

DELEGATED REPORT

Application No:	P/20/0214
Site Address:	Llewelyn Street Garage Junction Of Llewelyn Street And Victoria Street Dowlais Merthyr Tydfil
Development:	Demolition of existing garage and erection of new garage (Retrospective)
Case Officer:	Marlene Ferreira
Site Visit:	24th September 2020
Application Expiry Date:	5th November 2020
Consultation reply date expired:	5th October 2020

APPLICATION SITE

The application site relates to an area of land formerly comprising a detached garage. It is located next to the access gates which enclose the lower yard of the Merthyr Motor Auction site. The former garage, which was in a poor state of repair, was recently demolished and a new garage has been constructed in its place.

The garage adjoins the Merthyr Motor Auctions site to the east, the access road into the Merthyr Motor Auctions site to the south, and additional land to the west and north, all of which are also owned by the applicant. Another detached garage is sited further to the north, this however lies outside the application site boundary and the applicant's ownership.

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

PROPOSED DEVELOPMENT

This application seeks retrospective planning permission for the erection of a new garage in the same location as the former garage. The former garage featured a very shallow pitched roof and measured 4.1 metres wide, 5.9 metres deep, with a 2.75 metre ridge height. The proposed garage, which has already been constructed, also has a pitched roof design and measures 4.1 metres wide, by 5.9 metres deep, with a 3.75 metre ridge height. It has been finished with rendered elevations and a corrugated plastic coated steel roof. The new garage, like the existing garage, is to be used for domestic purposes.

This application was submitted following the receipt of a complaint from a neighbouring resident. The matter was investigated by the Enforcement Officer and it was concluded that planning permission for the erection of a new garage was required. As such a planning application for the retrospective development was requested and submitted.

The applicant has confirmed that the existing garage was demolished as a matter of urgency due to concerns over its stability and potential impact on the health and safety of the local residents. Indeed, the applicant has submitted photographs which show substantial cracks in the wall of the garage and vegetation growing inside the garage.

It is noted that three bollards have also been erected on the land to the side of the garage, however these would not require planning permission, and as such will not be considered under the assessment of this application.

PLANNING HISTORY

The council's records do not show any other recent or relevant planning history for this part of the site, which would be relevant to the consideration of this application.

CONSULTATION

Engineering and Traffic Group Leader

No objection.

Council's Ecology Officer

No objection, subject to a condition.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) Order (Wales) 2012, letters were sent to nearby occupiers and a site notice was displayed within the vicinity of the site. Two letters of representation were received following the publicity exercise and the planning related concerns have been noted below:

- The developer has ignored planning procedures which are in place to protect the locality and local community. Carrying out demolition work and redeveloping an area of land and then applying for retrospective planning permission places the planning authority, residents and the wildlife (including any protected species) in the area at a disadvantage.
- There was no planning application for the demolition of the garage, when I made you aware of the demolition that was taking place. *I wrote to you via email on the 15th of July notifying you of my concerns about the demolition and for the protected species in the area and to your obligations – "England and Wales this duty falls under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006. "Technical Advice Note TAN 5 Nature Conservation and Planning 2009. Previous caselaw has clearly stated that competent authorities must have regard to the Habitats Directive in the exercise of its functions."*
- *On the 10th of August, I again wrote to say that I intended to escalate my complaint, because the breach of planning and building control powers was not being exercised by the relevant authority. On the same day, I had a reply from a Mr Huw Roberts saying that the Enforcement Officer would now investigate the matter on her return from leave on the 17th of August.*

- *Merthyr Tydfil Local Development Plan also refers – “3.5.5 A variety of European protected species are present within the County Borough and development proposals that are likely to affect such species will also be assessed against the requirements of Planning Policy Wales (para. 5.5.11 and 5.5.12, Edition 3, 2010), and Chapter 6 of TAN 5: Nature Conservation and Planning (2009). National and local priority species and habitats are identified within the UK, Welsh and Local Biodiversity Action Plans”.*
- *There is also a clear action plan in the Merthyr Biodiversity Plan - All bats that occur in Wales are European Protected Species, meaning that it is an offence to harm or disturb them or their roosts, whether intentionally or by accident. This action plan sets out a series of targets for continued monitoring of bat populations, and appropriate management and designation of bat habitat. MTBP also aim to encourage 'bat friendly' additions to new developments, such as bat bricks and boxes, and to include foraging habitat and connectivity within landscaping projects.”*
- *I wrote again on the 4th of September notifying the Planning Department that work was continuing to completion stage. The concern is that the development has been carried out without any assessment of its impacts and effects on the locality including biodiversity.*
- *On this occasion MMA has demolished an old building at the end of Llewelyn Street/Pant Road and built another building of different dimensions and with additional concrete bollards in the same location.*

Ward members were advised of the objections but have not requested that the application be considered at Planning Committee. As such, the application will progress to be determined under delegated powers by the Chief Officer of Planning and Neighbourhood Services.

POLICY CONTEXT

National Planning Policies

Planning Policy Wales (PPW) (Edition 10, December 2018)

Paragraphs 3.3 – 3.16 set out the principles of good design in new development proposals, which should take into account its relationship to its surrounding context.

Paragraphs 6.4.21 – 6.4.23 note that local authorities should seek to maintain and enhance biodiversity and build resilient ecological networks to ensure that any adverse environmental effects can first be avoided, mitigated or compensated. Regard should also be given to any potential impacts on protected species that may result in disturbance or harm to the species or its habitat.

