

PLANNING COMMITTEE	DATE: 02/03/2020
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	CAERNARFON

Number: 2

Application Number: C19/0995/11/LL

Date Registered: 25/10/2019

Application Type: Full - Planning

Community: Bangor

Ward: Deiniol

Proposal: Revoke condition 3 of planning application C19/0323/11/LL which restricts two out of the eight units as affordable units

Location: 233-235, High Street, Bangor, LL57 1PA

Summary of the Recommendation: TO APPROVE WITH CONDITIONS

PLANNING COMMITTEE	DATE: 02/03/2020
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	CAERNARFON

1. Description:

1.1 Members will recall that this application was deferred at the January 2020 Committee in order to receive additional information regarding the rental prices of the living units, and specifically the affordable units which are to be provided as part of the proposal.

1.2 In order to remind Members, this is a full application to revoke condition 3 of planning permission C19/0323/11/LL which restricts two out of the eight units as affordable units. The condition states:-

‘The development shall not begin until a scheme for the provision the 2 affordable units as part of the development has been submitted to, and approved in writing by the Local Planning Authority. The affordable units shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of Planning Policy Wales, Technical Advice Note 2: Planning and Affordable Housing, or any future guidance that replaces it. The scheme shall include:

- i) the timing of the completion of the 2 affordable units;*
- ii) the arrangements for the management of the affordable units;*
- iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable units; and*
- iv) the occupancy criteria to be used for determining the identity of occupiers of the affordable units and the means by which such occupancy criteria shall be enforced.’*

1.3 The condition was imposed as clear and definitive information had not been submitted (specifically the open market price), as part of the previous application for the affordable provision. Nevertheless, it was considered that there was sufficient information to ensure that the Local Planning Authority could assess the application from the perspective of being able to ensure provision/an appropriate number of affordable housing as part of the application and in order to address the need. On these grounds, a planning condition was imposed to agree on a plan to provide and ensure that two out of the eight units were affordable initially and in the long-term.

1.4 In order to support the application, the following documents were submitted:- A Supporting Planning Statement, Viability Assessment Proforma, Property Valuation Report from a competent Chartered Surveyor company, as well as quotations for undertaking the conversion work.

1.5 The site is located on the High Street in Bangor and the associated planning permission is application number C19/0323/11/LL, which related to converting the first and second floors of the building into residential units. The Committee approved this application in July 2019.

2. Relevant Policies:

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that planning decisions should be made in accordance with the Development Plan, unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Local Development Plan.

PLANNING COMMITTEE	DATE: 02/03/2020
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	CAERNARFON

2.2 The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet the seven well-being goals within the Act. This report has been prepared in consideration of the Council's duty and the 'sustainable development principle', as set out in the 2015 Act. In reaching the recommendation, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

2.3 **Anglesey and Gwynedd Joint Local Development Plan 2011-2026 adopted 31 July 2017:-**

Policy PS18 - affordable housing

Policy TAI15 - threshold of affordable housing and their distribution

Supplementary Planning Guidance (SPG): Affordable Housing (2019).

2.4 **National Policies:**

The Welsh Government Circular 016/2014 - The Use of Planning Conditions for Development Management.

Technical Advice Note (TAN) 2: Planning and Affordable Housing (2006).

Planning Policy Wales, Edition 10 (2018).

3. **Relevant Planning History:**

3.1 Planning application number C19/0323/11/LL - convert the first and second floors of the building into residential units, approved in July 2019.

4. **Consultations:**

Community/Town Council:	Object on the grounds that no material changes have been made which would allow for the discharge of this condition. There is a real need for affordable housing in Bangor and the original application was approved based on this need.
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Strategic Housing Unit:	In this case, confirmation was received of the open market price of the affordable housing that are based on the requirements of the Red Book (2017) of £60,000 and if the Local Planning Authority agrees with this price (considering that it is based on the requirements of the Red Book), it should be noted that this price is lower than the affordable level for the area and consequently, they would not require a discount.
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Tai Teg:	No response
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PLANNING COMMITTEE	DATE: 02/03/2020
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	CAERNARFON

Public Consultation: A notice was posted on the site and the advertisement period has expired but no response was received from the public to this proposal following this statutory notification period.

