

Bath and North East Somerset Council			
MEETING: Development Control Committee	AGENDA		
MEETING DATE: 05 June 2013	ITEM NO:		
REPORT OF David Trigwell, Divisional Director of Planning and Transport Development.			
REPORT ORIGINATOR: Ms Lisa Bartlett, Development Manager (Tel. Extension No. 7281).			
DATE PREPARED: 17 th May 2013			
AN OPEN PUBLIC ITEM			
BACKGROUND PAPERS: Enforcement file 12/00210/UNAUTH			
TITLE: Enforcement Report: The Quarry, Eastcourt Rd., Temple Cloud, Bristol, BS39 5BU			
WARD : Cameley			

1.0 PURPOSE OF REPORT

To seek Members' view on unauthorised development comprising the rebuilding and extension of an industrial building together with a material change of use of a workshop (B2) to a mixed use of dwelling (C3) and business activities (B1), and the unauthorised siting of a mobile home. Officers are seeking Authority from Members to issue an enforcement notice to remedy the breach of planning control.

2.0 LOCATION OF PLANNING CONTRAVENTION

The Quarry, Eastcourt Road, Temple Cloud, Bristol BS39 5BU ("the Property"), as outlined in bold on the attached site location plan (Appendix 1).

3.0 OUTLINE OF PLANNING CONTRAVENTION

Without planning permission the rebuilding and extension of an industrial building together with a material change of use of a workshop (B2) to a mixed use of dwelling (C3) and business activities (B1), and the unauthorised siting of a mobile home.

4.0 RELEVANT PLANNING HISTORY

10/00432/FUL - Change of use and alterations to existing workshop to provide live/work accommodation – Withdrawn
12/03092/FUL – Change of use of 1 no. building from B2 to C3/B1 (retrospective) - Refused

5.0 BACKGROUND

On the 18th August 2010 a planning application (10/00432/FUL) for change of use and alterations to an existing workshop to provide live/work accommodation was withdrawn by the applicants agent in response to concerns that the application was considered contrary to policy as the applicant could not demonstrate that the original workshop could be converted without substantial reconstruction (contrary to the aims of Policy ET.9).

On 19th April 2012 your officers visited the site in response to complaints and observed that the building was being used predominantly for residential purposes together with some storage and a subservient level of business use. Additionally, a mobile home, clad in timber facing, and capable of residential accommodation had been located in front of the unauthorised works. A letter was sent to the owner advising that the on-going works to convert and redevelop the existing building to living accommodation was unauthorised. Photographs taken at that time demonstrate a clear residential use of the majority of the premises. The owner was invited to apply for retrospective planning permission.

Prior to the refusal under delegated powers on 11th March 2013 of a retrospective planning application (reference 12/03092/FUL) for the change of use of one building from B2 to C3/B1 (live/work unit), a referral report was prepared for the Chair of the Planning Committee on the basis at that time, that the works to the building had been undertaken under the industrial buildings permitted development allowances. The recommendation was that permission be granted and the Chair agreed that the application could be determined at officer level. Following a review of the case by a senior officer in relation to the actual timing of these works, it became clear that the building was in residential occupation without the benefit of planning permission and as such the works could not be considered to be permitted development as originally thought.

The application was subsequently refused on the basis of the new information that had come to light as set out above which was in line with the Parish Council's view, on the basis that the works did not represent a change of use as the existing building is unauthorised and therefore cannot be properly considered against prevailing policies relating to housing and sustainability. Furthermore, the original building was not capable of conversion without substantial (unauthorised) works. Those works and the failure to maintain the original together with lack of seeking an alternative business use for the building were considered to be contrary to Policy ET.9 of the Bath and North East Somerset Local Plan, including minerals and waste policies, October 2007.

The 'new' building is sited on the same location as the former building and largely utilises the original footprint, base and frame. The overall floor space of the new unit has been increased by approximately 50sq.m and the height raised by 2m. It should be noted that had the 'improvement' works not incorporated a residential use (i.e. if the building had been finished solely as a workshop) the renovation could have been considered permitted development

under Part 8, Class A of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010.

However, the works to improve/alter the building incorporated the installation of residential elements together with a recladding and insulation of the existing frame and extensions to that frame and creation of an atrium structure higher than the original workshop.

On the 19th March 2013 your officers again visited the premises and photographed the site to confirm the overarching use of the building and surroundings. The building was being used predominantly for residential purposes together with some storage and a subservient level of business use. One of the rooms was in the process of being fitted out as a bathroom. Additionally, a mobile home, clad in timber facing, and capable of residential accommodation had been located in front of the building. From site visits, officers consider that this is being used for residential accommodation.

