

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 1<sup>ST</sup> SEPTEMBER, 2005

REPORT OF THE DIRECTOR OF ENVIRONMENTAL  
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning Appeals Received

L. P. A. Reference No: 03/00940/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 05/1185235  
Appellant: Mr. T. Foote,  
**Location: The Willows, Nightingale Place, Dinas Powys**  
Proposal: Construction of new detached three bedroom domestic dwelling  
Start Date: 21<sup>st</sup> July, 2005

L. P. A. Reference No: 05/00519/FUL  
Appeal Method: Hearing  
Appeal Reference No: 05/1185355  
Appellant: JCW Construction Limited,  
**Location: Little West, Southerndown**  
Proposal: Alteration and conversion of the building to provide 8 No. 2 bedroom apartments  
Start Date: 25<sup>th</sup> July, 2005

---

(b) Enforcement Appeals Received

None received during reporting period.

---

(c) Planning Appeal Decisions

L. P. A. Reference No: 04/01344/FUL  
Appeal Method: Hearing  
Appeal Reference No: 05/1177921  
Appellant: T. O'Connor & B. Griffiths  
**Location: Land at the rear of Nos. 31 and 32, Station Road, Penarth**  
Proposal: Demolish existing commercial garage buildings and construct 2 No. Mews Court, two storey dwellings  
Decision: **ALLOWED**  
Date: 28<sup>th</sup> July, 2005  
Inspector: Mr. Hywel Jones  
Council Determination: Officer Delegated

## Summary

The main issue concerned the effect of the proposed development on the living conditions of prospective occupiers and neighbouring residents, particularly in terms of the provision of suitable outdoor amenity space for the former and any noise or disturbance, overlooking, visual intrusion, or loss of security to the latter.

The Inspector noted that the site was currently vacant and was last used as a commercial garage where mechanical and bodywork repairs were undertaken. He also noted the permission for a single dwelling on the site, and the appellants' statement that consideration would be given to 2 available options - implementing the extant permission or seeking a tenant to re-commence the lawful use of the site as a garage. Given the available evidence, he thus determined the appeal on the basis that there was a realistic likelihood that either of these fallback positions would be implemented if the appeal was unsuccessful.

Looking at the provision of outdoor amenity space for each dwelling, he deemed the scheme to be acceptable, particularly due to the relatively secluded nature of the remaining space around the dwellings.

In considering the effect of the scheme on noise and disturbance to neighbouring residents, the Inspector took account of the impact of the fallback options on the neighbours. In this respect, although the comings and goings to the site, particularly late at night, that would normally be associated with 2 dwellings would be likely to impact on the occupiers of the bedrooms and living rooms that lie adjacent to the access route, nevertheless he concluded that this impact is not likely to have a materially greater effect on neighbours than that which would be created by the approved four-bedroom dwelling or the re-commencement of a commercial use at the site.

In line with the standards set out in the Council's SPG, the Inspector noted that the scheme had been designed to maintain a minimum separation of 21m between the habitable rooms of the first-floor windows of the envisaged and existing houses, and considered that this would safeguard a reasonable degree of privacy within the neighbouring dwellings. Privacy within the outdoor areas of neighbours' properties could be secured by the part-retention of the high walls that bound most of the site (subject to condition).

Although the proposed building would be closer to neighbouring properties than the approved dwelling, this difference would not lead to an overbearing effect on any of the neighbours. Moreover, the outlook would be improved for most residents through the removal of the large, utilitarian structure that currently occupies most of the site.

He thus concluded that the proposed development would provide reasonable living conditions for prospective occupiers and would not unacceptably affect the living conditions of neighbouring residents, in terms of noise, disturbance, fumes, overlooking, visual intrusion or security.

In addition to the above, the Inspector considered the scheme would provide an opportunity to secure the efficient use of previously developed land within an area well located to a range of services by foot, bicycle and public transport.

Finally, although the narrow access would be insufficient to allow cars to pass near its junction with the public highway, given the established fallback positions, he concluded that the scheme would not give rise to any unacceptable highway safety implications.

## Comments

Although the appeal site is unusual in that access is obtained underneath other residential accommodation, in this appeal the presence of a commercial use on the site, which could re-commence at any time, was deemed sufficient to overcome the objections on the basis of an increase in noise and disturbance to nearby residents.

---

L. P. A. Reference No: 04/01786/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 05/1178244  
Appellant: Mr. and Mrs. Reid,  
**Location: 151, Plymouth Road, Penarth**  
Proposal: Demolition of existing garage. Construction of two storey extension to side and rear to create new garage and living space  
  
Decision: **DISMISSED**  
Date: 25<sup>th</sup> July, 2005  
Inspector: Mr. T. J. Morgan  
Council Determination: Officer Delegated

## Summary

Looking at the impact of the proposal in terms of overlooking of neighbouring properties, the Inspector noted that the windows would allow views over the adjoining property and garden at No. 153 Plymouth Road and the balcony would also allow persons using it to overlook the back garden and rear elevation of this neighbouring property. However, he saw that the appeal property already has a balcony projecting from the rear dormer, and that this affords extensive views over the gardens of neighbouring properties on either side. The potential impact on privacy due to overlooking from the proposal would not, therefore, be sufficient on its own to justify refusal of permission for the proposed extension.

