

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 25 APRIL 2007

REPORT OF THE DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning Appeals Received

L.P.A. Reference No: 2006/01515/FUL
Appeal Method: Written Representations
Appeal Reference No: 07/1201145
Appellant: Mr. R. Thomas,
Location: **Ashley House Stables, Sutton Road, Llandow**
Proposal: Retention of driveway and hardstanding area
Start Date: 12 March 2007

L.P.A. Reference No: 2006/00701/FUL
Appeal Method: Written Representations
Appeal Reference No: 07/1201168
Appellant: Michael Lewis,
Location: **Meadow View, Crossways, Cowbridge**
Proposal: New building for the storage of machines and
equipment associated with the adjacent vineyard and
food produce business
Start Date: 15 March 2007

L.P.A. Reference No: 2006/01745/FUL
Appeal Method: Hearing
Appeal Reference No: 07/1201181
Appellant: Mr. and Mrs J.E. Raymond,
Location: **Gwern y Gedrych Farm, Peterston Super Ely**
Proposal: Proposed extension
Start Date: 19 March 2007

L.P.A. Reference No: 2006/01009/FUL
Appeal Method: Written Representations
Appeal Reference No: 07/1201194
Appellant: Mr. S. Gosling,
Location: **1, Cliff Street, Penarth**
Proposal: Replacement of workshop and store to form a one-
bedroom house
Start Date: 20 March 2007

L.P.A. Reference No: 2006/00818/FUL
Appeal Method: Written Representations
Appeal Reference No: 07/1201202
Appellant: Mr. C. Morgan,
Location: **Land east of Chequers, East Aberthaw**
Proposal: Erection of 2 no. dwellings
Start Date: 20 March 2007

L.P.A. Reference No: 2006/00862/FUL

Appeal Method: Written Representations
Appeal Reference No: 07/1201264
Appellant: Mr. & Mrs. R. Eustace,
Location: Court House, Flemingston, St. Athan
Proposal: Proposed first floor extensions over existing
kitchen/breakfast, utility room and double garage
Start Date: 27 March 2007

(b) Enforcement Appeals Received

None received during reporting period.

(c) Planning Appeal Decisions

L.P.A. Reference No: 2006/00256/FUL
Appeal Method: Hearing
Appeal Reference No: 06/1200142
Appellant: Dr. M. L. Ham,
Location: Elm Grove House, 12, Elm Grove Road, Dinas Powys
Proposal: 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.
Decision: Appeal Dismissed
Date: 19 March 2007
Inspector: Mr. C. I. Cochrane
Council Determination: Committee

Summary

The main issues in the appeal were whether the existing building makes a positive contribution to the character of the Dinas Powys Conservation Area; whether the proposed redevelopment scheme would preserve or enhance the character or appearance of the Conservation Area; and whether the proposed scheme would adversely affect the amenity value of the trees protected under the Tree Preservation Order on the site.

Contribution to the Character of the Conservation Area

There was some debate at the hearing as to whether or not the building makes a positive contribution to the character of the Conservation Area. Although it is now stripped bare of architectural detail to an empty shell, the Inspector noted that the building still appears to have an interesting traditional character, layout and relationship to the road frontage that adds to the historic character of the locality. In addition, the open space of the gardens, stone walls and trees forms a vital ingredient in the character and appearance of the conservation area. He therefore concluded that the building is a building that adds value to the character of the area, and accordingly, there is a presumption in favour of its retention.

Justification for Demolition

The appellant's evidence regarding the structural condition of the building, the cost estimates for refurbishment and its valuation were not challenged by the Local

Planning Authority. The inspector, however, was aware that all old buildings display structural defects to a greater or lesser degree, and considered it is sometimes easy to exaggerate these in a cumulative way that appears to justify demolition, rather than to tackle them as a restoration project for a building that is worthy of retention. He also took note of considerable differences in the schedules of defects and costings before and after the work commenced on the 2004 approved scheme.

