May 2018. A site notice was also posted on the street near the application site.

Five individual letters of objection have been received from residents of Nos. 9, 16 & 22 and 24 Phillips Parade (Flat 1 & Flat 2), which are summarised below:

- o Noise and disturbance from students late in the night
- o Anti social behaviour
- o Complaints have been registered with Environmental Health and the Police - gatherings of tenants at front of properties, throwing rubbish, sitting on flat roofs.
- o Social problems cause by HMO occupants, rubbish attracting rats, noise day and night.
- o Letting boards on constant display
- o Our neighbourhood is being broken beyond repair by overload of HMO properties forcing families to look elsewhere for a decent neighbourhood.
- o Please visit and see parking problems.
- o Cars parked illegally and blocking access to pavement
- o Problems with rubbish and black bags not left out on appropriate days attracting vermin. Rats have been observed going into gardens and homes.

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 5 (Cont'd)**

**Application Number:**

2018/1054/FUL

One petition of objection has been received with 31 signatures (32 with one double entry).

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."*

### **Description**

Full planning permission is sought for the change of use from a residential dwelling (Class C3) to a HMO for up to 6 people (Class C4) at No.20 Phillips Parade.

The application property is a two storey mid-terrace currently used as a dwelling house with 3 bedrooms. Plans indicate the internal amendments are the change of the living room and the sitting room into bedrooms 1 & 2, the change of the kitchen into a living/dining room, and the rear bathroom into a kitchen at ground floor, with 2 bedrooms and the bathroom being maintained at first floor with the existing 3rd bedroom to the rear being changed into a second bathroom. An area for refuse storage and a storage area for up to six cycles to the rear of the property is indicated on the block plan

### **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:

## Planning Committee – 3<sup>rd</sup> July 2018

Item 5 (Cont'd)

Application Number:

2018/1054/FUL

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

Regard needs to be given to the fact that a 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 six 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 7 properties on Phillips Parade which are registered HMOs (as of 30th May 2018) (nos. 4, 10, 17, 21, 23, 25 & 26) and there are 26 terraced properties located on the west side of Phillips Parade with the 'Home Gower House' retirement and a clinic opposite on the east side of Phillips Parade. Taking just the terrace properties Nos.1 to 26, the street percentage of HMOs would therefore change from approximately 29.9% to 30.7% on approval and implementation of the application.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 5 (Cont'd)

Application Number:

2018/1054/FUL

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. 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 6 person HMO would generate a requirement for 3 onsite parking spaces.

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



## Planning Committee – 3<sup>rd</sup> July 2018

**Item 5 (Cont'd)**

**Application Number:**

2018/1054/FUL

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

It can be noted that the existing 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 Brynymor Road, St Helens Road and the City Centre with a frequent bus route 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, 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

Individual letters - The five individual objectors reside in Phillips Parade.

Petition of Objection - One resident of 9 Phillips Parade. The next nearest street is one resident in Westbury Street. The other nearest residents who have signed the petition live at St Helens Avenue and St Helens Crescent. It is noted that the other signatories live some way from the application site mainly in Brynmill, Uplands, Mount Pleasant and one address in Sketty.

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 refuse storage area to the rear is considered acceptable, especially accounting for the lack of appropriate space to the front of the property. Matters relating to anti-social behaviour, noise, illegal parking, rubbish collections and littering are more properly controlled under other Environmental Health legislation, parking permit enforcement and Police powers.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 5 (Cont'd)

Application Number:

2018/1054/FUL

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

Petition of objection - It is noted that the majority of signatures belong to residents of streets which are not immediately within or surrounding the application property.

### 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.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 5 (Cont'd)

Application Number:

2018/1054/FUL

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

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

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

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

This appeal related to a proposal for a HMO for 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.

