

DELEGATED REPORT

Application No: P/22/0187

Site Address: 10 Bishops Grove
Penydarren
Merthyr Tydfil
CF47 9LJ

Development: Erection of garage attached to side elevation of dwelling

Case Officer: Rebecca Owens

Site Visit: 15th November 2022

Application Expiry Date: 30th January 2023

Consultation reply date expired: 27th October 2022

APPLICATION SITE

The application relates to a semi-detached dwelling located in a mainly residential area in the settlement boundary. The site is bound to the front partially by a shared driveway, by other dwellings on either side and open grass land containing a sub-station to the rear. The site is not located within a conservation area.

PROPOSED DEVELOPMENT

Full planning permission is sought for the erection of a garage off the side elevation of the dwelling which would be set back from the main front elevation by 1.35m. The garage would be 3m in width by 6.5m in depth and would have a mono-pitched roof with a maximum height of 3.75m. It would feature a garage door in its front elevation and a pedestrian door and small window in its rear elevation. The roof would be covered with concrete tiles to match the main roof and the external walls would be finished in brickwork to match the existing elevations of the dwelling.

PLANNING HISTORY

The relevant planning history is summarised below:

P/22/0137 Single storey outbuilding attached to side elevation (Lawful Development Certificate)
Refused Lawful Development Certificate on 1 July 2022 for the following reason:

“The proposed extension would result in development on an approved parking space which would be in breach of condition 11 of planning permission P/96/0254 as it could not be retained for its permitted purpose”.

- P/07/0346 Erection of rear sun lounge
Granted planning permission subject to condition on 29 August 2007
- P/96/0254 Residential development of 40 No. dwellings
Granted planning permission subject to conditions on 27 September 1996.
Condition 11 of this planning permission states:
- “The parking and garage spaces indicated on the approved layout plans shall be retained for parking purposes at all times”*

CONSULTATION

The following bodies were consulted and their responses are presented below:

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| Engineering
and Highways Manager | Objects to the planning application for the following reason:

<i>“The proposed garage will reduce the usability of existing off-street parking provision for the neighbouring dwelling and result in the creation of on-street parking demand to the detriment of highway safety and the free flow of traffic”.</i> |
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PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to the neighbouring properties and a site notice was displayed within the vicinity of the site.

Following this publicity exercise letters of objection were received from the two adjoining properties. The main points raised within these are summarised below:

- The application is for a garage on the existing driveway with a second parking space indicated on a shared access. This would block/restrict access to neighbouring properties by preventing vehicles from passing and restricting the turning of vehicles into parking spaces. This shared access is on the deeds and the neighbour(s) have a legal right of way to access their properties. The second parking space would restrict access affecting parking, loading and turning in an already restricted space and access of emergency vehicles. In addition it would affect residents of the wider estate due to an increase in vehicles parking on the road and pavements creating obstructions and restricted access to emergency vehicles and refuse collection vehicles.
- The amended plans are not accurate. The applicant's driveway is placed in the wrong position on the shared access, the boundary lines are inaccurate taken from the Title Plan, these make the design appear plausible and if accurate the proposal would not fit within the boundary lines of 10 Bishops Grove and still allow for adequate parking.
- The proposal would impact on the neighbours ability to access the rear of their property.
- The plans indicate that that an existing landscaped area would be used to allow for a drive. This was intended for landscape purposes only and is not wide enough to vehicle access/parking.
- The deeds identify a specific area where garages can be erected. The proposed garage would be outside of this area.

- Granting planning permission for development within the approved parking spaces would breach condition 11 of the original planning permission (outlined above).
- The garage would result in a loss of light and overshadowing to the neighbour's kitchen and bathroom.
- The size of the garage would be overbearing.
- The garage would encroach onto the neighbours drive and prevent access to their parking space.
- As the site is restricted the application site and neighbouring property rely on a shared space (triangular piece of land) to open car doors. This would be lost.
- In the application form under 'Pedestrian and Vehicle Access, Roads and Rights of Way' the applicant has answered 'no' in relation to the need for any diversions, extinguishments and/or creation of public rights of way. This is inaccurate as it would extinguish the neighbours right of way to access their drive, rear of their property and access to their vehicle.
- Planning permission was granted for a two storey extension at 11 Bishops Grove which included a condition requiring the car parking spaces to be retained for that purpose at all times. However, approval of this application would prevent one of the spaces from being used in breach of that condition.

