

45/2021/0740



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WARD : Rhyl South East

WARD MEMBER(S): Cllr Brian Blakeley
Cllr Cheryl Lynne Williams

APPLICATION NO: 45/2021/0740/ PC

PROPOSAL: Retrospective application for the change of use of dwelling (Use Class C3) to form a house of multiple occupancy (Use Class C4) for 4 people

LOCATION: 3 Lon Taylor Rhyl LL18 4FT

APPLICANT: Mr T Skelley Cartrefi Conwy

CONSTRAINTS: None

PUBLICITY UNDERTAKEN: Site Notice - Yes
Press Notice - Yes
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant / approve – Town / Community Council objection

CONSULTATION RESPONSES:

CITY/TOWN/COMMUNITY COUNCIL

"The Town Council wish to strongly object to this application which is considered contrary to Policy BSC7 of the Adopted Local Development Plan which reads:

Policy BSC 7 – Houses in Multiple Occupation & Self-Contained Flats Proposals which would lead to the creation of Houses in Multiple Occupation or non self-contained flats will not be permitted.

The justification provided by the applicant in their covering letter for the change of use is considered to be unacceptable and concerning and seems to suggest that because the proposed end users are being recruited from abroad it is acceptable for them to be housed in what is considered by the Council to be substandard form of accommodation.

The letter confirms that the intention is that the use would be ongoing and that the property would act as a halfway house for the health workers who would be rehoused in alternative accommodation once available and that their families would subsequently join them. This raises concerns that should the families' join them before alternative accommodation is identified there is the possibility that they would seek to share the accommodation resulting in overcrowding.

The Council is aware that the County Council, Welsh Government and numerous other public bodies have spent many millions of pounds to remove the HMO's from Rhyl (hence the firm policy BSC 7) and consider that should this application be permitted it would establish a precedent and planning use that HMO's are now acceptable

The Council is also concerned that the Housing Association have effectively removed from the social housing register three 4 bedroom houses which are considered to be in great demand locally.

The Town Council would request immediate priority enforcement action be taken by the County Council to reinstate this property to its approved use".

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

- Highways Officer
No objection

Strategic Housing & Policy Officer

The policy stance is clear and an application to convert single dwelling houses into HMOs would normally be not supported. There are however material considerations that outweigh the adopted policy in this instance. Recommend granting temporary permission.

RE-CONSULTATION RESPONSES (IF RELEVANT)

RHYL TOWN COUNCIL

Objection

“The Council note the additional representations made by the developer in respect of this application but do not consider that they are sufficient to alter the Town Council's previous strong objections”.

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Loren Peake, 22 Llys Walsh Rhyl

Summary of planning based representations in objection:

Visual amenity- impact on character of the area

Potential for anti-social behaviour and disturbance

EXPIRY DATE OF APPLICATION: 30/09/2021

EXTENSION OF TIME AGREED: 20/04/2022

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant
- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

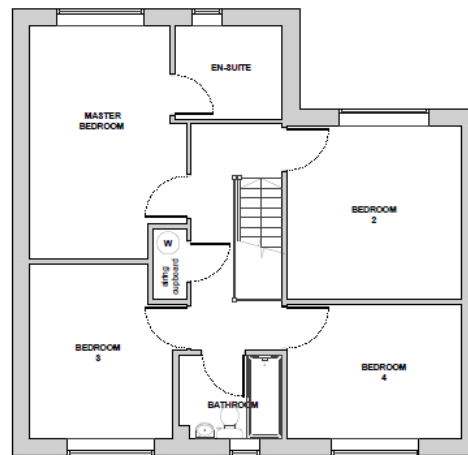
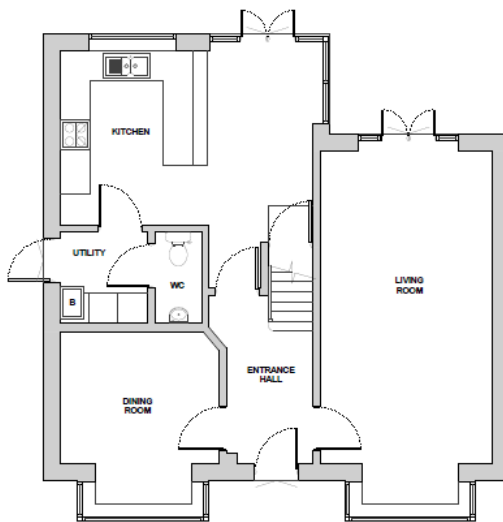
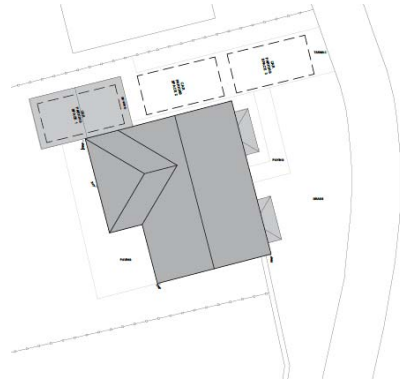
1.2 Members will note this item was deferred from the previous Committee (April) as it was considered to be politically sensitive to be deliberated during the “pre-election period”.

