

## Planning, Taxi Licensing and Rights of Way Committee Report

**Application Number:** 22/2049/FUL

**Grid Ref:** E: 327265  
N: 318369

**Community Council:** Llandysilio Community

**Valid Date:** 02.12.2022

**Applicant:** Mr Ian Sneade

**Location:** Land At City House, Four Crosses, Llanymynech, Powys.

**Proposal:** Erection of a dwelling and associated works

**Application Type:** Full Application

### The reason for Committee determination

This application has been called in by the Local Member due to concerns over the level of parking provision within the area and the impact it may have on on-street parking and highway safety.

### Consultee Responses

Consultee	Received
<u>PCC-(N) Highways</u>	7th Dec 2022

Thank you for consulting the Highway Authority on this planning application at land at City House Four Crosses Llanymynech Powys. The proposal seeks erection of a dwelling and associated works.

The site is to be accessed via an existing access leading directly off B4393 which serves the exiting development at the site. The existing access benefits from adequate visibility splays and in that regard the Highway Authority is content that the proposed development will not have a detrimental impact on highway movements in this area. Therefore, if the Local Planning Authority is minded approving this application, we would request the following conditions to be attached;

1. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of (vehicles in accordance with the requirements of CSS Wales Parking Standards) not less than one car per bedroom. The parking areas shall be retained

for their designated use for as long as the development hereby permitted remains in existence.

2. Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course material or (a suitably bound material which is to be approved in writing by the LPA) for a distance of 5.5 metres from the edge of the adjoining footway. This area will be maintained to this standard for as long as the development remains in existence.

Hafren Dyfrdwy

7th Dec 2022

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- o The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- o The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution.

Hafren Dyfrdwy advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Hafren Dyfrdwy to discuss the proposals. Hafren Dyfrdwy will seek to assist in obtaining a solution which protects both the public sewer and the building.

NOTE: we would not permit a surface water discharge into the public combined sewer, and recommend the applicant seeks alternative arrangements.

The developer's attention is also drawn to the legal requirement for all sites to enter into a Section 104 sewer adoption agreement with Hafren Dyfrdwy before any sewer connection can be approved, in line with the implementation Schedule 3 of the Floods and Water Management Act 2010. Full details of this are provided on our website [www.hdcymru.co.uk](http://www.hdcymru.co.uk)

under the 'New Site Developments' section.

To help us provide an efficient response please could you send all responses to APPlanning@hdcymru.co.uk rather than to named individuals, including the HD ref within the email/subject.

Environmental Protection

7th Dec 2022

Environmental Protection has no objection to the proposal to connect to the mains foul sewer.

*Construction-phase noise control*

Due to the residential nature of the setting, Environmental Protection would recommend that measures are in place to control the level of noise disturbance to neighbouring properties during the construction phase of the development.

This department would recommend that the construction period working hours and delivery times be restricted as follows:

"All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:

- o 0800-1800 hrs Monday to Friday
- o 0800-1300 hrs Saturday
- o At no time on Sundays and Bank Holidays

Deliveries to and removal of plant, equipment, machinery and waste from the site must also only take place within the permitted hours detailed above."

PCC-(N) Land Drainage

5th Dec 2022

PCC Land Drainage have no comments to make on this application at this time.

However, the SuDS Approval Body (SAB) deem that the construction area is greater than 100m<sup>2</sup> and therefore this proposed development will require SAB approval.

For further information on the requirements of SAB and where relevant application forms/guidance can be accessed, please visit the following website <https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB>.

Alternatively, please contact the SAB Team on 01597 826000 or via email [sab@powys.gov.uk](mailto:sab@powys.gov.uk).

The requirement to obtain SAB consent sits outside of the planning process but is enforceable in a similar manner to planning law. It is a requirement to obtain SAB consent in addition to planning consent. Failure to engage with compliant SuDS design at an early stage may lead to significant unnecessary redesign costs.

