

DELEGATED REPORT

Application No:	P/21/0316
Site Address:	2 Jenkins Place Queens Road Twynyrodyn Merthyr Tydfil CF47 0ND
Development:	Erect wall around perimeter of flat roof garage to provide terrace
Case Officer:	Marlene Ferreira
Site Visit:	28th September 2021
Application Expiry Date:	21st December 2021
Consultation reply date expired:	11th November 2021

APPLICATION SITE

The application site relates to a mid-terraced dwelling, 2 Jenkins Place, located off Queen's Road in Twynyrodyn. The property, like many others along this row, has been extended to the rear by means of a single storey extension. A garage has also been constructed, just off the rear adopted lane, which runs along the back of the application property and other properties located off Queen's Road.

The application property, like the neighbouring properties either side, slope down from the front (east) to the rear (north), resulting in a rear garden area that is located over varying ground levels and which are lower than that of the existing dwelling. The rear adopted lane, also slopes down gently from the south to the north.

The application site lies within the settlement boundary – Primary Growth Area, as designated within the Merthyr Tydfil Replacement Local Development Plan (LDP) 2016-2031.

PROPOSED DEVELOPMENT

This application seeks planning permission to enclose the existing flat roof garage at the rear of the property to provide a terrace area.

The existing garage provides a floor area with a maximum of width of 4.2 metres and a maximum depth of 6.5 metres, which would be enclosed by a white 1.1 metre high rendered wall either side and a 1.1 metre high glass balustrade to the front of the garage.

The proposed works would also include the erection of a 0.3 metre wide section of wall measuring 1.6 metres in height, which would be constructed on the northern side

elevation, between the existing garden wall and the enclosed garage and a 2.7 metre wide section of wall, measuring between 0.5 metres and 1.4 metres in height, which would be constructed on the southern side elevation, above the existing garden wall. These sections of walls would also be finished in white painted render.

This application was submitted following the submission of an enforcement complaint and as such, much of the proposed development has already been carried out, but is yet to be completed.

PLANNING HISTORY

The Council's records do not indicate any other planning history for this site.

CONSULTATION

Consultations were not carried out under this application.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to adjoining occupiers. One letter of objection was received following this publicity exercise. The letter referred to the following concerns:

- The application was submitted retrospectively with the side walls having already been erected;

- The Welsh Government provides a useful guide on what is and what is not permitted development. The construction of the wall is in breach of Welsh and local planning laws. Section E1(f) noted in the guidance (page 54) requires that any part of the construction within 2 m from the boundary of the curtilage must be less than 2.5 meters high. Curtilage is defined at page 10 of the technical guidance. In the present case, the curtilage is essentially the areas of the house and boundary of the garden of 2 Jenkins Place. The wall has been constructed exactly at the boundary of 3 and 2 Jenkins Place. It is more than 2 meters high. The actual height can be seen from the attached photographs. The wall is clearly more than 2.5 meters high. It is so high, in fact, that I have not been able to measure it accurately since it is not possible to reach the top of the wall. The wall at the boundary of the curtilage with 3 and 2 Jenkins Place does not meet the requirements of section E1(f);

- The development has been called a garage with flat roof in the planning application. The use of the term "garage" is misleading. The actual use of the proposed development is as a flat terrace for entertaining purposes; BBQs, parties and such like;

- We are concerned with safety issues and damage to property, such as to our car that is sometimes parked in our garden next to the wall that has been built on the boundary of our property, and personal harm that may be caused to us if, for example, garden furniture, BBQ equipment and such like is blown off the terrace by the wind into our garden (similar risks are present for the occupants of 1 Jenkins Place);

- A fence or some sort of enclosure will need to be erected around the perimeter of the proposed terrace to mitigate the risks noted above but also presumably for the safety of

those using the terrace, otherwise there will be a severe, dangerous drop to the ground from the proposed terrace. A fence or enclosure of this nature will make the wall even higher, further compounding the problems noted.

- It is unusual for a garage roof to be used as a terrace. The terrace will in effect be a raised platform. Page 58, section 11.8 of technical guidance notes, “verandas, balconies and raised platforms are not permitted development under Development class E where any part projects 300mm above the surface of the ground directly below it”. Clearly the proposed terrace is more than 300mm from the ground directly below it;

- There is no precedent for development of this nature in Jenkins Place;

- The height of the structure will obliterate the views we have enjoyed from our house and garden for the last 54 years;

- The proposed use of the flat terrace will mean that our garden will be overlooked with loss of privacy. The flat terrace will mean that the back of our property will be visible. This will lead to a loss of privacy in our home as our kitchen and living room at the back of our house will be visible from the terrace through our windows;

- The height of the wall means that we will not be able to continue the current use of our garden for drying washing etc as washing on the line rubs against the wall that has been constructed.

