

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
17/0834/RET 04.10.2017	Mr C Jennick 3 Pendarren Street Penpedairheol Hengoed CF82 8BZ	Retain and complete shed with rooftop garden 3 Pendarren Street Penpedairheol Hengoed CF82 8BZ

APPLICATION TYPE: Retain Development Already Carried Out

SITE AND DEVELOPMENT

Location: The application property is located on the southern side of Pendarren Street, Penpedairheol.

House type: Two-storey mid-terrace property with a small walled front garden and enclosed garden to rear.

Development: Full planning permission is sought to retain the existing outbuilding and roof top garden.

Dimensions: The proposed outbuilding measures 4.04 metres in width by 3.2 metres in depth and measure 2.12 metres in height to flat roof level. The brick wall and ornamental enclosure located on top of the flat roof measures 0.9 metres in height.

Materials: Concrete render, bricks and white concrete ornamental balusters with coping and plinth.

Ancillary development, e.g. parking: None is proposed.

PLANNING HISTORY 2005 TO PRESENT

None.

POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: The application property is located within settlement limits.

Policies: SP5 (Settlement Boundaries), SP6 (Placemaking), CW2 (Amenity), CW3 (Design Considerations: Highways) and advice contained within the Council's Supplementary Planning Guidance LDP7: Householder Developments (January 2017).

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NATIONAL POLICY Planning Policy Wales Edition 9 (November 2016) and TAN 12: Design (March 2016).

Section 4.11.9 of Planning Policy Wales (2017) states:

"The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions."

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not Applicable.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The application site is located within an area where no coal mining report is required, however standing advice will be provided.

CONSULTATION

CADW - No comments received at the time of writing the report.

Transportation Engineering Manager - No objection subject to a condition in relation to surface water run-off.

ADVERTISEMENT

Extent of advertisement: A site notice was not required in this instance however six neighbours were notified by letter.

Response: Two letters of representation have been received by the landlord and tenant of no.3 Pendarren Street objecting to the proposed development.

Summary of observations: The following issues have been raised:

1. The development is an invasion of privacy and overlooks rear garden and gives view directly into the kitchen and rear bedroom.
2. There is a danger of items falling from a height in excess of 2.9 metres.
3. The development may cause damage to the neighbouring properties.
4. Objects to the flat roof design of the outbuilding.
5. The development may undervalue the market sale price for the neighbouring property.

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SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?

There are no specific crime and disorder implications material to the determination of the area.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? No the development is not CIL liable as the proposal does not result in an increase of floor space in excess of 100 square metres.

ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policies and supplementary planning guidance. The main considerations in the determination of this application is whether the development has an unacceptable impact on the visual amenity of the surrounding area and its impact on the amenity of the neighbouring properties.

There are a variety of extensions and outbuildings that are visible along this rear lane with no clear building design or character predominating. As such it is not considered that the development as built has an adverse impact on the visual amenity of the surrounding area subject to the external finishes of the outbuilding being completed.

In terms of the impact that the development has upon the neighbouring properties, Supplementary Planning Guidance LDP7: Householder Developments (2017) is of relevance and explains that if residents are considering building a raised platform or a balcony that they should ensure that when it is constructed it does not result in overlooking of neighbouring properties. In that respect the proposal is contrary to the guidance contained within LDP7: Householder Developments (2017), however, when a development appears to be contrary to policy, the question of what can be done without the need for planning permission, also known as the 'fall-back position' is an important consideration.

In that regard, the situation prior to the development being built would have always given rise to a significant amount of overlooking as the garden level of the application property has always been raised and the existing patio area has been constructed longer than four years which is immune from any enforcement action.

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Turning to the proposed outbuilding and the extended roof top garden, the height of the outbuilding alone is considered to be permitted development and has been designed to meet the height of the existing patio. By default, without any form of enclosure located on top of the outbuilding, there are no planning restrictions preventing the occupiers using the roof of the outbuilding as an extension to the existing patio. Therefore consideration should be given as to whether the introduction of the walled balustrade enclosure patio has exacerbated the existing situation and has given rise to additional loss of privacy to such a degree that it has a detrimental effect on the privacy of the occupiers of the neighbouring dwellings.

The plans submitted as part of this application indicate that the extended patio would provide a roof top horticultural garden and does not facilitate an area whereby the occupiers of 3 Pendarren Street could enjoy dwelling time in the form of dining, sitting out or socialising amenity area. Whilst the rooftop garden would in theory allow the applicants to stand closer to the rear of the properties opposite along Mount Pleasant, the occupiers would be standing further away from the adjoining properties than the previous situation and as stated previously there are no planning restrictions preventing the use of the outbuilding roof as a garden, however the walled balustrade enclosure provides a safety barrier.

Consideration has been given to whether any privacy issues relating to the elevated patio could be overcome by erecting privacy screens behind the ornamental balustrade enclosure, in that regard the privacy screen would need to be a minimum of 1.8 metres in height and of a solid construction. Whilst this is a common condition imposed to any planning consent when there is a concern that a development will give rise to overlooking, in this instance it is considered that the introduction of such screening would not be appropriate and have a detrimental impact of the character and appearance of the area.

The applicants have sought to limit the use of the additional area of patio by introducing planters and other features. It would be reasonable to impose a condition that requires those features to be retained.

In conclusion, whilst the proposal is contrary to the guidance contained within LDP7: Householder Developments (2017), taking into consideration that the rooftop garden will be used for horticultural purposes and the permitted development 'fall-back' position, it is difficult to justify refusal of the application.

Comments from consultees: No objection raised.

Comments from public: The following issues have been raised:

1. The development is an invasion of privacy and overlooks rear garden and gives view directly into the kitchen and rear bedroom - Due to the difference in garden levels between both properties there has always been a certain amount of overlooking. This has been addressed in the report above.

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2. There is a danger of items falling from a height in excess of 2.9 metres - This is not a material planning consideration, there is no evidence to suggest the development as built is a dangerous structure, furthermore this would be covered under separate legislation.
3. The development may cause damage to the neighbouring property - This is not a material planning consideration and is a private matter between the parties concerned.
4. Objects to the flat roof design of the outbuilding - Whilst supplementary planning guidance LDP7: Householder Developments (2017) advises that the shape and pitch of roofs of extensions and outbuildings should match the pitch of the main dwelling, it is possible to construct a much taller flat roof development under permitted development. This is addressed in the report above.
5. The development may undervalue the market sale price for the neighbouring property - This is not a material planning consideration.

Other material considerations: None.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) Details of the external finish of the concrete render hereby approved as part of this development shall be submitted to and approved in writing by the Local Planning Authority within one calendar month from the date of this consent.
REASON: In the interests of visual amenity.
- 02) The proposed external finish of the outbuilding shall be carried out within two calendar months from the date that the submitted details have been agreed unless another timescale is agreed in writing with the Local Planning Authority.
REASON: In the interests of residential amenity.
- 03) The planters, water features and 'conifer' and 'fir' trees shown on the block plan submitted with the application subject of this consent shall remain in place at all times.
REASON: To limit the use of the patio area in the interests of residential amenity.

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Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2 and CW3.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

