

DELEGATED REPORT

Application No:	P/24/0109
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 up to 6 persons
Case Officer:	Rebecca Owens
Site Visit:	10th May 2024
Application Expiry Date:	3rd July 2024
Consultation reply date expired:	3rd June 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 6 persons which falls within the C4 Use Class. The HMO would comprise of six bedrooms with shared kitchen, living room and bathrooms (x2). Some external alterations to the building are also proposed which involve:

- The demolition of a small rear lean to and erection of external canopy;
- 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

There is no relevant planning history which needs to be considered in the determination of this application.

CONSULTATION

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

Head of Engineering & Highways	No objection subject to a condition relating to the provision of cycle parking
Planning Ecologist	Requested a Preliminary Roost Assessment
Environmental Health Manager	No objection
Natural Resources Wales	Objection as the application relates to highly vulnerable development in a C2 Flood Zone
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.

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 peoples 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 (Flood Maps for Planning) identifies the application site to be at risk of flooding 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 six bedrooms in place of the existing three. It would also include a bedroom on the ground floor which would pose an increased risk due to the lack of suitable upper floor refuge. Given the nature of the HMO use this bedroom would be the only private living space for its occupant(s) which would be solely located on the ground floor and the lack of any upper floor communal areas also exacerbates this risk. It is acknowledged that the ground floor bedroom could be removed from the proposal so all private rooms are on the upper floors and/or a communal space for refuge could be provided on the upper floors, thus seemingly overcoming this concern. However, it is difficult to control this in the future. By granting permission for this proposal, the property could be used for up to six persons and an extra bedroom could be introduced at ground floor level at any time and likewise any upper floor communal space could be converted into a bedroom. This is slightly different to applications for living accommodation above commercial ground floor uses as the ground floor does not form part of these applications and thus is secured outside of residential use. Furthermore, the aforementioned layout changes would not overcome the intensification of the use and the increased risk this would pose in terms of flooding.

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. As noted above it is recognised that part of the site is already residential in nature comprising of a three bedroom dwelling. However this application would allow for a different type of residential use which differs in character and the way in which it is used. It would also intensify the residential use within the C2 Flood Zone. Even overlooking the principle unacceptability of this use. 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. This states that development will only be justified if it can be demonstrated that:

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement¹ ; or,
- ii. Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region; and,
- iii. It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,
- iv. The potential consequences of a flooding event for the particular type of development have been considered, and found to be acceptable.

Whilst the site would meet with the definition of previously developed land, it is not considered that this location is justified for this use as it does not meet tests i, ii or iv above. A Flood Consequence Assessment has not been submitted in support of this application to demonstrate test iv. However, giving that the proposal does not meet the principle or the tests set out in Tan 15, it is not considered necessary to request this information as it would not overcome the overriding issues. It is also noted that Natural Resources Wales have objected to the application for the above reasons.

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 a six 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. 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 regard, no objections have been raised by the Head of Engineering and Highways subject to a condition relating to cycle parking. It is noted that the submitted plans refer to the provision of cycle parking but no specific details of this are included so a condition could be imposed to secure these details. The proposal therefore 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

Having regard to the nature of the development proposed and its location within a C2 Flood Zone, the proposal is not found to be acceptable. In reaching the recommendation,

the requirements of section 3 and 5 of the Wellbeing of Future Generations (Wales) Act 2015 have been taken into account. The recommendation is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Minister's well-being objective of supporting safe, cohesive and resilient communities.

As such the following recommendation is made:

RECOMMENDATION: BE REFUSED for the following REASON:

1. 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.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE: 20.06.2024