PCC-Built Heritage Officer

30th Jan 2023

Background to Recommendation

Within the curtilage of Grade II\* City House

Policy Background

The advice has been given with reference to relevant policies, guidance and legislation

The Planning (Listed Buildings and Conservation Areas) Act 1990

Planning Policy Wales 11th edition 2021

Conservation Principles published by Cadw

TAN24

Managing Listed Buildings in Wales - Annexe to TAN24

Heritage Impact Assessments in Wales - Annexe to TAN24

Managing Conservation Areas in Wales - Annexe to TAN24

Setting of Historic Assets in Wales - Annexe to TAN24

Heritage Impact Assessments - Annexe to TAN24

Historic Environment Records

Local Development Plan

Strategic Policy SP7

DM13 Design and Resources Local Development Plan Themes and Objectives;

Theme 4 - Guardianship of natural, built and historic assets

LDP Objective 13 - Landscape and the Historic Environment

### *Comments*

The proposal is for a dwelling in the grounds of City House. It is to appear as a Coach House.

Permission is extant for a garage in the area.

Pre-app advice has been taken.

The design of the building references other outbuildings nearby. In particular, details such as brickwork corbelling at eaves are noted. Similarly, other design references to City House are present, such as the central gable and stone lintels. Other aspects are attractive and in keeping with the lesser status of the building, such as the plain brick walls with brick arches. All window heads with bricks should use radial arches, and this will be a condition.

The scale of the proposal is smaller in footprint than the proposed and approved garage. The design is respectful of the main house, and subservient to it. The small timber-clad lean to on the end is an attractive design touch suggesting the building has evolved over time. The solar panels to the rear do not impact the setting of the listed building.

The planting scheme and plan does not appear to harm the setting of the listed building. The proposed fence details have not been provided and are subject to a condition.

### Conditions;

- o Notwithstanding the submitted plans the proposed chimney shall be brick and not a metal flue pipe.
- o Notwithstanding the submitted plans, all proposed brick window and door headers shall be radial arches (this excludes the stone lintels and timber lean-to).
- o Prior to the commencement of works samples for all external materials shall be

submitted to and approved in writing by the Local Planning Authority

- o All proposed windows shall be painted timber flush casements with functioning glazing bars and using an external putty seal.
- o All proposed doors shall be painted timber with (if present) functioning glazing bars using an external putty seal.
- o Prior to the commencement of works, details of the proposed fence and gates shall be submitted to and approved in writing by the Local Planning Authority.

Reason;

To have special regard to the desirability of preserving the setting of a listed building in respect of Section 16. (2) of The Planning (Listed Buildings and Conservation Areas) Act 1990

PCC-Built Heritage Officer

*Additional Comments 03 Feb 2023*

Background to Recommendation

Within the curtilage of Grade II City House (8528) and former post office (8527)

Policy Background

The advice has been given with reference to relevant policies, guidance and legislation

The Planning (Listed Buildings and Conservation Areas) Act 1990

Planning Policy Wales 11th edition 2021

Conservation Principles published by Cadw

TAN24

Managing Listed Buildings in Wales – Annexe to TAN24

Heritage Impact Assessments in Wales – Annexe to TAN24

Managing Conservation Areas in Wales – Annexe to TAN24

Setting of Historic Assets in Wales – Annexe to TAN24

Heritage Impact Assessments – Annexe to TAN24

## Historic Environment Records

### Local Development Plan

#### Strategic Policy SP7

DM13 Design and Resources Local Development Plan Themes and Objectives;

Theme 4 – Guardianship of natural, built and historic assets

LDP Objective 13 – Landscape and the Historic Environment

### *Comments*

The proposal is for a dwelling in the grounds of City House. It is to appear as a Coach House.

Permission is extant for a garage in the area.

Pre-app advice has been taken.

The design of the building references other outbuildings nearby. In particular, details such as brickwork corbelling at eaves are noted. Similarly, other design references to City House are present, such as the central gable and stone lintels. Other aspects are attractive and in keeping with the lesser status of the building, such as the plain brick walls with brick arches.

The scale of the proposal is smaller in footprint than the proposed and approved garage. The design is respectful of the main house, and subservient to it. The small timber-clad lean to on the end is an attractive design touch suggesting the building has evolved over time. The solar panels to the rear do not impact the setting of the listed building.

