

Delegated Decision Report

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| Application No: | 24/1046 | Statutory Expires: | Period 20th February 2025 |
| Site: | 19 Milman Street Newport NP20 2HR | | |
| Proposal: | PROPOSED CHANGE OF USE TO 7NO. BEDROOM HOUSE IN MULTIPLE OCCUPATION, INCLUDING SINGLE STOREY EXTENSION, BALCONY IMPROVEMENTS, GARAGE CONVERSION AND ASSOCIATED WORKS | | |
| Applicant: | Wheatle | | |
| Type: | Full | Ward: | Pillgwenlly |
| Decision: | REFUSED | | |

1. BACKGROUND

- 1.1 A House in Multiple Occupation (HMO) is a house occupied by people who are usually unrelated and have private bedrooms but shared facilities such as kitchens, living areas and bathrooms. Up to 2 unrelated tenants can reside in a property that is still classed as a C3 dwelling for planning purposes. However, once unrelated tenants exceed this number, the property is referred to as a HMO. In planning terms, up to 6 unrelated individuals is classed as a HMO in Use Class C4. Anything above 6 would be considered as a Sui Generis use (in a class of its own). In this case, 7 tenants are proposed. In a HMO, like a dwelling, the occupants are expected to live as a household, sharing facilities in the property. However, typically they will occupy with tenancy agreements or contracts per room/occupant. Whilst the house could be rented by a family or 3 or more unrelated individuals, it is a residence either way and rent may be paid to a landlord in either scenario.
- 1.2 The personal details of occupants themselves is not a planning matter. Neither is the reputation, background, business, etc of the landlord/owner. The Local Planning Authority will and can only concern itself with land use planning considerations in the public interest and consequently concerns for the identity of future HMO occupiers, the details of rental agreements and charges, the history and personal details of the landlord and other similar matters, will not ordinarily inform a planning application assessment and are not considered relevant to this case.

2. SITE LOCATION AND CONTEXT

- 2.1 The site location is positioned within the settlement boundary, in what is considered to be a sustainable location which is in close proximity to various services and facilities, such as the Mendalgief Retail Park and the local primary school. In addition, the site benefits from good public transport links.
- 2.2 The property is an end of terrace dwelling located in a residential area. Its front elevation faces Milman Street and its side elevation faces Wolseley Street. The front elevation of the dwelling provides pedestrian access into the property off Milman Street.
- 2.3 The existing dwelling consists of a lounge, dining room, kitchen and store to the ground floor and three bedrooms and a bathroom to the first floor. A workshop/outbuilding is positioned within the rear portion of the site, which is accessible off Wolseley Street. Generally, properties within the local area do not have access to off road car parking facilities.
- 2.4 The site is located within the defined limits of development, however it is not allocated for a specific purpose. The site is positioned within Flood Zone B of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and is within Flood Zones 2 and 3 (Sea).

3. DESCRIPTION OF DEVELOPMENT

- 3.1 The proposal seeks full planning permission for the change of use of a dwelling (C3) to a seven bedroom House in Multiple Occupation (HMO), along with a single storey extension, balcony and garage conversion. (A number of the rooms resemble bedsits given the facilities that they contain.)

- 3.2 The property offers a small front forecourt and small rear enclosed garden. The proposed accommodation would consist of four bedrooms (each with an en-suite shower room) and a communal kitchen/lounge spread across the ground floors of the existing dwelling, extension and converted outbuilding. The first floor of the existing dwelling would comprise of a further two bedrooms (both with en-suite shower rooms) and a communal study/refuge room. A communal patio area would be located on the roof top of the single storey projection and this would be accessed via the first floor hallway. The seventh bedroom of the HMO would be located within the first floor of the converted outbuilding. This bedroom would also be served by an en-suite shower room.
- 3.3 The proposed plans incorporate the construction of a single storey extension, which would connect the existing flat roof extension to the existing outbuilding and be located in place of a modest store building. The extension would measure approximately 4.7 metres in length, 2.5 metres in width and 3 metres in height. It is also proposed to use the flat roof of the existing rear extension as a communal roof top patio/balcony area which would be enclosed on its western and southern sides by 1.8 metre high privacy screens.
- 3.4 Externally it is proposed that the remainder of the application site would accommodate an outdoor amenity area, cycle shed and a bin storage area.

4. RELEVANT SITE HISTORY

- 4.1 None.

5. PLANNING POLICY

- 5.1 The National Development Framework: Future Wales - the National Plan 2040:

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 8 – Flooding

Policy 9 - Resilient Ecological Networks and Green Infrastructure

- 5.2 Planning Policy Wales (Edition 12) 2024:

3.3 - Good design is fundamental to creating sustainable places where people want to live, work and socialise.

3.4 - Meeting the objectives of good design should be the aim of all those involved in the development process and should be applied to all development proposals at all scales.

Technical Advice Note (TAN) 15: Development, Flooding and Coastal Erosion

- 5.3 Newport Local Development Plan (2011-2026):

SP1 (Sustainability)

SP3 (Flood Risk)

SP18 (Urban Regeneration)

GP2 (General Amenity)

GP4 (Highways and Accessibility)

GP5 (Natural Environment)

GP6 (Quality of Design)

GP7 (Environmental Protection and Public Health)

T4 (Parking)

W3 (Provision for Waste Management Facilities in Development)

H8 (Self Contained Accommodation and Houses in Multiple Occupation)

- 5.4 Supplementary Planning Guidance:

6. CONSULTATION RESPONSES

6.1 Natural Resources Wales (1st Response):

Flood Risk:

The planning application proposes highly vulnerable development (residential). The application site is within Zone B of the Development Advice Map (DAM) contained in TAN15 (2004). However, our Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and within Flood Zones 2 and 3 Sea. As confirmed in the letter from Welsh Government dated 15 December 2021, the FMfP represents better and more up-to-date information on areas at flood risk than the DAM. We note that the application documents indicate that:

- The current use of the application site is a vacant dwelling-house, the last use was a single dwelling-house and the proposed use is a house in multiple occupation.
- The first floor communal study is proposed as a refuge area.