6.0 DEVELOPMENT PLAN

Of particular relevance to this matter is the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007 (the Local Plan). The relevant Policies are ET 9 Reuse of Rural Buildings and HG 10 Housing outside settlement boundaries.

Other Policies of relevance include:

D.2 General Design and Public Realm Considerations

D.4 Townscape Considerations

ET.9 Reuse of Rural Buildings

ES.15 Contaminated Land

NE.4 Tree and Woodland Conservation

T.24 General Development Control and Access Policy

HG 10 Housing outside settlements

DRAFT CORE STRATEGY, MAY 2011

The Draft Core Strategy is a material consideration and has been adopted for development management purposes and can be afforded substantive weight in relation to this case..

LEGAL FRAMEWORK

Town and Country Planning Act, 1990

NATIONAL PLANNING POLICY FRAMEWORK

The NPPF has been considered in light of this application and is a material consideration.

Local Plan policy ET 9 is consistent with national policy contained in the NPPF.

7.0 EXPEDIENCY OF ENFORCEMENT ACTION

Having considered the wider impacts of this scheme it is concluded that the resultant structure together with the adjacent mobile home remain unauthorised and contrary to adopted policies as set out above.

The alterations to the original building have taken place within the last four years and are therefore not immune from enforcement action. The mobile home is not immune from action by the Council.

In the circumstances, the site visits by your enforcement officers on the 19th April 2012 and again on 19th March 2013 have confirmed the substantial works carried out to be contrary to the above Policies. Whilst issues of road safety and residential amenity have been examined it is the principal of substantial rebuilding of an existing sub-standard structure to enable a residential use together with the unauthorised siting of a mobile home that warrants formal action. The original building (prior to the works that have been carried out) was not capable of conversion and thus not capable of the proposed retrospective change of use without the implementation of the substantial unauthorised works. These works and the lack of retaining or seeking an alternative business use for the building is contrary to Policy ET.9 of the Bath and North East Somerset Local Plan, which seeks to resist the dispersal of residential activity which could prejudice economic or social vitality of existing towns and villages. This position is also set out in the NPPF which advises Local Authorities to avoid new isolated homes in the countryside except where it is essential for a rural worker to live permanently at or near their place of work, where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development, where the development would lead to an enhancement of the immediate setting or there is an exceptional quality or innovative design. None of these would apply to this development. In addition, there is no evidence to demonstrate why it is necessary for the owner to live on this site and as such it is not considered that the aims of the NPPF in terms of supporting the sustainable growth and expansion of all types of business and enterprise in rural areas is met.

The siting of the mobile home is a breach of planning control as the use of the caravan is not ancillary to the authorised use of the land and as such is contrary to policy HG 10 of the Bath and North East Somerset Local Plan which only allows new dwellings if they are essential for agricultural or forestry workers. This is also contrary to the advice in the NPPF..

Enforcement action against the unauthorised development and use is considered expedient.

8.0 HUMAN RIGHTS

8.1 It is considered that Article 1 of Protocol 1 (peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life, home and correspondence) of the European Convention on Human Rights may apply in this case. However, those rights must be weighed against the public

interest in preserving the character and appearance of the surrounding area. Given that the unauthorised works are harmful and contrary to the Development Plan and given that there are no material considerations which outweigh the harm, it is considered that Enforcement Action would be a proportionate interference in the wider public interest.

9 RECOMMENDATIONS

That delegated authority be granted to the Development Manager, in consultation with the Planning and Environmental Law Manager, to take any necessary enforcement action on behalf of the Local Planning Authority in respect of the alleged planning contravention outlined above, by exercising the powers and duties of the Authority (as applicable) under Parts VII and VIII of the Town and Country Planning Act 1990 (including any amendments to or re-enactments of the Act or Regulations or Orders made under the Act) in respect of the above Property.

General Note

This specific delegated authority will, in addition to being the subject of subsequent report back to Members in the event of Enforcement Action either being taken, not being taken or subsequently proving unnecessary as appropriate, be subject to:

- (a) all action being taken on behalf of the Council and in the Council's name;*
- (b) all action being subject to statutory requirements and any aspects of the Council's strategy and programme;*
- (c) consultation with the appropriate professional or technical officer of the Council in respect of matters not within the competence of the Divisional Director of Planning and Transport Development, and*
- (d) maintenance of a proper record of action taken.*