

DELEGATED REPORT

Application No:	P/24/0171
Site Address:	10 Lower High Street And Part Of Ex Servicemens Club Merthyr Tydfil CF47 8EB
Development:	Conversion of dwelling and part of adjacent Ex Servicemens Club into a House of Multiple Occupancy (HMO) for a maximum of 5 persons
Case Officer:	Rebecca Owens
Application Expiry Date:	18th September 2024
Consultation reply date expired:	28th August 2024

APPLICATION SITE

The application relates to a three storey building which comprises a dwelling at ground and first floor with the third floor forming part of the adjacent Ex Servicemens Club. The property is located in the settlement boundary and is also within the town centre boundary, Town Centre Conservation Area, Urban Character Area 1 and a C2 Flood Zone. It is bound by a highway to the front, lane to the rear and commercial properties on either side with the Ex Servicemens club being locally listed.

PROPOSED DEVELOPMENT

Full planning permission is sought to change of use of the dwelling and the second floor above which currently forms part of the adjoining Ex Servicemens Club into a House of Multiple Occupancy (HMO) for up to five persons which falls within the C4 Use Class. The HMO would comprise of five bedrooms with shared living room, kitchen, utility/cycle store and bathrooms (x2). Some external alterations to the building are also proposed which involve:

- The demolition of a small rear lean-to;
- The installation of a Vivra Pro Woodstone House Sparrow nest box to the main rear elevation under the eaves; and
- The installation of two crevice bat boxes to the rear annexe gable under the ridge/eaves (Ecostyocrete product – self cleaning)

PLANNING HISTORY

The relevant planning history relating to this site is summarised below:

P/24/0109 Conversion of dwelling and part of adjacent Ex Servicemens Club into a House of Multiple Occupancy (HMO) for up to 6 persons
Refused planning permission on 20th June 2024 for the following reasons:

“The proposal would intensify highly vulnerable development within a zone C2 flood risk area, as defined by the Development Advice Map (DAM), referred to under TAN15: Development and Flood Risk. Therefore the development is inappropriately located and would unacceptably increase flood risk contrary to policy EnW4 of the Merthyr Tydfil Replacement Local Development Plan, Planning Policy Wales (12th Edition) and TAN15: Development and Flood Risk”.

CONSULTATION

The following bodies were consulted and their responses are presented below:

Head of Engineering & Highways	No objection
Planning Ecologist	No objection subject to a Preliminary Roost Assessment
Environmental Health Manager	No objection subject to conditions
Natural Resources Wales	No objection
South Wales Police	No objection
South Wales Fire and Rescue	No objection
Dwr Cymru Welsh Water	No objection subject to condition relating to surface water drainage

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to neighbouring properties and three site notices were displayed within the vicinity of the site.

No letters of objection were received following this publicity exercise. The main points raised within these are summarised below:

POLICY CONTEXT

National Development Framework

Future Wales: the National Plan 2040 (February 2021) sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

National Planning Policies

Planning Policy Wales (Edition 12, February 2024):

- Paragraphs 3.3 – 3.18 refer to good design and better places.

- Creating sustainable development through reducing the reliance on car journeys and maximising opportunities for people to make more sustainable and healthy travel choice is emphasised throughout PPW. Paragraph 3.12 highlights that *“Good design is about avoiding the creation of car-based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys. Achieving these objectives requires the selection of sites which can be made easily accessible by sustainable modes as well as incorporating appropriate, safe and sustainable links (including active travel networks) within and between developments using legal agreements where appropriate”*. Paragraph 4.1.1 reiterates this noting *“The planning system should enable people to access jobs and services through shorter, more efficient and sustainable journeys, by walking, cycling and public transport. By influencing the location, scale, density, mix of uses and design of new development, the planning system can improve choice in transport and secure accessibility in a way which supports sustainable development, increases physical activity, improves health and helps to tackle the causes of climate change and airborne pollution”*. Similarly, Paragraph 4.1.37 notes that *“Planning authorities must direct development to locations most accessible by public transport. They should ensure that development sites which are well served by public transport are used for travel intensive uses, such as housing, jobs, shopping, leisure and services”*. In respect to car parking paragraph 4.1.51 notes *“Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport”*.
- Section 4.3 relates to retail and commercial development and paragraph 4.3.3 highlights that the planning system must:

