

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 8TH JUNE 2005

REPORT OF THE DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning appeals received

L. P. A. Reference No: 04/01278/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1179484
Appellant: Mr. & Mrs. P. L. Gamecho
Location: Old Swan Inn, Church Street, Llantwit Major
Proposal: Appeal against conditions 4, 5 & 6 of planning permission 04/01278/FUL (extend single storey kitchen and retain timber boundary fence to front elevation)
Start Date: 4th May 2005

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
Start Date: 11th May 2005

L. P. A. Reference No: 04/01504/FUL
Appeal Method: Hearing
Appeal Reference No: 05/1180052
Appellant: Mr. Martin Healer
Location: Building abutting Royal Oak, West Street, Broughton
Proposal: Renovation of existing dwelling abutting Royal Oak
Start Date: 12th May 2005

L. P. A. Reference No: 04/01761/FUL
Appeal Method: Hearing
Appeal Reference No: 05/1179492
Appellant: Dr. M. L. Ham
Location: Elm Grove House, 12, Elm Grove Road, Dinas Powys
Proposal: Demolition of existing house and outbuildings. New build 4 no. apartments within two storey building plus boundary wall
Start Date: 13th May 2005

L. P. A. Reference No: 05/00223/CAC
Appeal Method: Hearing
Appeal Reference No: 05/1179493
Appellant: Dr. M. L. Ham
Location: **Elm Grove House, 12, Elm Grove Road, Dinas Powys**
Proposal: Demolition of existing two storey house and single storey extension together with existing single storey detached garage
Start Date: 13th May 2005

L. P. A. Reference No: 03/01532/FUL
Appeal Method: Hearing
Appeal Reference No: 05/1180137
Appellant: Mr. & Mrs. D. Archer
Location: **Redland House, Maes-y-Ffynon, Bonvilston**
Proposal: Proposed timber gate from land to the rear of Redland House onto adjacent land
Start Date: 13th May 2005

(b) Enforcement appeals received

L. P. A. Reference No: ENF/04/0489/M
Appeal Method: Public Local Inquiry
Appeal Reference No: C/05/1177988
Appellant: Mrs. E. M. Huggard
Location: **Ty Nant, Blacklands Farm, Five Mile Lane, Bonvilston**
Breach: Failure to comply with condition 2 of planning permission 79/00494/FUL for an agriculturally restricted bungalow
Start Date: 11th April 2005

L. P. A. Reference No: ENF/04/0593/E
Appellant: Mr. Ham
Location: **Elm Grove House, 12, Elm Grove Road, Dinas Powys**
Breach: Appeal against the serving of Section 215 Notice
Received: 23rd May 2005

(c) Planning appeal decisions

L. P. A. Reference No: 04/00798/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1173060
Appellant: Norton Property Company
Location: **Ham Woods, Ham Manor Park, Llantwit Major**
Proposal: 7 no. residential park homes, associated site development works, and removal of existing barn

Decision: **DISMISSED**
Date: 28th April 2005
Inspector: Mr. T. J. Morgan
Council Determination: Committee

Summary

The main issues were the effect of the proposal on the character and appearance of the locality and its consequences for the safety of users of the road that would serve the development.

The Inspector noted that the appeal site lies outside the settlement boundary of Llantwit Major as defined in the UDP and is separated from it by the wooded Hoddnant valley. Accordingly, as the proposal was for new residential development, which did not fall within any of the designated purposes mentioned in local policies, he concluded that it was "clearly in conflict with those policies".

Despite its "somewhat unkempt appearance", the Inspector considered the appeal site to exhibit a rural character more akin to the nearby countryside than the developed areas around the site. He thus also concluded that its character would be changed by the proposal to an urban one, albeit with the possibility of some mitigation by landscaping, and would create an undesirable extension to the built up area that would be visible from both the adjoining development and public roads to the west and north. In his judgement, the impact of this change would be harmful to the character and appearance of the locality and prejudicial to the very interests that local policies seek to protect.

