

DATE WRITTEN	7th July 2017
REPORT AUTHOR	Judith Jones
CASE OFFICER	Marlene Ferreira
COMMITTEE	Planning and Regulatory
COMMITTEE DATE	19th July 2017

Application No.
P/16/0205

Date
7th February 2017

Determining Authority
MTCBC

Proposed Development

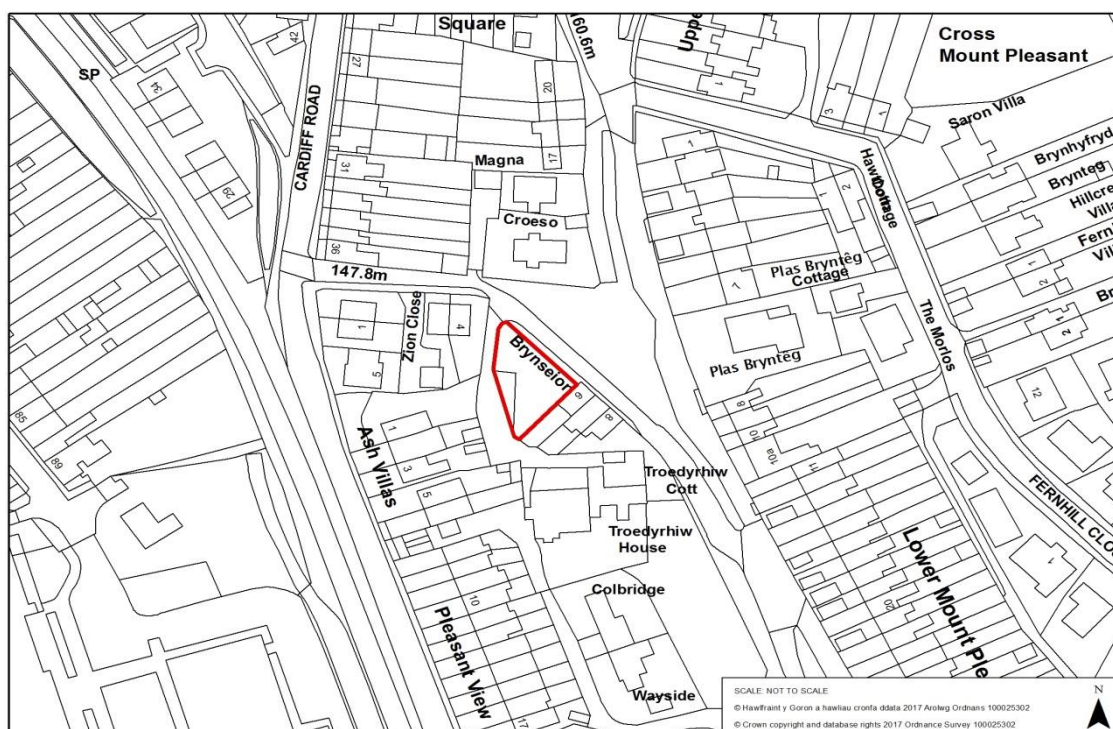
Location

Name & Address of Applicant/Agent

Erection of 2 No. 3 bedroom dwellings with associated site parking

Plot Of Land Adjacent To
6 Brynseion Street
Troedyrhiw
Merthyr Tydfil

Mr J C Da Costa Marinho
c/o Mr E Scruton
78 Sandringham Road
Barking
Essex
IG11 9AJ



Councillors Harvey Jones and Gareth Lewis have requested that this application be reported to Committee to consider the objections raised by local residents.

APPLICATION SITE

The application site relates to a triangular shaped parcel of land located adjacent, and to the north of, 6 Brynseion Street. It is bound to the south by a terrace of three

properties, to the east by Brynseion Street and to the north and west by an adopted rear lane. The land historically housed residential properties but now mainly consists of an open grassed embankment. It slopes down steeply from the north east (Brynseion Street) to the south west (rear adopted lane). A parking area, for approximately 6/7 cars, forms part of the western boundary of the site.