The planting scheme and plan does not appear to harm the setting of the listed building. The proposed fence details have not been provided and are subject to a condition.

### Conditions;

- Prior to the commencement of works samples for all external materials shall be submitted to and approved in writing by the Local Planning Authority
- All proposed windows shall be painted timber flush casements with functioning glazing bars and using an external putty seal.
- All proposed doors shall be painted timber with (if present) functioning glazing bars using an external putty seal.
- Prior to the commencement of works, details of the proposed fence and gates shall

be submitted to and approved in writing by the Local Planning Authority.

Reason;

To have special regard to the desirability of preserving the setting of a listed building in respect of Section 16. (2) of The Planning (Listed Buildings and Conservation Areas) Act 1990

Cadw - SAM

No comments have been received at the date of writing this report.

CPAT

5th Dec 2022

Thank you for the consultation on the application referenced above.

Having consulted the information held within the Historic Environment Record I can confirm that there are no archaeological implications for the application. The Built Heritage Conservation Officer should be consulted regarding the nearby Grade II \* Listed building 'City House' and any potential visual impact on the building.

Community Council

14th Dec 2022

The Community Council have considered the above application and wish to OBJECT for the following reasons:-

1. Contrary to Policy DM13 Design and Resources

The aim of this Policy is to regulate development so that it complements or enhances the area. This development is seeking to put a large property within a small space in close proximity to a listed property i.e City House.

This site already accommodates Tangles Hair Salon, a flat above the Salon, a flat in the outbuildings and also in The Stables and the Community Council feels this is enough development within the curtilage.

2. Contrary to Policy T1 - Travel, Traffic and Transport Infrastructure

Whilst the allocated parking on the plan has been noted this will not be an easy manoeuvre



for anyone wishing to reverse out.

The allocated parking does not allow for any visitors to any of the properties or for anyone dropping off customers to the Hair Salon and also does not make allowance for any larger vehicles such as delivery vehicles to turn.

The entrance is very narrow and would not allow for two vehicles to pass each other easily in the entrance. This may lead to problems with traffic flow on the B4393 if a vehicle is waiting to turn in.

We would also ask that calculations should be made if the development were to proceed to protect the Oak Tree in the neighbouring garden which is subject to a Tree Preservation Order.

### PCC-Building Control

No comments had been received at the date of writing this report.

Ward Councillor

8<sup>th</sup> Dec 2022

I refer to the above planning application which is a re-submission of a previous application that was refused.

The Community Council and I still have concerns regarding the proposed parking given that there are 2 dwelling already there and also it is parking for a hairdressing and clothes shop business which is dependant on the off road parking as the B4393 is a very busy road and chicanes are already in existence on this stretch of road which results in no on road parking.

Given the above I would welcome if the application could be determined by committee.

I would welcome your confirmation in due course.

### **Representations**

Following the display of a site notice on 7<sup>th</sup> December 2022, 1No. public representation has been received at the time of writing this report. Comments are summarised as follows:

- Application site shown correct on Location Plan but incorrect on Block Plan
- Area of land required for access to neighbouring property
- Wish to ensure details are correct.

