

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 6TH JULY, 2005

REPORT OF THE DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning Appeals Received

L. P. A. Reference No: 04/01526/OUT
Appeal Method: Written Representations
Appeal Reference No: 05/1181538
Appellant: Mr. D. Michael Thomas,
Location: Land adjacent New Parc Farm, St. Donats
Proposal: Erection of one dwelling
Start Date: 6th June, 2005

L. P. A. Reference No: 05/00458/TPO
Appeal Method: Written Representations
Appeal Reference No: T05/514707
Appellant: P. S. Hutchinson,
Location: The Old Surgery, Church Street, Llantwit Major
Proposal: Fell two horsechestnut
Start Date: 6th June, 2005

L. P. A. Reference No: 04/01869/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1181270
Appellant: Wendy Hopkins,
Location: 18-20, High Street, Cowbridge
Proposal: Extension of existing retail premises involving
demolition of existing flat roof construction and
construction (to rear of site) of two storey development
with 2 No. gable roofs
Start Date: 9th June, 2005

L. P. A. Reference No: 03/01320/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1181980
Appellant: M. Boland
**Location: St. Hilary, St. Maryswell Bay Road, St. Maryswell
Bay, Swanbridge**
Proposal: Restoration of St. Hilary House
Start Date: 10th June, 2005

L. P. A. Reference No: 05/00573/FUL
Appeal Method: Hearing
Appeal Reference No: 05/1181931
Appellant: Fitz Project Management,
Location: Welford Farm building/barn, Port Road West, Rhoose
Proposal: Reconstruction of previously demolished West Wing of the original Barn Yard and internal alterations as a variation of approval 03/00205/FUL
Start Date: 17th June, 2005

L. P. A. Reference No: 04/01586/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1182710
Appellant: Haydn Anthony Brown,
Location: Single storey barn at entrance driveway to garden of Westfield House, West Street, Llantwit Major
Proposal: Conversion and extension of disused barn to form a two bedroom single storey dwelling
Start Date: 17th June, 2005

(b) Enforcement Appeals Received

L. P. A. Reference No: ENF/05/0257/M
Appeal Method: Hearing
Appeal Reference No: C/05/1180933
Appellant: Mr. A. Richards
Location: Land to the West and North of the village shop and Tudor Lodge, (field no. 2400), Bonvilston
Breach: Construction of an access track from A48
Start Date: 17th June, 2005

(c) Planning Appeal Decisions

L. P. A. Reference No: 04/00610/FUL
Appeal Method: Hearing
Appeal Reference No: 05/1173561
Appellant: Mr. Randall,
Location: St. James Church, Leckwith
Proposal: Retention/regularise existing conversion of former church from single dwelling to two dwellings only
Decision: **ALLOWED**
Date: 25th May, 2005
Inspector: Mr. E. C. Davies
Council Determination: Planning Committee

Summary

The main issues in this case related to the consequences, or otherwise, of the proposed development for a) the character and appearance of the adjoining countryside and b) the safety of road users.

On the first issue, the Inspector concluded that the use of the building for 2 residential units has not and, if perpetuated, would not have any more consequences for the character, amenity and appearance of the general scene within the Cwrt Yr Ala Basin special landscape area, than the changes authorised as a consequence of the original permission for use as a single dwelling.

With respect to matters of highway safety, the Inspector noted that visibility from a set back of 2.4m is presently some 60m towards the right and approximately 80m in the opposite direction, both distances being less than the advised standard in TAN 18 Transport where the speed of traffic on the major road is limited to 40mph.

Nevertheless, the Inspector was satisfied that the intensity of use to which the access would be subject by the occupants of 2 units of accommodation would be virtually the same as, or, only fractionally different from, its use by the inhabitants of the building, if occupied as a large single dwelling. In addition, he noted that, despite the position of the access in the base of a steeply incised valley, it has been used by 2 families for a period of some 4 years or possibly more, without any recorded accidents. On this basis, he was satisfied, despite its shortcomings, that its continued use to serve 2 residential units would be acceptable.

Comments

This decision has ended a relatively lengthy planning history on this property, which included the service of an Enforcement Notice against its unauthorised use as two dwellings. Nevertheless, following this decision, the Enforcement Notice on the property has now been formally withdrawn by the Council.

