

DC/2008/00723

CONVERSION OF PRE-1700 BUILDING INTO 23 APARTMENTS, DEMOLITION OF POST 1900 STRUCTURES AND BUILDING OF 31 NEW APARTMENTS

TROY HOUSE, MITCHELL TROY, MONMOUTH, NP25 4HX

RECOMMENDATION: Refuse

Case Officer: Craig O'Connor

Date Registered: 12/12/2008

1.0 APPLICATION DETAILS

- 1.1 Troy House is a 17th Century grade II* listed building that is located to the south east of Monmouth in the open countryside. It is a large traditional house that has four levels. The house has been altered over time and there has been a succession of additional buildings erected at the site as a result of the building having several different uses. The building is now in disrepair and the significant heritage asset is deteriorating. The site is sensitively located within an Historic Park and Garden and within the Wye Valley Area of Outstanding Natural Beauty. It is a particularly sensitive site given the heritage importance of the site and various other constraints including archaeology, mature trees that are subject to tree preservation orders and as the site lies within flood zone C2 (undefended flood plain).
- 1.2 The proposals are to convert Troy House for residential use to form luxury apartments. The application also includes enabling new build development in the form of two wings to the east and west of Troy House. Troy House would be converted into 23 apartments and there would be 31 new apartments in the new build elements of the proposals. The east wing would have a footprint measuring approximately 550m² and the west wing would have a footprint measuring approximately 722m². The new build wings would have two sections, one three storeys high and the other four storeys high. At their highest points the wings would measure approximately 12.6m high. The proposals also include the creation of parking areas, vehicle access improvements and landscaping. The submitted plans outline the details of the submission and there is a concurrent Listed Building Consent for the proposals (DC/2008/00724).

2.0 RELEVANT PLANNING HISTORY

DC/2008/00724 Concurrent Listed Building Consent Conversion of pre 1700 building into 23 apartments, demolition of post 1900 structures and building of 31 new apartments.

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S2 Housing provision

- S4 Affordable housing provision
- S12 Efficient resource use and flood risk
- S13 Landscape, Green Infrastructure and the natural environment
- S16 Transport
- S17 Place making and design

Development Management Policies

- H4 Conversion of redundant buildings to residential use
- H9 Flat conversions
- SD3 Flood Risk
- LC1 New built development in the open countryside
- LC4 Wye Valley Area of Outstanding Natural Beauty
- NE1 Nature Conservation and development
- EP1 Amenity and environmental protection
- MV1 Proposed development and highway safety
- DES1 General design considerations

4.0 REPRESENTATIONS

4.1 Consultations Replies

Mitchel Troy Community Council – Recommend that the application be approved although it outlines concerns with traffic, the lack of affordable housing in the scheme and lack of pedestrian links.

Natural Resources Wales – Formally object to the proposals. Our predecessor organisations CCW and EAW both previously objected to this application in their letters of 5 February 2009, and 13 January 2009 respectively. The objections were due to a lack of information in respect of flood risk management and European Protected Species. CCW also recommended that an appropriate assessment be undertaken with regards to the potential for impacts on the Wye Valley and Forest of Dean Bat Sites Special Area of Conservation (SAC). We acknowledge that a Flood Consequences Assessment (FCA), produced by NJP Consulting, and an Interim Bat Survey, by IES consulting dated December 2015 have now been submitted. However, they are insufficient to enable us to remove our objections. We also have significant concerns in relation to the potential effects on the Wye Valley AONB and the Lower Wye Landscape of Outstanding Historic Interest.

Dwr Cymru Welsh Water – No objection to the proposal as a private drainage network is proposed.

Cadw – The proposals to renovate the house are supported, however the development would cause significant harm to the integrity of the character of the Grade II* registered historic garden and therefore the site as a whole. The proposals would materially harm the heritage values of the place and adversely affect its setting.

Gwent Wildlife Trust – Holding objection as bats may be negatively affected by the development.

Glamorgan Gwent Archaeological Trust – It is recommended that an archaeological evaluation of the site is conducted prior to the determination of the application.

