

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 16TH FEBRUARY, 2006

REPORT OF THE DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning Appeals Received

L. P. A. Reference No: 05/01246/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1195596
Appellant: G. Peros,
Location: 1, Dingle Close, Barry
Proposal: Retaining wall and new footpath and steps to side and rear of existing pool
Start Date: 14th December, 2005

L. P. A. Reference No: 05/00825/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1195694
Appellant: Nigel Kensett,
Location: 22, Redlands Road, Penarth
Proposal: Loft conversion re-submission due to non conformity of original dimensions
Start Date: 14th December, 2005

L. P. A. Reference No: 05/01356/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1195949
Appellant: Anthony Dimech,
Location: 75, Laburnum Way, Penarth
Proposal: Two storey lounge/dining room, bedroom, bathroom extension
Start Date: 30th December, 2005

L. P. A. Reference No: 04/01800/OUT
Appeal Method: Written Representations
Appeal Reference No: 05/1196382
Appellant: Philip Jones Properties Unltd,
Location: Land at junction of Heol Y Fro and Heol Pentre'r Cwrt, Llantwit Major
Proposal: Outline application for the construction of a convenience store (Class A1 shop use)
Start Date: 3rd January, 2006

L. P. A. Reference No: 05/01325/HH
Appeal Method: Written Representations
Appeal Reference No: X05/514753
Appellant: D.V. Boon,
Location: **3, Lon Cefn Mably, Rhoose**
Proposal: High Hedge
Start Date: 9th January, 2006

(b) Enforcement Appeals Received

L. P. A. Reference No: ENF/05/0627/M
Appeal Method: Written Representations
Appeal Reference No: C/05/1196210
Appellant: Edwin Lawson Boyes
Location: **49, Plas Taliesin, Penarth Marina,**
Breach: Unauthorised balcony
Start Date: 21st December, 2005

L. P. A. Reference No: ENF/05/0377
Appeal Method: Written representations
Appeal Reference No: C/06/1197012
Appellant: Mr. Russell Thomas
Location: **Ashley House Stables, Llandow**
Breach: Excavation and removal of topsoil and deposit of
hardcore and builders waste to construct a hardstanding
Start Date: 25th January, 2006

L. P. A. Reference No: ENF/05/0217
Appeal Method: Written Representations
Appeal Reference No: C/06/1197319
Appellant: Mrs. J. Booker
Location: **52, St. Pauls Avenue, Barry**
Breach: Erection of raised decking area or balcony to rear
Start Date: 24th January, 2006

(c) Planning Appeal Decisions

L. P. A. Reference No: 05/01325/HH
Appeal Method: Hearing
Appeal Reference No: X05/514755
Appellant: Mr. Gary Bohun,
Location: **3, Lon Cefn Mably, Rhoose**
Proposal: High Hedge
Decision: **INVALID**
Date: 19th December, 2005
Council Determination: Officer Delegated

L. P. A. Reference No: 05/01107/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1190585
Appellant: Richard Gardner,
Location: **The Dairy, Michaelston le Pit**
Proposal: Construction of double garage and storage area in underground location with only the doors visible
Decision: **DISMISSED**
Date: 21st December, 2005
Inspector: Mr. I. Osborne
Council Determination: Officer Delegated

L. P. A. Reference No: 04/01275/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1188206
Appellant: Richard Gardener,
Location: **The Dairy, Cwrt Yr Ala Estate, Michaelston-Le-Pit**
Proposal: Construction of double garage
Decision: **ALLOWED**
Date: 21st December, 2005
Inspector: Mr. I. Osborne
Council Determination: Officer Delegated

Summary (Joint)

The Inspector considered the main issues in both appeals to be the effect of the proposals on the character and appearance of the specially protected rural surroundings, and, secondly, on the setting of the listed building The Dairy.

In considering the proposal to 'underground' the garage, the Inspector did not consider it would be prominent in the landscape, nor that it would be visible, if at all, from public viewpoints. He thus did not consider it would adversely affect the landscape character, features or visual amenity of the Cwrt-yr-Ala SLA or Cwrt-yr-Ala historic park.

In considering its impact on the listed building, however, he noted that because of its bulk and proximity the proposed garage would not preserve the setting of the building, while the insertion of the proposed garage doors in this otherwise simple run of wall would detract from its plain appearance, which complements the decorative, stepped-down appearance of the eastern end of this listed dwelling. The proposal was thus concluded to fail to preserve the setting of The Dairy. In this respect, the Inspector noted that it is not necessary for the whole of this setting to be visible to the general public in order for its preservation to be a weighty material consideration.

