

COMMITTEE DATE: 02/02/2022

APPLICATION No. **21/02671/MNR** APPLICATION DATE: 15/11/2021

ED: **LLANDAFF**

APP: TYPE: Variation of conditions

APPLICANT: Llandaff City Busy Bees

LOCATION: LLANDAFF PRIMARY CARETAKERS HOUSE, 28  
HENDRE CLOSE, LLANDAFF, CARDIFF, CF5 2HT

PROPOSAL: VARIATION OF CONDITIONS 2 AND 4 TO AMEND  
WORDING AND OPENING HOURS AND REMOVAL OF  
CONDITION 8 RELATING TO THE PEDESTRIAN AND  
CYCLE ACCESS OF 21/00497/MNR

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**RECOMMENDATION 1:** That planning permission be **GRANTED** for carrying out of the development in accordance with planning permission reference 21/00497/MNR without complying with conditions 2, 4 and 8, but subject to the following conditions:

1. C01 Statutory Time Limit
2. The premises shall be used only for the purposes of pre-school nursery and for the care of children aged 4-11 during the after-school clubs in accordance with the applicant's day care provider licence, and for no other purpose (including any other purpose within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument amending, revoking or re-enacting that order).  
Reason: Permission is granted only because of the characteristics peculiar to this proposal. Other uses within Class D1 could prejudice the amenities of the area and/or generate unacceptable levels of traffic in surrounding streets, contrary to policies KP5, EN13, T5 and T6 of the Cardiff Local Development Plan.
3. No more than 19 children shall be present on the site at any one time for the purposes of attending the nursery as pupils.  
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and to ensure that the proposed development does not interfere with the safety, convenience and free flow of traffic in the streets around the site, in accordance with policies KP5, EN13, T5 and T6 of the Cardiff Local Development Plan.
4. The use of the premises as a pre-school nursery, and for the care of children aged 4-11 during the after-school clubs, shall not be carried out otherwise than between the hours of 08.00 and 17.30 Monday to Friday and shall not be carried out at any time on weekends and bank holidays. Reason: To ensure that the amenities of occupiers of other

premises in the vicinity are protected and to ensure that the proposed development does not interfere with the safety, convenience and free flow of traffic in the streets around the site, in accordance with policies KP5, EN13, T5 and T6 of the Cardiff Local Development Plan.

5. Before the development hereby approved is brought into beneficial use, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, setting out proposals and targets, together with a timetable to limit or reduce the number of single occupancy car journeys to the site, and to promote travel by sustainable modes. The Travel Plan shall be implemented in accordance with the timetable set out in the plan, unless otherwise agreed in writing with the Local Planning Authority. Reports demonstrating progress in promoting the sustainable transport measures detailed in the Travel Plan shall be submitted annually to the Local Planning Authority, commencing from the first anniversary of beneficial occupation of the development for a minimum period of 5 years thereafter.

Reason: In the interests of sustainability and the management of transportation impacts, in accordance with policies KP5, KP13, KP15 and T5 of the Cardiff Local Development Plan.

6. The change of use hereby approved shall not be implemented until facilities for the secure and sheltered storage of cycles, scooters and buggies have been provided in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved facilities shall be maintained and shall not be used for any other purpose.

Reason: In order to encourage non-car modes of transport in accordance with policies KP5, KP13 and T5 of the Cardiff Local Development Plan.

7. A maximum of one car parking space shall be maintained within the site at all times.

Reason: To ensure that excessive car parking provision is not provided at the site, in accordance with policy T5 of the Cardiff Local Development Plan and the requirements of Cardiff Supplementary Planning Guidance "Managing Transportation Impacts (Incorporating Parking Standards)" (April 2018).

**RECOMMENDATION 2:** The applicant is advised that a commercial contract is required for the collection and disposal of all commercial waste. By law (Environmental Protection Act, 1990, section 34) all commercial premises have a duty of care to ensure that their waste is transferred to and disposed of by a registered waste carrier. Owners or developers of commercial developments/properties who require Cardiff County Council to collect and dispose of their waste can contact the Commercial Services Department on 029 20717500.

