

## Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **21<sup>st</sup> November 2012**

AGENDA  
ITEM  
NUMBER

RESPONSIBLE OFFICER: Lisa Bartlett, Development Control Manager,  
Planning and Transport Development (Telephone:  
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TITLE: **NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES**

WARD: ALL

BACKGROUND PAPERS: None

**AN OPEN PUBLIC ITEM**

### APPEALS LODGED

**App. Ref:** 12/01606/FUL  
**Location:** 22 The Tynning Widcombe Bath BA2 6AL  
**Proposal:** Erection of a two storey extension and a single storey side/rear extension following demolition of existing single storey extension and associated works (revised resubmission).  
**Decision:** REFUSE  
**Decision Date:** 7 June 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 12 October 2012

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**App. Ref:** 12/03348/LBA  
**Location:** 24 Northampton Street Lansdown Bath BA1 2SW  
**Proposal:** Internal alterations for the formation of opening between front and rear rooms at lower ground floor level.  
**Decision:** REFUSE  
**Decision Date:** 25 September 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 15 October 2012

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**App. Ref:** 12/02433/FUL  
**Location:** 31 Richmond Place Beacon Hill Bath BA1 5QA  
**Proposal:** Erection of rear second floor bedroom extension and rear ground floor kitchen extension and alterations including partial demolition of an existing twentieth century extension and installation of a conservation style roof-light at top of stairs

**Decision:** REFUSE  
**Decision Date:** 15 August 2012  
**Decision Level:**  
**Appeal Lodged:** 16 October 2012

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**App. Ref:** 12/02434/LBA  
**Location:** 31 Richmond Place Beacon Hill Bath BA1 5QA  
**Proposal:** Internal and external alterations for the erection of rear 2nd floor bedroom extension and rear ground floor kitchen extension and alterations including partial demolition of an existing twentieth century extension and installation of a conservation style roof-light at top of stairs  
**Decision:** REFUSE  
**Decision Date:** 20 August 2012  
**Decision Level:**  
**Appeal Lodged:** 16 October 2012

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**App. Ref:** 12/00579/FUL  
**Location:** Hurleston 9 Molly Close Temple Cloud Bristol  
**Proposal:** Erection of a three bedroom bungalow and alterations to front garden.  
**Decision:** REFUSE  
**Decision Date:** 9 May 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 17 October 2012

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**App. Ref:** 12/01436/FUL  
**Location:** Walton House 45 High Street Chew Magna Bristol  
**Proposal:** Replacement of outbuilding roof, alterations to south gable elevation and eastern windows of outbuilding (retrospective).  
**Decision:** REFUSE  
**Decision Date:** 28 June 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 19 October 2012

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**App. Ref:** 12/01849/FUL  
**Location:** 4 Inverness Road Twerton Bath BA2 3RX  
**Proposal:** Installation of a rear dormer.  
**Decision:** REFUSE  
**Decision Date:** 28 June 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 19 October 2012

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**App. Ref:** 12/02972/FUL  
**Location:** 4 Kensington Place Walcot Bath BA1 6AW  
**Proposal:** Conversion of existing vaults to provide bathroom and dry storage space  
**Decision:** REFUSE  
**Decision Date:** 3 September 2012

**Decision Level:** Delegated  
**Appeal Lodged:** 25 October 2012

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**App. Ref:** 12/00637/FUL  
**Location:** Land At Rear Of 79 London Road West Bailbrook Lane Lower Swainswick Bath  
**Proposal:** Erection of four detached dwellings.  
**Decision:** REFUSE  
**Decision Date:** 7 August 2012  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 26 October 2012

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**App. Ref:** 12/02604/VAR  
**Location:** 86 Lower Bristol Road Westmoreland Bath BA2 3BQ  
**Proposal:** Variation of condition 2 of application 11/05111/FUL (Change of use from Class A1 (Retail) to Class A5 (Hot Food Takeaway) (Resubmission)) in order to extend the permitted hours of opening.  
**Decision:** REFUSE  
**Decision Date:** 10 August 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 7 November 2012