In addition, he noted that the appellant's valuation exercise was limited to the restoration and marketing of the building as a single dwelling, whereas, in reality it might prove feasible to both restore and extend the building to create more than one dwelling or several apartments, yet such alternative solutions have not been costed or valued. Consequently, he considered the case for demolition of the building appears to be the worst possible scenario, a combination of heavy repair costs and a low market value.

Bearing in mind its positive contribution to the character of the Conservation Area, he was therefore not convinced about the efforts being made to retain and preserve the building. In this respect he noted that the building has been stripped out to the extent that major internal walls and first floor timbers which lent support and braced the whole structure have been removed, which gives the inside of the building an alarming, unsupported appearance. Also, the external walls have been subjected to many alterations of openings and layout over the years, which may have affected their overall stability in an unbraced situation.

Taking account of the above, he considered the unsupported condition of the stripped-out building to be extremely harmful to its structural integrity, even on a temporary basis, and likely to lead to further damage in due course. He also went further in advising that it may lead to an offence being committed under Sections 7-9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to cause the destruction of an unlisted building in the conservation area without consent under Section 74 of the Act.

Proposed Replacement Development

Although the removal of the existing single storey rear section and the detached garage means that the actual footprint of the proposed building is not much greater than the existing, the Inspector considered the scale and form of the proposed two-storey building would have a far greater physical presence across the site frontage. The development would thus affect the spaciousness of house and garden and inevitably erode the open space that contributes to the character of the Conservation Area.

The loss of the existing traditional house and its replacement by a larger block, of a terraced appearance, would also detract from the character of the Conservation Area, while the proposed design would introduce a uniform, fairly bland elevation of modern sash windows and balcony doors in rendered elevations, with belled-out render above the windows in the modern style, and there would be an extensive slate roof without the traditional chimney stacks. As such, it would appear as a modern, discordant and visually intrusive feature in the street scene, and would cause harm to the character and appearance of the Conservation Area.

In detail, the design of the extension roof would introduce a mix of large and small dormers and a half-hipped gable with heavy bargeboards all around, which would appear to be an over-elaborate modern style of architecture, in this sensitive historic location, thus forming an unacceptable replacement for the simple traditional vernacular style of the existing house. The design would also, he stated, represent a sharp contrast to the existing character of Elm Grove House and the rest of the Conservation Area. Consequently, the proposed development was considered unacceptable and insensitive in its approach to the setting of the original building and the wider Conservation Area.

Impact on Trees

As the Council claimed, insufficient information was provided in the form of an accurate tree survey to allow a proper assessment of the likely impact of the proposal on the existing redwood and yew trees. Whilst difficult to assess the likely impact of the proposed development on the protected trees, however, each of which contribute much to the pleasant character of the Conservation Area, he considered that with careful design it would be possible to accommodate them, particularly next to the proposed boundary wall and car parking areas. However, the proposed demolition and redevelopment fails to meet other conservation and design criteria, so that the development should not be allowed to proceed for those reasons.

Comments

This site has had a considerable recent history relating to proposals to convert, extend and demolish the building in question. In addition enforcement action has previously been taken to board up the window and door openings to ensure that the building was maintained in a weatherproof condition pending the outcome of development proposals. The Inspectors wholesale support for the Councils objections, first to the demolition of this important building, and secondly to the impact of the proposed scale and design of the scheme, are therefore highly satisfying.

It is now to be hoped that a sensitive scheme for the conversion, can be submitted to secure the buildings continued contribution to the character of the Conservation Area. Given his appeal decision, and the Inspector's support for the retention of the building, it is considered that further action should be authorised through Section 215 of the Town and Country Planning Act 1990 (as amended). Such action will require the 'making good' of the entire structure, reducing but not restricted to doors and windows, roof covering, render and fascias. In addition, it is considered that there is merit in requiring through action under Sections 72-79 of the Building Act 1984 the making good of the internal fabric of the building given that internal floors and walls are central to the retention and maintenance of the building.

In this regard Members' attention is drawn to the recommendation at the end of this report.