- We will not be able to park our car in the parking place in our garden due to the risk of damage from items falling or being blown by wind from the terrace area.

Following the receipt of the objection letter, amended plans were requested from the agent to show the exact extent of the new boundary wall along the perimeter of the garage and either side of the existing garden boundaries. It was also requested that the neighbours wall be shown correctly (since this was originally showing a wall which was higher than that which existed on-site). Following the receipt of the amended plans, a further publicity exercise was undertaken and no further objections or comments were received.

Members were advised of the objection letter received but have not requested that the application be determined at Planning Committee. As such, the application will progress to be determined, under delegated powers, by the Chief Officer Planning and Neighbourhood Services.

POLICY CONTEXT

National Development Framework

- Future Wales: the National Plan 2040 (February 2021)

National Planning Policy

- Planning Policy Wales (edition 11, February 2021)

Local Planning Policies

- The Merthyr Tydfil Replacement Local Development Plan 2016-2031

SW4: Settlement Boundaries

SW11: Sustainable Design and Placemaking

PLANNING CONSIDERATIONS

The issues to consider under the assessment of this application relate to whether the proposed enclosure to the side garden boundaries and garage to provide a useable terrace area would be acceptable in respect of their impact upon the character and appearance of the property and residential amenity.

Character and Appearance

The proposed development would be located to the rear of the property. As such, whilst it would be visible from the rear lane and the adjacent open grassed area, it would not be viewed from the front street scene and would therefore not detract from the character and appearance of the dwelling when viewed from Queens Road.

When viewed from the rear lane, it is noted that the proposed height of the glass balustrade to the front of the garage and the new walls either side would only amount to 1.1 metres (excluding the small sections of wall proposed either side, in between the garage and the existing boundary wall and above the existing boundary wall, which would measure between 1.6 metres at its highest and 0.5 metres at its lowest). As such, these new walls and balustrade would not be considered excessive in height. In addition, the walls would be finished in render and would therefore match the material finishes of the existing property. These works would therefore be an acceptable form of development within the rear garden of a domestic property.

Likewise, the small new sections of wall either side (in between the existing garage and the existing northern side dividing boundary and above the southern existing side boundary), also finished in white render, would have a height of 1.6 metres to the north, adjacent to 3 Jenkins Place, and 2.55 metres to the south, adjacent to 1 Jenkins Place, from their original ground level. These boundary wall extensions would also provide a more uniform and continuous dividing boundary from the garage to the rear of the dwelling. These works would also be acceptable, particularly since any boundary treatment with a height of 2 metres or less could be erected at any time without planning permission. Indeed, the boundary extension to the north would measure less than 2 metres from ground level and the boundary treatment extension to the south would only be 0.55 metres higher than that which could be erected without planning permission. Furthermore, it should also be noted that the proposed development would be viewed in context with two other neighbouring dwellings, located to the south of this property, which have also had very similar elevated terrace areas constructed to their rear and which are also enclosed by rendered walls either side and a glass balustrade to the front. The proposed development would therefore be considered an acceptable form of development within this setting, which would not detract from the character or appearance of the immediate area. As such, it would accord with LDP Policy SW11.

Residential Amenity

The proposed terrace area and extended boundaries would sit between two adjoining properties either side, 3 Jenkins Place to the north and 1 Jenkins Place to the south.

These are the neighbouring dwellings most likely to be impacted by the proposed development.

In respect of 3 Jenkins Place, it is noted that this neighbouring dwelling has also been extended to the rear by the addition of single storey extensions and is served by a small elevated courtyard enclosed with low railings. A small path/patio area is also provided at lower ground level, immediately adjoining the designated parking area which abuts the rear lane. Whilst the proposed extended garden walls at the application dwelling would be higher than the existing railings enclosing the neighbours elevated patio area, this would be less than 0.5 metres higher (than the railings), since the new section of wall would measure 1.6 metres in total height. As such, it would not result in an overbearing form of development on the boundary with this neighbouring property. Indeed, as previously pointed out, a wall could be constructed on the boundary with this neighbouring dwelling, up to 2 metres in height (from the applicant's ground level), without requiring planning permission. Although the enclosure around the perimeter of the garage roof to provide a terrace would result in a higher boundary treatment measuring between 1.8 and 2 metres higher than the neighbours dividing wall, it should be noted that the existing garage at the application property is already between 0.75 and 0.95 metres higher than the neighbours wall and that the new wall to enclose the garage would therefore only measure 1.1 metres in height. Although, the new wall combined with the height of the garage would result in a total height of 3.85 metres from the neighbour's ground level, it should be noted that the enclosed terraced area would be located adjacent to the neighbours parking area as opposed to their garden/patio area. As such, any overbearing impact would not be significant.