Our advice is given on the assumption that the residential use of the application site has not lapsed, the proposal is for an HMO and your Authority is satisfied with the refuge space indicated on proposed plans. If any of these assumptions is incorrect please reconsult us. For clarity we have not considered the adequacy of the refuge area.

Having regard to the above, we consider the existing and proposed use is residential and therefore the vulnerability of the use is unchanged.

The proposal may result in a potential intensification of use and may create more pressure on emergency services should evacuation be required. Your Authority should be satisfied that the proposal is acceptable in terms of flood risk, particularly with regard to access and egress considerations and for emergency planning purposes, as such you may wish to request an FCA from the applicant to aid your decision making.

We note the Design and Access Statement submitted contains a section on flood risk, however, this is not informed by flood data and contains no flood depths and is therefore not in accordance with the technical criteria in Appendix 1 of TAN15.

If you have concerns regarding matters that we cannot advise you on, such as emergency plans, procedures and measures to address structural damage that may result from flooding, you should consider consulting other professional advisors on the acceptability of the developer's proposals. Please note, we do not normally comment on or approve the adequacy of flood emergency response and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

In areas at risk of flooding, we 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.

We refer the applicant to our website for further advice and guidance is available. Additional guidance including the leaflet "Prepare your Property for flooding" can be found here.

European Protected Species:

We recommend you seek the advice of your in-house ecologist to determine if there is a reasonable likelihood of bats, a European Protected Species, being present within the application site. If so, in accordance with Technical Advice Note 5: Nature Conservation and Planning (paragraph 6.2.2) a bat survey may be required.

The survey should be carried out in accordance with 'Bat Surveys for Professional Ecologists; Good Practice Guidelines 4th Edition' published by the Bat Conservation Trust 2023.

Foul Drainage:

We note the application form states that foul water is to be disposed of via mains sewer but that it is not proposing to connect to the existing drainage system. We advise your Authority needs to be satisfied the foul drainage arrangements are suitable.

Natural Resources Wales (2nd Response): NRW were advised by the Case Officer that it is considered that the proposed refuge area shown on the submitted plans would be unlikely to accommodate all of the ground floor occupants and their belongings during a flood event. As such, the following comments were then provided by NRW:

Further to your email indicating that you consider the communal study on the proposed first floor plans likely to be insufficient as a refuge, we advise that the matter of whether a proposed a proposed communal area is fit for purpose in terms of flood risk management is a matter for your Authority to determine. However, if you consider the communal study to be inadequate we advise you request the applicant submit an FCA to demonstrate A1.14 criteria of TAN 15 can be met; or submit an amended layout such that are no bedrooms on the ground floor; or submit an amended layout to provide an upstairs communal area that you consider to be fit for purpose that the occupants of the ground floor could use in the event of a flood.

6.2 Dwr Cymru Welsh Water: No objections, subject to conditions.

6.3 Gwent Police: I would ask are they going to be single sex properties? Will they be private tenants? Professionals? Housing couples? Will there be children at the properties?

Are they being leased to NCC? Homeless for example? Should that be the case will risk assessments be carried out before placing persons to take into account any substance use etc. This would only add to the concern around vulnerability and potential cuckooing.

Rent Smart Wales shows different agent to that on the application. Can this be verified please before this application is considered.

Property located in the heart of Pill. This area houses many young families and also many vulnerable persons. I am not sure that the area needs another HMO. There are many based in Pill.

This may also create issues from a policing point of view should persons placed here cause issues – be that ASB, crime and therefore increase demand on services. Will be heavily reliant on ensuring the right persons are placed in the right area and needs are met.

6.4 Local Highways Authority: The cycle parking relies upon chains and other unsuitable provisions. For a residential development a full enclosed, secure shed with Sheffield style racks I needed. This should be secured by way of condition.

The conversion does increase the parking requirements as set out in the SPD. The increase in the theoretical requirements is 4 additional residents' spaces plus a part visitor space. In addition, the proposals result in the loss of existing garage space. The total shortfall is therefore in the order of 5 or 6 spaces. That said the use of the garage is not considered safe and would only be supported with the removal of boundary walls to improve visibility.

The footway crossing must be made level /good if the vehicular access is removed. (refer to conditions and informative notes).

However, there is no reason to assume this would be problematic in this location as there are a lot of gable-ended properties. We would envisage a parking survey showing some additional capacity available, so any theoretical shortfall would be minimal.

In summary therefore there are no highway related objections subject to the following conditions.

Suggested Conditions:

Except for site clearance and remediation no development shall take place until a scheme to permanently close off the existing vehicular access on to Wolseley Street has been submitted to and approved in writing by the Council as Local Planning Authority. The scheme shall be implemented as agreed before any part of the development has been brought into use unless otherwise agreed in writing by the Council as Local Planning Authority.

Reason: To limit the number of access points to, and to maintain the proper construction of, the highway in the interests of road safety.

Except for site clearance and remediation no development shall take place until a scheme for the provision of cycle parking in accordance with the Council's current standards has been submitted to and approved in writing by the Council as Local Planning Authority. The scheme shall be implemented as approved before any part of the development is brought into use and shall be retained as such thereafter. Notwithstanding the provisions of the Town and Country Planning Act (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) no building works, which reduce this provision, shall take place except following the express grant of planning permission by the Council.

Reason: To ensure that adequate provision is made for parking cycles on the site; and to establish measures to encourage non-car modes of transport.

