

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 12TH JULY, 2006

REPORT OF THE DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

4. APPEALS

(a) Planning Appeals Received

L.P.A. Reference No: 2006/00286/FUL
Appeal Method: Written Representations
Appeal Reference No: 06/1198978
Appellant: Mr. and Mrs. A. R. T. Davies
Location: **Foxwood House, St. Hilary**
Proposal: Demolish existing conservatory and build extension to existing house
Start Date: 5th June, 2006

L.P.A. Reference No: 2006/00376/FUL
Appeal Method: Hearing
Appeal Reference No: 06/1199029
Appellant: Fitz Project Management
Location: **Brooklands, Brook Lane, St. Nicholas**
Proposal: East wing extensions to dining room and bedroom
Start Date: 6th June, 2006

L.P.A. Reference No: 2005/01817/FUL
Appeal Method: Hearing
Appeal Reference No: 06/1199067
Appellant: Ms. S. M. Bassett
Location: **Liege Manor Equestrian Centre, Bonvilston**
Proposal: Extension to dwelling
Start Date: 9th June, 2006

L.P.A. Reference No: 2005/01236/OUT
Appeal Method: Hearing
Appeal Reference No: 05/1195276
Appellant: Hamlett Enterprise
Location: **Land adjoining the former Golden Hind Public House, St. Mary's Well Bay, Swanbridge**
Proposal: Change of use from former public house car park to become part of caravan site - retention of four concrete bases, access roadway, lighting stanchions and gabion wall
Start Date: 14th June, 2006

L.P.A. Reference No: 2006/00092/FUL
Appeal Method: Hearing
Appeal Reference No: 06/1198904
Appellant: Hamlett Enterprises Limited
Location: **Land adjoining the former Golden Hind Public House and Bay Caravan Park, Lavernock**
Proposal: Change of use involving formal incorporation of land into Bay Caravan Park and provision of site access road and concrete bases
Start Date: 14th June, 2006

L.P.A. Reference No: 2005/01031/FUL
Appeal Method: Written Representations
Appeal Reference No: 06/1199120
Appellant: Mr. S. J. Black
Location: **Former Bird Farm, Port Road, Nurston, Rhoose**
Proposal: Change of use from joinery workshop to a holiday cottage
Start Date: 15th June, 2006

L.P.A. Reference No: 2005/01679/FUL
Appeal Method: Written Representations
Appeal Reference No: 06/1199118
Appellant: Capus
Location: **8/9, Glebe Street, Penarth**
Proposal: Three storey rear extension to provide 3 No. additional flats.
Start Date: 19th June, 2006

(b) Enforcement Appeals Received

None received during reporting period

(c) Planning Appeal Decisions

L.P.A. Reference No: 2005/01012/OUT
Appeal Method: Written Representations
Appeal Reference No: 06/1198338
Appellant: John Andrew Lamb & Owen Jones,
Location: **Land adjacent to 32, Robert Street, Barry**
Proposal: New House
Decision: Appeal Dismissed
Date: 2nd June, 2006
Inspector: Mr. T. J. Morgan
Council Determination: Delegated

Summary

The need to locate the dwelling in its suggested position, and build it up to the boundaries, was seen to arise from the constraints of this relatively small site, such that the Inspector considered it would appear "crammed in" on the site. The difficulties in providing an accessible parking space while retaining sufficient outdoor amenity space was considered to further illustrate the unsuitability of the site for residential development.

A dwelling in this location in an area characterised by conventional terraced residential and commercial development was therefore considered to be at odds with its setting and conflict with the aims of Policies HOUS8 and ENV27 of the now Vale of Glamorgan Adopted Unitary Development

Although accepting that, with an existing building on the site, a dwelling that does not exceed its proportions would have no more impact in terms of outlook and overshadowing than what is there at present and, if smaller, could lessen those impacts, nevertheless he considered that the physical constraints of the small site and the need to protect privacy and avoid overlooking fetter the ability to produce a good design.

In terms of parking, the Inspector considered the proposed layout would be impractical to use, although the revised layout showed that parking manoeuvres off the lane could be enabled. The provision of gated access and the narrowness of the rear lane along with the accumulation of obstacles in the lane, however, were seen to restrict the vehicle movements beyond the appeal site. The restriction of access to key holders also posed practical difficulties for access to a residential property by visitors and services that he considered further underlined the unsuitability of the site for a residential use.

