

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2015-2016

**DEVELOPMENT CONTROL
COMMITTEE**

18 FEBRUARY 2016

**REPORT OF THE
DIRECTOR LEGAL AND
DEMOCRATIC SERVICES**

Agenda Item No.5(1)

**SITE MEETING
APPLICATION NO. 14/1408 – REAR
GARDEN BOUNDARY WALL
CONSISTING OF CONCRETE BLOCK
CONSTRUCTION WITH A FINED DOWN
RENDER FINISH AND TOPPED OFF
WITH A COPING STONE
(RETROSPECTIVE APPLICATION)
(AMENDED PLANS RECEIVED
10.11.2015, SHOWING REDUCTION IN
SCOPE OF WALL 'A' AND RENDER
FINISH TO INTERNAL WALL FACES
ONLY) – 73 GREENWAYS, ABERNANT,
ABERDARE**

Author: Mrs.Z.Maisey, Principal Officer, Committee Services

1. PURPOSE OF THE REPORT

To consider the outcome of the site inspection in respect of the above-mentioned proposal and to determine the application, as outlined in the report of the Service Director, Planning, attached at Appendix 1.

2. RECOMMENDATION

To approve the application in accordance with the recommendation of the Service Director, Planning.

3. BACKGROUND

- 3.1 In accordance with Minute No.145 (Development Control Committee, 21st January 2016), a site inspection was undertaken on Monday, 1st February 2016 to consider the impact of the garden boundary wall at 73 Greenways, Abernant , Aberdare on residential amenity.

- 3.2 The meeting was attended by the Chair and Vice-Chair of the Development Control Committee (County Borough Councillors G.Stacey and M.Griffiths) and Committee Members - County Borough Councillors P.Jarman, (Mrs) S.J.Jones, R.Lewis, S.Rees, (Mrs) J.S.Ward and P.Wasley. Non-Committee/Local Members – County Borough Councillors S.Bradwick and M.Forey were also in attendance.
- 3.3 Apologies for absence were received from Committee Members - County Borough Councillors L.M.Adams, J.Bonetto, (Mrs) L. De Vet, C.J.Middle, G.Smith, G.P.Thomas and E.Webster.
- 3.4 Members initially met at the front of No.73 Greenways and were advised by the Planning Officer that full retrospective planning permission was being sought to retain a boundary wall constructed to the sides and rear of the property. The wall enclosed the majority of the curtilage of the No.73 and for much of its length had been erected on top of an earlier retaining wall. For ease of reference the drawings and plans accompanying the application presented the wall in four sections, i.e. Wall A, Wall B, Wall C and Wall D and full details of these wall sections are outlined in Appendix 1 attached.
- 3.5 Members noted that letters of objection had been received from neighbouring properties raising concerns about visual appearance, scale, overshadowing, encroachment, structural integrity and build quality and a restrictive covenant.
- 3.6 Members then entered the rear garden of No.73 Greenways to view the wall and its proximity to surrounding properties. The Planning Officer stated that large sections of the wall were within the Permitted Development height stipulation of 2m and the sections of the wall that exceeded a height of 2m and faced neighbouring properties did not do so to an excessive degree.
- 3.7 The Council's Structural Engineer confirmed that the wall was suitably founded and he had no concerns for its integrity.
- 3.8 Members then moved on to the rear garden of neighbouring property - No.74 Greenways. During their inspection, Members noted that the wall between the two properties only exceeded a height of 2m at the far end of the garden where the ground sloped downwards. The Planning Officer pointed out that this was considered acceptable and if the height of the wall was reduced to 2m or below, the difference in height level would allow for greater overlooking.
- 3.9 The Planning Officer stated that whilst the applicant intends to render the inner faces of the walls there was no intention to render the external faces

- which would remain as untreated concrete block. Members noted that the owners of No.74 had already painted the side of the wall facing their garden a dark green shade. Members also noted that overshadowing was not considered to be of significant material concern as the rear of No.74 faced north-west and the wall appeared at its tallest towards the end of the garden.
- 3.10 Non-Committee/Local Member – County Borough Councillor M.Forey pointed out that a section of the wall between the two properties had been built over a public sewer and extensive discussions had taken place over a long period of time with Dwr Cymru/Welsh Water about this matter. A representative of Dwr Cymru/Welsh Water was present at the site meeting to confirm that the applicant had agreed to remove the offending wall and replace it with a removable timber fence which would allow access to the foul water sewer at all times. Consequently, this particular section of the wall no longer formed part of the application before Members.
- 3.11 Members then moved on to the rear garden of No.72 Greenways to view the impact of the wall on the property. No.72 was situated side-on to the application site and Members noted that the section of wall concerned was located at the bottom end of the garden at No.72 and was considered to be permitted development since its height did not exceed 2m where measured from the application site. Whilst not attractive, the Planning Officer did not consider the wall to be overbearing and was considerably lower than the elevations and roof of the garage behind it. It would also not cause overshadowing because of its southern orientation.
- 3.12 Non-Committee/Local Member – County Borough Councillor M.Forey presented his views on the impact of the wall on the resident of No.72 and stated that the wall prevented access to the back of the existing timber fence owned by the person residing at No.72.
- 3.13 With regard to the objectors' comments regarding land ownership and a covenant/legal agreement in place, Members noted that these were matters of a private nature and were outside of the planning application process.

