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2020/01145/FUL	A	3, Dryden Road, Penarth	Single storey side and rear extension to increase habitable space of property. Associated works include demolition of existing rear lean-to, relocation of entrance door to front elevation and re-rendering of existing external walls
2020/01146/FUL	A	60, Churchfields, Barry	Change of use from grassed area to garden
2020/01147/FUL	A	Seawinds, 18, Fairfield Rise, Llantwit Major	Proposed single storey extension to side and rear and internal alterations
2020/01150/FUL	A	61, Harding Close, Boverton, Llantwit Major	Removal of existing conservatory - New single storey rear and side extension
2020/01158/LAW	A	Cardiff International Airport, Airport Access Road East, Rhoose	Temporary Change of Use to the existing Long Stay 1 Car Park for use as an Outdoor Drive in Cinema or Drive in Theatre for a max of 28 days per calendar year.
2020/01172/FUL	A	99, Cae Newydd, St. Nicholas	Construction of a single storey contemporary glazed orangery extension to the rear of a double storey single occupancy residential property
2020/01176/FUL	A	12, Dros Y Mor, Penarth	Two storey extensions to side, rear and front plus single storey to front

2020/01177/FUL	A	98, Churchfields, Barry	Extension of existing porch.
2020/01183/FUL	A	30, Kenson Close, Rhose	Single storey extension to side of existing domestic dwelling
2020/01196/FUL	A	17, Mountjoy Crescent, Penarth	Single storey side extension
2020/01200/FUL	A	19, Bromfield Place, Penarth	Proposed loft conversion
2020/01205/LAW	A	4, Plassey Square, Penarth	Loft conversion
2020/01247/FUL	A	5, Meliden Road, Penarth	Single storey rear extension
2020/01278/OBS	P	Land at Brynwell Farm, Leckwith	Solar Farm (circa 21 MW) along with associated works and infrastructures
2020/01307/OBS	B	Lidl Regional Distribution Centre, Waterton Industrial Estate CF31 3PH	Extension to warehouse and administration block; extend and reconfigure car park, service yard and associated works (amended plans and documents received)

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: **16 DECEMBER 2020**

REPORT OF THE HEAD OF REGENERATION AND PLANNING

4. APPEALS

(a) Planning Appeals Received

LPA Reference No: 2020/00585/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 20/3262886  
Appellant: Miss Rikki-Rae Nethercott  
**Location: 61, Jenner Road, Barry**  
Proposal: Removal of front wall, removal of grass and path in front garden, Tarmac to be added for a driveway by an approved contractor, drop kerb to be put in by approved contractor to allow for access to driveway.  
Start Date: 18 November 2020

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LPA Reference No: 2020/00520/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 20/3263041  
Appellant: Miss Vittoria Robatto  
**Location: 59, Jenner Road, Barry**  
Proposal: Removal of front dwarf wall, removal of grass surface. Approved contractor to provide pavement crossover to access highway and to gravel surface to parking area. Finished parking area will ensure that home owner vehicle can be turned to ensure that vehicle drives forward onto Jenner Road.  
Start Date: 19 November 2020

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LPA Reference No: 2020/00075/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 20/3261544  
Appellant: Mr Gavin Lucas  
**Location: 66, Pant Y Celyn Road, Llandough**  
Proposal: Construction of two-bedroom end of terrace dwelling. Reconfiguration of existing parking area.  
Start Date: 20 November 2020

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(b) Enforcement Appeals Received

None

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(c) Planning Appeal Decisions

LPA Reference No: 2016/01412/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 20/3256448  
Appellant: Mr. Frederick Ash  
**Location:** **Dragon Clay Sports, Wick Road, Ewenny**  
Proposal: Change use of land to extend clay shooting area and extend perimeter sound attenuation bunds  
Decision: Appeal Dismissed  
Date: 3 November 2020  
Inspector: Richard Jenkins  
Council Determination: Delegated

**Summary**

The main issues were considered to be the effect of the proposed development on the living conditions of the occupiers of nearby residential properties, having particular regard to noise impact and local biodiversity interests.

It was identified that the appeal related to an established shooting club and the proposal was to change the use of the agricultural land located to the west to create a 'Low Level Shooting Area' that would incorporate an Olympic sized 'skeet range' and separate 'training range'. The site would be reprofiled, with existing sound attenuation bunds extended and further bunds created around the skeet and training ranges.