5. Assessment of the material planning considerations:

The principle of the development

- 5.1 Policy PS18 of the LDP states that opportunities have been identified within the LDP to provide a minimum of 1,572 new affordable housing units in Gwynedd. Policy TAI 15 states that there will be a need to ensure an appropriate level of affordable houses in the Plan's area and housing developments will be expected to make a contribution towards affordable housing in accordance with the threshold figures included in the LDP itself. In the Bangor Sub-regional Centre, the threshold for providing affordable housing is two units or more and in order to comply with this policy, the previous application included two affordable units (out of a total of eight). This was the justification for imposing the condition referred to in this application.
- 5.2 Criterion number (iii) of Policy TAI15 outlines the circumstances where the proposed provision of affordable units in a plan can be lower than the policy's requirements. This particular criterion states that where the viability of individual schemes fall short of the policy requirements specified, the onus will be on the applicant/developer to clearly demonstrate in a viability assessment pro-forma the circumstances justifying a lower affordable housing contribution.
- 5.3 In this case, the applicant has submitted information which includes a viability assessment proforma, Property Valuation Report from a competent Chartered Surveyor company along with quotations for undertaking the conversion work. The applicant has presented an argument regarding the viability of the proposal and also, critically, he has submitted the open market price for the units. Normally, this information is submitted with the application to convert or build and this is considered early in the process. Occasionally, in particular in town centre locations or less favourable locations, the open market prices presented show that the unit price is affordable in any case, without a further discount by means of a condition or 106 Agreement (subject to the situation). The applicant submitting the first application did not act in this way, and instead stated that he would accept the condition in order for this to be considered after permission was granted.
- 5.4 In order to support this application to revoke the condition, an assessment of the value of the units was also presented by a company of Chartered Surveyors, based on the requirements of the Red Book (2017). The open market value of the units would vary from £45,000 to £60,000 and the monthly rent of the units would vary between £425.00 and £475.00. Appendix 4 of the SPG: Affordable Housing document, regarding the prices anticipated for intermediate housing for sale in the Deiniol ward in Bangor (2018), confirms that the value of an intermediate house is £67,876, which means that the proposed units are within reach of occupiers on a moderate salary. The open market prices of the units are naturally restricted due to the nature and scale of the site and the size of the units themselves. The Council's Strategic Housing Unit has confirmed that the valuation of the proposed residential units is lower than the affordable price level (intermediate) for the Deiniol ward in Bangor. Therefore, when considering the open

PLANNING COMMITTEE	DATE: 02/03/2020
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	CAERNARFON

market value of the residential units, the proposal would provide affordable units even without a further restriction by means of a condition or 106 Agreement.

- 5.5 Considering the information submitted by the applicant, it is believed, in this case, that sufficient evidence has been submitted to justify the revocation of condition 3 of planning permission C19/0323/11/LL in relation to submitting details for the two affordable units, based on the open market value of the affordable units themselves. If this information would have been submitted with the original application, it is not considered that such a condition would have been imposed as it would not have been necessary to do so to ensure a provision of affordable units, i.e. based on their open market price, they would be affordable in any case.
- 5.6 Therefore, when considering this application to revoke the condition, the general criteria for the validity of planning conditions must be considered. The Welsh Government Circular 016/2014 - The Use of Planning Condition for Development Management states that ' In addition to the Courts, the Welsh Government considers that conditions should be necessary, precise and enforceable, ensuring that they are effective and do not make unjustifiable demands of applicants. Conditions should only be imposed where they satisfy all of the tests...

In summary, conditions should be:

- (i) necessary;
- (ii) relevant to planning;
- (iii) relevant to the development to be permitted;
- (iv) enforceable;
- (v) precise; and
- (vi) reasonable in all other respects.'

- 5.7 As already explained above, as the applicant has proved that the units would be affordable in any case (and as the Strategic Housing Unit has confirmed this), it is not considered that the condition meets the necessary tests noted above. Specifically, the condition is not necessary or reasonable in order to secure affordable units as all the units (8 in total) will be affordable in any case.

Update following deferral of the application in order to receive more information on the rental prices of the affordable units.

