



VALE OF GLAMORGAN COUNCIL

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended)**

Section 78 Appeal

WRITTEN STATEMENT

**Appeal by Mr H Davies
1 Dyffryn Place, Barry**

**TOWN AND COUNTRY PLANNING (REFERRED APPLICATIONS AND APPEALS PROCEDURE) (WALES)
REGULATIONS 2017**

PLANNING INSPECTORATE REF. NO: APP/Z6950/A/20/3252/488

VALE OF GLAMORGAN REF. NO: 2020/00002/FUL/1/CD (MATERIALS)

**Thomas Feakins
Student Planner - Appeals and Enforcement**

**Vale of Glamorgan Council,
Dock Office,
Barry.
CF63 4RT**

1. INTRODUCTION

- 1.1 This appeal relates to the decision of the Vale of Glamorgan Council to refuse a discharge of condition application for condition 3. of planning permission 2020/00002/FUL. The original application was made for the demolition of an existing single garage and construction of a three-bay garage building in the rear garden at 1 Dyffryn Place, Barry.
- 1.2 The application was registered on 17th March 2020 and was subsequently REFUSED on 9th April 2020 for the following reason:
1. The materials proposed would give the garage an appreciably industrial/commercial appearance which, given its significant size, is considered inappropriate and visually harmful in this residential context. By reason of these materials the building would, in the view of the Local Planning Authority, fail to appear an appropriately designed domestic outbuilding. This would be contrary to local and national policies, specifically policies SP1, MD2 & MD5 of the Local Development Plan, TAN 12 (Design) and advice within Planning Policy Wales (Edition 10).

2. THE SITE AND ITS SURROUNDINGS

- 2.1 The appeal site is located within the Barry settlement boundary, more specifically the site lies within the Dyfan residential area. A description of the appeal site and its surroundings is provided in the officer report for the original permission, reference 2020/00002/FUL, which has been provided on pages 12 to 19 of the Local Planning Authority (LPA) questionnaire, in response to question 22e.
- 2.2 The location of the appeal site, highlighting its relationship with the immediate surroundings, is identified on the location plan which has been provided in Appendix A of this Statement of Case. An aerial photograph of the appeal site, and photographs of the site itself have been provided in Appendix B of this Statement of Case.

3. DETAILS OF DEVELOPMENT

- 3.1 The discharge of condition application to which this appeal relates is for the proposed materials that the three-bay garage would be constructed and finished in, as required by Condition 3. of planning permission 2020/00002/FUL. Further details of the refused application are given in the officer report, which has been provided on pages 26-29 of the LPA questionnaire.

4. PLANNING HISTORY

- 4.1 There is no relevant planning history for the site, other than the original permission that was granted on 19th February 2020 for the demolition of the single garage and construction of a three-bay garage building in the rear

garden (2020/00002/FUL).

5. RELEVANT PLANNING POLICIES

Local Planning Documents

- 5.1 The local and national policies which are relevant to this appeal are given in the officer report which has been provided on pages 26 to 29 of the LPA questionnaire.
- 5.2 The Development Plan for this area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026 (LDP), which was formally adopted by the Council on 28 June 2017. Extracts of relevant policies from the LDP have been provided on pages 33 to 41 of the LPA questionnaire, in response to question 22g.
- 5.3 The Council's SPG are also relevant to this appeal including:
- Residential and Householder Development (2018)

National Planning Policy and Guidance

- 5.4 National planning guidance issued in the form of Planning Policy Wales, Edition 10 2018 (PPW) is of relevance to this appeal. Relevant policies from PPW are set out in the officer report which has been provided on pages 26 to 29 of the LPA questionnaire.
- 5.5 Technical Advice Notes (TAN) are also of relevance to the appeal, including the following:
- Technical Advice Note 12: Design (2009)

