

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2022-2023:

**PLANNING AND
DEVELOPMENT COMMITTEE
20th OCTOBER 2022**

**REPORT OF: DIRECTOR
PROSPERITY AND
DEVELOPMENT**

	Agenda Item No.
APPLICATION NO: 21/0942/10 – Garden curtilage extension and creation of hardstanding, erection of wooden access gates and new block boundary walls at Merrivale, Llwydcoed Road, Llwydcoed, Aberdare, CF44 0TW (amended plans and description received 07/08/2022).	

1. PURPOSE OF THE REPORT

Members are asked to consider the determination of the above planning application.

2. RECOMMENDATION

That Members consider the report in respect of the application and determine the application having regard to the advice given.

3. BACKGROUND

This application was originally reported to the Planning and Development Committee meeting of 16th December 2021 with a recommendation of approval. A copy of the original report is attached as Appendix A.

At that meeting Members resolved to defer the application to allow for further discussions to take place with the applicant to clarify the extent of the proposals.

As a consequence, it was resolved to defer determination of the application to allow the further discussions to take place.

4. PLANNING ASSESSMENT

Members are advised that following the deferral of the application at the 16th December 2021 Planning and Development Committee, the applicant has subsequently submitted amended plans which confirm the following details.

- That the metal gate which is already in situ, as seen on the existing floor and elevation plans and photographs, would be removed and replaced with a set of 1.8 metre high by 3.8 metre wide electronically

operated and inward opening gates at the north-eastern boundary of the application site.

- That the wooden fencing that has been erected upon the boundaries of the existing curtilage of Merrivale, at its western and northern extents, would be removed and replaced with a new 1.8-metre-high block and render wall.
- That the extent of the garden curtilage extension, as originally sought and referred to in the original report (Appendix A) would not alter.

Members should note that, as a result of amended plans being received from the applicant, a re-consultation exercise with the Council's Highways and Transportation Section was conducted and they continue to raise no objection to the proposals. Conversely, the neighbouring residents maintain their objections to the proposed scheme and three further letters of objection were received to the re-consultation exercise with these highlighting similar points as set out in the original report (Appendix A).

If, having considered the extent of the proposed scheme and after further consideration, Members are minded to grant planning permission for the proposed development, it is suggested that the following conditions of consent would be appropriate:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plans:

- Site Location Plan (1:1250 Scale)
- Block Plan (1:500 Scale)
- Existing and Proposed Front Elevation Plan (Received 07/08/2022)
- Existing Layout Plan (Received 07/08/2022)
- Proposed Layout Plan (Received 07/08/2022)

and documents received by the Local Planning Authority on 20/10/2021 and 07/08/2022, unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

PLANNING & DEVELOPMENT COMMITTEE

16 DECEMBER 2021

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 21/0942/10 (RP)
APPLICANT: Mr A Cable
DEVELOPMENT: Garden curtilage extension and creation of hard standing.
LOCATION: MERRIVALE, LLWYDCOED ROAD, LLWYDCOED, ABERDARE, CF44 0TW
DATE REGISTERED: 28/09/2021
ELECTORAL DIVISION: Aberdare West/Llwydcoed

RECOMMENDATION: Approve

REASONS: The application is considered to comply with the relevant policies of the Local Development Plan in respect of its visual impact, the impact it has upon the amenity and privacy of the neighbouring residential properties and upon highway safety in the vicinity of the site.

REASON APPLICATION REPORTED TO COMMITTEE

- Three or more letters of objection have been received.

APPLICATION DETAILS

Full planning consent is sought for a change in use of a strip of land that lies adjacent to the residential dwelling Merrivale, a detached property located within Llwydcoed, Aberdare.

The area of land proposed to be included within the residential curtilage of Merrivale is located to the north-west of the dwelling and adjacent to the boundary with the

property known as Hazelmere. The land has an approximate surface area of 51sqm and forms part of an unmade lane that provides access to no. 1, 2 and 3 Ty'r Heol in addition to Merrivale itself and the site at Hazelmere.

The profile of the land, in common with the rest of the lane that wraps around the dwellings at Ty'r Heol is flat but has multiple potholes, being a private, unmaintained lane.

To overcome the current condition of the land the applicant intends to create a hardstanding on the proposed extended curtilage in order to park a vehicle, which would be enclosed by a set of access gates that would be set back 5.4m from the adjacent side lane that runs to the north-east of Merrivale.

Upon undertaking the site visit it was evident that some works had already been undertaken at the site via the construction of a featheredge fence on the south-east elevation of the land, whilst a metal gate has been erected on the south-west portion of the land.

The application is accompanied by the following:

- Copy of an advert displayed in the Cynon Valley Leader newspaper on 06/05/2021 in order to try to determine the owner of the land in question.

SITE APPRAISAL

The application site relates to a strip of land located adjacent to the front garden of Merrivale, a detached dwelling located within a residential area of Llwydcoed. The land is currently enclosed on both sides by fencing and to the rear by the garden of Merrivale, beyond which are the relatively recently constructed dwellings at the Tan-y-Bryn Gardens housing development.