L. P. A. Reference No:	04/01388/FUL
Appeal Method:	Hearing
Appeal Reference No:	05/1173703
Appellant:	Tabernacle Baptist Church,
Location:	25, Clive Place, Penarth
Proposal:	Hardstanding at front of property, creation of garden border, building of brick pier for gateway
Decision:	DISMISSED
Date:	6 th June, 2005
Inspector:	Mr. P. MacDonald
Council Determination:	Officer Delegated

Summary

The main issue arising in the determination of this appeal was whether the works carried out without planning permission were such as to preserve or enhance the character or appearance of the Penarth Conservation Area.

The Inspector stated that the front gardens of the properties in the Conservation Area, with their front walls and the greenery behind, are an important part of the area's visual character, as noted in the Council's supplementary planning guidance. The loss of front walls, and the paving of front gardens, together with the intrusion of vehicles into the domestic curtilage, would result in an erosion of that character which it is the objective of Council policy to preserve. He thus concluded that the work carried

out at the appeal premises failed to preserve or enhance the character of the Conservation Area.

Although acknowledging that other vehicular openings exist in the area, these generally appear to precede the Article 4 Direction. In this respect, whilst these may be regretted, they did not constitute a good argument for allowing further such erosion of character and appearance.

Finally he stated that the thrust of planning policy to resist removal of garden walls in the Conservation Area is clear, and must take precedence over individual parking problems.

Comments

This is a further example of an appeal decision which has fundamentally supported the aims of approved SPG and Unitary Development Plan Policy in seeking to prevent the individual and cumulative harm caused by loss of boundary walls. It also offers firm support for the objectives of the Article 4 Direction in Penarth which removes PD rights for certain works on a significant number of properties, and thus introduces a greater degree of control over such proposals.

L. P. A. Reference No:	04/01934/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1175488
Appellant:	Mr. and Mrs. Mapstone,
Location:	Valley View Fruit and Veg. Stores, 7, The Parade, Castle Drive, Dinas Powys
Proposal:	Single storey rear extension and new shop front
Decision:	Appeal upheld (Split decision)
Date:	7 th June, 2005
Inspector:	Robert Gardener
Council Determination:	Officer Delegated

Summary

The main issue in this case concerned whether the proposed rear extension would unacceptably reduce and/or disrupt the parking and access arrangements available for the use of the shops and residential flats over.

The service yard at the rear was also seen to be used for car parking for the private use of retailers and for the residents of the flats over. Although the service yard appeared to be used communally, parking is arranged so that residents park along the rear wall while retailers occupy the spaces directly behind the shops, where the extension was proposed.

The proposed extension would occupy perhaps the equivalent of 2 of the retailers' parking spaces, the loss of which to support the day to day operations of the retail units he considered less acceptable, since vehicles displaced from here would potentially occupy shoppers' car parking at the front, increasing the incidence of on-street car parking and congestion around this busy parade.

The impact of the scheme, however, was seen to go beyond this, since the extension would project out into the service/parking by some 6m. Accordingly, he agreed with the Council that this would severely disrupt the otherwise regular space available

and the ability of service/delivery vehicles in particular to enter and manoeuvre in this area as intended.

The effect of the extension would thus, he concluded, make the service yard even less attractive to users and reduce the possibility of it being used by even medium sized delivery vehicles, again to the detriment of the surrounding highways. In addition, the remaining distance between the end of the extension and the back wall of the yard would severely restrict the manner in which residents could continue to park here, if not reduce the spaces available. It was thus probable, therefore, that the resultant loss of parking would be greater than those displaced by the extension itself.

Planning permission was granted for the new shopfront, which was not subject to objections by the Council.

Comments

This decision recognises the importance, not only in approving such retail units with servicing areas, but in protecting such areas from subsequent encroachment in order to retain an appropriate degree of operational space for such units.

L. P. A. Reference No: 04/01504/FUL
Appeal Method: Hearing
Appeal Reference No: 05/1180052
Appellant: Martin Healer,
Location: Building abutting Royal Oak, West Street, Broughton
Proposal: Renovation of existing dwelling abutting Royal Oak
Decision: **Withdrawn**
Date: 10th June, 2005
Council Determination: Officer Delegated

Comments

This appeal has been withdrawn by the appellants. It is anticipated that a revised application may be submitted in an attempt to overcome some of the original objections to the scheme.

L. P. A. Reference No: 04/01336/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1174090
Appellant: R. J. & D. Hill,
Location: Ty Shwllac, Heol Shwllac, St. Brides Major
Proposal: Retain first floor of the north west annex and the external walls of the north east elevation at ground floor
Decision: **DISMISSED**
Date: 13th June, 2005
Inspector: Mr. T. J. Morgan
Council Determination: Planning Committee

This appeal decision relates jointly to a planning and enforcement notice appeal, and is summarised in the enforcement appeals section below.

