



VALE OF GLAMORGAN COUNCIL

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

Section 78 Appeal

WRITTEN STATEMENT

Appeal by Mr Kasif Ahmed

Site at Pen Y Garth Mansion, 2, Stanwell Road, Penarth

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

PLANNING INSPECTORATE REF. NO: APP/Z6950/A/20/3253163

VALE OF GLAMORGAN REF. NO: 2020/00064/FUL

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1. INTRODUCTION

- 1.1 This appeal relates to the decision of the Vale of Glamorgan Council to refuse planning permission for 'Erection of enclosure above existing car parking spaces' at Pen Y Garth Mansion, 2, Stanwell Road, Penarth.
- 1.2 The application was registered on 21 January 2020, and subsequently REFUSED planning permission on 19 March 2020 for the following reason:
1. By reason of its prominence within the street scene along Stanwell Road and the wider Penarth Conservation Area, and its materials and utilitarian design, the proposed enclosure is considered to be an incongruous addition to the existing site, which would detract from the current openness of the site, setting of the adjacent protected trees and surrounding street scene and would fail to reflect the context of the site and would not preserve the character of this part of the Penarth Conservation Area. The development would therefore be contrary to Policies MD2 (Design of New Development), MD5 (Development within Settlement Boundaries), MD8 (Historic Environment) and SP10 (Built and Natural Environment) of the Vale of Glamorgan Adopted Local Development Plan 2011-2026, as well as the adopted Penarth Conservation Area Appraisal and Management Plan. The proposal would also be contrary to national policy and guidance contained within Planning Policy Wales (Edition 10), Technical Advice Note 12 (Design) and Technical Advice Note 24 (The Historic Environment).

2. THE SITE AND ITS SURROUNDINGS

- 2.1 A description of the appeal site and its surroundings is provided in the officer report for the refused application, reference 2020/00064/FUL. The officer report has been provided on pages 32 to 47 of the Local Planning Authority (LPA) questionnaire, in response to question 22e.
- 2.2 Site location plans have been provided on pages 123 to 125 of the LPA questionnaire, in response to question 22i.
- 2.3 Photographs of the site and its surroundings are provided as appendix A to this LPA statement.
- 2.4 An annotated plan, showing the site context, including the location of heritage assets and a protected tree, is provided as appendix B to this LPA statement.

3. DETAILS OF DEVELOPMENT

- 3.1 Details of the refused development are given in the officer report, which has been provided on pages 32 to 47 of the LPA questionnaire, in response to question 22e.

4. PLANNING HISTORY

- 4.1 Details of the planning history of the site are given in the officer report which has been provided on pages 32 to 47 of the LPA questionnaire, in response to question 22e.

5. RELEVANT PLANNING POLICIES

- 5.1 The local and national planning policies which are relevant to this appeal are specified in the officer report, which has been provided in the LPA questionnaire.
- 5.2 The Development Plan for the 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 48 to 58 of the LPA questionnaire, in response to question 22g. A copy of the Supplementary Planning Guidance Penarth Conservation Area Appraisal and Management Plan has been provided on pages 59 to 122 of the LPA questionnaire, in response to question 22d.

6. THE LOCAL PLANNING AUTHORITY'S CASE

- 6.1 The officer report for the application subject to this appeal is comprehensive and clearly states the LPA case and the policies upon which the decision to refuse planning permission is based. It is not, therefore, considered necessary to repeat the considerations and arguments made in the officer report, which should be considered as the main basis of the LPA's case.

6.2 The sub-sections that follow seek to address a few specific issues, including those raised by the appellant's appeal statement.

Correction to the officer report

6.3 The officer report indicates that a Yew tree and a Horse Chestnut tree close to the location of the proposed parking canopy, but sited within number 4 Stanwell Road, are both protected by a TPO. However, this needs to be corrected. The Yew tree is protected under TPO reference number 11 of 2004 and is sited just within the application site itself. The location of the Yew tree is shown on the site context plan provided as appendix B, and indicated on the photographs provided as appendix A. A copy of the TPO documentation is provided on pages 10 to 19 of the LPA questionnaire, in response to question 15.

6.4 The Horse Chestnut, along with a Lime tree, are sited within number 4 Stanwell Road, on the boundary with the application site and close to the proposed site for the parking canopy. The Horse Chestnut and Lime are not subject to a Tree Preservation Order (TPO), but are afforded protection by virtue of being located within the Penarth Conservation Area.

Context

6.5 The appellant's statement says that "*The surrounding area is predominantly residential in nature*". This is not the case. There are residential properties on the opposite side of Rectory Road to the north, with a couple of large dwellings to the immediate south. However, directly opposite the site on Rectory Road to the north is the Penarth Library; to the east is the tennis club; and to the west, on the opposite side of Stanwell Road, is a row of retail premises and cafes. The site is therefore part of a very mixed context, which is not purely residential in its character or use.

6.6 The site is located at the heart of a range of heritage and built environment features which provide Penarth with its unique character. As well as being within the Penarth Conservation Area, the site is surrounded by properties which are Nationally Listed Buildings, locally listed County Treasures, and properties subject to an Article 4 Directive. In addition, the site is directly adjacent to an area listed on the CADW Parks and Gardens Register as important for the setting of the Historic Alexandra Park, with the Park itself further to the east. The location of these properties is shown on the site context plan provided as appendix B. The concentration of heritage and built environment features around and in close proximity to the appeal site serves to emphasise the unique character of the area and the importance of preserving that character. There are no other structures like the proposed parking enclosure in this area.

