

DELEGATED REPORT

Application No: P/21/0047

Site Address: 35 Brynteg
Cardiff Road
Treharris
CF46 5RE

Development: Retention of decking area

Case Officer: Rebecca Owens

Site Visit: 8th March 2021

Application Expiry Date: 12th April 2021

Consultation reply date expired: 25th July 2023

APPLICATION SITE

The application relates to a mid-terraced dwelling located in a mainly residential area within the settlement boundary. The site is bound by a highway to the front and rear and other dwellings on either side. The dwelling occupies a higher level than the lane to the rear and as such the rear garden is elevated.

PROPOSED DEVELOPMENT

Full planning permission is sought for the retention of a decked area within the rear garden of the dwelling to create a large level platform over the originally sloping garden. At its highest point this is 0.8m above the original garden level. In addition, new steps have been created to the rear access gate which is at a lower level and boundary fencing has been erected along the eastern side of the garden. Permission is also sought for the erection of a 1.5m high privacy screen on top of the decking along the western boundary.

PLANNING HISTORY

There is no relevant planning history that needs to be taken into consideration when determining this application.

CONSULTATION

No consultation exercise was considered necessary for this application.

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to the adjoining properties.

Two letters of objection were received following this publicity exercise. The main points raised within these letters are summarised below:

- Impact on character - The development is considered to be out of character and not in keeping with the sloping gardens which surround it.
- Precedent - There is concerns that approval of this application would set a precedent. However, it is unclear if this relates to similar developments or retrospectively applying for planning permission.
- Overlooking and loss of privacy - It is noted that the proposal allows for views into neighbouring gardens.
- Noise and Disturbance - It is claimed that the extensive size, height and materials of the decking area is creating greater noise and disturbance.
- Oppressive and intrusive
- Impacting on enjoyment of rear gardens and making residents uncomfortable.
- The fact that it has been erected without planning permission.
- The proposal and actions of the applicants has impacted on the neighbourhood cohesion and satisfaction.
- Property value.

The plans were amended to include a 1.5m high privacy screen along the western boundary and a further publicity exercise was undertaken. No additional representations were received.

Local ward councillors have been consulted and they wish the application to be determined under delegated power by the Chief Officer Planning and Neighbourhood Services.

POLICY CONTEXT

Policy SW11: Sustainable design and place making of the Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031 is relevant to the determination of this planning application. Furthermore, the application will be determined having regard to the advice contained within Supplementary Planning Guidance Note 6, A Design Guide for Householder Development.

PLANNING CONSIDERATIONS

Whilst the development is located to the rear of the property, as a result of the garden's higher level in relation to the adjacent highway and the fact that the decking itself is elevated above this, the decking is visible from the public realm. However, within the context of the rear streetscene, where there are high stone boundary walls and a number of outbuildings, it is not considered that the decking appears incongruous and it does not harm the character or visual amenities the dwelling itself or the area in general. It therefore complies with Policy SW11 in this respect.

The impact of the decking on the residential amenities of the neighbour residents has also been considered and it is noted that the objections received raised concerns with respect to this. These centred around two main impacts, firstly the decking was considered to be oppressive and intrusive, and secondly its impact in terms of overlooking and loss of privacy. In turn, it was expressed that as a result of this residents were made to feel uncomfortable and the enjoyment of rear gardens was being affected. These are addressed in the following assessment of the development.

The application site is bound by other dwellings on either side. The dwelling to the east known as 34 Brynteg has a rear garden which is at a similar level to the decking which has been erected. As such, the development (including the boundary fencing) is not deemed to be overbearing on this garden. In addition, the fencing between the two properties prevents any overlooking into the rear garden from the decking. It is noted that when standing on the decking there are views back towards the rear elevation and windows of this dwelling and the dwelling beyond. However, it is not considered that these views are any more harmful than those from the elevated patio directly to the rear of the dwelling.