## 1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The application seeks permission for the variation of conditions 2 and 4 and removal of condition 8 of planning permission 21/00497/MNR, which was granted on 24/05/2021 and which gives consent for change of use from dwellinghouse (Use Class C3) to non-residential institution (Use Class D1) to enable the former caretaker's house adjacent to Llandaff Church in Wales Primary School to be used as a pre-school nursery for up to 19 children.
- 1.2 Condition 2 reads:  
*"The premises shall be used only for the purposes specified in the planning application (pre-school nursery) and for no other purpose (including any other purpose within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument amending, revoking or re-enacting that Order). Reason: Permission is granted only because of the characteristics peculiar to this proposal. Other uses within Class D1 could prejudice the amenities of the area and/or generate unacceptable levels of traffic in surrounding streets, contrary to policies KP5, EN13, T5 and T6 of the Cardiff Local Development Plan."*
- 1.3 The proposed amended wording of condition 2 is:  
*"The premises shall be used only for the purposes of pre-school nursery and for the care of children aged 4-11 during the after-school clubs, in accordance with the applicant's day care provider licence, and for no other purpose (including any other purpose within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument amending, revoking or re-enacting that order) Reason: Permission is granted only because of the characteristics peculiar to this proposal. Other uses within Class D1 could prejudice the amenities of the area and/or generate unacceptable levels of traffic in surrounding streets, contrary to policies KP5, EN13, T5 and T6 of the Cardiff Local Development Plan'*
- 1.4 The reason for the variation of condition 2 is to allow the applicant to continue operating their other child-care facilities (i.e. the established after-school club use for ages 4-11) which, due to a misunderstanding, was not included in the description of the proposed development when the application was submitted.
- 1.5 Condition 4 reads:  
*"The use of the premises as a pre-school nursery shall not be carried out otherwise than between the hours of 08.00 and 17.00 Monday to Friday and shall not be carried out at any time on weekends and bank holidays. Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and to ensure that the proposed development does not interfere with the safety, convenience and free flow of traffic in the streets around the site, in accordance with policies KP5, EN13, T5 and T6 of the Cardiff Local Development Plan."*
- 1.6 The proposed amended wording of condition 4 is:

*“The use of the premises as a pre-school nursery, and for the care of children aged 4-11 during the after-school clubs, shall not be carried out otherwise than between the hours of 08.00 and 17.30 Monday to Friday and shall not be carried out at any time on weekends and bank holidays. Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and to ensure that the proposed development does not interfere with the safety, convenience and free flow of traffic in the streets around the site, in accordance with policies KP5, EN13, T5 and T6 of the Cardiff Local Development Plan.”*

- 1.7 The applicant is seeking this variation to allow the premises' opening hours to be in line with those of the school and allow co-ordinated after-school care, which had been the intention of the original planning application.
- 1.8 Condition 8 reads:  
*“The operator of the nursery hereby approved shall ensure that pedestrian and cycle access for children attending the nursery and their parents and/or carers, and for staff employed at the nursery, is available via the Llandaff Church in Wales Primary School entrances on both Hendre Close and Cardiff Road at all times during the operating hours of the nursery. Reason: To ensure that appropriate accessibility is maintained, in the interests of pedestrian safety and the management of traffic and car parking in the surrounding area, in accordance with policies T5 and T6 of the Cardiff Local Development Plan.”*
- 1.9 As this area of the application site is outside the applicant's control, this application seeks to remove the condition in its entirety.

## 2. **DESCRIPTION OF SITE**

- 2.1 The site is a two storey detached house dating from the second half of the 20<sup>th</sup> century, which has an attached flat roofed single garage and an enclosed rear garden bordered by mature trees. It is located at the entrance to the primary school at the end of Hendre Close, a residential cul-de-sac of semi-detached houses, and fronts onto the gated staff car park and part of the hard surfaced school playground. The sole vehicular access is shared with the school car park. The house has been vacant for 2 years.
- 2.2 The adjoining school site contains a variety of single and two storey buildings, surrounded by soft and hard play areas. It can be accessed via Hendre Close and also from Cardiff Road in Llandaff via a narrow lane which also serves the scout hall. Staff parking is provided at the north-eastern end of the site near to the Cardiff Road entrance, and at the Hendre Close entrance.