While the homes provided may be more affordable than conventional housing, he did not consider they can be classed as "affordable housing" of the form contemplated by Policy HOUS14 of the UDP such that they did not fall within that policy or derive support from it.

Although conscious of the extant permission for holiday chalets on the site granted on appeal recently, that development did not include units as far to the west as the present scheme with landscaping in that area. More importantly, however, it was for holiday chalets as opposed to permanent residential units and was assessed in the context of Policy TOUR4 and had in its favour the economic benefits to tourism that it would bring.. The appeal proposal was not, therefore, comparable.

In conclusion on such matter, he state that while dismissal of the appeal may result in this other scheme coming to fruition "with the resultant impact on the character and appearance of the locality", I do not consider this likelihood justifies permission for a scheme, which on its own merits and effects he found wholly unacceptable.

On matters of traffic generation such impact was considered in the context of the larger number of movements already generated by other development served by the road, the restrictions imposed on speed of traffic by the nature of the road that would serve it, as well as traffic likely from the existing use of the site for stabling horses and the permitted use for holiday chalets. In these circumstances he did not consider the proposal to conflict with Policy ENV25 such that refusal would not be justified on highway safety grounds.

Comments

In light of the previous allowed appeal for holiday chalets on the majority of the site, this decision is welcome insofar as it acknowledges the distinct difference between holiday chalets, and the more permissive Policy TOUR4, and permanent residential dwellings, the likes of which are contrary to countryside policies. Interestingly, however, the Inspector has gone further in acknowledging that even if he approved chalets would cause harm to the character of the area.

L. P. A. Reference No:	04/00500/FUL
Appeal Method:	Hearing
Appeal Reference No:	05/1173636
Appellant:	St. Mary Street Buildings Ltd
Location:	11, Dingle Road, Penarth
Proposal:	Retrospective application to regularise the previous conversion of a middle terraced house to two one bedroomed self contained flats
Decision:	DISMISSED
Date:	6 th May 2005
Inspector:	Mr. Clive Nield
Council Determination:	Committee

Summary

The main issues in this case related to whether or not future occupiers of the flats would enjoy adequate outdoor private amenity space, the effects of the development on road safety, and the sustainable nature of the development.

With respect to the need for private amenity space, the Inspector noted that the Council's SPG intends to provide space for activities such as outdoor relaxation, the drying of washing and the storage of refuse.

Although there is a shortfall in the amount of amenity space available, the inspector noted that the matter of most concern to the Council was that the first floor flat has no direct access to the rear garden at all. Although the Appellant argued that the rear garden would be open to use by the occupiers of both flats, such access from the first floor flat would involve walking an estimated 120 metres along Dingle Road and the back lane and gaining entry through the garage. He thus concluded that it was unlikely that anyone would do this and, to all intents and purposes, the occupants of the first floor flat would not benefit from any private outdoor amenity space because of the lack of practical access to it from the first floor flat.

The Appellant's argument that some people would be quite happy with such an arrangement was acknowledged, but the Inspector stated that the aim of the Council's standards was to contribute towards a better environment and quality of life for residents. The appeal development therefore failed to do this in regard to the provision of amenity space.

Accordingly, the conversion of a house, albeit itself with limited outdoor space, to 2 flats, one of which has no appropriate, usable outdoor amenity space, was concluded to be a 'retrograde step' so far as the quality of life of its residents is concerned.

With respect to matters of road safety, the development has not made provision for 2 on-site car parking spaces in accordance with the Council's Parking Guidelines and so conflicts with this aspect of UDP Policy TRAN9. However, alterations could be made, either to the rear garage itself or by demolishing the garage and replacing it with 2 parking spaces, and, although the rear lane is narrow and access would not be straightforward, the inspector considered the parking space could be provided.

