

Bath & North East Somerset Council

MEETING: Development Control Committee

MEETING DATE: 12th December 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: 11/04382/FUL
Location: 2 Hermitage Road Lansdown Bath BA1 5SN
Proposal: Erection of house following demolition of existing bungalow
(Resubmission)
Decision: REFUSE
Decision Date: 10 May 2012
Decision Level: Delegated
Appeal Lodged: 19 November 2012

App. Ref: 12/00969/LBA
Location: 1 Cambridge Place Widcombe Hill Widcombe Bath
Proposal: Internal and external alterations for the installation of solar panels and roof
access hatches on numbers 1 and 2 Cambridge Place.
Decision: REFUSE
Decision Date: 5 July 2012
Decision Level: Delegated
Appeal Lodged: 19 November 2012

App. Ref: 12/02155/LBA
Location: 1A Oak Street Westmoreland Bath BA2 3BR
Proposal: Internal and external alterations for the installation of softwood timber
double glazed vertical sliding sash windows to replace existing aluminium
single glazed windows.
Decision: REFUSE
Decision Date: 28 August 2012

Decision Level: Delegated
Appeal Lodged: 20 November 2012

App. Ref: 12/03492/FUL
Location: 1 Chalfield Close Keynsham Bristol BS31 1JZ
Proposal: Erection of two storey side extension with associated garden walls and gates following demolition of existing chimney stack
Decision: REFUSE
Decision Date: 8 October 2012
Decision Level: Delegated
Appeal Lodged: 20 November 2012

App. Ref: 12/02488/CLEU
Location: West End Breach Hill Lane Chew Stoke Bristol
Proposal: Use of 2no. chalets as residential accommodation (Certificate of Lawfulness for an Existing Use).
Decision: REFUSE
Decision Date: 4 September 2012
Decision Level: Delegated
Appeal Lodged: 21 November 2012

App. Ref: 12/00292/FUL
Location: 53 Minster Way Bathwick Bath BA2 6RJ
Proposal: Erection of new detached dwelling in the grounds of the existing house and associated new vehicular access and hardstanding
Decision: REFUSE
Decision Date: 15 May 2012
Decision Level: Planning Committee
Appeal Lodged: 29 November 2012

APPEAL DECISIONS

App. Ref: 12/02383/FUL
Location: Highfield, Redlynch Lane, Keynsham, BS31 2SN
Proposal: Erection of a two storey side extension.
Decision: Refuse
Decision Date: 08/11/2012
Decision Level: Refused
Appeal Decision: Dismissed

Summary:

The inspector noted that the property had been previously extended and that the cumulative increase in floorspace would be over one third of the original floorspace and would represent a disproportionate addition to the original dwelling. The inspector therefore concluded that the

proposal would constitute inappropriate development in the Green Belt contrary to the NPPF and with local plan policies HG.15 and GB.1.

The inspector determined that there would be harm to the openness of the Green Belt and attached substantial weight to this in his decision.

Whilst the inspector agreed that the proposal would not particularly improve the character and appearance of the building, he concluded that it would respect and complement the host building in accordance with policy D.4.

App. Ref: 12/02072/FUL
Location: The Chase, Rectory Lane, Compton Martin
Proposal: Erection of extensions and provision of a first floor.
Decision: Refuse
Decision Date: 23rd July 2012
Decision Level: Delegated
Appeal Decision: Dismissed

Summary:

This property is a small white painted bungalow situated on the west side of Rectory Lane. The proposal involves erecting an extension to the rear and then adding a first floor under a pitched roof. Planning permission was refused as it was considered that due to the height, mass, bulk and detailing of the proposal it would not complement the existing building and would harm the natural beauty of the Mendip Hills AONB. The Planning Inspector concluded that the proposal would almost entirely subsume the modest character and traditional appearance of the existing bungalow and, if the proposed development were carried out little vestige of the character of the original building would remain since it would effectively be replaced by a substantial family home of modern appearance. The Planning Inspector was also concerned about the detailed design of the proposal and concluded that it would harm the character and appearance of the existing building and would also have an adverse impact on its setting within the AONB.

App. Ref: 11/02193/FUL
Location: Land south of Orchard View, Sleep Lane, Whitchurch, BS14 0QW
Proposal: Residential development comprising of 47 dwellings with associated car parking, access, landscaping and public open space
Decision: Refuse
Decision Date: 6th May 2011
Decision Level: Delegated
Appeal Decision: Allowed

Summary:

APPEAL ALLOWED AND PARTIAL COSTS AWARDED

KEY ISSUES:

The main issue to be considered was whether, in the light of the Development Plan and other material consideration, the site should continue to be safeguarded for the A37 Whitchurch Bypass. In this regard the deliverability of the bypass was considered as a key consideration. The

Council's inability to demonstrate a 5 year land supply and the implications of this in relation to the NPPF and its emphasis on a step change in the delivery of housing was also relevant. The Local Plan treats the site as green belt and in this regard the Inspector weighed this in his decision making.