The application site lies within the settlement boundary – Other Growth Area, as designated within the Merthyr Tydfil Local Development Plan (LDP) 2006-2021.

PROPOSED DEVELOPMENT

This application seeks full planning permission to construct a pair of semi-detached dwellings. Due to the topography of the land they would be two storey where they front Brynseion Street and three storey to the rear. Each dwelling would be 5.8 metres wide, 7.8 metres deep and have a maximum height of 10 metres. The external walls would be rendered and the roofs would be covered with artificial slate. The proposed dwellings would be detached from the existing row of terraced properties (6-8 Brynseion Street) located to the east of the site. This application is a re-submission of a recently refused planning application (P/16/0098) for the erection of three dwellings with on-site parking.

Each dwelling would, at basement level, have a kitchen/diner and bathroom. At ground floor they would have a study, living room and WC. At first floor, the accommodation would consist of three bedrooms and a bathroom.

The dwellings would be stepped to follow the topography of the street. The rear gardens would be enclosed by a brick wall with timber fencing on top and positioned between brick piers. Each dwelling would be served by two on-site parking spaces which would be accessed off the rear lane. The rear lane would be widened from 2.7 metres to a minimum of 3.6 metres. A set of steps and small grassed area would also provide access, between the southern dwelling and 6 Brynseion Street, to the rear lane. A communal grassed area is also proposed on an area of land adjacent to the junction of the rear lane and Brynseion Street.

PLANNING HISTORY

P/16/0098 – Erection of three dwellings with on-site parking and amenity space – Refused: 27th May 2016

Reasons:

1. The proposed dwellings, by virtue of their inappropriate scale, design and siting, would represent a visually intrusive and incongruous form of development detrimental to the character and appearance of the street scene. The proposed development therefore fails to accord with Policy BW7 of the Merthyr Tydfil Local Development Plan 2006-2021.
2. The proposed dwellings would not be served by adequate on-site car parking which would result in an increase to on-street parking to the detriment of

highway safety. The proposal would therefore fail to accord with Policies BW12 and TB11 of the Merthyr Tydfil Local Development Plan 2006-2021.

CONSULTATION

Engineering and Traffic Group Leader	No objection subject to conditions.
Town Planning Division's Policy and Implementation Group Leader	No objection.
Town Planning Division's Design, Heritage and Conservation Officer	No objection, subject to conditions.
Environmental Health Manager	No objection, subject to conditions.
Western Power	No response.
Welsh Water	No objection.
Wales and West Utilities	No objection.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) Order (Wales) 2012, letters were sent to adjoining occupiers and site notices were displayed within the vicinity of the site. A petition with twenty two signatures and twenty two letters of representation have been received as a result of this publicity exercise. It should be noted that, as a result of amended plans being submitted, multiple objections have been received from the some of the objectors. The objections raised are summarised below:

- The development would limit access along the rear lane and prevent ambulances, other emergency vehicles and refuse lorries from reaching properties.
- The use of the narrow lane, as a result of the proposed dwellings, could endanger children/adults since garden fences and telegraph poles have been knocked down along the lane in the past.
- Parking is currently a problem in the area. The removal of the current parking spaces (6/7) on the site, combined with the increase car usage due to the proposal, would result in further problems in terms of on-street parking in an already congested area. Access to existing properties/garages would become extremely difficult.
- The previous dwellings on-site were demolished due to issues concerning subsidence. Any further construction on-site may cause further disruption to the surrounding land and properties.
- The prevention of any damage to the surrounding properties should be guaranteed by the developers of the site.

- The site is not large enough to accommodate three dwellings.
- The development would impact on the value of surrounding properties.
- The proposed dwellings would not match the style of existing properties and would have a detrimental impact on the street scene.
- The development would result in the loss of daylight and adversely impact on the amenities of neighbouring properties.
- This land has been used as public green space and people were not notified that this land was due to be sold. Public consultation events were not held to make residents aware that the land was proposed to be sold.