However, without direct access to the rear garden, first floor occupants would have to walk along Dingle Road and the back lane in order to reach the garage such that they would be more likely to park on the road at the front where there are no parking restrictions. The parking of an additional car would add to the parking that already occurs along the road and would further hinder the free flow of traffic. However, he noted that Dingle Road is a relatively quiet residential road and the practical effect on road safety would be quite small. In this respect, while it served to reinforce his conclusions on the inadequate provision of amenity space, the effects of the development on road safety were not so great that they would have warranted dismissing the appeal in its own right.

Finally, the Appellant Company argued that the shortcomings described above are outweighed by the sustainable nature of the development. While noting that there was no dispute over the sustainability of the development, only over the balance of weight to be attributed to it. On this matter, he concluded that the above shortcomings outweighed the benefits of the development in regard to its sustainable location

Comments

This decision provides a further example of the Inspectorate's continued support for the objectives of the Council's approved 'amenity standards' SPG in refusing development where no practical access is available to any 'useable, adequate or appropriate' private amenity space. It also amply demonstrates the effectiveness of such approved SPG in substantiating refusals of planning permission at appeal.

L. P. A. Reference No:	04/01176/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1172701
Appellant:	Ms. J. D. Skone
Location:	2, Tan-y-Fron, Barry
Proposal:	Domestic extension to the side of house
Decision:	DISMISSED
Date:	9 th May 2005
Inspector:	Mr. Stuart Wild
Council Determination:	Officer Delegated

Summary

As the site lay within the Barry Garden Suburb Conservation Area, the main issue concerned the effect of the development on the character and appearance of the Conservation Area.

The Inspector observed that the character of the Conservation Area is made up of mainly semi-detached dwellings built at a similar time and with similar materials and that, although there have been some detailed changes to individual dwellings over the years, the overall character has been maintained.

The appeal property was seen to be one of a pair which occupies a particularly prominent position at the end of the first part of Tan y Fron as one enters the central part of the Conservation Area, which made the pair particularly important to the character and appearance of this part of the Conservation Area

The proposed two-storey extension incorporate the extension of the hipped gable part of the existing roof to form a vertical gable with a lower roof above the extension ending with a hipped gable. This form of extension, he stated, would significantly change the appearance of the appeal property, and give it the appearance of a much larger dwelling. This, together with the changes to the design of the roof, would be out of keeping with the appearance of its neighbouring partner, such that they would no longer appear as a balanced pair of semi-detached dwellings.

Accordingly, he concluded that the proposal would be unacceptably harmful to the character and appearance of the Conservation Area, and would undermine the objectives of the appropriate Development Plan policies.

Comments

This is not only a good decision in respect of the protection of the character of the Conservation Area from inappropriate extensions, but also supports the objectives of the approved SPG relating to the Barry Garden Suburb, which emphasises the importance of retaining the symmetry of balanced semi-detached dwellings in the conservation area.

L. P. A. Reference No:	04/01250/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1174186
Appellant:	Mr. D. Deakin
Location:	239, Barry Road, Barry
Proposal:	Two storey extension to enlarge the existing ground floor kitchen and first floor bathroom and bedroom
Decision:	DISMISSED
Date:	11 th May 2005
Inspector:	Mr. Clive Cochrane
Council Determination:	Officer Delegated

Summary

The proposed extension would almost fill the existing gap between the side wall of the dwelling and the boundary wall with 241 Barry Road. The pattern of development along this part of the road was seen to consist of pairs of substantial Edwardian period semi-detached houses, with gaps between the buildings to provide footpaths to their rear gardens. Although there are a few minor ground floor additions in the row of houses, the layout and pattern of gaps between buildings is fairly uniform.

Although no 241 already has a single-storey rear extension that is seen through the gap, in the Inspector's opinion the insertion of a full height extension across the footpath on the appeal site would represent a significant infilling of the open gap, quite out of keeping with the general character of these houses and the street scene. The reduction of the space between the dwellings to a narrow slot would therefore be overbearing and unneighbourly.

In addition, the living room window on the neighbours' flank wall would be adversely affected by the 2-storey extension, making its outlook gloomy and unattractive. He therefore also concluded that the height of the extension in close proximity to the adjoining dwelling would be overbearing and adversely affect the amenities of neighbouring residents through loss of light and a detrimental effect on the character and appearance of the residential area.

