

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
20/0017/RET 09.01.2020	Mrs B Price 40 James Street Markham Blackwood NP12 0QN	Retain and complete the construction of an outbuilding/practice room 40 James Street Markham Blackwood NP12 0QN

APPLICATION TYPE: Retain Development Already Carried Out

SITE AND DEVELOPMENT

Location: The application property is located on the southern side of James Street, Markham.

House type: Two-storey semi-detached dwelling with a garden to the front and rear.

Development: Planning permission is sought to retain and complete the outbuilding/practice room erected within the rear garden. The outbuilding measures 2.3 metres to the eaves and 3.4 metres to ridge height from the raised platform with those heights increasing to 3.2 metres and 4.2 metres respectively from the original garden levels.

Dimensions: The outbuilding measures 2.3 metres to the eaves and 3.4 metres to ridge height from the raised platform with those heights increasing to 3.2 metres and 4.2 metres respectively from the original garden levels.

Materials: The building comprises of concrete blockwork, concrete roof tiles together with oak grain upvc windows and doors. The external finish of the outbuilding has not been specified.

Ancillary development, e.g. parking: Raised platform measuring 7.1 metres in width by 8.2 metres in depth and 0.9 metres in height.
The erection of a 1.8 metre high close boarded timber fence on top of the raised platform along the common boundary of No. 38 James Street.

PLANNING HISTORY 2010 TO PRESENT

18/0704/FULL - Demolish existing outbuilding and erect two storey rear extension - Granted 03.10.18.

19/0781/RET - Retain and complete works to replace Juliet balcony with a standard balcony - Granted 07.11.19.

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POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: The site is located within settlement limits.

Policies: SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW15 (General Locational Constraints) and advice contained within the Local Planning Authority's Adopted Supplementary Planning Guidance LDP7: Householder Developments.

NATIONAL POLICY Planning Policy Wales Edition 10 (December 2018) and TAN 12: Design (March 2016).

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 site is not located within an area where a coal mining report is required, however standing advice will be provided.

CONSULTATION

Senior Engineer (Land Drainage) - SAB not required.

ADVERTISEMENT

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

Response: One letter of representation was received.

Summary of observations:

1. The proposal breaks the boundary wall act of 1994.
2. The foundations are attached to the neighbouring single block wall.
3. The outbuilding blocks out the sunlight to trees and plants.
4. The proposal breaches the covenant enforced on the deeds of the land that no permanent structure can be built on the land whilst the covenant is enforced.

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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 this application.

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 intend to create less than 100 square metres of additional floor space.

ANALYSIS

Policies: The application has been considered in accordance with national policy and guidance, local plan policies and supplementary planning guidance.

The application seeks to retain an unauthorised structure erected within the rear curtilage of No. 40 James Street comprising of an outbuilding and raised platform patio area. In design terms the development is domestic in scale and character and acceptable in terms of its form. It is noted that the external finishes of the development are yet to be completed; however this can be controlled by way of condition. Therefore the main considerations in the determination of this application are whether the development as built has an unacceptable impact in terms of amenity on the occupiers of the neighbouring properties.

Policy CW2 of the Local Development Plan sets out criteria relating to amenity. Development proposals must ensure that there is no unacceptable impact on the amenity of adjacent properties or land.

The rear garden has an imperceptible slope which falls towards the rear boundary, with the raised platform located at the furthest point away from the dwelling adjacent to the rear boundary and side boundary of No. 38 James Street, occupying approximately 30% of the rear curtilage. The outbuilding is sited on top of the raised platform and adjacent to the side boundary of No. 38. This existing situation gives rise to an unacceptable amount of overlooking and loss of privacy to the private amenity area and the ground floor rear habitable room window of No. 38 from the raised platform and from within the outbuilding itself, as result of the french door window openings. However, the submitted details indicate the provision of a 1.8 metre fence adjacent to the common boundary on top of the raised platform.

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Having regard to the difference in levels between the neighbouring properties as a result of the raised platform, it is considered that the proposed 1.8 metre fence would restrict any overlooking of this neighbouring garden together with removing any direct views into the ground floor habitable room windows on the rear elevation of this property. In addition given the siting of this fence at the rear of the gardens of both properties it is not considered that its height when viewed from the garden of No. 38 would result in any unacceptable impacts upon the amenities of the occupier of this property by virtue of overlooking or overbearing impacts.

The raised platform and outbuilding are set away from the boundary with No. 42 and given this existing relationship and boundary treatment it is not considered that the scheme has any unacceptable amenity impacts upon the occupiers of this property.

Subject to the imposition of conditions to any planning consent to control the external finishes of the development and to ensure that the fence is installed within an agreed period of time, the proposal is considered to accord with policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021 - adopted November 2010.

Comments from consultees: None.

Comments from public:

1. The proposal breaks the boundary wall act of 1994 - The dispute concerning the neighbouring boundary wall is a civil matter and one which is covered by separate legislation.
2. The foundations are attached to the neighbouring single block wall - As stated above, this is a civil matter covered by separate legislation.
3. The outbuilding blocks out the sunlight to trees and plants - The rear gardens of the properties are south facing, on the basis of the overall height of the proposed outbuilding and having regard to the 'fall back' position in terms of permitted development, it is not considered that the outbuilding would give rise to any significant impacts in terms of loss of light or overshadowing.
4. The proposal breaches the covenant enforced on the deeds of the land that no permanent structure can be built on the land whilst the covenant is enforced - This is a private matter between the vendor and purchaser of the land or property and is not a matter in which the Local Planning Authority is empowered to act.

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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) The development shall be carried out in accordance with the following approved plans and documents:
Dwg No. LP 01 Site Location and Block Plan received on 09.01.2020; and
Dwg No. PL 02 Proposed Site Plan and Elevations received on 09.01.2020.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 02) Within one month of the date of this decision notice, details of the external finishes of the outbuilding and raised platform and any means of enclosure sited on the raised platform shall be submitted to the Local Planning Authority for its approval. Once approved the development shall be constructed in accordance with the approved details.
REASON: In the interests of the visual amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 03) The proposed 1.8 metre fence to be erected as indicated on Dwg No. PL 02 Proposed Site Plan and Elevations shall be erected within two calendar months from the date of this consent unless another timescale is agreed in writing with the Local Planning Authority. Thereafter, the fence shall remain in perpetuity at all times.
REASON: To prevent a loss of privacy amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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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: .

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.