## 3. **SITE HISTORY**

- 3.1 21/00497/MNR - Change of use from residential (C3) to non-residential institution (D1) for use as pre-school nursery with conversion of existing garage to play area. Granted.

- 3.2 20/00036/MNR - Change of use from residential (C3) to non-residential institution (D1) for use as pre-school nursery with conversion of existing garage to play area. Refused 18/06/2020: *'The use of the proposed nursery would be likely to result in an increase in the number of children being dropped off and picked up by car on Hendre Close and in the streets nearby, which would be detrimental to pedestrian and highway safety as it would exacerbate existing parking and traffic congestion problems in Hendre Close and the surrounding streets and cause further inconvenience to residents.'*

#### 4. **POLICY FRAMEWORK**

- 4.1 *Cardiff Local Development Plan 2006-2021:*  
KP5 (Good Quality and Sustainable Design);  
KP13 (Responding to Evidenced Social Needs);  
H4 (Change of Use of Residential Land or Properties);  
T5 (Managing Transport Impacts);  
C1 (Community Facilities);  
C3 (Community Safety/Creating Safe Environments).
- 4.2 *Supplementary Planning Guidance:*  
Childcare Facilities (November 2017).  
Managing Transportation Impacts (Incorporating Parking Standards) (2018).
- 4.3 *Planning Policy Wales (Edition 11 – February 2021):*  
2.2 All development decisions, either through development plans policy choices or individual development management decisions should seek to contribute towards the making of sustainable places and improved well-being.  
3.6 Development proposals must address the issues of inclusivity and accessibility for all.  
3.7 Developments should seek to maximise energy efficiency and the efficient use of other resources (including land), maximise sustainable movement, minimise the use of non-renewable resources, encourage decarbonisation and prevent the generation of waste and pollution.  
3.11 Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take.  
3.21 The planning system must consider the impacts of new development on existing communities and maximise health protection and well-being and safeguard amenity.  
4.1.9 The Welsh Government is committed to reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport.  
4.1.10 The planning system has a key role to play in reducing the need to travel and supporting sustainable transport, by facilitating developments which:  
- are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car;  
- are designed in a way which integrates them with existing land uses and neighbourhoods; and  
- make it possible for all short journeys within and beyond the development to be easily made by walking and cycling.

4.1.11 Development proposals must seek to maximise accessibility by walking, cycling and public transport, by prioritising the provision of appropriate on-site infrastructure and, where necessary, mitigating transport impacts through the provision of off-site measures, such as the development of active travel routes, bus priority infrastructure and financial support for public transport services.

4.1.34 In determining planning applications, planning authorities must ensure development proposals, through their design and supporting infrastructure, prioritise provision for access and movement by walking and cycling and, in doing so, maximise their contribution to the objectives of the Active Travel Act.

4.1.35 New development must provide appropriate levels of secure, integrated, convenient and accessible cycle parking and changing facilities.

4.1.52 Parking standards should be applied flexibly and allow for the provision of lower levels of parking and the creation of high quality places.

4.2.22 Planning authorities will need to ensure that in development plans and through the development management process they make the most efficient use of land and buildings in their areas.

4.4 *Building Better Places: The Planning System Delivering Resilient and Brighter Futures - Placemaking and the Covid-19 recovery* (July 2020).

4.55 *Future Wales- the National Plan 2040.*

It is considered that the proposed decision is in accordance with the 11 key outcomes to be achieved by the planning system as set out in 'Future Wales – The National Plan 2040'

4.6 *Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management* (October 2014).

## 5. **INTERNAL CONSULTEE RESPONSES**

5.1 *Transportation:* No opinion on condition 2 and content for condition 4 to extend by 30 minutes to 5.30. Condition 8 was an explicit agreement with the applicant following questions regarding the availability of the access during the periods the nursery would operate. They confirm access during drop-off and pick up times.