Comments

This is a decision which demonstrates that even relatively minor extensions to dwellings can both unacceptably interrupt the character of residential areas and adversely affect the residential amenity expected to be enjoyed by neighbouring properties.

L. P. A. Reference No:	04/01622/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1174193
Appellant:	Mr. & Mrs. P. Alsop
Location:	13, Bittern Way, Penarth
Proposal:	Two storey extension to the existing dwelling
Decision:	DISMISSED
Date:	12 th May 2005
Inspector:	Mr. Clive Cochrane
Council Determination:	Officer Delegated

Summary

The proposals illustrated that the existing forecourt to the garage would be severely reduced by the proposed forward extension of the garage. In this instance, the failure to observe the building line of the existing dwelling and garage on the open frontage would result in an inadequate car pull-off space in front of the garage, which would reduce the amount of parking on the appeal site. Inevitably, the combined effect of the creation of a larger house with a smaller forecourt would lead to increased demand for on-street parking to the detriment of highway safety.

The proposed construction of a new parking space on part the front garden of the dwelling would, the Inspector stated, appear cramped and out of character with the layout and open garden style of the estate. Moreover, parking a car at right-angles to the garage entrance would be incompatible with the stopping area needed for access to the new garage, and it would make vehicular access awkward and less convenient than a more conventional layout. This, he concluded, would be likely to cause additional vehicle manoeuvring on and off the highway at the turning head of the cul-de-sac to the detriment of highway safety.

Comments

This is a fine decision which indicates that, even though residential extensions are generally appropriate in principle, there remains an essential need to ensure that matters such as highway safety would not be unacceptably compromised.

L. P. A. Reference No: 04/00620/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1173719
Appellant: Mr. S. J. Lazenby
Location: **Land adjacent to 13, Sycamore Avenue, St. Athan**
Proposal: Retention of access and hardstand
Decision: **DISMISSED**
Date: 17th May 2005
Inspector: Mr. Stuart Wild
Council Determination: Committee

Summary

The main issue in this case concerned the effect of the proposal on highway safety.

The Inspector observed that the road outside the appeal site is a relatively busy road subject to a 40mph speed limit which, a short distance to the south, reduces to 30mph where there is a junction with the road giving access to the main part of the adjoining residential development. There are no footways on this length of highway close to the access.

In these circumstances the normal standard for visibility at a private access would be a set back of 2.4 metres for a length of 120 metres on both sides of the access which, from his observations, could not be achieved, in particular due to the existing substation building on the southern side of the access partially blocking the view of the nearby junction. The lack of adequate visibility would, he concluded, result in danger to existing highway users whether in vehicles or on foot.

In addition the appeal site was noted to form part of the open space setting of the neighbouring residential area, with all dwellings served by the roads within the development. In this respect, approval of an individual access in this position could be seen as a precedent for the provision of other individual access points along this busy frontage which cumulatively would add significantly to highway dangers and reduce the visual quality of the open space.

Problems raised by the appellant concerning the parking of vehicles and congested access roads were not sufficient to outweigh the significant highway dangers identified above. The retention of this access and hardstanding would therefore be unacceptably harmful to the safety of highway users.

Comments

An Enforcement Notice has been served on this property requiring the cessation of use and reinstatement of the land. Accordingly, this successful decision will now ensure that this unsafe access is closed, while also assisting in ensuring that no further such accesses are created

(d) Enforcement Appeal Decisions Received

L. P. A. Reference No: ENF/04/0036/M
Appeal Method: Written Representations
Appeal Reference No: C/04/1169519
Appellant: Mr. D. A. & Mrs. J. F. Cole
Location: **Land at The Willows, Sully Road, Penarth**
Breach: Unauthorised new structure on the land
Decision: **ALLOWED**
Date: 25th April 2005
Inspector: Mr. Clive Cochrane

Summary

The inspector considered the main issues in deciding whether the building should be allowed to remain on the land are whether the stables represent an acceptable replacement for the former stables block in the open countryside, and whether their retention would adversely affect the rural landscape of this locality.