POLICY CONTEXT

National Planning Policy

- Planning Policy Wales (Edition 9, November 2016)

The most relevant sections to the proposed development are as follows:

- 2.1.2 Planning applications must be determined in accordance with the adopted plan unless material considerations indicate otherwise.
- 4.11.8 Good design is essential to ensure that areas, particularly those where higher density development takes place, offer high environmental quality, including open and green spaces. Landscape considerations are an integral part of the design process and can make a positive contribution to environmental protection and improvement, for example to biodiversity, climate protection, air quality and the protection of water resources.
- 4.11.9 The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions.
- 8.7.1 When determining a planning application for development that has transport implications, local planning authorities should take into account:
- the impacts of the proposed development on travel demand;
 - the level and nature of public transport provision;
 - accessibility by a range of different transport modes;
 - the opportunities to promote active travel journeys, and secure new and improved active travel routes and related facilities, in accordance with the provisions of the Active Travel (Wales) Act 2013.
- 9.3.1 New housing developments should be well integrated with and connected to the existing pattern of settlements.
- 9.3.3 Insensitive infilling, or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character or amenity. This includes any such impact

on neighbouring dwellings, such as serious loss of privacy or overshadowing.

- 9.3.4 In determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area's character and amenity. Increases in density help to conserve land resources, and good design can overcome adverse effects, but where high densities are proposed the amenity of the scheme and surrounding property should be carefully considered.

- Technical Advice Notes (TAN'S)

TAN 12 – Design (2016)

TAN 12 – Design, advises that the Welsh Government is strongly committed to achieving the delivery of good design in the built and natural environment, which is fit for purpose and delivers environmental sustainability, economic development, and social inclusion at every scale throughout Wales.

Paragraph 2.6 of TAN12 states that ‘...Design which is inappropriate in its context, or which fails to grasp opportunities to enhance the character, quality or function of an area, should not be accepted, as these have detrimental effects on existing communities...’

Paragraph 4.3 of TAN12 points out ‘...Understanding the site and its immediate and wider context is the basis for a meaningful and sustainable design response, and is the responsibility of all those involved in the design process... ’

Local Planning Policy

- The Adopted Merthyr Tydfil Local Development Plan (LDP) 2006-2021:

- Policy BW3 - Development strategy – other growth areas.
- Policy BW4 - Settlement boundaries / locational constraints.
- Policy BW7 - Sustainable design and place making.
- Policy BW8 - Development and the water environment.
- Policy BW12 - Development proposals and transport.
- Policy BW17 - Securing community infrastructure benefits.
- Policy AS4 - Historic landscape.
- Policy AS22 - Affordable housing contributions.
- Policy TB11 - Access, parking and accessibility of local facilities.

- Supplementary Planning Guidance

- Supplementary Planning Guidance Note 1: Affordable Housing (March 2012)
- Supplementary Planning Guidance Note 2: Planning Obligations (March 2012)
- Supplementary Planning Guidance Note 4: Sustainable Design (July 2013)

- Other Guidance

PLANNING CONSIDERATIONS

The application site lies within the settlement boundary as identified by the LDP. As such, Policy BW4 supports residential development in this location provided that it is compatible with other relevant local plan policies and material planning considerations. **Thus,** the main considerations in the assessment of this application relate to whether the proposal would be acceptable with regards to its impact upon the character and appearance of the area, residential amenity, parking and highway safety.

This application has been submitted in an attempt to overcome the reasons for refusal (noted above) attached to decision P/16/0098. It originally proposed the erection of a terrace of three dwellings. However, following concerns raised by both objectors and officers concerning the accuracy of the submitted plans and the impact of the proposal on the character and appearance of the area, residential amenity and highway safety, amended plans were submitted. It should also be noted that the amended plans were submitted by a different architect and included a topographical survey of the site and surrounding land. As such, as described above, the applicant is now seeking permission for two dwellings with each having two off-street car parking spaces.

