

TOWN AND COUNTRY PLANNING ACT 1990

SILVER CRESCENT DEVELOPMENTS LIMITED

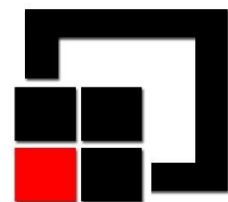
LPA REFERENCE: 2020/00064/FUL

**ERECTION OF ENCLOSURE ABOVE EXISTING CAR
PARKING SPACES**

**PEN Y GARTH
MANSION, 2, STANWELL ROAD, PENARTH**

WRITTEN STATEMENT ON BEHALF OF THE APPELLANT

MAY 2020



Geraint John Planning

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1.0 INTRODUCTION

Scope and Purpose of Statement

1.1 This appeal is lodged under Section 78 of the Town and Country Planning Act 1990 (the Act) against The Vale of Glamorgan Council's (the Local Planning Authority) refusal of an application for Full Planning Permission for:

"Erection of enclosure above existing car parking spaces at Pen Y Garth Mansion, 2, Stanwell Road, Penarth"

1.2 Planning permission was refused by delegated powers on the 19th of March 2020. The Local Planning Authority (LPA) reference for the application is 2019/00064/FUL.

1.3 Planning Permission was refused 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).*

1.4 On the basis of the reason for refusal contained within the Decision Notice, (which is appended as **Appendix A** to this Statement) it is considered that the principal issues are as follows:

- Whether the proposal is an acceptable form of development 'in principle';
- Whether the size, location and design of the proposed structure would 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
- Whether the development would preserve the character of this part of the Penarth Conservation Area

1.5 This Statement refers to the LPA's Delegated Report, which is appended at **Appendix B** of this Statement.

Structure of this Submission

1.13 This Statement sets out the Appellant’s Statement of Case. The Statement is structured as follows:

- **Section 2:** Provides a description of the site and overview of the proposed development, and considers the surrounding area / local context;
- **Section 3:** Sets out the planning policy context and the key planning policies of relevance to the determination of the appeal;
- **Section 4:** Considers the reasons for refusal / principal matters, i.e. provides the Appellant’s response on the key issues; and
- **Section 5:** provides a summary of the key issues set out in the Statement and draws together the Appellant’s conclusions.

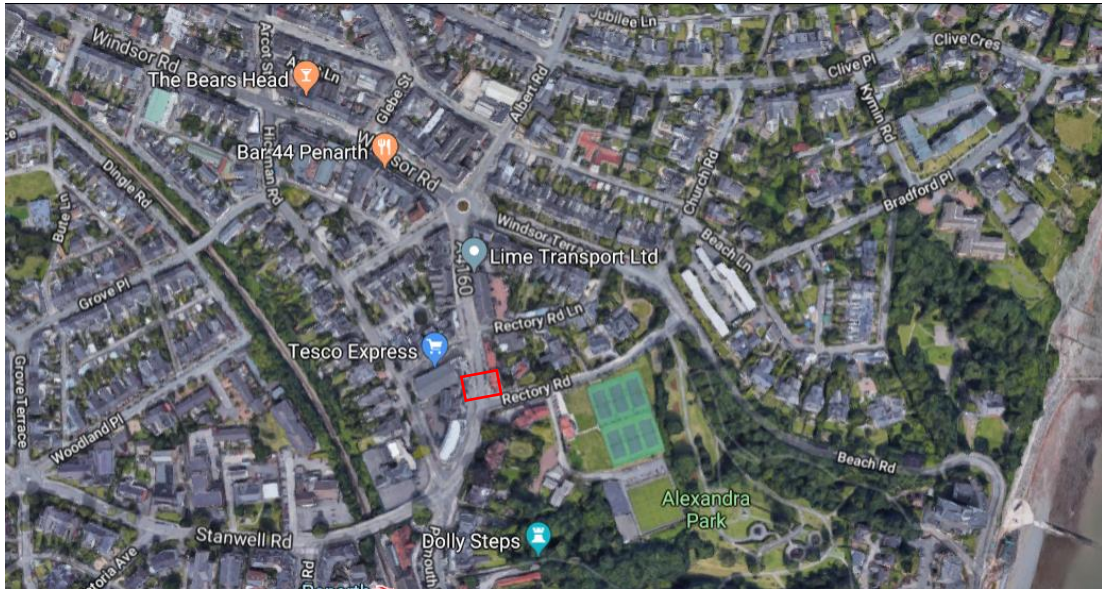
2 SITE AND SURROUNDINGS

The Site

- 2.1 The site comprises a large detached part two /part three storey traditional late Victorian/early Edwardian building along with part of the associated curtilage, located on a approx. 2500m2 corner plot at the junction of Rectory Road and Stanwell Road in Penarth. The site has been the subject of a range of extensions and modifications in connection with the implementation of planning permission ref. 2015/00647/FUL which has now been implemented on site.
- 2.2 The application site is located within the Penarth Conservation Area and to the south of the retail and commercial centre of Penarth.



Site Location Plan



Aerial view of the site

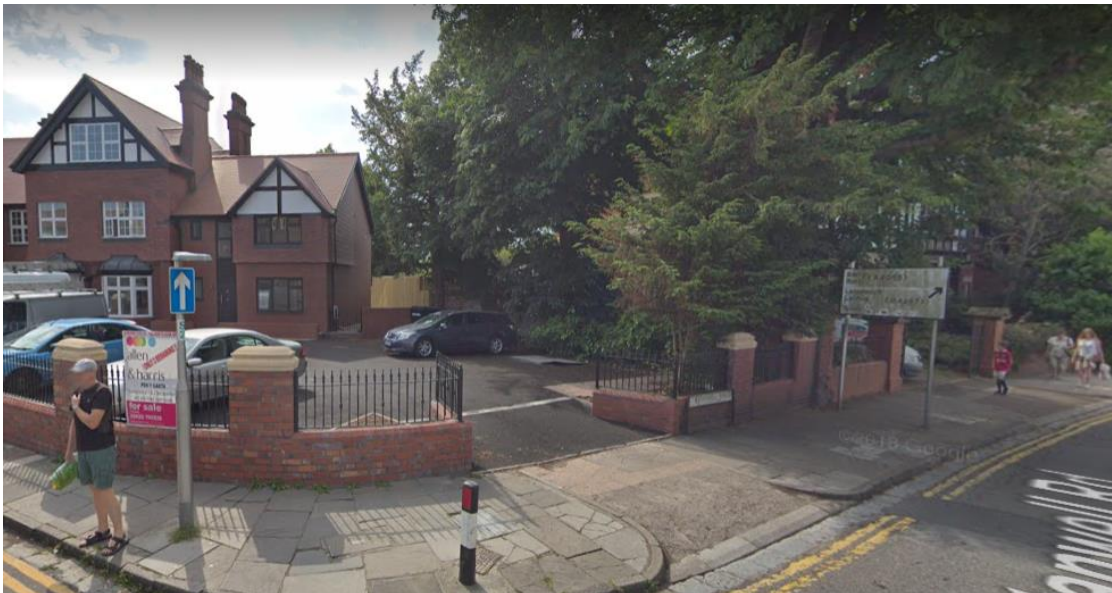


Aerial view of the site

2.3 There is a Tree Preservation Order which covers a Yew Tree at the south western corner.



Street view from Rectory Road of site frontage



Street view from Stanwell Road

- 2.4 The property is not listed but is recognised in the Conservation Area Appraisal as a 'Positive Building', being a good example of a late Victorian/early Edwardian residential property.
- 2.5 The property was originally constructed as a dwelling but was converted to office use, last used by The Vale of Glamorgan Community Health Council, but planning permission was granted and implemented to convert the building back to residential use (see planning history below), originally in 2014.
- 2.6 In terms of the subject appeal, this specifically and solely relates to the existing approved car parking area which serves the development. As it stands 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 these occupiers of the development are being forced to take up on street parking within the immediate locality,

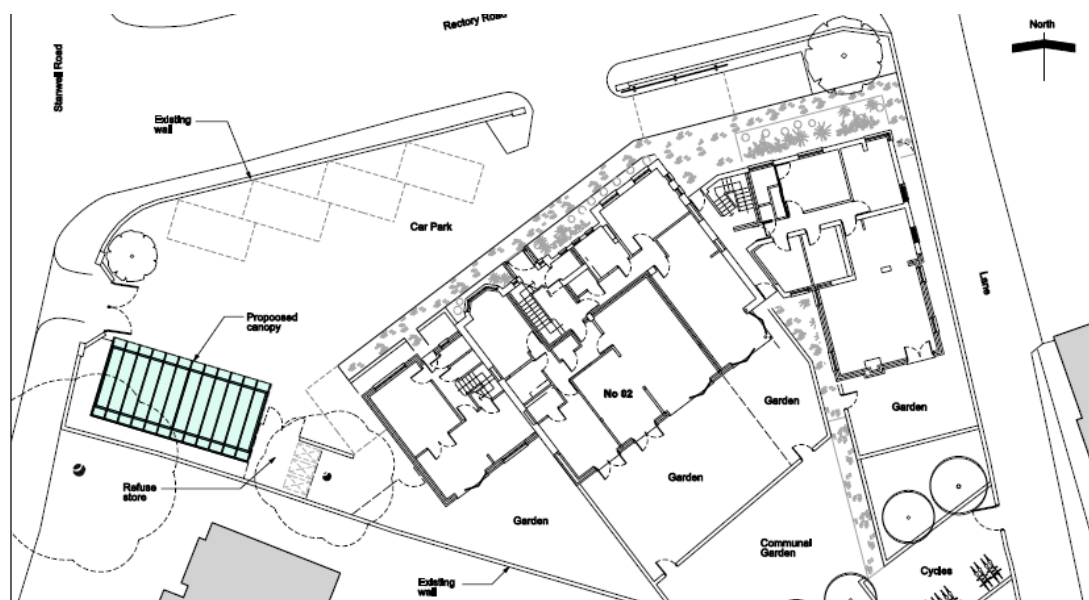
thereby resulting in unintended parking stress to the detriment of other surrounding residential occupiers and town centre users ability to park.

