

## **PLANNING & DEVELOPMENT COMMITTEE**

**11 January 2024**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 23/0953/10 (MF)  
**APPLICANT:** Mr S Resoli  
**DEVELOPMENT:** Change of use of land to west of 308 Park Road to garden curtilage to be used in association with dwelling, and erection of 1.8m high timber fence around (retrospective).  
**LOCATION:** 308 PARK ROAD, CWM-PARC, TREORCHY, CF42 6LG  
**DATE REGISTERED:** 03/10/2023  
**ELECTORAL DIVISION:** Treorchy

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**RECOMMENDATION:** Approve, subject to conditions.

**REASONS:** The use of the land as residential garden curtilage is compatible with that of surrounding land uses and does not result any undue impact to the amenities of surrounding residents. Furthermore, the boundary fence that encloses the site is typical of such residential areas and is considered acceptable in visual terms; and works have no undue impact upon pedestrian and highway safety in the vicinity.

The application therefore complies with the relevant local and national planning policies and is considered acceptable.

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#### **REASON APPLICATION REPORTED TO COMMITTEE**

3 or more letters of objection have been received.

#### **APPLICATION DETAILS**

Retrospective planning permission is sought for the retention of an extended garden curtilage and associated boundary fence at the application site.

The application site is located directly adjacent to the western boundary of no. 308 Park Road's residential curtilage. It previously formed a vacant grass verge at the end of the street and has been enclosed with 1.8m high close board timber fencing for use

as garden curtilage in association with no. 308. No other works have been undertaken at the site / are proposed.

It is noted that the applicant is leasing the application site from the Council. The correct Ownership Certificate B has been signed by the applicant and relevant notice of the planning application served on the Council as landowner.

## **SITE APPRAISAL**

The application site forms an irregularly shaped parcel of land directly adjacent to (west of) no. 308 Park Road's residential curtilage. It previously formed a vacant grass verge but has recently been enclosed with 1.8m high close board timber fencing for use as garden curtilage in association with no. 308 (subject of this application). The majority of the site has been laid to lawn save for a small area that abuts the dwelling which has been covered with gravel.

308 Park Road is a traditional, two-storey end of terrace dwelling that has a small enclosed yard area to the front, a larger enclosed garden to the rear, and an integral garage to the western side. Most properties within the street and surrounding area are of the same design and scale. All other end of terrace properties in the area include boundary treatments that extend up to the adjacent highways / service lanes comparable to that at the application site.

## **PLANNING HISTORY**

No previous planning applications have been submitted at the site.

## **PUBLICITY**

The application has been advertised by means of direct neighbour notification and site notice. Letters of objection from 6 individuals and a petition containing 43 names have been received, making the following comments (summarised):

- The fence overshadows the adjacent properties along Greenfield Terrace.
- The fence blocks views from the adjacent properties along Greenfield Terrace. Catherine Zeta-Jones was refused planning permission at her home in Swansea for blocking someone's view. What is the difference between Swansea and Cwmparc?
- The fence blocks views for pedestrians and vehicles entering/exiting Greenfield Terrace to the detriment of pedestrian and highway safety.
- Previously pedestrians used this area of ground to avoid oncoming traffic. It is no longer safe for pedestrians in this area.
- The fence restricts vehicle access out of the adjacent properties along Greenfield Terrace.
- The works have been undertaken without the necessary planning permission and should therefore be removed.

- Fences cannot be more than 1m in height adjacent to a highway. It must therefore be removed.
- The Council's own Planning Enforcement Officers have told the applicant to remove the fence. Why has this not happened?
- This land was given to the applicant for allotment use. Therefore, it should not be used for garden purposes.

5 letters of support have also been received, making the following comments (summarised):

- The fence is well built and enhances the appearance of the area.
- The fence does not obstruct views along the highway for either pedestrians or motorists.
- The land was previously untidy and subject to regular fly tipping. The enclosing of the land and inclusion within no. 308's garden area has stopped this.

## **CONSULTATION**

Highways and Transportation – No objection and no conditions suggested.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

The current LDP's lifespan was 2011 to 2021. It has been reviewed and is in the process of being replaced. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 04 January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 04 January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24 September 2020. Subsequently, the existing Plan remains the development plan for consideration when determining this planning application.

The application site is located inside of the settlement boundary for Treorchy but is not allocated for any specific purpose.

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

Policy AW6 – requires development to involve a high standard of design and to make a positive contribution to placemaking, including landscaping.

## **Supplementary Planning Guidance**

- Design and Placemaking

- A Design Guide for Householder Development

### **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 24 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 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.

Given the 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 national planning policy guidance consulted:

- PPW Technical Advice Note 12: Design

### **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.

### **Principle of the Proposed Development**

The application seeks planning permission for the retention of an extended garden area and associated boundary fence, that have been constructed to enhance the living conditions of residents at the property.

The use of the site as garden curtilage does not conflict with surrounding land uses and forms an appropriate use of the site. The principle of development is therefore considered acceptable, subject to compliance with the relevant material planning considerations set out below.

