

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 8 FEBRUARY 2007

REPORT OF THE DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning Appeals Received

L.P.A. Reference No: 2006/00959/FUL
Appeal Method: Written Representations
Appeal Reference No: 06/1200548
Appellant: Christopher Brooke,
Location: Corrwg Fach Farm, Pendoylan, Cowbridge
Proposal: Straightening of access road to facilitate emergency services access and comply to Local Authority recommendations
Start Date: 8 January 2007

L.P.A. Reference No: ENF/2006/0300/CLL
Appeal Method: Written Representations
Appeal Reference No: C/06/1200547
Appellant: Christopher Robert Brooke
Location: Corrwg Fach, Pendoylan
Proposal: Without the benefit of planning permission, depositing waste materials and hardcore on the land to form a new access track to Corrwg Fach Stables
Start Date: 8 January 2007

L.P.A. Reference No: 2006/00484/FUL
Appeal Method: Written Representations
Appeal Reference No: 06/1200546
Appellant: Garry Douglas Hughes,
Location: 4A, Park Crescent, Barry
Proposal: Conversion of above shop accommodation into two dwellings. Ground floor rear cottage with two storey extension, first/second floor two bedroom flat
Start Date: 8 January 2007

L.P.A. Reference No: 2006/01316/FUL
Appeal Method: Written Representations
Appeal Reference No: 07/1200666
Appellant: Miss M. Jones
Location: 4, Cwrt Edward, The Waterfront, Barry
Proposal: Conservatory
Start Date: 17 January 2007

L.P.A. Reference No: 2006/01070/FUL
Appeal Method: Hearing
Appeal Reference No: 06/1200654
Appellant: Mr. G. K. Davies,
Location: **124, Windsor Road, Penarth**
Proposal: Internal alteration to provide additional flat
(resubmission of application 05/01608/FUL)
Start Date: 2 January 2007

L.P.A. Reference No: 2005/00693/FUL
Appeal Method: Written Representations
Appeal Reference No: 07/1200689
Appellant: Ms. J. Cresswell,
Location: **Fir Cottage, Llantwit Road, St. Athan**
Proposal: Change of use from existing disused workshop into
domestic kitchen and dining room with bedroom over
Start Date: 9 January 2007

L.P.A. Reference No: 2006/00919/FUL
Appeal Method: Written Representations
Appeal Reference No: 07/1200697
Appellant: Mr. Martin Sargent,
Location: **20, Denbigh Way, Barry**
Proposal: Dormer loft conversion
Start Date: 9 January 2007

L.P.A. Reference No: 2006/00436/FUL
Appeal Method: Written Representations
Appeal Reference No: 07/1200728
Appellant: Mr. and Mrs. D. Bluck,
Location: **Garden curtilage of Tudor Lodge, Llysworney**
Proposal: New detached bungalow with conservatory
Start Date: 15 January 2007

L.P.A. Reference No: 2005/01830/FUL
Appeal Method: Written Representations
Appeal Reference No: 07/1200760
Appellant: Ms. G. Sommerville & Ms M.Davies
Location: **12, Greenhaven Rise, Llandough**
Proposal: Retention of two storey extension to side with rear
facing dormer extension
Start Date: 17 January 2007

(b) Enforcement Appeals Received

L.P.A. Reference No: ENF/2004/0012/M
Appeal Method: Hearing
Appeal Reference No: C/06/1200531
Appellant: Mr. M. N. W. England,
Location: **The Hawthorns, Argoed, Llansannor**
Proposal: Breach of Agricultural occupancy Condition
Start Date: 4 January 2007

(c) Planning Appeal Decisions

L.P.A. Reference No: 2004/01715/FUL
Appeal Method: Hearing
Appeal Reference No: 06/1199763
Appellant: Insight,
Location: GM2 House, Plymouth Road, Penarth
Proposal: Demolition of the existing two storey pitched roof GM2 house. Erection of a residential building of 25 apartments with associated undercroft car park and ground floor with split level residential unit and commercial unit
Decision: Appeal Dismissed
Date: 8 January 2007
Inspector: Mr. P. Macdonald
Council Determination: Committee

Summary

Firstly, the Inspector clarified that, although the description of development refers to the application including consent for the demolition of the existing building on the appeal site, no consent was necessary for its demolition.

Three main issues arose in the determination of this appeal. The first concerned whether the scale and form of the proposed building would be such as to constitute overdevelopment of the site, detrimental to the visual amenity of the area and the adjoining Conservation Area. The second, whether the development would, by reason of its scale and proximity, be detrimental to the amenity of the residents of Cwrt Jubilee. The third related to whether the scale of car parking proposed is inadequate, leading to an exacerbation of parking problems in the area.