The Site's Surroundings

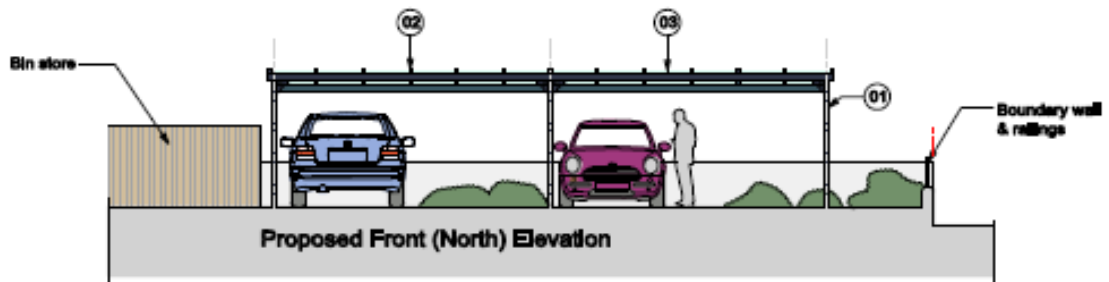
- 2.7 The site lies to the immediate south of the town centre of Penarth. The surrounding area is predominantly residential in nature, with a mixture of 2 and 3 storey traditional detached, semi-detached and terraced late Victorian /early Edwardian villas on both Stanwell Road and Rectory Road constructed in local limestone, yellow and red brick.
- 2.8 Immediately adjacent to the west is Penarth Lawn Tennis Club and opposite the property on Rectory road is the Grade II listed Penarth Library Building. The site is located within the Penarth Conservation Area.
- 2.9 The site has an access off both Stanwell Road and Rectory Road.

The Proposals

- 2.10 The application subject to this appeal sought planning permission to erect an enclosure above 4 existing car parking spaces located towards the western boundary of the site.
- 2.11 The proposed structure would be constructed using a combination of a steel frame and polycarbonate roofing – which would provide a sensitive and visually lightweight design response.
- 2.12 Extracts taken from the plan and elevations drawings showing the extent, siting and elevations of the proposed structure have been provided below:

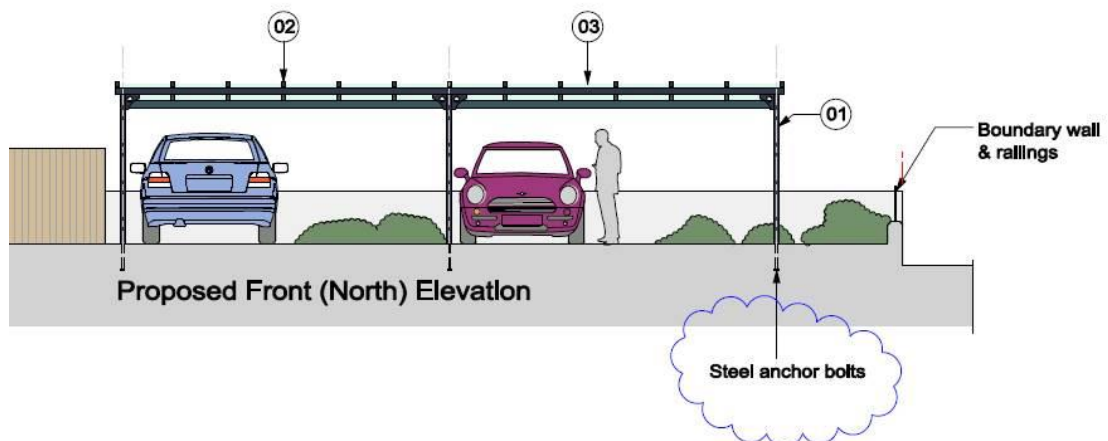


Proposed Site Plan



Proposed Elevations

2.13 Through the course of the application a revised drawing was provided which included additional detail as to the proposed mechanism for fixing the structure to the ground in a sensitive manner that would not impact upon the nearby TPO protected tree. For ease of reference an extract of the revised drawing is included below:



Planning History

2.8 A review of the planning history available to view on-line, indicates that the site itself has been subject to various previous applications, as identified below.

Application Ref.	Location	Proposal	Decision	Date of Decision
<i>The Site</i>				
2015/00647/FUL	2 Stanwell Road	Extension and alteration of existing property to form seven self-contained residential apartments and one town house with on-site car parking, cycle and bin store facilities (resubmission of application ref: 2014/1392/FUL)	Approved	4/11/2015
2015/00647/1/NMA		Non-material Amendment-Proposed substitution of Juliet balconies with balconies to top floor apartment to rear. Proposed cantilevered projection to first floor balcony to rear of property. Minor window and door amendments	Refused	18/1/2017
2015/00647/2/NMA		Non-material amendment to Condition 7- Arboricultural impact assessment & Condition 11-Landscaping of planning permission 2015/00647/FUL for extension and alteration to form seven self-contained residential apartments and one town house.	Approved	3/10/2017
2015/00647/3/NMA		Non-material amendment - Reposition of window to front elevation and retention of gable as tiled for extension and alteration of existing property to form seven self-contained residential apartments and one town house	Approved	29/11/2017
2015/00647/4/NMA		Non material amendment to Planning Permission 2015/00647/FUL - Variation of Condition 10 (Drainage).	Approved	10/1/2018
2015/00647/5/NMA		Non-Material Amendment - To alter the car parking, refuse store and site frontage tree planting arrangement. Planning Permission ref. 2015/00647/FUL : Extension and alteration of existing property to form seven self-contained residential apartments and one town house with on-site car parking, cycle and bin store facilities (resubmission of application ref: 2014/1392/FUL)	Refused	9/3/2018
2015/00647/6/NMA		Non-Material Amendment - Addition of motorized steel gates to car park exit	Approved	31/1/2018
2015/00647/1/CD		Discharge of Condition 3 - Proposed materials. Extension and alteration of existing property to form seven self-contained residential apartments and one town house with on-site car parking, cycle and bin store facilities (resubmission of application ref: 2014/1392/FUL).	Approved	23/3/2017
2015/00647/2/CD		Discharge of Conditions 4, 6, and 9 - Extension and alteration of existing property to form seven self-contained residential apartments and one town house with on-site car parking, cycle and bin store facilities (resubmission of application ref: 2014/1392/FUL)	Approved	18/8/2017

3 PLANNING POLICY CONTEXT

3.1 A review of the planning policy context associated with the site and proposed development (at the national and local level) is provided within this section of the Statement.

National Planning Policy

3.2 The following policy / guidance documents prepared at the national (Welsh Government) level are of relevance to the determination of the application.

Planning Policy Wales (10th Edition, December 2018)

3.3 Planning Policy Wales (PPW) forms the overarching national planning policy document within Wales, providing guidance to Local Planning Authorities (LPAs) for the preparation of development plans and the determination of planning applications through their development management functions.

3.4 It is considered that the following PPW chapters are pertinent to the determination of this application:

- Chapter 2 - People and Places: Achieving Well-being Through Placemaking;
- Chapter 3 – Strategic and Spatial Choices;
- Chapter 4 – Active and Social Places; and
- Chapter 6 – Distinctive and Natural Places.

Placemaking

3.5 Paragraph 2.10 states the principles of sustainable development and the approach to decision making contained in the five ways of working are matters that are already integral to the planning system.

3.6 Figure 3 states that “the planning system should enable development which contributes to long term economic well-being, making the best use of existing infrastructure and planning for new supporting infrastructure and services.”

Design

3.7 Figure 7 of PPW10 states the objectives of good design. These include considering access, movement, environmental sustainability, community safety and character.

3.8 Paragraph 3.9 states that:

“The special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations”

3.9 In paragraph 3.10, the following is stated:

“In areas recognised for their particular landscape, townscape, cultural or historic character and value it can be appropriate to seek to promote or reinforce local distinctiveness. In those areas, the impact of development on the existing character, the scale and siting of new development, and the use of appropriate building materials (including where possible sustainably produced materials from local sources), will be particularly important.”

3.10 Paragraph 3.16 goes on to state:

"However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions."