Matters relating to the beneficial use of previously developed land, and the removal of the environmental impacts of previous and potential future use of the site in its present condition, did not outweigh the fundamental planning objections he identified.

Comments

Given the constraints of the site, including its size, relationship with neighbouring properties, and the narrow, gated access lane serving the site, this is a good decision which will provide support for the Council in seeking to resist other such insensitive new development in established residential areas.

L.P.A. Reference No:	2005/01038/FUL
Appeal Method:	Informal Hearing
Appeal Reference No:	06/1197940
Appellant:	Mrs. S. Edwards
Location:	The Rise, Slaughter Lane, Llysworney
Proposal:	Removal of Condition No. 4 on approval CORD 85/63s 18947
Decision:	Appeal Withdrawn
Date:	9 th June, 2006

Comments

The above appeal has been withdrawn following the recent approval of the removal of the existing agricultural occupancy condition on the property.

For information, the condition was removed following the examination of relevant case law which indicated that, since the dwelling was now located within the settlement boundary, it would be difficult to resist the removal of the condition.

L.P.A. Reference No: 2005/01561/FUL
Appeal Method: Written Representations
Appeal Reference No: 06/1198407
Appellant: Mr. and Mrs. Bennet,
Location: 9, Merthyr Dyfan Road, Barry
Proposal: Loft conversion
Decision: Appeal Dismissed
Date: 13th June 2006
Inspector: Mr. T. J. Morgan
Council Determination: Delegated

Summary

The Inspector noted that the proposed dormer would rise from the eaves level of the existing bungalow to a point close to the ridgeline of the roof and take up a significant section of the rear roof plane. As a result, he considered it would be a dominant rather than a subservient feature and, with the proposed flat roof, would appear an incongruous and out of scale addition to the bungalow.

He also noted that, apart from a small flat roofed side dormer on a nearby building, the properties in the row that contains the bungalow did not exhibit flat roof dormers, such that the proposal would be out of character with its setting. Although properties on the other side of the road had front and rear flat roofed dormers, he considered that these only served to illustrate the incongruity of such features.

Accordingly, the proposal was concluded to clearly conflict with Policy ENV27 which seeks to ensure that proposals for new development are of a high standard of design and have full regard to the context of the local built environment. Furthermore, he considered that "the Council's judgement that it is a poor design which Technical Advice Note (Wales) 12 - Design encourages Council's to refuse is substantiated".

Comments

This is a highly encouraging decision, which offers firm support for the Council in its attempts to secure a high quality of design in new residential development, and in resisting such insensitive new additions to existing residential areas.

(d) Enforcement Appeal Decisions Received

L.P.A. Reference No: ENF/2000/0529/E
Appeal Method: Written Representations
Appeal Reference No: C/06/1197755
Appellant: Mr. Dewi Jones,
Location: 1, The Courtyard, Michaelston-Le-Pit
Proposal: Without the benefit of planning permission, making a material change of the use of the land from use as agriculture to use as a residential garden extension to the approved curtilage of No. 1, The Courtyard, Michaelston Le Pit
Decision: ENF appeal DISMISSED
Date: 7th June, 2006
Inspector: Mr. T. J. Morgan

L.P.A. Reference No: ENF/2001/0417/E
Appeal Method: Written Representations
Appeal Reference No: C/06/1197753
Appellant: Merryn Leigh Ham
Location: **2, The Courtyard, Michaelston Le Pit**
Proposal: Without the benefit of planning permission, making a material change of the use of the land from use as agriculture to use as a residential garden extension to the approved curtilage of No. 2, The Courtyard, Michaelston Le Pit

Decision: ENF appeal DISMISSED
Date: 7th June, 2006
Inspector: Mr. T. J. Morgan

L.P.A. Reference No: ENF/2001/0416/E
Appeal Method: Written Representations
Appeal Reference No: C/06/1197754
Appellant: Mr. Anthony John Rosser
Location: **3, The Courtyard, Michaelston Le Pit**
Proposal: Without the benefit of planning permission, making a material change of the use of the land from use as agriculture to use as a residential garden extension to the approved curtilage of No. 3, The Courtyard, Michaelston Le Pit