## 6. **EXTERNAL CONSULTEES RESPONSES**

6.1 *Police Crime Prevention Design Advisor:* No comments received.

## 7. **REPRESENTATIONS**

7.1 The application has been advertised by site notices and neighbour notification. One individual representation opposing the application has been received. The grounds for objection are summarised as follows:

1. The nursery is already operating an after school club for 4-11 year olds (presumably beyond the specified hours) without planning permission. The proposed change of the use to officially accommodate an after

school club should be refused and enforcement action taken.

2. The current use of both the nursery and the school site causes considerable disruption in the surrounding area, with parents and teachers regularly parking protracted periods of time on local streets. Further extension of any operation associated with the school or the nursery will merely exacerbate the current situation and should be resisted.

7.2 4 individuals have written in support of the application, stating that:

1. Busy Bees is a small, local, community led childcare provider which provides outstanding early years provision in Llandaff and should be supported.
2. The move will bring a new lease of life to a dilapidated building, provide a better, purpose built provision for young children and help the nursery extend its curriculum.
3. The planning application is simply requesting permission to move from one side of the school to the other. It is currently possible to access Busy Bees via Hendre Close and via the Llandaff Road entrance during school opening times even though Busy Bees is not affiliated to the school and this will not change.
4. Concerns expressed at the planning committee meeting regarding the need for families to walk through the school car park to access the new premises are unfounded - currently 420 pupils access the school via this same route through the small staff car park. As such, many pupils of Busy Bees already walk this current route as they follow the footpath through the school to the current Busy Bees site on Llandaff Road.
5. As residents of Hendre Close, we are not at all inconvenienced by the school opening till 5.30 for out of school care.
6. The delay in allowing the move to the new premises is not helping parents trying to adjust to new working patterns following the stress of home working with school children at home. Busy Bees has been open throughout the pandemic, helping parents work, and keeping things "normal " for the children.

7.3 A letter has also been received from the Insole Estate Residents' Association, which reads as follows:

"With regards to the amendments in relation to conditions 2 and 4, we have no objections. In relation to the removal of condition 8, it is our understanding that access to the nursery is already permitted through the Llandaff Church in Wales Primary School at the times needed for drop-off or collection of those attending the nursery or at any time during its opening hours, such as an emergency requiring collection during the day. If this is not the case then we strongly urge the Council to support Busy Bees nursery in securing access for those attending the nursery at the appropriate times. We also call on the Council to monitor closely the levels of traffic which continue to affect residents during school drop-off and collection times. In particular, Hendre Close, Hendre Gardens, Heol Harlech, Vaughan Avenue, Western Avenue slip road."

## 8. **ANALYSIS**

8.1 The principle of allowing the change of use of this building to a nursery has been established by the granting of planning permission. This application seeks to amend conditions relating to the specific use of the building and the opening hours, and to remove a condition which was imposed by Planning Committee when the application was determined which has proven impossible for the applicant to comply with.

### 8.2 Condition 2.

The purpose of condition 2 is to prevent a future change of use of the building without the need for planning permission to another use within Class D1, which includes uses such as the provision of medical or health services, exhibition hall and use for public worship, which would have different characteristics to a childcare facility in terms of parking requirements, traffic movements, times of use etc., which could have negative impacts on the amenities of local residents and the safety of children attending the school. The condition currently specifies 'pre-school nursery' as the approved use as that is what was given as the description of the proposed use on the application form. Busy Bees already provides an after-school childcare facility and, as this is very similar in nature to nursery use and will continue to operate within the proposed opening hours of the premises, there are no objections to '*the care of children aged 4-11 during the after-school clubs in accordance with the applicant's day care provider licence*' being added to this condition. The amendment to the wording of condition 2 is only seeking to reflect an established use and is not seeking to change the principle of the approved use of the site. In fact, the amendment sought is stated to be in the interest of safeguarding as it would enable the applicant to group the children in the caretakers' house, during the last hours or so of the after-school care services provided by Busy Bees Nursery, to avoid the older children being separated from their siblings in the rooms which the main school leases to the applicant.