L.P.A. Reference No: 2006/00106/CAC
Appeal Method: Hearing
Appeal Reference No: E/06/1200141
Appellant: Dr. M. L. Ham,
Location: Elm Grove House, 12, Elm Grove Road, Dinas Powys
Proposal: Full demolition of existing two storey house and single storey extension together with existing single storey detached garage
Decision: Appeal Dismissed
Date: 19 March 2007
Inspector: Mr. C. I. Cochrane
Council Determination: Committee
Summary

See summary for related planning appeal ref. 2006/00256/FUL above.

L.P.A. Reference No: 2006/00788/FUL
Appeal Method: Hearing
Appeal Reference No: 06/1200378
Appellant: Mr. Roger Cruttenden,
Location: Seagulls View Bungalow, adjacent to The Manor House, The Spinney, Beach Road, Swanbridge
Proposal: Variation of application 04/01493/FUL - to allow occupation independent of The Manor House
Decision: Appeal Dismissed
Date: 27 March 2007
Inspector: Mr. S. B. Wild
Council Determination: Delegated

Summary

In effect the removal of the condition would enable the bungalow to be occupied and/or sold as an independent unit of accommodation separate from The Manor House.

The main issues in this case concerned the effect of the proposal on the character and appearance of the area, the effect on the amenity of the occupiers of the bungalow and neighbouring properties, and the suitability of the access to serve an additional separate dwelling unit.

The Inspector expressed concern about the condition itself, given that the original development showed a unit of residential accommodation which has a complete range of normal domestic facilities, such that it was therefore not designed as an ancillary annex. He also was concerned that the condition refers to the bungalow being used solely as ancillary accommodation incidental to the use of The Manor House, and yet the Manor House is divided into three self contained flats such that it was therefore not clear which part of The Manor House is linked to the 'ancillary accommodation'.

Firstly, the Inspector considered the proposal to conflict with a number of UDP policies generally intended to protect the character and appearance of the area, being located outside any defined settlement boundary. He considered, however, that the bungalow has very little visual impact on the character and appearance of the area generally, located within and surrounded by other dwellings. Accordingly, he considered the creation of a separate dwelling in this case would be seen as a minor infilling in a group of existing dwellings.

In order to serve the bungalow as a separate dwelling, the Inspector considered that a larger area of amenity space, a defined access route with turning and parking facilities and a passing place in the central section of the drive are necessary. Since these matters cannot be covered by the imposition of new conditions, however, he concluded that he must dismiss this appeal. It is a matter for the appellant, however, to consider whether or not to submit a new planning application to the Council for the use of the bungalow as a separate dwelling and including appropriate details.

Comments

Although this appeal was dismissed, the Inspector has made it clear that a new application addressing the amenity and access concerns utilising land within the appellants ownership would overcome these objections such that a permanent dwelling will be acceptable in this location.

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| L.P.A. Reference No: | 2006/00819/OUT |
| Appeal Method: | Written Representations |
| Appeal Reference No: | 06/1200384 |
| Appellant: | Mr. Martin Stokes, |
| Location: | Land to the rear of 115 and 117, Port Road East, Barry |
| Proposal: | Demolition of existing garage and erection of one detached dwelling |
| Decision: | Appeal Dismissed |
| Date: | 12 March 2007 |
| Inspector: | Mr. P. G. Horridge |
| Council Determination: | Delegated |

Summary

The Inspector noted that the application was made in outline, with siting and means of access included for determination. At the site visit, however, the appellant indicated that he wished to construct the dwelling on a different siting which, in turn, may have implications for the position of the access. The Inspector decided, however, to determine the appeal in respect of the application as submitted in order that the position of the planning authority was not prejudiced.

At issue was the effect of the proposal on the character and appearance of the area and on the outlook from neighbouring properties.

The plot was formerly part of the rear gardens of Nos. 115 and 117 Port Road East and, although small, was considered to be comparable in size to those of neighbouring bungalows in Glynbridge Close. He therefore considered its development would accord with the principles of making best use of previously developed urban land.