LOCAL GOVERNMENT ACT 1972

As amended by

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LIST OF BACKGROUND PAPERS

DEVELOPMENT CONTROL COMMITTEE

18 FEBRUARY 2016

REPORT OF THE DIRECTOR, LEGAL AND DEMOCRATIC SERVICES

**APPLICATION NO. 14/1408 – REAR GARDEN BOUNDARY WALL
CONSISTING OF CONCRETE BLOCK CONSTRUCTION WITH A FINED
DOWN RENDER FINISH AND TOPPED OFF WITH A COPING STONE
(RETROSPECTIVE APPLICATION) (AMENDED PLANS RECEIVED
10.11.2015, SHOWING REDUCTION IN SCOPE OF WALL `A` AND RENDER
FINISH TO INTERNAL WALL FACES ONLY) – 73 GREENWAYS,
ABERNANT, ABERDARE**

Minute No.145 (Development Control Committee, 21 January 2016)

APPLICATION NO: 14/1408/10 (GH)
APPLICANT: Mr C Jones
DEVELOPMENT: Rear garden boundary wall consisting of concrete block construction with a fined down render finish and topped off with a coping stone (retrospective application).(Amended Plans received 10/11/2015, showing reduction in scope of wall 'A' and render finish to internal wall faces only)
LOCATION: 73 GREENWAYS, ABERNANT, ABERDARE, CF44 0GW
DATE REGISTERED: 10/11/2015
ELECTORAL DIVISION: Aberdare East

RECOMMENDATION: Approve

REASONS:

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

APPLICATION DETAILS

Full retrospective planning permission is sought to retain a boundary wall constructed to the sides and rear of 73 Greenways, Abernant, CF44 0GW.

The wall encloses the majority of the curtilage of the site, amounting to a total length of nearly 60m, and for much of its length has been erected on top of an earlier retaining wall.

For ease of reference the drawings and plans accompanying the application have presented the wall in four sections:

Wall A: This 11.4m long section has been constructed adjacent to the north-eastern side boundary with the neighbouring property, No. 74 Greenways. As viewed from the application property the height varies between 1.85m and 1.95m, although measured from the neighbouring dwelling the heights increase to 1.95m and 2.5m respectively.

The scope of the application was later reduced and amended to exclude the first 2.3m of wall closest to the house. Although this section would already be considered to constitute Permitted Development, the amendment reflected an ongoing issue whereby it was identified as having been constructed over a foul sewer. Consequently this would

either require an amended structure or a build-over agreement with Dwr Cymru Welsh Water. This issue is considered within the body of the report further below.

Wall B: Facing north-west, this has been built along the rear boundary abutting a lane alongside the garden of 10 Agents Row. Viewed from within the application site, this is to a consistent height of 1.9m, and from the opposite, external side, 2.6m.

Wall C: The wall separates the application property from a disused former Council yard and land to the south-west, and is 28.7m long and 1.6m high. However, as measured from the external side, its total height when considered with the extant retaining wall is 3.4m.

Wall D: This is a shorter 7.2m long section of wall which starts from the end of wall 'c', and finishes at a point level with the garage door. The wall also runs adjacent to the shared boundary with no.72 Greenways, to the south-east.

In addition to the structures noted above, the applicant has since built a further short section of block wall, connecting Wall D to the front elevation of his detached garage; but which does not form part of this application as it constitutes permitted development

It is proposed that the internal face of the wall would be completed with a render finish, and fitted with coping stones along the whole length.

The application is presented for determination by the Development Control Committee at the request of Councillors Forey and Bradwick the ward members for Aberdare East.

SITE APPRAISAL

The application property is a detached house of late 20th century design and construction, forming part of a wider residential development to the north-east of Abernant. With elevations of face brickwork, sections of render and brick-on-edge detailing, the house shares common design themes with its neighbours.

