

# DELEGATED REPORT

|                                  |                                                                                                                         |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| Application No:                  | P/21/0249                                                                                                               |
| Site Address:                    | 1 Pentwyn Villas<br>Merthyr Tydfil<br>CF47 8PJ                                                                          |
| Development:                     | Retention of extensions as erected and garage (with alterations), re profiling of land and erection of boundary fencing |
| Case Officer:                    | Rebecca Owens                                                                                                           |
| Application Expiry Date:         | 1st September 2021                                                                                                      |
| Consultation reply date expired: | 6th August 2021                                                                                                         |

## APPLICATION SITE

The application relates to a traditional semi-detached dwelling located within a mainly residential area. The site is bounded by a highway to the front and dwellings on all other sides.

## PROPOSED DEVELOPMENT

Full planning permission is sought for the retention of extensions and for the retention of garage with some alterations, the re-profiling of land and erection of boundary fencing.

Planning permission has previously been granted for the erection of a two storey side and rear extension, single storey rear extension and detached garage. However, these were not constructed in accordance with the approved scheme and as such this application seeks permission for their retention.

The two storey side and rear extension is set back from the main front elevation of the dwelling by 3.935m and projects out from the side elevation by 2.99m. It has a maximum depth of 8.525m and a maximum width of 6.69m with a projection of 4.24m from the rear elevation of the dwelling. The roof of the extension is hipped with a flat central section and has a maximum height of 6.6m. The extension features a first floor window in its front and rear elevations, two further first floor windows in the west facing side elevation, a large glazed section at ground floor level in the western facing elevation which opens to the side garden and French doors at ground floor level in the eastern facing side elevation. The external walls are finished with render and the roof is covered with slates matching the existing roof with a flat section to the middle.

A single storey extension has been erected off the rear elevation of the above two storey extension. It is 3.68m in width and 1.635m in depth (5.875m off the main rear elevation of the dwelling). This extension has a flat roof with a height of 3.15m. It features a window in the eastern facing elevation and the external walls are finished with render.

With respect to the above extensions, it is not clear if the submitted drawings accurately illustrate these in relation to the boundary line. However, if there is a discrepancy it would not be substantial. In addition, the extension are in situ and thus for the purposes of this application can be assessed on this basis.

The detached garage has been erected in the south-western section of the side garden which is accessed from the adjacent highway. Given the difference in levels between this highway and the garden the land where the garage has been erected has been excavated with the garage set below the level of the main garden. The garage has an irregular footprint with the front elevation measuring 5m, the rear elevation measuring 5.4m, the west elevation measuring 5.5m and the east elevation measuring 7m. It has an almost flat roof but due to the varying ground level the height of this varies with a maximum height of 2.7m. The front elevation features a garage door and it has been finished with timber cladding. At present the timber fencing has been erected above the front and western elevations of the garage onto of its roof. However, this application does not seek permission to retain this and the plans indicate that this would be removed.

The side garden of the property has been re-profiled without planning permission to create a level garden area, which spans across the whole side garden and above the roof of the aforementioned garage. However, planning permission is being sort to retain only some of these works. The proposal subject to this application seeks permission to retain the increased ground level adjacent to the eastern side of the garage. The thin layer of ground/soil above the garage roof would be removed and the land between the rear elevation of the garage and the boundary of 19 Park Row Gardens would be reduced in height so it is more in accord with its previous levels. This land would be banked down from the level garden area and reduced to the base of the existing stone boundary wall with 19 Park Row Gardens.

Boundary fencing has also been erected without the benefit of the necessary planning permission. Again this application seeks permission to retain some of this fencing with new fencing also proposed. The proposal subject to this application seeks to retain the 2.5m high fencing which has been erected along the north western boundary adjacent to 20 Park Row Gardens. The remaining section of fencing along this side of the garden, which has been erected along the boundary with 19 Park Row Gardens, would be removed. The fencing along the western side of the garden (adjacent to 18 Park Row Gardens) would also be removed, as would the sections of fencing above the garage. Permission is sought to retain the remaining fencing along the southern boundary (adjacent to the highway) which is 1.5m above the re-profiled garden level. A new section of fencing is also proposed adjacent to the eastern elevation of the garage which would connect the front fencing to the remaining fencing along the north-western side. This would comprise of a 4m length at 1.5m in height which then steps up to a height of 1.98m for the remaining length of 6m.