 - *“promote viable urban and rural retail and commercial centres as the most sustainable locations to live, work, shop, socialise and conduct business;*
 - *sustain and enhance retail and commercial centres’ vibrancy, viability and attractiveness; and*
 - *improve access to, and within, retail and commercial centres by all modes of transport, prioritising walking, cycling and public transport”*.
- An emphasis is placed on creating viable and vibrant centres with paragraph 4.3.33 explaining that *“Vibrant and viable centres are distinguished by a diversity of activity and uses which should contribute towards a centre’s well-being and success, whilst also reducing the need to travel”*. Paragraph 4.3.34 expands on this further and notes that *“In addition to general diversity of uses, mixed use developments, which combine retailing with entertainment, restaurants and, where appropriate, residential in a comprehensive and planned way should also be encouraged where appropriate to promote lively centres during both the day and the evening”*. The introduction of residential use into centres is specifically referred to in paragraph 4.3.37 noting that *“Within a retail and commercial centre boundary change of use to residential may also be acceptable and help contribute to the viability and vibrancy of a centre. However, night-time noise considerations may be a limiting factor in some areas and residential use is unlikely to be suitable on the ground floor within primary areas or other places of concentrated A1 uses because it may fragment the shopping frontage and impact on the vibrancy and viability of a centre”*.

- Paragraphs 6.1.14 – 6.1.17 relate to conservation areas. Paragraph 6.1.14 notes that *“There should be a general presumption in favour of the preservation or enhancement of the character or appearance of conservation areas or their settings. Positive management of conservation areas is necessary if their character or appearance are to be preserved or enhanced and their heritage value is to be fully realised”*. With paragraph 6.1.15 clarifying that *“There is a strong presumption against the granting of planning permission for developments, including advertisements, which damage the character or appearance of a conservation area or its setting to an unacceptable level”*.

Paragraphs 6.6.22 to 6.6.29 relate to development and flood risk with 6.6.22 noting that *“Planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers”*.

Technical Advice Notes (TAN):

- TAN 12: Design
- TAN 15: Development and Flood Risk
- TAN 18: Transport
- TAN 24: Historic Environment

Local Planning Policies

Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031:

- SW1 Provision of New Homes
- SW3 Sustainably Distributing New Homes
- SW4 Settlement Boundaries
- SW9 Planning Obligations
- SW11 Sustainable Design and Placemaking
- SW12 Improving the Transport Network
- CW1 Historic Environment
- EnW1 Nature Conservation and Ecosystem Resilience
- EnW2 Internationally and Nationally Protected Sites and Species
- EnW4 Environmental Protection
- EcW3 Retail Hierarchy – Supporting Retailing Provision
- EcW5 Town and Local Centre Development

Supplementary Planning Guidance (SPG) Notes:

- Note 4, Sustainable Design.
- Note 5, Nature and Development.

PLANNING CONSIDERATIONS

Principle

The application site is located within the primary growth area of the settlement boundary (Policy SW4 of the LDP) and as such the principle of development is acceptable subject to compliance with other relevant policies and material planning considerations.

In this respect, it is noted that the site also lies within the town centre boundary but outside of the Primary Shopping Area. As such, Policies EcW3 and EcW5 of the LDP would be relevant. These policies support proposals for new development and enhanced retail, leisure and other complimentary provision in the town centre where they improve its vitality and viability. The proposal would result in the loss of part of the adjacent Ex Servicemens Club. However this would only comprise of a relatively small area of its overall floorspace with the rest remaining in its current use. It is also recognised that in order to thrive, town centres must have a blend of retail, commercial, leisure and other complementary uses, which include residential use. Being located in an area of the town centre where there is already a mixture of commercial and residential uses, it is not considered that the proposal would be detrimental to its vitality or viability and thus would accord with Policies EcW3 and EcW5 of the LDP as well as those of PPW.

Flood Risk

The application site is located within Zone C2 of the Development Advice Map and the FMfP identifies the application site to be at risk of flood and falling into Flood Zones 2 and 3 for Rivers.