Visual Impact

The Inspector considered that the appeal proposal is for a building whose architectural expression is frankly contemporary, with a stone facing at ground floor level, and white walling above. He concluded that, after considerable thought, that the proposal represents an attempt to overdevelop this small and constrained site, two measures of that overdevelopment being the effect on Cwrt Jubilee and the extent of the car parking provided (considered below). This overdevelopment would, he stated, be detrimental to the visual amenity of the area and to the setting of the Conservation Area.

Specifically, he considered the proposed design to be 'ingenious' and, in itself, attractive. That, however, did not overcome the fact that it would cover virtually the entire area of this small site and rise to a height of five storeys (about 16.4m to the top, excluding the taller lift tower). Although accepting that the height would not be dissimilar to that of the hotel on the east side of Plymouth Road, he noted that building to be significantly taller than others in the area. While the appellant argued that the appeal site is capable of taking a "landmark" building, which he considered is what the appeal proposal would certainly provide, he opined that the character of Penarth as a whole (not just the Conservation Area) depends upon an attractive and consistent townscape, not on the presence of a few landmark buildings of high architectural quality.

Furthermore, he accepted that the existing building on the site has no particular qualities that argue strongly for its retention, and that the appeal site is relatively prominent in views looking south from the corner of Hickman Road.

In this respect, while he considered it likely that the site could accept a more assertive building than GM2 House, with some benefit to the townscape, he did not consider it could take a building of the form and mass proposed here, particularly in such close proximity to the boundary of the Conservation Area.

Impact on Cwrt Jubilee

The Inspector considered that one measure of overdevelopment was represented by the second issue, the impact on Cwrt Jubilee, a three storey block of retirement flats granted planning permission in 2001 which contains windows to habitable rooms facing directly towards the appeal site.

By building right up to the southern boundary of the site, the south façade of the appeal proposal would be some 16.2m away from these windows, as opposed to the 21m generally sought, with only a small tarmac car park intervening. The south facade would have private balconies within it, and the use of these balconies could well result in annoyance, and a sense of reduced privacy, to the residents of Cwrt Jubilee affected. While he accepted that such inter-relationship is not uncommon in city centre locations, he considered that this is an essentially suburban setting in a small town and, in that location, indicates an attempt to overdevelop the appeal site.

Car Parking/ Highway Safety

A further measure of overdevelopment concerned the proposed level of car parking, with just 20 spaces proposed for 25 flats, in a context in which the Council sought, even with reduced standards, a total of 31 spaces (25 for residents, plus 6 for visitors).

While the Inspector saw there to be relatively plentiful on-street parking in the vicinity, this was much used to the extent where it impedes two way traffic on Plymouth Road to the south of the appeal site. Although much had been made by the appellants of the proximity of the railway station, he stated that unless that translates into the decision not to own a car, increased train usage does not then reduce the need for parking.

Noting the type of accommodation provided, and all other factors (railway station, nearness to town centre, parking spaces on Plymouth Road), the Inspector made it clear that he would have accepted one space per flat, that being 25 spaces in total. In this respect, he stated that there seemed no logical basis for providing 20 spaces, but that it was simply what the site would accommodate. This, he stated, suggested that too much accommodation is being provided.

The Inspector noted that the Council's amenity standards for open space are not reached but, given the nature of the accommodation, the fringe town centre location, and the nearness of Alexandra Park, he stated that he would not have dismissed the appeal for that reason, regarding it as a matter on which potential purchasers would reach their own judgement as to what they required.

He was also mindful of the long negotiations that took place with the Council as the design evolved, and of the recommendation made by the officers to approve the scheme, while being "particularly aware of the approval of the Design Council for Wales". He considered, however, that pure design matters are not at issue, and the design is admirable in many ways; but that it is all a matter of context which can only be properly appreciated by visiting the site and surroundings. Having done so, he thus concluded that the appeal must be dismissed.

Comments

This is a decision which offers firm support for the Council's opposition to this high-density scheme, but also provides 'pointers' in respect of the comments regarding the opportunity for the site to accommodate a larger building which respects its surroundings.

In this respect, the decision has also emphasises that, whilst design is an inclusive process and one which can be developed through the course of considerable negotiations, it is essential to ensure that any proposed building sits comfortably within its context.

