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COMMITTEE	Planning and Regulatory
COMMITTEE DATE	16th October 2019

Application No.
P/18/0321

Date
4th October 2018

Determining Authority
MTCBC

Proposed Development

Erect three storey property to provide 1, two bedroom flat and 2, one bedroom flats, to include retaining walls

Location

Land Between 3A And 4
Winifred Street
Dowlais
Merthyr Tydfil

Name & Address of Applicant/Agent

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P/18/0321

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Councillor Declan Sammon and Councillor David Hughes have requested that this application be reported to Planning Committee to consider the concerns and objections of local residents.

APPLICATION SITE

The application site relates to a vacant plot of land located within a residential street in the settlement of Dowlais. The site is bound by the highway of Winifred Street to the front (east), a terraced dwelling

to the northeast, a detached dwelling to the southwest and a lane to the rear (west). The land slopes fairly steeply down from east (Winifred Street) to west (rear lane). Excavation and foundation works have commenced on-site in respect of a development for the erection of a building to provide three flats, for which planning permission was granted in 2015. The site however, has remained inactive for some time following the submission of this application.

PROPOSED DEVELOPMENT

This application seeks retrospective planning permission to erect a detached three storey building, which would comprise one, two bedroom flat and two, one bedroom flats. All three flats would be accessed off Winifred Street, via a communal hallway. The two, one bedroom flats would be provided at lower ground floor and at first floor, accessed by an internal staircase. The one, two bedroom flat would be provided at ground floor level.

An almost identical scheme (planning permission P/15/0228) was granted on 11th November 2015. This permission is still extant (i.e. the development can still be constructed). However, following approval of the application and the subsequent submission of the discharge of condition application, the Enforcement Section received a complaint in respect of the siting of the building and its distance from the neighbouring boundaries. Following investigations, it was found that the building had not been built in accordance with the approved plans. Notably, under the permitted scheme (P/15/0228) the side gable elevation of the building was shown to be approximately 2.3 metres from the gable end of 3A Winifred Street and approximately 2.4 metres from the gable end of 4, Winifred Street. This current application shows that the side gable elevation of the building would be approximately 3.3 metres from the gable end of 3A Winifred Street and approximately 1 metre from the side gable elevation of 4, Winifred Street. The building now proposed, would also be set back further into the site from the front highway. The permitted scheme (P/15/0228) proposed a set back of between 1.15 metres (closest point) and 1.6 metres (furthest point) from the front highway. This proposal shows that the property would be set back between 1.6 metres (closest point) and 2.8 metres (furthest point) from the front highway. Thus, whilst the scale, design and finishes of the building are identical to those approved under planning permission P/15/0228, the siting of the building on the plot has changed. As such, the application subject of this report has been submitted in an attempt to overcome this breach of planning control.

The building, given that the site slopes significantly from the front to the rear, would be two-storey at the front and three storey at the rear. It would be 6.4 metres wide, 10.5 metres deep and have a maximum ridge height of 9.2 metres when measured from the front footpath. It would be finished with render elevations and brickwork quoin detailing, fibre cement roof tiles and UPVc windows. A mono-pitched canopy, with a projection of 0.9 metres, is proposed over the front entrance.

This application also proposes two terraced patio areas at the rear of the property. The first patio area (6.8 metres by 3 metres) would be at the same level as the lower ground floor flat and retained by a 2.1 metre high wall. The second patio area (6.8 metres by 3.5 metres) would be approximately 2 metres lower than the first patio area and retained by a 2.4 metre high wall. A parking area for three vehicles would be provided at the rear of the property, almost level with the rear lane. This would be located approximately 2 metres lower than the second patio area. A 1.8 metre high timber fence would be provided alongside the south-western side boundary of the property to enclose the dwelling, patio areas and parking area. A 1.2 metre high timber panel is proposed alongside the south-western side of the property, near the front of the site. A 1.2 metre high wall is proposed to the front of the dwelling and would enclose a small front garden area. To the north-eastern side boundary, steps would be introduced to provide access from the front to the rear of the plot.