He considered the proposed position of the dwelling on the site, however, close to the southern and eastern boundaries, would appear contrived and cramped, particularly as the private amenity space associated with it would be to the side rather than to the rear of the property, blurring the distinction between the private and the public realm that is otherwise reasonably well-defined in the immediate surroundings. Although much would depend on the detailed design, he also considered it would in all likelihood harm the outlook from the adjoining properties.

In these respects, he concluded that the proposal would be harmful to both the character and appearance of the area and the outlook from Nos. 1 and 2 Glynbridge Close and thereby contrary to relevant Unitary Development Plan policies, notably Policies HOUS8 and ENV27.

Comments

Although this appeal has been dismissed, the Inspector has been clear insofar as he considers an alternative siting for the dwelling would be likely to be acceptable as making beneficial use of previously-developed land.

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| L.P.A. Reference No: | 2006/01015/FUL |
| Appeal Method: | Written Representations |
| Appeal Reference No: | 06/1200454 |
| Appellant: | JCW Construction, |
| Location: | Little West, Southerndown |
| Proposal: | Conversion of existing building and construction of eight apartments - Appeal against condition 5, re: windows |
| Decision: | Appeal Dismissed |
| Date: | 19 March 2007 |
| Inspector: | Mr. P. G. Horridge |
| Council Determination: | Committee |

Summary

At issue was the effect that removing or varying the condition in question – which required the installed windows to be replaced with those identified on the approved drawings - would have on the character and appearance of the building and its wider surroundings which are designated as Heritage Coast.

The inspector noted that the permitted scheme was based on that previously allowed on appeal in 2005, and that both schemes show windows with a largely vertical emphasis and a general absence of transoms, other than a number of full-width transoms to a group of windows on the front elevation. The scheme, however, was being built with different windows, with a large number containing transoms occupying only part of the width of the window, and many of the window openings having different dimensions to those approved. In addition, the dormer detailing as built includes white PVC boarding which was not present on the approved scheme.

The Inspector considered that the general effect of these changes has been to dilute the quality of the overall scheme. Such quality, he opined, was an important factor in the earlier Inspector's decision to grant permission for the original scheme, with him having commented that *"the retention of some of the existing window features on the main coastal elevation would add character to the project reflecting and complementing vernacular style"*. The Council's photographs of the building prior to the works were noted to demonstrate that the vertical emphasis to the windows was also an important component of its character.

Without the condition in question – which seeks the restoration of the type of windows that were previously approved, as well as the dormer detailing – the Inspector considered the proposal would therefore have a detrimental effect on the character and appearance of the building and its wider surroundings. He considered this impact to be particularly true on the front and side elevations, which are more publicly visible from both the coast road and the coastal path. Specifically, he agreed that the window proportions as installed appear unbalanced and lacking in vertical emphasis, while the dormer detailing is fussy and, by jarring with the appearance of the plain front gables to either side, detracts from the pleasing simplicity of the front elevation.

Overall, he thus concluded that the condition is necessary having regard to the advice in Circular 35/95 as, without it, the development would not accord with to the provisions of relevant Unitary Development Plan policies, notably Policy ENV5, which seeks to conserve and enhance the special environmental qualities of the Heritage Coast, and Policy ENV27, which requires a high standard of design having full regard to the local context.

Comments

This is an excellent decision which fully vindicates the decision to impose such a condition requiring the replacement of the installed, poor quality windows, with those matching the more appropriate detailing of those as originally approved. The quality of the overall scheme will also undoubtedly improve, such that the condition in question will be monitored to ensure compliance.

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| L.P.A. Reference No: | 2006/00441/FUL |
| Appeal Method: | Written Representations |
| Appeal Reference No: | 06/1200443 |
| Appellant: | JCW (Construction) Limited, |
| Location: | Garage building at Little West, Southerndown |
| Proposal: | Alterations and extensions to provide three residential apartments and associated parking space |
| Decision: | Appeal Dismissed |
| Date: | 19 March 2007 |
| Inspector: | Mr. P. G. Horridge |
| Council Determination: | Committee |

Summary

The main issue concerned the effect of the proposal on the character and appearance of the area, having regard to the council's policies for the location of new residential development.