1.3 The application proposes the retention of the change of use of 3 Lon Taylor in Rhyl. It is proposed to use the Class C3 Dwelling as a C4 House in Multiple Occupation i.e. a small HMO.

1.4 The application is one of 3 similar proposals put forward by Cartrefi Conwy Housing Association. The applications seek to regularise the use of 3 properties on the Parc Aberkinsey estate in Rhyl, which with the agreement of the Council had been used to house nurses working for Betsi Cadwaladr Health Board during the Covid 19 Pandemic (see more details below).

1.5 The four bedroom dwelling at no. 3 has living accommodation on the ground floor comprising a kitchen, dining room, living room utility and wc. One of the four first floor bedrooms has an en suite, and there is also a larger shared bathroom.

1.6 There is a rear garden area and parking to the side of the dwelling for 3 vehicles.
See plans and photograph of dwelling below:



1.7 Other relevant information/supporting documents in the application

- 1.7.1 In support of the application the Agents have submitted a detailed Statement setting out the background to the proposals. Betsi Cadwaladr University Health Board approached Cartrefi Conwy for assistance with accommodation as they were struggling to recruit staff owing to accommodation issues. Cartrefi Conwy entered into a Memorandum of Understanding with BCUHB to support them in accommodating their workforce.
- 1.7.2 It was acknowledged that the current hospital accommodation is substandard so Cartrefi Conwy's role was to support and advise all staff of their housing options, to promote the different tenures of housing open to them and to find them safe, suitable accommodation as part of their recruitment package to enable them to attract UK wide staff to the area.
- 1.7.3 The recruits come from abroad on a contract which initially requires them to start their employment with a 3 month nursing skills/education transfer course, and after this 3 months they are ready to start work formally on local wards. During the initial 3 month period the nurses are housed by BCUBH. As rental accommodation was becoming more difficult to find, particularly for groups of nurses Cartrefi Conwy approached the Council with the proposal to use 3 of their housing stock on Aberkinsey for the nurses. Given the very unique set of circumstances and the pressures on BCUHB during the crisis, the Council took a pragmatic approach and accepted the temporary breach albeit on an informal basis. Once the two year period of agreement ceased BCUHB

staff have left the dwellings and they are now empty while these applications are being considered.

- 1.7.4 In terms of the occupancy, the nurses are generally recruited in groups of 8, their employment 'package' usually includes coordinated flights for each individual, initial accommodation and training. The groups are usually housed in single gender accommodation (and no family members are permitted to travel with them). The coordinated approach for the arrivals was critical during the Covid 19 Pandemic given the travel restrictions and requirements to isolate on arrival etc. The location of the accommodation was also important, as the nurses needed to be housed in locations close to public transport to enable them to travel to their wards, mainly at Ysbty Glan Clwyd. As such Aberkinsey was an ideal location.
- 1.7.5 Cartrefi Conwy are the landlords and managing agents for the accommodation. As mentioned above as part of the tenancy agreement nurses families are not permitted to join them in this accommodation. However as mentioned above Cartrefi Conwy offer additional support to BCUHB to find the nurses long term family accommodation if they do decide to settle in the area. They have advised that most of the arrivals so far have wanted to settle and they have assisted in moving a number of nurses on to long term properties in the private sector to allow their families to join them.
- 1.7.6 Lastly it is important that Members note that these dwellings were not subject to Section 106 or intended to be social housing units in agreement with the Council. Aside from the Section 106 on Aberkinsey, Cartrefi Conwy purchased 81 properties on Phase 3 and 4 directly from developers Anwyl. The 3 dwellings were always going to be offered at market rent and advertised on the open market for anyone to apply for subject to affordability.