PLANNING HISTORY

The following planning history is relevant to this application site:

P/15/0228 – Erect three storey property containing one, two bedroom flat and two, one bedroom flats with associated retaining works and parking area – Approved: 11th November 2015

P/05/0246 - Erection of two detached dwellings - Approved 20th June 2005

P/03/0388 - Erection of two detached dwellings with garages - Approved 24th September 2003

Other relevant planning history relating to the adjacent plot 3A, Winifred Street:

P/06/0515 - Erection of dwelling - Approved 28th November 2006

CONSULTATION

Engineering & Traffic Group Leader	No objections, subject to conditions.
Planning Division's Policy Group Leader	No objections.
Environmental Health Manager	No response.
The Coal Authority	No objection.
Welsh Water	No objection.
Wales and West Utilities	No response.

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) Order 2012, letters were sent to nearby properties and two site notices were displayed within the vicinity of the site. Four letters of representation have been received as a result of this publicity exercise and the planning related concerns raised have been summarised below:

- The building will be directly opposite 49, Winifred Street and due to the sun rising in the east, it will shine onto the window of the apartments and shine directly into this property.
- The apartments will not be in keeping with the character of existing properties and when completed would cause loss of natural light to the side of the adjacent properties. It will reduce air getting into windows on the side of the adjacent neighbouring properties and prevent neighbouring occupiers from carrying out maintenance works. It would also overlook the gardens of, and restrict access to, the rear of neighbouring properties;
- The residential amenity of nearby properties would be affected as a result of more noise, building work, additional people and light from the three apartments;
- There would be additional vibration from additional cars, lorries, etc during construction works and once the apartments have been occupied;

- Access for delivery lorries along the street is practically impossible, with cars parked on both side of the road. This will make the construction of the apartments very difficult and cause damage to the street and surrounding properties;
- The lane to the rear of the property is not suitable for lorries. The rear lane is not wide enough to accommodate a car and a lorry and is regularly used by walkers and children to reach the playing fields. Unless the road is widened, emergency vehicles cannot access or attend any incidents which happen to the rear of these properties;
- The garages that are erected opposite the proposed parking area could not be used, since cars would not be able to enter or exit the garage, resulting in additional parking in the street;
- The use of the rear lane is very dangerous, since the road layout off Winifred Street is awkward, not easily accessible and has a blind spot and telegraph pole when trying to leave rear the lane;
- The three apartments could add an additional 8-9 residents to the lower part of Winifred Street;
- Although parking requirements are less for apartments than what they would be for a house, there is nowhere to park. These apartments could bring at least another 6 vehicles onto the street. Although parking is shown to the rear, these parking spaces would never get used;
- Smaller scale developments alone, such as the building of retaining walls, have resulted in damage to the road;
- The rain water currently flows into the vacant plot/application site and has caused movement throughout the street including to walls and buildings;
- Since the start of the build there have been significant issues, such as, threats being made for residents to move their vehicles, the fence making a lot of noise when windy, the fence collapsing and leaving the site open and a dangerous hazard for pedestrians;
- The Dowlais area is already served by sufficient apartments. 22 brand new flats are almost completed in St. Johns Church and there are other 1 bedroom flats in Victoria Street;
- The proposal has had to be altered due to the problems which have occurred with the water pipe. Welsh Water have questioned the design with regard to the direction of the water pipes. The water pipe between 4 and 5, Winifred Street is damaged and building should not carry on in this area;
- The street is filled with families and a family house would be more suitable. Having flats has the potential to increase anti-social noise and crime levels in the area;
- The plans state that the dwelling would be built 0.8 metres from the boundary with 3A, Winifred Street. This is a tight space which would not fit any scaffolding;

- 3A, Winifred Street has also been damaged as a result of the development;
- The building has not been constructed in accordance with the original permission;
- Due to the steepness of the site, the property cannot be served with a level threshold to cater for disabled persons as required under building regulations;
- A sewer pipe runs across the application site and rises due to the steepness of the site and has not been shown correctly on the plans. This would make the car parking area too steep to have parked cars and would not comply with building regulations;
- The plans show a storm drain running close to the boundary with 3A, Winifred Street and if a soakaway is used, plans will need to change to leave a 2.5 metre gap from the walls and fencing of 3A, Winifred Street.