## Planning Committee – 3<sup>rd</sup> July 2018

Item 5 (Cont'd)

Application Number:

2018/1054/FUL

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

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

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

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

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

## Planning Committee – 3<sup>rd</sup> July 2018

Item 5 (Cont'd)

Application Number:

2018/1054/FUL

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

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

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

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

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

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

## Planning Committee – 3<sup>rd</sup> July 2018

Item 5 (Cont'd)

Application Number:

2018/1054/FUL

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

### 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.

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 4th May 2018, block plan, received on 17th May 2018, proposed floor plans, received on 11th May 2018.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 5 (Cont'd)**

**Application Number:**

2018/1054/FUL

- 3 Notwithstanding the submitted details full details of facilities for the secure and undercover storage of a minimum of six 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: 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 – 3<sup>rd</sup> July 2018

Item 6 (Cont'd)

Application Number:

2018/1047/S73

Site History App Number	Proposal	Status	Decision Date
2018/1047/S73	Variation of condition 2 of Planning Permission 2014/1038 granted on the 15th September 2014 to allow the use of the premises until 00.30hrs (Fri and Sat) and midnight (Sun-Thurs) and to allow customers to purchase food to be consumed off the premises up until the same time. (Amended Description)	PDE	
2014/1534/DOC	Discharge of condition 4 of planning permission 2014/1038 granted 15th September 2014	NOBJ	04.11.2014
2014/1038	Removal of condition 5 of planning permission 2012/0346 granted 2nd July 2012) to allow for the permanent use of the premises as a cafe/restaurant and hot food take away at ground floor level and a cafe/restaurant at 1st floor level.	APP	15.09.2014
2012/1090	Change of use of first floor from cafe (Class A3) to a therapy room (Class D1)	APP	14.09.2012
2012/0346	Change of use of ground floor from cafe (Class A3) to cafe/restaurant/takeaway and first floor cafe/restaurant (Class A3)	APP	02.07.2012
2011/0071	Change of use of ground floors from hairdressers (Class A1) to cafe (Class A3) and installation of new shop front	APP	27.04.2011

## Planning Committee – 3<sup>rd</sup> July 2018

<b>Item 6 (Cont'd)</b>	<b>Application Number:</b>	2018/1047/S73
2010/1903	Change of use of ground and first floors from a hairdressers (Class A1) to cafe/restaurant (Class A3)	WDN 20.01.2011

### RESPONSE TO CONSULTATION

Neighbours: The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to neighbouring properties and through the display of a site notice.

A PETITION OF OBJECTION with 48 signatures (from 31 different addresses) was received which objects to the application on the following grounds;

Killay is a residential area, already well served by a number restaurants, public houses and takeaways. We feel that the nature of the proposed business and the request to remain open until such late hours is unacceptable; the potential for further antisocial behaviour, littering and noise nuisance from the premises itself and from visiting vehicles, to the detriment of neighbouring residential properties, is obvious.

A PETITION OF SUPPORT with 55 signatures was also received which is summarised as follows:

We wish to support the planning application to allow Killay Café to stay open until 00.30 hrs (Friday and Saturday) and midnight (Sunday to Thursday) and to allow customers to purchase food to be consumed off the premises up until the same time if this is what the business needs to stay open and continue trading. We feel the closure of our community café would bring yet more detriment to the whole of the precinct.

Pollution Control - No objection subject to a scheme of ventilation/fume extraction. (previously satisfied pursuant to 2014/1534/DOC).

Head of Transportation and Engineering - The principle of the use has already been established under the 2012 consent and the relevant condition sought to control the opening hours in the interests of residential amenity, and not highway safety.

The site is located within the Killay shopping precinct and there is a customer car park at the rear. Takeaway facilities tend to generate the need for short term parking in close proximity to the site and in this instance the car park at the rear of the precinct is convenient enough to serve that purpose. The existing cafe use will likely have generated some takeaway sales and therefore the proposal to extend the opening hours is unlikely to have any impact on highway safety, given the adequate parking facility available.

I recommend that no highway objections are raised to this application.

Killay Community Council - Killay Community Council object to the application to extend the opening hours to 12:00am (Sunday to Thursday) and 00:30am (Friday and Saturday).