Decision: ENF appeal DISMISSED
Date: 7th June, 2006
Inspector: Mr. T. J. Morgan

L.P.A. Reference No: ENF/2001/0418/E
Appeal Method: Written Representations
Appeal Reference No: C/06/1197752
Appellant: Mr. Carl Norman
Location: **4, The Courtyard, Michaelston Le Pit**
Proposal: Without the benefit of planning permission, making a material change of the use of the land from use as agriculture to use as a residential garden extension to the approved curtilage of No. 4, The Courtyard, Michaelston Le Pit

Decision: ENF appeal DISMISSED
Date: 7th June, 2006
Inspector: Mr. T. J. Morgan

L.P.A. Reference No: ENF/2001/0419/E
Appeal Method: Written Representations
Appeal Reference No: C/06/1197751
Appellant: Michael J. & Lisa G. Donnelly,
Location: **Home Farm, Michaelston le Pit**
Proposal: Without the benefit of planning permission, making a material change of the use of the land from use as agriculture to use as a residential garden extension to the approved curtilage of Home Farm, Michaelston Le Pit

Decision: ENF appeal DISMISSED
Date: 7th June, 2006
Inspector: Mr. T. J. Morgan

Summary

The inspector noted that the appellants (for all five properties) did not contest the first requirement of the Notice, but considered the requirement to remove the pool (at No. 1) and erect a new fence (at all properties) is excessive as they understood agreement had been reached that the retention of the pool was acceptable, and the line and design of the present fence had been agreed orally and in writing with the Council.

The Inspector stated that, whilst understanding the appellant's stance, given the apparent resolution of this aspect of the breach, it was clear from recent legal decisions, that a planning authority cannot fetter its discretion to take enforcement proceedings by earlier representations. The Council was thus entitled to seek the requirements it has in relation to the pool and the fence, notwithstanding that a Council Officer may have agreed to different or lesser requirements to remedy the breach and the appellant has acted on that agreement.

The appeals under ground (f) concerned whether the steps required by the Notice exceed what is necessary to remedy the breach or remedy any injury to amenity which has been caused by any such breach. In this case the injury to amenity was noted to be the harm in visual and character terms that has been caused by the use of land outside the permitted curtilage of the property as a residential garden extension.

Looking first at the pool / pond at No. 1, the Inspector found that it had a mounded edge with part of the lining visible and that it appeared to him, as a matter of fact and degree, to exhibit a domestic appearance akin to a garden feature rather than a natural pond in an appropriate rural setting. He therefore considered its removal to be an essential component in remedying the visual harm that the breach of planning control has caused.

With respect to the matter of the required curtilage enclosure, the Inspector stated that in order to fully and acceptably remedy the injury to amenity and breach of planning control, it is necessary for there to be a distinct separation between the curtilage of the house and the land that lies outside it. In this respect, he considered that the fence that has been constructed is low in height and thereby lacking in substance for such a boundary demarcation, being more akin to a domestic garden feature separating one part of the garden from another.

In contrast, a 1 metre high fence as required by the notice would be of a size and consequent substance that would create a clear and permanent separation between the domestic garden area and that land in the same ownership that should form part of the pastoral setting to the hamlet.

While appreciating that the land is, and will remain in the ownership of the occupiers of the houses, it is unlikely that it will be used for agriculture or for the keeping of livestock. However, he concluded that the remedying of the visual harm is not dependent on a return to agricultural use or the presence of livestock, but a reversal of the unauthorised change to a domestic curtilage and the effect on the character and appearance of the land and the setting of the village that was thereby caused. In these circumstances, he was convinced that the steps required by the notice are not excessive such that the appeal could not succeed.

Comments

It is hoped that these five related decisions, which follow earlier appeals relating to the change of use of the land in question to gardens, will now finally resolve these breaches of planning control, and will thus ensure that the outstanding character and appearance of this sensitive edge to the hamlet of Michaelston-le-Pit is protected in perpetuity.

