

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2016-2017

**DEVELOPMENT CONTROL
COMMITTEE
15 SEPTEMBER 2016**

**REPORT OF: SERVICE
DIRECTOR PLANNING**

	Agenda Item No.6
APPLICATION NO: 16/0625) - VARIATION OF CONDITION 2 OF PREVIOUSLY APPROVED PLANNING APPLICATION 14/1459/10 - TO RETAIN EXTERNAL STAIRCASE TO REAR OF PROPERTY AND FRONT ACCESS AS CONSTRUCTED, 61 MONK STREET, ABERDARE	

1. PURPOSE OF THE REPORT

Members are asked to determine the above application.

2. RECOMMENDATION

That Members consider this 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 Development Control Committee on 4th August 2016 with a recommendation of approval. A copy of that report is attached at **APPENDIX A**. At that meeting Members were minded to refuse the application contrary to the Officer's recommendation because they considered the steps as constructed did have an unacceptable and overbearing impact to the detriment of the residential amenity of the neighbouring property, and resolved that the matter be deferred to the next appropriate meeting of the Development Control Committee for a report from the Service Director, Planning, if necessary in consultation with the Director, Legal & Democratic Services, upon the strengths and weaknesses of taking a decision contrary to recommendation, prior to determining the matter (Minute No.29 refers).

Members should note, as detailed in the report below, whilst the steps and screen are closer to the neighbour, it is considered that there would be no additional overbearing impact from the steps and screen that have been constructed compared to the approved position.

Members are further advised that to re-locate the steps back to the approved position, the developer would need to meet the required Building

Regulations standards. This would involve fire rating any windows/doors within 1.8m of the steps.

If Members, having had regard to the above, are still minded to refuse the application; the following reason is recommended:

1. The steps and screen, as constructed, by reason of their height represent an undesirable and unneighbourly form of development, detrimental to the amenities of occupiers of the adjoining residential property, particularly by reason of overbearing impact. As such the development would be contrary to Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

APPLICATIONS RECOMMENDED FOR APPROVAL

APPLICATION NO: 16/0625/15 (GW)
APPLICANT: Carbis Properties Ltd
DEVELOPMENT: Variation of Condition 2 of previously approved planning application 14/1459/10 - To retain external staircase to rear of property and front access as constructed.
LOCATION: 61 MONK STREET, ABERDARE, CF44 7PA
DATE REGISTERED: 06/06/2016
ELECTORAL DIVISION: Aberdare East

RECOMMENDATION: GRANT

REASONS: The impact of the permitted position of the steps on the amenity of the neighbour, in terms of noise and disturbance and potential overlooking, would be largely the same as what has been constructed.

Whilst it is acknowledged that the steps as constructed do have an impact on the neighbouring property it is however considered that on balance, the development does not result in such a significantly greater impact, so as to warrant a refusal reason.

REASON APPLICATION REPORTED TO COMMITTEE

A request has been received from Councillor Bradwick for the matter to come to Committee for the reason that an assessment of the impact on the occupier of the adjoining property (i.e. at 60 Monk Street) is required.

APPLICATION DETAILS

Planning permission has previously been granted for the conversion of the property to two flats, with the first floor flat accessed via a set of steps at the rear of the property.

The steps were however constructed closer to the boundary with the adjacent property (number 60) and the position of the steps is not in accordance with the planning permission. The applicant has stated that the reason for not constructing the steps in accordance with the permission is to comply with Building Regulations and to provide wheel chair access to the ground floor flat. Furthermore, a ramped access at the front of the property has been replaced with a stepped access.

This application seeks to retain the steps "as constructed".

SITE APPRAISAL

The application site is located on the corner of Monk Street and Clifton Street close to the centre of Aberdare. The property has been recently converted to two flats. A side access door, off Clifton Street, gives access to the rear and the steps

as constructed. The adjoining property, 60 Monk Street, is at a slightly higher level due to the topography of the area.

PLANNING HISTORY (Recent and relevant to application)

16/0626	61	Monk Street, Aberdare	Discharge of Conditions 3 (Materials), 4 (Boundary treatment), 5 (Landscaping) & 7 (Drainage) of planning permission 14/1459/10	4 Pending
14/1459	61	Monk Street, Aberdare	Conversion of existing shop with living accommodation above into two self contained flats (Amended plans received 23rd December 2014).	Granted 12/01/15

PUBLICITY

The application has been advertised via the erection of site notices and by direct neighbour notification. One letter of objection has been received from the occupier of the adjacent dwelling. Their objections are summarised below:

- The external staircase does not have permission.
- It is closer to my kitchen window and is affecting my privacy and amenity.

CONSULTATION

None undertaken.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The site is within settlement boundaries as defined by the Rhondda Cynon Taf Local Development Plan and is unallocated.