Although the works would ostensibly involve the conversion of the building, the Inspector noted that they would result in a significant increase in the size of the existing building. Although the resultant building would occupy virtually the same footprint as the existing, there would be an increase at first floor level above the present single storey conservatory (which would be demolished) and the entire building would be raised in height, with its walls built up to a higher eaves level and a pitched roof placed on top of that to accommodate an additional storey of accommodation. The application plans also show that parts of only two of the original walls would be retained.

Accordingly, the amount of reconstruction and additional building volume was such that he considered the works to be tantamount to the erection of a new building of significantly greater size than the existing, contrary to UDP Policies ENV1 and HOUS3, which restrict the erection of new dwellings in the countryside to those justified in the interest of agriculture and forestry, no such justification having been argued in this case.

Moreover, the Inspector stated that, even on the basis that the building works only involved alterations and extensions, the second floor flat would be entirely contained within the new build, resulting in the creation of a new dwelling in the countryside contrary to Policies ENV1 and HOUS3.

While accepting that the building in its present state does not make a positive contribution to the locality, which is designated as Heritage Coast, this did not justify the scale of works proposed. Given that the Heritage Coast designation particularly emphasises its undeveloped character, a significant increase in built development on this site would thus be contrary to the objective of protecting this character, with the works turning the subservient garage building into a much more dominant structure.

Comments

In light of the previous appeal decision for the original conversion of Little West, this decision (as well as that relating to the windows detailed above) are highly satisfying and should ensure that the Council is able to successfully resist any proposal for the building which would substantially increase its physical impact on the Heritage Coast.

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| 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 |
| Decision: | Appeal Dismissed |
| Date: | 15 March 2007 |
| Inspector: | Mr. Richard Poppleton |
| Council Determination: | Committee |

Summary

The main issue was the effect of the proposal upon the landscape and appearance of the area, with matters of highway impact and the principle of the development itself in relation to other retail activities not being in dispute.

The Inspector noted that Culverhouse Cross represents a major point of access to and from the City of Cardiff and the Vale of Glamorgan to the west, being characterised by a mostly corporate style of large retail outlets with extensive areas of car parking arranged around the intersections. Given this generally corporate style of the surrounding retail units, he considered there to be no definable local distinctiveness peculiar to this part Wales displayed by either the design of the buildings or in their layout. Therefore, the lack of any individuality in the proposal's design to reflect the particular qualities of this part of the Country did not count against it.

Of greater concern to the Inspector, however, was the building's effect upon the main approaches to Cardiff along the A48 which is described as a gateway in the *Landscape Working for the Vale* Study, and to the more rural Vale. Although he

acknowledged that the commercial complex as a whole has evolved through various planning permissions, rather than been designed as an integrated entity, the Valegate retail park component within which the appeal site lies, was noted to have been designed to take account of the change in the nature of the more urban development within the City and that immediately beyond within the Vale. In particular, he considered the retention of the hedge line alongside the A48 past the appeal site and the setting back of most of the buildings has avoided the dominance of those buildings when seen from the elevated sections of the road to the west.

In general, he considered the retail park to have a spacious feel with the trees and hedges softening the retail park to the extent that it represents a transition from the countryside into more densely urbanised parts of the retail complex. The appeal site was therefore materially different in its appearance to the parts of the commercial complex that includes the Burger King and Pizza Hut premises next to the B4050.

From the opposite direction, the Inspector also considered the dense foliage on the bank beyond McDonalds, coupled with the established frontage hedge, to serve as a transitional feature that leads the observer into a more rural landscape. In his view, these elements make an important contribution to the area's appearance, which although not subject to any statutory designation, should not normally be adversely affected by new development.

Although the frontage hedge could be enhanced through its management and augmented planting, the loss of the established hedges beyond the north eastern corner of the proposed building would reveal an elevated section of the proposed building that would be very prominent. Moreover, as the main road climbs more of the building would become evident. With additional planting along the boundary not screening the building from the elevated stretches of the road.