L.P.A. Reference No:	2006/00432/FUL
Appeal Method:	Written Representations
Appeal Reference No:	06/1199923
Appellant:	Ms. L. V. Wright
Location:	7, The Broadshoard, Cowbridge
Proposal:	Provide ground floor bathroom/WC for use by registered disabled person, also extend house to relocate living accommodation
Decision:	Appeal Dismissed
Date:	10 January 2007
Inspector:	Mr. I. Osborne
Council Determination:	Delegated

Summary

The main issues in this case were first, the effect of the proposals on the living conditions of neighbours at Ashton Court as the result of any loss of amenity because of overbearing impact; and second, on the appearance of the locality which is in the Cowbridge with Llanblethian Conservation Area.

Considering the first issue, the Inspector noted that the rear elevation of the proposed extension would not quite reach up to the existing eaves height and would be stepped back a little way from the rear wall of this semi-detached house. Accordingly, even though the proposed wall would be blank, he did not consider that it would have an overbearing impact when viewed from either the house or garden of Ashton Court to the rear. Indeed in this respect its effect would be materially less than that of the permitted side extension, the rear wall of which would reach up to eaves height and above which there would be a sloping roof almost up to the height of the existing ridge.

On the second main issue, the Inspector noted that the proposed extension would have a complicated and unco-ordinated composition when seen from the vicinity of the turning head adjoining the appeal site. In particular, the short front roof slope would appear as a truncated feature, functionally and visually divorced from the substantial width of the first-floor balcony to its right. In addition the proposed railing to this balcony would further emphasise the flat-roofed nature of this part of the proposed extension. At the same time, because of its height, the proposed rear screen fence would appear as a prominent and incongruous element in the composition of the side elevation of this proposed extension.

Accordingly, he concluded that, because of their unattractive design, the proposals would have an unacceptable effect on the appearance of the locality which would neither preserve nor enhance the character or appearance of the Cowbridge with Llanblethian Conservation Area.

In this respect, he further emphasised that there are important differences between the approved scheme and the appeal proposals which make the former acceptable but the latter visually detrimental.

Comments

Although the Inspector has not upheld the Council's objections in respect of the harm to neighbours, nevertheless this decision has emphasised the increasing importance of design in the planning process, and particularly where such development is located within a Conservation Area.

L.P.A. Reference No:	2006/00640/FUL
Appeal Method:	Written Representations
Appeal Reference No:	06/1200177
Appellant:	Andrew Gwatkin,
Location:	4, Tan Y Fron, Barry
Proposal:	Replace existing rock face wall, which is unstable, with new rock face wall with pillars and lattice style fence panels
Decision:	Appeal Dismissed
Date:	10 January 2007
Inspector:	Mr. I. Osborne
Council Determination:	Committee

Summary

The main issue in this case concerned the effect of the structure on the character or appearance of the Barry Garden Suburb Conservation Area.

The Inspector noted that the main distinctive elements of the Conservation Area covering this early 20th Century garden village suburb were the semi-detached houses with their white-painted rendered walls and pitched, slated roofs, together with low walls or hedges marking the boundaries of each garden. Because of its substantial height, including wooden lattice fence panels, the Inspector considered the appeal structure to be a prominent and unsympathetic feature in this Conservation Area. Although the rock face concrete blocks had been painted white, he considered that this serves only to emphasise the incongruous and visually intrusive nature of the wall. Further, since the blocks are rough faced, they are out of keeping with the rendered walls of the nearby houses.

Accordingly, he concluded that the boundary wall fails to preserve or enhance the character or appearance of the Barry Garden Suburb Conservation Area.

Comments

This is a good decision which offers firm support for the Council's policies and practices which seek to resist small-scale development which, incrementally, would erode the special character of the Garden Suburb Conservation Area.

L.P.A. Reference No: 2005/01880/FUL
Appeal Method: Written Representations
Appeal Reference No: 06/1200245
Appellant: Mr. and Mrs. H. Ginn,
Location: White Wells Farm, Peterston Super Ely
Proposal: Proposed demolition of existing dwelling and construction of new dwelling
Decision: Appeal Allowed
Date: 18 January 2007
Inspector: Mr. Richard Poppleton
Council Determination: Committee

Summary

The appeal concerned the imposition of three conditions on a replacement farmhouse, granted under Policy HOUS7, and within a Special Landscape Area.