In terms of the physical impact of the proposed extension, the rear two storey wing would have a depth of about 10 metres, and would introduce a substantial built element close to the boundary with No. 149 Plymouth Road for a significant depth along it. The Inspector concluded that its proximity, height and massing would have an overbearing impact on the outlook from the upper rear windows and garden of 149, and would cause overshadowing, particularly to the conservatory of the neighbour, such that he was "certain that the proposal is an unneighbourly form of development".

## Comments

This decision is another good example of the Inspectorate's support for the Council's amenity standards SPG where it seeks to ensure that new residential development, including extensions, do not unacceptably effect the amenity of neighbouring residential properties.

---

L. P. A. Reference No: 04/01501/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 05/1179652  
Appellant: Mr. & Mrs. Eva,  
**Location:** **147, Lavernock Road, Penarth**  
Proposal: New vehicular crossover to front of property  
Decision: **ALLOWED**  
Date: 26<sup>th</sup> July, 2005  
Inspector: Mr. A. H. Vaughan  
Council Determination: Officer Delegated

## **Summary**

The Inspector accepted that the proposed crossover would permit vehicles to be driven closer to neighbours than at present. However, he did not consider that this would harm their living conditions by reason of additional noise and disturbance.

He noted that there is already road and vehicle noise in this area arising from the use of the busy carriageway and from other vehicle parking and manoeuvring areas within earshot. These were, in his opinion, a reasonable expectation of the general noise levels within a residential area. Therefore, he concluded that the project would have a minimal impact on residential amenity as set out in Policy ENV25 of the UDP and its linking Supplementary Planning Guidance.

## **Comments**

This decision demonstrates the need for decisions to take due account of existing site circumstances and noise levels prior to concluding that unacceptable harm would be caused by new development.

---

### (d) Enforcement Appeal Decisions Received

None received during reporting period.

---

(e) April 2005 – March 2006 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed *	Allowed	Total	
Planning Appeals (incl. tree appeals)	WR	10	2	12	
	H	4	2	6	1
	PI	0	0	0	
<b>Planning Total</b>		14 (78%)	4 (22%)	18	
Enforcement Appeals *	WR	1	1	2	
	H	0	0	0	1
	PI	0	0	0	2
<b>Enforcement Total</b>		1 (50%)	1 (50%)	2	
All Appeals	WR	11	3	14	
	H	4	2	6	2
	PI	0	0	0	2
<b>Combined Total</b>		15 (75%)	5 (25%)	20	4
<b>This reporting period</b>		1	2	3	1

\* Includes all determined appeals where the decision of the Council was 'upheld' (e.g. where an Enforcement appeal succeeds in part, but the Notice is upheld) in accordance with guidance for National Core Indicators.

(f) List of Forthcoming Hearings and Public Inquiries

<u>DATE</u>	<u>SITE AND PROPOSAL/ BREACH</u>
7 <sup>th</sup> September, 2005	<b>HEARING</b> Redland House, Bonvilston <i>Proposed timber gate from land to the rear of Redland House onto adjacent land.</i>
20 <sup>th</sup> September, 2005	<b>HEARING</b> Welford Farm Barn, Port Road West, Barry <i>Reconstruction of previously demolished west wing of the original Barn yard and internal alterations as a variation of approval 03/00205/FUL.</i>
28 <sup>th</sup> September, 2005 (provisional date)	<b>HEARING</b> Ty Newydd Farm, Peterstone Super Ely <i>Construction of replacement dwelling.</i>
11 <sup>th</sup> October, 2005 (provisional date)	<b>HEARING</b> Little West, Southerndown <i>Alteration and conversion of the building to provide apartments.</i>
In abeyance	<b>PUBLIC INQUIRY (PLANNING &amp; ENFORCEMENT)</b> Ewenny Quarry, Ewenny

*Breach of operating hours (Condition No. 19 of planning permission 98/01109/FUL).*

In abeyance

**PUBLIC INQUIRY**

Land allocated for employment, Rhoose Point, Vale of Glamorgan  
*Outline application for residential development.*

Background Papers

Relevant appeal decision notices and application files (as detailed above).

Contact Officer - Steve Ball, Tel: 01446 704690

Officers Consulted:

Head of Planning and Transportation.

ROB QUICK  
DIRECTOR OF ENVIRONMENTAL  
AND ECONOMIC REGENERATION