It is recognised that the application seeks permission to change from one form of highly vulnerable development to another, both residential in nature. However, the proposed HMO use would potentially intensify the residential use by increasing the floor space into part of the adjoining club and providing five bedrooms in place of the existing three. Notwithstanding this, the proposal does not include any ground floor bedrooms so all occupants would benefit from suitable upper floor refuge. It is recognised that a ground floor bedroom could be introduced in the future but this could also be the case as part of the existing use as a single dwelling. However it is recommended that a condition is attached to any permission granted which restricts the ground floor from providing any bedroom accommodation. Whilst this would not overcome the intensification of the residential use, it is recognised that a 3 bedroom dwelling could easily accommodate five persons and as such it is not considered that the risk would be increased to a level that would justify refusal of the application on such grounds. In this respect it is noted that NRW have not raised any objection to the proposal subject to the developer being made aware of the flood risk and being advise to install flood proofing measures.

TAN15 Clearly sets out that no highly vulnerable development should be allowed within Zone C2 so the principle of a residential use in this area is unacceptable. However, as noted above the majority of the site is already residential in nature comprising of a three bedroom dwelling. Whilst this would allow for a different type of residential use which differs in character and the way in which it is used, a condition preventing bedroom accommodation on the ground floor would result in no increase in risk within the C2 Flood Zone. Whilst there would be an increase in the number of bedrooms it is not considered that there would be a significant intensification of use given that the proposal is for a HMO under the C4 Use Class which would only allow up to six persons to reside that the property and noting that a 3 bedroom dwelling could easily accommodate 5/6 persons. As such there would not be any significant change in terms of the vulnerability of the use.

It is recognised that new development should only be permitted within zones C1 and C2 if it is determined that this location is justified and meets the test set out in Sections 6 and 7 of TAN 15. In this respect it is noted that the proposal would help to improve the vitality and viability of the town centre by bringing the building back into beneficial use. The proposal is therefore found to be acceptable in this respect. Furthermore, given the nature

of the development as set out above Natural Resources Wales have not objected to the application but have recommended that the developer be made aware of the potential floor risks and advised to install floor-proofing measures. This can be done through a suitably worded informative.

Character and visual amenity

The application site is located within the Town Centre Conservation Area and Urban Character Area 1 and is adjacent to the locally listed clubs. As such the visual impact of the development and its impact on the character of the area is an important consideration, with Policy CW1 highlighting that proposals will only be permitted where they would preserve or enhance designated historic environment assets. The proposal would involve only minor alterations to the exterior of the property which would be contained to the rear and thus would not be visible from the main streetscene. Accordingly, there would be no impact on the overall character or appearance of the property itself or its contribution to the wider streetscene and conservation area.

Whilst it is acknowledged that properties occupied by non-family households have the potential to change the character of an area (i.e. damage social cohesion with higher levels of transient residents), the application site is already located in a mixed use area within the town centre so is not exclusively residential in character. In addition, whilst it is noted that there are other HMOs in the town centre area, there are no specific policies within the LDP that identify the appropriate density for HMO developments within a given area. On balance, it is not considered that the introduction of an additional small scale HMO in this location would lead to an over-concentration of HMOs causing such significant harm to the character of the area as to warrant the refusal of planning permission. Therefore, the proposal complies with Policy SW11 of the LDP.

Parking and highway safety

It is noted that the application site does not benefit from any off-street parking provision and as such, there would be no designated parking available for the occupants of the proposed HMO. This would not differ from the previous use of the property which is primarily a dwelling, although it is recognised that the five bedroom HMO may be more intensive than a three bedroom dwelling. However, the application site is located in the town centre, which is well served by public car parks and public transport links with both the bus and train stations located within easy walking distance. Given this location, it is not considered that the lack of parking would give rise to significant highway safety concern. Additionally, it should be noted that the site is situated in a highly sustainable location close to local services and facilities where the use of more sustainable modes of transport can be encouraged. In this respect it is noted that cycle storage would be provided within the property. As such, no objections have been raised by the Head of Engineering and Highways subject to a condition and the proposal complies with Policies SW11 and SW12 of the LDP and PPW.

Residential amenity

In terms of the impact on residential amenity (i.e. noise and disturbance and overlooking from existing windows) it is not considered that the proposal would be significantly different to the existing use. There would be no additional overlooking from first floor windows and any noise and disturbance would not be significantly greater than the existing dwelling and club use. Indeed, the site is located within the town centre area where there is already a

higher degree of activity and some associated noise and disturbance. It is also noted that the responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the Police, local authorities (e.g. Public Health and Protection) and social landlords. Having regard to the above, the proposed development therefore is found to comply with Policy SW11 in terms of residential amenity.