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**App. Ref:** 12/03008/FUL  
**Location:** 6 Radford Hill Timsbury Bath BA2 0LE  
**Proposal:** Erection of two storey rear extension and front porch  
**Decision:** REFUSE  
**Decision Date:** 7 September 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 7 November 2012

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**App. Ref:** 12/03315/FUL  
**Location:** 11 Frome Road Radstock BA3 3JX  
**Proposal:** Erection of 1no studio apartment and 1no two bedroom apartment (resubmission).  
**Decision:** REFUSE  
**Decision Date:** 12 September 2012  
**Decision Level:** Chair Referral  
**Appeal Lodged:** 9 November 2012

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## **APPEAL DECISIONS**

**App. Ref:** 12/00597/FUL  
**Location:** 10 Shelley Road, Bath  
**Proposal:** Provision of a loft conversion including a rear L shaped flat roof dormer.  
**Decision:** REFUSED

**Decision Date:** 2<sup>nd</sup> April 2012  
**Decision Level:** Delegated  
**Appeal Decision:** Allowed

**Summary:**

This property is a two storey mid terraced house with a two storey rear wing, similar to other houses in the terrace. The proposal is for a dormer window on the rear of the main roof of the house which would extend onto the roof of the rear wing to create an 'L' shaped dormer. The Council refused planning permission as it was considered that the proposal would appear as an incongruous addition and would fail to preserve the character of the building which is within the Conservation Area.

The Planning Inspector noted that that the dormer would be set well below the ridgeline of the main roof and also below the lower ridge of the rear wing. It would also be set away from the shared boundary with No.9 Shelley Road. The Inspector acknowledged that the shape of the dormer would be unusual and it would also be larger than others nearby, but did not consider that it would be over large. In addition the Inspector considered that it would not be open to view from significant vantage points due to its position and the presence of tree screening and therefore allowed the appeal and granted planning permission subject to the external materials matching those of the existing house.

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**App. Ref:** 12/00850/FUL  
**Location:** 19 Fairfield Road, Bath  
**Proposal:** Alteration of existing concrete steps to rear of property and the addition of a raised deck (retrospective)  
**Decision:** Refuse  
**Decision Date:** 02/05/2012  
**Decision Level:** Delegated  
**Appeal Decision:** Allowed

**Summary:**

The inspector disagreed with the council that the proposed decking would harm the amenity of the neighbouring occupiers of number 18.

The elevated position of the houses results in a significant degree of mutual overlooking of neighbouring rear gardens. Large rear windows and back doors with associated steep access steps facilitate such an affect. Due to the change in ground levels, the open nature of the intervening space between No 19 and No 18, and the extent of the existing rear facing windows and doors, the potential for mutual overlooking between the two properties is significant and would include the areas immediately behind the houses. In this regard levels of privacy in these rear gardens are poor.

Due to the separation distance between the proposed decked area and the rear facing windows of No 18, along with its limited outward projection, any angle of sight into these neighbouring rooms would be acute.

The small scale nature of the decked area, its limited outward projection, and its separation to the side boundary and neighbouring window at No 18, would make any intrusion into the outlook

from this window minimal.

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**App. Ref:** 12/01605/FUL  
**Location:** 12 Highfields, Radstock, BA3 3UH.  
**Proposal:** Erection of a 3-bedroomed detached dwelling following demolition of the existing garage.  
**Decision:** Refuse  
**Decision Date:** 22<sup>nd</sup> June 2012  
**Decision Level:** Delegated  
**Appeal Decision:** Dismissed

**Summary:** The appeal property forms part of a 20<sup>th</sup> century residential estate located in the Westfield area of Radstock. No.12 Highfields is situated north east corner of the estate at one end of five pairs of semi-detached dwellings. It is proposed to erect a three storey house to the side and rear of the existing dwelling. It would be significantly narrower than the existing dwellings and would present a gable end to the street, unlike all the other dwellings in the same row whose gables face the side. It would also be sited close to the wall of No. 12 Highfields.

