

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 14TH DECEMBER, 2005

REPORT OF THE DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning Appeals Received

L. P. A. Reference No: 05/00367/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1193041
Appellant: Mrs. K. Jacobs,
Location: Land adjacent to Pen-y-Lan Cottage, Llysworney
Proposal: New three bedroomed one and a half storey
dwellinghouse.
Start Date: 2nd November, 2005

L. P. A. Reference No: 05/00381/OUT
Appeal Method: Written Representations
Appeal Reference No: 05/1193940
Appellant: Mr. & Mrs. C. Wason,
Location: r/o 77 South Road, Sully
Proposal: One dwelling.
Start Date: 21st November, 2005

(b) Enforcement Appeals Received

L. P. A. Reference No: ENF/04/0410/E
Appeal Method: Public Inquiry
Appeal Reference No: 05/1193715
Appellant: Mr. P. Gibson
Location: The Manse, Llanbethery
Breach: Material change in use of land from open countryside to a
residential garden extension.
Start Date: 15th November, 2005

L. P. A. Reference No: ENF/04/0410/E
Appeal Method: Public Inquiry
Appeal Reference No: 05/1193716
Appellant: Mr. P. Gibson
Location: The Manse, Llanbethery
Breach: Construction, without benefit of planning permission of a
stone outbuilding outside the residential curtilage of the
Manse and within the open countryside.
Start Date: 15th November, 2005

(c) Planning Appeal Decisions

The first two appeal summaries (Lavernock Road and Little West) relate to decisions which were reported in brief to the previous committee.

L. P. A. Reference No: 04/01994/OUT
Appeal Method: Written Representations
Appeal Reference No: 05/1184100
Appellant: Mr. & Mrs. Bray,
Location: **Rear of 83, Lavernock Road, Penarth**
Proposal: New three bedroom detached dormer bungalow.
Decision: **DISMISSED**
Date: 19th October, 2005
Inspector: Mr. D. Sheers
Council Determination: Officer Delegated

Summary

The main matters at issue were whether or not the proposal would constitute an unduly cramped form of development and would unacceptably harm the residential amenities of adjoining properties.

Although accepting that the existing garden to the property is reasonably large, being situated on a corner plot, the appeal site itself was seen to be limited in extent, and noticeably smaller than others in the area particularly in respect of its width. As a result, he considered it would appear a somewhat cramped form of development in comparison with other residential development in the area which consists almost exclusively of detached properties in reasonably spacious surroundings.

In addition the restricted size of the site would not allow enough room for the parking of at least 2 No. vehicles off the road together with sufficient turning space to ensure that vehicles do not have to reverse out into the road over the 'Safe Routes to School' corridor; which would entail an unduly hazardous manoeuvre.

Although not doubting that every attempt would be made to design this proposal in character and sympathy with adjacent properties, the location and size of the site is such that he considered overlooking would occur at relatively close quarters between the rear elevation and garden of the proposed dwelling and the upper floors of the adjoining houses at Nos. 81 and 83 Lavernock Road, with resultant harm to interests of privacy and residential amenity.

Accordingly, the proposal would result in an unduly cramped and inappropriate form of development in conflict with those policies that seek to ensure an acceptable standard of residential development.

Comments

This is a decision which demonstrates the importance of Policy HOUS9 in seeking to resist new cramped and insensitive infill development in urban areas.

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.
Decision: **ALLOWED**
Date: 27th October, 2005
Inspector: Mr. A. H. Vaughan
Council Determination: Planning Committee

Summary

The main issue was the effect that the proposal would have upon the character and appearance of the area.

The appeal building was seen to be a detached property in a prominent coastal location, which had been added to over the years, culminating in an 'agglomeration of disparate additions'. These, he concluded, had led to the entire building becoming an "unprepossessing structure that does little to complement or enhance local character", such that it fails to conserve and enhance the Glamorgan Heritage Coast.

In terms of the extensions and alterations proposed to the structure, although larger in some dimensions, he stated that these would provide a more pleasing and better balanced building in this prominent location. The retention of some of the existing window features on the main coastal elevation would also add character to the project reflecting and complementing vernacular style. For these reasons, he concluded that the project would enhance and conserve the Glamorgan Heritage Coast and not undermine the requirements of complementing or enhancing local character.

Comments

Given the undoubted prominence of this building in the Glamorgan Heritage Coast, and the substantial nature of additions and extension proposed, this is considered to be a very disappointing decision. In this respect, although the proposal sought to unify and improve the structure, which had some support from officers, it is regrettable that the Inspector allowed such changes in such a substantial form.

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.
Decision: **ALLOWED**
Date: 2nd November, 2005
Inspector: Mr. S. B. Wild
Council Determination: Officer Delegated

Summary

The main issues concerned the effect that the proposal would have on the character and appearance of the area as well as public safety, and whether there are sufficient grounds to justify the removal of the trees.