MCC Highways Officer – Further information is required to fully assess the impact on the development on the highway network. We are dissatisfied they have not considered our original highway comments and submitted the requisite information for our consideration. Unless the applicant submits this information we would have no option but to recommend refusal on the grounds of lack of information.

Tree Officer - Until all trees within, and immediately adjacent to, the boundary of the application site are fully considered within a full Tree Survey in accordance with BS 5837:2012 *Trees in relation to Design, Demolition and Construction* Recommendations, I have no alternative but to recommend refusal.

MCC Heritage – The principle of the conversion of the building is considered to have sufficient justification. The highly graded building, with significant important historic fabric, is progressively deteriorating which will, if no action is taken, result in the permanent detrimental loss of historic fabric which is irreplaceable. The proposal to convert the building into flats from a heritage perspective, is a suitable use. However, the details of the proposals raise concerns, in particular the alterations to the internal arrangements of the building to accommodate all 23 apartments. This involves the loss of a number of staircases of historical and architectural value, together with the loss of panelling, doors and architraves in the most sensitive parts of the building. Whilst it is understood that changes to the building are inevitable in order to accommodate such sub-division, it is considered that there are alternative means of achieving the level of accommodation required by changing the floor plans. As a result, it is considered that the current proposals would have an adverse impact on the special character of the building, the very asset to which the proposals are intended to rescue. It is hoped that these concerns could be overcome via further negotiation, however there are other fundamental issues relating to this proposal that mean it cannot proceed in its current form.

4.2 Neighbour Notification

There have been two parties who have objected to the development for the following reasons: -

- The development would harm wildlife
- The large amount of additional traffic on the lane would be a hazard for farming activities and walkers
- Concerns over the capability of the ancient bridges at the site being able to accommodate the additional traffic
- Concerns regarding highway safety and the proposed junctions

- Concerns over the rights of way on the access track

4.3 Other Representations

SAVE Britain's Heritage – Outline support for the proposed development.

5.0 **EVALUATION**

5.1 History of the application

5.1.1 The existing application was received by the Local Planning Authority on 12/06/2008, it was registered on 12/12/2008 and is currently undetermined. The application has not progressed for many years as it was awaiting additional information to inform a decision. Over the last 24 months discussions have been held with the applicant to try and progress the application and achieve a successful conclusion to allow development at the site. The listed building is deteriorating and therefore bringing it back into beneficial use is of fundamental importance and a material planning consideration regarding this application. The Council is seeking to allow development at the site and preserve this heritage asset but the application has a lack of information to allow officers to recommend that the application is approved. The Council has sought legal advice regarding the necessity of the outstanding information and it was concluded that the required information is needed to inform a positive decision. To assist in advancing the application the Council commissioned an ecology survey of the building and site to inform a potential decision and also to potentially allow the Council to undertake essential works to the listed building if required. The processing of the application has reached an impasse with the applicant unwilling to submit the required information and the Council needing to conduct its duty to protect the heritage asset. As a result, officers have brought the application forward to Planning Committee with the regrettable recommendation to refuse the application given the lack of essential information to determine the application positively. The following sections will outline what information is outstanding and outline why it is required.

5.2 Flooding

5.2.1 The proposed residential development is categorised as a form of 'highly vulnerable development' within Technical Advice Note (TAN) 15 - Development and Flood Risk, and the site lies entirely within flood zone C2 (unprotected flood plain). TAN15 clearly outlines that highly vulnerable forms of development should not be permitted in flood zone C2 areas. The principle of the development would normally be unacceptable as it would conflict with the requirements of TAN15. However given that the proposal would preserve the highly graded heritage asset, it is considered that the proposals could be supported subject to the Flood Consequence Assessment (FCA) ensuring that the technical aspects of flood risk at the site can be managed. Section 6 of TAN15 outlines justification tests that highly vulnerable development needs to meet in order to be considered acceptable. Natural Resources Wales (NRW)

have provided comments on the submitted on the most recently submitted FCA and have outlined that the FCA fails to demonstrate that the risks and consequences of flooding can be managed and formally object to the proposals. At this stage given the lack of an updated and acceptable FCA the development would not meet the justification tests set out in section 6 of TAN15 and the proposals would therefore be unacceptable.