The Inspector concluded that the proposed house would look distinctly out of place in its surroundings and with its cramped appearance would substantially detract from the character and appearance of the area.

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**App. Ref:** 11/05398/FUL  
**Location:** 34 Rosslyn Road Newbridge, Bath  
**Proposal:** Provision of a loft conversion to include 1no. side and 1no. rear dormer.  
**Decision:** Refuse  
**Decision Date:** 30.01.2012  
**Decision Level:** Delegated  
**Appeal Decision:** Dismissed

**Summary:**

The main issue is the effect that the proposed development would have upon the character and appearance of the dwelling and the surrounding area.

The considerable bulk of the proposed side dormer, which would be clearly apparent in public views from the street, would be out of keeping with the proportions of the existing building and would appear overly dominant. The existence of other dormers nearby does not justify permitting what was considered to be a harmful form of development in this context. These are not so prevalent as to have undermined the distinctive pattern and rhythm of the hipped roofs.

The proposal would conflict with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan

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**App. Ref:** 11/02432/OUT  
**Location:** Land Rear of Holly Farm, Brookside Drive, Farmborough

**Proposal:** Residential development comprising 38 dwellings with associated access, car parking and landscaping  
**Decision:** Refuse  
**Decision Date:** 20.12.2011  
**Decision Level:** Committee  
**Appeal Decision:** Allowed and full costs awarded to the appellant

**Summary:**

The Inspector considered as there is no prospect of the Core Strategy being adopted in the near future and the form in which it might be is equally unclear. Having regard to paragraph 216 of the National Planning Policy Framework (NPPF) the Inspector therefore gave the CS very little weight in determining this appeal.

The appeal site is identified in the Local Plan as being subject to saved Policy GB.4. This policy safeguards land between the existing limits of development and the Green Belt during the period of the LP to meet the demands for development beyond 2011. In doing so the policy makes it clear that the principle of development at the appeal site is acceptable.

The site is also included within the Council's Strategic Housing Land Availability Assessment (SHLAA) as providing some 35 dwellings in the first five year period of the trajectory. Finally, the Inspector noted that the decision in respect of the 2012 proposal settles any doubt that development of the site for housing comprising 35 dwellings is acceptable in principle.

The Inspector did consider neither the policy nor the supporting text of policy GB4 ties the release of safeguarded land to a review of the development plan and the development would not be premature. The Inspector did not consider that Policy GB1 could be applied and since by definition a safeguarded site is not in the Green Belt there can be no harm to the Green Belt by reason of inappropriateness or any other reason.

It was noted that the Council cannot show a five-year supply of deliverable housing sites the relevant housing supply policies should not be considered up-to-date. Paragraph 14 of the NPPF says that in such circumstances planning permission should be granted for sustainable development (which is defined in paragraph 6 of the NPPF) unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Sustainability of the site - The Inspector considered that the requirement for an operational village shop, was a wholly unreasonable requirement as it's functioning as a viable commercial enterprise would be entirely outside the appellant's control.

Farmborough has a limited range of services and, in particular, the absence of a convenience shop is likely to generate trips out of the village. However the Inspector refers to Local Plan Policy SC1 which classifies Farmborough as a R.1 village refers to the concept of settlement clusters where a range of services may be shared and specifically identifies Farmborough as a village that contributes to the provision of services for village clusters and this is consistent with the NPPF. The LP therefore assumes a certain amount of travel between places to access the full range of services. It was accepted that submitted CS policy RA1 promotes an approach closer to that articulated in the reason for refusal but the though Inspector stated he gave very little weight to the Core Strategy.

Highway safety - The Inspector concluded that there would not be a detrimental impact on the effect on parking on the surrounding roads, mainly Brookside Drive and The Street. He questioned how 3 additional dwellings (from the 35 approved by committee) would materially alter the circumstances to the extent that permission for the appeal proposal should be withheld on this ground. He is stated that there was no objective evidence as to why the Council came to the conclusion that it did on this matter.