The Inspector noted that the trees were between 100 and 150 years old, and in general good health. The main reasons given for the application was that the trees have resulted in cracks in the boundary wall, with the appellant concerned that the wall may collapse and/or the trees might fall.

The Council argued that there is insufficient justification for the felling of the trees which should be retained for the environmental benefits they afford to the area. Indeed, given their contribution to the Conservation Area, the Inspector stated that normally the removal of such trees would be harmful to the character and appearance of the area.

He acknowledged, however, that the site of the trees is very restricted for species of this type and they are now relatively large trees for such an urban location. He observed clear signs of cracking in close proximity to the trees, and signs of tree roots growing through the wall and stated that, although it may be that the wall is not currently in a dangerous condition, it obviously needs some remedial action.

The appellant had supplied detailed evidence on both the condition of the trees and the stability of the wall. Whilst the Inspector considered that such evidence can not be absolutely certain as to what might be found below ground level or what would be the consequences of removing the supporting wall, he took the view that the evidence supplied was sufficient to establish that the stability of the wall is in question and that the size and weight of the trees is a significant factor in the cracking of the wall.

Given that Church Street is a busy public highway in the centre of the settlement, he thus considered that the trees represent a significant threat to the safety of members of the public using the highway. In his view, this risk outweighed the harm that would result to the character and appearance of the area in this case. He thus recommended that the appeal be allowed subject to a condition that the trees be replaced by two trees of a species and in locations to be agreed with the Local Planning Authority. The National Assembly agreed with the Inspector's recommendation and allowed the appeal.

Comments

This is a highly regrettable decision, in light of the substantial contribution made by these trees to the character and appearance of the Conservation Area. Nevertheless the Inspector has balanced such visual amenity against the need to protect the safety of the public, and concluded that sufficient justification has been submitted to support their removal.

Since the decision, there has been considerable unrest from a number of local residents following work commencing on the felling of the trees, including the submission of a petition. The trees have, however, now been felled.

L. P. A. Reference No:	04/01826/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1186732
Appellant:	Estate of the late Mrs. F. A. Bealing
Location:	Land adjacent to Penny Cottage, Dimlands Road, Llantwit Major
Proposal:	Erection of one detached dwelling.
Decision:	DISMISSED
Date:	10 th November, 2005
Inspector:	Mr. C. I. Cochrane
Council Determination:	Planning Committee

Summary

Although sited outside of the settlement boundary, given that the site is bounded on 3 sides by existing development within the settlement, the Inspector considered it to have the appearance of a suitable housing infill or rounding-off site. Accordingly, he did not accept the Council's argument that the development would comprise an unjustified extension of the urban area. As such, he considered the site could be developed, provided that it meets all other planning criteria set out in the development plan.

The main issues thus concerned the likely impact of the development upon the character and appearance of the area, and whether safe and convenient vehicular access could be provided from the local highway network of lanes.

Although acknowledging the inadequate visibility from the lane onto Dimlands Road, the Inspector stated that the more obvious route, via Glan-y-Mor to the Westlands corner with Dimlands Road, would be safer and more convenient for vehicles visiting and leaving the proposed dwelling. In this respect, the minor increase in traffic for one house would be unlikely to overload the local highway system or cause unacceptable loss of residential amenity for the neighbours.

With regard to the effect of the proposal on the area, the Inspector observed that most of the frontage facing the existing pond is taken up by a large dilapidated farm shed, which he considered detracts from the character and appearance of the area. He also agreed with the appellants that the site is surrounded by fairly modern or modernised, unremarkable houses.

Notwithstanding the modern styles of the houses adjoining the site, however, he saw that the main architectural characteristics of the wider conservation were fairly simple traditional houses with steeply pitched roofs, walls of stone or render beneath slate roofs, with small windows of vertical proportions. The older houses relate to the street frontage through the use of walls and hedges around front gardens.

In contrast to this, the proposed development would be dominated by a driveway, parking area and garage doors on the main elevation. The style of the ground floor 'wrap-around' projection on the front facade, enclosing the garage, dining room and porch would have a more suburban appearance than the traditional style, typical of the Llantwit Major Conservation Area. In addition, the horizontal division of a stone-clad ground floor and smooth rendered first floor, and the low pitch of the roofs would be alien to, and out of character with the Conservation Area.

He thus concluded that, although the development of one house in this location would be acceptable in principle, the proposed design and layout of the dwelling would comprise an insensitive and inappropriate form of development, which would fail to preserve or enhance the character and appearance of the Llantwit Major Conservation Area.

