

**APPLICANT:** Mr John McIlhiney Java Properties (South Wales) LTD, Bryngolwg, Watford Rd, Caerphilly, CF83 1NE

**AGENT:** Mr Dominic Phillips The Stables, The Estates Office, 25-26 Gold Tops, Newport, NP20 4PG

**20, Plymouth Road, Barry**

Change of use from a hairdressers (Class E) to a dwelling house (Class C3(a) Studio Apartment). The proposal involves utilising the extra space underneath the ground floor. Creating a mezzanine bedroom and splitting the apartment into 3 levels.

**SITE AND CONTEXT**

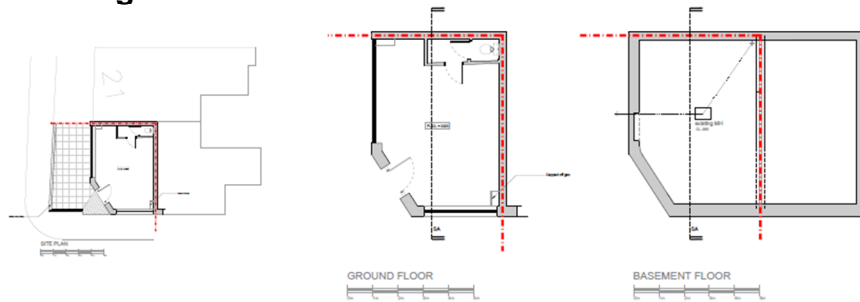
The application site relates to 20 Plymouth Road, which is an end of terrace building located within a street scene of similarly scaled and designed dwellings. In policy terms, the building is located within the Settlement Boundary of Barry as identified in the Adopted LDP 2011-2026. An extract of a site location plan has been provided and can be seen below.



**DESCRIPTION OF DEVELOPMENT**

The application relates to the change of use of from A1 (a former hairdressers) to C3(a) dwellinghouse by proposing to utilise an additional area of space in the below basement to create a mezzanine studio style flat. Plans have been provided and can be seen below.

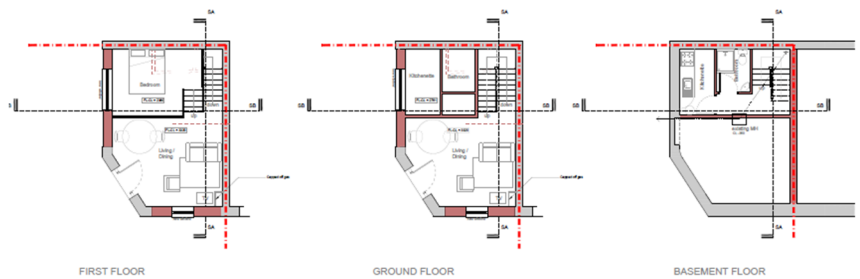
## Existing Floor Plans



## Existing Elevations



## Proposed Floor Plans



## Proposed Elevations



## PLANNING HISTORY

2013/00899/LAW, Address: The Coach House, Rear of 20, Plymouth Road, Barry, Proposal: Administrative office for building company operating from Coach House to rear of main building, Decision: Refused

## CONSULTATIONS

1. Barry Town Council were consulted on 1 December 2023.  
To date, one letter of consultation has been received outlining an objection due to the contrived design and living space as well as the encroachment onto the public highway.
2. The Council's Highway Development were consulted on 1 December 2023.  
To date, one letter of consultation has been received outlining no objection.
3. Shared Regulatory Services (Pollution) were consulted on 1 December 2023.  
To date, one letter of consultation has been received outlining no objection but requesting an informative relating to contamination and unstable land.
4. The Baruc Ward Members were consulted on 1 December 2023.  
To date, no letters of consultation have been received.
5. Dwr Cymru (Welsh Water) were consulted on 1 December 2023.  
To date, one letter of consultation has been received outlining no objection but requesting an informative relating to the connection to public sewers.
6. Contaminated Land, Air & Water Quality were consulted on 1 December 2023.  
To date, no letters of consultation have been received.

## REPRESENTATIONS

The neighbouring properties were consulted on 1 December 2023.  
To date, no letters of representation have been received.

## REPORT

### Planning Policies and Guidance

#### **Local Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Vale of Glamorgan Adopted Local Development Plan 2011-2026 forms the local authority level tier of the development plan framework. The LDP was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

#### **Strategic Policies:**

POLICY SP1 – Delivering the Strategy

#### **Managing Development Policies:**

POLICY MD2 - Design of New Development

POLICY MD5 - Development within Settlement Boundaries

POLICY MD9 - Promoting Biodiversity

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

## **Future Wales: The National Plan 2040:**

Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process. The following chapters and policies are of relevance in the assessment of this planning application:

### Chapter 3: Setting and achieving our ambitions.

- 11 Future Wales' outcomes are overarching ambitions based on the national planning principles and national sustainable placemaking outcomes set out in Planning Policy Wales.