## Planning History

<b>App Ref</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
21/0449/FUL	Erection of a dwelling and associated works	Refused	3rd Dec 2021
21/0952/DIS	Application to discharge condition 6 of planning approval P/2017/0165 - Land Adj City House Four Crosses Llanymynech Powys SY22 6RG	Approve	2 <sup>nd</sup> Nov 2021
P/2017/0165	Section 73 application for removal of conditions 4, 5 and 6 of planning permission P/2013/0151 in relation to code for sustainable homes - Land Adj City House Four Crosses Llanymynech Powys SY22 6RG	Approve	20 <sup>th</sup> Mar 2017
NMA/2016/0008	Application for a non material amendment to planning permission P/2013/0811 in respect of changes to roof and fenestration - Land Adj City House Four Crosses Llanmynach Powys SY22 6ZG	Approve	24 <sup>th</sup> Feb 2016
P/2014/0724	Erection of 2 detached garages - Plots 2 & 3 Land Adjacent To City House Four Crosses Llanymynech Powys SY22 6RG	Approve	5 <sup>th</sup> Sept 2014
P/2014/0721	Section 73 application to vary condition no. 1 attached to planning permission P/2013/0811 (3 dwellings) to allow design changes to plots 1 & 3 only - Land At City House Plots 1 & 3 Four Crosses Llanymynech Powys SY22 6RG	Approve	5 <sup>th</sup> Sept 2014
P/2013/0811	Reserved matters application for appearance, layout, scale and landscaping details in connection with 3 proposed dwellings - Land Adjacent To City House Four Crosses Llanymynech Powys SY22 6RG	Approve	5 <sup>th</sup> Nov 2013

P/2013/0151	OUT: Erection of 3.No two storey dwellings (with some matters reserved) - Land Adjacent To City House Four Crosses Llanymynech Powys SY22 6RG	Approve	23 <sup>rd</sup> Apr 2013
P/2011/0167	Listed Building Consent for internal and external alterations - City House Four Crosses Llanymynech Powys SY22 6RG	Approve	15 <sup>th</sup> Apr 2011
P/2011/0170	Change of use of shop (A1) use to an office (A2) use, conversion of upper floors into a self contained residential unit, erection of a two storey extension linking to outbuildings and conversion of outbuilding into a self contained dwelling along with the conversion of the stable block into self contained dwelling and alteration to existing vehicular access and boundary wall and construction of a parking area and detached garage - City House Four Crosses Llanymynech Powys SY22 6RG	Approve	15 <sup>th</sup> Apr 2011
P/2010/0952	Listed building consent for internal and external alterations - City House Four Crosses Llanymynech Powys SY22 6RG	Withdrawn	
P/2010/0951	Change of use of shop (A1) use to an office (A2) use, conversion of upper floors into a self contained residential unit, erection of a two storey extension linking to outbuildings and conversion of outbuilding into a self contained dwelling along with the conversion of the stable block into 2 no. offices and alteration to existing vehicular access and boundary wall and construction of a parking area - City House Four Crosses Llanymynech Powys SY22 6RG	Withdrawn	

## Principal Planning Constraints

Within 50m of Listed Building	The Post Office
Within 50m of Listed Building	House attached to Post Office,
LDP Development Boundaries	Four Crosses/ Llandysilio
SAM: Offas Dyke	Approx 200m west
Mineral Safeguarding Sandstone Cat 2	
Mineral Safeguarding Sand Gravel Cat 1	
Council Highway: B4393	
SSSI: Montgomery Canal	Approx. 800m west
SAC: Montgomery Canal	Approx. 800m west

## Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 11, February 2021)		National Policy
NATPLA	Future Wales - The National Plan 2040		National Policy
TAN5	Nature Conservation and Planning		National Policy
TAN12	Design		National Policy
TAN18	Transport		National Policy
TAN24	The Historic Environment		National Policy
DM2	The Natural Environment		Local Development Plan 2011-2026
DM7	Dark Skies and External Lighting		Local Development Plan 2011-2026
DM13	Design and Resources		Local Development Plan 2011-2026
DM15	Waste Within Developments		Local Development Plan 2011-2026
H1	Housing Development		Local Development

	Proposals	Plan 2011-2026
H3	Housing Delivery	Local Development Plan 2011-2026
H4	Housing Density	Local Development Plan 2011-2026
SP1	Housing Growth	Local Development Plan 2011-2026
SP5	Settlement Hierarchy	Local Development Plan 2011-2026
SP6	Distribution of Growth across the Settlement Hierarchy	Local Development Plan 2011-2026
SP7	Safeguarding of Strategic Resources and Assets	Local Development Plan 2011-2026
T1	Travel, Traffic and Transport Infrastructure	Local Development Plan 2011-2026
SPGARC	Archaeology SPG (2021)	Local Development Plan 2011-2026
SPGBIO	Biodiversity and Geodiversity SPG (2018)	Local Development Plan 2011-2026
SPGHE	Historic Environment SPG (2021)	Local Development Plan 2011-2026
SPGRES	Residential Design Guide SPG (2020)	Local Development Plan 2011-2026

