

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 10TH JANUARY, 2007

REPORT OF THE DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning Appeals Received

L.P.A. Reference No: 2005/01601/FUL
Appeal Method: Hearing
Appeal Reference No: 06/1200489
Appellant: Electricity Supply Nominees Ltd
Location: **Land at Valegate Retail Park, Culverhouse Cross, Cardiff**
Proposal: Erection of a class A3 - Drive-through fast food restaurant
Start Date: 4 December 2006

L.P.A. Reference No: ENF/2005/0131/E
Appeal Method: Written Representations
Appeal Reference No: C/06/1200565
Appellant: Trudy Waters,
Location: **Redwood Lodge, Llysworney**
Proposal: Without the benefit of planning permission, erecting a fence that exceeds 1m in height adjacent to a highway that is used by vehicular traffic
Start Date: 14 December 2006

(b) Enforcement Appeals Received

None received during reporting period.

(c) Planning Appeal Decisions

L.P.A. Reference No: 2006/00292/FUL
Appeal Method: Hearing
Appeal Reference No: 06/1199272
Appellant: Meltray Limited
Location: **66, Victoria Road, Penarth**
Proposal: Demolition of existing house and garage block. Construction of new two/three storey apartment block with basement, associated landscaping and car parking
Decision: Appeal Dismissed
Date: 4 December 2006
Inspector: Mr. G. Rees
Council Determination: Committee

Summary

The main issues concerned, firstly, the effect of the proposal on the character and appearance of the area, and secondly the likely impact of the development on the living standards of occupiers of nearby dwellings in terms of noise from traffic generated to the site, overlooking, and overshadowing.

Effect on Character of Area

The Inspector noted that the townscape of Penarth south and west of the town centre feature wide tree lined roads of large detached or semidetached housing representative of Penarth's Victorian prosperity, and that Victoria Road reflects this pattern to some degree.

Within this context, although the proposed building would be no higher than the existing structure at some 12.3m high at roof ridge level, the overall roof profile of the block is higher in order to accommodate the top apartment. He stated that this would have a number of discordant effects on the visual character of the locality. Notably, the pair of gables on the frontage would be incorporated in a roof area of a squared plan form of a massive proportion and size, the front elevation of which would be most open to view. The configuration of the roof would, he considered, be in sharp contrast with the steeper roof pitches and lower eaves levels of the existing building. The neighbouring properties were also noted to be of a sufficiently distinctive character to justify a more sensitive design solution for the proposal.

He also considered that the incongruity of the structure would be accentuated by bringing the building forward towards Victoria Road, such that the proposal would be unacceptably out of scale and character with the dwellings on this sector of Victoria Road, contrary to Policies HOUS8 and ENV27 of the UDP.

In terms of the Council's objections to the access and circulation areas in the rear garden, the Inspector considered the application of the highway standards (2 spaces per flat plus 2 spaces for visitors) was contrary to the advice of Planning Policy Wales of 2002 on the need to apply maximum rather than minimum parking standards to all forms of development as part of the strategy of sustainability, including reducing the dependency on car travel.

He thus considered a smaller car parking area of about 10 spaces would be appropriate for a scheme of this nature at this accessible location, and that this would ensure that the greater part of the rear curtilage would remain intact. The Council's objections were therefore not supported on this point. However, the unacceptable visual impact of the proposal on the character and appearance of the street scene as sufficiently compelling to justify upholding the Council's overall objection.

Impact on Neighbouring Amenities

The Inspector did not agree that the limited additional movement of vehicles into and out of the site would have a significant impact on neighbouring amenities in these spacious surroundings. There would also be scope to reinforce fencing and hedge/shrub screening on the boundary of the property adjoining the access to reduce noise.

With regard to the issue of loss of privacy, the Inspector observed that there is already some degree of mutual overlooking of properties from windows on upper floors. Windows in the side elevation could be obscure glazed in a fixed position to prevent any overlooking of adjoining properties. Views of adjoining gardens from balconies at the rear elevation would also be indirect. Accordingly, he did not regard any loss of privacy to nearby residents as a seriously compelling objection.