Character and Appearance

The application site is surrounded by properties which vary in terms of their design, age and size. However, it is the row of three terraced dwellings along Brynseion Street which have the closest relationship with the application site. This row consists of traditional two-storey terraced properties (three-storey to the rear) which form a consistent building line and are sited hard up to the pavement along Brynseion Street. They have a pebble dashed finish with white UPVc windows and doors. These properties in terms of their form are largely unaltered, with only one dwelling having been extended by means of a rear, single storey, flat roof addition. The proposed pair of semi-detached dwellings have been designed to reflect the character and appearance of this adjacent terrace with a similar size, roof pitch, simple fenestration pattern and rendered elevations.

The previous application (P/16/0098), which was refused, proposed three dwellings set back from the highway. They were considered inappropriate in this location because of their siting, design and scale. It is considered that this proposal is a vast improvement which would sit comfortably in the street scene without significantly harming the character or appearance of the area. An area of open/communal space has also been retained to soften the impact of the proposal and ensure the land would not be overdeveloped. The proposed rear and side boundary treatments would provide appropriate enclosures. As such, the proposed development would result in a sympathetic proposal compatible with the character and appearance of the local area and in compliance with Policy BW7 of the LDP.

Parking and Highway Safety

As noted above, the previous application (P/16/0098) was also refused because of insufficient off-street car parking and the subsequent impact on highway safety due to the increase demand for on-street parking. This refused application proposed one off-street car parking space per dwelling (i.e. 3 spaces). The current proposal includes two off-street car parking spaces per dwelling (i.e. 4 spaces). The layout plan also illustrates that part of the land would be used to widen the adopted lane from 2.7 metres to a minimum of 3.6 metres. It is considered that the amount of off-street car parking provided is sufficient for dwellings of this size and the proposed changes to the rear lane would ensure adequate turning and manoeuvring could take place. Thus, the Engineering and Traffic Group Leader has not raised an objection to the proposed development and considers it acceptable in terms of highway safety. As such the proposal accords with LDP Policies BW12 and TB11.

The concerns raised by local residents with regard to the loss of the existing parking spaces are fully appreciated. However, the applicant now owns the land and can prevent access to his land at any time (i.e. prevent parking in the existing spaces). Thus, the loss of these spaces and the subsequent impact on surrounding on-street parking and highway safety cannot be a reason for refusing this application. Furthermore, residents have stated that the proposal would restrict the use of the lane for emergency and other vehicles. However, the proposed widening of the lane would improve manoeuvring/access. This is recognised by the Engineering and Traffic Group Leader who has raised no objection in this respect.

Residential Amenity

Given the siting of the dwellings and their relationship with surrounding properties, the main impact in terms of overlooking would be from the rear ground floor lounge windows and rear first floor bedroom windows. These windows would be located at least 15 metres away from the rear boundaries of the properties in Ash Villas and in excess of 21 metres away from any habitable windows in these properties. As such, there would be no significant loss of amenity to these properties by virtue of overlooking. Likewise, given the acute angle between these windows and the rear gardens of 6 Brynseion Street and 4 Zion Close there would be no loss of residential amenity to these properties.

The distance away from neighbouring dwellings combined with their siting and the fact that the proposal would be constructed adjacent to the gable end of 6 Brynseion Street ensures that there would not be any significant overbearing impact or loss of light as a result of the proposed development. The relationship of the proposed dwellings with neighbouring residents would therefore not result in a harmful or unneighbourly form of development. As such it complies with Policy BW7 of the LDP.

Response to Representations

Some of the concerns raised by the objectors have been considered above. With regards to other issues highlighted the following should be noted:

- The blocking of an access to a property/garage or illegal parking is a police matter and cannot be controlled by the Local Planning Authority.
- A land stability/structural report could be requested by means of a condition attached to any planning permission. However, this would also be fully assessed under the Building Regulations.
- Any damage to neighbouring properties as a result of any future development would be a civil matter between the parties involved.
- The loss of a property value as a result of a development is not a material planning consideration.

Planning Obligations

In this instance no planning obligations for the provision of affordable housing or any other contributions have been sought, as this would likely render the development financially unviable. In order to come to this conclusion, an assessment has been carried out using the default values in the Three Dragons Toolkit.