## PLANNING HISTORY

The relevant planning history is summarised below:

|           |                                                                                                                                                                             |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| P/18/0073 | Erection of two storey side and rear extension, single storey rear extension, detached garage and other external works<br>Granted planning permission subject to conditions |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## CONSULTATION

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

Head of Engineering      No objection

## PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016, letters were sent to the adjoining dwellings.

One letter of objection was received following this publicity exercise from the occupant of 20 Park Row Gardens which adjoins the rear boundary of the application site. The main points raised within this are summarised below:

- The retrospective nature of the application and the impact this may have on the decision making process.
- The discrepancies between the extensions as erected and as previously approved in terms of size and location has the effect of exacerbating any impacts on the objectors property, particularly with regard to the proximity of the two storey extension's ground and first floor glazing with respect to overlooking and loss of privacy.
- The validity of the condition relating to the obscuring of the first floor windows and its enforceability.
- The impact of the proposal may be increased by the need to provide appropriate landscaping to a currently unauthorised development.

## 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

The acceptability of the extensions to the dwelling have previously been considered and were found to be acceptable. However, these were not erected entirely in accordance with the approved plans, with discrepancies in the dimensions, siting and window and door

details. However, these variations have not substantially altered the appearance of the extensions or fundamentally altered their design. In addition, it is not considered that the extensions as erected have resulted in a substantially greater impact on residential amenity when compared to the previously approved proposals. It is acknowledged that the dwelling which has been most affected by the development is 20 Park Row Gardens which adjoins the rear boundary line. This neighbouring property and the application site have an unusual arrangement with 20 Park Row Gardens occupying a higher level than the application site and erected in close proximity to the shared boundary line at an angle to the application dwelling. The side extension, is in close proximity to the shared boundary line and indeed the neighbouring dwelling itself but it is not considered that the arrangement is resulting in a significantly greater overbearing impact or overshadowing and loss of light than the previously approved scheme and thus would not warrant the refusal of the application on such grounds. However, it is recognised that due to the close proximity of the two storey extension to Park Cottage and 20 Park Row Gardens (which adjoins the rear boundary line), the first floor windows were fitted with obscure glazing to ensure that there was no harmful impact on these properties with respect to overlooking and loss of privacy. A condition was also attached to the decision notice requiring this arrangement to be retained in perpetuity. Despite the differences between the approved plans and the constructed development, any adverse impact from these windows is currently being prevented by the obscure glazing which has been installed. As such, it will be necessary to impose a condition with any permission to regularise the extensions as built, to ensure that the obscure glazing is retained and the privacy of the neighbouring occupants is protected. No concerns are raised in relation to the ground floor windows as these would be suitably screened with the fencing subject to this application.

Similarly, the acceptability of the garage has already been considered as part of the previous permission. However, the garage has been erected larger than approved and with a timber cladding finish. The larger proportions of the garage are not considered to have had a significant impact on its overall appearance and as such, it remains of an acceptable scale. Whilst it is recognised that the timber cladding finish is a more notable alteration, it is considered to be an acceptable alternative, which is not harming the overall character and appearance of the streetscene to an extent that would warrant the refusal of the application on such grounds. Furthermore, the garage is also not deemed to have an adverse impact on the residential amenities of the neighbouring occupants. Finally, the Head of Engineering is satisfied with the garage as erected and has not raised any concerns in respect to highway safety.

The re-profiling works and the proposed alterations to some of the unauthorised garden level is deemed to be visually acceptable and would not have an adverse impact on the character of the area. In terms of the impact of this on residential amenity, it is recognised that the raised garden level could have the potential to impact on the residential amenities of the neighbouring dwellings with respect to overlooking and thus loss of privacy to rear windows and gardens. It is noted that due to the close proximity of dwellings known as 19 and 20 Park Row Gardens to the application site, there would be some views from the raised garden area towards their first floor windows, particularly 19 Park Row Gardens, which occupies a lower level. However, there would have been an element of this previously and it is not considered that the raised garden level has significantly increased this to a harmful degree. In this respect it is noted that no objections or concerns have been raised in relation to this from the occupants of either neighbouring property. The existing and proposed boundary fencing, would also obscure views to the gardens and ground floor windows of these dwellings whilst also ensuring that views from the garden area to other neighbouring properties would be either at an adequate distance so to avoid

any unacceptable overlooking to neighbouring windows or suitably obscured. However, to ensure that this remains the case, it is recommended that a condition requiring the erection and retention of this fencing is attached to any permission issued.

It is also noted that the re-profiled garden is level with the roof of the garage and thus without the presence of the proposed fencing, the garage roof could be used as part of the garden (as is currently the arrangement with the unauthorised works). The use of the garage roof as garden area would have a far greater impact on neighbouring residents and could result in unacceptable overlooking and loss of privacy without adequate screening and any necessary screen may result in an overbearing impact on neighbouring dwellings. As such, it is considered necessary to control this via a suitably worded condition.

