

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 3RD OCTOBER, 2001

REPORT OF THE DIRECTOR OF ENVIRONMENTAL AND ECONOMIC REGENERATION

7. ENFORCEMENT ACTION

COWBRIDGE CATTLE MARKET, COWBRIDGE : UNAUTHORISED WORKS TO COWBRIDGE TOWN WALL, ERECTION OF BULL PENS AND OTHER ASSOCIATED WORKS

Background

1. During the early part of July 2001, the Council's Planning Enforcement Unit received a number of complaints in respect of works undertaken to part of the Town Wall, Cowbridge, adjacent to The Butts on land used for the operation of the Cowbridge Cattle Market.
2. The land in question, as shown hatched on the plan attached as Appendix A, is owned by the Council, and leased by Glamorgan Mart, operators of the Cowbridge Cattle Market under an occupational right licence.
3. The works that have been undertaken at the site, consist of the following:
 - (a) The erection of 1.7 metre high bull pens and two sets of double gates fronting The Butts and the public/doctors car park.
 - (b) The resurfacing and repair of the existing concrete slab.
 - (c) The rendering of the lower part of the Town Wall, a Grade II* Listed Building, where it bounds the site, to a height of approximately 0.35 metres.
4. The Council has been advised that the above works have been undertaken by Glamorgan Mart, in order that the site can meet the requirements as set down by the Department of the Environment, Fisheries and Rural Affairs, for its use as a collection centre for the holding of animals. Furthermore, the Trading Standards Department of the Council has issued a licence to the operators for the use of the site as a collection centre following the carrying out of these works.

The Issues

Planning Implications

5. The works that have taken place, in respect of the erection of bull pens enclosure and gates fronting the highway, require planning permission. The reason for this is that the Town and Country Planning (General Permitted Development) Order 1995, Part 2 Class A, only permits the erection of a gate, fence, wall or means of enclosure, adjacent to a highway used by vehicular traffic, where it does not exceed a height of one metre above ground level. Furthermore, given that the bull pens are sited in close proximity to the Town Wall, these works are considered to significantly affect the setting of the listed building, and any application for planning permission would have to consider this important issue.
6. In respect of the physical works that have been undertaken to the Listed Town Wall, Listed Buildings Consent would have been required for the alteration of the lower part of the Town Wall. It should also be noted that unauthorised works to a Listed Building is a criminal offence.
7. In assessing any of the above applications, the Council would have consulted Glamorgan Gwent Archaeological Trust, who provide a curatorial service for the Council, in compliance with Circular 60/96. Furthermore, any application would be assessed against the policies contained within the Vale of Glamorgan Unitary Development Plan Deposit Draft (as amended) 1998 which seeks to protect historic environments and archaeological remains.
8. In respect of the planning implications at the site, neither planning permission nor Listed Building Consent has been applied for the works undertaken.

The use of the site.

9. The site in question, under the occupational right licence, was used during market days for the loading and unloading of animals, during which time the site was enclosed by erecting movable steel posts and chains. In planning terms, it is not considered that the permanent enclosure of the land constitutes a material change of use. However, I have been advised that the permanent enclosure of the land is in breach of the occupational right licence, a matter which is being pursued separately by the Council's Legal Division.

Highway Safety

10. The section of the bull pen which adjoins the Town Wall where it fronts the public car parking area, has been infilled with galvanised steel sheeting to a height of 1.2 metres, creating a solid screen along the eastern side of the enclosure. This has resulted in a significant reduction in visibility, for vehicular traffic undertaking turning movements into and out of the car park (which includes 6 designated doctors parking spaces). Accordingly, the erection of the enclosure has resulted in a significant compromise to highway safety.

Drainage Issues

11. The Council's Drainage Section is currently investigating the issues of surface water and contaminated water run off as the site.

A Way Forward

12. The current position is that following meetings between Planning Enforcement and Conservation Officers of the Planning and Transportation Division and the Legal Division, (as Local Planning Authority and landowner), it is considered, without prejudice, that retrospective applications for both planning permission or Listed Building Consent would not be granted, for the works undertaken due to the:
- (i) Unacceptable nature of the works undertaken to the Listed Town Wall.
 - (ii) Impact on the setting of the Town Wall of the bull pens.
 - (iii) Works neither enhancing nor preserving the Cowbridge Conservation Area.
 - (iv) Significant loss of visibility for users of the adjacent car park.
13. In respect of the siting of the bull pens adjacent to the highway, as discussed in paragraph 5, a 1 metre high fence or enclosure can be erected on any land fronting a highway, without the need for planning permission, notwithstanding the fact that the land falls within a Conservation Area. Therefore, it is considered that the service of an Enforcement Notice would have limited benefit in trying to resolve the situation, as such a notice could only ensure that the enclosure be reduced in height to one metre.
14. Therefore it is considered expedient that the Legal Division, as landlords pursue the matter in respect of the breach of the lease agreement, to request that the bull pens be removed from the site and where necessary remedial repairs be undertaken.
15. With regard to the damage to the Town Wall, it is also considered expedient that the Legal Division also pursues the issue of works undertaken to the base of the town wall to ensure that all of the concrete screed/skim and associated damage at the bottom of the Town Wall be removed and the wall repaired as necessary.

Planning History

16. The site has not been subject to any recent planning history.

Legal Implications

17. Given that the land is in the ownership of the Council, the Director of Legal and Regulatory Services can pursue matters, in the first instance. If a Listed Building Enforcement Notice is served, the recipient has a right of appeal under Section 39 of the Planning (Listed Buildings & Conservation Areas) Act 1990.