**Noise Impact**

Planning permission was originally granted for a shooting range at the appeal site in 1981, with a further permission granted subject to conditions in 1987, although works to widen the existing noise attenuation bunds were never completed. The 1987 permission included a planning condition: '*3. Noise from the shooting activities within the site shall not exceed 35dBa inside nearby dwellings and a figure of 50dBa as measured outside the noise sensitive properties in the vicinity of the site*' which was considered to represent the lawful fallback position.

The Inspector considered that recent operations at the site had caused significant levels of noise disturbance, noting that the noise generated from existing operations had frequently exceeded 50dB(A). Following complaints from neighbouring residents in 2016, an enforcement investigation had revealed that the site was operating on an extended basis and the subsequent planning application submitted is the subject of this appeal. A significant number of objections submitted at the planning application stage and representations made in relation to the appeal were concerned about



noise impacts. The Inspector also noted that the Council had issued a noise abatement order at the site and considered that the noise generated by recent operations had been so significant that it had caused material harm to the living conditions of neighbouring residential properties.

The appellant's case relied on the contention that the mitigation measures proposed as part of the appeal scheme would address the noise associated with both the existing and the proposed activity at the site, which included extending and increasing the height of the existing bunds, reprofiling the land and relocating the shooting positions.

The Inspector identified that the Chartered Institute of Environmental Health (CIEH) Guidance on the control of noise associated with clay target shooting was relevant, which states that there was no fixed shooting noise level at which annoyance starts to occur, but that it is less likely to occur when the mean shooting noise level (SNL) is below 55dB(A) and highly likely to occur when the SNL is over 65dB(A). The guidance also states that shooting should not normally take place within a separation distance of less than 1km in the direction of the shooting, except under very exceptional circumstances.

The appeal proposal was supported by a Noise Assessment prepared by independent acoustic specialists which included the predicted SNL at a number of properties and suggested that the noise generated from the existing range would be reduced. The Inspector considered however, that given that the figures for the 'existing layout' appeared to be in breach of the terms of the 1987 permission, direct comparisons were 'somewhat disingenuous' and that the SNLs from the main shooting range under the 'proposed layout' would be higher at two of the properties than those permitted under the 1987 permission.

The appellant's evidence also indicated that the development proposed would enable club membership to increase by up to 100% and the Inspector considered that this would have significant implications for both the overall frequency and duration of firing. Whilst there was potential for restrictions to be imposed through planning conditions, it was considered that the proposed scheme was in clear conflict with the CIEH Guidance, as the different shooting ranges could potentially operate for up to 8.5 hours on weekdays and nearly 4 hours on Saturdays, whereas the guidance recommended limiting the use to 4 hours on Mondays to Fridays and 3 hours on Saturdays.

It was noted that the CIEH Guidance stated that shooting should not normally take place within a separation distance of less than 1km in the direction of shooting, except under very exceptional circumstances. The appellant's evidence stated that the general direction of firing was in a westerly direction and one property was located in a north-westerly direction within 1km of the appeal site and was grouped with other residential properties that were closer to the appeal site. There were also a number of other properties at Kingswood Close that would be closer to the appeal site, particularly when measured from the proposed skeet and training ranges and representations had been received from occupiers of properties in that location.

The Inspector therefore considered that whilst the proposed noise levels would be below the 55dB(A) referred in the CIEH Guidance, the appellant's

case was over reliant on a simplistic assessment in considering likely noise impacts. The development would also clearly intensify the frequency and duration of the firing, which he considered was concerning, given the evidence of noise disturbance. Whilst there was potential for the existing noise levels to be mitigated through the proposed arrangements, the Inspector did not consider that such factors outweighed the identified harm. He therefore concluded that the proposed development would seriously undermine the living conditions of the occupiers of neighbouring residential properties by reason of noise impact and would conflict with the general aims of the LDP, PPW, TAN11 and the CIEH Guidance.

### ***Biodiversity***

The Inspector identified that the western boundary of the appeal site, adjacent to the area proposed to accommodate the skeet and training range, adjoined an area of woodland that forms part of a Site of Importance for Nature Conservation (SINC). The calcareous grassland at the proposed 'Low Level Shooting Area' was also a Section 6 Priority Habitat and it was contended that it had potential to provide habitat for dormice. The Council had confirmed that although the site itself was not designated as a SINC, it met the requirements to qualify as such. The site also provided habitat for High Brown Fritillary, slowworm and the common toad, which are Priority Species and therefore represented a significant consideration.