5.2.2 Officers are aware of the direct conflict with TAN15 that these proposals present, but providing that acceptable information is submitted that outlines that the development meets the tests within TAN15, officers would be willing to support the proposals to ensure that the heritage asset is preserved. Notwithstanding this stance on the in principle question of highly vulnerable development in zone C2, the proposal must also meet the tests in Section 6. The site is brownfield, and given that the proposals would effectively save this Listed Building, the proposals are considered to for a regeneration initiative. However, the current proposals do not evidence that the flood risk of the development can be acceptably managed and that the adverse consequences of flood risk are avoided. At this stage given the lack of an updated and acceptable FCA the proposals would be contrary to Policy SD3 of the LDP and TAN15 and would be unacceptable.

5.3 Heritage Impact

5.3.1 Troy House is one of the most significant buildings in Monmouthshire, not only because of its size but also due to its architectural and historical significance. It is one of a small number of highly graded large country houses, set in its own registered garden, with a smaller walled garden to the immediate west of the house. The importance of the building therefore increases. Originally a 16th Century house, it was heavily reconstructed in 1673-99 creating the main front block that is seen today.

5.3.2 However the building has been vacant for some significant time and its last use as a school added some unfortunate, yet reversible changes to the building and additions to the house. The removal of these additions is a benefit of the proposed development. The condition of the building, being vacant for some time, is as expected poor and deteriorating. Of particular concerns are the notable three 17th Century plaster ceilings from the earlier phase of the house suffering from water damage and general structural issues and lack of maintenance together with an incomplete roof resulting in water penetration to a number of areas, for example the rear central 17th Century open well stairs.

5.3.3 The building is identified as 'at risk' on Monmouthshire's Building at Risk database with an elevated chance of decline. In recent years the building has been occupied in part with an onsite caretaker providing protection against vandalism and theft. Therefore there is an increased need and priority for this building to find a new and sustainable use for its future. Thus, in principle the proposals are considered appropriate, subject to the relevant detail and detailed consideration of the proposals. The proposed new build has been carefully considered and is sympathetic to the architectural style of the main house. At the point of submission a viability assessment accompanied the application

which provides evidence to support the extent of the proposed enabling development. There is no evidence to suggest that conditions have improved to warrant any less enabling development than currently proposed; therefore the extent of new build is not raised as a reason for refusal.

5.3.4 In line with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 there is a duty to 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'. With this in mind, with regard to the proposed alterations change to the listed building, the extent of internal re-organisation throughout together with the proposed loss of staircases, doors, architraves and panelling in areas that are relatively unaltered is considered detrimental and inappropriate. The building has been altered internally and so there are some areas that are more open to change than others. The proposed changes involve alterations to parts of the building that are the most sensitive and would have an unacceptable impact on these remaining areas of importance within the building, the very character of which is important enough to warrant the proposed level of enabling development. Proposed changes were requested to the proposals in order to achieve a suitable scheme of conversion, taking into account the results of a revised viability appraisal, and proposed mitigation for protected species. However these remain outstanding and in its current form, regrettably the application cannot be supported.

5.4 Archaeological constraints

5.4.1 Glamorgan Gwent Archaeological Trust (GGAT) have requested that an archaeological evaluation of the site is conducted prior to the determination of the application. This information would be needed prior to a decision being made to ensure that the development does not harm any historic features. Section 6.1.4 of Planning Policy Wales (PPW) outlines: "*Decisions on planning applications and listed building and conservation area consents must be based on adequate information provided by the applicant and any action must be in proportion to the impact of the proposals, and the effects on the significance of the assets and their heritage values.*" The lack of this essential information results in the Council with its associated statutory parties not being able to assess the impact of the development on archaeological features. The proposed development has the potential to harm archaeological remains and given the lack of information in the form of an archaeological evaluation the proposals would be contrary to the guidance in PPW and would be unacceptable.