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

POLICY CONTEXT

National Development Framework

Future Wales: the National Plan 2040 (February 2021) sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

National Planning Policies

Planning Policy Wales (Edition 11, February 2021)

Local Planning Policies

Policies SW11: Sustainable design and place making and CW1: The Historic Environment 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

Character and visual amenity

The proposed garage is generally considered to be of an acceptable design and scale. It is recognised that its roof pitch would be shallower than the main the front gable. However, given that it would be single storey in height and set back from the front elevation by 1.35m, it is not considered that this would have a sufficiently harmful impact on the appearance of the property as to warrant the refusal of the application. In addition,

the matching roof and elevational finishes would be in keeping with the appearance of the property. As such the development is deemed to be acceptable in terms of its impact on the character and appearance of the dwelling itself and the area in general, which it is noted falls within Urban Character Area 7 (Penydarren). The proposal is therefore in accord with Policies SW11 and CW1 of the LDP.

Residential Amenity

Regard has also been had for the impact of the proposal on the residential amenities of the neighbouring occupants. In this respect, as the garage is located off the north western elevation it would only impact on the adjoining dwelling known as 11 Bishops Grove. As outlined above, objections have been received to this application on the basis that it would have an overbearing impact and lead to a loss of light to this neighbouring dwelling's kitchen and bathroom. It is noted that the garage would be forward of the front elevation of the neighbouring two storey extension and thus of its front ground floor window. However, given that it has an eaves height of just 2.57m, it is not considered that it would be overbearing or result in a harmful loss of light or overshadowing to the room that this window serves. Furthermore, any impact to windows in the flank or rear elevations are not likely to be significantly impacted given the splay of the boundary and existing boundary fence. As such, whilst it is recognised that there would be some impact on the neighbouring property's extension and its front room, it is not considered that this would be great enough to warrant the refusal of the application on the grounds of harm to residential amenity. Accordingly, the development would not contravene policy SW11 of the LDP.

Parking and Highway Safety

As indicated above, the original planning permission for this housing development (Planning Reference P/96/0254) includes a condition which requires the parking spaces identified on the approved plans to be retained for parking purposes at all times. In relation to this plot, the approved parking spaces were located adjacent to the north western side elevation of the dwelling. It is noted that one of these spaces has already been lost through the erection of a shed and fence, which appears to have been in situ for over ten years (i.e. immune from any enforcement action) and as such the application site currently benefits from a single parking space. The proposal would encroach onto the remaining parking area (as indicated on plans approved under permission P/96/0254) but as it is for a garage the existing parking space would be replaced rather than lost and consequently there would be no change in terms of the number of off-street parking spaces serving the application dwelling.

It is recognised that the submitted plan suggests that a second parking space could be provided to the front of garage but this may not be viable given that it would appear to encroach onto the shared access and prevent access to the neighbours' parking space. It is noted that the Planning Division cannot control where people chose to park so should a vehicle(s) be parked on a shared access it would not be a planning matter. Nevertheless, one parking space to serve the dwelling is considered acceptable (which would be provided within the garage) given that this is the current provision and has been for some time.

Notwithstanding the above, it is considered that the relationship and arrangement of parking spaces between the application dwelling and the neighbouring dwelling known as 11 Bishops Grove, is an important consideration. Like the application dwelling, this neighbouring property originally benefited from two parking spaces running adjacent to its

southern elevation. With the two parking spaces of the application site alongside these but at an angle so the parking spaces met and partially overlapped at the front. It is noted that planning permission has previously been granted for a two storey extension to the side and rear of 11 Bishops Grove both in 2005 and amended in 2006. The extension was sited and has been erected on part of the original parking area with room for a single vehicle to the front of the extension. A replacement space was provided within the front curtilage so the property retained two parking spaces. Both of the permissions included a condition relating to car parking spaces which required these to be retained. These are as follows:

Planning Ref: P05/0564

"The area designated for parking on the approved plans shall be surfaced in tarmacadam, or approved alternative durable material and shall be retained for this purpose at all times.

Reason – *To ensure the access, parking and turning needs of the development are adequately met within the curtilage of the site at all times."*

Planning Ref: P/06/0003

"The area designated for parking on the approved plans shall be retained for this purpose at all times.

Reason – *To ensure the access, parking and turning needs of the development are adequately met within the curtilage of the site at all times"*.

These conditions were necessary to ensure that the parking needs of the dwelling were met within the curtilage to prevent on-street parking and protect highway/pedestrian safety. As such, the retention of this parking area is important.

