

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 27TH JULY, 2005

REPORT OF THE DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning Appeals Received

L. P. A. Reference No: 05/00428/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1182790
Appellant: Vodafone Limited,
Location: Off Clive Place, Penarth
Proposal: Erection of telegraph pole style communication
streetworks pole with adjoining apparatus cabinet
Start Date: 22nd June, 2005

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
Start Date: 7th July, 2005

L. P. A. Reference No: 05/00247/OUT
Appeal Method: Written Representations
Appeal Reference No: 05/1183430
Appellant: Mr. Arthur Reed,
**Location: Land adjacent to The Cottage, Railway View, St.
Brides Major, Bridgend**
Proposal: New detached domestic dwelling
Start Date: 1st July, 2005

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
Start Date: 6th July, 2005

(b) Enforcement Appeals Received

None received during reporting period.

(c) Planning Appeal Decisions

L. P. A. Reference No: 04/01985/FUL
Appeal Method: Hearing
Appeal Reference No: 05/1175774
Appellant: Meridian Building Design,
Location: 47, Stanwell Road, Penarth
Proposal: Conversion of existing 1st and 2nd floor
accommodation into 3 flats
Decision: **DISMISSED**
Date: 24th June, 2005
Inspector: Robert Gardener
Council Determination: Officer Delegated

Summary

The main Issues concerned whether the conversion would, firstly, ensure satisfactory living conditions for both the existing adjoining and ground floor residents and the future occupants of the proposed flats, particularly in terms of any increased activity, noise and disturbance which may be caused; secondly, provide adequate and accessible amenity space for the 3 units and, finally, increase on-street car parking prejudicial to highway safety and the free flow of traffic-Planning Policy.

On the first issue, the Inspector noted that the proposal would give rise to the property being more intensely occupied so that the potential for greater noise and disturbance would be increased. Given the opportunity to put a sound attenuation condition on any permission, however, he concluded that measures to control the additional impact to an acceptable level could be secured in that way.

Submissions from the Council and neighbour concerned the legal ability of all occupants to access the rear amenity space, given that the right of way may be used providing it does not conflict with or interfere with the ground floor occupants' reasonable use and enjoyment of their garden area.

Although the Inspector noted that no legal advice had been taken on this matter, and that he could not reach an authoritative view, nevertheless he considered that a Grampian form of condition could be imposed preventing occupation of the development - in whole or part - until measures are in place to secure the use of the amenity area. He acknowledged that this may have implications for the ability to implement any such consent.

As to the impact on neighbours, he noted that the residents of one of the flats - Unit 2 - could if they so desired access the communal area by the external flight of steps from the first floor but the others would be obliged to pass through the dedicated area. He thus agreed with the views of the resident of the ground floor flat that the effect of the users of the up to 3 flats, possibly with guests, through their amenity space and close to bedroom and kitchen windows would be "excessive and invasive".

Accordingly, it would considerably and harmfully erode the privacy and enjoyment that this area currently offers. In this respect, he also considered that 3 separate units could generate more intensive and frequent activity than a family living in the maisonette.

Finally, on the issue of highway safety, the Inspector noted that the existing car parking would be for the sole use of Unit 3, with any additional demand generated by Units 1 and 2 needing to take place on the highway. The current situation on the road was not, however, considered to appear inherently problematical or dangerous. Furthermore, he noted that the property is located in a highly sustainable location, served by bus and train and close to the town centre and other public facilities. Accordingly, he concluded that no harm to highway safety would occur as a result.

Comments

Although the circumstances of this case are somewhat unusual, given the separate ownership of part of the appeal property, nevertheless this decision demonstrates that, even in cases where access to amenity space is available, it remains necessary to prove that such access will not in itself cause demonstrable harm to residential amenity.

