

PLANNING COMMITTEE	DATE: 20/11/2023
REPORT OF THE ASSISTANT HEAD OF DEPARTMENT	

Number: 3

Application Number: C23/0500/00/AC

Date Registered: 21/06/2023

Application Type: Varying a Condition

Community: Barmouth

Ward: Barmouth

Proposal: Vary condition 5 on planning permission C21/0575/00/LL so that 3 of the dwellings must be used for residential use within class C3 and 3 of the dwellings used for either use class C3 or use class C6

Location: 2nd and 3rd Floor Flats, 17 Rhodfa'r Môr, Barmouth, Gwynedd, LL42 1NA

Summary of the Recommendation: TO REFUSE

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1. Description:

- 1.1 This is an application to vary condition 5 of planning permission C21/0575/00/LL so three of the dwellings are used for the residential use within the C3 use class, and three of the dwellings are used either within the C3 use class or C6. The C21/0575/00/LL application was approved on 6 December 2022 for conversion and change of use of a single dwelling to form six one-bedroom flats. Condition 5 on permission C21/0575/00/LL states:-

“The living unit/s allowed through this must be used for residential use within the C3 Use Class as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) only and not for any other use, including any other use within C Use Classes.”

The above condition was set on the planning permissions to ensure compliance with the Gwynedd and Anglesey Joint Local Development Plan housing policies.

- 1.2 A Planning Statement and Business Plan were received as part of the application.
- 1.3 The site lies within the development boundary. The site is within a Special Landscape Area and the Mawddach Landscape of Outstanding Historical Interest. There is an unclassified road at the front and rear of the property. A car park is located to the south-east of the site. The promenade, beach and sea are located to the south-west of the site. The property forms part of a terrace.
- 1.4 The application is submitted to the Committee as the application relates to 5 or more houses.

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.
- 2.2 The Well-being of Future Generations (Wales) Act 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**
- PS1- The Welsh Language and Culture
- PS 14 – The visitor economy
- TWR 2 - Holiday Accommodation
- PS 16 - Housing provision
- PS 17 - Settlement strategy

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TAI 2 - Housing in Local Service Centres

TAI 8 - An appropriate mix of housing

TAI 9 - Sub-dividing existing property to self-contained flats and houses in multiple occupation

TAI 15 - Threshold of affordable housing and their distribution

Supplementary Planning Guidance - Maintaining and Creating Distinctive and Sustainable Communities

Supplementary Planning Guidance - Housing Mix (October 2018)

Supplementary Planning Guidance – Affordable Housing (April 2019)

Supplementary Planning Guidance – Tourist Facilities and Accommodation

2.4 **National Policies:**

Future Wales: The National Plan 2040

Planning Policy Wales, Edition 11, February 2021.

3. **Relevant Planning History:**

3.1 5/51/10 – Change the use from commercial / residential accommodation to dwelling house - Approved 7 August 1985.

3.2 C21/0575/00/LL - Conversion and change of use of a single dwelling to form six one-bedroom flats - Approved 6 December 2022.

4. **Consultations:**

Community/Town Council: Barmouth Town Council has no objection to this planning application. We would like to see more affordable housing in Barmouth, but Cyngor Gwynedd has not currently put any plans in place to control the change between C3, C5 and C6, and we therefore do not understand why a planning permission is necessary at all. As there is no need for planning in this situation, we do not see a legal basis to object.

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Public Consultation: A notice was posted on the site and neighbouring residents were informed. The advertisement period came to an end and no response was received.

5. Assessment of the material planning considerations:

The principle of the development

5.1 As this application relates to the removal of conditions imposed for valid planning reasons, it must be considered whether the conditions in question are still relevant under the national guidance in relation to planning conditions that have been included in the Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management. The circular notes six tests for the validity of planning conditions namely:

- They are necessary.
- They are relevant to planning.
- They are relevant to the development which is to be permitted.
- They are enforceable.
- They are precise.
- They are reasonable in all other aspects.

It will therefore be necessary to consider whether the conditions are in line with the tests stated above.

5.2 On 20 October 2022, the Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2022 came into force. This Order has made changes in terms of the use classes of residential units. C3 use class has now been noted as dwelling houses used as sole or main residence. Two additional use classes were added, namely C5 and C6. C5 use class is dwelling houses used in a different manner to a sole or main residence and C6 use class is for short-term lettings no longer than 31 days for each period of occupation.

5.3 Historically, it had not been possible to control whether or not a dwelling could be converted for use as a second home or self-contained holiday let. However, by submitting various use classes C3, C5 and C6, it is now possible to impose a condition on planning permissions restricting the use of residential units to the use requested, which in the case of the C21/0575/00/LL application to use C3, which is dwelling houses used as sole or main residence. By enforcing such a condition, it enforces developers who want to change the use of those units to receive planning permission and where possible, to consider the effects of the development in accordance with the local and national planning policy context that currently exists.