With regard to potential loss of daylight to nearby dwellings, he considered the visual amenities of the occupiers of the house at No. 64 Victoria Road would not be significantly affected. With regard to the effect of the proposal on No. 68 Victoria Road, most windows would not be significantly affected. However, for one window in particular, he concluded that the nearby bulky four storey section of the new flats would cut more light out to the dining room, further reflecting the unsatisfactory relationship between the proposed block and the adjoining house.

Comments

This decision demonstrates the unsatisfactory nature of this substantial replacement building in this location, as well as its unneighbourly relationship to the adjoining dwelling. Any alternative proposal for replacement will therefore have to be considerably reduced in massing and scale to overcome such objections.

L.P.A. Reference No:	2005/01897/FUL
Appeal Method:	Written Representations
Appeal Reference No:	06/1199547
Appellant:	Mr. and Mrs. R. Summers,
Location:	The Caravan Hospital, St. Hilary
Proposal:	Redevelopment of site from existing caravan/motorhome repair business to five detached 5 bedroom dwellinghouses with integral double garages
Decision:	Appeal Dismissed
Date:	11 December 2006
Inspector:	Mr. G. Rees
Council Determination:	Committee

Summary

The main issues concerned, firstly, whether the proposal would result in the loss of a rural employment site contrary to UDP policy to safeguard such sites; and, secondly; whether the proposal would adversely affect the character and appearance of the rural locality; thirdly whether the proposal would represent a sustainable form of development.

The Inspector noted that the appellants wished to finance the move of the business to alternative, larger premises in Barry.

Issue 1:- Loss of Employment

The Appellants contended that site does not fall within the scope of 'countryside', with the UDP stating that for the purpose of Policy ENV1 countryside is defined as that area of land lying outside settlement boundaries of the main towns and villages identified in Policy HOUS2 which has not been developed for employment use or allocated in the Plan for development purposes.

The Inspector, however, considered that the rationale behind the policy is that while it recognises that existing sites for employment are not technically 'countryside', its clear purpose is to safeguard such land for business uses, including sites in the rural area, by precluding non-business uses.

The Appellants submit that the existing use should be regarded as a 'sui generis' use, falling outside the category of B1, B2 and B8 use classes of the relevant development order. The Inspector stated, however, that the restrictive condition of the original permission does not remove the caravan repair and storage facilities from B2/B8 use classes, as they are clearly industrial and storage uses. Therefore the land complies with the definition of an employment site.

The Inspector subsequently opined that there has been a significant change in policy since the early 1990s with the encouragement of appropriate small-scale forms of employment in rural areas by the National Assembly and the Council. Both Policies EMP4 and ENV1 of the UDP aim to encourage appropriate forms of rural employment.

Although the appellants maintained that the Council would resist other commercial uses of the site, the Inspector considered that the future development of the site need not be encumbered by the condition attached to the planning permission of 1991, which was based on the need for the Council to control traffic generated to the site.

He thus considered that the buildings could be adapted to an alternative appropriate business use to comply with the objectives of the UDP which need not adversely affect the amenities of the neighbouring dwelling. As a site which has been developed, its re-use for appropriate small-scale commercial use would thus comply with the advice of paragraph 2.7 of PPW on previously-developed land.

In addition, he agreed that the appellants had not demonstrated that the site cannot be used for other commercial purposes in the absence of a marketing exercise. Accordingly the proposal would lead to the loss of a rural employment site, which would be in conflict with Policy EMP4 of the UDP, which precludes the residential use of the land.

Issue 2: - Effect on Countryside

The Inspector stated that the fact that the site is not classified countryside in policy terms does not entail that the environmental context within which the appeal site is located should be set aside, with the site and its rural surroundings intrinsically linked.

Being bound on three sides by open land of a pastoral character, the pattern of development was seen to be one of occasional dwellings along the trunk road, except for the stand-alone development of St. Hilary transmitter and its cluster of small buildings in an open setting some 150m to the west of the site. Due regard should thus be paid to the visual impact of the proposed residential development on the character and appearance of the adjoining countryside.

The Inspector stated that the proposal would form a solitary pocket of residential development in an area of strongly rural character about 2 miles from the nearest settlements of Cowbridge and Bonvilston. Such a proposal for dwellings does not fall into the special categories which may be permitted outside defined settlement boundaries, including sensitive infill development provided that it does not unacceptably affect the character of the rural area and meets the sustainable objectives of the UDP.