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 6 (Cont'd)**

**Application Number:**

2018/1047/S73

Killay currently has a range of late night take-away premises including China Kitchen, Saporito Pizza and Killay Spice. These premises have maximum opening hours to 10pm, 11pm and 00:30am respectively.

Most recently, a condition was made on Planning application 2015/2527 that the hot food takeaway at 438 Gower Road, Killay shall not be used by customers before 11am nor after 11:00pm on any day. The premises applying for extended opening times is located within a discreet area of Killay Precinct, out of sight from the main Gower Road, so a concern is raised that the proposed opening time may attract increased littering and potential anti-social behaviour.

Therefore on balance, Killay Community Council would propose that an 11:00pm condition be placed on this premises.

### **APPRAISAL**

This application has been called to Committee for determination at the request of Councillor Jeff Jones.

The application site is a business premises located within the Swan Court shopping precinct in Killay District Centre and operates as a café/restaurant with a takeaway use.

Planning permission was originally granted in April 2011 for the change of use of the ground floor of the premises from a hairdressers (Class A1) to a cafe (Class A3) and installation of new shop front (2011/0071).

Planning permission was then granted in July 2012 (2012/0346) for the change of use of the ground floor of the premises from a cafe to a cafe/restaurant/takeaway and the first floor of the premises to a cafe/restaurant (2012/0346). The 2012/0346 planning permission was only however granted temporarily for a period of 3 years, in order to give the Local Planning Authority the opportunity to assess the impact of the proposed use.

In September 2014, planning permission was granted on a permanent basis for the use of the ground floor of the premises as a cafe/restaurant/takeaway and the first floor of the premises to a cafe/restaurant (2014/1038).

Condition 2 of planning permission 2014/1038 states that;

"The use of the premises for the sale of hot food to be consumed off the premises shall be restricted to 07.30 hrs and 18.30 hrs and no customers shall be allowed to remain on the premises between 23.00 hrs and 07.30 hrs on any day"

The planning application subject of this report seeks consent to vary Condition 2 of the 2014/1038 planning permission, in order to allow the use of the premises until 00.30 hrs on Fridays and Saturdays (early hours of Saturday and Sunday respectively) and until midnight Sundays to Thursday and to allow customers to purchase food to be consumed off the premises up until the same time.

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 6 (Cont'd)**

**Application Number:**

2018/1047/S73

The main issues for consideration in respect of the proposal is the potential impact of the later opening hours on the amenities of neighbouring residential occupiers by virtue of a potential increase in noise and highway safety having regard to Policies EV1, EV40 and AS6 of the City and County of Swansea UDP (2008).

With regard to residential amenity, whilst it is acknowledged that there are residential properties within the vicinity of the application premises, the premises are located within a hub of commercial uses including shops as well as a bank, pub, gym and two small supermarkets. In addition, there are a number of food and drink uses within the vicinity of the site, which have late opening hours, including the Black Boy public house, which is open until 11pm Sundays to Thursdays and midnight on Fridays and Saturdays. The Commercial public house, is open until 11.30pm Sundays to Thursdays and 00.30am Fridays and Saturdays. Killay Spice at No. 436 Gower Road opens until midnight on Mondays to Thursdays, 00.30am Fridays and Saturdays and 11.30pm on Sundays. Finally, Saporito Pizza and Grill House at No. 438 Gower Road opens until 11pm.

The closest residential properties to the site are those located to the rear (east) of the application site. However, the application premises are accessed via its western elevation (via the Swan Street precinct), so the level of noise and disturbance impinged upon the properties to the east of the site by 'comings and goings' would be insufficient to warrant the refusal of the application.

On balance therefore, given the context and positioning of the site within the Killay District Shopping Centre, it is considered that the level of activity associated with the revised opening hours is appropriate for the area and would not lead to an unacceptable increase in noise to neighbours in accordance with Policies EV1 and EV40 of the Swansea Unitary Development Plan. Furthermore, the Pollution Control division has been consulted and have not raised any objection to the proposal.