The existing patio area to the rear of the garage roof terrace currently affords overlooking opportunities to the window and side door of the neighbours (3 Jenkins Place) rear extension. Depending on where one stands this property's patio area can also be overlooked. The patio area (and window) of 3 Jenkins Terrace can also be viewed from the rear lane and the balcony (and access steps) of 4 Jenkins Terrace. Therefore, a judgement must be made as to whether the overlooking to the neighbour's patio and rear windows (3 Jenkins Terrace) would be so significant to warrant a refusal. The roof terrace has been designed to take advantage of the views through the rear glazed balustrade. As such, it is likely that any seating would be arranged to take advantage of the scenery to the south/west. It is appreciated any overlooking would be accentuated when standing, however given the above and the fact that when seated views back towards 3 Jenkins Place are restricted by the boundary walls, on balance, the development is considered acceptable in terms of overlooking and loss of privacy to the occupiers of 3 Jenkins Place.

In respect of 1 Jenkins Place, it is noted that this neighbouring garden is made up of a grassed area which slopes down gently from the rear of the property to the end of the garage, adjacent to the rear lane. As such, the proposed new sections of wall along the dividing boundary would amount to a new boundary treatment measuring between 2.95 metres and 2.4 metres in height. However, the new section of wall itself would only measure between 1.4 metres and 0.5 metres. Furthermore, from the application property's ground level, the total height of the wall would only measure 2.55 metres and as such, would only be 0.55 metres higher than a 2 metre high wall/fence, which could be constructed on the boundary with this neighbouring dwelling, without planning permission. This would not result in an overbearing form of development upon this neighbouring dwelling. Likewise, the addition of a 1.1 metre high wall on top of the garage would not have a significant overbearing impact or result in a substantial loss of light (given the garden is located to the south of the wall).

The overlooking and loss of privacy issues are similar to that which would be experienced by the occupiers of 3 Jenkins Place. However, the rear garden of 1 Jenkins Place currently has little privacy and thus can be easily overlooked from both the adjacent side and rear lanes.

Given the above, it is considered that the proposal accords with LDP Policy SW11.

Responses to Representations

Many of the representations raised have been considered above. In respect of other concerns raised, the following is noted:

- In accordance with section 73A of the Town and Country Planning Act 1990 planning applications for retrospective development can be made in respect of a development carried out without permission;
- The information noted under the Welsh Government website refers to development which can be carried out without planning permission. Since the applicant has submitted an application, the development proposed therefore needs to be assessed in respect of the relevant LDP policies and other material planning considerations;
- The description of development states 'erect wall around the perimeter of the flat roof garage to provide terrace'. As such, the description of development clearly explains that a terrace would be created as a result of this proposal;
- If garden furniture, a BBQ or any other items are blown from the terrace onto the neighbouring property and causes damage, this would be a civil matter between the applicant and the neighbouring occupiers involved. However, the use of the flat roof garage with the benefit of a boundary enclosure would make it less likely for furniture or other items to be blown off the roof and cause damage to neighbouring properties;
- No other fence or boundary enclosure has been proposed above the garage other than the 1.1 metre high wall and balustrade. Any other enclosure or fence which the applicant seeks to erect above the garage, may require planning permission and would then be assessed at that time;
- The right to a view is not a material planning consideration;
- The proposed development would not restrict the neighbouring occupiers from using their garden or parking area as they currently do.

CONCLUSION

The development, due to the reasons discussed above, is therefore considered acceptable and in compliance with the relevant policies and guidance.

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:

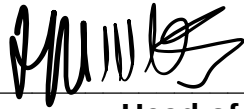
RECOMMENDATION: BE APPROVED subject to the following **CONDITIONS**:

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

Title: Proposed Plans and Elevations, Drawing no: 21/09/01 Rev: B received: 26th October 2021

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

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

15/12/21