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Marine and Coastal Access Act 2009

The Planning (Listed Buildings and Conservation Areas) Act 1990

## **Officer Appraisal**

### Site Location & Description of Development

The application site is located inside the development boundary of Four Crosses as defined in the adopted Powys Local Development Plan (2011-2026) and is located within the area of Llandysilio Community. Four Crosses is recognised as a Large Village under policy SP5 of the Powys Local Development Plan (2011-2026).

The site is located within the curtilage of the Grade II Listed The Post Office and Grade II Listed House attached to Post Office.

This application seeks full consent for the erection of a dwelling and associated works. The proposed dwelling is a detached two storey 3No. bedroom dwelling with residential curtilage. The proposed dwelling will measure approximately 13.6 metres in length plus side lean-to and a maximum width of approximately 10.74 metres with a maximum ridge height of approximately 6.7 metres.

### Procedural Matters

Planning application 21/0449/FUL for the erection of a dwelling and associated works was refused under delegated powers on 3<sup>rd</sup> December 2021.

This application (22/2049/FUL) is a resubmission of application 21/0449/FUL and has been called in by the Local Member to be considered by the Planning, Taxi Licensing and Rights of Way Committee due to highway safety concerns.

The approved Planning Protocol permits a previously refused application to be called in to be determined by the Planning, Taxi Licensing and Rights of Way Committee where there has been a substantial change to the previously refused application. It is considered that the change in scale and design of the proposed dwelling in the current application represents a substantial change and therefore the call-in request for the application to be considered by the Planning, Taxi Licensing and Rights of Way Committee has been accepted.

### Principle of Development

Full consent is sought for the erection of a dwelling and associated works. Four Crosses is classified as a Large Village under Powys LDP (2018) Policy SP5. The application site is within the defined development boundary Four Crosses and as such, under Policy H1 of the Powys LDP (2018), it is considered that the principle of development at this location

fundamentally complies with relevant planning policy subject to a review of the material considerations.

### Design and Visual Impact

Consent is sought for a two-storey detached 3-bedroom dwelling constructed of masonry under slate roof with single storey timber clad side lean-to. Solar panels are proposed to the rear roof elevation. The proposed dwelling would be located on an area of land within the existing curtilage of City House which is currently laid as hardcore and grass and bordered by a close boarded boundary fence to the south-east boundary.

The proposed dwelling is similar in design to a coach house and it is considered that the design references other outbuildings nearby. The dormer window to the rear side elevation is considered acceptable and the brick chimney stack and brick window and door arches are considered in keeping with the character of the nearby Grade II Listed buildings. The single storey timber clad side lean-to is an acceptable design feature of the proposed dwelling.

It is considered that the scale of the proposed dwelling is acceptable and is in keeping with the surrounding dwellings and would not cause an adverse impact or harm to the setting of the Grade II Listed buildings. The proposed development due to its scale and design is considered to integrate well in the site and would not be overbearing to its surroundings.

The Community Council's comments in respect to compliance to Policy DM13 are noted. The principle of residential development on this site is established through policy H1 of the Powys LDP (2018) and in light of Officer comments in respect to design, scale and integration as set out above, it is Officer opinion that the proposed development complies with policy DM13.

It is considered that the design is acceptable and that the proposed dwelling would not be out of keeping with its surroundings, nor cause any adverse impact on the character on the surrounding area. In light of this, it is considered that the design of the proposed dwelling complies with Policy DM13 and other relevant policies of the Powys LDP (2018).

### Density

LDP Policy H4 recommends that in Towns and Large Villages there should be a housing density of 27+ units per hectare, which equates to a plot size of 370 square metres or less.