### Chapter 4: Strategic and Spatial Choices: Future Wales' Spatial Strategy

- Guiding framework for where large-scale change and nationally important developments will be focussed over the next 20 years.
- Strategy builds on existing strengths and advantages and encourages sustainable and efficient patterns of development.

### Chapter 5 – The Regions

- The Vale of Glamorgan falls within the South East region.
- Regional policies provide a framework for national growth, for regional growth, for managing growth and supporting growth.
- In the absence of SDPs, development management process needs to demonstrate how Future Wales' regional policies have been taken into account.

## **Planning Policy Wales:**

National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental, and cultural well-being of Wales.

The following chapters and sections are of particular relevance in the assessment of this planning application:

### Chapter 2 - People and Places: Achieving Well-being Through Placemaking.

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking

### Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 12 – Design (2016)

### **Welsh National Marine Plan:**

National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this application. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals within the Marine Plan Area for Wales.

### **Supplementary Planning Guidance:**

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Biodiversity and Development (2018)
- Residential and Householder Development (2018)

### **Other relevant evidence or policy guidance:**

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

### **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. The Council’s duty under the above Act has been given due consideration in the preparation of this report.

### **Well-being of Future Generations (Wales) Act 2015**

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 its sustainable development (or wellbeing) objectives. 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 set out below, 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.

### Issues

The main issues to consider in this application relate to the effect of the proposal on the character of the building and the wider street scene, as well as the impact upon the amenities of neighbouring properties.

## **Principle of Development**

The site is located within the settlement boundary of Barry, and policy MD5 of the LDP states that new development will be acceptable within settlement boundaries subject to a series of criteria (relating to design, impact on amenity, parking etc.). The property falls outside of an identified retail area identified by the adopted LDP and therefore the retail use of the premises is not explicitly protected by a policy within the plan.

In view of the above, it is therefore considered that the principle of the change of use to a residential dwelling is acceptable, subject to complying with the series of criteria within Policy MD5 and the other policies and guidance listed above.

## **Design and Visual Impact**

Policy MD2 states that in order to create high quality, healthy, sustainable, and locally distinct places development proposals should:

1. Be of a high standard of design that positively contributes to the context and character of the surrounding natural and built environment and protects existing features of townscape or landscape interest.
2. Respond appropriately to the local context and character of neighbouring buildings and uses in terms of use, type, form, scale, mix, and density.

Policy MD5 (Development within Settlement Boundaries) and the general design criteria in Policy MD2 (Design of New Development) require proposals to be of a high standard of design and respond appropriately to the scale, form, and character of the neighbouring buildings, while minimising the impact upon adjacent areas. These sentiments are supported by Planning Policy Wales (Edition 11) and TAN12- Design (2016).

In relation to the design and visual impacts of the proposal, elevation drawings have been provided and the external changes consist of the removal of large, glazed openings at ground floor level in order to infill them with bricks and create smaller windows to serve the rooms proposed. As existing, the large, glazed openings are a novel feature which are not common within the street scene and consequently the alteration of these to standard windows which are common within a residential context is considered to be more in keeping with the street scene and not at odds with the wider street scene.

## **Impact on Neighbouring Amenity**

Due to the nature of the proposal, the change of use from an A1 (a former hairdressers) to a dwelling would result in some additional neighbouring impacts however due to the building as existing being situated within a residential street scene the level of noise and disturbance associated with a residential use is common and established. Therefore, the proposal is considered to be in compliance with Policy MD2 Criterion 9 which states that development proposals should “Safeguard [the] existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance”, in that regard.

Additionally, whilst it is noted that the proposed elevations show that there would be a reduction in the glazed area, the change of use is considered that result in an increased and change in nature of usage of these windows which could potentially result in an increase in overlooking. However, guidance in the Residential and Householder SPG (2018) states that: "A minimum distance of 21 metres between opposing windows in habitable rooms should be achieved".

It is noted that the existing and proposed windows within the eastern elevation are situated approximately 12m from the western elevation of no.19 Plymouth Road. Consequently, there would be a shortfall of the 21m required as this window would serve a habitable room (living room). However, due to the existing relationship of the windows, the decreased amount of glazing and the high level of overlooking available from the adopted highway it is not considered that the change of use of the window would result in such detrimentally close-range views or increased overlooking, to warrant refusal of planning permission in this instance.