The alternative proposal to site a detached garage within the permitted domestic curtilage at the eastern end of the site near to the weir was noted to be visible from both the public road to the east and also from the public footpath which runs along the northern edge of the site. He did not, however, consider that it would be prominent because of its small size.

Paying close attention to the design of the proposed building the Inspector considered that, provided its walls were painted a sympathetic colour to those of The Dairy, the southern part would largely reflect the appearance of this listed building yet be clearly subservient to it. He thus concluded that given the siting and external appearance of the proposed garage, it would preserve the setting of the listed building of The Dairy.

Accordingly the Inspector refused permission for the underground garage, but granted planning permission for the detached double garage within the curtilage.

Comments

Given the sensitive nature of this site, being a listed building within the Special landscape Area and within a registered historic park, it is inevitable that any proposed domestic additions to the converted dwelling would be difficult to accommodate without harm.

While it is regrettable that the Inspector has chosen to allow one of these appeals, nevertheless it has demonstrated the need to pay careful attention to the need to preserve the setting of any listed building, irrespective of public views of the building.

L. P. A. Reference No:	05/00903/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1188185
Appellant:	Mr. M.L. O'Brien,
Location:	The Acorns, Maendy Road, Aberthin
Proposal:	Demolition of existing agricultural building and replace with building for storage of tractor, agricultural machinery, tools, workshop and working area
Decision:	DISMISSED
Date:	29 th December, 2005
Inspector:	Mr. A. H. Vaughan
Council Determination:	Appeal against non-determination

Summary

The Inspector considered the brief functional and financial submissions for an agricultural building to be insufficiently detailed to determine that an essential agricultural business need exists on the site. Although noting the appellants aspirations for a herb cultivation business, there was little evidence of any external activity on the site resembling agricultural business.

Despite the description in the planning application, the Inspector considered the proposed building to have the appearance and functionality of a domestic three bay triple garage, with its proposed gable roof angle and rendered finish replicating that on the dwelling.

Although the existing building was 'unprepossessing', nevertheless the Inspector did not consider that the proposed replacement building would represent an improvement, being both larger in plan area and with an increased height to the apex. It would also be in a prominent location and easily visible from over a wide distance.

Moreover, the Inspector considered its domestic garage appearance, and matching features from the dwelling, would add to the stamp of residential occupation on the appeal site, such that it would unacceptably extend and consolidate the footprint of development in the countryside beyond defined settlement boundaries.

He thus concluded that the construction of this building would harm both the character and appearance of the area and that, even if he had been able to accept the claim for agricultural need, the inappropriateness of the proposed building in this location would have been overriding.

Comments

This decision is notable both insofar as the appellant failed to demonstrate an essential agricultural need and that, even had one been proven, the undoubtedly domestic nature and size of the proposals, in itself, made such development unacceptable in the countryside.

L. P. A. Reference No:	05/01144/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1189511
Appellant:	Mr. and Mrs. J. H. Newark,
Location:	Old Factory House, Factory Road, Llanblethian
Proposal:	Conversion and extension of residential annexe into new detached dwelling
Decision:	DISMISSED
Date:	3 rd January, 2006
Inspector:	Mr. A. H. Vaughan
Council Determination:	Planning Committee

Summary

The wide garden area of the appeal site incorporates the meandering Factory Brook that at one time fed the mill that was within the annexe, which the Inspector considered to be an attractive aspect of the Conservation Area, leading up to the discreetly located stone built former mill and forded river crossing beyond. The bank side garden also adds character and openness to the fringes of the Conservation Area here.

In his opinion, the construction of a building on this site, to almost the same height as Old Factory House, would unacceptably dominate the former mill within the Conservation Area, while the bulk of project would occlude the openness around Factory Brook. In turn this would harm the setting of the Conservation Area in breach of both national and Unitary Development Plan policy.

Although noting the Council's concerns on car parking space and access for vehicles, he stated that these would not have been of overriding concern had he been able to accept the appeal under the main conservation area issues.

Comments

While a good decision insofar as it recognises the inherent special qualities of the Conservation Area in this location, nevertheless it is regrettable that the Inspector has not considered other matters relating to parking and access (although amenity was a primary objection also) to be overriding concern.