APPEAL SUMMARY:

The appeal site was safeguarded land through the Local Plan to be treated as green belt pending a review of the proposed A37 Whitchurch bypass. Local Plan policy GB.4 sets out that pending this review the site will not be released for development. The policy requires that the land should remain open during the plan period (and beyond given that the policy has been saved) and treated as green belt land in order that the types of development which would be permissible on the site are limited. Policy T.17 of the Local Plan provides the policy basis for the safeguarding of the protected route.

The Inspector noted the recent appeal decision at another safeguarded site, Brookside Drive, Farmborough for 38 dwellings and noted the Council's case in respect of the current Inquiry that the Inspector had erred in law in not treating the Farmborough site as green belt. The Inspector accepted that Policies GB.4 and GB.1 were saved policies and remained part of the Development Plan and should be applied in this case.

The Inspector commented that the proposal would not safeguard the land required for the A37 Whitchurch Bypass and that the development would not therefore accord with Local Plan Policy T.17. He commented that if the land is to be treated as green belt having regard to Policies GB.4 and GB.1 then the proposal would represent inappropriate development which would by definition be harmful to the green belt. Moreover the proposal would reduce the openness of the green belt, an essential characteristic, and fail to assist in safeguarding the countryside from encroachment, one of the purposes of the green belt. Very special circumstances will not exist to permit inappropriate development unless the potential harm to the green belt and any other harm is clearly outweighed by other considerations.

The Inspector noted in considering the proposal that the Council points to the impact on the Sleep Lane frontage and the removal of existing hedgerows as a further area of harm. He noted that the land was not safeguarded to remain permanently open. It is safeguarded so that the bypass might run through the site. The impact of the bypass would have a similar, if not greater, impact on openness, the purposes of the green belt and for that matter, the character and appearance of the area.

The Inspector noted that the Council was nowhere near being able to demonstrate a five year supply of deliverable housing sites. Moreover that there has been a record of persistent under-delivery of housing in B&NES. He opined that the failure in terms of the delivery of affordable housing is especially acute with 565 units having been supplied between 2001 and the latest Annual Monitoring Report, against a requirement of 5,047 units between 2002 and 2009. In this context the provision of housing, especially affordable housing, attracts considerable weight in favour of the proposal. He went on to comment that the Government's intention to boost significantly the supply of housing is made very plain in the NPPF.

He noted that the Council's housing policies cannot be considered up to date and the fact that T.17, GB.1 and GB.4 bear on the supply of housing means that these must also be considered out of date.

In respect of the bypass the Inspector concluded that planned infrastructure should be deliverable in a timely fashion if it is to be included in local planning policy. Funding is a key consideration and in this regard the West of England Joint Transport Committee on the 20th September 2012 considered a number of schemes for funding of which the bypass was one. The level of funding to be provided is insufficient to cover the top 4 priority schemes for funding, of which Whitchurch does not feature. In this context the Inspector felt the prospect of funding for the bypass being available within a reasonable period was remote, especially in the current economic climate. He concluded that there was no realistic prospect of the A37 bypass being delivered in a timely fashion despite the Council's contention that other funding sources may be available.

The Council sought to argue that by prejudicing the bypass route that this may scupper any potential for additional housing that may be required in and around Whitchurch should the proposed housing figure for B&NES rise and Whitchurch be identified for more housing. The Inspector noted that there may be alternative routes and that should additional housing be required that the issue of transport infrastructure would need to be addressed at that point.

He concluded that the proposal was contrary to Policy T.17. However in applying GB.1 in the manner required in GB.4, given that there is no realistic prospect of the A37 Whitchurch bypass being delivered in a timely fashion, the benefits in the provision of housing on the site, and especially the affordable housing, would clearly outweigh the harm by reason of inappropriateness that would occur if the site is treated as if it were part of the green belt. The very special circumstances that need to justify the proposal therefore exist.

COSTS SUMMARY:

The appellants made an application for both a full award of costs and a partial award of costs at the Public Inquiry. In respect of the full award of costs the Inspector did not support this application. He noted that at the time the Council made the decision it believed that it could demonstrate a 5 year housing land supply and that this belief was one capable of reasonably being held. The Inspector noted that at the Inquiry the Council was able to explain its case regarding the bypass route and whilst he did not agree with the Council this was not an unreasonable position to take to continue to resist the proposal because in spite of the lack of a demonstrable five year housing land supply the bypass issue remained to be resolved.

A partial award of costs was made against the Council in respect of three reasons for refusal. The Council withdrew a reason for refusal in respect of the sustainability of the site following the Farmborough decision which did not support the Council's approach to Whitchurch. The Inspector considered that a reason for refusal in relation to the ecological value of hedgerows at the site failed to fully consider replacement planting. These elements were withdrawn prior to the Inquiry to limit the Council's liability. One ground of refusal regarding the positioning of the affordable homes within the site was withdrawn at the Inquiry given the strong weight to be attached to the lack of a demonstrable 5 year housing land supply and costs were awarded for preparatory work on behalf of the appellants.