5.4 Members will also be aware of the Report presented to the Cabinet on 13 June 2023 outlining the matters and the justification for presenting the Article 4 Direction to enable the management of the transfer in use from residential houses to holiday use (second homes and holiday accommodation).

5.5 In the above context therefore, the condition of the C21/0575/00/LL permission was set, restricting the occupancy of the residential units to provision of permanent residential houses (C3), because the application was assessed in accordance with the relevant housing policies included within the JLDP. Those housing considerations included considerations connected to

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- Barmouth's expected growth level to prepare C3 residential units (Policy TAI 2), the need to address the local community's needs (Policy TAI 8) and the provision of affordable housing (Policy TAI 15).
- 5.6 The current proposal involves varying that condition given on permission C21/0575/00/LL to allow three of the units to be used as a mixed C3/C6 use. According to the supporting documents submitted to support the application, the C21/0575/00/LL application has not been implemented and therefore the site continues to have one residential unit in use.
- 5.7 As the proposal relates to using three of the units for the purpose of C6 use (short-term lettings), it will be required to consider how the proposal complies with the JLDP Policy TWR 2 related to holiday accommodation. Policy TWR 2 can be supportive towards converting current buildings to self-service holiday accommodation if the proposal conforms with the criteria included in the policy.
- 5.8 With the property located within the development boundary and making use of a previously developed site, it is considered that the proposal is acceptable in terms of criterion i of the JLDP Policy TWR 2.
- 5.9 It is considered that the proposal in terms of its scale is acceptable and suitable for the site and the location. In this regard, it is considered acceptable in terms of criterion ii of the JLDP Policy TWR 2.
- 5.10 Criterion iii notes that the proposal will not lead to a loss in the permanent housing stock. The site is currently used as one residential unit. The proposal would involve providing 3 use class C3 permanent residential units and 3 use class C3 or C6 units on site. The proposal will therefore lead to an increase in at least two permanent residential units and the proposal would therefore not lead to the loss of permanent residential units on site. This shows that the proposal complies with this criterion of the JLDP Policy TWR 2.
- 5.11 The site is located in a terrace that has a mixture of uses, including individual houses, flats, bed and breakfast facilities, guest houses and hotels. There is therefore a variety of uses nearby that includes a mixture of residential use and holiday accommodation use. With this in mind, it is considered that the proposal of having a self-service holiday accommodation in three of the units would be useful and would be in keeping with the nearby area. It is not considered that the proposal therefore causes significant harm to the area's residential character and it is considered acceptable in terms of criterion iv of the JLDP Policy TWR 2.
- 5.12 Criterion 'v' of the JLDP Policy TWR 2 notes that the development should not lead to an over-concentration of such accommodation within the area. Criterion 'v' is further elaborated upon in paragraph 6.3.67 of the JLDP. Historically, the conversion of buildings for economic use has been favoured instead of residential use and, as such, it is likely that a number of applications for holiday accommodation have been approved, thus leading to concerns about over-provision. This could possibly mean that providers and operators receive an income that is less than what was anticipated. When considering criterion v, it should be ensured that a Business Plan is presented as part of the application to include the necessary information in terms of the vision for the proposal and to ensure that there is a market for this type of use. In addition, consideration should be given to the existing provision of holiday accommodation within the local area.
- 5.13 A business plan has been presented as part of this planning application that explains the background of the proposed business and how this proposal would be likely to perform after

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receiving permission and implementing the development. It is believed that the business plan presented is comprehensive and proportionate to the scale of the development in question, and therefore it is believed that the proposal is in accordance with the requirements of the explanation of Policy TWR 2 that requires a business plan to be presented.