L. P. A. Reference No:	04/01448/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1177393
Appellant:	Mr. and Mrs. James,
Location:	Land to the rear 8, Ash Grove, Ystradowen
Proposal:	Change of use of land to domestic curtilage
Decision:	DISMISSED
Date:	27 th June, 2005
Inspector:	Mr. Emyr Jones
Council Determination:	Officer Delegated

Summary

The Inspector noted that the site is well screened from public views by mature trees and hedges, and that outside Green Wedges, UDP Policy HOUS 2 is supportive of small-scale development which constitutes the "rounding off of the edge of settlement boundaries where this is consistent with Policy HOUS 9.

As the settlement boundary forms two sides of the site, the Inspector considered that it could reasonably be described as being closely related to the defined boundary as required by Policy HOUS9. The trees to the north west and south west further result in the grassed area, which forms most of the site, being a discrete element in the landscape which is visually coherent with No. 8 Ash Grove.

He noted that the appellants suggested that the stream and protected woodland on the rear boundary and the woodland to the south provide a natural barrier and a defensible boundary. Although he had some sympathy with this argument, the western extremity of the site was seen to extend beyond the grassed area into a marshy area and the protected woodland.

Extending the curtilage of the property into these areas, he concluded, would breach any defensible boundary that exists and be an unjustified and harmful encroachment into the surrounding countryside in conflict with UDP Policy ENV 1.

Comments

Although this has been a successful appeal, nevertheless the Inspector has provided an indication that the large part of the site, laid to grass, is both discrete in the landscape and is closely related to the existing settlement boundary and adjacent property. Accordingly, it is anticipated that a further application may be made to incorporate part of the site as garden in the future.

L. P. A. Reference No:	05/00059/FUL
Appeal Method:	Written Representations
Appeal Reference No:	05/1177658
Appellant:	Mr. Stephen Colderley,
Location:	28, Afal Sur, Pencoedtre, Barry
Proposal:	Garage to be converted into living area/study
Decision:	ALLOWED
Date:	27 th June, 2005
Inspector:	Mr. Emyr Jones
Council Determination:	Officer Delegated

Summary

The Inspector noted that the Council were concerned that the proposal would reduce the parking provision at the site from two spaces to one and suggested that the levels and position of the front garden are such that it would be difficult to achieve a satisfactory second space on the site.

The Inspector stated that, if the drive was capable of being widened on the southern side only, he would agree with this assessment. Nevertheless, he stated that there is potential to widen the drive on both sides and this would enable sufficient room for two cars to be provided.

He was therefore satisfied that a condition requiring the widening of the drive in accordance with details to be approved before work commenced on the conversion, would allow the Council to be satisfied of the adequacy of such an arrangement such that the proposal would not generate additional on-street parking.

Comments

Although the Inspector has agreed with the Council concerning the need for two spaces, nevertheless the confusion over the exact boundary of the property has been remedied such that two spaces can now be accommodated on the site.

L. P. A. Reference No: 04/01180/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1177880
Appellant: Mr. M. David,
Location: 29, Main Road, Ogmores By Sea
Proposal: Garage and bedroom extension
Decision: **DISMISSED**
Date: 23rd June, 2005
Inspector: Robert Gardener
Council Determination: Officer Delegated

Summary

The Inspector noted that the property is a detached bungalow amongst a group of bungalows in an elevated position above and lining Main Road (B4524). However, the bungalows were seen to have little architectural similarity, while the settlement has a wide variety of sizes and styles of dwellings which together provide the immediate and broader setting of the appeal property.

To the front, the current roof plane would be carried through so that the new first floor accommodation would be apparent as a dormer with balcony which, although it would imbalance the symmetry of this elevation, he concluded would not be dissimilar or be out of place with other altered and adapted dwellings in the locality.

At the rear, however, where the property is clearly open to view from the higher Sutton Road, the full effect of the 2-storey addition would be apparent, such that it would, in effect, appear as a small house attached awkwardly and unsympathetically to the bungalow, which in turn would need a large flat-roofed dormer added to its roof for access to the new first floor accommodation. The result, he concluded, would be an unattractive mixture of building shapes and forms, which would visually dominate the existing simple bungalow. In this context, the scheme would thus create an obtrusive and overpowering feature in the local scene.