The Inspector considered that the arguments advanced in support of the appeal contended that the site could be cleared and mitigated without compromising the site's ecological value and that the proposed noise bunds would increase the overall area available for planting, with the net loss of habitat being acceptable. The Inspector was not satisfied however that any attempt at replacing the habitat would be successful, or commensurate with the quality of the existing site and considered that the creation of significant bunds would create a different environment to that currently found on site. He agreed with the Council, that the proposed planting could potentially compromise the mitigation measures proposed to support the High Brown Fritillary and those in respect of the slowworm and common toad also lacked detail.

It was therefore considered by the Inspector that it had not been satisfactorily demonstrated that a scheme of mitigation and compensation could be successfully implemented without a detrimental effect upon the identified Priority Habitat and the Priority Species and the development would therefore have an adverse impact upon local biodiversity interests. The development was therefore considered to conflict with Policy MG21 of the LDP, the Council's SPG 'Biodiversity and Development' (2018), as well as national policy set out in PPW and TAN 5 Planning and Nature Conservation (2009), which was consistent with the Environment (Wales) Act 2016.

### ***Overall Conclusions***

The Inspector's overall conclusion was that the proposed development would cause material harm to the living conditions of the occupiers of neighbouring residential properties, by reason of noise impact and be detrimental to

biodiversity interests. It was considered that such concerns were not outweighed by matters in favour of the development, including local tourism and the wider economy and it was therefore concluded that the appeal should be dismissed.

### ***Enforcement Update***

Following the receipt of this appeal decision, a site meeting was undertaken with the appellant's planning agent on 10<sup>th</sup> November 2020. It was confirmed that the use of the field to the west which was being used without permission had ceased and will revert back to an agricultural field and it is anticipated that this will significantly help with any ongoing noise issues. Documents submitted as part of the appeal application showed that noise levels from the authorised part of the site occasionally exceed the levels set by condition under the 1987 permission (i.e. 50dBa). In order to resolve this ongoing breach of condition, the appellant proposes to increase the existing bunds around the authorised part of the site, which will need to be considered under a new planning application. If the appellant does not submit an application for the revised works to the bunds, or the application is considered unacceptable, then it is proposed to serve a Breach of Condition Notice to require compliance with the noise level condition attached to the 1987 permission.

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LPA Reference No:	2020/00584/FUL
Appeal Method:	Written Representations
Appeal Reference No:	D/20/3260491
Appellant:	Mr. and Mrs. K. Armitage
<b>Location:</b>	<b>15, Glastonbury Road, Sully</b>
Proposal:	Two storey side extension and single storey rear extension
Decision:	Appeal Dismissed
Date:	23 November 2020
Inspector:	Vicki Hirst
Council Determination:	Delegated

### **Summary**

The main issue was considered to be the effect of the development on the living conditions of nearby occupants.

The appeal site was located within a residential area comprising predominantly two storey detached dwellings and the proposal would provide a new two storey side extension and rear extension and include gabled elements, with the rear extension providing extensive glazing facing into the garden.

The Inspector noted that the Council had raised no objection to the proposal in principle and agreed that it would be in keeping with the general design and scale of properties within the vicinity and not be harmful to the character and appearance of the area. Furthermore, the rear extension would not cause harm to the living conditions of nearby occupants.

It was identified that the Council's main concern related to the impact of the side extension on the living conditions of the occupants of No. 13 Glastonbury Road, which the Inspector viewed during her site visit. That property was situated at right angles to the appeal site with its rear elevation facing the side elevation of the appeal dwelling. The Inspector noted that the rear of No. 13 contained a number of windows which served habitable rooms and that the rear garden of the property was its primary private amenity space.

Whilst the proposed side extension would not contain any first-floor windows and would not cause any direct overlooking to No. 13, the Inspector considered that the two-storey extension would be of a considerable scale and height and would follow the majority of the length of No. 13's private garden, thereby resulting in an imposing and overbearing structure which would be harmful to the occupants' living conditions.

In addition, the Inspector noted that the extension would be orientated to the south east of No. 13 and given the considerable size of the extension, it would result in the loss of daylight and sunlight into both the rear habitable rooms and garden for much of the day. She considered however that the offset orientation of No.11 to the appeal site and the distance from the proposed extension would not result in any harmful effects to the living conditions of the occupants of that property.

It was therefore concluded that the proposal would be harmful to the living conditions of the occupants of No. 13 as a result of the overbearing and overshadowing effects of the proposed side extension. The proposal would therefore not accord with policy MD2 of the LDP or the 'Residential and Householder Development' SPG in that it would not safeguard residential amenity and the appeal was dismissed.