L.P.A. Reference No: ENF/2004/0621/E
Appeal Method: Informal Hearing
Appeal Reference No: C/05/1195521
Appellant: Mr. Alun J Richards,
Location: O.S. 6013, near Molchenydd Farm, Treoes
Proposal: The construction without the benefit of planning permission of a barn and polythene growing tunnels
Decision: ENF appeal ALLOWED
Date: 8th June, 2006
Inspector: Mr. A. H. Vaughan

Summary

The appeal was made in the first instance under grounds (a), (c), (f) and (g). Ground (c) was withdrawn at an early stage of the appeal procedure and before the opening of the hearing. At the hearing following agreements and discussions between the parties the appeals under grounds (a) and (f) were withdrawn. Concomitantly, the deemed planning application that travels with ground (a) was not argued or pursued. Matters at the hearing thus continued under ground (g) alone.

The Inspector stated that it was agreed between the parties that the building and poly-tunnels are used for activities that align with planning policy as appropriate activities for an agricultural and horticultural use of the land.

In terms of the period for compliance, the Inspector considered that the notice gave insufficient time, in terms of seasonal and annual turnover and production, to allow a demonstration that the building and the poly-tunnels are both essential and necessary for the agricultural and horticultural activities that are carried out within the unit. There is no dispute between the parties that UDP policy requires such a test to be satisfied.

In this respect, there was agreement between the parties that a 24 month period would be appropriate to properly assess these requirements of policy and for the appellant to submit a planning application to regularise the presence of the building and poly-tunnels. This was considered to be a pragmatic approach by the parties, and that in land use planning terms a period of 24 months is appropriate in this instance in view of the current activities on the land.

Comments

This agreed extension to the compliance period for the Notice followed extensive discussion at the hearing between the parties, and involving the Council's agricultural consultant, and were concluded to be a pragmatic solution to allowing the appellant to demonstrate, at the end of the stated period, that the buildings in question are both essential and necessary for the agricultural and horticultural activities that are carried out within the unit.

(e) April 2006 – March 2007 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed *	Allowed	Total	
Planning Appeals (incl. tree appeals)	WR	12	1	13	1
	H	-	-	-	1
	PI	-	-	-	1
Planning Total		12 (92%)	1 (8%)	13	
Enforcement Appeals *	WR	6	-	6	2
	H	-	1	1	
	PI	-	-	-	
Enforcement Total		6 (86%)	1 (14%)	7	
All Appeals	WR	18	1	19	
	H	-	1	1	
	PI	-	-	-	
Combined Total		18 (90%)	2 (10%)	20	5

(g) List of Forthcoming Hearings and Public InquiriesDATESite and Proposal/ Breach11th JULY, 2006**HEARING - PLANNING APPEAL**

248, Holton Road, Barry

Change of use of vacant offices to 3 no. 1 bedroom flats and ground floor office to provide temporary accommodation for persons with previous substance misuse problems and/or an offending background.

25th JULY, 2006**PUBLIC LOCAL INQUIRY - ENFORCEMENT APPEAL**

Land to rear of The Manse, Llanbethery

Without the benefit of planning permission, changing the use of the land from open countryside to a residential garden extension.

25th JULY, 2006**PUBLIC LOCAL INQUIRY - ENFORCEMENT APPEAL**

Land to the rear of The Manse, Llanbethery

Constructing, without the benefit of planning permission, a stone outbuilding outside of the residential curtilage of The Manse.

1th AUGUST, 2006**PUBLIC LOCAL INQUIRY - PLANNING APPEAL**

The Greendown Inn, St. Georges Super Ely

Conversion and alteration of existing buildings to create five dwellings.

- 12th SEPTEMBER, 2006** **PUBLIC LOCAL INQUIRY - ENFORCEMENT APPEAL**
The Garlands, formerly The Talbot Liveries, Walterston, Llancarfan
Material change of use to a mixed use including siting of a caravan and its use for residential purposes.
- 15th AUGUST, 2006** **PUBLIC LOCAL INQUIRY - ENFORCEMENT APPEAL**
Gwern y Gedrych, Peterston super Ely
Unauthorised extensions to dwelling.
- 26th SEPTEMBER, 2006** **HEARING - PLANNING APPEAL**
(provisional date) Brooklands, Brook Lane, St. Nicholas
East wing extensions to dining room and bedroom.
- 10th OCTOBER, 2006** **PUBLIC LOCAL INQUIRY - PLANNING APPEAL**
(provisional date) Sealawns Hotel, Ogmere By Sea
Demolition of existing buildings on site and construction of 24 flats, parking on existing car park and disabled parking at high level together with hard & soft landscaping.

Background Papers

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

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Officers Consulted:

Head of Planning and Transportation

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