- 5.8. The agent submitted further information regarding this matter and the following was highlighted in particular:
- The provision of two affordable units is required within the development and to this end, it was confirmed that units 4 and 8 within the development would be offered on a rent of £425 per month.
 - It is considered that these rental prices are affordable in terms of SPG requirements and the relevant TAN bearing in mind that the price of £425 per month is very close to 25% of the median Deiniol ward salary.
 - Reducing the rent would further reduce the value and this would have the potential to make the scheme inviable.
 - Intervention in a low value market development can affect interest and investment from developers which would affect the regeneration of the High Street in Bangor and other centres and also bring higher floors (that are often unsuitable for commercial use) back into use.

PLANNING COMMITTEE	DATE: 02/03/2020
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	CAERNARFON

- It is considered that it is not possible to justify controlling the affordability of the two affordable units further as it is obvious that they are affordable in the first place.
- It is considered that there is no evidence or planning grounds to support this and that it would be possible to argue the case on appeal.

- 5.9 The Joint Planning Policy Unit was consulted in order to receive more information on the rent situation. They confirmed that paragraph 3.3.2 of Supplementary Planning Guidance 'Affordable Housing' (April 2019) states that householders are expected to pay 25% or less of their gross income on rent for units described as affordable.
- 5.10 In considering the affordability of the proposed rent levels, it is important to compare them with income levels in Bangor. In this respect, comparing the rent levels with the median Bangor income would give a picture of how affordable the proposed rent levels are given the requirement of the Supplementary Planning Guidance.
- 5.11 It is also important to consider what type of units are affordable to rent, of which are applied for here. Comparisons with current comparative rent levels in Bangor would be important in this regard.
- 5.12 TAN 2 'Planning and Affordable Homes' (June, 2006) by Welsh Government divides the term, affordable housing, into two sub-categories:
- **social rented housing** - provided by local authorities and registered social landlords where rents consider Welsh Government guideline rents and benchmark rents;
 - **intermediate housing** - where the prices or rents are higher than social housing rents but lower than the prices or rents on the open market. This may include shared equity schemes (for example, Help to Buy). Intermediate housing is different to low cost market housing, that the Welsh Government do not consider as affordable housing for land use planning system purposes.
- 5.13 From information by the Housing Options Team, it is understood that social rent for 1 and 2 bedroom flats in the centre of Bangor (i.e. near the High Street) is approximately £80 - £85 per week or £320 - £340 per month.
- 5.14 No information has been submitted noting that the units are to be rented on a social basis and, therefore, it must be considered whether or not the units provide for the intermediate affordable market, i.e. households that are not eligible for social rented housing but cannot afford open market rents. Therefore, it is unlikely that these units will meet the requirements of the social rented market. In this regard, the Supplementary Planning Guidance 'Affordable Housing' (para. 3.3.4) notes that Private Rented Housing are units where the developer proposes to construct and manage affordable housing to rent without the Council or a Registered Social Landlord. Although the definition in TAN 2 notes that low cost market housing is not considered as affordable housing in land use planning system terms, it can be established whether or not market rent levels are aligned with levels deemed affordable in terms of intermediate rent. In this regard, it is noted that affordable rent levels will be determined in the context of private rent levels in an area.
- 5.15 Information from the Rent First - Intermediate Rent (2011) (Welsh Government) document notes that intermediate rent should be at an 80% level of the open market rents. This is the information used by Tai Teg. Information in the document (point 65) notes "*Providers may levy service charges, but the sum of service charges and rent*

PLANNING COMMITTEE	DATE: 02/03/2020
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	CAERNARFON

must be at or below a target maximum of 80% of average private market rents for comparable properties in the relevant locality within the local authority area". It is noted "Intermediate rents are to be charged within the Market Rent Envelope, calculated as the sum of service charges and rent, which must be at or below 80% of average private market rents for that local authority area and should also be targeted to be below the Local Housing Allowance".