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LPA Reference No:	2019/01255/OUT
Appeal Method:	Written Representations
Appeal Reference No:	20/3258949
Appellant:	Mr. Paul Walsh
<b>Location:</b>	<b>Meter Instruments Ltd., Fort Road, Lavernock</b>
Proposal:	Construction of one dwelling house
Decision:	Appeal Dismissed
Date:	2 December 2020
Inspector:	Richard Duggan
Council Determination:	Delegated

## **Summary**

The main issues were considered to be whether the location of the proposed development was appropriate having regard to planning policies which aim to protect the countryside and promote sustainability, the effect of the proposal on the character and appearance of the surrounding area and whether it would conflict with policy requirements relating to the protection of employment land.

## ***Sustainability***

The Inspector identified that the appeal site is located within the open countryside as identified in the adopted LDP, where new development and changes of use of buildings to residential use are strictly controlled in the interests of sustainable development. Policy guidance within Planning Policy Wales (PPW) and the LDP restricts new building outside settlement limits unless it is justified as an exception and most new development should be located in settlements, which have relatively good accessibility by non-car modes.

The Inspector identified the nearest main settlement as Cosmeston / Lower Penarth, approximately 0.5 kilometres away which is connected via a narrow single lane highway, which then joins the B4267 Lavernock Road linking Penarth and Sully. Whilst public transport connections and the services and facilities that prospective residents are likely to access on a frequent basis were provided, the distance separating the appeal site from the settlement, combined with the narrow road and absence of pedestrian footways, would mean that walking would not be a viable option for most prospective residents. The narrowness of the lane and the limited amount of light during winter months would limit the option of cycling for most people.

Having regard to regard to the isolated location of the site in terms of its remoteness from public services and facilities such as shops, schools, leisure and health facilities and given the distance between the site and the nearest settlement, the Inspector considered it was highly likely that the occupiers of the proposed dwelling would be heavily dependent on the private car for most services and facilities. As such, the proposal was considered to conflict with Policies SP1 and MD1 of the LDP.

## ***Character and Appearance***

The Inspector noted that the appeal site was a commercial site consisting of a relatively large and tall stone building with outbuildings to the rear and it was proposed to demolish the existing structures and replace them with a detached dwelling. As the planning application was submitted in outline, the detailed scale, design and appearance of the dwelling had not been provided with this appeal however, the appellant had put forward the scale parameters for the dwelling which showed that it would utilise the same footprint as the existing buildings on the site.

Whilst the Inspector considered that these scale parameters proposed a large dwelling, he noted that these were maximum dimensions and that the Council would have some control over the scale and design of the dwelling at the reserved matters planning stage, which could result in a potentially smaller dwelling on the site. As such, he did not consider that a dwelling on the same site would have a detrimental impact on the character and appearance of the area and the proposal would therefore not conflict with policies SP1, MD1 and MD2 of the LDP.

## ***Employment Land***

The existing building was identified as being vacant, however its current use was commercial in nature with an element of B1 office and therefore, the proposed development would result in the loss of an existing employment site. Policy MD16 of the LDP requires it to be demonstrated that premises are no longer suitable or viable for employment purposes and this strategy is supported by national planning policy in PPW and TAN 23 - Economic Development.

In terms of the suitability and viability of the appeal site for its continued current employment use, the appellant had not provided substantive evidence of any marketing material for the sale of the site, or provided any reports relating to the overall attractiveness and suitability of the appeal premises for continued employment use, the prospects of the site being re-occupied, or to explain why the company was unviable in this location. The Inspector noted that the submitted nine years unaudited accounts show a diminishing return and acknowledged the appellant's concerns regarding the negative impact that marketing the site would have on the business and the lack of broadband available. He considered however, based on the evidence provided, that it was not possible to substantiate a robust conclusion that every reasonable attempt has been made to secure a suitable employment use on the site and that the proposal had not demonstrated that the site was no longer required. The proposal would therefore be harmful by reducing the supply of employment floorspace in the area, which in turn could have adverse implications for the local economy and therefore conflicted with Policy MD16 of the LDP, PPW and TAN23.

## ***Other matters***

The Inspector identified that the fourth reason for refusing the application related to the appellant's failure to submit a Planning Obligation under Section 106 of the Act to provide a contribution towards affordable housing at the time the application was determined.

It was noted that alongside his appeal, the appellant had submitted a Section 106 Agreement to comply with this requirement and the Council had confirmed that this would be acceptable. However, on balance, the appellant's willingness to put forward a financial contribution towards affordable housing was not considered by the Inspector to overcome the harm identified in the other reasons for refusal.

## ***Conclusions***

The Inspector therefore concluded that whilst the scheme was acceptable in relation to the second main issue, the harm that he had identified in terms of the first and third main issues was unacceptable and he therefore dismissed the appeal.