- 6.5 Ecology Officer: It's a borderline case in terms of bat roost potential, but on balance I would not ask for a bat survey on this occasion. The buildings are over 200m from the nearest foraging habitat, and bats generally roost close to where they can find food. The landscape is also well-lit with artificial light at night, which tends to deter bats.

If the application included demolition, then I might be more inclined to ask for a bat survey as an impact would be certain if a roost were present. But in this instance I think the works to the roofs of both buildings are relatively minor, so there is less potential risk of harm.

Normally if this proposal were consented I would ask that we attach a bat advisory note to any consent given, and ask for some proportionate enhancement measures, such as bat or bird boxes.

- 6.6 Drainage: Having reviewed the information, a SAB application may be required due to the scale of the works.

- 6.7 Environmental Health Officer: I would have concerns regarding the proposals due to bedroom 3 being an inner room, an 'inner room' situation present means that a room from which escape is possible only by passing through another room, and this inner room is high risk as the means of escape is through a kitchen (high risk room) to the exit in an event of a fire. There will have to be an adequate escape route for bedroom 3, this could be adding a suitable escape window or adding a door leading to the amenity area which would allow them to leave the property without passing through the high-risk inner room. The Environmental Health Housing Team would not allow there to be a tenant in room 3 with this hazard remaining.

I would have concern regarding the proposals due to the first-floor bedsit (bedroom 7) due to there being an inner room situation present which requires them to escape through the staircase and then through the kitchen/ lounge on the ground floor which is a high-risk inner room. It would be required that an adequate escape route would need to be in place where the tenants would escape without accessing the high risk room (kitchen/lounge).

The owner of the property will have to ensure adequate fire protection and separation, consideration must be made as this would be a hybrid HMO with a mix of bedsits and shared house, fire protection will need to be the highest grade. A Fire Risk Assessment should be completed by a competent person, so the owner/ landlord is aware of the fire safety requirements.

I would like to draw attention to room 7 ceiling heights in the proposed plans it states sloped ceilings, as part of the Mandatory HMO Conditions we can only count floor space which the

ceiling height is of 1.5 meters, for a one-person bedsit with kitchen facilities the rooms needs to be a minimum of 13m² (not including shower rooms).

6.8 Waste Officer: No response received.

7. PUBLIC REPRESENTATIONS

7.1 Neighbour and Ward member notification letters were sent on 2nd January 2025 and a Site Notice was displayed on 10th January 2025.

7.2 NEIGHBOURS: A total of seventy four letters of objection were received from members of the public. The main issues raised are summarised below:

- The proposed HMO is likely to result in undue noise and disturbance to surrounding neighbours during the day and night.
- The proposal would increase traffic congestion and exacerbate existing car parking problems in the local area.
- A Parking Survey should have been carried out.
- The proposal would detrimentally alter the character of the family orientated community.
- Concerns regarding the potential occupiers of the HMO.
- The proposed HMO would be overcrowded.
- The proposed HMO does not have adequate waste management provision which would lead to unsanitary conditions, posing health risks to both occupants and neighbouring residents.
- The proposal would lead to fly tipping in the locality.
- The proposed balcony area would overlook neighbouring properties, particularly the adjoining neighbour and lead to a significant loss of privacy.
- The proposed development would be a fire risk to two rows of terraces.
- There are enough HMOs in the locality – the area does not need any more.
- The application and the comments from agencies consulted do not make any reference to the disruption of the bats that roost in the rear garage and are a regular sight the local area.

7.3 COUNCILLORS: Councillor Saaed Adan and Councillor Debbie Jenkins were consulted on the proposal, with both raising objections. In addition, should the application be recommended for approval, both Councillors have requested that it be determined at the Planning Committee. The objections to the proposal are as follows:

Councillor Saaed Adan: On behalf of my dear residents of Pill, I formally object to the proposal due to the following concerns:

1. Fire safety risk:

The proposal poses significant fire safety risks, particularly concerning two of the bedrooms. One bedroom is classified as an inner room, while the other is located on the first floor. Both scenarios necessitate an escape route through a kitchen, which is recognized as a high-risk area during a fire. Additionally, the staircase design for one of the bedrooms raises further safety concerns. There is no supporting and weighty evidence provided in the proposal that mitigates these risks or offers a safe and adequate escape route for occupants. Furthermore, the ceiling heights in the proposed design fall below the required standards, exacerbating the fire safety concerns.

Given that this property is intended use of shared accommodation, fire safety measures should be of utmost priority.

These objections are substantiated by the statutory consultee response provided by Environmental Health, further underscoring the severity of the concerns outlined above.

2. Lack of sustainable drainage systems compliance and its impact on residents

The proposal does not provide evidence to show that the design of the change of use satisfies sustainable drainage system (SuDS) requirements. This omission could significantly impact residents in the following ways:

- **Increased risk of surface water flooding:**
Without adequate SuDS in place, rainfall and surface water may not be managed effectively. This could lead to water pooling or flooding in and around the property, creating safety hazards and disrupting access to the property.
- **Damage to property and infrastructure:**
Poor drainage design may result in water seeping into the building's foundations, leading to structural damage, mould growth, and damp conditions that could adversely affect the health and well-being of residents.
- **Environmental Impacts:**
Inefficient drainage can contribute to waterlogging, increased pressure on local sewer systems, and pollution of nearby water bodies, ultimately degrading the surrounding environment and impacting the quality of life for residents.
- **Inadequate future-proofing:**
As climate change exacerbates extreme weather patterns, including heavy rainfall, it is essential that the design incorporates sustainable drainage solutions. Failure to do so puts current and future residents at greater risk of experiencing severe weather-related disruptions.