L. P. A. Reference No: 05/00629/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1190153
Appellant: Mrs. E. Webb,
Location: **Land directly behind Annwyl Fan, St. Brides Road, Wick**
Proposal: Change of use of land used for grazing horses for use as a garden
Decision: **DISMISSED**
Date: 4th January, 2006
Inspector: Mr. I. Osborne
Council Determination: Planning Committee

Summary

The Inspector considered the main issue to be the effect of the change of use on the character and appearance of the countryside adjoining this village.

Even if permitted development rights for the erection of garden buildings and other structures were restricted by condition and the existing fencing were reduced in height, the continued use of the appeal site as a garden would, he stated, perpetuate this intrusion of domestic use into the countryside adjoining this village, making it less rural.

Although appreciating that the large extension to the adjacent rear garden of Windrush was permitted some years ago, this was not considered to justify the continuation of the appeal use. At the same time he agreed that, were he to allow this appeal, it would make it more difficult for the Council to resist similar enlargement of the rear gardens of Tywern and Glyngwy, and possibly of houses currently under construction to the south of these. Not only therefore would the appeal proposal have a harmful effect on the countryside on its own but cumulatively the other possible garden extensions would have a seriously detrimental effect on the countryside adjoining this village.

Comments

This decision continues to show the Inspectorate's firm support in the majority of cases for insensitive extensions of residential curtilage into the countryside.

In this case, it will now be open to the council to take enforcement action against this property and its neighbours, albeit there may be scope for a nominal curtilage extension due to the small size of the existing curtilages.

L. P. A. Reference No: 05/00383/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1189558
Appellant: Jackie Barratt,
Location: **341, Barry Road, Barry**
Proposal: Two storey side extension to kitchen and bedroom, single storey conservatory and utility rear extension
Decision: **DISMISSED**
Date: 5th January, 2006
Inspector: Mr. A. H. Vaughan
Council Determination: Officer Delegated

Summary

The Inspector saw that the proposed extension would almost fill the gap between the flank wall of the parent dwelling and its boundary with the adjacent property, and considered that closing this gap to this extent would mar the appearance of the dwelling and its neighbour, also causing a terracing effect. Moreover, he considered it would harm the intrinsic balanced appearance of this semi detached dwelling.

In addition, he considered the construction of a two storey flank wall so close to the boundary would harm the living conditions of neighbours which, due to its height and proximity, would cause an overbearing feeling of confinement for those using the adjacent property.

Comments

This decisions continues the support recently given by the Inspectorate to a similar proposal in Barry Road, but also demonstrates the need for consistent decisions to be made on properties where such harm results to the balance of such semi-detached properties, or to the general character of the streetscene through the closure of visual breaks been such dwellings.

L. P. A. Reference No:	05/00967/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1190399
Appellant:	Mitchells & Butlers Retail Ltd
Location:	The Schooner Inn, Lavernock Road, Penarth
Proposal:	Section 73A Application to continue to use the premises as Class A3 Public House/Restaurant in accordance with planning permission 399/192/71 but without complying with Condition No. 3 - Controlling Hours of operation
Decision:	DISMISSED
Date:	5 th January, 2006
Inspector:	Mr. I. Osborne
Council Determination:	Officer Delegated

Summary

The main issue in this case concerned the effect of the continuation of the permitted use without complying with Condition No. 3 on the living conditions of neighbours as the result of any late night loss of residential amenity because of noise, but subject to a new condition requiring the premises to close no later than 00.30 hours each day.

In addition to the report of the appellants' noise consultants, the Inspector took into account the evidence of local residents. Because of the proximity of the appeal restaurant and customer car park to the houses in Merlin Way, and the fact that they are at an appreciably higher level with no proper acoustic fencing to protect them, in his view their occupiers presently experience a loss of residential amenity because of noise from late night activity on the appeal site. This, he stated, results from a combination of people laughing and shouting as they leave the premises, car doors being closed and engines revved, and probably from material being dumped in the outside bins. Since staff evidently leave the premises up to an hour after closing time, he also considered that the occupiers of the nearest houses in Brockhill Way probably experience a loss of residential amenity because of noise even later at night.

If the lawful use of the premises were extended by an hour and a half each day he considered that it would materially lengthen the time that local residents experienced noise disturbance from the site late at night. Since the housing in Merlin Close and Brockhill Way was built after the Class A3 appeal use was commenced, he considered it to be reasonable to protect the living conditions of these neighbours from any deterioration as a result of the appeal proposal.