The plot size of the proposed development measures approximately 538 sqm, which results in a housing density of 1.45 houses per hectare. A review of the surrounding residential properties demonstrates that the plot size is similar in size to those of the surrounding dwellings. It is therefore considered the density of the plot is in keeping with its immediate surroundings and considers the character of the immediate area. It is

therefore considered the density of the proposed plot is acceptable.

### Impact upon Neighbouring Privacy & Amenity

In considering the impact upon amenities enjoyed by occupiers of neighbouring properties, consideration has been given to the adopted Residential Design SPG and LDP Policy DM13 (Criterion 11).

Due to the proximity of the neighbouring properties to the south-west (rear) elevation, consideration has therefore been given to any overshadowing or privacy concerns in respect of the proposed development. The scale of the proposal development is smaller in footprint than the previously approved garage on the site. Officers having considered the 25° rule and do not consider a detrimental impact will arise in the way of overshadowing by the proposed development.

The rear elevation of the proposed development which faces the neighbouring property to the south-west elevation has omitted any windows on the first floor. Furthermore, officers note that an established fence bounds the site along the boundary with the neighbouring property which provides a strong screening between the developments. Given the condition and height of this fence, and the intention to retain this through development which will also be conditioned, officers do not consider any detrimental impacts on neighbouring privacy and overshadowing as mitigated through design.

The Council's Environmental Protection Team have been consulted on the proposed development and raise no objections in terms of residential amenity, subject to a suitably worded condition regarding working hours being attached to any grant of planning consent.

In light of the above, the development is considered to be acceptable in this regard, and compliant with planning policy.

### Highway Safety & Parking

The local Highway Authority have been consulted on the proposed development and have commented that the existing access benefits from adequate visibility splays and are therefore content that the proposed development will not have a detrimental impact on highway movements in this area.

Concerns have been raised by the Local Member and the Community Council in respect to highway access and parking on site. Given that the Local Highways Authority raise no objection to the proposed development in respect to highway safety, and that the submitted plans clearly demonstrate that the application site can accommodate satisfactory parking provision on site, it is considered that the proposed development will not have an adverse impact on highway safety.

Therefore, subject to several suitably worded conditions being attached to any grant of



planning consent, the proposed development is considered to fundamentally comply with relevant planning policy.

### Biodiversity

#### - *Protected Sites*

The application site is approximately 850 metres east of the Montgomery Canal Site of Special Scientific Interest and Montgomery Canal Special Area of Conservation. Noting the nature of the proposed development, the distance to the protected sites and intervening built development with no direct connectivity, it is officer opinion that the proposal would have no impact upon the protected sites in this instance.

#### - *Protected Species*

The application has not been accompanied by any ecological information, however given that the development relates to the construction of a proposed dwelling on an existing yard which is laid to predominantly hardstanding, it is considered that there is no potential for any priority or protected species to be affected by the proposal. Indeed, the site is of low ecological value, and therefore no Preliminary Ecological Appraisal was requested to be submitted as part of the application on this occasion.

Given the nature of the proposed development, it is considered there is a high potential for external lighting to be installed on the development. No details of any external lighting have accompanied the application, it is therefore considered necessary to attach a condition to any grant of consent to secure the submission of a detailed external lighting design scheme, should any external lighting be proposed.

#### - *Biodiversity Enhancements*

Biodiversity enhancement is required by Planning Policy Wales (Ed. 11), LDP Policy DM2, and Part 1 Section 6 of the Environment (Wales) Act 2016.

Whilst it is noted that the Design and Access Statement states that positive ecology measures including bird boxes and leaving an area of garden space un-managed will be included within the development, these measures have not been demonstrated on the submitted plans.

Therefore, to negate the need for a pre-commencement condition to be discharged, a condition will be attached to any grant of consent to ensure that at least 2 bat or bird boxes are erected on the exterior of the dwelling prior to its first beneficial use. Such a condition would secure enhancement as part of the development and would achieve a biodiversity enhancement within the site and its vicinity.

In light of the above, the development is considered to be fundamentally compliant with planning policy in this regard, and acceptable.