(d) Enforcement Appeal Decisions

None

(e) April 2020 – March 2021 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed	Allowed	Total	
<b>Planning Appeals</b> (to measure performance)	<b>W</b>	13	2	15	-
	<b>H</b>	-	-	-	-
	<b>PI</b>	-	-	-	-
<b>Planning Total</b>		13 87 (%)	2	15	-
<b>Committee Determination</b>		-	-	-	-
<b>Other Planning appeals (inc. appeal against a condition)</b>		-	-	-	-
<b>Enforcement Appeals</b>	<b>W</b>	1	-	1	-
	<b>H</b>	-	-	-	-
	<b>PI</b>	-	-	-	-
<b>Enforcement Total</b>		1 (100%)	-	1	-
<b>All Appeals</b>	<b>W</b>	14	2	16	-
	<b>H</b>	-	-	-	-
	<b>PI</b>	-	-	-	-
<b>Combined Total</b>		14 88 (%)	2	16	-

Background Papers

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

Contact Officer:

Sarah Feist - Tel: 01446 704690

Officers Consulted:

HEAD OF REGENERATION AND PLANNING

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **16 DECEMBER, 2020**

REPORT OF THE HEAD OF REGENERATION AND PLANNING

5. TREES

(a) Delegated Powers

If Members have any queries on the details of these applications please contact the Department.

**Decision Codes**

A - Approved  
E Split Decision

R - Refused

2020/01052/TPO	R	19, Clos Celyn, Barry	Works to Tree covered by TPO No. 01 of 2006: Removal of Oak tree in rear garden
2020/01096/TCA	A	Greenfield, East Street, Llantwit Major	Works to Trees in Llantwit Major Conservation Area: 1) Ash - takedown 2) Ash - pollard
2020/01100/TPO	A	34, Cae Gwyn, Penarth	Work to trees covered by TPO No.10 of 2003: Cut back two Oak trees away from property
2020/01112/TCA	A	Glasfryn, 11, Lower Cwrt y Vil Road, Penarth	Works to Trees in Penarth Conservation Area: T1, 2, 3 and 4 - Cypruss; T5 Mixed group of small trees including Birch, Parrotia, Yew; T6 Purple Plum
2020/01113/TPO	A	Homeside House, Bradford Place, Penarth	Works to Trees in Conservation Area-All works as attached survey by James Pinder of Treecare Consulting



2020/01135/TPO	A	Y Fron Oleu, Michaelston Le Pit	Work to tree covered by TPO - No. 03, 1972: Fell Ash tree with dieback disease
2020/01162/TCA	A	Sycamore Cottage, Llanbethery	Works to Trees in Llanbethery Conservation Area: Removal to ground level of one mature Sycamore tree (T1) and reduction of one heavily suppressed Copper Beech tree (T2)
2020/01163/TPO	A	The Croft, Wesley Street, Llantwit Major	Work to trees covered by TPO - No. 03, 1977: Re-pollarding of four mature Lime trees (T1-T4)
2020/01165/TPO	A	East Vale Estate (East Camp) , St. Athan	Work to trees covered by TPO No. 12 2003: All works as set out by arboricultural report/survey
2020/01213/TPO	A	Greenfield, East Street, Llantwit Major	Works to Tree covered by TPO No. 3, 1977 - Re-pollarding Ash tree.
2020/01239/TPO	A	Old School House, St. Nicholas	General Maintenance Works to Trees in a Conservation Area including Crown Raise of a Sugar Maple owned by the Council
2020/01259/TCA	A	1, Ffordd Yr Eglwys Peterston Super Ely	Works to Tree in Conservation Area- Removal of the tree as it has Ash die-back disease. Ash tree in the front garden of the property overhanging the road
2020/01264/TCA	A	28, Cwrt Y Vil Road, Penarth	Work to Trees in Conservation Area-T1 - Ash tree - Pollard @ approximately 4.5 metres above ground level

2020/01281/TCA	A	3, Marine Parade, Penarth	Works to Trees in Conservation Area- To reduce the height of canopy by one third to Walnut tree located in front garden
2020/01318/TCA	A	The Buffers, Cardiff Road, Cowbridge	Works to Trees in Conservation Area-T1- Sycamore - Removal of stem closest to property and light reduction of end weighted limbs on remaining stems to balance away from property; G1- Ash - Removal of ash trees affected by ash die back
2020/01332/TCA	A	Langlands, 1 Kymin Road, Penarth	Work to trees in a Conservation Area: Eucalyptus Tree - Tree to be felled and removed