The Inspector acknowledged that the Council has granted a license under alcohol licensing legislation which permits the premises to remain open, including for the sale of such drinks, up to midnight each day, though not so late at the outside tables. Together with drinking up time and the departure of staff this is likely to mean noise being generated by the site until at least about 00.30 hours even if the tipping of bottles into the outside bins were restricted by condition to no later than midnight.

Whilst the Council have taken into account the prevention of public nuisance and the minimisation of disruption to local residents in granting this license, the Inspector considered that the protection of residential amenity under planning legislation is a separate matter where harm to such amenity may fall far short of constituting either a public nuisance or disruption to local residents.

Comments

This is a particularly interesting decision, in light of the last sentence of the summary above concerning the differences between planning and licensing. It is also one, however, which continues to provide difficulties for the Council in making consistent decisions on planning applications for extended hours where Licensing Committee has authorised extended hours.

Inevitably, it is considered that such matters will end up having to be considered in the Magistrates Courts when companies choose to breach planning conditions in light of more up-to-date licensing restrictions. Such matters may also require eventual clarification through the law.

In the meantime, however, this decision does offer support for the Planning Department in those cases where there are considered to be fundamental objections to extended hours in the interests of local residential amenities. It is anticipated, however, that similar appeals may yet be determined, which will provide insight as to whether this decision is supported by other Inspectors.

L. P. A. Reference No:	05/01311/FUL
Appeal Method:	Hearing
Appeal Reference No:	05/1194596
Appellant:	Nicholl-Carne Estate,
Location:	Plymouth Street/West Street, Llantwit Major
Proposal:	New house
Decision:	WITHDRAWN
Date:	11 th January, 2006
Inspector:	
Council Determination:	Officer Delegated

Comments

The appellants chose to withdraw this appeal at a late stage following a site visit which noted that the tree screen, previously existing, has since been felled (with consent) , thus opening up the site to greater local views.

L. P. A. Reference No: 05/00669/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1191121
Appellant: The Gaynor Group Limited,
Location: **The Highwayman Secure Park, Port Road, Nurston**
Proposal: 10m wide extension to car park to allow easier and safer access to service area of pub and car parking
Decision: **DISMISSED**
Date: 17th January, 2006
Inspector: Ms. Penelope Davies
Council Determination: Officer Delegated

Summary

The appeal site was seen to form part of a field in the countryside whereat, notwithstanding the nearby airport facilities, the surrounding area is predominantly open and rural in character.

Whilst the Inspector did not regard the site as being especially prominent, development in the countryside is nevertheless subject to strict control. In this respect, the proposal with its associated fencing, parked cars and hard surface area would result in a substantial intrusion of hard industrial form into the landscape with consequent harm to its rural context, contrary to the objectives of national planning guidance and Policy ENV1 of the Unitary Development Plan that seek to protect the character and appearance of the countryside.

She further concluded that any need for the proposal or benefit to the local economy and traffic circulation and access within the site would not be sufficient to outweigh this harm and neither would the landscaping proposals provide sufficient mitigating impact.

While acknowledging that the proposal would conflict with the aims of Cardiff International Airport Ltd. to encourage alternative means of transport than the private car, consistent with national and local sustainability objectives, relative to the moderate increase in the number of parking spaces proposed, these effects would not have been so serious as to warrant withholding planning permission for these reasons alone.

Comments

While clearly contrary to policy, nevertheless this is a fine decision, consistent with the aims and objectives of the Unitary Development Plan and national policy which seek to prevent such new development in the countryside.

L. P. A. Reference No: 05/00637/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1192100
Appellant: Dr. and Mrs. G. H. Ainsworth,
Location: **Lydmore Barns, Dyffryn**
Proposal: Dining room extension to existing dwelling
Decision: **DISMISSED**
Date: 19th January, 2006
Inspector: Mr. A. H. Vaughan
Council Determination: Officer Delegated

L. P. A. Reference No: 05/00636/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1192101
Appellant: Dr. & Mrs. G. H. Ainsworth,
Location: Lydmore Barns, Dyffryn
Proposal: Porch extension to existing dwelling
Decision: **DISMISSED**
Date: 19th January, 2006
Inspector: Mr. A. H. Vaughan
Council Determination: Officer Delegated

Summary

The Inspector noted that the Inspector at the time of allowing an earlier appeal that the project to convert the barn to a dwelling would retain much of the form, bulk and general design style of the existing structure. In his opinion, the conversion works that have taken place have achieved this result, retaining much of the intrinsic vernacular style of the original building.