## Built Heritage

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, *'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'*. The Barnwell Manor case the Court of Appeal made it clear that in enacting s.66 (1), Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm but should be given "considerable importance and weight" when the decision-maker carried out the balancing exercise. Therefore, special regard must be given to the desirability of preserving listed buildings and their setting and any harm caused should be given considerable weight within the planning balance.

Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990, in relation to development proposals within conservation areas, states that *"special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"*. Further guidance has been provided in TAN 24 and its annexe *Managing Conservation Areas in Wales* which came into effect on 31 May 2017, and which advises in section 6.4 that *"Local planning authorities are involved in the management of conservation areas on a day-to-day basis through their duty to advise on, consider and respond to planning applications for new development. Because Local Planning Authorities must aim to preserve or enhance the character or appearance of conservation areas, they should scrutinise planning applications closely with these objectives in mind."*

The Council's Built Heritage Officer has been consulted on the proposed development and whilst noting the location of the application site within setting of the Grade II Listed City House and Grade II Listed House adjoining City House raises no objections to the proposed development and considers the proposal has been sensitively designed to form a 'coach house' in appearance property, subject to several conditions being attached to any grant of planning consent to approve details of the external materials and boundary fittings the officer raised no objection to the proposed development and considers that the proposal would not harm the setting of the nearby listed buildings.

To further protect the setting of the nearby listed buildings, permitted development rights will also be removed from the dwelling to ensure that future control of alterations and additions to the dwelling are carefully considered to ensure no harm to the setting of these protected buildings.

In light of the above, the development is deemed to be compliant with planning policy and is acceptable.

## Historic Environment

The application site is approximately 200 metres east of the Offa's Dyke: Section extending 3000m SE to Bele Brook, Llandrinio Scheduled Ancient Monument. Noting the scale of development proposed, intervening features and a lack of connectivity between the application site and the designated site identified, it is considered that there would not be any adverse impacts upon the site because of the proposal.

Officers are of the opinion that the proposal would not have an impact on the Scheduled Ancient Monument nor its setting. Therefore, the development would therefore not have an unacceptable adverse impact on the historic landscape in accordance with LDP Policy SP7.

### Drainage

The application form states that the proposed development proposes connection to the mains sewer, as such Hafren Dyfrdwy have been consulted as part of the application. Hafren Dyfrdwy comments are noted, however as any new connection to a mains sewer would be subject to Section 104 sewer adoption agreement, it is considered that the recommended condition is not necessary in this instance. In addition, as site would require SAB approval, disposal of surface water from the site would be subject to this process.

### Public Representations

Public representations have been received which raise concerns with regards to the boundary of the application site and discrepancy on the plans submitted. The application form includes a signed declaration in relation to land ownership. It is the applicant's responsibility to ensure that declarations are made truthfully. In addition, private rights of way over private land are a civil matter between parties and not of material planning consideration.

The Community Council's comments in respect to the Tree Preservation Order (TPO) at the neighbouring property are noted. The tree is outside of the application site area. Given the separation distance between the proposed development and the tree subject to the TPO it is not considered that the proposed development will adversely affect the tree.

## **RECOMMENDATION**

In light of the above assessment, it is considered that the proposed development complies with relevant planning policy and the recommendation is therefore one of conditional consent.

### **Conditions**

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the following approved plans and documents: Application Form; Location Plan (Scale: 1:1250); P/2021/67/01 B; P/2021/67/02 C; P/2021/67/03/C.
3. Prior to the first beneficial use of the development hereby approved, at least two bat or bird boxes shall be erected on the side of the dwelling at a height of no less than 2 metres and shall be maintained thereafter for as long as the development remains in existence.
4. No external lighting shall be installed on the development hereby permitted unless a detailed external lighting design scheme has first been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife in accordance with the recommendations outlined within the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12th September 2018). The development shall be carried out in accordance with the details once approved.
5. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of (vehicles in accordance with the requirements of CSS Wales Parking Standards) not less than one car per bedroom. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
6. Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course material for a distance of 5.5 metres from the edge of the adjoining footway. This area will be maintained to this standard for as long as the development remains in existence.
7. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:
  - o 0800-1800 hrs Monday to Friday
  - o 0800-1300 hrs Saturday
  - o At no time on Sundays and Bank Holidays

Deliveries to and removal of plant, equipment, machinery and waste from the site must also only take place within the permitted hours detailed above.
8. Prior to their first use samples for all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in full accordance with the approved details.
9. Notwithstanding the details hereby approved, all proposed windows shall be

painted timber flush casements with functioning glazing bars and using an external putty seal.