(d) Enforcement Appeal Decisions Received

L. P. A. Reference No: ENF/99/0347/E
Appeal Method: Written Representations
Appeal Reference No: C/05/1174084
Appellant: R. J. & D. Hill,
Location: Ty Shwlac, Heol Shwlac, St. Brides Major
Proposal: Failure to comply with condition No 3 of a planning permission Ref. 02/00111/FUL granted on 31 July 2003
Decision: **DISMISSED**
Date: 13th June, 2005
Inspector: Mr. T. J. Morgan
Council Determination: Planning Committee

Summary

This appeal relates jointly to the service of an Enforcement Notice alleging non-compliance with the terms of Condition No. 3 on planning permission 02/00111/FUL (which required demolition of certain elements of the building), and the refusal of planning permission for the retention of the dwelling 'as built'.

In terms of the planning merits of both appeals, the Inspector noted that the dwelling is a large, prominent building in an open countryside setting, and stated that it is very clear that construction of such a dwelling, in the absence of specified policy requirements, none of which apply to the dwelling subject to appeal, runs contrary to established local and national policies and guidance.

Nevertheless, because of the course of events over a number of years, he acknowledged that the present house was granted retrospective planning permission subject to a number of conditions, including that in dispute which required the removal of certain elements.

The building's prominence, he considered, is due to its scale, design and massing, such that it presents an alien feature at odds with the otherwise rural landscape in which it is located. Although its presence would be felt even if reduced in accord with the condition, nevertheless he found that the additional elements, particularly the first floor above the annex, created an increased dimension to the house, which emphasised and worsened its impact on the landscape to a significant degree.

The imposition of Condition No. 3, he stated, "strikes me as being a measured action on the part of the Council to mitigate the effect of the development and as such passes all the legal and policy tests for imposition of such a condition". On this basis, he considered it to have been properly imposed and that the justification for it continues to exist. As well as the demonstrable harm to the character and appearance of the locality that would be caused if the condition were to be removed, to allow such a building to remain, with its present impact allowed to continue, would fly in the face of established national and local policies on new dwellings in the countryside and undermine their effectiveness.

Ground (g) Appeal - Time Limit

The appellant claimed that the 8 weeks given would be too short, and that 20 weeks would be more appropriate. Although the Inspector agreed that 8 weeks may be too short, given the requirement for scaffolding and careful attention, nevertheless he

concluded that a reasonable period for compliance would be 12 weeks. He thus varied the enforcement notice accordingly.

Comments

Members will be aware of the significant and lengthy planning history which resulted in the approval of this dwelling. In light of this, and the failure of the appellant to accord with conditions on such consents, this decision is ultimately very satisfying, since it will now ensure that the scale and massing of the property will be minimised in the interests of protecting the countryside in this location.

(e) April 2005 – March 2006 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed *	Allowed	Total	
Planning Appeals (incl. tree appeals)	WR	6	0	6	
	H	3	1	4	1
	PI	0	0	0	
Planning Total		9 (90%)	1 (10%)	10	
Enforcement Appeals *	WR	1	1	2	
	H	0	0	0	
	PI	0	0	0	2
Enforcement Total		1 (50%)	1 (50%)	2	
All Appeals	WR	7	1	8	
	H	3	1	4	1
	PI	0	0	0	2
Combined Total		10 (83%)	2 (17%)	12	3
This reporting period		3	1	4	2

* 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>
5 th July, 2005	HEARING R/o 31 & 32 Station Road, Penarth <i>Demolish existing commercial garage buildings and construct 2 no. Mews Court, two storey dwellings with integral garages.</i>
12 th July, 2005	HEARING Old Middlehill, Llancarfan <i>Proposed residential plot.</i>
23 rd August, 2005	HEARING Elm Grove House, Elm Grove Road, Dinas Powys <i>Demolition of existing house and outbuildings. New build 4 no apartments within two storey building plus boundary wall.</i>
12 th July, 2005	HEARING 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>
7 th September, 2005	HEARING Redland House, Bonvilston <i>Proposed timber gate from land to the rear of Redland House onto adjacent land.</i>
In abeyance	PUBLIC INQUIRY (PLANNING & ENFORCEMENT) Ewenny Quarry, Ewenny <i>Breach of operating hours (condition 19 of planning permission 98/01109/FUL).</i>
In abeyance	PUBLIC INQUIRY Land allocated for employment, Rhose Point, Vale of Glamorgan <i>Outline application for residential development</i>

Background Papers

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

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Officers Consulted

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AND ECONOMIC REGENERATION