Finally, this application seeks permission to retain and alter some of the existing boundary fencing and to erect new fencing. The proposed boundary scheme is considered to be acceptable in terms of its visual impact. Timber fencing of this design and scale is characteristic of boundary enclosures found around private garden areas. However, it is recognised that as this is a side garden, a section of the fencing (which has already been erected) is adjacent to the highway, and moreover that the re-profiled garden level has resulted in this having an elevated height, giving it the propensity to be more prominent and visually intrusive. However, in this instance, the fencing would be largely obscured behind an existing boundary hedge, which is to be retained. With the presence of this hedge, the view of this boundary appears largely unchanged and as such it is not considered that the proposal is harming the character of visual amenities of the streetscene to an extent that would warrant the refusal of the application. With respect to residential amenity, the main section of fencing which bounds another property is that adjacent to 20 Park Row Gardens. This property is at a higher level than the application site and as such, it is not considered that this fencing is resulting any overbearing impact or unacceptable overshadowing. It is also noted that a small section of the fencing along the north western boundary would be adjacent to the rear garden of 19 Park Row Garden. Whilst this property is at a lower level than the application site, given the modest amount of fencing, it is not considered that it would have a significantly harmful impact on this property to warrant the refusal of the application.

It is acknowledged that one letter of objection was received to this application from the occupants of 20 Park Row Gardens. The main concern raised within this related to overlooking from the ground and first floor windows, the validity of the condition relating to the obscuring of the first floor windows and its enforceability. The impact of the extensions on this property have been referred to above and the need for a similar condition to ensure the obscurity of these windows has been highlighted. With respect to the condition itself, it is considered that the previous condition and any new condition would meet the six tests outlined in The Use of Planning Conditions for Development Management (Circular Ref: WGC 016/2014 ). The new condition recommended would state:

*The first floor side and rear windows of the two storey extension hereby permitted shall be retained with obscured glazing which is level 3 or higher on the Pilkington Scale of Privacy or equivalent and shall be retained in that condition in perpetuity. The first floor side windows shall be fixed shut and any part of the first floor rear window that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The window shall be permanently retained in that condition thereafter.*

It is considered that this is:

- Necessary - The condition is necessary to protect residential amenity. It is considered that the proposal would be unacceptable without it.
- Relevant to planning – The condition relates to residential amenity which is a material planning consideration.
- Relevant to the development - The condition relates to a fundamental element of the extension.
- Enforceable – The condition clearly and precisely sets out what steps the applicant needs to take to fulfil the condition. A time limit relating to when this needs to be carried out cannot be included as this is a retrospective application and obscure glazing is already in situ but the condition specifies that obscure glazing should be retained in perpetuity. Any breach in the condition could also be identified easily via visual inspection.
- Precise – The condition is precise, outlining to the applicant exactly what they need to do to comply with it.
- Reasonable - The condition is reasonable in all other respects and not unduly restrictive or onerous.

With respect to the other matters raised within the letter of objection the following comments are made:

- The retrospective application to regularise works does not alter the decision making process. The proposal subject to this application has been considered against material planning considerations, including the point of objection raised and relevant planning policies. The assessment of these is summarised in this report.
- It is recognised that the discrepancies between the extensions as erected and as previously approved in terms of size and siting would result in a modestly greater impact on 20 Park Row Gardens but it is not considered that the additional impact would be harmful enough to warrant the refusal of the application on such grounds. This has been addressed above.
- Given that this is a householder development it would not be necessary to impose any conditions relating to landscaping. Any planting undertaken by the applicant would not require planning permission. Similarly, the need to provide appropriate landscaping to the currently unauthorised development is not relevant to this decision. This application seeks permission for the proposal submitted and any subsequent landscaping to this 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:**

## CONDITIONS/REASONS:

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

Block Plan, Received on 7 July 2021

Ground floor plan, Received on 7 July 2021

First floor plan, Received on 7 July 2021

West elevation, north elevation, south elevation and roof plan, Received on 7 July 2021

East elevation, fencing plan, garage plan, garage elevations, Amended Plans Received on 27 September 2021

South elevation - stone wall behind garage on boundary, Received on 7 July 2021

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

2. The first floor side and rear windows of the two storey extension hereby permitted shall be fitted with obscure glazing which is level 3 or higher on the Pilkington Scale of Privacy or equivalent and shall be retained in that condition in perpetuity. The first floor side windows shall be fixed shut and any part of the first floor rear window that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition 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.

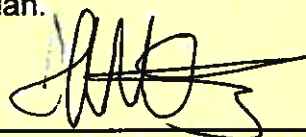
3. **WITHIN 1 MONTH** of the date of this permission, the boundary treatments shall be erected in accordance with the details indicated on the approved plans. The development shall be retained as such thereafter.

**Reason** - To ensure that the new development will be visually attractive and boundaries protected in the interests of amenity in accordance with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. The roof area of the garage hereby approved shall not be used as a storage area, roof garden or similar amenity area.

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

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

27/9/21