With regards to the junction with the A39, as with the previous issue the Inspector stated that there was simply no evidence as to why the Committee took a different view to the officers on the appeal proposal or how the reduction of three dwellings in the 2012 proposal led them to conclude that this would have a materially different effect such that permission could be granted and overall no reason to conclude that the appeal proposal would be contrary to saved LP policy T24 which addresses issues of highway safety.

### Character and appearance

The cul-de-sac development proposed would not be out of keeping with the prevailing character of the area. It was noted that since the site is safeguarded for development and the principle of residential development has been accepted its character will change markedly at some point. He stated that the development proposed would not therefore conflict with saved LP design policies D.2 and D.4 or saved LP policy T26 which controls the level of on-site servicing and parking. No evidence from the Council to show why it has concluded that, as a matter of principle, 38 dwellings represents an unacceptably cramped development of the site.

### Costs appeal

The Inspector noted that the written appeal statements may have been supported by elected Members or by consultants instructed in that matter. However, the case was explained at the Hearing by officers who evidentially do not support that view. That is clearly contrary to the position advanced in the Circular.

The decision of the Council was taken against the advice of the officers. Paragraph B20 of the Circular says that elected members are not bound to accept the recommendations of their officers. However, where professional and technical advice is not followed authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects.

The Council's appeal evidence on the main issues was presented by the same officers whose professional advice had not been accepted by the Committee. The Inspector stated that quite properly those two officers were consistent in their professional opinion and did their best to explain the Committee's decision.

Although it was acknowledge that Members visited the site before coming to their view no evidence was heard that they ever sought or received alternative technical advice to that offered by their officers. By the end of the Hearing it was still unclear as to why the Council did not accept the advice of its officers or how it came to the conclusions that it did.

It was highlighted that the merits of the appeal scheme must be judged in the light of the minded-to approve decision in respect of the exactly similar proposal for 35 dwellings on the site and it was irrational to continue to object to a scheme for 38 dwellings. There was no evidence that the proposal for 35 dwellings is materially different from the appeal development in relation

to the effect that it would have on those matters identified in the Council's reasons for refusal of the appeal scheme. It appears that the professional advice given to the Committee was, in all essential respects, the same as that given in respect of the appeal proposal. The two decisions would therefore seem to be inconsistent.

It was therefore concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.

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**App. Ref:** APP/F0114/A/12/2177985  
**Location:** Springhill House, White Ox Mead Lane, Peasedown St John  
**Proposal:** Removal of existing stable block and construction of new stable block.  
**Decision:** Refuse  
**Decision Date:** 24<sup>th</sup> May 2012  
**Decision Level:** Delegated  
**Appeal Decision:** Allowed

**Summary:**

Springfield House is situated in the open countryside approximately one kilometre north east of Peasedown St. John. On land to the north of Springfield House is an existing stable building and it is proposed to demolish this stable and replace it with a larger one. Including its awning the new stable block would have a floor area of approximately 75% larger than the existing one. The Council refused planning permission for the new stable as it was considered that due to its size it would fail to maintain the openness of the Green Belt and it was not considered to be an essential or an appropriate facility for outdoor recreation.

In considering the appeal the Inspector took particular note of the advice within the Nation Planning Policy Framework (NPPF) which stated that the provision of 'appropriate facilities' in the Green Belt for outdoor sport and recreation need not be inappropriate development as long as the facility maintains openness. The advice within the NPPF supercedes that which was within Planning Policy Guidance 2: Green Belts, and reflected in Local Plan policy which states that 'essential' facilities are appropriate within the Green Belt.

The Inspector concluded that the size of the proposed stable was appropriate and in this particular location it would not harm the openness of the Green Belt. The Inspector therefore granted planning permission for the new stable block with conditions to safeguard nearby trees and to ensure that it was not used for commercial purposes.

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