Merrivale itself is sited roughly centrally within its plot, orientated towards the north, having enclosed garden areas to the front, side and rear. The property has a render finish, a concrete tiled roof and all windows and doors are white UPVC.

Neighbouring properties within the locality are varied in terms of design and scale being a mix of detached, semi-detached and terraced dwellings and bungalows.

PLANNING HISTORY

18/0731/10	Proposed extension to ground and attic floors including dormers.	Granted 22/08/2018
19/0515/10	Raise the roof to enlarge first floor, associated extensions and alterations.	Granted 11/07/2019

PUBLICITY

The application has been advertised by direct notification letter to neighbouring properties and the erection of site notices.

Three letters of objection have been received from neighbouring residents, the comments of which are summarised below:

- The land has been historically used by all four residents, including those at Hazelmere to access what was their detached garage prior to its demolition. The current gate has been illegally erected preventing our rights of access and there is a caution placed on the land.
- All of the current residents of Ty'r Heol have taken ownership of the land in the last 4 years. When we all purchased the properties the nature of the lanes would have been explained by the conveyancing solicitors. The access across the lanes is long-standing and relies on mutual respect and shared utility and is set out in the title deeds. Indeed, there have been a few discussions regarding the need to avoid obstructing each other when parking as the lane is only one car wide. All of these discussions were civil and open.
- Part of the area subject of this application is an essential part of the turning area for all residents and the depth of the area is important to allow free movement. The area has been used in the last 4 years by the other residents and the applicants for placing building skips while work is carried out on their properties as it is the only accessible area for such purposes that would not restrict anyone's access. The properties have little provision for car parking and every meter of ground is essential to allow everyone to have proper, safe and reasonable utility. This is therefore an essential element to the amenity of all the residents.
- On previous plans of the area, the former garage at Hazelmere (removed approx. 2 years ago) is clearly shown and the access to that would now lie within the area subject of this application. This is physical evidence that the land has rights of access over it independent of the documentary evidence set out in the title deeds.
- Numbers 1 to 3 Ty'r Heol have respected the rights of access in the deeds and also their legal property boundaries and have made no attempts to preclude anyone from their rights of access over the lanes. If this application were to succeed, then the precedent is made for other similar applications by the other property owners at Ty'r Heol. This would result in a completely unworkable situation for all residents.
- The issue of "land grabbing" was raised with the applicant and the applicant stated that there was no such intention. However, the erection of the gate and this application seems to indicate the contrary. Sadly, should this application proceed and be successful then litigation will be only and likely and reluctant recourse for the other property owners in this matter.

CONSULTATION

Highways and Transportation – No objection.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The application site lies within the settlement boundary for Aberdare however is not allocated for any purpose.

Policy CS1 – states in the Northern Strategy Area the emphasis will be on building strong, sustainable communities, achieved by a number of criteria including promoting accessibility by securing investment in public transport improvements, enhancing transport infrastructure services to support growth and improvement and reducing daily out commuting by private car and promoting sustainable forms of travel.

Policy AW2 - advises that development proposals on non-allocated sites will only be supported in sustainable locations.

Policy AW5 – sets out criteria for new development in relation to amenity and accessibility.

Policy AW6 – requires development to involve a high-quality design and to make a positive contribution to place making, including landscaping.

Policy AW10 – development proposals must overcome any harm to public health, the environment or local amenity.

Policy NSA12 – identifies the criteria for assessment of development proposals within and adjacent to settlement boundaries.

Supplementary Planning Guidance

Design & Placemaking
Access, Circulation & Parking Requirements

National Guidance

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24th February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040

sets out the National Development Framework for Wales (NDF), WGs current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

Furthermore, given the minor scale of the proposed development and its relationship with only the immediate surrounding area, there are limitations to the extent such a scheme can have in promoting planning objectives at a national scale. As such, whilst the scheme aligns with the overarching sustainable development aims of FW2040, it is not considered the policies set out in the document are specifically relevant to this application.

Other relevant policy guidance consulted:

PPW Technical Advice Note 12: Design;
PPW Technical Advice Note 18: Transport;
Manual for Streets

REASONS FOR REACHING THE RECOMMENDATION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

Main Issues:

As set out above, the application proposes an extension to the residential curtilage of the property and the construction of an associated hardstanding, boundary enclosure and access gate.

As such, the key considerations in determining the application are the impact of the development on the character and appearance of the immediate area and the impact of the development on the amenity and privacy of the occupiers of adjacent residential properties. Any potential impacts upon highway safety, resulting from the development, are a further consideration.

Principle of the proposed development

This application seeks consent to change the use of part of a private, un-maintained lane to residential use by incorporating it into the garden of an adjacent house known

as Merrivale in order to provide the dwelling with dedicated off-street parking provision for its occupants.

The land is located within the defined settlement boundary and immediately adjacent to the north-western boundary of the application property. As such, given its relationship to the property it is considered the use would form a logical continuation of its residential form.