POLICY CONTEXT

National Planning Policy

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

Paragraph 3.3 refers to good design and states that ‘...design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surroundings area...’

Paragraph 3.9 refers to character and states that ‘...the special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations. A clear rationale behind the design decisions made, based on site and context analysis, a strong vision, performance requirements and design principles, should be sought throughout the development process and expressed, when appropriate, in a design and access statement...’

Paragraph 3.51 states that ‘...previously developed (also referred to as brownfield) land should, wherever possible, be used in preference to greenfield sites where it is suitable for development. In settlements, such land should generally be considered suitable for appropriate development where its re-use will promote sustainability principles and any constraints can be overcome. It is recognised, however, that not all previously developed land is suitable for development...’

Paragraphs 4.1.50, 4.1.51 and 4.1.52 discusses car parking provision and states that ‘...car parking provision is a major influence on how people choose to travel and the pattern of development. Where and how cars are parked can in turn be a major factor in the quality of a place...A design-led approach to the provision of car parking should be taken, which ensures an appropriate level of car parking is integrated in a way which does not dominate the development. Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. Planning authorities must support schemes which keep parking levels down, especially off-street parking, when well designed. The needs of disabled people must be recognised and adequate parking provided for them. Planning authorities must require good standards of car parking design, which do not allow vehicles to dominate the street or inconvenience people walking

and cycling. Car parking should be overlooked by surrounding properties, to provide natural surveillance...'

- Technical Advice Notes (TAN's)

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 deliver environmental sustainability, economic development and social inclusion at every scale throughout wales.

TAN 18: Transport, provides advice on how to integrate land use planning and transport and how transport impacts should be assessed and mitigated.

Local Planning Policies

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

- Policy BW1 - Development strategy – Primary Growth Area.
- 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 AS22 - Affordable housing contributions.
- Policy TB11 - Access, parking and accessibility of local facilities.

- Supplementary Planning Guidance (SPG):

- SPG1 - Affordable Housing, March 2012
- SPG2 – Planning Obligations, March 2012
- SPG4 - Sustainable Design, July 2013

PLANNING CONSIDERATIONS

The main issues to consider under the assessment of this application relate to whether the proposed flats would be acceptable in this location, and whether their scale, design and siting, would be appropriate with regards to their impact upon the character and appearance of the area, residential amenity, parking provision and highway safety.

Principle of Development

The application site lies within the settlement boundary as defined by the LDP Proposals Map. New development within the settlement boundary is generally supported by LDP policies BW1 and BW4, provided that the proposal is compatible with other relevant policies and material planning considerations. The principle of development in this location is therefore considered acceptable. Indeed, full planning permission (P/15/0228) has previously been granted in November 2015 for an almost identical development.

Character and Appearance of the Area

Although the proposed siting of the building on the plot has slightly altered since the original permission, it would continue to be located between two existing dwellings, 3A, Winifred Street and 4, Winifred Street. It would also be orientated to front Winifred Street. Its design, scale and external materials are considered acceptable and appropriate to the local context. It is noted that the neighbouring dwelling 3A, Winifred Street has a similar design. Additionally, the ridge height of the building would also be stepped down from 4, Winifred Street, and therefore follows the topography

of the land and ensures continuity in the arrangement of the properties when viewed within the street scene. As such, it is considered that the proposal would be a sympathetic addition which would not detract from the existing pattern of development or have an adverse impact on the character or appearance of the area. Therefore, it would comply with Policy BW7 of the LDP.