Transport and Parking

3.11 Paragraph 4.1.50 advises that

"Car parking provision is a major influence on how people choose to travel and the pattern of development. Where and how cars are parked can in turn be a major factor in the quality of a place."

3.12 Paragraph 4.1.51 advises that

"A design-led approach to the provision of car parking should be taken, which ensures an appropriate level of car parking"

The Historic Environment

3.13 Section 6 of PPW sets out the objectives in respect of the historic environment, which are as follows:

"The characteristics and environmental qualities of places varies across Wales, creating distinctive or unique features associated with their particular natural or cultural heritage and these should be recognised and valued, in and of, themselves and should be protected and enhanced. Priorities for rural and urban areas will reflect how these characteristics and qualities contribute to the attractiveness, liveability, resilience, functioning, economic prosperity and ultimately the health, amenity and wellbeing of people and places."

3.14 Paragraph 6.1.6 states that the Welsh Governments specific objectives for the historic environment seek to:

- Protect the Outstanding Universal Value of the World Heritage Sites in Wales;
- Conserve archaeological remains, both for their own sake and for their role in education, leisure and the economy;
- Safeguard the character of historic buildings and manage change so that their special architectural and historic interest is preserved;
- Preserve or enhance the character or appearance of conservation areas, while at the same time helping them remain vibrant and prosperous;
- Preserve the special interest of sites on the register of historic parks and gardens in Wales; and
- Conserve areas on the register of historic landscapes in Wales.

3.15 Paragraph 6.1.9 states:

"Any decisions made through the planning system must fully consider the impact on the historic environment and on the significance and heritage values of individual historic assets and their contribution to the character of place"

3.16 Whilst paragraph 6.1.14 states:

"There should be a general presumption in favour of the preservation or enhancement of the character or appearance of a conservation area or its setting. Positive management of conservation areas is necessary if their character or appearance are to be preserved or enhanced and their heritage value is to be fully realised."

Technical Advice Notes

- 3.17 Technical Advice Notes (TANs) supplement the policy principles of PPW and add further detail on issues which might affect development potential of the site. TANs which are considered relevant to the proposal and should therefore be given weight are:

TAN	Title
TAN 12	Design (2016)
Tan 18	Transport (2007)

Technical Advice Note (TAN) 12 – Design (2016)

- 3.18 Detailed guidance on the objectives of good design is provided within TAN 12. The objectives of good design are set out within the following categories:

Character

- *Sustaining or enhancing local character*
- *Promoting legible development*
- *Promoting a successful relationship between public and private space*
- *Promoting quality, choice and variety*
- *Promoting innovative design*

Technical Advice Note (TAN) 18 – Transport (2007)

- 3.19 Detailed guidance is provided within TAN 18 in relation to transport related issues when planning for new development including integration between land use planning and transport, location of development, parking and design of development.

Local Policy Context

- 3.11 At the time of the submission and determination of this application, the adopted Development Plan for the area consisted of the following:



- The Vale of Glamorgan Local Development Plan 2011-2026 (adopted by the Council on the 28th June 2017).

- 3.12 The following is a map extract from the adopted LDP:



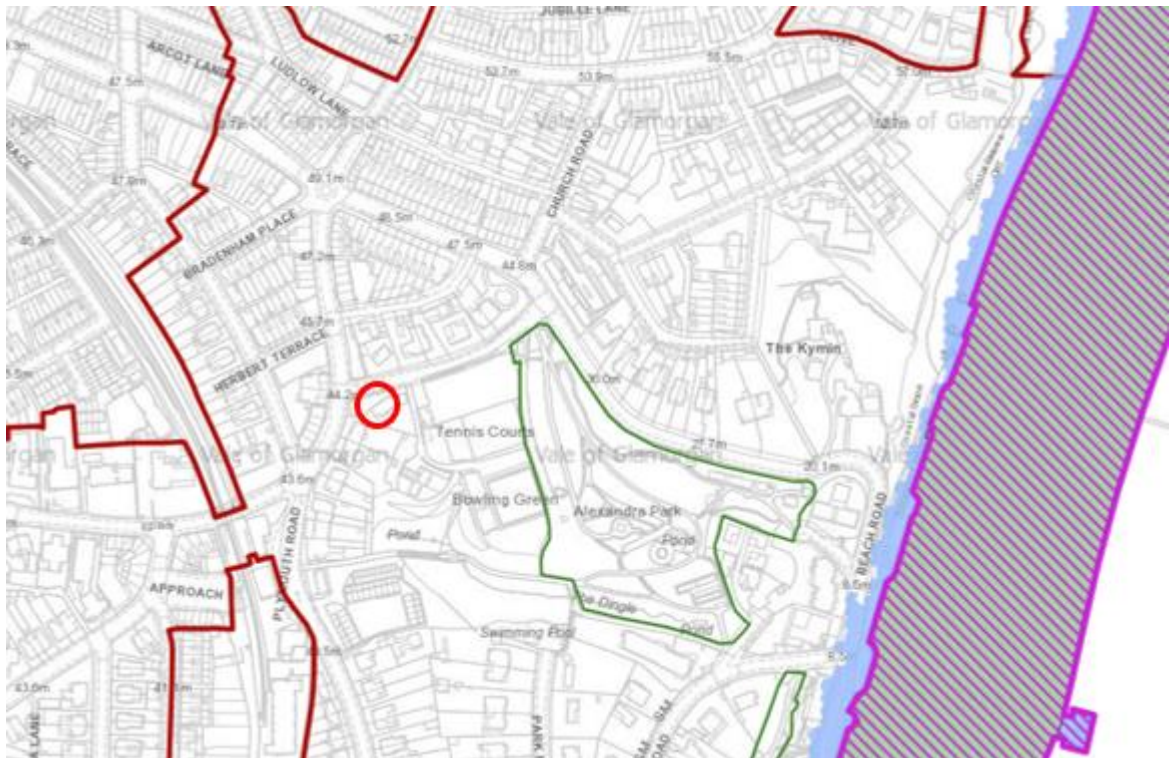
LDP Proposals Map Extract

Key:

Vale of Glamorgan Local Development Plan Proposals Map Key	
	The Site
	Retail Hierarchy (District Shopping Area)






3.13 The LDP proposals map confirms the site is:

- Within the settlement boundary of Penarth; and
- Adjacent to designated District Shopping Area.



LDP Constraints map extract

Key:

Vale of Glamorgan Local Development Plan Constraints Map Key			
	The Site		Scheduled Ancient Monument
	Conservation Area		Special Areas of Conservation
	Historic Parks and Gardens		

3.14 The LDP Constraints map confirms the site is:

- Within Penarth Conservation Area.

3.15 In addition, the drawing below shows the Listed properties in the vicinity. The nearest directly opposite the site on Rectory Road is the Grade II Listed Public Library.



Extract from Historic Wales Map

3.16 Considering the above - along with taking into account other material considerations, the sites planning history, and the proposal itself - it is considered that the following LDP policies are of principal relevance to the appeal proposal:

- **Policy SP10**- Built and Natural Environment;
- **Policy MD2**- Design of New Development;
- **Policy MD5** – Development within Settlement Boundaries; and
- **Policy MD8**- Historic Environment.

4 CONSIDERATION OF KEY ISSUES

4.1 The refusal, which is subject to this appeal, is considered in detail in this section, in the following structure:

- The LPA's reason for refusal (as specified on Decision Notice, dated 19th March 2020) and the corresponding assessment within the Delegated Officer Report; and
- The Appellant's response to each element of the reason for refusal.

4.2 As previously outlined, planning permission was refused under delegated powers on the 31st of January 2020. The Local Planning Authority (LPA) reference for the application is 2019/00064/FUL. As set out in paragraph 1.3, the reason for refusal is as follows:

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).*

4.3 From reviewing both the reason for refusal and the associated content within the Delegated Officer Report, it is evident that the key issues are as follows:

- The Design of the proposal, and whether the size, location and design of the proposed structure would 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;
- Whether the development would preserve the character of this part of the Penarth Conservation Area; and
- Whether any harm arising from the proposal is outweighed by any other material considerations.

4.4 In light of the above, and before analysing the LPA's Delegated Officer Report and associated reasons for refusal in further detail, it is important to fully understand the underlying policy objectives of policies SP10, MD2, MD5 and MD8 – as by understanding the underlying objectives a full assessment, including the required balancing exercise between the various policy objectives, can be undertaken. Accordingly, the core objectives of each of these policies is considered below.

Policy SP10

4.5 Policy SP10 seeks to ensure development preserves, and where appropriate enhances, the rich and diverse built and natural environment and heritage of the Vale of Glamorgan. The policy seeks to guide development in a range of contexts including conservation areas, historic landscapes, parks and gardens, special landscape areas, the Glamorgan Heritage Coast, sites designated for their local, national and European nature conservation importance and Important archaeological and geological features.

Policy MD2

- 4.6 Policy MD2 is an overarching placemaking and design-based policy which seeks for development to enhance the quality of places and ensure that spaces accord with relevant placemaking principles. The policy also seeks to ensure proposals have no unacceptable impact in relation to a range of material considerations, including but not limited to highways (including parking), residential amenity and ecology.