The Inspector noted that Policy HOUS7 does not require replacement dwellings to be 'commensurate' in size with the building it replaces, and thus does not prevent a replacement being larger than the original building. He did note, however, that the supporting text states that *planning conditions may be imposed restricting permitted development rights in respect of additional extensions and alterations, the reason being to prevent the subsequent erosion of the rural character of the countryside*. Therefore, he considered that the removal of such rights is a reasonable consideration, but that it must also be within the context set by paragraph 86 of Circular 35/95, which requires that Permitted Development rights should be removed only 'exceptionally'.

The Inspector recognised that the replacement dwelling has the same footprint as that which originally existed plus approved extensions. Thus, it is argued that the original dwelling had already benefited from having extensions approved. Even so, comparing the building now under construction with the previous dwelling as intended to be extended, the Inspector did not regard it to be disproportionate in size. Moreover, as the site was previously developed with a dwelling and outbuildings, the impact upon the rural landscape was not an absolute change that would alter its character in a fundamental manner.

In addition, given the local topography and the distance from public highways, he regarded the site as being particularly secluded and that the generally undeveloped rural character of the area would remain unharmed by the current development.

Having regard to these factors and the size of the residential curtilage, the Inspector concluded that modest extensions and alterations normally granted planning permission as permitted development would similarly be unlikely to erode the rural character of the countryside. Likewise, he found no compelling reasons to conclude that any means of enclosure would be harmful to this sensitive landscape. Accordingly, he found no 'exceptional' reasons that justified the removal of permitted development rights granted by Parliament, such that he removed the 3 conditions imposed on the granted of planning permission in July 2006.

Comments

This is a disappointing decision insofar as the Council has previously been entirely reasonable in allowing a replacement dwelling of a size commensurate with the original plus approved extensions, and which will now be able to be extended yet further by newly-accrued permitted development rights.

Accordingly, this is a decision which will need to be considered in reviewing whether Policy HOUS7 in the Local Development Plan will need amending.

(d) Enforcement Appeal Decisions Received

L.P.A. Reference No: ENF/2006/0377/AENF/2006/0377/A
 Appeal Method: Written Representations
 Appeal Reference No: C/06/1200280
 Appellant: Mr. Martin Brewer
Location: Llyswerry Old Limeworks, St. Athan Road, Aberthaw
 Proposal: Without the benefit of planning permission, changing the use of the land from disused quarry to car storage for airport parking
 Decision: Appeal Withdrawn
 Date: 18 December 2006

Comments

The Enforcement Notice was withdrawn by the Council following the appellant's confirmation that the unauthorised use had ceased prior to the date of service of the Notice, and that all required works had been undertaken at the site. In this respect, the breach has been successfully resolved, while the Council remain able to take subsequent action in the event of a further breach of control.

(e) April 2006 – March 2007 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed *	Allowed	Total	
Planning Appeals (incl. tree appeals)	WR	34	9 ¹	43	2
	H	3	3	6	1
	PI	2	-	2	2
Planning Total		39 (77%)	12 (23%)	51	
Enforcement Appeals	WR	11	7	18	3
	H	-	1	1	-
	PI	1	2	2	1
Enforcement Total		12 (54.5%)	10 (45.5%)	22	
All Appeals	WR	45	16	61	4
	H	3	4	7	1
	PI	3	2	5	3
Combined Total		48	21	73	7

¹ Includes Split Decision on Oakways Farm

(g) List of Forthcoming Hearings and Public Inquiries

Date	<u>Site and Proposal/ Breach</u>
6 February 2007	<u>HEARING - PLANNING APPEAL</u> Elm Grove House, 12, Elm Grove Road, Dinas Powys <i>Demolition of Elm Grove House and construction of two new apartments built to footprint and height of existing building. Construction of two storey extension of two apartments. Construction of 1800mm high boundary wall</i>
6 February 2007	<u>HEARING - PLANNING APPEAL</u> Elm Grove House, 12, Elm Grove Road, Dinas Powys <i>Full demolition of existing two storey house and single storey extension together with existing single storey detached garage</i>
13 February 2007	<u>HEARING - PLANNING APPEAL</u> Seagulls View Bungalow, adjacent to The Manor House, The Spinney, Beach Road, Swanbridge <i>Variation of application 04/01493/FUL - to allow occupation independent of The Manor House</i>
27 February 2007	<u>HEARING - PLANNING APPEAL</u> Land at Valegate Retail Park, Culverhouse Cross, Cardiff <i>Erection of a class A3 - Drive-through fast food restaurant</i>
13 March 2007	<u>HEARING - PLANNING APPEAL</u> 124, Windsor Road, Penarth <i>Internal alteration to provide additional flat (resubmission of application 05/01608/FUL)</i>

Background Papers

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

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Officers Consulted:

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