Comments

Although the appeal has justifiably been dismissed on grounds relating to the poor design of the proposed dwelling, nevertheless it is disappointing that the Inspector has accepted the principle of a new dwelling in this location. In this respect, it will now be essential to ensure that any resubmission accurately reflects and respects the character and appearance of the Conservation Area in this location.

L. P. A. Reference No: 05/00150/FUL
Appeal Method: Hearing
Appeal Reference No: 05/1183137
Appellant: Mr. & Mrs. J. Turnbull,
Location: Ty Newydd Farm, Peterston Super Ely
Proposal: The demolition of the existing house and a number of associated outbuildings and the construction of a new 4 bed dwelling within the existing curtilage.

Decision: **ALLOWED**
Date: 16th November, 2005
Inspector: Mr. C. I. Cochrane
Council Determination: Planning Committee

Summary

At the start of the Hearing there were four main issues to be considered in this appeal, these being (1) whether the proposed dwelling would constitute an unwarranted visual intrusion into the open countryside, and the Special Landscape Area, contrary to national and local planning Policies; (2) the archaeological and historic value of the existing house; (3) whether the total demolition of the existing house is justified by its structural condition; and (4) the likely flood risk at the appeal site.

However, the appellant produced an assessment of flooding consequences just before the hearing, which was accepted by the Environment Agency Wales as convincing evidence that the proposed dwelling would be sited at a level that would not involve a risk of flooding. Therefore that particular reason was withdrawn by the Council.

Although identified by Glamorgan Gwent Archaeological Trust as a building of architectural and cultural significance, and recorded as a post-medieval building, the Inspector noted that it is not statutorily protected, that it has been extensively altered in modern times, and that it displays little of historic interest, being "clearly in poor structural condition and state of repair".

Although the Council did not consider that the submitted survey justified total demolition, because the structural problems could be rectified and the existing dwelling retained, the Inspector concluded that the retention and refurbishment of the existing dwelling would not be a viable or economic proposition.

The Council also argued that the proposed replacement house would be more prominent and visible within the rural landscape and Special Landscape Area than the existing property. The Inspector noted that the new building would be sited more than 6m away from the existing dwelling on rising ground, that it would be larger in scale, and would have a more modern design than the existing traditional house at the lower level. He did not, however, consider it would be prominent in any public views of the site, while also stating that, even if it were visible, it would "seem to be in accordance with the UDP Policy, in that the scale, siting, design, materials and external appearance of the replacement dwelling would be in keeping with existing residential development in the surrounding area".

Given that the proposed development would comprise a dwelling of traditional scale and proportions, with roofs and windows of sympathetic design, set back from the public highway behind a slightly raised garden and highway hedge, he thus concluded that it would not have an adverse visual impact upon the Special Landscape Area or the character of the surrounding area.

Comments

Although the conclusion in respect of moving the dwelling to avoid flooding consequences is accepted, the Inspector's conclusions in respect of the visual impact of the new dwelling are considered to be particularly poor given the undoubted prominence of the much larger dwelling at a higher land level. It does, however, provide evidence that Policy HOUS7 can be interpreted in an inconsistent manner by Inspectors, which, in this case, has seen a conclusion that a larger dwelling is appropriate given the presence of other larger dwellings in the locality, an interpretation which clearly the Council does not agree with. Nevertheless, the decision is not considered to be flawed such that any legal challenge would be appropriate.

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.
Decision: **DISMISSED**
Date: 7th November, 2005
Inspector: Mr. P. MacDonald
Council Determination: Officer Delegated

Summary

Two main issues were considered, these being whether satisfactory means of vehicular access can be provided to the proposed dwelling, and whether the proposed dwelling would result in the loss of trees covered by a Tree Preservation Order.

The Inspector noted that vehicular access to the proposed dwelling would be shared with that of the existing dwelling, via Nightingale Place, over a Council-owned, unadopted, garage court accommodating 26 No. garages. As a result of such a 'substandard and unsatisfactory form of access', the Inspector considered the appeal site to lack the basic requirement for a new dwelling of adequate vehicular access, either by fronting onto an adopted road or onto a private driveway, such that it would constitute backland development in conflict with Policy ENV25.

On the second issue, the Inspector noted that the restricted width of the site would mean that the eastern side elevation of the proposed dwelling would be in very close proximity (about 2.5m maximum) to some of the Cypress trees in the garden of the adjacent property which are covered by a Tree Preservation Order. Construction of the foundations of the new dwelling would thus result in root damage and, even if the trees survived construction, their longer-term health and survival would be endangered. He concluded that these are visually prominent trees within the wider area and the appeal proposals would, by endangering them, fail to accord with Policy ENV25.

Comments

This decision has made it clear that no additional residential development can be accommodated on the appeal site as a result of the substandard access arrangements.

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.