Although the house occupies a position mid way along a cul-de-sac, it is located at the end of a shared private driveway spur, which serves a further three dwellings. Consequently, the adopted highway is accessed around 29m to the south-east.

To the front of the house the amenity space includes an area of lawn and a detached garage, which benefitted from an earlier consent. The garden continues around the side of the house to the rear, whereupon it extends to a

maximum depth of approximately 14m, and forms an end boundary with the garden of 10 Agents Row.

Neighbouring properties are located between 1m and 34m to the north-east and 10m to the south. The latter, no.72 Greenways, is arranged side-on to the application property; such that the front elevation of no.73 faces towards the neighbour's rear garden.

Lastly it is noted that the north-western edge of the application site is directly aligned with the settlement boundary. The land on the opposite side of the garden wall, which consists of a disused Council yard and training centre, also forms part of a larger area of land designated as a Green Wedge.

PLANNING HISTORY

The following planning applications are on record associated with this site:

12/0700/10 Detached garage. Granted 21/08/12.

PUBLICITY

The application has been advertised by direct notification to three neighbouring properties.

Two letters of objection have been received, raising concerns about visual appearance, scale, overshadowing, encroachment, structural integrity and build quality, and a restrictive covenant. These objections and other issues are considered further below.

A further letter of representation was received from another neighbour, noting that the proposed render finish to the internal faces only, does not show regard for neighbouring properties. The neighbour also sought assurance about the safety of the wall; however, they stated that they had no concerns about the walls height.

CONSULTATION

Dwr Cymru Welsh Water:

Extensive discussion has taken place between DCWW and the applicant regarding the section of wall which has been built over a foul drain. DCWW has confirmed that the applicant has sought a build-over agreement, although as noted earlier, the scope of the consent sought has been amended

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The application site lies within the settlement boundary for Aberdare.

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.

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 Chapter 3 (Making and Enforcing Planning Decisions) and Chapter 4 (Planning for Sustainability), set out the Welsh Government's policy on planning issues relevant to the determination of the application.

Other policy guidance considered:

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.

Main Issues:

Principle of the proposed development

The application relates to the construction of a means of enclosure around the perimeter of a residential curtilage. The principle of development is therefore acceptable subject to the criteria set out below.

Impact on the character and appearance of the area

With the exception of parts of sections B and C, the majority of the wall is not readily apparent from the public realm. Thus in terms of its design, siting, massing, scale, materials and overall visual appearance, it is considered to be acceptable.

During the site visit a small section of Wall B was visible from the end of the lane providing rear access to Agents Row. However, this area is well-screened and the lane, which is a no-through route, is unmade and lightly trafficked.

Wall C, which faces towards the disused yard, represents the largest section of the development. It is positioned at least 80m away from the closest dwellings at Windsor Terrace, which are located on Abernant Road to the west. Between those properties and the application site are allotments, other built elevations, open land and mature trees, such that any visual impact, from views across to the wall, is negligible.

Prior to the construction of the wall, the site boundary was demarcated by a close boarded timber fence above the aforementioned earlier retaining wall; a layout confirmed by aerial photography dating from 2001. It was also confirmed, by a neighbour, that the earlier wall had been constructed around ten years ago. Having established the longevity of the retaining wall, it would appear that in combination with the fence, it would have had a similar impact in terms of its height, scale and mass, to the current arrangement of wall above wall.

However, whilst it is acknowledged that although the inner faces of the wall would be rendered, and then fitted with coping stones, the external faces would be retained as a less attractive untreated concrete block. Nonetheless, the residents of no.74 have already painted the side of Wall A, which faces towards their garden, in a dark green shade.

The application should also be considered in the context of Householder Permitted Development Rights, where unless adjacent to a highway, or within an area where PD rights have been removed; boundary treatments may be erected to a height of 2m without consent. These might be constructed from any material, combination of materials or colours; however attractive or unattractive.

These rights were considered by the journal 'Development Control Practice', which noted that "a consistent problem for local authorities seeking some form of design control over domestic walls and fences is that freedoms already given to householders by the GPDO have meant that many street scenes are already compromised by poorly designed or inappropriately located walls and fences".

Why this becomes relevant to this application is that large sections of the wall are already within the PD height stipulation of 2m, and particularly so where the retaining wall below has, by virtue of its lengthy existence, become the lawful

ground level. Furthermore, those sections of the wall that exceed a height of 2m, and face neighbouring properties, do not do so to an excessive degree.