Policy MD5

- 4.7 Policy 5 relates to development within settlement boundaries and is considered to convey a presumption in favour of development within such settlement boundaries – whereby it sets out a range of criteria designed to allow development to be permitted where such criteria is met. The criteria of principal relevance to the appeal proposal is in relation to the need to make efficient use of land or buildings and the requirement for development to be of a scale, form, layout and character that is sympathetic to and respects its immediate setting and the wider surroundings and does not unacceptably impact upon the character and appearance of the locality.

Policy MD8

- 4.7 Policy MD8 relates solely and specifically to proposals that relate to heritage assets with specific criteria set out for the various types of heritage assets. Given the appeal proposal relates to development within a Conservation Area criterion 1 is most relevant with this stating that within conservation areas, development proposals must preserve or enhance the character or appearance of the area.
- 4.8 In addition to the above, and prior to considering each and all of the issues upon which the reason for refusal is based, it is considered important to note what is not considered objectionable by the Council (i.e. what is agreed as being acceptable, and which does not form a reason for refusal). This includes, albeit is not necessarily limited to, the following:
- There would be no harm to residential amenity arising from the proposal;
 - There would be no harm to the adjoining TPO tree; and
 - The proposal would not result in any highway safety related concerns.

LPA's Delegated Officer Report

- 4.9 In support of the reason for refusal the LPA's Delegated Officer report includes additional assessment and justification under a range of separate headings with the most relevant being as follows:
- Principle of Development; and
 - Design and Visual Impact
- 4.10 Given the core justification for the reason for refusal hinges on the assessment provided within the aforementioned sections of the Delegated Officers Report, key extracts have been reproduced under separate headings below. In turn the Appellants response to the position adopted by the LPA is provided below.

Principle of Development

- 4.11 The following extracts from the Principle of Development section of the Delegated Officers Report are considered particularly relevant to the matters in dispute:

Whilst it is acknowledged that sap falling onto cars parked in these spaces may cause damage to the paintwork, it is considered that this itself would not render these spaces unusable and would certainly not warrant the construction of what is a relatively large enclosure to protect the cars in this location. Indeed, it is considered that a TPO application could be made to cut-back some of the overhanging branches of the trees at No. 4, which if granted approval would greatly improve the situation. Additionally, as is mentioned within the Conservation Officer comments, it is considered that there are other measures which could be utilised to help mitigate the effects of leaves and sap, such as the use of car covers. Such measures would mean the visual impact of the enclosure (as will be assessed in the following section) could be avoided.

As such, with regard to the principle of the proposed development, it is considered that the need for the enclosure/canopy has not been sufficiently demonstrated, and there are alternative measures which could be taken which would likely be more acceptable. In addition, it is not accepted that the current situation forces residents to park on the adjacent streets, with no supporting evidence in-line with this claim being supplied. Consequently, the comments within the Planning Statement regarding the need for the development are not accepted as the proposal is not the only way to mitigate the impacts of the trees on the suitability of the parking area.

The Appellant's Response

- 4.12 This application seeks to provide a robust and long term design response to the impact that is caused by an existing tree on the adjoining site that is reducing the usability of 4 car parking spaces within the site and results in displacement of car parking onto surrounding roads.
- 4.13 When considering the principle of development, it is respectfully considered that the LPA have failed to consider the proposal in relation to the car parking provisions of Policy MD2 and the Parking Standards SPG (2019). In addition to this, the LPA have made reference to other alternative proposals such as car covers or tree pruning works under this section, as opposed to focusing on the merits of the application before them. Notwithstanding this, it should be noted that the use of car covers is not an appropriate measure for the demographics of residents living at the apartments Pen-y-Garth, all of whom are retired and over the age of 70.
- 4.14 In response to this, and as set out within the planning statement submitted with the application, it is considered that both policy MD2 and the Parking Standards SPG (2019) provide significant 'in principle' support for the proposals, which should strongly weigh in support of the appeal proposal.
- 4.15 With respect to Policy MD2 Criterion 9 is particularly relevant to the subject proposal as this state as follows:
- "In order to create high quality, healthy, sustainable and locally distinct places development proposals should.....*
-9. Provide public open space, private amenity space **and car parking in accordance with the council's standards"***
- 4.16 As can be seen from the extract above, Policy MD 2 specifically seeks for development to provide car parking 'in accordance with the council's standards'. In terms of what constitutes the 'council's standards', the Parking Standards SPG (2019) includes the following:

10. Parking Standards by Land Use

10.1. Residential: New Build and Conversions

ZONES A - E

Type of Development	Residents	Visitors
General Purposes Houses and Apartments		
Houses	1 space per bedroom (maximum requirement 3 spaces)	1 space per 5 units
Apartments	1 space per bedroom (maximum requirement 3 spaces)	1 space per 5 units

- 4.17 As can be seen from the above standards the Council would ordinarily expect 1 parking space per bedroom for the residential dwellings within the development, although the SPG recognises that parking provision should be 'capped' with a maximum of 3 spaces per dwelling.
- 4.18 Given the appeal site benefits for a highly accessible location, the development as approved only incorporated 9 parking spaces with the officer report including the following assessment in relation to parking:

In terms of the Council's car parking standards it is acknowledged that there is a small shortfall, but this would not justify a refusal in this instance, bearing in mind the sustainable central location of the site within Penarth and the access to public transport

- 4.19 As can be seen above the scheme already has parking provision that is below required standards and therefore it is imperative that all the spaces that are provided are made available for use, as should they be unavailable then this would generate undue harm in terms of on street parking provision in the locality. In this respect, and from a numerical perspective, the 4 spaces that are impacted by the existing tree represent 45% of the parking provision on site. As such, any periods of time that these spaces are not readily available for use (due to the impact of the tree sap) then the under provision of parking spaces available onsite is exacerbated to a significantly harmful degree. This proposal has of course been brought forward to provide a long term and robust design response to address this issue, and ensure suitable and usable parking provision is made available for occupiers.
- 4.20 For the reasons detailed above it is considered that the proposed car park enclosure would be in direct compliance with the parking related objectives of Policy MD 2 and the Parking SPG as it provides a suitable design response to ensure the limited parking provision available on site remains functional and fit for purposes. This acceptability in highways and spatial planning terms should weigh heavily in favour of the appeal.
- 4.21 In light of the above, and 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.

Design and Visual Impact

- 4.22 The following extracts from the Design and Visual Impact section of the Delegated Officers Report are considered particularly relevant to the matters in dispute:

The proposal relates to the construction of an enclosure within the front parking area serving the Pen y Garth Mansion apartments, a prominent site at the junction of Stanwell Road and Rectory Road. The front of the site, along Stanwell Road, is enclosed by a low wall with metal railings, and as such the front parking area is currently publicly visible within the street scene. Given that the immediate street scene is largely retail and service orientated, with few residential properties, it was noted during the site visit that there are currently no similar structures within the street scene surrounding the site.

Given that the parking area is currently 'open' and visible from Stanwell Road, and the fact the proposed enclosure would be sited towards the front of the parking area, in close proximity to the front boundary, it would form a prominent addition to this street scene, and would detract from the openness which the site currently benefits from. Whilst it is acknowledged that there is already a bin store within the front parking area serving the apartments, it should be pointed out that this is set significantly further back into the site compared to the proposed enclosure, and is of a significantly smaller scale when compared to the proposal.

Whilst it is considered that the proposed enclosure itself is not of an unacceptably large scale, due to its siting at the front of the site, in close proximity to the public footway, it is considered that it would result in a visually intrusive and incongruous addition to the street scene along Stanwell Road, which would have a detrimental impact upon the appearance and character of the site in its current form, and the surrounding area.

In addition to its siting and the harmful effect the proposal would have upon the open character of the street scene at present, concerns also exist over the design of the enclosure itself. The proposed enclosure would be constructed with a painted steel frame and a translucent polycarbonate sheet roof and as a result it is considered that the enclosure would be constructed from materials that would not be in keeping with the character of this part of the Conservation Area of and a design of limited architectural quality of an overly utilitarian design, which would not reflect the context and character of the existing site or that of the surrounding street scene within the Penarth Conservation Area. The use of a polycarbonate roof is of particular concern and would result in a negative and harmful impact upon the character of the site, which would be enhanced due to the prominence of the proposed enclosure at the front of the site.

The Appellant's Response

4.23 From reviewing the delegated officers report it is evident that the negative assessment of the proposal in terms of its alleged noncompliance with design based policies stems from the objection received from the LPAs Conservation officer. As such, it is considered appropriate to first consider the comments conveyed by the LPA's design officer and thereafter consider the position set out within the Design and Visual Impact section of the report.

4.24 In terms of the Conservation Officer comments these are as follows:

The proposal seeks planning permission for the erection of an enclosure over the existing car parking spaces. The proposal has a utilitarian appearance constructed from a painted steel frame, powder coated glazing bars and a polycarbonate roof. In support of the application, the Planning Statement says

"As it stands the carparking 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, thereby resulting in unintended parking stress to the detriment of other surrounding residential occupiers ability to park."