The proposal was thus concluded to be contrary to national advice which requires that new housing developments are well integrated with and connected to the existing pattern of settlements in order to avoid a fragmented development pattern.

Compared with the low profile caravans and motor homes and the two main structures, he also considered that the site would be more intensely developed than at present with more building coverage in the form of 5 substantial two storey dwellings. Notwithstanding this, the fact that the dwellings might eventually be screened by more appropriate planting was not a persuasive argument in favour of the development as it could be too easily repeated elsewhere.

Accordingly he concluded that the proposal would give rise to a sporadic form of development to the detriment of the character and appearance of the rural area and contrary to national and local plan objectives to restrict new residential development outside designated settlement areas.

Whilst the Inspector appreciated the Appellant's requirement to accommodate his expanding business enterprise in a more suitable location in Barry to the benefit of the business, its employees and the local economy, he considered that the financial mechanism to achieve the relocation by developing the site for residential purposes would be clearly in conflict with the UDP which seeks to retain employment in such locations.

Issue 3:- Sustainable Development

The Inspector also considered matters of sustainability, noting that future occupiers would be likely to have 2 or more vehicles, and would be unlikely to make significant use of public transport for shops and other services in Cowbridge to the west, and to places of employment in the wider region.

While the Inspector accepted that that the proposal would generate significantly less vehicle movement than the current use, this was overridden by the need to retain employment at this rural location. This would represent a more sustainable form of development benefiting the rural economy compared with an isolated group of dwellings with weak community links. In this respect, the proposal was also contrary to the advice of Section 7 of PPW in seeking the most beneficial and sustainable re-use of previously developed land.

Comments

This is an excellent decision which not only supports the objectives of Policy EMP4 in preventing the loss of employment sites, particularly in rural areas, but also emphasised the unacceptable visual impact of the development and its unsustainable characteristics.

L.P.A. Reference No:	2006/00380/FUL
Appeal Method:	Written Representations
Appeal Reference No:	06/1199670
Appellant:	Mr. M. Symmonds,
Location:	31, Stallcourt Avenue, Llantwit Major
Proposal:	Front, side and rear two storey extension
Decision:	Appeal Dismissed
Date:	4 December 2006
Inspector:	Mr. A. B. Nixon
Council Determination:	Delegated

Summary

The main issues concerned the effect of the proposal on the character and appearance of the street scene and its effect on the privacy of occupiers of No. 32 Stallcourt Avenue.

The Inspector noted that the dwelling stands within an area of regularly laid out, broadly similar semi-detached houses. The proposed development, however, would roughly double the size of the existing dwelling, be prominent in the street scene and result in an incongruous, excessively bulky mass which would be ill-proportioned and out of scale with the existing building and its neighbours.

While he considered preservation of symmetry to not be essential to the visual qualities of the locality; the bulk of the proposed development, principally arising from the extent of additions at upper storey level, would seriously harm the character and appearance of the street scene.

Comments

This is a good decision which indicates the importance of ensuring that the scale and bulk of additions to dwellings needs to be carefully controlled in the interests of visual amenity.

(d) Enforcement Appeal Decisions Received

None received during this reporting period.

(e) April 2006 – March 2007 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed *	Allowed	Total	
Planning Appeals (incl. tree appeals)	WR	32	8 ¹	40	2
	H	2	3	5	1
	PI	2	-	2	2
Planning Total		36 (77%)	11 (23%)	47	
Enforcement Appeals	WR	11	7	18	2
	H	-	1	1	-
	PI	1	2	2	1
Enforcement Total		12 (54.5%)	10 (45.5%)	22	
All Appeals	WR	43	15	56	4
	H	2	4	5	1
	PI	3	2	5	3
Combined Total		48	21	69	7

¹ Includes Split Decision on Oakways Farm

(g) List of Forthcoming Hearings and Public Inquiries

<u>Date</u>	<u>Site and Proposal/ Breach</u>
17 January 2007	<u>HEARING - PLANNING APPEAL</u> Land at Gilbert Lane, Dinas Powys <i>Proposed Farmhouse with garage</i>
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>

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