Conclusion

I have considered 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”). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision 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.

The site is located within settlement boundaries where new residential development is encouraged. The proposed development could be developed without any significant harmful impact on the character and appearance of the area, residential amenity or highway safety. As such, the proposal accords with the relevant policies of the LDP.

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

1. The development shall begin not later than five years from the date of this decision.

Reason - To comply with Section 91 of the Town and Country Planning Act 1990.

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

- Project no: 7943, drawing no. 02, rev B - received 13th March 2017;
- Project no: 7943, drawing no. 03, rev B - received 13th March 2017;

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

3. **Prior to the construction of the dwellings** hereby approved details/samples of the materials to be used in the construction of the external surfaces of the dwellings and boundary enclosures shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason - To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity and to accord with Policy BW7 of the Merthyr Tydfil Local Development Plan.

4. **No development shall take place** until full engineering details and sections, including structural calculations and materials, of any retaining wall which exceeds 1 metre in height have been submitted to and approved in writing by the Local Planning Authority. The walls shall be completed in accordance with the approved details before the development hereby approved is brought into beneficial use.

Reason - In the interest of safety and visual amenity in accordance with Policies BW6 and BW7 of the Merthyr Tydfil Local Development Plan.

5. Notwithstanding the submitted plans, **no development shall commence** until details of a scheme for the disposal of foul and surface water, to incorporate SUDS principles, has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of the dwellings and retained in perpetuity.

Reason - To ensure adequate disposal of foul and surface water drainage in accordance with Policy BW8 of the Merthyr Tydfil Local Development Plan.

6. Construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0900 to 1400 on Saturdays and at no time on Sundays or Public Holidays.

Reason - To ensure that the noise emitted/activities are not a source of nuisance to occupants of nearby properties in accordance with Policy BW7 of the Merthyr Tydfil Local Development Plan.

7. Notwithstanding the provisions of Schedule 2, Part 1, Class A, B, C, D and E and Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), no extensions, outbuildings, other alterations, walls, gates, fences or other means of enclosure shall be erected or carried out other than what is expressly authorised by this permission.

Reason - In the interest visual and residential amenity in accordance with Policy BW7 of the Merthyr Tydfil Local Development Plan.

8. **No development or site clearance shall take place** until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

Reason - To ensure that the new development will be visually attractive in the interests of amenity and to accord with Policy BW7 of the Merthyr Tydfil Local Development Plan.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason - To ensure that the new development will be visually attractive in the interests of amenity and to accord with Policy BW7 of the Merthyr Tydfil Local Development Plan.

10. **No development** shall take place until a structural design certificate, completed and signed by a Chartered Engineer, and a scheme to deal with existing ground conditions has been submitted to and approved in writing by the Local Planning Authority. The Certificate shall certify that appropriate site investigations have been carried out at the site. The scheme shall include an investigation and assessment to identify those precautions or measures deemed to be required in the design and construction of the proposed development in order to minimise any damage which might arise as a result of ground conditions.

Reason - To ascertain the stability of the site and to determine the structural suitability of the development thereon in view of prevailing ground conditions.

11. Prior to the occupation of the dwellings, hereby approved, the car parking spaces and widening/improvements of the rear lane shall be completed (and available for use) in accordance with the approved plan 7943/02/B. The car parking spaces and road widening/improvements shall be retained for their intended purpose thereafter.

Reason - To ensure the access/parking/turning requirements of the development are adequately met at all times in the interest of highway and pedestrian safety and to ensure compliance with policies BW12 and TB11 of the Merthyr Tydfil Local Development Plan 2006-2021.

12. The area highlighted as 'Communal Grassed Area' on approved drawing No. 7943/02/B shall only be used as open-space and shall not be incorporated within the curtilage of the residential plots or used for residential purposes.

Reason - To ensure that the new development will be visually attractive in the interests of amenity and to accord with Policy BW7 of the Merthyr Tydfil Local Development Plan.