5.4.2 Cadw has significant concerns that the development would harm the registered park and garden's character. The impact of the proposals on the garden is a material planning consideration and Cadw is a statutory consultee. However, Cadw's advice needs to be balanced against the overall benefits of the scheme in terms of the long-term restoration of the house. In order to make an informed and balanced judgement, a proper understanding is required of the historical development of the garden together with the archaeological assessment outlined above (5.4.1).

5.5 Highway Concerns

5.5.1 The impact of the development on the highway network cannot be fully assessed as there is a lack of information within the application. The Highways Officer has concerns regarding the proposals and has requested additional information in order to be able to comment positively. The additional information required includes full junction details with analysis of vehicular movements at the junction as there are concerns with the safety of vehicles turning right from the B4293. There needs to be a road safety audit of the junction, details of how refuse vehicles will serve the development and turn within the site and a footway needs to be provided for the full length of the access road. Without this information the impact on highway safety cannot be fully assessed and the development would have the potential to harm highway safety contrary to Policy MV1 of the LDP. If received, this information would have to be weighed against the previous use of the property as a school and also against the benefits of bringing the Listed Building back into use. However, without this information it is impossible to make a balanced, informed judgement on this matter.

5.6 Ecology

5.6.1 The protection of ecology is a material planning consideration when determining a planning application. The site has suitable habitat to support a number of protected species including badger, hedgehog, otter, dormouse, common reptiles, common amphibians, breeding birds and bats. TAN5 outlines that it is *“essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It is considered best practice that such a survey is carried out before a planning application is submitted. Planning permission should not be granted subject to a condition that protected species surveys are carried out and, in the event that protected species are found to be present, mitigation measures are submitted for approval”*. The applicant has disputed the requirement of ecological surveys at the site for many years. However as confirmed by legal advice the survey work is required to inform a lawful decision at the site.

5.6.2 The Council commissioned an ecological survey at the site for the applicants to use as part of this application. This survey work has been passed to the applicant and additional work is now required to be conducted by the applicant and an appropriate ecologist to make an assessment of the impacts of the scheme and to provide mitigation and conservation proposals proportionate to the impact of the scheme and the species present at the site. Natural Resources Wales (NRW) have outlined that *in the absence of completed surveys and proposals for the conservation of bat species present we are unable to confirm that there will be no detriment to the maintenance of the favourable conservation status of the bat species concerned or to advise you that we would be able to issue a licence for this proposal*. The applicant has been asked to provide the required information but it has not been forthcoming. Regrettably given the lack of this information it is considered that the only option is to recommend that the application is refused. The development has the

potential to harm the habitat of a European Protected Species (bats) and other ecology and no mitigation proposals have been submitted to overcome this potential harm. The proposed development is contrary to Policy NE1 of the LDP which seeks to preserve ecology and mitigate the impacts of development and is more widely contrary to guidance within TAN5 and PPW.

5.6.3 In consideration of this application, European Protected Species will be affected by the development and it has been established that a derogation licence from Welsh Government will be required to implement the consent. Given the lack of information within the application NRW have outlined that it is not clear that a licence could be given for the development and NRW therefore makes a formal objection to the proposals. Monmouthshire County Council as Local Planning Authority is required to have regard to the Conservation of Species & Habitat Regulations 2010 (as amended) and to the fact that derogations are only allowed where the three tests set out in Article 16 of the Habitats Directive are met. Given the lack of mitigation proposals within the application the development would therefore fail these tests.

