



Appeal Decision

by G Hall BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 29/04/2025

Appeal reference: CAS-03863-N9H6T2

Site address: 75 Ninth Avenue, Galon Uchaf, Merthyr Tydfil CF47 9TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by D2 PROPCO LIMITED against the decision of Merthyr Tydfil County Borough Council.
 - The application Ref P/24/0058, dated 13 March 2024, was refused by notice dated 11 October 2024.
 - The development proposed is change of use from residential dwelling to HMO C4 maximum 5 persons.
 - A site visit was made on 4 March 2025.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from residential dwelling to HMO C4 maximum 5 persons at 75 Ninth Avenue, Galon Uchaf, Merthyr Tydfil CF47 9TN, in accordance with the terms of the application, Ref P/24/0058, dated 13 March 2024, subject to the conditions set out in the schedule to this decision letter.

Application for costs

2. An application for costs has been made by D2 PROPCO LIMITED against Merthyr Tydfil County Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. Multiple representations made in relation to the original planning application referred to a letter circulated by the appellant to local residents. The letter introduced the appellant's company and outlined its work providing temporary accommodation across South Wales in partnership with local authorities.
4. I sought clarification regarding the proposed use. The appellant confirmed their house managers would visit the appeal property on weekdays to monitor the welfare of the tenants, the condition of the property and there would be internal CCTV monitoring.
5. Further details were contained in the script read out by the appellant at the Council's committee meeting. This said that the property was intended to house up to four young unaccompanied asylum seekers, with 24/7 support provided by a Council worker occupying one of the bedrooms. It would be the Council who would decide who would live at the property.

6. The appeal application sought planning permission for change of use to Class C4 of the Town and Country Planning (Use Classes) Order 1987. Class C4 is defined as 'Use of a dwellinghouse by not more than six residents as a "house in multiple occupation (HMO)"'. As it would appear 24/7 support would be provided for young people by a Council support worker who would monitor their welfare, and daily reports including the review of internal CCTV footage, would be submitted to the Council, I questioned whether the intended use fell into Class C3(b) which is defined as use of a dwellinghouse by "not more than six residents living together as a single household where care is provided for residents".
7. The appellant responded saying C3(b) use class relates to the provision of care which would not apply to the use of the appeal property, as no care is intended to be provided, and no Council support worker would be involved.
8. Class C4 is defined as 'Use of a dwellinghouse by not more than six residents as a "house in multiple occupation" only. I am not persuaded that the operation as described in the letter to residents and the script of the statement to the planning committee falls into Class C4. Nonetheless, the appellant has confirmed that they wish the appeal to be determined on that basis.

Main Issues

9. These are the effects of the proposed occupation of the appeal property as a Class C4 HMO on the character of the area, and on highway safety.

Reasons

Character and nature of the use

10. The appeal property is a two-storey semi-detached dwelling located on the junction of Ninth Avenue and Galon Uchaf Road. Tenth Avenue is to the rear of the property. The surrounding area is predominantly residential, and nearby dwellings are of a similar age and appearance. There is amenity space to the front, side and rear of the appeal property, and a rear detached garage that is accessed from Tenth Avenue.
11. The appeal concerns a residential use within an area that is predominantly residential. HMOs are a long-standing, recognised form of housing that meet residential needs often unmet by other forms of accommodation. The proposed Class C4 residential use would be in keeping with the established residential character of the area.
12. Incidents at other HMOs in Merthyr Tydfil have been brought to my attention. However, on the basis that the appeal property would be used as a Class 4 HMO, there is no cogent evidence before me that the proposed use would inherently give rise to antisocial behaviour here or would detrimentally effect community safety or cohesion.
13. I have taken into account the personal circumstances of local residents. These include the presence of elderly and young people living in the area, and the impact the proposal has had on the mental health and well-being of some residents. The Human Rights Act 1998 enshrines into UK law most of the fundamental rights contained in the European Convention on Human Rights, including Article 8 which concerns the right for private and family life and the home to be respected, together with Article 1 of the First Protocol relating to the protection of property. I have also had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 and have considered the impact of allowing the appeal on neighbouring residents.
14. While I accept that fears to personal safety and the impact of such fears on people's mental health and well-being can be material considerations, such concerns must be substantiated by evidence. There is no substantive evidence before me that indicates the use of the property as a Class 4 HMO would prevent neighbouring residents from

continuing to live in their homes or the area. I am satisfied that the proposal would be in keeping with the residential character of the area and the nature of the surrounding residential properties. It would therefore accord with the requirements of Local Development Plan (LDP) Policy SW11, and I do not consider allowing the appeal would conflict with the Human Rights Act.

Highway Safety

15. The property has one off-road parking space in the existing garage. The appeal scheme includes a dedicated cycle store building, further encouraging sustainable travel modes, and the provision of a new off-road parking space alongside the rear garage.
16. The existing use of the appeal property as a 4-bedroom dwelling would generate its own demand for parking. The Highway Authority say that as per the Wales Parking Standards 2014, the requirement for an HMO is 1 space per bedroom with a maximum of 3 spaces. The Highway Authority consider the provision of an additional space above the existing arrangement would be an improvement to the overall parking situation and on this basis, they consider the proposal would be acceptable. As the appeal site is in a sustainable location, served by public transport, and with a range of facilities within reasonable walking distance, I see no reason to disagree.
17. On-street parking in the vicinity of the site on Ninth Avenue, Tenth Avenue and Galon Uchaf Road is unrestricted. At the time of my mid-morning weekday site visit, there were multiple spaces available on the road to the rear of the appeal property along Tenth Avenue, and a few cars parked in the vicinity of the site on Galon Uchaf Road. Traffic in the vicinity of the appeal site was light.
18. Local residents have explained that at times there are significant parking pressures in the area, and the pre-school nursery on Tenth Avenue and the football pitches opposite the appeal site attract a high number of cars to the area at certain times. However, these pressures are temporary, and I have seen no empirical evidence to lead me to question the view of the Highway Authority which does not object to the proposed C4 use.
19. I conclude that the proposed development would not materially harm highway safety or exacerbate parking pressures or congestion to an extent warranting refusal. The development would therefore accord with the objectives of LDP Policy SW11.

Other Matters

20. I have considered whether the appeal proposal would put pressure on local services such as waste and public transport. However, the number of people occupying the property would be similar to a family dwelling and I have seen no evidence to indicate local services could not accommodate a Class C4 HMO here.

Conclusion

21. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.
22. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

G Hall

INSPECTOR

SCHEDULE OF 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 plan:

- Drawing No. 2975 C

Reason: To ensure the development is carried out in accordance with the approved plan submitted with the application.

- 3) Before the development hereby permitted is brought into use, the bird and bat boxes shown on the approved plan shall be installed on the side elevation and shall be retained as such in perpetuity.

Reason: In the interests of maintaining and enhancing biodiversity, in accordance with Future Wales Policy 9.

- 4) Before the development hereby permitted is brought into use, details of the construction of the vehicular cross over and hardstanding shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety, in accordance with Policy SW12 of the Merthyr Tydfil Local Development Plan.