The absence of any evidence to show compliance with SuDS requirements raises serious concerns about the suitability and long-term sustainability of the proposal. There is no evidence of a SAB application which is likely required due to the scale of the works.

Highways:

The proposed development would result in a net parking loss of seven spaces. This shortfall would exacerbate the already high demand for parking in this area, placing further strain on existing residents.

The applicant references underused parking spaces on the south of Mendalgief Road as a justification for the proposal; however, there is no parking survey or evidence provided to support this claim. A comprehensive parking survey, including both off-street and on-street data is essential to assess parking trends and determine actual needs.

The plan fails to demonstrate provisions for safe, secure and suitable bicycle storages. This omission is critical given the local context, where sustainable transport options is considered to mitigate existing parking pressures.

The lack of evidence addressing these issues raises concerns about the impact of the proposal on the local community, particularly the increased pressure on parking availability and the absence of alternative solutions.

As the current plan stands, the use of the garage is not considered safe, as it may impact visibility and pose a risk to safety.

Flood risk:

Developments in zone C1 should pass the justification test and provide a flood consequences assessment by an appropriately qualified person, in accordance with TAN 15 requirements. This assessment should include modelling data to show the velocity, rate of rise, and depth of flooding across identified escape or evacuation routes in all flood events, along with associated analysis and this has not been presented to mitigate risk of flood.

The applicant has failed to present a proper Flood Consequence Assessment (FCA). This is critical, as it would present the elements of safety, sustainability and ensure that it does not exacerbate flood risks for the site or surrounding areas. Therefore, this proposal can potentially present risk to human life, property and the environment.

Lastly, experiencing recent storms locally underscores the heightened flood risk, making a FCA even more critical.

Please note: Should you be inclined to consider approving this application at any stage, I kindly request that it be referred to the planning committee.

Councillor Debbie Jenkins: I would like to make a formal objection in regards to the above planning application at 19 Milman street. As you are aware there are already 53 HMO's in Pillgwenlly and the issues we face with some of these properties are detrimental to the area including excessive amounts of parking and fly tipping issues. I would like to meet with you to discuss these issues in detail please.

Also if you intend to allow this application to go ahead I would like it brought to the Planning Committee.

8. ASSESSMENT

8.1 Principle of Development:

8.1.1 In terms of the principle of the development, the application site consists of previously developed land within the defined urban boundary. The property currently appears to be vacant, however its most recent use was as a dwellinghouse (C3). It is considered that the reuse of the building would be consistent with Policies SP1 and SP18 and the general brownfield strategy within the Local Development Plan, which encourages the reuse of existing buildings.

8.1.2 Policy H8 (Self Contained Accommodation and Houses in Multiple Occupation) is relevant to the application and states:

Within the defined settlement boundaries, proposals to subdivide a property into self-contained accommodation, bedsits or a house in multiple occupation will only be permitted if:

- i. the scale and intensity of use does not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on street parking problems;*
- ii. the proposal does not create an over concentration of houses in multiple occupation in any one area of the city which would change the character of the neighbourhood or create an imbalance in the housing stock;*
- iii. adequate noise insulation is provided;*
- iv. adequate amenity for future occupiers.'*

8.1.3 Based, on the above, the general principal of the use of the upper floors of the building as a HMO is acceptable, subject to the proposal meeting the relevant criteria, which will be assessed further below.

8.1.4 In addition to the proposed change of use, the application proposes the construction of a single storey extension and the development of a roof top patio/balcony. The main considerations in relation to these elements of the scheme are their impact upon the character and appearance of the site and surrounding locality as well as their impact upon residential amenity. These considerations will be assessed further below.

8.2 Character and Appearance:

8.2.1 In terms of criteria i) of Policy H8, the streetscape is characterised by residential dwellings, which are generally terraced properties with enclosed rear gardens. Properties within the vicinity do not generally benefit from off street car parking provision, with residents parking their vehicles on the surrounding streets. The proposal seeks to retain a residential use for the property, which would be largely compatible with the local area. It is not therefore considered that the use alone would adversely impact the character and appearance of the area.

8.2.2 The proposed plans show the construction of a single storey extension, which would connect the existing flat roof extension to the existing outbuilding and be located in place of a modest store building. The extension would measure approximately 4.7 metres in length, 2.5 metres in width and 3 metres in height. It is also proposed to use the flat roof of the existing rear extension as a communal roof top patio/balcony area which would be enclosed on its western and southern sides by 1.8 metre high privacy screens.

8.2.3 There is already minimal undeveloped space within the application site and the construction of a further extension would result in the additional erosion of outdoor amenity space

associated with the property. The site is located on a prominent corner plot, with views into the site available from Wolseley Street to the east. It is considered that the introduction of further development in the form of the extension, along with the creation of the 1.8 metre privacy screens associated with the roof top balcony at first floor level, and the associated residential paraphernalia such as bike and bin storage would leave very little outdoor amenity space and as such would result in the overdevelopment of the site, to the detriment of the character and appearance of the area.

8.3 **Residential Amenity:**

8.3.1 The application site is located in a residential area and directly shares boundaries with adjacent residential dwellings to the south and west. The highways of Milman and Wolseley Streets are located adjacent to the northern and eastern boundaries of the site. The existing use of the property incorporates three bedrooms within the dwelling and no residential accommodation within the outbuilding which is currently used as a workshop/for storage. As such, the proposal would lead to a significant intensification of the residential use at the site.