Residential Amenity

The proposed building would be erected approximately 1 metre away from the gable end of 4, Winifred Street (an end of terrace dwelling). This elevation has three window openings, two of which have been blocked up. The building would result in a loss of light to the remaining window, however, this appears to be a secondary window which is in a poor condition and currently covered with Ivy. The loss of light to this window would therefore not be significant given its current condition. Some loss of light would also be experienced to the top section of the rear garden of 4, Winifred Street, during midday to early evening, as a result of the building being constructed approximately 3.6 metres beyond the rear elevation of this neighbouring property and the sun's path. However, the proposal would be set in 1 metre from the boundary with 4, Winifred Street and the projection beyond its rear elevation would not be so great as to create a substantial loss of light. Indeed, such a projection is already found on two storey rear extensions in Winifred Street. The ridge height of the proposed building would also be lower than that of 4, Winifred Street, which would further limit any loss of light or overbearing impact. It should also be noted that the existing wall and vegetation along the boundary of 4, Winifred Street would partly screen the proposed development and further reduce its impact when viewed from this neighbouring dwelling.

The proposed building would be constructed 3.3 metres from the gable end of 3A, Winifred Street (a detached dwelling). This property has no window openings on the northern side elevation. As such, the proposal would not result in any loss of light to any habitable rooms. The proposal would also not extend past the rear elevation of number 3A. As such there would be no overbearing impact upon this neighbouring property. A 1.8 metre high fence is proposed to be erected along the boundary with this neighbouring property, which would also ensure that there is no significant overlooking from the proposed patio areas.

It is acknowledged that the proposal would result in a degree of overlooking to the rear gardens of 3A and 4, Winifred Street, from the proposed windows in the rear elevation of the building and the two-tier patio area to the rear of the property (particularly with regards to 4 Winifred Street, since no new boundary fence has been proposed adjacent to this neighbouring dwelling). However, given the pattern of development on this side of the street, where the gardens of the dwellings are at a significantly lower level than the dwellings themselves, the gardens already experience a relatively high degree of overlooking from the rear elevations of existing dwellings. As such, the impact of the proposed development would be deemed acceptable within this context.

The proposal would also result in a degree of overlooking to the dwellings located opposite the application site, since the front facing windows would front these properties. However, this impact would be acceptable as it would represent a typical arrangement in the street and has already been accepted when granting permission (P/06/0515) for the adjacent dwelling (3A, Winifred Street). Furthermore, there is only one first floor window (bedroom) that would have any impact. Therefore, given the combination of these factors, the harm caused by overlooking would not be significant. Additionally, as the proposed building would be located over 11 metres from the front elevations of these dwellings, it would not result in any unacceptable overbearing impact. Indeed, it would have a lesser impact than the approved scheme (P/15/0228) where the building was proposed closer to the front highway.

Having regard to the above, the proposal would not have an adverse impact on residential amenity and as such complies with Policy BW7 of the LDP.

Parking Provision and Highway Safety

It is acknowledged that the proposed development would result in an increased amount of traffic using the surrounding highways. However, it is considered that the highway network serving the site is adequate to accommodate any increase in traffic without resulting in a detrimental impact on highway or pedestrian safety.

The proposed development includes provision for three off-street parking spaces which is considered acceptable for the proposed flats. Additionally, on-street parking is not restricted in the surrounding residential streets, which provides further opportunities for parking. The access to the proposed parking area is also considered acceptable. It is noted that existing garages are currently served by the same access.

Given these factors and having noted that the Engineering and Traffic Group Leader has not objected to the development, it is not considered that the proposal would have a detrimental impact on highway safety and as such complies with Policies BW12 and TB11 of the LDP.

Planning Obligations

Policies BW17 and AS22 of the LDP consider the requirements for planning obligations and affordable housing respectively. Using the default values within the Three Dragon's Toolkit, the Town Planning Division's Policy Group Leader has acknowledged that no planning obligation for the provision of affordable housing or any other contributions have been sought, as this would likely render the development financially unviable. Therefore the proposal complies with policies BW17 and AS22 of the LDP.