In respect of access and highway safety, as noted above, the application premises are located within the Swan Court shopping precinct which is a pedestrianised shopping area within Killay District Centre. It is anticipated that customers of the application premises would either park in the public car park to the rear of the shopping precinct (on Cygnet Close) or the off street car parking bays along Gower Road.

The Head of Transportation and Engineering has been consulted on the proposal and has noted that takeaway facilities tend to generate the need for short term parking which can be accommodated within the existing car parking facilities within Killay District Centre. In view of this, it is not considered that the proposal would give rise to vehicle congestion and or highway safety concerns, and the proposal is considered to comply with UDP Policy AS6. The Head of Transportation and Engineering has consequently raised no highway objections to the proposal.

A petition of objection has been received with 48 signatures together with an objection from Killay Community Council, which raise concerns in respect to the impact of the proposal on residential amenity, anti-social behaviour, littering and noise nuisance. Concerns in respect to the impact on residential amenity and noise nuisance have been addressed in the preceding paragraphs of this report. Issues relating to anti-social behaviour are a Police matter.

## Planning Committee – 3<sup>rd</sup> July 2018

**Item 6 (Cont'd)**

**Application Number:**

2018/1047/S73

In respect of littering, it is noted that there are a number of bins within Swan Court shopping precinct, which are available to dispose of takeaway containers. Notwithstanding this, such matters are controlled via separate legislation. Furthermore, no evidence has been presented that demonstrates that the proposed extended opening hours would give rise to problems of litter.

Killay Community Council have noted that a condition was recently imposed on Saporito Pizza and Grill House at No. 438 Gower Road restricting its use by customers after 11pm on any day. Whilst each planning application is judged on its individual merit, No. 438 Gower Road has a first floor at first floor level and dwellinghouses directly opposite and therefore the hours of opening condition until 11pm was considered necessary in that case in the interest of residential amenity.

In the case of the application subject of this report, the circumstances are different in that the application premises is located wholly within a shopping precinct which backs onto residential properties which are over 20 metres away. Therefore it is considered in this instance that it would be unreasonable not to allow the use of the premises until 00.30 hrs (Friday and Saturday) and midnight (Sunday and Thursday) which is akin to the opening hours of other A3 uses within the vicinity of the site.

In conclusion, it is considered the proposal to extend the opening hours is acceptable and would not cause significant harm to the residential amenities of residential properties within the vicinity of the premises in terms of noise pollution or give rise to vehicle congestion and/or highway safety concerns. The proposal is considered to comply with Policies EV1, EV40 and AS6 of the 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 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 decision 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.

It is therefore recommended that this application to extend the opening hours of the premises be approved. The other relevant conditions of the 2014/1038 are also to be re-imposed.

### **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 – 3<sup>rd</sup> July 2018

### Item 6 (Cont'd)

Application Number:

2018/1047/S73

- 2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan, received on 8th May 2018 and floor plans received on 7th March 2012  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 This permission relates to:
- o the use first floor of the premises as a café/restaurant;
  - o the use of the ground floor as a café/restaurant with the sale of hot food to be consumed off the premises;
  - o and for no other purpose including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order (1987), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- Reason: In the interests of the vitality and viability of the District Shopping Centre, and the amenity of the area
- 4 The use of the premises as a cafe, restaurant and for the sale of hot food to be consumed off the premises shall be restricted to 07.30 hrs and 24.00hrs Fridays and Saturdays, 00.00hrs and 00.30hrs Saturdays and Sundays and 07.30 hrs and 24.00hrs Sundays to Thursdays. No customers shall be allowed to remain on the premises outside of these times.  
Reason: In the interests of the vitality and viability of the District Shopping Centre and the amenity of the area.
- 5 The internal layout of the premises at ground and first floor shall be as illustrated on the approved floor plan received on 7th March 2012 with the provision of seating for café and restaurant service being retained as approved unless the prior written approval of the Local Planning Authority has been obtained.  
Reason: To ensure that the mix of uses approved is not deviated from without the Local Planning Authority giving full consideration to any changes.

### Informatives

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