### 8.3 Condition 4.

The planning application form for change of use mistakenly gave incorrect proposed hours of operation. The requirement for a closing time of 17:30 rather than 17:00 was not made explicit until after the application had been approved. This difference of 30 minutes is not considered to be significant, the closing time of the premises will not clash with the "school run" and there will be no detrimental impact on the amenities of nearby residents. The additional 30 minutes will enable Busy Bees to provide childcare after school hours in accordance with the applicant's day care provider licence and in line with the needs of parents.

8.4 As the majority of children in the nursery have brothers or sisters in the main school, which has been recognised during the determination of Planning Application 21/00497/MNR, it is evident that the extension of the closing time by half an hour will have no prejudicial impact and will not result in a material impact to traffic flows. It is considered that the amendment will be a betterment to the existing operations as by relaxing the closing time to 17:30,



in line with the main school, parents will be able to collect children from the nursery and school in one trip, in turn reducing the total number of journeys. As the applicant is only seeking a 30 minute extension to the premises' closing time, it is not considered that additional transport information is required to support this amendment as the proposals do not seek changes which would cause any material impact to the transport and highway network.

8.5 Condition 8.

Condition 8 was not recommended by officers but was imposed by the Planning Committee following consideration of the objections that had been received from residents of the surrounding streets with regard to traffic and car parking pressures. It was felt that any additional impact on the streets within the Insole Estate caused by parents accessing the nursery via Hendre Close would be alleviated if they were able to also access the site from Cardiff Road, through the school grounds, and that this access would need to be available at all times given that nursery pupils might have to be picked up during school hours.

8.6 Although this involves gaining access over land not in the applicant's ownership, evidence was provided to demonstrate that the school has already granted the applicant certain rights of access in order to enable the operation of the after school facility on school premises, e.g. the applicant has the right *"to use such parts of the Common Parts for the purpose of access to and egress from the Property as shall from time to time be designated by the Licensor for such purpose;"* with 'Common Parts' defined as *"such roads, paths, entrance halls, corridors, lifts, staircases, landing and other means of access in or upon the Building the use of which is necessary for obtaining access to and egress from the Property as designated from time to time by the Licensor"*. The applicant originally agreed with the wording of the condition, believing it to be reasonable in the circumstances, but subsequently it became clear that the Governors and Diocese of Llandaff Primary, having received legal counsel, could not support the inclusion of the condition for various reasons, including the safeguarding of pupils and an on-going dispute with neighbours over access through the site. This means that the applicant effectively cannot implement the consent if this condition remains, as they do not have control over the school premises and therefore cannot ensure that access is available via the Llandaff Church in Wales Primary School entrances on both Hendre Close and Cardiff Road at all times. The applicant therefore requires the removal of this condition in its entirety in order to be able to operate their childcare facility.

8.7 The condition was considered by Members at the time to be necessary to alleviate concerns that following the relocation of Busy Bees from the Cardiff Road side of the school to the Hendre Close side, all nursery pupils and staff might now have to access the premises via Hendre Close, through the Insole Estate.

8.8 A previous planning application for the same proposal (reference 20/00036/MNR) had been refused by the Planning Committee on 18/06/2020 as it was felt that the likely increase in the number of children being dropped

off and picked up by car on Hendre Close and in the streets nearby was unacceptable for reasons of pedestrian and highway safety. The information provided by the applicant at the time was short of essential details and Highways/Transportation officers advised that, given the lack of detail, they were not able to support the application as it stood. There had also been previous refusals of planning permission for nursery extensions at the school on the grounds that there would be a significant increase in school traffic and demand for short stay parking in Hendre Close and the surrounding roads, which were already congested, to the detriment of pedestrian and highway safety and the amenity of residents.

