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COMMITTEE	Planning and Regulatory
COMMITTEE DATE	10th April 2024

Application No. P/24/0009	Date 22nd January 2024	Determining Authority MTCBC
Proposed Development	Location	Name & Address of Applicant/Agent
Change of use of dwelling (C3 Use Class) to House of Multiple Occupancy (HMO) for 3 persons (C4 Use Class) and erection of a bike shed	33 Urban Street Penydarren CF47 9PX	D2 Propco Limited c/o D. Viv Jones 114 Brecon Road Hirwaun Aberdare CF44 9NS



Councillor Isaacs has requested that this application be reported to Committee to consider the residents concerns and the suitability of the area for a HMO.

APPLICATION SITE

The application relates to a mid-terrace dwelling that is located within a predominately residential area in the settlement boundary. It is also within the Council Street and Urban Street Conservation Area and Urban Character Area 7. It is bound by a highway to the front, a lane to the rear and other dwellings on either side.

PROPOSED DEVELOPMENT

Full planning permission is sought to change of use of the property from a dwelling, which falls within the C3 Use Class to a House of Multiple Occupancy (HMO) for 3 persons which falls within the C4 Use Class. The HMO would comprise of 3 bedrooms with shared kitchen, living/dining room and bathroom. No external alterations to the dwelling are proposed.

A timber bike shed is proposed within the rear garden which would be 1.8m in width by 2m in depth and 2m in height and a parking area is also proposed within the rear garden which would be accessed via the adjacent lane and would provide a single parking space. These aspects of the proposal could be undertaken under permitted development rights.

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
Planning Ecologist	No objection
Environmental Health Manager	No objection
South Wales Police	No objection
South Wales Fire and Rescue	No objection
Dwr Cymru Welsh Water	No objection subject to a 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 on 24.01.2024 and two site notices were displayed within the vicinity of the site on 06.02.2024.

Ten letters of objection were received following this publicity exercise. The main points raised within these are summarised below:

- A CCTV camera has been installed which is directed towards a neighbouring property and has been indicated is required in case there is any trouble at the property and thus giving the impression that trouble may be expected.
- Safety of existing residents and feeling unsafe not knowing who would be living in the property and their backgrounds.
- Potential for increased crime rate and anti-social behaviour.
- Parking which is already an issue in the street with cars having to park on the pavements due to the narrow carriageway and the impact of parking on visibility and highway safety.
- Consultation with the residents and location of site notices.
- The street is part of a conservation area and the HMO would impact on the character of the area, aesthetics of the properties and visual appeal.
- Impact on house prices and ability to sell properties.
- The number of tenants that could occupy the property.
- The properties are small and not suitable for multiple occupants.
- The proposal would lead to more litter, recycling bins and general waste bins.
- The development company has indicated that they have send letters to each of the residents, but this is not the case.
- Work has already commenced and there are already residents residing at the property.
- Noise and disturbance as a result of a higher density of people residing at the property, late night gatherings and a lack of consideration for the neighbourhood's tranquillity which would impact on quality of life.
- The transient nature of HMO residents means that there would be a high turnover of residents making it difficult to establish a sense of communal responsibility and result in a lack of accountability for maintaining the property and safety of the area.

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.
- Paragraphs 3.3 refers to good design and states that *“...good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surrounding area.”*
- 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”*.
- 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”.

Technical Advice Notes (TAN):

- TAN 12: Design
- 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
- EcW9 District Heating

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.

Character and visual amenity

The application site is located within the Council Street and Urban Street Conservation Area and Urban Character Area 7. 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 not involve any alterations to the exterior of the property and the small bike store and car parking space 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.

It is appreciated 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). However, it cannot be argued that the introduction of a 3 bedroom HMO along Urban Street would lead to an over-concentration of HMO's resulting in significant harm, which would justify the refusal of the application on this basis. As such, the proposal would comply with LDP Policies SW11 and CW1.

Parking and highway safety

It is acknowledged that local residents have raised concerns in respect of the existing on-street congestion and the additional parking pressures that this proposed use could place upon the local area and highway safety. It is also noted that the application site does not currently benefit from any off-street parking provision. However, the proposal would include the creation of a single off street parking space in the rear garden, which would be accessed off the adjacent lane. Whilst it is recognised that this is an application for a three bedroom HMO, there is no change to the number of bedrooms being provided. Notwithstanding this, the parking requirements for the HMO would not differ to that of the existing dwelling. The proposal would also include the creation of one off-street parking space, which would be an improvement on the current situation.