The Inspector also shared the Council's concerns that the scale, height and bulk of the extension would be overbearing in relation to the adjoining property and would harm the amenity it currently provides, contrary to objectives of the Council's adopted guidelines.

Comments

This is a fine decision which emphasises the need for new development to take full account of its impact on the streetscene, particularly where such property is viewable from two directions. It also further demonstrates the need for development to respect the relationship of built development to neighbouring properties.

L. P. A. Reference No: 04/01791/FUL
Appeal Method: Written Representations
Appeal Reference No: 05/1178026
Appellant: Orange PCS Ltd.,
Location: Ty Newydd Farm, Sigginston
Proposal: A slimline lattice telecommunications tower 16.9m in height with 4 microwave dishes and up to 6 antennae

together with a six pack equipment cabinet and electric meter cabinet

Decision: **DISMISSED**
Date: 13th July, 2005
Inspector: Mr. S. B. Wild
Council Determination: Planning Committee

Summary

The main issue concerned the effect of the proposal on the character and appearance of the area.

The Inspector noted that there is a clear need for an additional mast to give adequate coverage in the area, particularly the Llandow Industrial Estate area. Despite concerns raised by local residents, he noted that the mast complied with ICNIRP standards

The Inspector noted that the Council's main concern was that the search for alternative sites had not been exhaustive, and that a location had been suggested in the neighbouring industrial estates which are allocated for employment purposes in the UDP.

Although the appellant had commented on their search for alternative sites, he agreed with the Council that their evidence was rather vague in terms of who has and who has not been approached. Given that much of the supporting information submitted with the application referred to English rather than Welsh policy, he also expressed some reservations as to how detailed the case was prepared in respect of this specific site.

With respect to the site itself, the Inspector observed that it was the highest point in the locality, and yet the local topography was of a generally level plain. Although the site adjoins the existing water reservoir, it was not tall, such that its grass banks and small building are not prominent features in the landscape.

By contrast, the Inspector stated that this tower would be significantly taller than the trees and would be visible over a wide area of attractive open countryside, with local vantage points including the roads leading to Sigingstone and a number of houses in the immediate area. In addition, an existing well-used public footpath crosses the fields immediately adjacent to the reservoir site.

In this location, he thus concluded that the proposed mast would be visible to a significant number of persons, and that reasonable landscaping or colouring would not overcome the harmful effect of this feature in such a location, particularly when viewed from the footpath.

Although he said it was not for him to comment on specific alternative sites, in general terms, he considered a site within an employment area would be likely to have much less impact on the character and appearance of the open countryside, and that even a site outside the zoning, but seen against a background of the existing buildings, would be likely to be much less intrusive.

Accordingly, on balance, he concluded that he was not satisfied that the appellants had shown conclusively that no other site is available, such that the proposal failed to satisfy an important part of policy COMM4.

Comments

Given the generally permissive nature of local and national policy concerning telecommunications developments, this is an excellent decision, which offers support for the Council in resisting such developments in cases where it can be demonstrated, in particular, that insufficient examination has been given to more appropriate, alternative sites.

(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	9	1	10	
	H	4	1	5	1
	PI	0	0	0	
Planning Total		13 (86%)	2 (14%)	15	
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	10	2	12	
	H	4	1	5	1
	PI	0	0	0	2
Combined Total		14 (82%)	3 (18%)	17	3
This reporting period		4	1	5	

* 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>
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>
7 th September, 2005	HEARING Redland House, Bonvilston <i>Proposed timber gate from land to the rear of Redland House onto adjacent land.</i>
20 th September, 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>
28 th September, 2005 (provisional date)	HEARING Ty Newydd Farm, Peterstone Super Ely <i>Construction of replacement dwelling.</i>
11 th October, 2005 (provisional date)	HEARING (ENFORCEMENT) Tudor Lodge, Bonvilston <i>Unauthorised access track.</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, Rhoose 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