- 8.9 There is clearly a history of traffic and parking issues in this area caused by the picking up and dropping off of children attending the school. However, Hendre Close was designated a 'School Street' in January 2020 and access restrictions were put in place. During term time motor vehicles are not permitted to drive in the streets around the school on weekdays between 8.30am to 9.15am and 2.45pm to 3.45pm. Signs inform drivers of the restrictions at the entrance to the street and any unauthorised vehicles entering during restricted times can be issued with a Penalty Charge Notice. The designation of School Streets is intended to reduce traffic around school entrances in order to improve safety, reduce pollution and make sustainable methods of travel more appealing.
- 8.10 The proposed nursery would operate from 8am to 5.30pm Monday to Friday, which is partly outside the hours of the existing Traffic Regulation Order, and therefore parents and staff would be able to access the site by car via Hendre Close before 8.30am and after 3.45pm. However, there would be fewer children attending the nursery than previously proposed (19 rather than 24) and the applicant has provided information on how staff and pupils travel to and from the current nursery site, which is close by, which demonstrates that the majority of them walk. Those travelling by car tend to park in the public car park on Llandaff High Street, around 230m away, and access the nursery on foot. The proposed nursery location is only 75m from the existing site, making it possible for existing travel arrangements to be maintained.
- 8.11 Furthermore, the applicant has confirmed that both access points (Hendre Close and Cardiff Road) can already be used at pick up/drop off times and that this will remain the case. It is a fact that the school gates at both access points will be open at the beginning and end of the school day and that parents delivering and picking up children attending the nursery, many of whom will also be dropping off/picking up school pupils at the same time, will be able to use either entrance.
- 8.12 The Council's highways officers had no objections to the granting of planning permission without a condition requiring access via both sides of the school to be maintained at all times – they considered the information relating to travel and attendance patterns, the reduced number of pupils and the applicant's proposal to produce a Travel Plan acceptable and were able to support a recommendation of approval on that basis. In considering the proposals to amend conditions 2 and 4 and remove condition 8, highways officers have

raised no objections, noting that the applicant has confirmed that access is available via both entrances at drop off and pick up times. The conditions which they previously requested, to secure the provision of a Travel Plan (to be monitored for 5 years) and SPG compliant cycle parking facilities, and to limit the number of car parking spaces to the SPG maximum, will remain in place.

- 8.13 The applicant's agent contends that condition 8 does not satisfy the requirements of Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management, which states that conditions should be: i. Necessary; ii. Relevant to planning; iii. Relevant to the development to be permitted; iv. Enforceable; v. Precise; and vi. Reasonable in all other aspects, and that “conditions should only be imposed where they satisfy all of the tests”. As such, if it is justified that a planning condition fails any of the six tests, “it should not be imposed”.
- 8.14 In considering whether a particular condition is necessary, local planning authorities should ask themselves whether planning permission would have to be refused if a condition were not imposed, or if it would be expedient to enforce against a breach of the condition. If it would not, then the local planning authority needs to carefully justify the reason for the condition. A condition should not be imposed unless it is considered necessary. The same principles must be applied in dealing with applications for the removal of a condition under section 73 or section 73A. A condition should not be retained unless there are sound and clear reasons for doing so.
- 8.15 Circular 016/2014 also considers questions of whether compliance with a condition is possible and states that ‘a condition should only be imposed if a developer can reasonably be expected to fulfil its requirements. If not, then the condition may be unlawful and enforcement action cannot be taken. One type of case where this might happen is where a condition is imposed requiring the carrying out of works (e.g. construction of a means of access) on land within the application site, but not under the control of the applicant at the time of the grant of planning permission.’ In this way, it notes how ‘conditions may be imposed on land that falls outside the planning application site provided the land is under the control of the applicant. Conditions should not be imposed on land that is not under the control of the applicant’.
- 8.14 The Circular also advises that a condition can be ‘ultra vires on grounds of unreasonableness, even if it is precisely worded and otherwise within the powers available.’ For instance, a condition may impose a continuing restriction on the use of land (provided that there are good planning reasons for that restriction), but that restriction ‘should not nullify the benefit of the permission’. It also notes how ‘an unreasonable condition does not become reasonable just because an applicant suggests it, or agrees to its terms’ and goes on to state that it would be ‘unreasonable to expect an applicant to comply with a condition which relates to an area of land or element not in their control at the time when planning permission is granted.’
- 8.15 Condition 8 relies on the applicant having control over access through the