10. Notwithstanding the details hereby approved, all proposed doors shall be painted timber with (if present) functioning glazing bars using an external putty seal.
11. Prior to the occupation of the dwelling hereby approved a plan indicating the positions, height, design, materials and type of boundary treatment (including gates) to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as approved before the first occupation of the dwelling.
12. No development shall take place (including ground works and vegetation clearance) until a detailed Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority, the Plan shall include details and locations of protective measures including fencing and exclusion zones etc. The approved Plan shall be implemented in full and maintained thereafter.
13. Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, (or any Order revoking and re-enacting that Order) no development under Schedule 2, Part 1, Classes A to E other than that hereby permitted shall be carried out without the written permission of the Local Planning Authority.

## **Reasons**

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

3. To comply with Policies DM2, DM4 and DM13 of the Powys Local Development Plan in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
4. To comply with Policies DM2, DM4 and DM13 of the Powys Local Development Plan in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
5. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018) and Technical Advice Note (TAN) 18: Transport (2017).
6. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018) and Technical Advice Note (TAN) 18: Transport (2017).
7. In the interests of the amenity of the area in accordance with the requirements of Policy DM13 of the Powys Local Development Plan (2018) and Planning Policy Wales (Edition 11).
8. To ensure an adequately designed development in accordance with policy DM13 of the Local Development Plan and Technical Advice Note 12: Design and to have special regard to the desirability of preserving the setting of a listed building in respect of Section 16. (2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 and SP7 of the Local Development Plan (2018).
9. To ensure an adequately designed development in accordance with policy DM13 of the Local Development Plan and Technical Advice Note 12: Design and to have special regard to the desirability of preserving the setting of a listed building in respect of Section 16. (2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 and SP7 of the Local Development Plan (2018).
10. To ensure an adequately designed development in accordance with policy DM13 of the Local Development Plan and Technical Advice Note 12: Design and to have special regard to the desirability of preserving the setting of a listed building in respect of Section 16. (2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 and SP7 of the Local Development Plan (2018).
11. To ensure an adequately designed development in accordance with policy DM13 of the Local Development Plan and Technical Advice Note 12: Design and to have special regard to the desirability of preserving the setting of a listed building in respect of Section 16. (2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 and SP7 of the Local Development Plan (2018).

12. To comply with Powys County Council's LDP Policies DM2 in relation to the Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
13. To comply with Powys County Council's LDP Policies DM2 in relation to the Natural Environment and DM4 in relation to ecological qualities of the landscape and meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016 and SP7 of the Local Development Plan (2018).
14. In order to control further development which has the potential to have adverse effects on setting of nearby listed building in contradiction to policies SP7 and DM13 of the Powys Local Development Plan and Section 16. (2) of The Planning (Listed Buildings and Conservation Areas) Act 1990.

## **Informative Notes**

### 1. Ecology

#### **Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 (as amended)**

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

#### **Birds - Wildlife and Countryside Act 1981 (as amended)**

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on

Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

## 2. Drainage

The SuDS Approval Body (SAB) deem that the construction area is greater than 100m<sup>2</sup> and therefore this proposed development will require SAB approval.

For further information on the requirements of SAB and where relevant application forms/guidance can be accessed, please visit the following website

<https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB>.

Alternatively, please contact the SAB Team on 01597 826000 or via email [sab@powys.gov.uk](mailto:sab@powys.gov.uk).

The requirement to obtain SAB consent sits outside of the planning process but is enforceable in a similar manner to planning law. It is a requirement to obtain SAB consent in addition to planning consent. Failure to engage with compliant SuDS design at an early stage may lead to significant unnecessary redesign costs.

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