- 5.16 It is noted that the Local Housing Allowance Rate for the North West Wales area for one-bedroom units is £71.41 per week (£285.64 per month) and £91.43 per week for two-bedroom units (£365.72 per month).
- 5.17 It is noted that these figures are low and comparative (per one and two-bedroom units) to the information for social rent in Bangor as noted above. Therefore, it would make more sense to compare intermediate rent levels against comparative open market rent.
- 5.18 It is important to consider this against guidelines in the Supplementary Planning Guidance, namely that householders are expected to pay 25% or less of their gross income on rent for units described as affordable. What is important to establish is that rent levels are genuinely affordable bearing this information in mind and in terms of considering information on the area where the proposal is located.
- 5.19 In this respect, given the nature of Bangor, i.e. A Sub-regional Centre (as defined in the Joint Local Development Plan) which includes a number of wards, it is considered relevant to consider the median Bangor income in its entirety [namely, the wards of Deiniol, Dewi, Garth, Glyder, Hendre, Hiraël, Marchog and Menai (Bangor) on a joint basis] rather than the median income of the specific ward where the proposal is located, i.e. Deiniol in this case. It is noted that information for the Pentir ward has been omitted from the figures used for Bangor. This is on the basis that it includes areas which are outside Bangor that could affect the figure for the whole of Bangor.
- 5.20 Whilst it is noted that median income varies between wards, it is believed that the proposal needs to be considered in relation to Bangor in its entirety as a development in one location can serve the need within the entire city. There is an easy and natural movement between wards in Bangor and a suitable development of affordable price/rent in one area would serve the city region on a wider scale. It is understood that this is how the Housing Strategic Unit deals with such planning applications in Bangor.
- 5.21 It is believed that consistency is required and to not differentiate between the different wards in Bangor. The median income varies between wards which means that there is a difference between acceptable rent levels on the basis that 25% or less of their gross income is on rent for units described as affordable. It is believed that one cannot differentiate between different wards in Bangor given the nature of the settlement (i.e. as one location) and based on the proximity of wards to each other. It makes sense to consider the Bangor figure in its entirety and not to pick and choose what is affordable between individual wards.
- 5.22 Based on what is noted in paragraph 3.3.2 of Supplementary Planning Guidance 'Affordable Housing' (April 2019), householders are expected to pay 25% or less of their gross income on rent for units described as affordable, and the following is noted:
- Median Bangor income (2018): £22,290
- 5.23 Based on this figure, the monthly and weekly income is noted as follows:

PLANNING COMMITTEE	DATE: 02/03/2020
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	CAERNARFON

Monthly: 22,290 / 12 = £1,857.50

Weekly: 22,290 / 52 = £429

- 5.24 In considering this information in terms of the wording of the SPG, it is noted that householders are not expected to pay more than the following rent levels in order to ensure that they are affordable:

Monthly: 1,857.50 x 0.25 = £464

Weekly: 429 x 0.25 = £107

- 5.25 The rent values of similar flats from the Rightmove website on 7/2/20 are noted as follows: It is also noted what would be 80% of these rent levels, i.e. intermediate rent levels:

Location	Monthly Rent	Number of bedrooms	80% of the rent
Garth Road	£525	1	£420
Former Tabernacl Chapel	£736	2	£589
Y Bae	£875	2	£700
Former Chapel, Garth Road	£918	2	£734
Garth Road	£1214	2	£971
Glanrafon	£695	2	£556

- 5.26 Therefore, it is believed that it is important to consider the proposed rent levels within the application against the above information taking into account whether or not they are acceptable in terms of providing an affordable rent level.

- 5.27 In considering whether or not the proposed rent levels can be considered as affordable, it is believed that they need to be considered in terms of intermediate rent rather than social rent. A consideration of the values against the figure of £464 per month for Bangor, which derives from the SPG, would be important, along with consideration against the comparative rent levels in Bangor.

- 5.28 Therefore, to conclude, it is considered that the rent of both affordable units noted as £425 each is affordable in the context of the median Bangor income and SPG requirements which state that householders are expected to pay 25% or less of their gross income on rent for units described as affordable. As the rent of all units (8) vary between £425 and £475 it is also very likely that more than two of the units could be considered as low cost market housing.

6. Conclusions:

- 6.1 Having considered the above assessment along with observations received as a result of the statutory consultation process and further discussions held following the deferral, it is believed that the units are affordable in terms of sale price and rental price with no further restriction on the price by means of a planning condition. It is therefore considered that the application is acceptable on the grounds of the requirements of relevant local and national policy and guidance and is subject to the inclusion of the following condition.

PLANNING COMMITTEE	DATE: 02/03/2020
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	CAERNARFON

7. Recommendation:

7.1 To approve - condition:-

1. Need to comply with the remaining conditions of planning permission number C19/0323/11/LL.