1.8 Description of site and surroundings

- 1.8.1 The four bedroom detached dwelling is located on Aberkinsey, a residential development still partially under construction in South East Rhyl.

1.9 Relevant planning constraints/considerations

- 1.9.1 The site is located within the development boundary of Rhyl.

1.10 Relevant planning history

- 1.10.1 Aside from the parent permission there have been no subsequent applications of interest on this dwelling.

1.7 Other relevant background information

- 1.10.2 Additional information was provided by the Agent and Cartrefi Conwy to address the concerns of the Town Council following their initial objection. The Town Council were re-consulted on the additional information including a background and explanatory note, and a copy of the sample tenancy agreement. However the Town Council maintained their objection as reported at above.
- 1.10.3 Use Class C4 was introduced in February 2015, the C4 HMO use applies to shared houses occupied by between three and six unrelated individuals who share basic amenities. For the purposes of Class C4 a 'house in multiple occupation' has the same meaning as in section 254 of the Housing Act 2004 and does not include a converted block of flats to which section 257 of the Housing Act 2004 applies. To fall within the 'house in multiple occupation' definition a property must be occupied as the main residence. A traditional HMO containing more than 6 occupiers remains a Sui Generis Use.

2. **DETAILS OF PLANNING HISTORY:**

- 2.1 None of recent relevance.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy BSC7 – Houses in multiple occupation and self-contained flats

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Residential Space Standards

Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021

Development Control Manual November 2016

Future Wales – The National Plan 2040

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned.

The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

4.1.1 Principle

4.1.2 Visual amenity

4.1.3 Residential amenity

4.1.4 Highways (including access and parking)

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site is located within the development boundary of RD1 allocation of Rhyl, where the principle of new residential development is considered acceptable.

Policy BSC 7 – Houses in Multiple Occupation & Self-Contained Flats is the most relevant policy to consider in relation to the application.

The policy states:

Proposals which would lead to the creation of Houses in Multiple Occupation or non self-contained flats will not be permitted.

The sub-division of existing premises to self-contained flats will be permitted provided that all the following criteria are met:

- i) the property is suitable for conversion to the number and type of flats proposed without unacceptably affecting the character, appearance and amenity standards of the locality (including cumulative effects of such proposals); and
- ii) the proposal conforms to the Council's approved space and amenity standards.

The Town Council and a local resident have raised concerns over the principle of the change of use.

The policy stance is clear and an application to convert single dwelling houses into HMOs would not normally be supported. As stated above Planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise. In this case, the following material considerations have to be given weight.

Firstly it is important to note that the LDP and BSC 7 policy pre-dates the introduction of the amendments to the Use Classes Order and the introduction of Class C4 small HMO use class. The supporting text of the policy acknowledges there is a high concentration of HMO's and small flats in the Coastal towns of the County, and this had an impact on the area and living conditions of the residents. However Officers consider that there is a distinction between the small C4 HMO's proposed here and the traditional HMO that the policy seeks to resist. The application is seeking retention of a small C4 HMO for a very specific purpose as set out in the application to house nursing staff. The four bedroom new build dwellings have adequate amenities in terms of space, living accommodation, utility and amenity facilities. They are not considered to be substandard in any way, unlike the poor quality HMO and flatlet/bedsit accommodation that policy BSC 7 intended to address.

Secondly the properties are owned and managed by Cartrefi Conwy (a Registered Social Landlord) under contract to Betsi Cadwaladr University Health Board for housing nurses brought into Wales to work in local hospitals. The properties provide a base for them to start work immediately and then to look for permanent accommodation once settled. These nurses are essential workers and have moved here to support the NHS since the Covid 19 pandemic and going forward. The properties have been operating as small HMOs for some time without any apparent adverse impacts on the surrounding area or adjacent occupiers.

Thirdly and linked to the first point in relation to the standard of the accommodation, the properties are new build and are located in an area where there are no other registered HMOs currently. Whilst the policy stance is clear, it is considered that as the properties are owned and managed by a Registered Social Landlord there is a degree of confidence that they will be well managed. Furthermore it is suggested that the potential for a temporary permission (say 5 years) and/or a personal permission to Cartrefi Conwy might be acceptable given the need for essential workers currently. A temporary permission would also allow for continued monitoring of the properties to ensure that there are no adverse impacts on the local area.