8.3.2 It is considered that this intensification would result in harm to the occupiers of neighbouring properties, due to a greater degree of noise, activity and disturbance. In particular, the plans incorporate the use of the flat roof of the existing single storey extension as a rooftop patio/balcony area. Whilst it is acknowledged that the existing plans show an existing patio/amenity area in this location, this does not appear to have the benefit of planning permission and no decision has been made by the Local Planning Authority on the lawfulness of this raised amenity space. In addition, whilst the patio would include privacy screens, they would not stop all direct views into adjoining properties, neither would they greatly minimise noise and disturbance from the roof top. The residential use of the outbuilding would cause a privacy impact for neighbours given the rear facing windows. As such, it is considered that the proposed development would result in significant harm to the residential amenities of neighbours, contrary to Policies GP2 and H8 of the Newport Local Development Plan.

8.4 **Car Parking and Highway Safety:**

8.4.1 The site is located on Milman Street, which is subject to a 20mph speed limit. The existing dwelling has 3no. bedrooms and this generates a parking demand of 3no. spaces (calculated using the SPG). There is no parking on site, as it has been advised by the Council's Highways Officer that the use of the garage for car parking is not considered safe and would only be supported with the removal of boundary walls to improve visibility. The proposed 7no. bedroom HMO would require 1no. space per bedroom plus 1 visitor space, a total of 8no. spaces, which is a net gain of 5no. spaces and would need to be accommodated on the highway.

8.4.2 Existing parking problems and concerns regarding a worsening of the existing situation and subsequent highway safety matters have been raised as significant concerns within the resident objections and also the Local Councillor responses. The application has not been accompanied a Parking Assessment, however the Council's Highways Officer does not object to the proposals on the grounds of parking as it is considered that the additional spaces generated by the proposals can be accommodated on-street and do not significantly differ to the lawful use. In short, there is no substantiated highway safety objection to this application on parking grounds. Furthermore, the site is located within a highly sustainable location which offers a variety of amenities and public transport links.

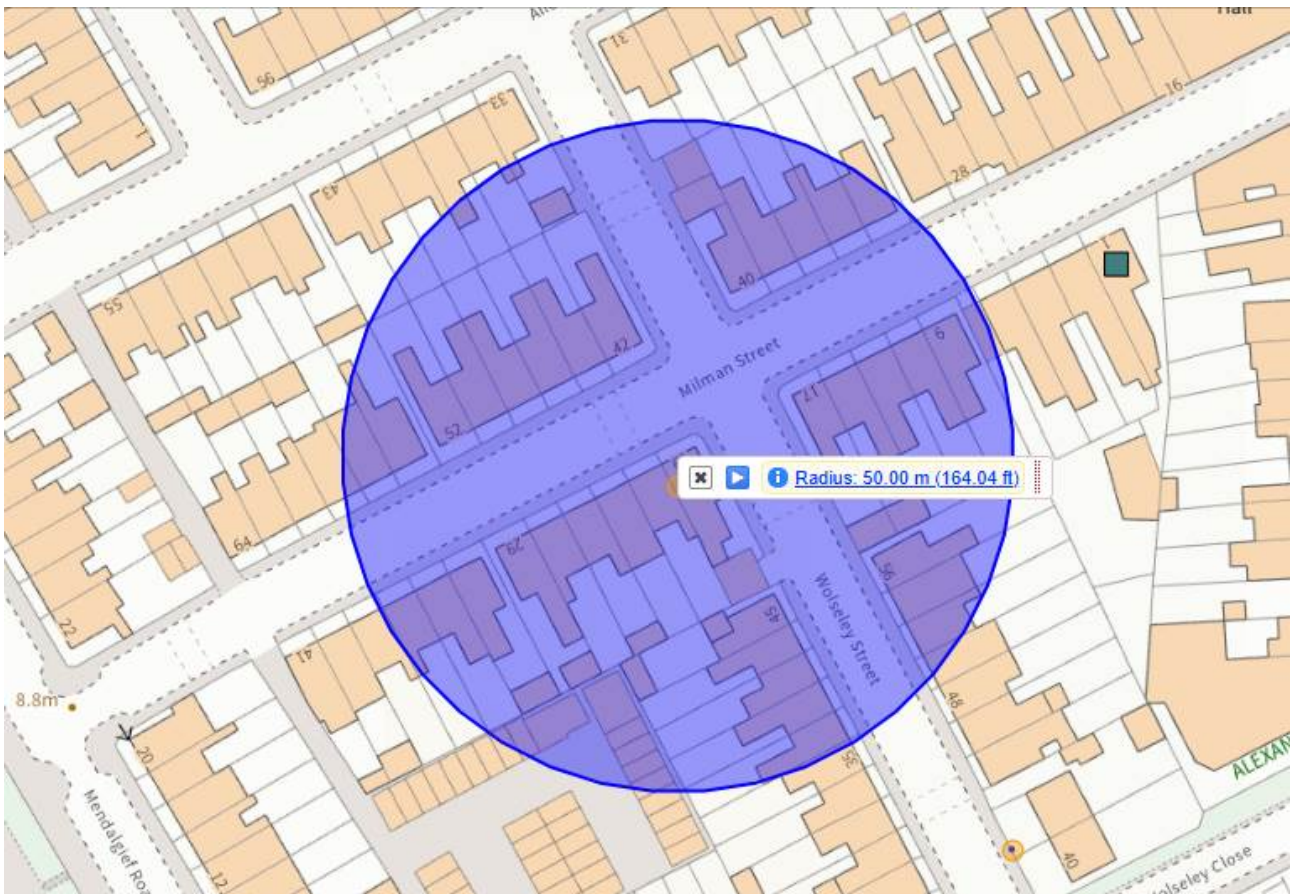
8.4.3 Inspectors at planning appeal will often assume that car ownership in HMO properties will be lower and most notably in sustainable locations, such as this. The Local Planning Authority may not agree with this stance, particularly where no evidence of it is given but being aware of recent appeal decisions, the generally positive attitude of the Welsh Inspectorate to HMOs in sustainable locations irrespective of whether they have off street parking, the policy move of maximum parking standards rather than minimum standards espoused in the SPG and the lack of objection from the Council's Highway Officer to parking, it is considered that there is no demonstrable adverse effect in relation to parking demand that could robustly be argued to impact upon highway safety or upon neighbouring amenity in this case.