Responses to Representations

Some of the concerns raised by the objectors have been considered above. Other issues raised are addressed below:

- Reflection of sunlight from the buildings' windows into neighbouring windows would be limited and would not cause any significant harm;
- Any maintenance works required to be carried out, whereby the owner may require the permission of an adjoining owner, would be a civil matter between the parties involved and as such not a planning issue;
- The proposal would not affect the rear access of neighbouring properties;
- The construction noise and traffic disruptions associated with the proposed development would be temporary as with any new development. However a condition is recommended in respect of construction times, in order to protect the amenities of nearby occupiers;
- Any obstruction to a public highway or private property is a matter for the Police or Highway Authority;
- Any damage to neighbouring properties as a result of the construction works or any other works would be a civil matter between the relevant parties;
- The Council's Engineering and Traffic Group Leader has requested that site investigations are carried out to ascertain whether there are any land stability issues present on-site, which if found, will require remediation prior to the continuation of the works;
- Full details and calculations of retaining walls will be requested by condition;

- Issues regarding noise and disturbance from future occupiers is a matter for Environmental Health and/or the Police;
- Welsh Water has been consulted in respect of the application and have not raised any concerns. Indeed, they have confirmed that a build over sewer agreement has been signed and is now in place. They have also confirmed that on the basis that the surface water is discharged via a soakaway, and no surface water or land drainage from the development is connected to the public sewer, they have no objection to the proposal;
- The changes to the plans in respect of the size of the plot and the dividing boundary between the application site and 3A and 4, Winifred Street has not reduced the parking area to the rear, which could still provide up to three vehicular parking spaces;
- Any issues regarding access to land outside the applicants control would be a civil matter between the parties involved;
- The requirement to provide a level threshold into the building would be a consideration for building regulations, however a level pathway is shown on the submitted plans, which provides level access from Winifred Street to the front entrance of the building;

CONCLUSION

The proposed building would result in an acceptable form of development which would not detract from the character or appearance of the area, the amenities of surrounding occupiers or highway safety. The proposal is therefore in accordance with the relevant 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, 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:
 - Winifred 002, received 4th October 2019;
 - Winifred 007, received 14th August 2019.
 - Winifred 008, received 2nd October 2019;

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

2. **No further development should be undertaken until** a site investigation is carried out in accordance with a methodology first submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be submitted to the Local Planning Authority before any development begins. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development shall be submitted to and approved in writing by the Local Planning Authority. Remedial measures shall be carried out prior to the first

beneficial use of the development in accordance with the approved details and retained in perpetuity.

Reason - The site may be unstable and as such in the interests of safety remedial measures may need to be carried out.

3. If during the course of development, any unexpected land instability issues are found which were not identified in the site investigation referred to in condition 2, additional measures for their remediation in the form of a remediation scheme shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures which shall be retained for the period agreed in the remediation scheme.

Reason - The site may be unstable and as such in the interests of safety remedial measures may need to be carried out.

4. Demolition or construction works shall not take place outside the hours of 8:00 to 18:00 Mondays to Fridays and 8:00 to 13:00 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.

5. **Within 6 months of this permission** details, including structural calculations and facing materials, of any retaining wall which exceed 1 metre in height shall be 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 Policy BW7 of the Merthyr Tydfil Local Development Plan.

6. The parking area to be provided at the rear of the property, shall be kept available for the parking of motor vehicles at all times.

Reason - To ensure that cars are parked off the highway in the interests of highway safety and to accord with Policies BW12 and TB11 of the Merthyr Tydfil Local Development Plan

7. **No further development should be undertaken until** details/samples of the materials to be used in the construction of the external surfaces of the building are 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.

8. The boundary treatments, as indicated on plan Winifred 007, received 14th August 2019, shall be completed as approved before the occupation of the building.

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