*The contribution of trees to the character and appearance of the Penarth Conservation Area is a significant characteristic that is identified in the CAAMP. Similarly, the front gardens and gaps between buildings make a significant contribution to the character and appearance of the conservation area. **It is my view the trees adjacent to the application site contribute significantly to the character appearance of the conservation area and have a stature and form which should be regarded as having a high amenity value.** The introduction of the **structure proposed would, in my view, introduce an incongruous feature in an otherwise open part of the site which is particularly visible from Stanwell Road and, currently, makes a positive contribution to the character and appearance of the conservation area.** It is not accepted that owners are forced to use on-street parking. **Alternative measures, for example car covers, could be utilised without the need for a permanent structure such as that proposed.** An amount of inconvenience and maintenance is a normal consequence of living in close proximity to trees such as those found adjacent to the application site.*

It is not clear what impact the proposed works will have on the trees root protection area. Confirmation in this regard should be sought.' (GJP Emphasis)

- 4.25 As can be seen from the emboldened text above it is considered the principal concerns of the Conservation Officer are as follows:
- The trees adjacent to the application site contribute significantly to the character appearance of the conservation area and should be protected; and
 - The structure would introduce an incongruous feature in an otherwise open part of the site which is particularly visible from Stanwell Road and, currently, makes a positive contribution to the character and appearance of the conservation area
- 4.26 In response to the first bullet point noted above the appellant concurs with the LPA's Conservation Officer that the trees on the adjoining site contribute significantly to the character appearance of the conservation area and should be protected. This is of course reflected by the low profile and lightweight nature of the proposed structure, which would be able to be installed without the need for any works to the TPO tree nor without the need for ground works / foundations that would potentially impact on the root system of the tree. 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, whilst concurrently addressing an operational issue in relation to the usability of the car parking area within the application site.
- 4.27 In contrast to the appeal proposals, and to a degree in conflict with the LPA's own Conservation Officer comments, the Delegated Officer Report makes reference to the potential for works to the TPO tree to address the issue of tree sap falling on cars and in turn obviate the need for the proposal. Whilst in the first instance such comments arguably stray beyond the remit of the LPA (as they relate to a proposal that is not before them) it is also the case that they appear to advocate permanent physical works to the tree as reflected by the extract contained within the principle of development section of the report and reproduced below:

*Whilst it is acknowledged that sap falling onto cars parked in these spaces may cause damage to the paintwork, it is considered that this itself would not render these spaces unusable and would certainly not warrant the construction of what is a relatively large enclosure to protect the cars in this location. **Indeed, it is considered that a TPO application could be made to cut-back some of the overhanging branches of the trees at No. 4, which if granted approval would greatly improve the situation.** Additionally, as is mentioned within the Conservation Officer comments, **it is considered that there are other measures which could be utilised to help mitigate the effects of leaves and sap, such as the use of car covers.** Such measures would mean the visual impact of the enclosure (as will be assessed in the following section) could be avoided (GJP Emphasis)*

- 4.28 As set out below it is respectfully contended that no harm would arise as a result of the appeal proposal – which does not necessitate any works to the TPO tree. In addition, and in parallel, to this it is evident that the LPA have based part of their assessment on what they perceive to be alternative solutions to the tree sap issue rather than focus purely on the merits of the proposal before them.
- 4.29 Notwithstanding the above, and turning to the degree of harm that would arise from the positioning of a low profile visually lightweight structure as proposed, it is the appellant’s view that the combination of the location of the structure, setback from the public realm and detailed design would ensure no harm would arise. This position is further supported by the fact that the proposed structure is not to be located within an area particularly sensitive to change – such as an unaltered original front garden landscaped area, but rather is to be positioned within an established car park area that is both occupied by a range of vehicles and ancillary structures / paraphernalia such as a refuse store. This existing arrangement was of course previously found to be acceptable by the LPA through the approval of application ref. 2015/00647/FUL. In contrast, when considering the current application the LPA has taken a view that despite the site being within an area that is largely retail and service orientated, and despite the pre-existing approved car parking arrangement, the site retains some inherent degree of openness that would be harmfully eroded by the modest appeal proposal.
- 4.30 In further response to the alleged harm to the openness of the site and in turn Conservation Area, the appellant respectfully draws the Inspector’s attention to the following photographs which include the location of the proposed structure within its context. When viewed in the context of the subject proposal it is considered that these photographs clearly demonstrate how that the degree of openness identified by the LPA simply does not exist, and in any event such openness would be no means be harmfully eroded by the proposed structure.



View looking north along Stanwell Road which highlights the well screened nature of the area within which the structure would be sited when viewed from the south



View looking south along Stanwell Road which highlights the previously modified nature of the area within which the structure would be sited when viewed from the north

- 4.31 In addition to the above photographs supporting the appellants view that the area of land upon which the structure is to be sited is readily capable of accommodating its presence without giving rise to the level of harm alleged by the LPA, the LPA of course have accepted in their own report that the proposal structure *"is not of an unacceptably large scale"*. In light of this tacit acceptance of the scale of the structure it is evident that the LPA's principle concern may only in effect be the detailed design of the structure.
- 4.32 Insofar as detailed design is concerned, it remains the case the structure would be intentionally modest in terms of its architecture and materiality. The proposed materials of a steel frame and polycarbonate roofing would provide a sensitive and visually lightweight design response. Whilst due regard was given to using materials that reflect the materiality of the host building, it is considered that given the limited size of the structure and intended purpose any such material would not be appropriate for what is intended to be a modest and visually lightweight structure.

- 4.33 Again, the suggestion by the LPA that the lack of materials that are 'in keeping' is an area of concern is reflective of a contradictory position by the LPA – as by asserting that not being in keeping' is a further exacerbating factor the LPA are effectively suggesting a structure with materiality such as brick and tile (which would be in keeping) would be acceptable. This of course would have a much greater impact on any open nature of the site compared to the modest and visually lightweight structure as proposed.
- 4.34 For the reasons detailed above it is respectfully considered that the proposal would not generate any material harm, and as such preserves the character of the street scene and of the wider Penarth Conservation Area. In any event, and as set out within the principle of development section above, in is considered 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.

5 SUMMARY & CONCLUSIONS

Reasons for Refusal

5.1 The application the subject of this appeal (i.e. Planning Application Reference No. 2019/00064/FUL) was refused 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).*

5.2 The reasons for refusal have been considered in this statement in detail – against national and local policy, as well as other material considerations which are of relevance to the appeal site and proposal.

5.3 It is considered that the case set out in this Statement has demonstrated that the proposed development accords with the terms of the Development Plan, and indeed relevant national policy and other material considerations.

Summary of Appellant's Case

5.4 The Appellant applied for planning permission to erect a modestly proportioned and visually lightweight structure to enable existing approved car parking spaces to be used year round.

5.5 The appeal proposals would accord with the key parking related policy objectives of the LDP and would safeguard against excessive parking overspill within an area that is recognised as being subject to high levels of parking stress.

5.6 From a conservation and design perspective the proposals are consider entirely policy compliant, being a visually sensitive design response that would preserve the character and appearance of the Conservation Area.

5.7 At it's very essence the proposal represents the efficient use of 4 existing yet largely unusable car parks to respond to the parking needs of the existing occupiers of the development. Such form of development fully aligns with sustainable development objectives conveyed at both a National and Local policy level.

Conclusion.

5.8 In light of the above, and for the above reasons outlined in this statement, the Appellant respectfully considers that the appeal should be allowed, and planning permission is granted.

Appendix A – Decision Notice

THE VALE OF GLAMORGAN COUNCIL

Town and Country Planning Act 1990
Planning and Compulsory Purchase Act 2004
The Town and Country Planning (Development Management Procedure) (Wales)
Order 2012

REFUSAL OF PLANNING PERMISSION

Agent:
Mr. Geraint John
Geraint John Planning Ltd
Office 16 (House 1, 2nd Floor)
The Maltings
East Tyndall Street
Cardiff
CF24 5EA

Applicant:
Mr. Ahmed
Silver Crescent Developments Ltd
c/o Agent

Erection of enclosure above existing car parking spaces at Pen Y Garth Mansion, 2, Stanwell Road, Penarth

In accordance with the application and plans registered on 23 January 2020 the Council in pursuance of its powers under the above mentioned Act and Order hereby **REFUSES TO PERMIT** the proposed development for the following reason(s):

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).

Dated: 19 March 2020

M. J. Goldsworthy

Head of Regeneration and Planning

**IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES
ATTACHED TO THIS FORM.**

Note for applicant/agent

THESE NOTES SHOULD ALWAYS BE REPRODUCED WITH
COPIES OF THE DECISION NOTICE

NOTES

Notification to be sent to an applicant when a Local Planning Authority refuse planning permission or grant it subject to conditions.