8.4.4 The applicant has submitted details of cycle storage on the plans, however the Council's Highways Officer has raised concern as the cycle parking relies upon chains and other

unsuitable provisions. For a residential development a fully enclosed, secure shed with Sheffield style racks is needed. It is considered that this could be secured by way of condition.

8.5 Concentration of HMOs:

8.5.1 Criteria ii) of Policy H8 requires that the proposal does not create an over concentration of houses in multiple occupation in any one area of the city. Further to this, the adopted HMO SPG, which must also be afforded substantial weight in decision making, states that '*clusters of HMOs can alter the composition of a community and detract from local visual amenity.*' The guidance introduces a threshold above which HMOs are considered to detract from the character of the area. In general, the Council will not support a planning application that would take the number of HMOs, considered as a proportion of the local housing stock, above a specified limit. In 'defined areas' this limit is 15%, in other areas, 10%. This site is located within the 15% threshold area. When taking a 50m radius from the address point of the application site, no existing registered HMOs are present. This has been confirmed by the Council's HMO Licensing Officer. As such, if the application were to proceed, the concentration of HMOs within the 50 metre radius would remain as less than the 15% threshold. Consequently, HMO concentration levels are not grounds to refuse permission in this case.



8.6 Amenity of Future Occupiers:

8.6.1 Within the Housing in Multiple Occupation SPG, it outlines that rooms should be arranged and designed in a manner that maximises the living standards of occupants. For instance, living rooms, kitchens and bedrooms should neither overlook adjoining properties nor face high boundary walls. Living rooms, moreover, should not be next to, directly above or directly below a bedroom in a neighbouring property. It appears that adequate accommodation in terms of room sizes for the HMO use could be provided within the first and second floors of the building. In addition, it is considered that each bedroom would be served by a window which would provide natural light and ventilation. Notwithstanding this, the occupiers of the 7 bedrooms proposed would have only one internal communal area that would serve as both a kitchen and a lounge. This is considered inadequate to provide a reasonable level of amenity for future occupiers. In addition, concern has been raised by the Council's Environmental Health team that some of the bedrooms do not have adequate escape in the

event of a fire and require access through high risk inner rooms such as kitchens. This would however be considered in the event the applicant applies for a HMO licence.

8.6.2 The adopted HMO SPG states that 'HMO's should provide outdoor amenity space in which residents can relax, dry their clothes and store refuse and recycling bins. Shared amenity spaces will be acceptable so long as they can accommodate every resident of the properties they serve.' The property does include a communal space to the rear of the building as well as a roof top patio. As above, it is considered that the roof top patio would be unacceptable due to its character and appearance, as well as its impact upon residential amenity. Turning to the remainder of the outdoor amenity space, it is considered that this would be limited for a HMO of this scale when taking into account space also required for bike and bin storage. Due to its relatively small size, it would be of poor quality for sitting out, when considering the intensification of the use of the property.

8.7 **Flood Risk**

8.7.1 The planning application proposes highly vulnerable development (residential) and is considered to represent an intensification of the residential use of the site. The application site is within Zone B of the Development Advice Map (DAM) contained in TAN15 (2004). However, NRW's Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and within Flood Zones 2 and 3 Sea. As confirmed in the letter from Welsh Government dated 15 December 2021, the FMfP represents better and more up-to-date information on areas at flood risk than the DAM. Consultation of this application with NRW was required due to the site being located within Zones 2 and 3 of the NRW Flood Zone Maps.

8.7.2 NRW have advised that if the Council considers the communal study to be inadequate as a refuge area in the event of a flood, the applicant should submit an FCA to demonstrate A1.14 criteria of TAN 15 can be met. Technical Advice Note 15: Development and Flood Risk (TAN 15) sets out a precautionary framework and identifies that new development should be directed away from areas which are at high risk of flooding (defined as Zone C), and where development has to be considered in such areas, only those developments which can be justified on the basis of the tests outlined in the TAN are to be located in such areas.

8.7.3 Flood Risk Assessment

Section 6.2 of TAN 15 refers specifically to justifying the location of development and that such development should only be permitted within Zone C1 if determined by the planning authority to be justified in that location and 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 settlement; 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 in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.

8.7.4 For the purposes of this report, criterion (i) to (iii) are referred to as Test 1 as this relates to the site justification and criterion (iv) which has a number of tests is referred to as Tests 2 to 12.

8.7.5 **Test 1 – Location**

8.7.6 **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 settlement**

The application site is located within Zone B, however it is located within the updated Zones 2 and 3 of the FMfP. The property already benefits from an existing residential use, however the intensification from a single dwelling to a 7 bed HMO is not required to sustain the settlement.

8.7.7 It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1)

PPW defines previously developed land as: *Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage of the development is included, as are defence buildings, and land used for mineral extraction and waste disposal where provision for restoration has not been made through development management procedures.*

The development meets the definition.

8.7.8 Tests 2 to 12 – Consequences of Flooding

Moreover, criterion (iv) of paragraph 6.2 of TAN 15 refers specifically to the potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable. These are referred to as tests 2 to 12 below.

8.7.9 *Test 2 - Flood defences must be shown by the developer to be structurally adequate particularly under extreme overtopping conditions (i.e. that flood with a 1 in 1000 chance of occurring in any year).*

NRW have not objected to the development on the basis of inadequate flood defences.

8.7.10 *Test 3 - The cost of future maintenance for all new/approved flood mitigation measures, including defences must be accepted by the developer and agreed with Natural Resources Wales.*

No flood mitigation measures are proposed as part of the development.