### **Visual Impact**

Enclosing what was previously a vacant, open area of ground with timber fencing has inevitably resulted in a visible alteration to the site and wider street scene. However, sited at the end of the dead end street the fencing is not overly prominent from wider views and forms a typical feature of such residential areas. It is also noted that the curtilages of all other end of terrace properties in the area extend out to the adjacent highways / rear lanes and therefore this type of relationship is commonplace in the area. Furthermore, the fencing appears well constructed and could be considered to have improved the previous vacant and sometimes overgrown and untidy appearance of the site.

It is therefore considered the works do not detract from the character and appearance of the site and are acceptable in visual terms.

### **Residential Amenity**

The objectors have raised concerns that the fence impacts upon the amenities of the neighbouring properties to the rear along Greenfield Terrace, by way of overbearing and overshadowing impacts. While these comments are acknowledged, the closest element of the fence is located approximately 6m from the nearest property at Greenfield Terrace and is separated from it by the highway in-between. Furthermore, the fence extends away from these properties following the line of the highway and is lower in height than the adjacent historic boundary walls that front the highway here. Therefore, with a relatively minor height of only 1.8m which would be 'permitted development' if it were between properties, it is not considered the fence results in any undue impact to the amenity standards previously enjoyed by the occupiers of the closest neighbouring properties.

Additionally, it is not considered the use of the land as residential garden curtilage would result in a degree of noise and disturbance different to that which would occur at any other residential garden in the area.

Subsequently, in terms of the impact upon the amenity and privacy of neighbouring residents, the application is considered to be acceptable.

## Highway Safety

It is noted that several concerns have been raised by the objectors in respect of highway safety, mainly that the boundary fence impairs vision along the adjacent highway and has resulted in pedestrians having to walk in the highway. While these concerns are noted, having assessed the scheme Highways and Transportation have no objection to the development.

Highways and Transportation commented that the fence does slightly restrict forward vision of vehicles travelling between the turning area of Park Road and Greenfield Terrace. However, taking into consideration the single width carriageway and slow vehicles speeds here, as well as the fact that Manual for Streets states that obstructions to forward visibility can help reduce the speed of oncoming vehicles in the interests of highway and pedestrian safety, it is not considered any impact is significant enough to warrant a highway objection.

With regard pedestrians having to walk in the highway, while it is accepted the land could have previously been used by pedestrians, it is not a footway or right of way and its former use as such could have been removed by the landowner at any time. Furthermore, the fence is set back from the highway along most of its length so pedestrians can still use the land as an informal footway between the two streets, should the landowner consent to this use (which is a private matter outside of the scope of this planning application).

In light of the above, the application is considered acceptable in pedestrian and highway safety terms.

## Neighbour consultation responses

Where the issues raised by the objectors are not addressed above, the following additional comments are offered:

- *The fence blocks views from the adjacent properties along Greenfield Terrace. Catherine Zeta-Jones was refused planning permission at her home in Swansea for blocking someone's view. What is the difference between Swansea and Cwmparc?*

Whether or not a development restricts views from neighbouring properties is not a material planning consideration, nor are issues associated with planning applications in other areas. All planning applications must be determined on their own individual merits.

- *The works have been undertaken without the necessary planning permission and should therefore be removed.*

While any works undertaken without the necessary planning permissions are regrettable, applicants are entitled to submit retrospective applications to retain unauthorised works, albeit at their own risk. Should Members be minded to refuse this application the case would be reported back to the Planning Enforcement team for further investigation.

- *Fences cannot be more than 1m in height adjacent to a highway. It must therefore be removed.*
- *The Council's own Planning Enforcement Officers have told the applicant to remove the fence. Why has this not happened?*

There appears to be some confusion from the objectors with regard this point. Members are advised that the 1m height limit referenced by the objectors relates to the 'permitted development' height limit for any means of enclosure erected adjacent to a highway. Any means of enclosure greater than 1m in height can be erected adjacent to a highway, but requires planning permission so any potential impacts can be properly assessed.

This was the advice given to the applicant/objector by the Planning Enforcement team, hence the retrospective planning application.

- *This land was given to the applicant for allotment use. Therefore, it should not be used for garden purposes.*

The Council's Corporate Estates section have confirmed that the land has been leased to the applicant on the basis that it is used only for purposes associated with the residential use at no. 308 Park Road. Both personal allotment and general garden use would comply with this restriction.

### **Community Infrastructure Levy 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 use of the land as residential garden curtilage is compatible with that of surrounding land uses and does not result any undue impact to the amenities of surrounding residents. Furthermore, the boundary fence that encloses the site is typical of such residential areas and is considered acceptable in visual, amenity and pedestrian and highway safety terms.

It is therefore considered the application complies with the relevant local and national planning policies and is acceptable.

**RECOMMENDATION:** Approve, subject to conditions below.

1. The development hereby approved shall be carried out in accordance with the approved plans ref:
  - Site Location Plan
  - Fence Elevations
  - Fence Location

and documents received by the Local Planning Authority 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.