As a consequence, he concluded that the building would appear as a dominating structure immediately beyond the important hedge line and fundamentally alter the view from the elevated sections of the A48 and also when travelling westwards into the Vale. In respect of the former, this would serve to visually announce the presence of the Valegate Retail Park far sooner and draw-greater attention to it. The spaciousness created by the setting back of the main elevations of the large buildings around the car park would be significantly reduced and the transitional effect of passing from the urban area into the countryside and vice versa, would be severely eroded.

Accordingly, rather than complementing or enhancing the local character of buildings and open spaces, and minimising any detrimental impact upon adjacent areas as required by Policy ENV27, the resultant urban development form that characterises the City side of the overall complex would spread further into the Vale to the detriment of the increasingly rural landscape and appearance of the area.

Comments

This decision vindicates the decision to refuse consent for such a new A3 use, not in terms of traffic impact or retailing grounds, but in respect of the physical impact of the building itself on this part of Culverhouse Cross. In this respect, it also supports the earlier Tesco's appeal decision and provides strong grounds on which to defend any subsequent proposals which would unacceptably affect the transitional character of this important 'gateway' site.

L.P.A. Reference No: 2006/01184/FUL
 Appeal Method: Written Representations
 Appeal Reference No: 07/1200882
 Appellant: Mr. Gus Saunders,
Location: Field east of Parkside and south of A48 at Lower Greenway Farm, Bonvilston
 Proposal: Retention of hardcore agricultural track from existing field entrance off A48 to field which is leased for stock rearing to avoid mud on the road and improve safety
 Decision: Appeal Withdrawn
 Date: 16 March 2007
 Council Determination: Delegated

(d) Enforcement Appeal Decisions Received

None received during reporting period

(e) April 2006 – March 2007 Appeal Statistics

| | | Determined Appeals | | | Appeals withdrawn /Invalid |
|--|----|--------------------|-----------------|-----------|----------------------------|
| | | Dismissed * | Allowed | Total | |
| Planning Appeals (incl. tree appeals) | WR | 38 | 10 ¹ | 48 | 3 |
| | H | 10 | 4 | 14 | 2 |
| | PI | 2 | - | 2 | 2 |
| Planning Total | | 50 (78%) | 14 (22%) | 64 | |
| Enforcement Appeals | WR | 11 | 7 | 18 | 3 |
| | H | 1 | 1 | 2 | - |
| | PI | 1 | 2 | 3 | 1 |
| Enforcement Total | | 13 (57%) | 10 (43%) | 23 | |
| All Appeals | WR | 49 | 17 | 63 | 6 |
| | H | 11 | 5 | 12 | 2 |
| | PI | 3 | 2 | 5 | 3 |
| Combined Total | | 63 | 24 | 87 | 11 |

¹ Includes Split Decision on Oakways Farm

(g) List of Forthcoming Hearings and Public Inquiries

| Date | <u>Site and Proposal/ Breach</u> |
|--------------|---|
| 15 May 2007 | <u>HEARING - PLANNING APPEAL</u> Land at Higher End, St. Athan <i>Residential development</i> |
| 19 June 2007 | <u>HEARING - PLANNING APPEAL</u> Land adjacent to 7, Stacey Road, Dinas Powys <i>Erection of new dwelling</i> |
| 25 July 2007 | <u>HEARING - PLANNING APPEAL</u> Gwern y Gedrych Farm, Peterston Super Ely <i>Proposed extension</i> |

RECOMMENDATION

- (1) That the contents of the report be noted.
- (2) That in respect of the site at Elm Grove House, Dinas Powys, Planning Committee authorise the Director of Legal and Regulatory Services to progress action under Section 215 of the Town and Country Planning Act 1990 (as amended) and Sections 72-79 of the Building Act 1984 to ensure that improvement in the condition and visual appearance and integrity of the property, in accordance with a schedule of works to be attached to any legal Notice.

Reason for Recommendations

- (1) In order to ensure the building does not deteriorate further and to ensure compliance with Policies ENV20, ENV21 and ENV27 of the Unitary Development Plan.

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

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