It is not considered that a 3 bedroom HMO would significantly increase parking demand in the area and would not impinge on highway safety to any greater degree. In this regard, the Head of Engineering and Highways has not raised an objection. 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 the proposed use would be residential in nature. Similarly, the level of activity, and noise and disturbance associated with the comings and goings of the 3 persons who would reside at the property would not be dissimilar to that of a 3 bedroom dwelling. It is recognised that concerns have been raised in terms of anti social behaviour. However, this is a small scale HMO comprising of just three bedrooms and anti-social behaviour is not a problem exclusive to HMO uses but can come from residents of any type of property. It is also noted that the responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the Police, Public Health and Protection and social landlords. It is also appreciated that local residents may be concerned and feel unsafe regarding the uncertainty of who would occupy the property and their background. However, this is the case with any new neighbour and is not something that can be controlled by the local planning authority. Having regard to the above, and noting that no objections have been received from either the Environmental Health Manager or the police, it is not considered that the proposal would result in harm to residential amenity to an extent that would warrant the refusal of the application.

It is noted that the Environmental Health Manager has provided comments with respect to smoke detection, fire doors and emergency egress but these are matters that would be addressed under building regulations.

Finally, no concerns are raised with respect to the impact of the car parking space or bike shed in the rear garden. These are both developments which could be undertaken under a householders permitted development rights and their scale would not give rise to any unacceptable harm to the adjoining neighbours.

Having regard to the above the development is found to be acceptable in terms of residential amenity and thus would comply with Policy SW11.

Crime and anti-social behaviour

Following the publicity exercise, concerns have been raised that the proposal would result in crime and anti-social behaviour in the area. Whilst it is acknowledged that a high concentration of HMO developments can have a negative impact on crime levels in an area as a result of their transient nature, this application is for a single small scale (3 bedroom) HMO in an area where the proportion of such uses is low. As such it is not considered that approval of this use would give rise to a harmful or significant rise in crime. In addition, South Wales Police have not raised any concerns with respect to the approval of a HMO at this property or highlighted any issues with crime levels in its vicinity. 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. 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.

Ecology

Planning Authority's Ecologist has considered the scope of the proposed works and has indicated that no ecological survey works would be necessary. The proposed installation of a sparrow terrace on the rear elevation as an ecological enhancement is deemed to be satisfactory. As such no objection has been raised subject to this enhancement being provided, which can be secured by condition. Therefore, the proposal complies with Policies EnW1, EnW2 and EnW3 of the LDP.

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 only includes internal alterations and small bike store and parking area, 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.

Response to representations

As noted in the publicity section of this report, ten letters of objection were received in response to the proposed development. The matters relating to the character of the conservation area, parking, residential amenity, crime and anti-social behaviour have been addressed in the relevant sections above. In response to the other points raised the following comments are made:

- The direction of the CCTV camera would be regulated under different legislation and cannot be controlled by the planning authority. Whilst it is acknowledged that this may give the impression that trouble at the property may be expected, this may not be the case. In fact the presence of the CCTV camera suggests that the property would be monitored.
- This application was publicised in accordance with the statutory requirements with letters sent to surrounding dwellings and site notices displayed within the vicinity of the site.
- In respect of the potential impact that the proposed use may have on the property values and ability to sell, it should be noted that this is not a material planning consideration.
- The C4 Use Class covers shared houses or flats occupied by between three and six unrelated individuals who share basic amenities. However, given the size of the dwelling in question, it is considered unlikely that it could accommodate any additional bedrooms.
- The property may be relatively small but this is reflected in the number of bedrooms proposed. It is not considered that the use of the property as a HMO housing 3 persons would be any less suitable in size than the current 3 bedroom dwelling.
- It is considered unlikely that the proposal for a 3 bedroom HMO in place of the existing 3 bedroom dwelling would lead to more litter, recycling bins or general waste bins. However, this would not be a matter for the planning authority.
- Whether the developers have sent letters to the residents or not, would not impact on the determination of this application.
- It is not clear what work has commenced but the only external work would be the erection of the cycle store, which could potentially be implemented under permitted development rights. It is understood that there may be two people already occupying the property but this would not constitute a HMO and would still fall within the C3 Use Class.

Conclusion

Taking into account the above considerations, concerns raised by local residents and consultee responses, it is on balance considered that the proposal is acceptable and complies with the relevant LDP policies.

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 block plan, section, floor plans, rear elevation and bike shed elevations Drawing Number: 2967.C, Received on 22 January 2024.

Reason -To ensure compliance with the approved plans and clearly define the scope of the permission.

3. **BEFORE** the use hereby approved commences, details of the specification of the sparrow terrace shall first be submitted to and agreed in writing by the local planning authority **AND** installed in accordance with the approved drawing 2967.C. The sparrow terrace shall be retained in perpetuity thereafter.

Reason - Future Wales and Planning Policy Wales (Edition 12, February 2024) requires all development to maintain and enhance biodiversity and to accord with Policy EnW1 of the Merthyr Tydfil Replacement Local Development Plan.

4. 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 developer's attention is drawn to the comments and advice received from South Wales Fire and Rescue Service during the application process.
4. The developer's attention is drawn to the comments and advice received from Dwr Cymru Welsh Water during the application process.