Consequently, noting that the use of the land would be unlikely to be suitable for any other use in planning terms, the principle of the development is considered to be acceptable. However, this would be subject to an assessment of the site-specific criteria identified below.

Impact on the character and appearance of the area

The land, which is the subject of this planning application, forms part of a private lane that serves a number of properties that are located off Llwydcoed Road, at Ty'r Heol and Hazelmere, Aberdare.

As noted above, the land in question is located at the end of the private lane, being some 46m away from Llwydcoed Road itself and does not serve any additional properties beyond, being demarcated by the garden boundary of Merrivale, those of the Tan-y-Bryn housing development and the adjacent property and now development site at Hazelmere.

Consequently, in visual terms, when viewed from the existing properties and Llwydcoed Road, the land would appear as an extension of the existing garden of Merrivale, being in use as a hardstanding for domestic use. Furthermore, as the land is relatively flat there would be been no need to undertake any engineering operations to re-grade the land and would therefore appear as an enlargement to the existing domestic garden and would be functionally related to it.

Furthermore, it is considered the feather edge fence that has already been erected is appropriate and in keeping with the residential setting. However, it is noted that details of the access gate proposed has not been provided with this submission. Consequently, a condition is proposed for such details to be provided prior to the development being brought into beneficial use to ensure it would be visually acceptable.

Overall, the works are considered to be acceptable in terms of their general impact upon the character and appearance of the area and are therefore in accordance with the requirements of policies AW5 and AW6 of the Local Development Plan.

Impact on residential amenity and privacy

Given the position of the land in relation to neighbouring residential dwellings, it is not considered that the enlargement of the residential curtilage of Merrivale would result in a loss of privacy or amenity to the occupiers of any neighbouring residential dwellings.

Furthermore, it is considered the change in use of the land would be compatible with the residential character of surrounding properties, all of which have some form of off-road parking provision to the front of their respective plots.

It is also noted that the applicant proposes to set back the extended curtilage from the adjacent side lane to allow a suitable area for vehicles to turn. The position of an enclosure / access gate on the north-eastern portion of the land would therefore be unlikely to cause detriment to the residents of neighbouring properties.

Consequently, notwithstanding the objections raised, the proposal is considered to be acceptable in terms of the impact it would have on the residential amenity and privacy of surrounding residents. As such, the application would comply with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

Highway safety

The Council's Transportation Section have been notified of the proposals in order to provide comments on the suitability of the scheme with regard to highway safety and have made the following comments in relation to access.

Access

The proposal is served off a private access lane which is accessed from Llwydcoed Road. The lane provides access to a number of residential dwellings and is single width with an un-metalled surface.

The proposal would remove a section of lane which could potentially be used by the adjacent residents for service vehicles and overspill car parking. However, taking into account the lane is private and does not give direct access to any additional properties beyond the proposed site this is a private matter.

The gate would be set back 5.4m which would be acceptable for a standard car to turn within the adjacent side lane and egress in forward gear.

In light of the above, the proposal is considered to be acceptable in terms of the impact of the proposal on highway safety and the application would therefore comply with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

Other issues

Comments received from neighbouring residents

The concerns raised by the neighbouring residents are appreciated and duly noted.

However, the issues raised regarding the historical use of the land, its ownership, right of access, a caution being placed on the land and any other disputes are private matters between the residents and therefore cannot be taken into consideration in the determination of this planning application; it is not within the remit of planning officers to resolve private disputes that do not relate to planning matters.

Whilst the Council have some sympathy with the effect of the development on the individuals concerned, inasmuch as their comments relate to standards of 'good neighbourliness' not being shown by the applicant, the rights of the general public or the wider public interest would not be affected. Furthermore, the submissions that have been made relating to the loss of rights of access do not relate to the regulation of development and use of land in the public interest. Access rights are protected under civil law and other channels exist to resolve these issues, such as a caution being placed on the land.

It should be noted that planning permission can be applied for and granted on land not owned by the applicant. Any dispute over the ownership of land is not a matter for the Council to consider and the issue should be resolved privately between the parties involved.

For the purposes of this application, the applicant has completed Ownership Certificate D of the application form which indicates that the landowner is unknown, however, the applicant's intention to submit a planning application on the land was appropriately advertised in a local newspaper.

Community Infrastructure Levy (CIL) Liability

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is not CIL liable under the CIL Regulations 2010 (as amended).

Conclusion

The proposal is not considered to have a significant impact upon the character and appearance of the locality, the residential amenity of the surrounding neighbouring properties or upon highway safety in the vicinity of the site. As such, the application is considered to comply with the relevant policies of the Local Development Plan.

RECOMMENDATION: GRANT SUBJECT TO THE CONDITIONS BELOW

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plans:
 - Site Location Plan (1:1250 Scale)
 - Block Plan (1:500 Scale)

and documents received by the Local Planning Authority on 30/06/2021 and

20/10/2021, unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

3. The development hereby permitted shall not be brought into beneficial use until details of the boundary enclosure/access gate, that is to be sited on the north-east portion of the land, is submitted and approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity, in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf local Development Plan.