school grounds for parents and pupils. Whilst it is recognised that the school leases some rooms to the nursery operator and that nursery staff have internal fobs for their own access and egress into their workplace, this does not constitute evidence of the applicant's ability to secure and control pedestrian and cycle access for others at all times. Access for nursery pupils and parents is available via the school gates on Hendre Close and Cardiff Road but these gates are closed outside of drop-off and pick-up times.

8.16 When the planning application was being considered by the Planning Committee, the issue of the need for parents to be able to access the nursery at all times should a child feel unwell and require early collection was also raised by Members; however, this does not justify condition 8 - should a child require early pick up for whatever reason, the nursery manager on site would be able to facilitate individual access, given the applicant's working relationship with the school (which would not deny access in the event of a medical emergency). In this way, although the school runs completely separately to Busy Bees, it is evident that there are enough safeguarding measures to ensure children can safely leave the premises at all times. Condition 8 is considered unreasonable as it states that pedestrian and cycle access must be available at 'all times', not just during ad-hoc situations when a member of staff may allow a parent into the school to pick up a child during an emergency.

8.17 Representations.

It is noted that only one objection to this application has been received. In response to the objector's points:

1. The existing after school club for 4-11 year olds is operated by the Nursery but is within the existing school buildings therefore does not require planning permission. The incorporation of this existing use into the description of the proposed use of the former caretaker's premises is discussed above.

2. The principle of permitting the nursery to operate from the former caretaker's house has been established by the granting of planning permission. The after school care facility already exists, on the school premises, and the extension of the hours of opening of the childcare facility by 30 minutes, in line with current school opening hours, will have no material impact on the current parking situation.

8.18 With regard to the comments received from the Insole Estate Residents' Association in relation to the removal of condition 8, it is noted that they understand that access to the nursery is already permitted through the Primary School at the times needed for drop-off or collection of those attending the nursery and at any time for emergencies requiring collection during the day. This issue of access is discussed above. Their call for the Council to monitor closely the levels of traffic which continue to affect residents during school drop-off and collection times is noted but is a traffic management issue relating to school traffic, for consideration by the local highway authority, and is not relevant to the determination of this application. Highways/Transportation officers have not raised any concerns that the current control measures are inadequate in respect of the nursery proposals.

#### 8.19 Conclusion.

In conclusion, there would be no reasonable grounds for refusal of this application: the variations sought to conditions 2 and 4 and the removal of condition 8 are considered to be in line with national and local planning policy and the proposed amendments to this planning permission will not result in any detrimental impact in respect of residential amenity, parking/traffic congestion or highway safety but will enable the applicant to implement their planning permission and continue to provide much-needed local childcare facilities within an improved environment. It is therefore recommended that permission is granted subject to the conditions of the original permission, with conditions 2 and 4 amended to reflect the reasonable needs of the applicant and condition 8 removed as unnecessary, unreasonable and unenforceable.

### 9. **OTHER CONSIDERATIONS**

#### 9.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### 9.2 *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 determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