Crime and anti-social behaviour

Whilst it is recognised that there are other HMO properties in the town centre area, it is not considered that their numbers are excessive or in such a high concentration that they are resulting in a breakdown of the character or community of this area. It is acknowledged that HMO developments can have a negative impact on crime levels in an area as a result of their transient nature but the management of the property as a HMO is not a matter that can be controlled by the planning process and would normally be an issue for either environmental health or the police to address, particularly where it involves anti-social behaviour. In this respect it is also noted that South Wales Police have not objected to this application or raised any concerns with respect to such issues in this location. Thus on balance, it is not considered that the approval of this HMO would result in a significantly harmful impact in this respect or indeed one which would justify the refusal of the application on such grounds. Furthermore, should any such issues arise in the future, this would be a matter to be addressed by the appropriate body to address any anti-social problems.

Ecology

It is recognised that the Planning Authority's Ecologist has requested that a Preliminary Roost Assessment be undertaken but given that this is an application for a change of use with limited external alterations it is not considered that this would be proportionate or justified. However, information could be included on any permission issued to highlight the protected status of bats and nesting birds. It is noted that the proposal includes enhancements in form of a sparrow nest box and crevice bat boxes. Should the application be approved the timings for their provision should be conditioned.

It is noted that chapter 6 of Planning Policy Wales (edition 12) requests that applications be supported by Green Infrastructure Statements (GIS). In this instance, due to the scale and nature of the development, which relates to the change of use of the property, the submission of a GIS is deemed to be disproportionate and unreasonable. Notwithstanding this, ecological enhancement would be provided, which would provide additional habitats in the local area, which would contribute to the wider green infrastructure objectives. The proposed development would therefore comply with LDP Policy EnW1.

Conclusion

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Accordingly the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following **CONDITIONS**:

1. The development shall begin not later than five years from the date of this decision.
Reason - To comply with 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:

Proposed floor plans and section, Drawing Number: 2983 C, Amended Plan Received 16 August 2024.
Reason -To ensure compliance with the approved plans and clearly define the scope of the permission.
3. The House of Multiple Occupancy hereby approved shall be occupied in accordance with the approved floor plans outlined in drawing number 2983 C and no bedroom accommodation shall be provided on the ground floor at any time. The approved layout shall be retained in perpetuity.
Reason - To ensure there is no increase in the risk from flooding in accordance with Policy EnW4 of the Merthyr Tydfil Replacement Local Development Plan, Planning Policy Wales (12th Edition) and TAN15: Development and Flood Risk.
4. **BEFORE** the use hereby approved commences, bat and bird boxes shall be installed in accordance with drawing number 2983 C. The bat and bird boxes box shall be retained in perpetuity thereafter.
Reason - To protect the natural environment in accordance with Policies EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.
5. No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.
Reason - To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

INFORMATIVES

1. This planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence.
All bats and their roosts are protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb a bat or to recklessly damage or destroy their breeding sites or resting places.

If works are planned on a building/tree in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at

<https://naturalresources.wales/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/bat-licences/?lang=en>.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

2. All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended) while they are breeding.

If works to any trees, hedgerows and/or other nesting bird habitat (including buildings with suitable features) are to be undertaken, they will take place outside of the bird nesting season. If the works must be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified ecologist. Any active nests identified will be protected until the young have fledged.

Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <https://www.legislation.gov.uk/ukpga/1981/69/schedule/1> is involved, compensation for impacts, e.g., loss of nesting sites, will be devised and implemented.

3. The developers attention is drawn to the comments received from Dwr Cymry Welsh Water during the application process which can be viewed on the MTCBC website.
4. The developer is advised that the application site is located within Zone C2 of the Development Advice Map and the FMfP identifies the application site to be at risk of flood and falling into Flood Zones 2 and 3 for Rivers. As such you should be aware of potential flood risk and are advised to install flood-proofing measures as part of the development.

In areas at risk of flooding, it is recommend that consideration be given to the incorporation of flood resistance/resilience measures into the design and construction of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood proofing measures to the internal fabric of the ground floor and locating electrical sockets/components at a higher level above possible flood levels. Further advice and guidance is available on the Natural Resources Wales website. Additional guidance can also be found on the government website including the leaflet "Prepare your Property for flooding" and the ODPM publication 'Preparing for Floods: Interim Guidance for Improving the Flood Resistance of Domestic and Small Business Properties'.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE: 09.09.2024