In determining the appeal, the Inspector acknowledged that the development is not a new use of the land and buildings, in that it represents a replacement for an existing range of stables situated within paddocks and fields already in use for horse grazing, riding and recreation. The new stable block, which is now U-shaped in plan, lies in the same position as the former block, but it is shorter in length and has smaller site coverage.

From his inspection, he did not find the structure to be of residential or domestic appearance. Whilst the tack rooms were of generous size and built with cavity wall construction, including wooden casement windows, these were fitted out for their purpose to store feed, tack and other equipment, being intended to provide sound and dry storage space with good ventilation.

In this respect, he took the view that, as built, the new stables clearly suit their purpose, and the Council's implied allegation that the block has a residential design is unfounded. Prior to the advent of pre-fabricated stable buildings and the use of modern materials for these buildings and their spread across the countryside, he stated that stables were often designed to reflect the style of the main house, and in his view this has a degree of rural charm and should not be dismissed as inappropriate. In design terms, the stable block clearly relates to the appellants' own house, but in my opinion it does not look like another house or bungalow in its own right.

Although accepting that stables built in open fields are usually of a more utilitarian construction and appearance, in this case he considered the use of white render, slate roof and other details of the roof and walls to match the nearby dwelling to be fairly attractive and in keeping with its surroundings.

With regard to its impact upon the rural landscape, the new block was only really visible from the public footpath to the north, off Sully Road, and is hardly seen at all from the public highway. In these views from part of the footpath, the building does not have any greater visual prominence than the original stable block, which was longer, if not as tall. In these views, he thus did not find that the new materials and colour detracted from the rural scene, such that the new design was concluded to be acceptable in the open countryside.

Comments

This is a disappointed decision, particularly in light of the recent approval of a scheme which would have successfully ensured the size of the stables were reduced and its quasi-residential appearance changed. The Inspector has, however, regrettably chosen to take the view that a building which relates to the dwelling in materials and form is not inappropriate in this location.

L. P. A. Reference No: ENF/01/0438/M
Appeal Method: Public Local Inquiry
Appeal Reference No: C/04/1138971
Appellant: Mr. D. B. Griffiths
Location: **Lower Greenway Farm, Bonvilston**
Breach: Change of use of the land and buildings from use for agricultural use to use for the manufacture, storage and sale of concrete related products

Decision: **Withdrawn**
Date: 5th May 2005

Comments

This appeal, which was due to go to a Public Inquiry, has been withdrawn following correspondence with the appellants agent which itself followed the refusal of a n application for a certificate of lawful use of a farm shop for retail purposes. In essence, however, the appeal was no longer applicable since the Enforcement Notice had essentially been complied with.

L. P. A. Reference No: ENF/01/0127/E
Appeal Method: Public Local Inquiry
Appeal Reference No: C/05/1176587
Appellant: Mrs. S. Williams
Location: **Green Isha Farm, Wick**
Breach: Unauthorised siting of a static caravan/mobile home on land for which no agricultural or forestry justification has been made

Decision: **Withdrawn**
Date: 10th May 2005

(e) April 2005 – March 2006 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed *	Allowed	Total	
Planning Appeals (incl. tree appeals)	WR	5	0	5	
	H	2	0	2	
	PI	0	0	0	
Planning Total		7 (100%)	7 (0%)	7	
Enforcement Appeals *	WR	0	1	1	
	H	0	0	0	
	PI	0	0	0	2
Enforcement Total		0 (0%)	1 (100%)	1	
All Appeals	WR	5	1	6	
	H	2	0	2	
	PI	0	0	0	2
Combined Total		7 (87.5%)	1 (12.5%)	8	2
This reporting period		5	1	6	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>
21 st June 2005	PUBLIC INQUIRY Salt Barn, St Athan <i>Two reduced height two storey dwellings</i>
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>
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

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