Decision: **DISMISSED**
Date: 9th November, 2005
Inspector: Mr. S. B. Wild
Council Determination: Officer Delegated

Summary

The main dispute between the parties was the principle of reconstructing the demolished wing of the barn, such that the main issue concerned the effect of the proposal on the character and appearance of the area bearing in mind the objectives of the Council's Policies.

The Inspector saw some merit in the argument that the reconstruction and conversion of traditional buildings in the open countryside is important in protecting the architectural heritage of the Vale. In this case, he noted that it would restore the form of the building which has been lost and would increase the degree of enclosure of the residential accommodation of the finished building. Given the prominent location of this barn on the approach road to the airport, the finished building would be seen by a large number of persons passing the site.

However, he also noted that the building is not listed, and that the already-approved plans for conversion would result in a scheme which would restore that part of the barn which remains, providing a dwelling of significant size with a generous amount of accommodation. In this respect, what was proposed would significantly add to the size of the finished structure and, he opined, would go well beyond any reasonable small scale addition or reconstruction envisaged by criteria (iii) of Policy ENV7.

Accordingly, the scale of what is now proposed in respect of rebuilding made the whole proposal the equivalent of building a new dwelling in the countryside. As such it should be judged against the policies which apply to new development and dwellings, with no justification existing to make exceptions to the very strong Policy restraint which applies to new development in the countryside.

As such he concluded that the proposal would be seen as a new dwelling in the open countryside, which would be harmful to the character and appearance of the area and would undermine the objectives of the appropriate Development Plan Policies. The benefit of restoring this building to its former shape and size would not outweigh these objections.

Comments

This decision vindicates the Council's firm opposition to the rebuilding of a substantial part of this former agricultural building, and provides support for the principle that conversion involving substantial reconstruction should be treated as new development in the countryside.

L. P. A. Reference No: 04/01761/FUL
Appeal Method: Hearing
Appeal Reference No: 05/1179492
Appellant: Dr. M. L. Ham,
Location: **Elmgrove 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.
Decision: **WITHDRAWN**
Date: 14th November, 2005
Council Determination: Planning Committee

L. P. A. Reference No: 05/00223/CAC
Appeal Method: Hearing
Appeal Reference No: 05/1179493
Appellant: Dr. M. L. Ham,
Location: **Elmgrove House, 12, Elm Grove Road, Dinas Powys**
Proposal: Full demolition of the existing two storey house and single
storey extension together with existing single storey
detached garage. The dwelling is to be rebuilt on the
existing footprint of the house (excluding single storey
extension)
Decision: **WITHDRAWN**
Date: 14th November, 2005
Council Determination: Planning Committee

Comments

The above two appeals have been withdrawn, along with recent applications to demolish and rebuild/ extend the property in question. It is understood that a revised submission will be made for development at the site in the near future.

(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	17.5	5.5	23	
	H	6	5	11	3
	PI	1	0	1	1
Planning Total		24.5 (70%)	10.5 (30%)	35	
Enforcement Appeals *	WR	1	1	2	
	H	0	0	0	1
	PI	0	0	0	2
Enforcement Total		1	1	2	
All Appeals	WR	18.5	6.5	25	
	H	6	5	11	4
	PI	1	0	1	3
Combined Total		25.5 ** (69%)	11.5 ** (31%)	37	7
This reporting period		3	2	5	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.

** Split decision on 18 High Street, Cowbridge shown as 0.5 for clarity purposes.

(f) List of Forthcoming Hearings and Public Inquiries

<u>DATE</u>	<u>SITE AND PROPOSAL/ BREACH</u>
4 th January, 2006	HEARING Old Froglands, Llanmaes <i>Extension to existing barn conversion to provide leisure facilities and accommodation ancillary to the main residential property</i>
10 th January, 2006	HEARING Hazelcourt Ponds Fishery, Llysworney <i>Erection of fishery managers dwelling</i>
17 th January, 2006	PUBLIC INQUIRY (ENFORCEMENT) 1 Whitewell Cottages, Bonvilston <i>Breach of Agricultural occupancy Condition</i>
31 st January, 2006	HEARING 16, Rhodfa Felin, Barry <i>Dormer loft conversion to provide bedroom/study with shower room</i>
21 st February, 2006	PUBLIC INQUIRY Longlands Quarry, Corntown Road, Ewenny

Variation of condition 21 (b) of approval 05/00472/FUL - to omit the words "for a temporary period expiring on 7th July 2006" and "at the end of that temporary period blasting shall revert to a maximum instantaneous charge of 45kg"

In abeyance

PUBLIC INQUIRY (PLANNING & ENFORCEMENT)

Ewenny Quarry, Ewenny

Breach of operating hours (condition 19 of planning permission 98/01109/FUL).

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