Given the additional material considerations set out above it is considered that there is sufficient planning merits to outweigh what could be argued to be an outmoded policy in relation to HMO's. However as Officers are mindful of the experiences of the Council in relation to HMO's, and the concerns raised by the Town Council and Members in relation to HMO's, it is considered prudent to condition the use for Cartrefi/ essential workers and for a temporary period only to enable review.

4.2.2 Visual amenity

Criteria i) of Policy RD 1 requires that development respects the site and surroundings in terms of siting, layout, scale, form, character, design, materials, aspect, micro-climate and intensity of use of land/buildings and spaces around and between buildings.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment.

The visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

The use of the dwelling as a small HMO would not alter its appearance in any way. No physical changes are proposed to the property to facilitate the change of use.

The proposal is therefore considered acceptable in relation to the visual amenity policies and guidance listed above.

4.2.3 Residential amenity

Criteria vi) of Policy RD 1 requires that proposals do not unacceptably affect the amenity of local residents and land users and provide satisfactory amenity standards itself.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration. The impact of the proposals on visual amenity is therefore a basic test in the policies of the development plan.

There are local concerns expressed at the amenity impacts of the use.

The dwellings are four bedroom properties and are specified to be used for 4 individuals only. The dwellings are existing relatively new builds which meet current floor space standards in terms of internal arrangements and external space.

In terms of the intensification of the use and impact on adjacent occupier's amenity, Officers have no evidence to prove that the occupiers to date have caused noise or disturbance issues locally and as landlords Cartrefi Conwy have advised that they have not had problematic tenants.

Furthermore it is acknowledged the use of the dwellings for four individuals may actually be less intense than the use of the four bedrooms dwelling as a traditional family home with potentially 5/6 occupiers.

The proposal is therefore considered acceptable in relation to the residential amenity policies and guidance listed above.

4.2.4 Highways (including access and parking)

Local Development Plan Policy RD 1 supports development proposals subject to meeting tests (vii) and (viii) which oblige provision of safe and convenient access for a

range of users, together with adequate parking, services and manoeuvring space; and require consideration of the impact of development on the local highway network.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.

The existing dwelling is a four bedroom dwelling and the C4 HMO would be occupied by 4 individuals. Whist Cartrefi Conwy advised that the locations are sought to be close to public transport and the occupants are not likely to have vehicles the parking capacity must still be considered. The parking arrangements would remain as existing with capacity for at 3 least cars. The parking standards advise that 3 spaces would be required for an equivalent size dwelling. The Highways Officer has been consulted and advised verbally that there is no objection to the scheme.

Having regard to the nature of the proposed development and existing arrangements, it is considered that the proposals would not have an unacceptable impact on highway safety. It would therefore be in general compliance with the tests of the policies referred to.

Other matters

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

5.1 Having regard to the detailing of the proposals, the potential impacts on the locality, and the particular tests of the relevant policies, and other material considerations Officers consider that the application is acceptable and subject to conditions is recommended for grant.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development to which this permission relates shall be begun no later than 15th June 2027
2. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition
 - (i) Location Plan (Drawing No. OT-1038-PL04) - Received 31 July 2021
 - (ii) Site Plan (Drawing No. OT-1038-PL05) - Received 31 July 2021
 - (iii) Floor Plans (Drawing No. OT-1038-PL06) - Received 31 July 2021
 - (iv) Catrefi Conwy Supporting Statement - Received 13 December 2021
 - (v) Assured Shorthold Tenancy Agreement Example - Received 13 December 2021

(vi) Letter From Betsi Cadwaladr University Health Board (Dated 24/11/21) - Received 13 December 2021

3. The C4 HMO hereby approved shall be used solely for purposes as described in the application and supporting documents, and shall only be used to house four key workers only.
4. The C4 HMO use enures for the benefit of Cartrefi Conwy (providing essential workers accommodation only) for a period of 5 years. Should the use of the property as a C4 small HMO for essential workers cease prior to the expiry of 5 years, the property will revert to a C3 dwelling.

The reasons for the conditions are:-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure a satisfactory standard of development.
3. For the avoidance of doubt and in the interests of residential amenity.
4. For the avoidance of doubt and in the interests of residential amenity.