5.7 Impact on Protected trees at the site

5.7.1 There is a limited amount of arboricultural information supplied within the application and this prevents the Local Planning Authority from making a lawful decision in respect of trees. Trees are a material consideration in the planning process. There are a number of existing trees covered by a tree preservation order both to the north of the proposed parking area and alongside the access drive. Until all trees within, and immediately adjacent to, the boundary of the application site are fully considered within a full tree survey in accordance with BS 5837:2012 *Trees in relation to Design, Demolition and Construction* Recommendations, the harm to these landscape features cannot be fully assessed and therefore the proposals are unacceptable. Although it is likely that a scheme can be produced that addresses this issue, no information has been submitted despite requests. The proposed development has the potential to harm important landscape features contrary to Policy DES1 of the LDP.

5.8 Well-Being of Future Generations (Wales) Act 2015

5.8.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

5.9 Conclusion

5.9.1 It is highly regrettable that the application is not being presented to Committee with a positive recommendation to ensure the long term preservation of this significant heritage asset. Officers have for many years been trying to work

with the applicant to encourage development at the site to bring the deteriorating building back into beneficial use and have taken a very pragmatic approach. It is acknowledged that bringing the building back into use would be a significant benefit because it would save the Listed Building. The extent of new build is considered to be justified and acceptable, the removal of previous extensions would be beneficial, and overall these benefits are considered by Officers to outweigh the in principle flood risk objection. However given the significant amount of time that has passed (9 years) and given that the required information outlined within this report is not forthcoming, officers feel that they are at an impasse and have no other option but to recommend that the application is refused.

- 5.2 Regardless of the outcome of the application, the condition of the building remains a concern, to such an extent that it is considered formal action to protect the building is necessary. It is considered that a Section 54, Urgent Works Notice relating to the repair of the roof and propping of the heavily decorated plaster ceilings should be the next step an appropriate next course of action

6.0 RECOMMENDATION i): REFUSE

Reasons

1. By reason of the proposed alterations to the floor plan and resulting loss of fabric, together with insufficient information to assess the impact on the architectural and historical detail of the house, the application fails to preserve the special character of this highly graded listed building contrary to the Planning (Listed Buildings & Conservation Area) Act 1990 (Section 66), Welsh Office Circular 61/96 and Planning Policy Wales (Ed. 9) Chapter 6.
2. The development would result in the location of a form of highly vulnerable development in Flood Zone C2 as identified by Development Advice Maps referred to under Technical Advice Note 15 - Development and Flood Risk. The applicant has not demonstrated that the consequences of flooding can be acceptably managed. The proposal, therefore, would be contrary to the advice contained in Planning Policy Wales Technical Advice Note 15 - Development and Flood Risk, and Policies S12 and SD3 of the Monmouthshire Local Development Plan.
3. It has not been demonstrated that the proposed development would preserve potential archaeological remains at the site. The application does not include a comprehensive Archaeological Evaluation of the site and has the potential to cause an unacceptable level of disruption to the historic environment. The application cannot be supported given this lack of information and therefore the proposals are contrary to the guidance within Planning Policy Wales (Ed. 9) Chapter 6 (par. 6.1.4).
4. It has not been demonstrated through a road safety audit and detailed access plans of the junction onto the B4293 that the proposed vehicular access

arrangements would provide a safe access for road users. Given this lack of information the proposed development has the potential to adversely impact on highway safety contrary to Policy MV1 of the Local Development Plan.

5. It has not been demonstrated that the proposed development would not harm ecological interests of Principal Importance in Wales that are internationally and nationally protected. By virtue of the absence of an appropriate level of avoidance, mitigation and compensation, the proposed development would be contrary to guidance within Technical Advice Note 5 and Policy NE1 of the Local Development Plan.
6. It has not been demonstrated through a comprehensive Tree Survey (in accordance with BS 5837:2012 Trees in relation to Design, Demolition and Construction Recommendations) that the proposed development would not harm important landscape features within or adjacent to the site. By virtue of the absence of this requested information the proposed development would be contrary to Policy DES1 of the Local Development Plan.

RECOMMENDATION ii): a Section 54 Urgent Works Notice under the Town & Country Planning (Listed Buildings & conservation Areas) Act 1990 be issued relating to the repair of the roof and propping of the heavily decorated plaster ceilings at the property.