Policy AW5 - sets out criteria for new development and requires the scale, form and design of new development to have an acceptable effect on the character and appearance of the site and surrounding area and existing features of the built environment to be retained. Development must have no significant impact on the amenities of neighbouring properties, be compatible with other uses in the locality and to design out the opportunity for crime and anti social behaviour. Development must be sustainable and have safe access.

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 2 (Development Plans), Chapter 3 (Making and Enforcing Planning Decisions) and Chapter 9 (Housing), sets out the Welsh

Government's policy on planning issues relevant to the determination of the application.

Other relevant policy guidance consulted:
PPW Technical Advice Note 11: Noise;

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

Previously planning permission (Reference 14/1459/10) was granted for the conversion of the property to two residential flats. This included steps to access a first floor flat at the rear of the property.

The applicant has detailed the steps in question were moved to comply with Building Regulations and to provide wheelchair access to the ground floor. As such, the development, as constructed, is not in accordance with the approved plans.

It is understood from the Council's Building Control Section that the rear steps could be re-located to a similar position as approved and still comply with Building Regulations by "fire rating" the relevant ground floor windows and doors. This is not a requirement where the steps have been re-located too. In terms of wheelchair access this is not a requirement under part M of the Building Regulations for this type of development. The original plans showed a ramped access to the front of the property; however a stepped access has been constructed instead. The applicant has detailed that this was due to the position of a BT cabinet, which restricted the ramp in this location.

Members are advised that whilst the developer should have discussed these alterations with the Local Planning Authority, before the works were carried out, this issue in itself should not prejudice the decision by Members. The main material planning consideration in the determination of this application is the impact of the changes on the amenity of the occupier of the adjacent dwelling. This issue is discussed below.

Impact on residential amenity

The permitted plans show the rear steps immediately adjacent the elevations of the rear projection and a rendered screen wall to a height of 1.8m above the line of the steps.

As constructed, the steps are 1m closer to the boundary with 60 Monk Street. And a polycarbonate screen, 1.65m in height, has been provided along the side rail next to the boundary line.

This amendment to the approved plans does increase the affect on the amenity of the next door neighbour. The potential for noise and disturbance and overlooking would be closer to their property. And the polycarbonate screen is in closer proximity to the boundary and would result in some overbearing impact and a greater feeling of enclosure to the neighbour.

In assessing this situation the neighbouring property is at a higher level to the application site, which reduces some of the impact. As a result, the highest part of the screen is approximately 3.5m above the ground level of number 60 and then slopes down and below the existing side boundary wall. The neighbours kitchen window and lounge window face out in this area, where the polycarbonate screen is above the boundary wall. As constructed, the polycarbonate screen would however reduce the majority of overlooking to an acceptable level and should be retained as such if permission were to be granted.

Members are advised that if the steps and screen had been constructed where they were permitted, this would have resulted in a similar impact on the amenity of the neighbour to where they have been constructed. This would have only been 1m further away from the boundary wall and the screen would have been slightly higher at 1.8m. Furthermore, it should be noted, the existing rear projection would already have some impact in terms of enclosure and overbearing on the neighbour.

In addition, to the issue of overbearing, potentially a new extension could be constructed on the rear of number 61 to the boundary wall that would normally be acceptable at this type of terrace property. It should be noted, as detailed on the existing plans of the original application, a single storey 'lean to' extension was detailed as being previously located in this position. Whilst the polycarbonate screening and steps as constructed are relatively high, the impact of an extension in this position would be similar. Notwithstanding this, it is recognised that the nature of the use of the steps and materials used in terms of the impact on the neighbour, are however considered somewhat different to a blank side wall of an extension.

Turning to the impact on sunlight there would be some impact; however this is considered would not be significant in the determination of the application. The rear of the building is northwest facing and as such, there would be little direct sunlight to the rear due to this and the screening effect from surrounding existing buildings. The use of a polycarbonate screen does also allow some light through.

In summary, there is no doubt that the development does have an impact on the amenity of the occupier of the adjacent dwelling. However, taking account of the similar impact of the permitted scheme and what potentially could be constructed at the property; it is considered that on balance, the impact of the development does not result in such a significantly greater detrimental impact, on the amenity of the adjacent neighbour, so as to warrant a refusal reason.

Impact on the character of the area

In visual terms there is not a significant difference to what was approved and what has been constructed. As such it is considered this issue would not warrant a refusal reason.

Conclusion

The application is considered to on balance comply with the relevant policies of the Local Development Plan in respect of the impact on residential amenity and the impact on the character and appearance of the area (Policy AW5).

RECOMMENDATION: Grant

1. The polycarbonate screen, as detailed on drawing number 813/PA/04 shall be retained and maintained as such in perpetuity.

Reason: In the interest of residential amenity in accordance with policy AW5 of the Rhondda Cynon Taf Local Development Plan.

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LOCAL GOVERNMENT ACT 1972

as amended by

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LIST OF BACKGROUND PAPERS

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REPORT

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OFFICER TO CONTACT

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See Relevant Application File