#### 9.3 *Environment (Wales ) Act 2016*

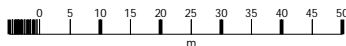
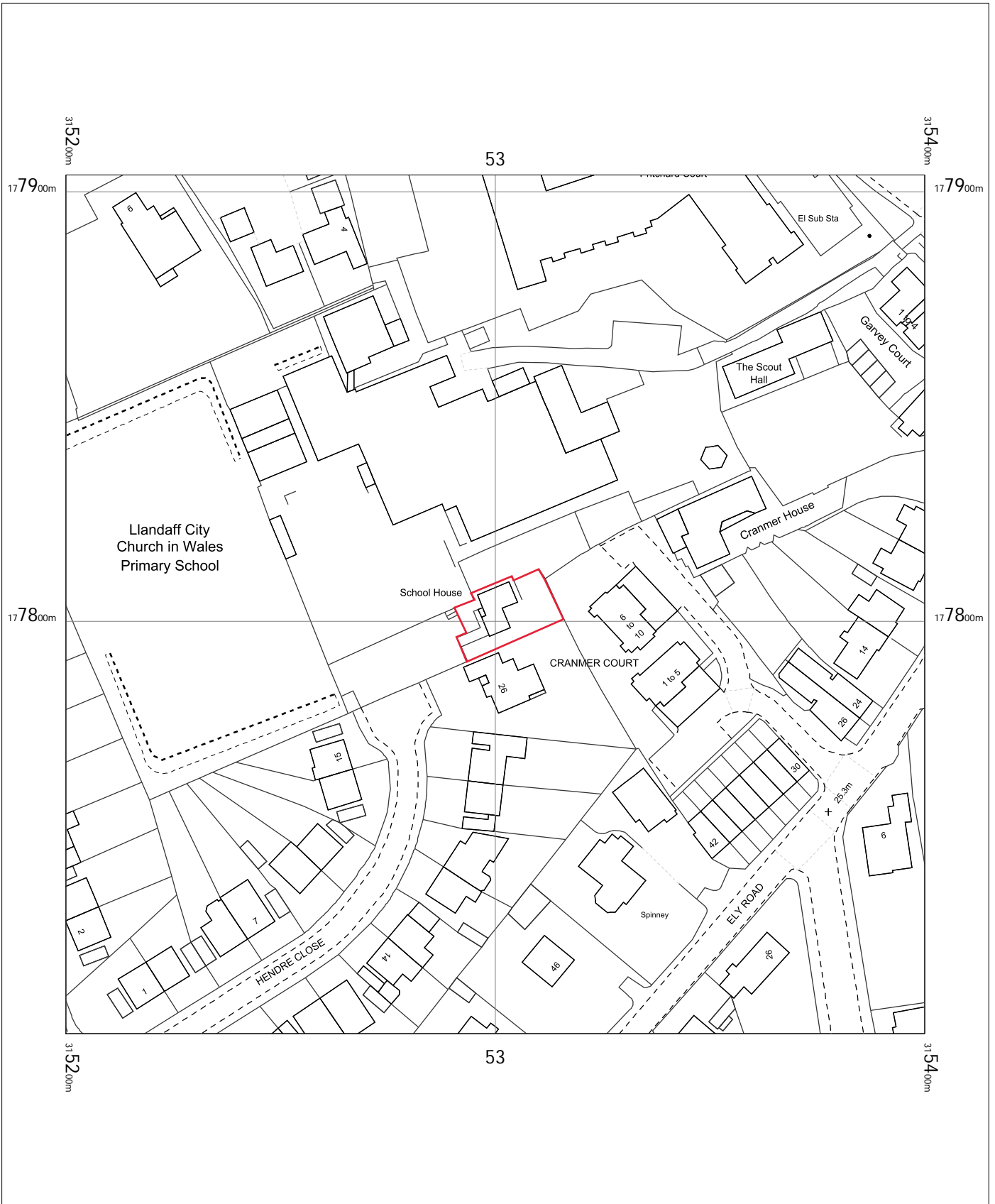
The Environment (Wales ) Act 2016 imposes a duty on the Local Authority to seek to maintain and enhance biodiversity in the proper exercise of its functions, and in doing so to promote the resilience of ecosystems. It is considered that the proposed development does not have any significant implications for, or effect on, biodiversity.

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

The Well-being of Future Generations (Wales) Act 2015 places a duty on the Welsh Ministers (and other public bodies) to produce well-being objectives and take reasonable steps to meet those objectives in the context of the principle of sustainable development. The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act), has been considered and account has been taken of the ways of working set out at section 5 of the

WBFG Act in the determination of this application, and it is considered that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the well-being objectives referred to in section 9 of the WBFG Act.

# 28 Hendre Close



OS MasterMap 1250/2500/10000 scale  
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