8.7.11 *Test 4 - The developer must ensure that future occupiers of the development are aware of the flooding risks and consequences.*

The applicant is aware of the flooding risks and consequences and has outlined that an upstairs communal refuge area would be available for the ground floor occupants to utilise in the event of a flood. This room is also labelled as a study on the proposed plans.

The applicant has also advised that the property would be professionally managed and the Letting Agent is made aware of the potential flood risk, and that this information is shared with all of the tenants in the building.

8.7.12 *Test 5 - Effective flood warnings are provided at the site*

The applicant has confirmed all tenants would be signed up to the NRW Telephone Flood Warning Service, as would the Letting Agent and the applicant.

8.7.13 *Test 6 - Escape/evacuation routes are shown by the developer to be operational under all conditions*

It is advised that the Letting Agent and applicant would keep up to date flood maps at the property and walking routes would be prescribed.

TAN15 advises that access routes should be shown to be operational under all conditions and this information has not been provided. As such, this test is failed.

8.7.14 *Test 7 - Flood emergency plans and procedures produced by the developer must be in place*

The applicant has advised that the proposed conversion shall include the preparation of a Personal Flood Plan, as well as signing up to receive the latest information regarding Flood Warnings as a precaution.

The local planning authority does not have the in-house expertise to judge the effectiveness of the emergency plan. Planning Officers are therefore not in a position to comment upon the effectiveness of the flood emergency management arrangements. These procedures would be the responsibility of the developer.

8.7.15 *Test 8 - The development is designed by the developer to allow the occupier of the facility for rapid movement of goods/possessions to areas away from floodwaters.*

And,

Test 9 - Development is designed to minimise structural damage during a flooding event and is flood proofed to enable it to be returned to its prime use quickly in the aftermath of the flood.

The application site is an end of terrace property and being a conversion there are limitations as to what can be designed to minimise structural damage, however given the age and build of the property it is considered less likely that structural damage will occur. Notwithstanding this, it is not considered that the development has been designed to allow the occupiers on the ground floor of the facility to rapidly move goods and possessions to an area away from floodwaters as there is not sufficient space available on the first floor to facilitate this.

8.7.16 Test 10 - No flooding elsewhere.

NRW do not object to the development on this basis.

8.7.17 Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.14) of development for either a 1 in 100 chance (fluvial) flood event, or a 1 in 200 chance (tidal) flood event including an allowance for climate change (depending on the type of flood risk present) in accordance with table A1.14.

No details have been provided to enable an assessment to be made.

8.7.18 Test 12 – In respect of the residual risk to the development it should be designed so that over its lifetime (A1.15) in an extreme (1 in 1000 chance) event there would be less than 600mm of water on access roads and within properties, the velocity of any water flowing across the development would be less than 0.3m/second on access roads and 0.15m/second in properties and the maximum rate of rise of floodwater would not exceed 0.1m/hour.

No details have been provided to enable an assessment to be made.

8.7.19 The proposal results in the intensification of the residential use of the site. The details submitted with the application do not cover the 100 year lifetime of the development, neither are the details submitted clear on the extent of flooding of the access and egress routes when the climate change allowance is considered. To mitigate the risks of flooding the applicant proposes a flood refuge room at first floor level, which would also be used as a study by occupants of the property. It is not considered that this area would function effectively as a refuge space due to its limited size, which is unlikely to adequately accommodate all ground floor occupants and their belongings.

8.7.20 Two recent appeal decisions relating to sites within Newport are considered to be comparable and relevant to this application:

20 Usk Street (Appeal Reference CAS-03636-B2W3F7) (LPA reference 24/0401)

8.7.21 Paragraph 7 states *'To mitigate the risks of flooding the appellant proposes a flood refuge room and first floor landing for occupants of the two ground floor bedrooms to retreat to during a flood event. I am not persuaded that the landing area would function effectively as a refuge due to its limited size and the need to maintain access to bathroom facilities for occupants of bedrooms without ensembles. The proposed flood refuge room would, therefore, be the only practical option in a flood event. Whilst its shared use may not be a significant issue given the temporary nature of a flood event, its modest size, combined with its awkward shape and narrow proportions, is unlikely to adequately accommodate both ground floor occupants and their belongings. I acknowledge there is likely to be reasonable forewarning of a flood event, and I have had regard to the other mitigation measures set out in the FCA, such as flood resistant measures and occupants being signed up to NRW's flood warning, which are likely to mitigate some consequences of flooding. Nevertheless, I find that the proposed measures would not sufficiently minimise risk to life and property.'*

8.7.22 Paragraph 8 states *'I have had regard to the existing residential use of the appeal property, which could have bedrooms on the ground floor, and the lack of objection from Natural Resources Wales. However, unlike occupants of a HMO, single household occupants*

would typically have access to the entire upper floors for refuge during a flood event, reducing the risk to them and their belongings.'

11 Coverack Road (Appeal Reference CAS-01957-T4T0Q8) (LPA reference 22/0159)

- 8.7.23 Paragraph 7 states 'In refusing the application, the Council raises concern regarding the suitability of the refuge space available to occupiers of the ground floor bedrooms during a flood event. There is some dispute regarding the exact measurements of the space available and, although the appellant has provided sketches, these lack sufficient clarity to provide certainty. In any case, it is apparent from the floor plans submitted that the available space would consist mainly of a small landing area on the first floor. Given its modest proportions, I do not consider this would provide sufficient or suitable refuge space for the two occupiers of the ground floor bedrooms, in addition to their belongings, for the duration of a flood event.
- 8.7.24 Paragraph 8 states 'Whilst the appellant has identified the loft area as also being available for refuge, this would be accessed via a telescopic ladder, which is unlikely to provide quick or practical access for occupiers and the movement of possessions. I note the appellant's intention to let the property fully furnished, however, this would not prevent occupiers from keeping their own furniture and other belongings within their rooms. Whilst some flood warning measures are proposed and tenants would be made aware of the flood risk, this would not address the lack of suitable safe refuge space in the event that flooding occurs.'
- 8.7.25 Based on the above, it is considered that the proposed development would cause harm to the safety and living conditions of future occupiers, with regard to flood risk, and would fail to comply with Newport Local Development Plan (LDP) Policy SP3, which requires that development be directed away from areas where flood risk is identified as a constraint, in addition to the requirements of TAN 15.