Technical Advice Notes (TAN'S)

TAN5 – Nature Conservation and Planning (September 2009)

Local Planning Policies

Merthyr Tydfil Replacement Local Development Plan (LDP) 2016-2031

SW4 – Settlement Boundaries

BW11- Sustainable Design and Place Making

EnW1- Nature Conservation and Ecosystem Resilience

Supplementary Planning Guidance (SPG's)

SPG Note 5: Nature and Development (May 2015)

SPG Note 6: A Design Guide for Residential Development (September 2015)

Other Guidance:

Merthyr Tydfil Local Biodiversity Action Plan (2014-2019)

Merthyr Tydfil Nature Recovery Action Plan (2019-2024)

PLANNING CONSIDERATIONS

The issues to consider in the assessment of this application relate to whether the proposed garage, would, in the first instance, be acceptable in principle in this location, and whether, in terms of its siting, scale and design, it would constitute an acceptable form of development with regards to its impact upon the character and appearance of the area, residential amenity, ecology, parking provision and highway safety.

It should also be noted that whilst nearby residents have expressed their concerns with regards to the submission of a retrospective application, Section 73A of the Town and Country Planning Act 1990 allows for applications to be submitted for a development already carried out without planning permission. The legislation specifically states that:

(1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.

(2) Subsection (1) applies to development carried out:

(a) without planning permission;

(b) in accordance with planning permission granted for a limited period; or

(c) without complying with some condition subject to which planning permission was granted.

(3) Planning permission for such development may be granted so as to have effect from:

(a) the date on which the development was carried out; or

(b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.

Principle of Development

The garage, which has been constructed in the same location as the former garage, lies within the settlement boundary. Developments within the settlement boundary are acceptable in principle, provided that they comply with any other relevant policies and material planning considerations. The proposed garage therefore complies with LDP Policy SW4.

Character and Appearance

The garage, although a relatively prominent development when viewed within the surrounding area, has been constructed on the exact same footprint as the former garage. Whilst this garage is 1 metre higher than the former garage, it amounts to a proportionate and sympathetic development which is deemed to be in context with the character and appearance of the area, particularly since it has replaced the dilapidated garage that formerly existed on-site. Indeed, the garage is a significant enhancement when compared to the previous structure. It also comprises a more appropriate pitched roof design, which is more visually acceptable than the previous shallow pitched roof design of the former garage. As a result, the replacement garage, in respect of its siting, scale, design and finishes, improves the visual appearance of the area. The proposal therefore accords with LDP Policy SW11.

Residential Amenity

The garage has little impact on the amenity of surrounding residents. Indeed, the garage is located over 13 metres from the dividing boundary with the nearest dwelling and given the fact that the former garage has been replaced with a new garage of a similar scale, albeit 1 metre higher, it does not have a significantly different or more harmful impact upon the privacy and amenities of nearby occupiers. The relationship and impact of the existing garage with nearby occupiers is therefore considered acceptable and accords with LDP Policy SW11.

Ecology

Given that works had already commenced, the Council's Ecologist has recommended enhancement works in accordance with the Environmental (Wales) Act 2016, as set out under LDP Policy EnW1. Specifically, it was requested that a sparrow terrace be erected, as high as possible, on the northern gable end of the garage. This requirement would be secured by condition as part of any planning permission granted. As such, the proposed development complies with LDP Policy EnW1.

With relation to the demolition of the garage and its impact on protected and other species, whilst the works undertaken were regrettable, any harm caused to protected or other species is illegal and thus a matter for the relevant Wildlife Crime Officer working for the Police.

Parking Provision and Highway Safety

The newly constructed garage sits on the same footprint as the former garage and is accessed via the same adopted highway, Victoria Street. In addition, it would continue to be used for domestic purposes only and as such, would not intensify the use of the garage and the comings and goings of vehicles at this location. The proposal has been considered by the Engineering and Traffic Group Leader who has not raised any objections to the development in respect of parking provision or highway safety. The proposal therefore complies with LDP Policy SW11.

Responses to Representations

Some of the concerns raised by local residents have been considered above. Other objections raised are addressed below:

- The matter has been investigated by both the Enforcement Officer and the Building Regulation Officer and an application has been submitted for consideration by each of these sections;
- The application has been considered in accordance with the relevant national and local planning policies and guidance, as demonstrated in the delegated report.

CONCLUSION

For the reasons stated above, the replacement garage is an acceptable form of development which enhances the appearance of the area without impacting on neighbouring residents or highway safety. Ecological enhancements could be secured via a condition attached to any planning permission. The retrospective development would therefore comply with LDP Policies.

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:

- Llew Gar 01 received: 10th September 2020;
- Llew Gar 02 received: 10th September 2020;

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

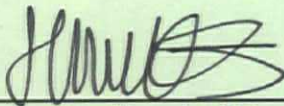
2. The garage hereby approved shall only be used for domestic storage purposes and/or for the parking of a private vehicle and for no other purpose.

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

3. **Within two months of the date of this permission** a sparrow terrace shall be erected at the highest point of the northern gable end elevation of the garage, details of which shall be first submitted to and approved in writing by the local planning authority. The sparrow terrace shall remain thereafter in perpetuity.

Reason - In the interest and to enhance biodiversity, in accordance with Policy EnW1 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

RECOMMENDATION ENDORSED

A handwritten signature in black ink, appearing to be 'J. Huw', written over a horizontal line.

Head of Town Planning

DATE:

5/11/20