Appeals to the Welsh Government:

- If you are aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Welsh Government under Section 78 of the Town and Country Planning Act 1990 (as amended).
- If you want to appeal, then you must do so within the statutory period using a form which you can get from The Planning Inspectorate, Crown Buildings, Cathays Park, Cardiff CF10 3NQ or you can access their website here: <https://gov.wales/planning-appeals> . The statutory period for appeal submissions are dependent on the type of appeal and the circumstances, detailed below.
- Appeals in respect of the;
 - Householder and 'minor commercial' development must be received within **12 weeks** from the date of the decision notice;
 - Advertisement consent applications must be received within **8 weeks** from the date of the decision notice; and,
 - Other types of planning application must be received within **6 months** from the date of the decision notice.
- The Welsh Government can allow a longer period of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Welsh Government need not consider an appeal if it seems that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any Development Order and to any directions given under a Development Order.
- In practice, the Welsh Government does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by them.

Purchase Notices:

- If either the Local Planning Authority or the Welsh Government refuses permission to develop land or grants it subject to conditions, the owner may claim that he/she can neither put the land to a reasonable beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a Purchase Notice on the Council. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).

PLEASE NOTE: THIS NOTICE RELATES ONLY TO A PLANNING DECISION AND DOES NOT RELATE TO OTHER LEGISLATION INCLUDING ANY LEGISLATION UNDER:

BUILDING REGULATIONS
LISTED BUILDING LEGISLATION
HIGHWAY LEGISLATION

IF PLANNING CONSENT HAS BEEN GRANTED IT IS ADVISABLE TO ESTABLISH WHETHER ANY OTHER FORM OF CONSENT IS REQUIRED AND TO OBTAIN SUCH CONSENT BEFORE COMMENCING DEVELOPMENT

Please quote the application number in all correspondence

Appendix B – Delegated Officer Report

Mr. Ahmed Silver Crescent Developments Ltd, c/o Agent
Mr. Geraint John Geraint John Planning Ltd, Office 16 (House 1, 2nd Floor), The
Maltings, East Tyndall Street, Cardiff, CF24 5EA

Pen Y Garth Mansion, 2, Stanwell Road, Penarth

Erection of enclosure above existing car parking spaces

SITE AND CONTEXT

The application site relates to Pen y Garth Mansion, a large traditional building at the junction of Rectory Road and Stanwell Road, within the Penarth Settlement Boundary. The building has recently been converted from offices to residential apartments, which was granted permission under application ref: 2015/00647/FUL.

Planning application ref: 2015/00647/FUL granted permission for the extension and alteration of the building to form seven self-contained residential apartments, in addition to the erection of one semi-detached town house with on-site car parking, cycle and bin store facilities.

The application site is located near to the primary shopping area with nearby retail uses, and a mix of other uses in the vicinity, including residential properties to the immediate south, a library to the north and tennis courts to the east. The site is also located within the Penarth Conservation Area.

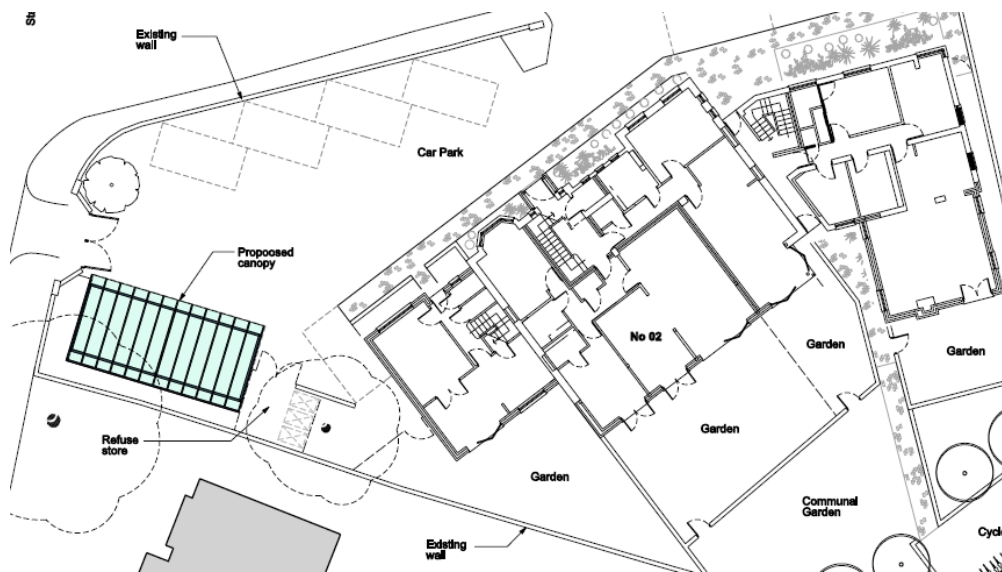
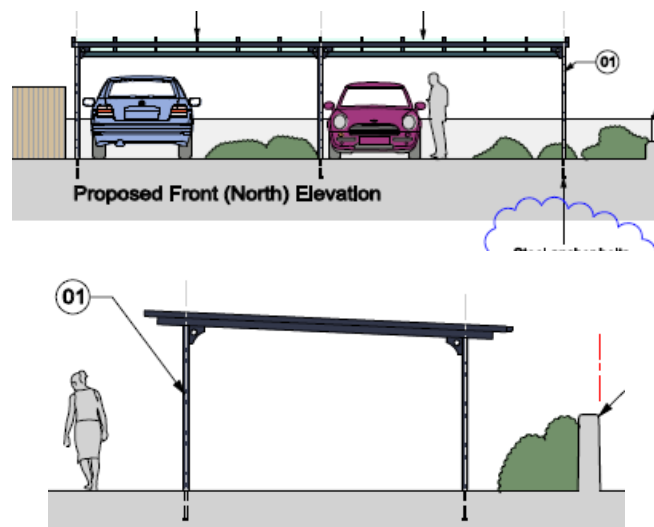


DESCRIPTION OF DEVELOPMENT

This is a full application for the construction of an enclosure/canopy within the car parking area to the front of the building, to provide cover over four existing parking spaces. The canopy would measure approximately 9.1 metres in width and 5 metres in depth at its greatest extent. It would have a shallow mono-pitched roof with a height of approximately 2.4 metres at the front entrance. The enclosure would have a painted steel frame, with a translucent, polycarbonate sheet roof.

The canopy would be located approximately 1 metre from the boundary with the neighbouring No. 4 Stanwell Road, to the south of the application site. In addition, the enclosure would fall in close proximity to a Yew tree and a Horse Chestnut tree which are both protected by a TPO and which lie within the front garden area at No. 4 Stanwell Road.

Details of the proposal can be viewed below:



PLANNING HISTORY

1983/00554/FUL, Address: 2, Stanwell Road, Penarth, Proposal: Occupation of existing office building for same use, construction of additional parking spaces, Decision: Approved

1984/00522/FUL, Address: 2, Stanwell Road, Penarth, Proposal: Extension to east and west ends office, Decision: Approved

1994/00632/TCA, Address: 2, Stanwell Road, Penarth, Proposal: Prune trees which overhang the public highway, Decision: Approved

2004/01094/TCA, Address: 2, Stanwell Road, Penarth, Proposal: Fell one yew tree, Decision: Refused

2004/01269/FUL, Address: Amey Buildings, Rectory Road, Penarth, Proposal: Proposed alterations to existing building and extensions to form 2 no. maisonettes, part office to remain, Decision: Refused

2005/00533/FUL, Address: Amey Buildings, Rectory Road, Penarth, Proposal: Proposed alterations to existing building and extension to form 1 no. maisonette (south west side) part office to remain, Decision: Refused

2005/01313/FUL, Address: Amey Buildings, Rectory Road, Penarth, Proposal: Extension to existing office building, Decision: Refused

2006/00172/FUL, Address: 2, Stanwell Road, Penarth, Proposal: Proposed extension to existing offices to provide additional office accomodation and an enclosed fire escape., Decision: Approved

2008/01363/FUL, Address: 2, Stanwell Road, Penarth, Proposal: Proposed conversion of existing office building together with new extension previously approved for office use to form 10 no flats with 15 no car parking spaces, Decision: Finally Disposed of

2012/01013/FUL, Address: Amey Building, 2, Stanwell Road, Penarth, Proposal: Proposed alterations and extension to existing building to form five flats, Decision: Withdrawn

2013/01111/TCA, Address: 2, Stanwell Road, Penarth, Proposal: Removal of three trees (Birch, Western Red Cedar and a multi-stemmed Sycamore) from rear car park, Decision: Approved

2014/00268/1/CD, Address: Car Park, 2, Stanwell Road, Penarth, Proposal: Discharge of conditions- 13-Drainage, 14-Shed. Proposed new dwelling in former car parking area, Decision: Approved

2014/00269/FUL, Address: 2, Stanwell Road, Penarth, Proposal: Proposed alterations and extensions to existing building to form 5 No flats, Decision: Approved

2014/01392/FUL, Address: 2, Stanwell Road, Penarth, Proposal: Extension and alterations of existing property to form nine self-contained residential apartments, Decision: Refused

2015/00647/1/CD, Address: 2, 2, Stanwell Road, Penarth, Proposal: Discharge of Condition 3 - Proposed materials. Extension and alteration of existing property to form seven self-contained residential apartments and one town house with on-site car parking, cycle and bin store facilities (resubmission of application ref: 2014/1392FUL), Decision: Approved