Given the limited visibility of the site from the public realm, and despite the scale and size of the proposals, it is considered that the development would not detract from the character or appearance of the wider area.

Impact on residential amenity and privacy

The proposed extension is not considered to have a significant overshadowing or overbearing impact upon the surrounding neighbouring properties for the following reasons:

With regard to maintaining the amenity of neighbouring residents, the wall makes a positive contribution to ensuring privacy by preventing direct overlooking between the application site and other properties.

Nevertheless, the potential impact of the wall upon the outlook of the two neighbouring properties, no's 72 and 74 Greenways should be considered, in the light of two objections received from the residents of one of these dwellings.

In respect of no.72, a site visit by enforcement officers determined that Wall D would be considered to be permitted development, since its height does not exceed 2m where measured from the application site. Photographs taken of the site in 2012 demonstrate that prior to the construction of the detached garage a boundary fence occupied the same position as the wall does now, and this would have emphasised the difference in plot levels in the same way.

As seen from the end of the garden of no.72, where the owner has erected raised decking, the portion of the wall which extends above the neighbour's fence line appears prominent, but measured from the level of the decking is only around 2.3m. Whilst not attractive, it is not considered to be overbearing and is considerably lower than the elevations and roof of the garage behind it. It would also not cause overshadowing because of its southern orientation.

Additionally it was noted from aerial photography that the garden of no.72 was originally shallower than it is now, having been extended in usable depth by around 4.5m, sometime between 2006 and 2010. Previously the side boundary and retaining wall of the application site would not have been as visible to the residents of no.72, whereas their garden extension subsequently revealed more of the wall and the height variations.

Regarding the view from no.74, Wall A only exceeds a height of 2m at around three quarters of the way down the garden. Part of the neighbour's objection concerns the wall overshadowing the garden of no.74, although since the rear elevation of the house faces north-west and the wall appears at its tallest towards

the end of the garden, this is not felt to be of significant material concern. If the height of the wall was reduced to 2m or below, the difference in height level would allow for greater overlooking.

Similarly, although the objection refers to the unattractive appearance of the wall, which as noted has been improved by a coat of paint on the objector's side, the earlier point regarding permitted development heights and materials applies. Therefore, having taken the impact of the development on the amenity and privacy of neighbouring residents into account, the application is considered to be acceptable.

Other issues

The objector's letters refer to three other issues, the first of which concerned structural safety. It was alleged that poor quality construction had made the wall unsafe.

The applicant provided a letter from a structural engineer stating that there had been no movement or cracking, and that both the lower retaining wall and boundary wall appeared to be structurally stable, with no sign of structural distress.

Following further correspondence, the Council's structural engineer arranged for two trial inspection holes to be dug, to ascertain the integrity of the retaining wall adjacent to no.74 in particular. Consequently the engineer confirmed that the wall was suitably founded and that he had no concerns for its integrity.

The second objection related to Land ownership, claiming that Wall A had been constructed on the neighbour's land. The objector was advised that as a civil matter between private land owners, it was not one where the planning authority had any jurisdiction or where it could be considered as a material planning concern.

The third issue concerned a covenant or legal agreement signed by the original house purchasers, which placed a restriction on the erection of any wall, fence or hedge between the principal elevation and any abutting roads or footpaths. Whilst a copy of this was provided in correspondence, the objector was advised, via a ward member, that a covenant is a private right and could not be enforced by the planning authority.

Lastly, as referenced earlier, a section of Wall A closest to the dwelling and its neighbour had been constructed over a foul water chamber. Site visits were undertaken by the Council's drainage section and eventually by Dwr Cymru Welsh Water, whereupon it was established that this drain was an adopted asset.

Confirmation was provided by DCWW that they had given technical agreement to the build over agreement sought by the applicant. However following the receipt of the amended application, this section of wall, as permitted development, no longer forms part of it.

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

It is considered the proposal would not have a sufficiently significant impact on the character and appearance of the locality or upon the residential amenity of the surrounding neighbouring properties to warrant a recommendation of refusal. The application is therefore considered to comply with the relevant policies of the Local Development Plan (AW5 and AW6).

RECOMMENDATION: Grant

1. The development hereby approved shall be completed in accordance with the approved plans entitled 'Plan View of Boundary, revised', 'Wall A (revised)', 'Wall B', 'Wall C', and 'Wall D', and documents received by the Local Planning Authority on 28th October 2014, 13th October 2015 and 10th November 2015, 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.

2. Building operations shall not be commenced until samples of the coping materials and render proposed to be used have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the sample(s) so approved.

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 in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

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