Financial Implications

18. Any costs involved in pursuing issues relating to unauthorised works can be met within the department budget.

Equal Opportunities Implications

19. None.

Employment Implications

20. None.

Conclusions

21. It is therefore concluded that the following courses of action are considered prudent: The Director of Legal and Regulatory Services, as landlord, pursue the matter in respect of the breach of the lease agreement to request that the bull pens be removed from the site and where necessary, remedial repairs undertaken. In addition there is a need to ensure that the necessary remedial works are undertaken to the Town Wall to ensure that the all the concrete screed/skim at the bottom of the Town Wall be removed and repaired as necessary.

RECOMMENDATIONS

It is recommended that:

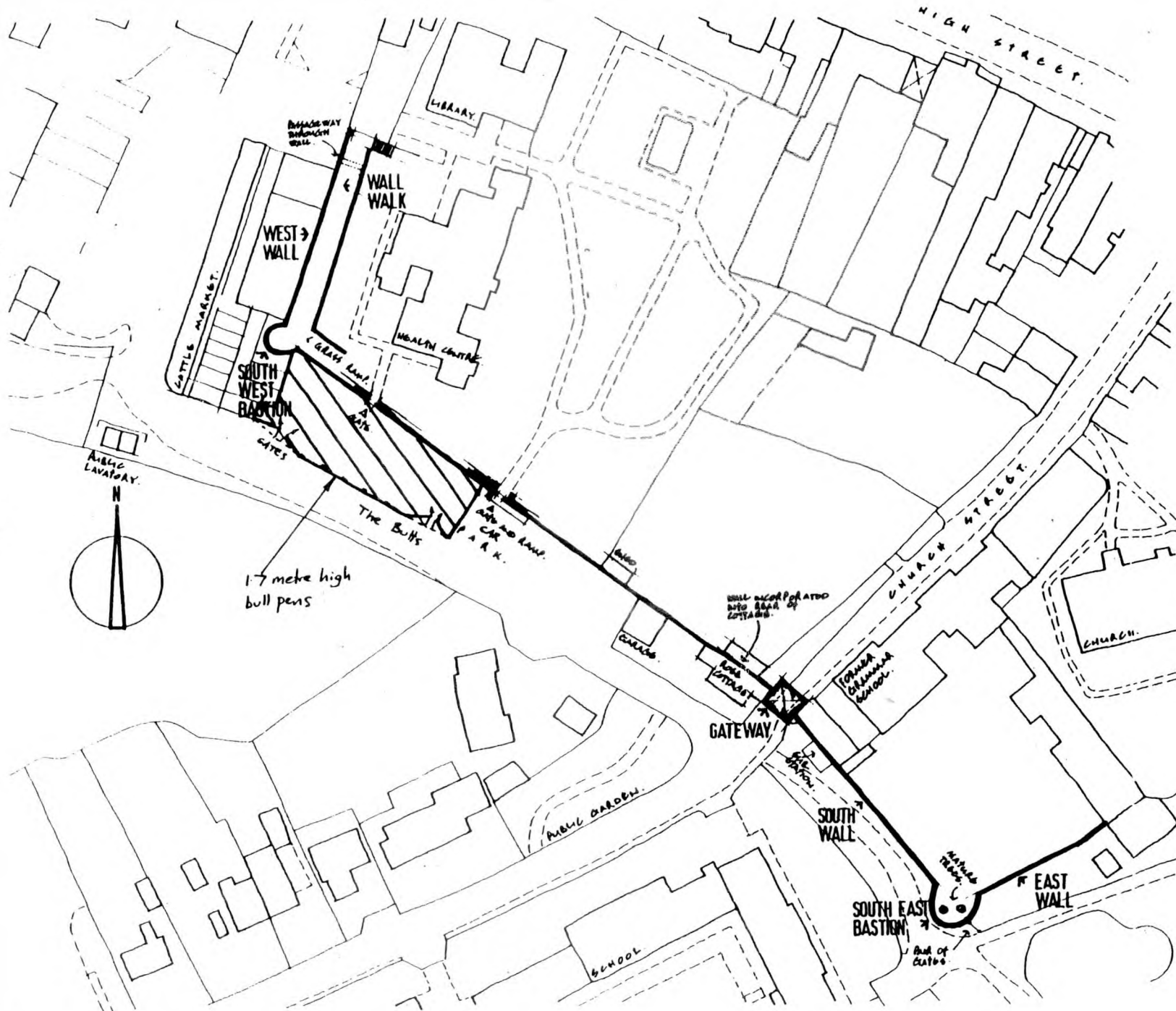
1. The contents of this report be noted and agreed as to the progress being made in respect of the unauthorised works undertaken at the site.
2. It be agreed that the Director of Legal and Regulatory Services, as landlord, pursue the matter separately to ensure that the bull pens are removed from the site and any damage to the floor as a result of the siting of the pens is repaired as necessary.
3. The Director of Legal and Regulatory Services also be authorised to pursue the matter with regard to the Town Wall to ensure that the necessary remedial works are undertaken to the Town Wall to ensure that the all the concrete screed/skim at the bottom of the Town Wall, be removed and where necessary the stone wall repaired and made good, and pointing repaired to match that of the existing wall with a lime based mortar.
4. A copy of this report be referred to the Conservation Advisory Group for information purposes.

ROB QUICK
DIRECTOR OF ENVIRONMENTAL
AND ECONOMIC REGENERATION

Background Papers

Enforcement File: ENF/01/0309

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P.27

REPRODUCTION OF ORDNANCE SURVEY MAP - AA 10430.

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Content Appendix A	
Drawn BY	Date 4 Feb 1993
Checked	
Project COWBRIDGE TOWN WALLS VALE OF GLAMORGAN	
This drawing is copyright and may not be copied or reproduced without the written permission of the Architect	
Figured dimensions only to be taken from this drawing All dimensions to be checked on site by the contractor	
Notes	
Revisions	
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Appendix A