6. THE LOCAL PLANNING AUTHORITY'S CASE

- 6.1 In the opinion of the Local Planning Authority (LPA), the main issue for consideration in the determination of this appeal is the impact the proposed materials of the garage, by reason of its residential context, would have on the visual amenity and character of the residential setting.
- 6.2 The officer report for the application which has been provided on pages 12-19 of the LPA questionnaire, is considered to be comprehensive and clearly identifies the reasoning behind attaching condition 3. The LPA's refusal letter, which has been provided on pages 26-29 of the questionnaire, clearly states the LPA's case and the policies upon which the decision to refuse the discharge of condition application is based. It is not therefore considered necessary to repeat the considerations and arguments made in the officer report and refusal letter, which should be considered as the main basis of the LPA's case.

- 6.3 The sub-sections that follow seek to address the specific issues raised by the appellant's Statement of Case, in response to the LPA's refusal of the discharge of condition application.

Appeal Site & Surrounds

- 6.4 At paragraph 2.1.3 of the appellant's Statement of Case, reference is made to the "*more limited views above 1.4m*" that are available from the "*sports centre car park and surrounding rear ground floor windows/gardens of the immediately adjoining dwellings*". It should be noted that under planning permission 2020/00002/FUL, the proposed garage measures 3.3m in height as shown in the Proposed Plans and Elevations (page 29 of the appellant's Statement of Case). It is acknowledged by the LPA that some views of the garage would be partially reduced by the 1.4m fence at the rear of No.1 Dyffryn Place, however given the height of the garage, it is not considered that the views could be described as "*limited*" and the garage would indeed be highly visible from the sports centre's carpark and nearby residential properties. The fact that such clear views of the garage are present were considered important in the LPA's refusal of the discharge of condition application, due to the need to safeguard local visual amenity, as required by Policy MD2 of the LDP.
- 6.5 At paragraph 2.1.4, reference is made to the fact that the site "*does not lie within a conservation area*". Whilst the site does not lie within such an area, the requirement of Policy MD5, as highlighted in the officer's report for the original planning permission 2020/0002/FUL (page 15 of the Appeal Questionnaire), is explicit in what new development will be permitted. This requires new development to be of an appropriate scale, form, layout and character that is sympathetic to and respects its immediate setting and the wider surrounding and therefore, within the context of the surrounding area. This requirement is also found in both paragraph 3.9 of PPW (Edition 10) and paragraph 6.16 of Technical Advice Note 12 (Design) (2016) and is therefore an important material consideration in the determination of the appeal.

Background to the appeal proposal

- 6.6 At paragraph 2.2.3 -2.2.6, reference is made to the officer's correspondence with the appellant regarding the imposition of condition 3. In respect of the comments made, the LPA considers these to relate to procedural issues and are not relevant to the determination of this appeal. Furthermore, the attachment of condition 3. to the planning permission was an entirely acceptable decision as it provided an opportunity for the appellant and LPA to discuss and agree upon the proposed materials which were not considered acceptable. It should also be noted that the officer's report for the original planning permission 2020/0002/FUL (page 16 of the appeal questionnaire) highlights that only subject to appropriate materials would the proposal be acceptable on balance and it is therefore considered that the use of this condition was reasonable in the circumstances and in accordance with the advice contained within paragraph 1.2 of Circular 016/2014 (The Use of Planning Conditions for Development Management).