The windows situated within the principal elevation are located approximately 120m from the nearest dwelling and consequently these windows would be unlikely to result in any overlooking.

In regard to overbearing, it should be noted that the proposal would not result in the increase in the footprint of the host dwelling and consequently the proposal would not result in an overbearing impact on the neighbouring dwellings.

### **Amenity Space**

Policy MD2 of the LDP states that *in order to create high quality, healthy, sustainable and locally distinct places development proposals should meet the requirements of the listed criteria. These include criteria 8 and 9 as below:*

*8. Safeguard existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance;*

*9. Provide public open space, private amenity space and car parking in accordance with the council's standards.*

Section 10 (Amenity Space) of the adopted Residential and Householder Development SPG states that:

*[Amenity] space associated with residential properties includes front gardens and private rear gardens. It does not include footpaths, driveways and parking areas. Amenity space is essential and provides a number of important functions that contribute towards a resident's enjoyment of a property. Those essential functions include space for relaxation, entertainment and play; gardening and cultivation; clothes washing and drying; DIY; and waste, cycle and other domestic storage.*

Design Standards 4 and 5 of the SPG states that:

*4. For houses, a minimum of 20 sq.m amenity space per person\* should be provided, and the majority should be private garden space.*

*\*typically a 2 bed house would have 3 persons, 3+ bedrooms would typically have 4 persons.*

*5. For flats, between 12.5 sq.m and 20 sq.m of amenity space per person should be provided, depending on the size of development\*. Communal areas of amenity space may be acceptable, but these must be directly accessible for all occupiers.*

*\*typically a 1 or 2 bedroom flat would have 2 persons.*

The guidance states that proposals for new houses, conversions to create new dwellings and new householder development must provide and maintain sufficient outdoor amenity space. In particular, it states that private (usually rear) gardens should be of a useable shape, form and topography.

Although the proposals indicate that the front yard area may be available for future users, such an area would not provide private amenity space of that would be of diminished practical use and value for prospective occupier.

As such, it is considered that the proposal would fail to provide future occupiers of the dwelling with an attractive or satisfactory form of outdoor garden space to the detriment of their living conditions. The hardstanding area to the front of the property, would be substandard in size and would be of diminished practical use and value for future occupiers of any dwelling with lack of privacy and being inadequate in its size, regardless of the proposed area being set at a lower level. There is also concern that the use of this area could result in detriment to the visual amenity of the street scene, neighbouring amenity and/or highway safety through any prospective enclosure that would be required to provide suitable privacy for future occupiers. As such the use of this area for this reason is considered as contrary to Criterion 9 of Policy MD2 that amongst other things, seek the provision of amenity space in accordance with Council standards (criterion 9), that includes the adopted Residential and Householder Development SPG aforementioned.

### **Parking**

In regard to the parking provision, Criterion 9 of Policy MD2 requires that development proposals should “provide public open space, private amenity space and car parking in accordance with the council’s standards”. Guidance within the Parking Standards SPG (2019) states that dwellings should have one space per bedroom up to a maximum of three spaces.

It is noted that the proposal would not provide a parking space and would technically therefore fall short of the required standard. However, as a result of the proposal being located within a sustainable location with access to public transport and the availability of on-street parking, this is not considered to represent a reason to refuse permission in this instance. It should also be noted that very few dwellings within the street scene have off street parking and consequently due to the sustainable location of the dwelling it is considered that the reliance of on street parking is acceptable.



## **Biodiversity**

Paragraph 6.4.5 of Planning Policy Wales (Edition 11, 2021) states that “Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity.....”. Therefore, it is considered that the in order to meet this requirement, the determination of this application would require a condition to provide details of biodiversity enhancement prior to construction.

## **REASON FOR RECOMMENDATION**

The decision to refuse planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and Future Wales – the National Plan 2040.

Having regard to the Council's duties under the Equality Act 2010 the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

The appropriate marine policy documents have been considered in the determination of this application in accordance with Section 59 of the Marine and Coastal Access Act 2009.

## **RECOMMENDATION**

### **REFUSE (W.R.)**

1. The proposed scheme fails to provide adequate provision of usable and private amenity space to serve the proposed residential use of the 20, Plymouth Road. As such, the proposals would fail to accord with the provisions of Policy MD2 (Design of New Development) of the Local Development Plan, that amongst other things, seek the provision of amenity space in accordance with Council standards (criterion 9), that includes the adopted Residential and Householder Development SPG.

**NOTE:**

**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**