The proposed garage would be wider than the existing hardstanding area serving 10 Bishops Grove and as such would encroach over a triangular piece of ground separating the parking spaces of the application site from those of 11 Bishops Grove. Consequently, the front corner of the garage would be erected in very close proximity to the one original parking space remaining for the neighbouring property which would make access to this space unduly difficult. As such, it is considered that this proposal would result in an unacceptably awkward arrangement which would result in the neighbour's being unable to practically use their parking space. Whilst the loss of one of the two parking spaces serving the application site can no longer be enforced, and it is unreasonable to now require an additional space given the length of time since the loss of the space, the retention of the car parking spaces serving the neighbouring property is considered to be important. This proposal would impinge on one of these spaces displacing parking for a vehicle onto the local estate road which would adversely impact on highway safety. Similarly, if the neighbours manage somehow to manoeuvre a car into their space, once occupied access to the parking space within the garage would become overtly difficult and potentially not achievable, which would then leave the application dwelling without a parking space. Either way, this arrangement would likely result in cars being parked elsewhere within the estate where they could impede access or impact on highway safety.

It is acknowledged that the red line site boundary would suggest that part of this neighbouring parking space is in the ownership of the applicant, but this has clearly been designated as a parking space for 11 Bishops Grove and has been used as such since the property was occupied. Furthermore, boundary and land ownership issues are not a material planning consideration. However, it is acknowledged that there would appear to be an ongoing dispute between the applicant and the occupants of 11 Bishops Grove with

respect to land ownership. The applicant has submitted a red line boundary on a site location plan demonstrating the application site and has signed a certificate of ownership (A) indicating that they own this land. As such they have done what is required from a validation perspective. The onus is on the applicant to complete this information correctly. The owners of 9 and 11 Bishops Grove have suggested that the red line 'ownership' boundary is incorrect, but this is a legal matter and not a material planning consideration.

Comments on objections

The objections received following the publicity exercise have been considered and in response to these the following comments are made:

- The Planning Division cannot control where cars are parked and whilst it is recognised that the parking of a vehicle on a shared access may result in issues with access and manoeuvring this is a civil matter and not a material planning consideration. In addition, given that the dwelling only appears to benefit from one of the original parking spaces, it is considered that a single replacement parking space would be sufficient. As this could be provided within the garage, an additional space within the shared access would not be deemed necessary nor required by the Planning Division. However, as noted above, there are concerns with respect to the garage and the useability of the space within it.
- It is not for the Planning Division to establish boundaries and any dispute with relation to boundaries is a legal matter. If planning permission was granted for the proposal and it was the case that part of it encroached on land not in the ownership of the applicant, then the permission of the relevant landowner(s) would need to be obtained. Similarly, the position of the second car parking space and the impact of this proposal on car parking has been carefully considered above.
- Whilst it is acknowledged that the plans do not include the original car parking space at 11 Bishops Grove, this is not a requirement to validate the application. Furthermore, the impact of the proposal on the neighbours' ability to park has been assessed following a site visit. The ability of the neighbours to access the rear of their property and any obstruction to this is not a material planning consideration but maybe a private matter if the development would encroach onto the neighbouring land.
- The original plans submitted inaccurately portrayed the existing shared driveway and adjacent landscaped area. However, accurate plans have now been submitted.
- It is recognised that the deeds may identify a specific area where garages can be erected and that the proposed garage may be outside of this area. However, this is not a material planning consideration and would be a legal issue.
- Any permission issued would supersede condition 11 of the original planning permission (outlined above) and as such would not be a breach of condition.
- Encroachment, boundary disputes and landownership are not material planning considerations. However, the impact of the garage on the neighbouring parking space has been considered above.
- In the application form under 'Pedestrian and Vehicle Access, Roads and Rights of Way' the applicant has answered 'no' in relation to the need for any diversions, extinguishments and/or creation of public rights of way. The objectors consider this to be inaccurate as it would affect the right of access of the driveway. However, this is a private right of access and not a public right of way.
- It is noted that planning permission was granted for a two storey extension at 11 Bishops Grove which included a condition requiring the car parking spaces to be

retained for that purpose at all times. The impact of the proposal on this parking space has been considered above.

Conclusion

In reaching the recommendation, the requirements of section 3 and 5 of the Wellbeing of Future Generations (Wales) Act 2015 have been taken into account. The recommendation is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Minister's well-being objective of supporting safe, cohesive and resilient communities.

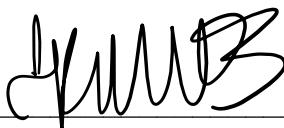
Accordingly, the following recommendation is made:

RECOMMENDATION: BE REFUSED

REASON:

1. The proposed garage by virtue of its siting would result in vehicular access to the car parking space serving 11 Bishops Grove being unduly awkward and impractical resulting in car parking being displaced and the creation of on-street parking. This would be detrimental to highway safety and the free flow of traffic contrary to Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE:

12/1/23