2015/00647/1/NMA, Address: 2, Stanwell Road, Penarth, Proposal: Non-material Amendment-Proposed substitution of Juliet balconies with balconies to top floor apartment to rear. Proposed cantilevered projection to first floor balcony to rear of property. Minor window and door amendments., Decision: Refused

2015/00647/2/CD, Address: 2, Stanwell Road, Penarth, Proposal: Discharge of Conditions 4, 6, and 9 - Extension and alteration of existing property to form seven self-contained residential apartments and one town house with on-site car parking, cycle and bin store facilities (resubmission of application ref: 2014/1392FUL), Decision: Approved

2015/00647/2/NMA, Address: 2, Stanwell Road, Penarth, Proposal: Non material amendment to Condition 7-Arboreal impact assessment & Condition 11-Landscaping of planning permission 2015/00647/FUL for extension and alteration to form seven self-contained residential apartments and one town house, Decision: Approved

2015/00647/3/NMA, Address: 2, Stanwell Road, Penarth, Proposal: Non material amendment - Reposition of window to front elevation and retention of gable as tiled for extension and alteration of existing property to form seven self-contained residential apartments and one town house, Decision: Approved

2015/00647/4/NMA, Address: 2, Stanwell Road, Penarth, Proposal: Non material amendment to Planning Permission 2015/00647/FUL - Variation of Condition 10 (Drainage)., Decision: Approved

2015/00647/5/NMA, Address: 2, Stanwell Road ,Penarth, Proposal: Non-Material Amendment - To alter the car parking, refuse store and site frontage tree planting arrangement. Planning Permission ref. 2015/00647/FUL : Extension and alteration of existing property to form seven self-contained residential apartments and one town house with on-site car parking, cycle and bin store facilities (resubmission of application ref: 2014/1392FUL), Decision: Refused

2015/00647/6/NMA, Address: 2, Stanwell Road, Penarth, Proposal: Non-Material Amendment - Addition of motorized steel gates to car park exit, Decision: Approved

2015/00647/FUL, Address: 2, Stanwell Road, Penarth, Proposal: Extension and alteration of existing property to form seven self-contained residential apartments and one town house with on-site car parking, cycle and bin store facilities (resubmission of application ref: 2014/1392FUL), Decision: Approved

2016/01275/FUL, Address: 2, Stanwell Road, Penarth, Proposal: Proposed pair of semi detached 2 bedroom dwellings, Decision: Withdrawn

2017/00149/TPO, Address: 2, Stanwell Road, Penarth, Proposal: Slight reduction to one Yew - TPO No. 11 2004, Decision: Approved

2018/00279/1/CD, Address: Rear of 2, Stanwell Road, Penarth, Proposal: Discharge of Condition 4 - Ground Levels- Planning permission 2018/00279/FUL - pair of semi-detached 2 bedroom dwellings, Decision: Approved

2018/00279/2/CD, Address: The car park, rear of 2, Stanwell Road, Penarth, Proposal: Discharge of Condition 13 - CEMP and Condition 14 - Means of Enclosure of Planning permission 2018/00279/FUL - pair of semi-detached 2 bedroom dwellings, Decision: Approved

2018/00279/FUL, Address: Rear of 2, Stanwell Road, Penarth, Proposal: Proposed pair of semi-detached 2 bedroom dwellings, Decision: Approved

2018/01411/FUL, Address: Pen Y Garth Mansion, 2, Stanwell Road, Penarth, Proposal: Retention of amended parking layout, widened access and gates to Rectory Road, and gates to Stanwell Road, Decision: Approved

2019/01247/FUL, Address: Apartment 7, Pen Y Garth Mansion, 2, Stanwell Road, Penarth, Proposal: Replacement of existing Juliet balconies with glass balustrades to facilitate the use of the existing flat roof areas as private outdoor amenity space, Decision: Approved

CONSULTATIONS

Penarth Town Council was consulted on 28.01.20 and comments received on 07.02.20 state an objection due to the development “setting a precedence and being not in-keeping with the conservation area”.

St Augustines Ward Members were consulted on 28.01.20 and at the time of writing this report, comments had been received from Cllr. Neil Thomas. His comments state the following:

“The answer to q10 in the application is wrong given that a mature tree lies directly adjacent to this site and overhangs the proposed shelter. I imagine that the shelter is proposed because of leaves and perhaps sap from that tree falling on the cars below. Given that, I have no objection on planning grounds though I would be concerned if the erection damages the tree or if it results in sightline problems or overshadowing the neighbouring property.”

The Council’s Conservation Officer was consulted on 28.01.20 and comments received on 24.02.20 state an objection. The comments state:

‘The proposal seeks planning permission for the erection of an enclosure over the existing car parking spaces. The proposal has a utilitarian appearance constructed from a painted steel frame, powder coated glazing bars and a polycarbonate roof. In support of the application, the Planning Statement says:

“As it stands the carparking 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, thereby resulting in unintended parking stress to the detriment of other surrounding residential occupiers ability to park.”

The contribution of trees to the character and appearance of the Penarth Conservation Area is a significant characteristic that is identified in the CAAMP. Similarly, the front gardens and gaps between buildings make a significant contribution to the character and appearance of the conservation area. It is my view the trees adjacent to the application site contribute significantly to the character appearance of the conservation area and have a stature and form which should be regarded as having a high amenity value. The introduction of the structure proposed would, in my view, introduce an incongruous feature in an otherwise open part of the site which is particularly visible from Stanwell Road and, currently, makes a positive contribution to the character and appearance of the conservation area. It is not accepted that owners are forced to use on-street parking. Alternative measures, for example car covers, could be utilised without the need for a permanent structure such as that proposed. An amount of inconvenience and maintenance is a normal consequence of living in close proximity to trees such as those found adjacent to the application site.

It is not clear what impact the proposed works will have on the trees root protection area. Confirmation in this regard should be sought.’

REPRESENTATIONS

The neighbouring properties were consulted on 28.01.20 and a site notice was displayed on 13.02.20. At the time of writing this report, no letters of representation had been received.

REPORT

Planning Policies and Guidance

Local Development Plan:

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

Strategic Policies:

POLICY SP1 – Delivering the Strategy
POLICY SP10 – Built and Natural Environment

Managing Development Policies:

POLICY MD2 - Design of New Development
POLICY MD5 - Development within Settlement Boundaries

POLICY MD8 - Historic Environment

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being through Placemaking

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places

3.9 The special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations. A clear rationale behind the design decisions made, based on site and context analysis, a strong vision, performance requirements and design principles, should be sought throughout the development process and expressed, when appropriate, in a design and access statement.

3.10 In areas recognised for their particular landscape, townscape, cultural or historic character and value it can be appropriate to seek to promote or reinforce local distinctiveness. In those areas, the impact of development on the existing character, the scale and siting of new development, and the use of appropriate building materials (including where possible sustainably produced materials from local sources), will be particularly important.

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment)

6.1.7 It is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include the setting of a historic asset which might extend beyond its curtilage. Any change that impacts on a historic asset should be managed in a sensitive and sustainable way.

6.1.14 There should be a general presumption in favour of the preservation or enhancement of the character or appearance of conservation areas or their settings. Positive management of conservation areas is necessary if their character or appearance are to be preserved or enhanced and their heritage value is to be fully realised...

6.1.15 There is a strong presumption against the granting of planning permission for developments, including advertisements, which damage the character or appearance of a conservation area or its setting to an unacceptable level. In exceptional cases, the presumption may be overridden in favour of development considered desirable on public interest grounds.

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 12 – Design (2016)
- 2.6 “Design which is inappropriate in its context, or which fails to grasp opportunities to enhance the character, quality and function of an area, should not be accepted, as these have detrimental effects on existing communities.”
- 4.5 “In many cases an appraisal of the local context will highlight distinctive patterns of development or landscape where the intention will be to sustain character. Appraisal is equally important in areas where patterns of development have failed to respond to context in the past. In these areas appraisal should point towards solution which reverse the trend.”
- 4.8 “Appraising “character” involves attention to topography; historic street patterns, archaeological features, waterways, hierarchy of development and spaces, prevalent materials in buildings or floorscape, architecture and historic quality, landscape character, field patterns and land use patterns, distinctive views (in and out of the site), skylines and vistas, prevailing uses and plan forms, boundary treatments, local biodiversity, natural and cultural resources and locally distinctive features and traditions (also known as vernacular elements).”
- 6.16 “The appearance and function of proposed development, its scale and its relationship to its surroundings are material considerations in determining planning applications and appeals. Developments that do not address the objectives of good design should not be accepted.”

- Technical Advice Note 24 – The Historic Environment (2017)

Supplementary Planning Guidance:

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). Some SPG documents refer to previous adopted UDP policies and to ensure conformity with LDP policies, a review will be carried out as soon as is practicable following adoption of the LDP. The Council considers that the content and guidance of the adopted SPGs remains relevant and has approved the continued use of these SPGs as material considerations in the determination of planning applications until they are replaced or otherwise withdrawn. The following SPG are of relevance:

- Parking Standards
- Penarth Conservation Area Appraisal and Management Plan
- Residential and Householder Development
- Trees, Woodlands, Hedgerows and Development

Other relevant evidence or policy guidance:

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- Section 58 (1) of the Marine and Coastal Access Act places a requirement on the Council to take authorisation decisions in accordance with the appropriate marine policy documents, unless relevant consideration indicates otherwise.

Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council’s duty and the “sustainable development principle”, as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Issues

In assessing the proposal against the above policies and guidance, the principal issues to be considered in the determination of this application include the principle of the proposed development, its design and scale, and its visual impact upon the site and the surrounding street scene within the Penarth Conservation Area. Also to be assessed is the potential impact upon the amenity of neighbouring residential occupiers, the impact upon the nearby Yew and Horse Chestnut trees with a TPO, and the impact upon parking provision on-site.

Principle of Development

The proposal seeks planning permission for the construction of an enclosure over four existing car parking spaces within the south-western corner of the site. The Planning Statement submitted as part of the application suggests that the proposed canopy/enclosure is needed in order to protect cars parking within these spaces from falling leaves and sap from the trees overhanging the boundary at No. 4 Stanwell Road. Furthermore, the Agent has confirmed verbally that due to leaves and sap falling onto cars parked in these spaces at present, many of the residents of the Pen y Garth Mansion apartments are forced to park along Rectory Road, increasing traffic and parking pressures along this road to the north of the site.

Whilst it is acknowledged that sap falling onto cars parked in these spaces may cause damage to the paintwork, it is considered that this itself would not render these spaces unusable and would certainly not warrant the construction of what is a relatively large enclosure to protect the cars in this location. Indeed, it is considered that a TPO application could be made to cut-back some of the overhanging branches of the trees at No. 4, which if granted approval would greatly improve the situation. Additionally, as is mentioned within the Conservation Officer comments, it is considered that there are other measures which could be utilised to help mitigate the effects of leaves and sap, such as the use of car covers. Such measures would mean the visual impact of the enclosure (as will be assessed in the following section) could be avoided.

As such, with regard to the principle of the proposed development, it is considered that the need for the enclosure/canopy has not been sufficiently demonstrated, and there are alternative measures which could be taken which would likely be more acceptable. In addition it is not accepted that the current situation forces residents to park on the adjacent streets, with no supporting evidence in-line with this claim being supplied. Consequently, the comments within the Planning Statement regarding the need for the development are not accepted as the proposal is not the only way to mitigate the impacts of the trees on the suitability of the parking area.

Design and Visual Impact

In policy terms, the site is located within the Settlement Boundary for Penarth, as identified within the LDP. Policy MD5 (Development within Settlement Boundaries) states that new development within settlements will be permitted where the proposed development:

- Makes efficient use of land or buildings.
- Is of a scale, form, layout and character that is sympathetic to and respects its immediate setting and the wider surroundings and does not unacceptably impact upon the character and appearance of the locality.
- The proposal would not result in the loss of natural or built features that individually or cumulatively contribute to the character of the settlement or its setting.

Policy MD2 (Design of New Development) is also of relevance, and states that in order to create high quality, healthy, sustainable and locally distinct places development proposals should:

- Be of a high standard of design that positively contributes to the context and character of the surrounding natural and built environment and protects existing features of townscape or landscape interest.
- Respond appropriately to the local context and character of neighbouring buildings and uses in terms of use, type, form, scale, mix and density.

This is supported in principle by Planning Policy Wales (Edition 10), TAN 12 (Design), and the Council's Residential and Householder Development SPG.

In addition, due to the site's location within the Penarth Conservation Area, Policies MD8 and SP10 are relevant, and they are explicit in their protection of the historic environment. Criterion 1 of Policy MD8 requires development proposals to "*preserve or enhance the character and appearance of the area*" whilst Criterion 1 of Policy SP10 reiterates this, requiring "*development proposals to preserve and where appropriate enhance the built environment*". Furthermore, Criterion 6 of Policy SP1 requires: "*protection and enhancement of the built environment.*"

The proposal relates to the construction of an enclosure within the front parking area serving the Pen y Garth Mansion apartments, a prominent site at the junction of Stanwell Road and Rectory Road. The front of the site, along Stanwell Road, is enclosed by a low wall with metal railings, and as such the front parking area is currently publically visible within the street scene. Given that the immediate street scene is largely retail and service orientated, with few residential properties, it was noted during the site visit that there are currently no similar structures within the street scene surrounding the site.

Given that the parking area is currently 'open' and visible from Stanwell Road, and the fact the proposed enclosure would be sited towards the front of the parking area, in close proximity to the front boundary, it would form a prominent addition to this street scene, and would detract from the openness which the site currently benefits from. Whilst it is acknowledged that there is already a bin store within the front parking area serving the apartments, it should be pointed out that this is set significantly further back into the site compared to the proposed enclosure, and is of a significantly smaller scale when compared to the proposal.

Whilst it is considered that the proposed enclosure itself is not of an unacceptably large scale, due to its siting at the front of the site, in close proximity to the public footway, it is considered that it would result in a visually intrusive and incongruous addition to the street scene along Stanwell Road, which would have a detrimental impact upon the appearance and character of the site in its current form, and the surrounding area.

In addition to its siting and the harmful effect the proposal would have upon the open character of the street scene at present, concerns also exist over the design of the enclosure itself. The proposed enclosure would be constructed with a painted steel frame and a translucent polycarbonate sheet roof and as a result it is considered that the enclosure would be constructed from materials that would not be in keeping with the character of this part of the Conservation Area of and a design of limited architectural quality of an overly utilitarian design, which would not reflect the context and character of the existing site or that of the surrounding street scene within the Penarth Conservation Area. The use of a polycarbonate roof is of particular concern, and would result in a negative and harmful impact upon the character of the site, which would be enhanced due to the prominence of the proposed enclosure at the front of the site.

This is further reinforced due to the site's location within the Penarth Conservation Area, and it is the Local Planning Authority's view that the proposal would also unacceptably upon the character of the conservation area.

Indeed, Chapter 6.1.15 of Planning Policy Wales (Edition 10) states that: *"there is a strong presumption against the granting of planning permission for developments, including advertisements, which damage the character or appearance of a conservation area or its setting to an unacceptable level."*

The Council's Conservation Officer has commented upon the application, stating an objection to the proposal and recommending that the application be refused, and within his comments pays specific attention to the impact the proposal would have upon the open character of the street scene, and the poor quality, utilitarian design of the enclosure. As such, given the fundamental concerns over the design and siting of the proposal, and the harmful visual impact this would cause, it is considered that in this regard the proposal is unacceptable.

In light of the assessment of the design and visual impact above, due to the siting and design of the proposal, it is considered that the enclosure would not be compliant with Policies MD2, MD5, MD8 and SP10 of the LDP, as well as the policies contained within Planning Policy Wales (Edition 10).

Impact on TPOs

The proposed enclosure would be located in close proximity to a Yew tree and a Horse Chestnut tree at the adjoining No. 4 Stanwell Road which overhang the boundary and which have a TPO placed upon them, likely falling within the root protection areas. Initially no information regarding the impact the structure would have upon the longevity of the trees was submitted as part of the application. Following officer concerns being raised with the Agent regarding the potential detrimental impact upon the trees' roots and general health, an amended plan was submitted, highlighting the fact that the enclosure would be bolted onto the surface of the car park with anchor bolts, negating the need for any foundations to be dug.

On the basis of the above, the proposal would not have any direct, or very limited impacts on the trees' roots due the minimal intervention of anchoring bolts into the ground which is not likely to cause any more disturbance than the existing surface of the car park.

In relation to the impact of the structure itself, whilst it would clearly fall within the canopy of these protected trees, the would not impact on/ or require the removal of any limbs. Furthermore as set out above, being sited on the existing hardsurfaced parking area, would result in minimal disturbance of the ground.

However, due to the proximity of the proposed structures to the . trees and which contribute significantly to public amenity and the character of the street scene and this part of the Penarth Conservation Area, the proposal would impact on the setting of these protected trees, if not physically impacting upon them.

Impact upon Neighbouring Amenity

Criterion 8 of Policy MD2 of the Local Development Plan states proposals should safeguard public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. This is reinforced by guidance contained within the adopted SPG on Residential and Householder Development.

The proposed enclosure would be set-off the boundary with No. 4 Stanwell Road, to the south, by approximately 2.2 metres. Whilst this is in relatively close proximity to the dwelling at No.4, due to the enclosure's single storey scale, it is considered that it would not result in any unacceptable impact upon the amenity of these occupiers, and as such this could not be considered as a reason to refuse the application.

Parking Provision

Given that the proposed enclosure would neither create additional, nor remove existing parking spaces, overall it would have a negligible impact upon parking provision on-site. Whilst the Planning Statement suggests that the four spaces in this part of the site are currently unusable due to leaves and sap, as has already been assessed, this is not considered to be a reason to approve the application, and the principle of the development has already been considered unacceptable as a result.

In light of the above assessment, the following recommendation is made.

REASON FOR RECOMMENDATION

The decision to refuse planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

The appropriate marine policy documents have been considered in the determination of this application in accordance with Section 59 of the Marine and Coastal Access Act 2009.

RECOMMENDATION

Refuse

REFUSE (W.R.)

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).

NOTE:

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.