He considered this to be noticeable in the outer north face of the unit where the attractive long low line persist, and in the courtyard, where the original long low building is generally free of structural protrusion.

Looking at the proposed dining room extension, the Inspector considered the extension would cause a significant and damaging right angled interruption to the northern face of the building which, in turn, would harm the character and appearance of this converted rural building. Similarly, the scheme relating to the proposed porch would cause a significant and damaging right angled interruption to the courtyard of the building.

Both extensions proposed were thus concluded to be in breach of Policy ENV7 of the Unitary Development Plan. He also considered the application of Policy HOUS7, and considered both proposals would also breach this policy in terms of compatibility with an existing structure.

Comments

Although two separate decisions, each offer yet further support for the Council's continued commitment to ensuring that inappropriate new extensions are not allowed to bar conversions, given their undoubted impact on the simple character and form of such conversions.

L. P. A. Reference No: 05/01165/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1191474
Appellant: Mr. and Mrs. George,
Location: Mill Farm, Monkash
Proposal: Proposed new porch, erection of garage/store, modification of access and extension of residential curtilage
Decision: **SPLIT DECISION - Garage DISMISSED, Porch ALLOWED**
Date: 24th January, 2006
Inspector: Ms. Penelope Davies
Council Determination: Planning Committee

Summary

The inspector noted that the existing dwelling has traditional simplistic qualities commensurate with the predominantly rural character of its surroundings and the setting and appearance of the Conservation Area. She considered the proposed porch would be a small structure visually subordinate to the main building and sympathetic in design and materials. Similarly, the replacement of the glazed roof section with a slate roof was considered to not fundamentally change the character or appearance of the building.

Considering the garage and curtilage extension, the Inspector considered the land, while not having an agricultural feel in the sense of open cultivated or grazed land, was nevertheless clearly outside the existing domestic curtilage of the dwelling while its informal appearance gives it strong connotations to the surrounding countryside.

Given the siting of the proposed garage / store on lower ground, its subordinate scale and the use of sympathetic materials, she did not consider that, by itself, it would significantly detract from the character or appearance of the existing dwelling or its rural context.

However, taken with the substantial area of hard surfaced drive and turning facilities, and the significant upgrading that would be required to the existing track, the proposal was concluded to fundamentally change the informal context of this part of the site and the modest qualities of the existing dwelling resulting in a significant intrusion of domestic form into the rural landscape.

The proposal would therefore be harmful to the character and appearance of the countryside, the environmental qualities of the Heritage Coast and would fail to preserve or enhance the character or appearance of the Conservation Area.

Comments

This decision amply demonstrates the need for the context of rural dwellings, whether converted barns or not, to reflect their location, and to ensure that the extension of domestic use into the countryside does not detract from such essential rural setting.

(d) Enforcement Appeal Decisions Received

None received.

(e) April 2005 – March 2006 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed *	Allowed	Total	
Planning Appeals (incl. tree appeals)	WR	27.5	6.5	34	1
	H	6	5	11	4
	PI	1	0	1	1
Planning Total		34.5 (75%)	11.5 (25%)	46	

Enforcement Appeals *	WR	1	1	2	1
	H	0	0	0	1
	PI	0	0	0	3
Enforcement Total		1	1	2	

All Appeals	WR	28.5	7.5	36	2
	H	6	5	11	5
	PI	1	0	1	4
Combined Total		35.5 ** (74%)	12.5 ** (26%)	48	11

This reporting period	10	1	11	2
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* 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>
21 st February, 2006	PUBLIC INQUIRY Longlands Quarry, Corntown Road, Ewenny <i>Variation of Condition No. 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".</i>
14 th March,2005	HEARING Plymouth Street/ West Street, Llantwit Major
CANCELLED - APPEAL WITHDRAWN	
21 st March,2005 - CANCELLED.	PUBLIC INQUIRY (PLANNING & ENFORCEMENT) The Manse Llanbethery
Revised date in July to be agreed	<i>Change of use of agricultural land to residential; unauthorised structure.</i>
In abeyance	PUBLIC INQUIRY (PLANNING & ENFORCEMENT) Ewenny Quarry, Ewenny <i>Breach of operating hours (Condition No. 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).

Contact Officer - Steve Ball, Tel: 01446 704690

Officers Consulted:

Head of Planning and Transportation.

ROB QUICK
DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION