

Report of the Head of Planning and City Regeneration

Planning Committee – 1 November 2016

PLANNING APPLICATION REF: 2016/1249

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

26 Pinewood Road Uplands Swansea SA2 0LT

1.0 Background

- 1.1 The application was reported to Planning Committee on the 4th October 2016 with the recommendation that planning permission be approved subject to conditions. Members did not accept the recommendation but resolved that the application be deferred under the two stage voting process so that further advice and guidance could be given as to the lawfulness or otherwise of the reasons for refusal raised by Members and the potential implications for the Council for possible awards of costs in the event of an appeal. The application will not be deemed to be refused unless and until reasons for refusal have been recorded and approved by Members.
- 1.2 In reaching a decision Members will need to consider advice on the award of costs in planning appeals in Welsh Officer Circular 23/93 : 'Award of Costs incurred in Planning and other (including Compulsory Purchase Order) Proceeding'. The circular states that Planning Authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers, or received from statutory bodies or consultees. However, they will be expected to show they had reasonable planning grounds for taking a decision contrary to such advice, and be able to produce relevant evidence to support the decision. If they fail to do so, costs may be awarded against the Authority.
- 1.3 A copy of the report to Planning Committee on 4th October 2016 is attached as Appendix A.

2.0 Main Issues

- 2.1 Members identified the following areas as grounds for refusal of the application: noise and disturbance, refuse arrangements, car parking and the encroachment of HMO's into the area.
- 2.2 More detailed comment is provided in each of the sub-headings below.
- 2.3 Noise and Disturbance
- 2.4 There is no evidence before the Council to suggest that the proposed use as a HMO would generate significant noise and disturbance over and above that of a family home. Whilst concerns regarding the anti-social behaviour of certain individuals or groups are acknowledged the resolution of such matters is outside of planning control.

- 2.5 In this respect Members must consider the potential impact of the proposed C4 use rather than the behaviour of any potential future occupants. Whilst noise and disturbance may be a lawful ground upon which to base a reason for refusal Committee will need to consider whether sufficient evidence can be provided to demonstrate that the proposed HMO for 4 people would have an unacceptable impact upon the residential amenities of neighbour properties.
- 2.6 Refuse Arrangements
- 2.7 In physical terms a sufficient level of space to provide refuse storage is available to the rear of the property and the provision of this can be adequately controlled via an appropriately worded condition.
- 2.8 Concerns were expressed at the previous Committee meeting regarding the siting of refuse storage to the rear, however, the requirement to bring refuse through the property to present on the roadside for collection would be no different whether the property was occupied as a dwellinghouse or as a HMO.
- 2.9 There is no evidence to suggest that the use of the property as the proposed HMO would generate specific refuse issues over and above the extant use of the property as a residential property. Again, whilst inadequate refuse storage may be a lawful ground upon which to base a reason for refusal the absence of any evidence to sustain such a reason for refusal would expose the Authority to an award of costs in the event of an appeal
- 2.10 Car Parking
- 2.11 With regard car parking, the Council's adopted Supplementary Planning Guidance entitled " City and County of Swansea Parking Standards" March 2012 provide that the parking requirements for a HMO of up to 6 people living together will be the same as that for a large single household.
- 2.12 Whilst it is lawful to refuse an application on grounds of insufficient car parking, in this instance there is no off street parking for either the existing or the proposed use. Committee will therefore need to consider, in the context of the above referenced car parking guidelines, whether sufficient evidence can be provided to demonstrate that the proposal for a 4 bed HMO will have an unacceptable impact upon highway safety over and above that of the existing use as a single dwellinghouse.
- 2.13 Recent appeals decision have clearly indicated that in the absence of any evidence to prove a proposal will be detrimental to highway safety, an appeal will be allowed. Failure to do so will result in the Authority being exposed to an award of costs at appeal.
- 2.14 Encroachment of HMOs into the area
- 2.15 The approval of this application would result in approximately 8% of properties along Pinewood Road being in use as a HMO which is considered to be a relatively low figure.

- 2.16 Policy HC5 of the City & County of Swansea Unitary Development Plan provides that proposals for the conversion of dwellings to HMO's will be permitted subject to a number of criteria, including the impact upon visual and residential amenity, refuse storage, car parking and of specific relevance to the current issue raised by Members whether the development would contribute to the harmful concentration or intensification of HMO's in a particular area.
- 2.17 In this instance of the 63 properties in Pinewood Road only 4 properties are currently HMO's. It would not, therefore, appear reasonable to argue that the addition of one further HMO would contribute to a harmful concentration or indeed an intensification of such uses within this area.
- 2.18 Whilst it is recognised that there are concerns about the encroachment of HMO's into an area which may currently have a limited concentration of such uses, Committee must consider the impact of this and whether this would be sufficiently detrimental in material planning terms to justify a reason for refusal.
- 2.19 In this respect there would not appear to be any evidence to indicate that the proposed 4 bed HMO would have any greater impact in terms of visual or residential amenity, refuse storage and car parking than the existing use as a dwellinghouse.
- 2.20 In view of the above and in the absence of any evidence of unacceptable impact in material planning terms it is not considered that "encroachment" can form a reasonable reason for refusal which could be sustained at appeal. To refuse the application for this reason would, it is considered, leave the Council open to an application for an award of costs at appeal.

3.0 Conclusion

- 3.1 My original report to Planning Committee on 4th October 2016 recommended approval of the application and I have received no evidence to change this recommendation. However, it is recognised that the Committee may not accept my recommendation and should this be the case, any decision to refuse the application will need to take into account the advice given above in relation to each possible reason for refusal Committee identified previously.

4.0 Recommendation

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

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

Background papers:

Local Government Act 1972 (Section 100) (As Amended)

The following documents were used in the preparation of this report:

Application file, together with the files and documents referred to in the background information section of the appended Development Control committee report.

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