- 5.14 Furthermore, the Supplementary Planning Guidance: Tourist Facilities and Accommodation (March 2021) notes that a high number of holiday accommodation or a concentration of holiday accommodation in a specific area can have a detrimental impact on the social fabric of those communities. With this in mind, the Supplementary Planning Guidance: Tourist Facilities and Holiday Accommodation (March 2021) notes that favourable consideration should not be given to applications for holiday accommodation when 15% or more of the housing stock is in holiday use (including second homes and dedicated holiday accommodation). In accordance with Council Tax figures (July 2023) the combined figure of second homes and holiday accommodation in the Barmouth Town Council area is 18.40%, therefore the threshold of 15% has been reached and this means that the proposal does not comply with the guidance in the SPG or criterion v of Policy TWR 2.
- 5.15 As part of the Planning Statement presented to support the application, it was noted that the figure of 15% had been exceeded in the area, but only by a small percentage and the increase of three holiday flats within Barmouth would mean a small increase in holiday accommodation within the area. Presently, the property is in use as a single dwelling and converting it under the proposal to vary condition 5 would mean that it would provide three permanent dwellings and three holiday flats. The impact against the current situation would therefore be two additional permanent dwellings and three additional holiday flats. According to the Planning Statement, this would mean an increase of one additional holiday flat within Barmouth that represents a small, insignificant increase to the area's holiday accommodation. The Planning Statement also notes that the proposal would provide a mixture of permanent dwellings and holiday flats within the building, ensuring that there are not too many empty buildings at any time in the year. Also, that three holiday flats would not place excessive pressures on local services and infrastructure during the main season. It is noted that Rhodfa'r Môr is a mixture of dwelling houses, hotels, guest house and bed and breakfast properties, and three holiday flats would be in keeping with the area's character. The property's location near the sea would offer an opportunity to make the most of Barmouth's natural assets, including the coast, beaches, mountains and views that are an integral part of the area's tourism. Reference is made to the fact that six separate dwellings have been agreed and the change of using half of these as holiday flats would not cause any negative effects in terms of noise, disturbance or an increase in traffic. The Planning Statement also refers to the proposal of a small increase to holiday flats and that this would not change the situation in terms of local businesses providing for visitors' needs more than the needs of local residents. The mixture would also ensure that there would not be a concentration of empty buildings at any time of the year. The Planning Statement also states that holiday accommodation promotes prosperity by contributing to the local economy by creating an income for the owner and also as visitors spend money locally to support local facilities and amenities. It is noted that the applicant's proposal has always been to use a percentage of the proposed flats as holiday use. The flexibility to use a percentage of the flats for holiday use would make the conversion of individual flats more financially viable, by assisting to fund the building's maintenance as well as give an opportunity to set a lower rent for the C3 flats, making these more affordable for local people. It is also noted that the property is presently in C3 use and the effect of not implementing the C21/0575/00/LL planning application would be for 17 Rhodfa'r Môr to be used as an individual holiday accommodation or second home and that using the property as one large holiday

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accommodation or second home would not support the local economy in the same way as the planning permission in place would or the proposal submitted with the potential of affecting negatively on Barmouth's vitality.

- 5.16 What is put forward in the Planning Statement on behalf of the developer is noted. The Supplementary Planning Guidance: Tourist Facilities and Accommodation recognises that some exceptional circumstances can arise where there are clear advantages to allowing holiday accommodation in an area that already has a high number of holiday accommodation and second homes (beyond the 15% threshold). However, these exceptional cases only include an enterprise associated with rural diversification and / or a proposal that would mean keeping and making alternative use of the listed building of historical value. The proposal in question does not fall into any of these exceptional cases.
- 5.17 It is noted that Appendix 5 of the Supplementary Planning Guidance and Maintaining and Creating Distinctive and Sustainable Communities notes that every housing, retail, commercial or industrial development where there is no need to submit a Welsh Language Impact Statement/Assessment should show how consideration has been given to the language. In this case, a Community and Linguistic Statement has been presented as part of the C21/0575/00/LL application for six living units, using a large building that is underused to create smaller units where there is a demand for them locally. Although the Planning Statement presented as part of this application notes that this proposal to use 3 of the units as holiday accommodation would promote prosperity for local businesses, it is considered that it would be a loss of residential units that could be used by local people and it would therefore not have a positive impact on the Language. It is therefore considered that the proposal is not completely acceptable in terms of the requirements of Policy PS1 and the SPG.
- 5.18 It is considered that the condition that restricts the use of the 6 units to C3 use class remains crucial, relevant to planning and the development agreed in the C21/0575/00/LL application to ensure that the residential units agreed would be protected as permanent dwelling houses instead of using three of the units as holiday accommodation that goes against the requirements of criterion v in the JLDP Policy TWR 2 and the requirements of the Supplementary Planning Guidance: Tourist Facilities and Accommodation.

6. Conclusions

- 6.1 Based on the assessment above, it is considered that the proposal to vary the condition to use 3 of the units for holiday accommodation C6 use class is unacceptable because the combined number of second homes and holiday accommodation in the Barmouth Town Council area is 18.40%, which is over the threshold of 15% and is considered to be an over-provision in the Supplementary Planning Guidance: Tourist Facilities and Accommodation and it is therefore considered that the proposal would lead to an over-concentration of this type of accommodation in the area, which goes against criterion v of the JLDP Policy TWR 2.

7. Recommendation:

7.1 To refuse-

1. The proposal to amend the condition to use 3 of the units for holiday accommodation C6 use class is unacceptable on the basis that the combined number of second homes and holiday accommodation in the Barmouth Town Council area is 18.40%, which is over the threshold of 15% and is considered to be an over-provision in the Supplementary Planning Guidance: Tourist

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Facilities and Accommodation. As a result, the Local Planning Authority has not been convinced that the development will not lead to excessive accommodation of this type in the areas as noted in criterion v of Policy TWR 2 of the Anglesey and Gwynedd Joint Local Development Plan.