8.8 Section 106 Planning Obligation matters

In accordance with Policy SP13 of the adopted Newport Local Development Plan 2011-2026 and the adopted Planning Obligations Supplementary Planning Guidance, development will be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the sustainability of the location. In this case, the development represents a net nil gain in residential dwellings. As such, no affordable housing obligations are requested.

8.9 Biodiversity Enhancement

- 8.9.1 Policy 9 of Future Wales states that in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated. Policy GP5 of the NLDP supports this and states that proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. No Green Infrastructure Statement has been submitted and no ecological enhancement is proposed as part of the development, however given the scale of development there is no reason why this could not be achieved through a suitably worded planning condition and does not need to form a reason for refusal.
- 8.9.2 It is noted that local residents have indicated that roosting bats may be present within the existing outbuilding, and as such a Bat Survey should form part of the submission. The Council's Ecologist has advised that on balance the Council would not ask for a Bat Survey on this occasion. This is because the buildings are over 200m from the nearest foraging habitat, and bats generally roost close to where they can find food. The landscape is also well-lit with artificial light at night, which tends to deter bats. If the application included demolition, then the Council may be more inclined to ask for a Bat Survey as an impact would be certain if a roost were present, however in this instance, the works to the roofs of both buildings are relatively minor, so there is less potential risk of harm. Notwithstanding this, if this proposal were consented a bat advisory note would be attached to the Decision Notice.
- 8.9.3 Based on the above, due to the lack of Green Infrastructure Statement and with no ecological enhancement, the proposal is currently not compliant with the aims of Policy 9 of Future

Wales or Policy GP5 of the NLDP 2011-2026 (adopted January 2015), however given the nature and scale of the development, details of ecological enhancement can be conditioned to overcome this concern.

8.10 Other Issues

8.10.1 The personal details of future occupants of a HMO are private interest matters and not ordinarily material considerations for planning. Similarly, property values are ordinarily a private matter and not a point of public interest applicable to the planning consideration. Whilst the scope of material considerations is wide, in this case these issues are not considered material to the evaluation.

9. OTHER CONSIDERATIONS

9.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

9.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

9.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

9.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

9.5 *Planning (Wales) Act 2015 (Welsh language)*

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

9.6 *Newport's Well-Being Plan 2018-23*

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

10. CONCLUSION

10.1 The proposed development fails to satisfy the requirements of the Newport Local Development Plan. The development would result in an unacceptable standard of amenity for adjoining neighbours, as well as for future occupiers. It would result in the overdevelopment of the site and would fail to ensure future occupiers of the HMO would be

safe in the event of a flood. In addition, it would also fail to ensure there would be a biodiversity net benefit. As such, the proposal is contrary to Policies GP2, GP5, GP6, SP1, SP3 and H8 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

11. DECISION

REFUSED, for the following reasons:

- (01) The proposed development, by reason of significant intensification of occupation would give rise to an unneighbourly effect arising from a greater degree of activity, noise and disturbance. The rooftop balcony, which does not have the benefit of planning permission, would have an adverse impact on neighbours by reason of loss of privacy, overbearing impact of the privacy screen and noise and disturbance from the increased number of users of the balcony which is at an elevated and prominent position in relation to neighbours. The residential use of the outbuilding would cause a privacy impact for neighbours given the rear facing windows. This is contrary to Policies GP2 and H8 of the Newport Local Development Plan, 2011-2026 (Adopted January 2015).
- (02) The proposed development constitutes overdevelopment of the site, increasing built form, reducing external outdoor amenity space leaving a relatively small external amenity space, with poor quality for sitting out, when considering the intensification of the use of the property. The occupiers of the 7 bedrooms proposed would have only one communal area that would serve as both a kitchen and lounge, which is inadequate to provide a reasonable level of amenity for future occupiers. This is contrary to Policies GP2, GP6 and H8 of the Newport Local Development Plan, 2011-2026 (Adopted January 2015).
- (03) The proposal would have a significant adverse effect on interests of acknowledged importance, namely safety and residential amenity by reason of flooding. The proposal results in an intensification in occupation and the provision of bedrooms on the ground floor with the first-floor refuge being far too small to cater for the number of proposed residents and their personal possessions. No information has been submitted that mitigates this objection, contrary to Policy SP3 of the Newport Local Development Plan 2011-2026 (Adopted January 2015) and Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004).

NOTE TO APPLICANT

- 01 This decision relates to plan Nos: Location Plan, KD1988 1 Existing, KD1988 2 Proposed and Design and Access Statement.
- 02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). SP1 (Sustainability), SP3 (Flood Risk), SP18 (Urban Regeneration), GP2 (General Amenity), GP4 (Highways and Accessibility), GP5 (Natural Environment), GP6 (Quality of Design), GP7 (Environmental Protection and Public Health), T4 (Parking), W3 (Provision for Waste Management Facilities in Development) and H8 (Self Contained Accommodation and Houses in Multiple Occupation) were relevant to the determination of this application.
- 03 Newport City Council's Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance (Updated January 2017) and Parking Standards Supplementary Planning Guidance (Adopted August 2015) were relevant to the determination of this application.
- 04 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.