Policy criteria balancing exercise

6.7 Section 4.4 of the appellant's statement rightly points out that a balancing exercise has to be carried out between the various policy objectives. The statement then goes on to conclude (at 4.21) that "*when considering the overall planning balance, it is respectfully contended that any residual design related concerns would remain considerably and demonstrably outweighed by the highway impact related betterment that would be secured as a result of this proposal*". In this statement, it seems that the appellant has concluded that the requirements of parking related policy criteria, outweigh the requirements of policies which seek to protect, and where possible enhance, the character of the surrounding conservation area.

6.8 The LPA do not agree with the conclusion of the appellant's and do not consider it to be supported by either the facts or the legislation. As set out in the sub sections which follow, parking related policy criteria can be met at the site already, and even if this were not the case, in any balancing exercise, the preservation of the character of the conservation area must be given more weight, as set out in legislation.

Availability of parking spaces

- 6.9 The application submission and the appellant's statement, both claim that "*the car parking on the western edge of the site is rendered unusable for much of the year due to the sap and leaves from the adjoining tree causing damage to cars that are parked here. In response to this, occupiers of the development are being forced to take up on-street parking within the immediate locality*".
- 6.10 This statement is not supported by any evidence and seems to be contradicted by site visit findings. On many occasions, it has been noted that cars are parked in the spaces which the application proposes to cover. Photographs taken on 9 July 2020, at a time when many more people are at home during the day due to the Covid 19 situation, show 2 cars parked in the designated area, even though much of the rest of the on-site car park was empty. The photographs are provided as appendix A. The spaces are therefore clearly available and suitable for use.
- 6.11 Residents may have a preference for parking their vehicles in an area away from trees, to avoid the need to clear leaves and sap from their vehicles. However, it is simply not the case that the parking spaces are "*rendered unusable*". The site retains the number of parking spaces which were approved when the site was converted to residential use, and all spaces remain available and usable. All parking related policy criteria are therefore met.
- 6.12 It should be noted that the Penarth Conservation Area features a large number of mature and highly attractive trees, both street trees and within properties. Consequently, a large percentage of parking, both on street and private, is inevitable beneath trees. The erection of a canopy, purely on the basis of trying to keep leaves and sap off vehicles, could set an unwelcome precedent, with other residential properties in the Conservation Area seeking to do the same.

Preserving the character of the Conservation Area

- 6.13 The Planning (Listed Buildings and Conservation Areas) Act (1990) sets out the principal statutory instruments which must be considered in the determination of any application affecting a conservation area. Section 72 requires that in the exercise of planning duties special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The Courts have made it clear that the duty imposed in the Act means that in considering whether to grant permission for development that may cause harm to a conservation area or its setting, the decision maker should give particular weight to the desirability of avoiding that harm. There is still a requirement for a planning balance, but it must be informed by the need to give weight to the desirability of preserving the asset and its setting.
- 6.14 The officer report clearly sets out why the LPA consider that the design and nature of the proposal would harm the character of the Penarth Conservation Area, and it is not necessary to add anything further here.
- 6.15 Consequently, the legislation clearly indicates that preserving the character of the Penarth Conservation Area must be given more weight than the desire of residents to park their vehicles under cover, when there is usable parking available.

Impact on trees

- 6.16 Physical impact on the trees does not form part of the reason for refusal, and the LPA accept that the proposal could be implemented without physical harm to the trees.
- 6.17 Section 4.26 of the appellant's statement says "*It should be noted, the amount of overhang of trees within the conservation area would require substantial pruning which would significantly impact the long term shape and 'green scape' of the trees. As such, the Appellant would respectfully suggest that the appeal proposal positively responds to the adjoining tree by ensuring its long term longevity*".

6.18 The LPA note that the protected trees along the boundary, and within the site, have been granted permission for, and had pruning works undertaken, in relatively recent times (in 2010 and in 2017). It is therefore likely that should modest pruning be proposed, to take back some of the limbs which overhang the parking area, and balance out the trees, the works would be considered acceptable under an application for works to trees. Such works could alleviate the impact of leaves and sap on vehicles, whilst still ensuring the long term viability of the trees and maintaining the contribution they make to the amenity of the area.

7. CONCLUSION

7.1 For the reasons detailed in the officer report and in this LPA statement, 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 conditions should be imposed:

1. The development shall begin no later than five years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the approved plans and documents [insert plan references]

Reason: For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. Notwithstanding the submitted plans, prior to commencement details of the materials and finish to be used in the development shall be

submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason: To safeguard local visual amenities, as required by Policies MD2 (Design of New Development), SP10 (Built and Natural Environment) and MD8 (Historic Environment), of the Local Development Plan.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details of a scheme for the protection of trees both within and adjacent to the sites. The approved scheme shall be carried out during course of the development.

Reason: In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with Policies SP10 (Built and Natural Environment); MD1 (Location of New Development); MD2 (Design of New Developments) and MD8 (Historic Environment)] of the Local Development Plan.