Reason for refusal

- 6.7 At paragraph 4.1.7 of the appellant's Statement of Case, reference is made to planning permission (2018/01369/FUL) that was granted at No.16 Heol Dewi Sant as a comparable development. It is important to note that the LPA considers each planning application on its own merits so whilst some similarities could be drawn between the two planning applications, the granting of planning permission for one does not necessarily provide justification for the other.
- 6.8 At paragraph 4.1.9, reference is made to the fact that the matter in question is the external finish, not the size, of the garage. However, the visual impact of the external finish of the proposal on the surrounding street scene is directly impacted by the size of the garage and this is clearly explained in the officer's correspondence with the appellant (pages 37 & p.38 in the appellant's Statement of Case), where the officer highlights the difference in size between the two proposals and goes on to state "*its impact would be far greater than that at 16 Heol Dewi Sant*".
- 6.9 The appellant has quoted p.7 of the officers report, which states that the garage "*would not create an unacceptable impact on the character of the host dwelling or the existing street scene*" to suggest that the Council had considered the proposal acceptable. However, this part of the report follows an earlier statement which explicitly stated that the proposal would only be permitted subject to appropriate materials and it is therefore considered that this statement has been taken out of context.
- 6.10 At paragraph 4.1.10, reference is made to the fact that the officer fails to explain how the proposed materials would negatively impact on the "*character and appearance of the locality*". However, the views of the LPA on the proposed external finish has been expressed in both of the officers report and letter for applications 2020/00002/FUL & 2020/00002/FUL/1/CD, where the proposed finishes have been likened to industrial/commercial style buildings. These views are also shared by Barry Town Council which stated "*the proposed development is of an unacceptable size and design*" in their comments for planning application 2020/0002/FUL (q. 22k of the Appeal Questionnaire). Given the residential setting of the site, it is clear that such proposed finishes would not be suitable, harming the visual amenity of the surrounding area.
- 6.11 At paragraph 4.1.10, reference is also made to the fact that the appellant could increase the height of the boundary fence to 2m under permitted development rights to further reduce the visual impact of the proposal. However, no such fence is currently present and as mentioned previously, the garage measures 3.3m in height so whilst this could reduce the visual impact, it is not considered that it would do so by such a distinction that the harm to the visual amenity of the area would be removed. The fact that the appellant "could" install a fence provides no binding agreement that would ever ensure the fence is erected.
- 6.12 Finally, at paragraph 4.1.14 of the appellant's Statement of Case, reference is

made to the fact that the proposed materials would “*respond appropriately to local context and character of the neighbouring buildings*”. It is considered by the LPA that the proposed materials are not typical of the residential area of Dyfan and whilst the views of the development may be shielded from the street of Dyffryn Place, they remain highly visible from the large public car park at the rear of the dwelling and surrounding residential properties, the amenities of which should be protected.

- 6.13 The proposed materials also conflict with the key principles set out in the Council's SPG on Residential and Householder Development which states that where alternative materials and finishes are proposed *‘they should complement the colours, tones and textures of the original property and buildings in the surrounding area’*. As identified in the SPG, the materials chosen for a development will be a fundamental element of its design and in this case therefore, represent the reason why this application is unacceptable and should be refused.

Conclusion

- 6.14 In respect of the final comments made by the appellant in paragraph 5.1.1, the LPA agree that this is not at all relevant to the determination of the appeal. It is considered however that the LPA's use of a condition to control the one matter that remained unacceptable as an alternative to refusing the scheme, demonstrates a very ‘positive and proactive approach’ and is entirely in accordance with national planning guidance.

7. CONCLUSION

- 7.1 In reaching the reason for refusal, the LPA considered that the proposed finishes would represent a harmful and uncharacteristic form of development in a residential area, which, by reason of the character of the site and its surroundings, would adversely affect the character and visual amenity of the local area. The proposal is therefore considered to be contrary to local and national policies, specifically policies SP1, MD2 & MD5 of the Local Development Plan, TAN 12 (Design) and advice within Planning Policy Wales (Edition 10).
- 7.2 For the reasons detailed above, the Inspector is respectfully requested to dismiss this appeal.

8. LIST OF SUGGESTED CONDITIONS

- 8.1 Should the appointed Inspector be minded to allow this appeal, the Vale of Glamorgan Council considers that the following condition should be imposed:
1. Prior to the completion of the garage or its beneficial occupation, whichever is the sooner, a close boarded timber fence erected to a height of 2 metres shall be installed along the entire length of the rear (north-west) boundary and shall be retained thereafter in perpetuity.

Reason: To ensure that the development accords with Policy MD2 (Design of New Development) and Policy MD5 (Development within Settlement Boundaries) of the Local Development Plan.