To the west of the application site is the dwelling known as 36 Brynteg, this is set at a slightly lower level to the application site with a sloping garden. As a result the decking is elevated above this, with its height varying along the declining garden. As a result of this and the low level boundary which currently exists there is overlooking from the decking into this neighbouring garden and views back towards the rear windows. However, it is noted that there would have been an element of this as part of the previous arrangement (albeit not from such an elevated levels as now exists) and that there is overlooking from the existing raised patio area directly to the rear of the application dwelling.

Having regard to the original level and the existing raised patio, it is not considered that views to the rear windows are substantially more harmful as a result of the proposal. However, there is an increase in impact from the elevated nature of the views into the rear garden from the decking. However in an attempt to overcome these concerns the plans have been amended to include a 1.5m high privacy fence along this boundary. Whilst this would still allow persons using the decking to look over the fence, they would need to be standing directly adjacent to it and as such it would provide an element of screening from the vast majority of the decked area. Again noting that there was previously some overlooking between these gardens it is considered on balance that this would reduce the harm to an acceptable level. In addition, following a further publicity exercise, no new representations were received.

It is recognised that the introduction of this fence would increase the overall boundary height to the neighbour by 0.7m and would create a more substantial boundary particularly at the bottom of the garden where the level is lower. However, the height of the fence would gradually increase as the neighbour's garden slopes down and as such the fence would not be excessively high along the majority of its length. In addition, at its highest point, this fence would only be 2.3m in height from the original garden level of the application site, which is just 0.3m higher than a boundary which could be erected under permitted development rights. Having regard to this, on balance it is not considered that the privacy fence would have an unacceptable overbearing impact or that it would be justifiable to refuse the application as a result of it. It is also noted that following a publicity exercise on the amended plans no representations were received.

Noise and disturbance was also raised within the objections received, with it claimed that the extensive size, height and materials of the decking area is resulting in greater noise and disturbance. Whilst it is acknowledged that it may have created a larger useable area which in turn may have increased the use of the garden, the noise and disturbance would be no greater than that of a typical residential garden.

Whilst the concerns of the objectors have been acknowledged, having regard to the above, on balance it is not considered that the impact of the decking on the residential amenities of the neighbouring residents would be harmful enough to warrant the refusal of

the application on such grounds. It is also noted that following an additional publicity exercise on the amended plans, no further representations were received.

In addition to concerns with respect to residential amenity (which have been considered above) a number of other points were raised within the representations received. In response to these the following comments are made:

- The impact of the decking on the character of the area has been considered above and whilst it is recognised that many of the rear gardens have sloping gardens, it is not considered that the decking is discordant within the rear streetscene and nor is it considered to be detrimental to the character and appearance of the area.
- Concern has been expressed that the approval of this application would set a precedent. However, it is unclear if this relates to similar developments or retrospectively applying for planning permission. Nevertheless, each planning application is considered on its own merits.
- It is acknowledged that the development has been undertaken without planning permission but nevertheless, the applicant has the ability to apply for planning permission retrospectively to regularise the works which are considered on their own merits.
- It is claimed that the proposal and the actions of the applicant has impacted on the neighbourhood cohesion and satisfaction but this is not a material planning consideration.
- The impact of the development on property values is not a material planning consideration.

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 taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Accordingly the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following **CONDITIONS:**

1. The development shall be carried out in accordance with the following approved plans and documents:

Proposed Block Plan, Amended Plan Received on 29 August 2022

Proposed rear Elev. S, Amended Plan Received on 29 August 2022

Side Elev W and Side Elev E, Amended Plan Received on 29 August 2022

Cross Sect A-A, B-B and C-C, Amended Plan Received on 17 March 2022

Reason -To ensure compliance with the approved plans and clearly define the scope of the permission.

2. **WITHIN 3 MONTHS** of the date of this permission, the privacy screen along the western boundary shall be erected in accordance with the approved drawings and shall be retained in perpetuity thereafter.

Reason - In the interest of residential amenity and to accord with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan

RECOMMENDATION ENDORSED



Director of Neighbourhood Services



DATE: 30.10.2023