

## Bath & North East Somerset Council

**MEETING:** Development Control Committee

**MEETING DATE:** 16<sup>th</sup> January 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:** 12/03052/FUL  
**Location:** Downside 1 Copse Road Saltford BS31 3TH  
**Proposal:** Erection of a two storey side extension following partial demolition of existing dwelling and demolition of existing outbuildings, garage and garden shed and change of use of adjoining field to domestic garden including a landscape proposal to the boundary.  
**Decision:** REFUSE  
**Decision Date:** 13 September 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 30 November 2012

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**App. Ref:** 12/03040/FUL  
**Location:** 34 Rotcombe Lane High Littleton Bristol BS39 6JP  
**Proposal:** Erection of a single storey front extension following demolition of front porch.  
**Decision:** REFUSE  
**Decision Date:** 12 September 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 3 December 2012

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**App. Ref:** 12/03447/FUL  
**Location:** Pump Cottage Ashley Road Bathford Bath  
**Proposal:** Erection of a side extension.  
**Decision:** REFUSE  
**Decision Date:** 27 September 2012

**Decision Level:** Delegated  
**Appeal Lodged:** 7 December 2012

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**App. Ref:** 12/01350/FUL  
**Location:** Stokes Masonry Plots 9-12 The Smallholdings Claude Avenue Twerton Bath  
**Proposal:** Erection of saw building (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 18 May 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 10 December 2012

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**App. Ref:** 12/03301/LBA  
**Location:** 27 Dafford Street Larkhall Bath BA1 6SW  
**Proposal:** Alterations for the replacement of aluminium single glazed windows with softwood timber double glazed vertical sliding sash window units.  
**Decision:** REFUSE  
**Decision Date:** 22 October 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 12 December 2012

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**App. Ref:** 12/03841/LBA  
**Location:** 2 Bathwick Hill Bathwick Bath BA2 6EP  
**Proposal:** Internal alterations to enlarge existing opening between the kitchen and conservatory  
**Decision:** REFUSE  
**Decision Date:** 5 November 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 13 December 2012

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**App. Ref:** 12/02849/FUL  
**Location:** Little Mead Pipehouse Lane Freshford Bath  
**Proposal:** Erection of single storey extensions following demolition of existing side and rear extensions, and general renovation of existing studio outbuilding into additional accommodation ancillary to the main house.  
**Decision:** REFUSE  
**Decision Date:** 23 August 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 14 December 2012

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**App. Ref:** 12/02767/FUL  
**Location:** 5 Kilmersdon Road Radstock BA3 3QL  
**Proposal:** Erection of one bed annexe to rear of property  
**Decision:** REFUSE  
**Decision Date:** 2 October 2012  
**Decision Level:** Chair Referral

**Appeal Lodged:** 14 December 2012

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**App. Ref:** 12/04399/FUL  
**Location:** 168 Charlton Park Midsomer Norton BA3 4BN  
**Proposal:** Rebuild front wall, erection of 3 pillars and erection of fencing in between pillars and to side of properties (Retrospective) (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 15 November 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 19 December 2012

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## APPEAL DECISIONS

**App. Ref:** 12/03008/FUL  
**Location:** 6 Radford Hill, Timsbury  
**Proposal:** Erection of two storey rear extension and front porch  
**Decision:** Refuse  
**Decision Date:** 11<sup>th</sup> September 2012  
**Decision Level:** Delegated  
**Appeal Decision:** Appeal dismissed, split decision porch extension allowed.

### Summary

The main issue was the appearance of the flat roof rear extension and its impact on the character of the dwelling.

The Inspector issued a split decision allowing the front porch. There had been no objection to the front porch only the rear extension.

The Inspector found that whilst the extension would not be visible from the street the proposed extension would harm the appearance of the existing dwelling notwithstanding the fact that a similar extension had been constructed on the neighbouring property.

It was noted that there was no local opposition to the scheme and that the appellant is in need of enlarged living accommodation but this did not outweigh the objection to the design.

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**App. Ref:** 12/01436/FUL  
**Location:** 45 High Street, Chew Magna.  
**Proposal:** Replacement of outbuilding roof, alterations to south gable elevation and eastern windows of outbuilding (retrospective).  
**Decision:** Refuse  
**Decision Date:** 28<sup>th</sup> June 2012  
**Decision Level:** Delegated  
**Appeal Decision:** Dismissed

### Summary:

This property is a large detached house with a number of outbuildings all set back

from the High Street and accessed via a gated entrance. It is situated within the Chew Magna Conservation Area and the Green Belt.

The works that are the subject of this application have already been carried out and comprise alterations to the appearance of an outbuilding on the boundary with No.43 High Street and the replacement of its roof. The planning application was refused permission as it was considered that the new roof, due to its increase in height, mass and bulk would have an overbearing impact on the residents of No.43 High Street.

The appellant maintains that any increase in height of the roof is either small or merely perceived but the Inspector, and the Council, using photographs provided by nearby residents concluded that the roof is noticeably different and steeper than that which has previously existed. The Inspector also concluded that the roof, due to a combination of its steep pitch, overall height and length, appears as a significantly intrusive and unacceptably overbearing development. Therefore, in order to safeguard the outlook of the residents of No. 43 High Street the Inspector dismissed the appeal.

As the works have already been carried out the Council's Enforcement Team will now contact the appellant to see if a revised proposal could satisfactorily address the reason for refusal. If not the expediency of taking enforcement action will need to be considered.

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<b>App. Ref:</b>	12/01717/VAR
<b>Location:</b>	Former Queen Charlton Concrete Works, Charlton Field Lane, Keynsham
<b>Proposal:</b>	To vary condition no. 3 of planning permission no. 10/00981/FUL, this requires work at the site to cease by 31st July 2012. The appellant has requested a further six months to complete the works.
<b>Decision:</b>	Refuse
<b>Decision Date:</b>	4 <sup>th</sup> July 2012
<b>Decision Level:</b>	Delegated
<b>Appeal Decision:</b>	Allowed

#### **Summary:**

The appeal site is a former quarry and concrete works situated in the Green Belt to the south of Keynsham. Planning permission for filling the former quarry was first applied for in 1997 with filling due to finish in August 2005 and restoration to be completed by August 2006. In June 2005, permission was sought for an extension of time to enable filling to continue until August 2007, with restoration due to be completed by August 2008. This application was refused in August 2005 but a further application for the extension of time, submitted in September 2005, was approved in July 2007. In March 2010 a full application was submitted for the 'phased completion of restoration of the site, using imported excavated materials and topsoil/compost'. The period sought was 18 months and the volume of material required to achieve the proposed final profile was stated to be 56,100 m<sup>3</sup> of subsoil and topsoil. This application was approved in September 2010, and a condition of the permission required the importation of materials to cease 18 months from the commencement of operations i.e. by 31<sup>st</sup> July 2012. A further planning application was submitted to extend this period to 31<sup>st</sup> December 2012 but was refused permission in July 2012 on the grounds that the extension of time would further delay the restoration of the site to agriculture which is considered to have an adverse impact on the openness and visual amenities of the Green Belt in this location contrary to policies GB1 and GB2 of the Bath and NE Somerset Local Plan, including minerals and waste policies 2007. This

refusal is the subject of the appeal which was considered by way of a Hearing on 27<sup>th</sup> November 2012.

The levels to which the quarry should be in-filled were agreed as part of the 2010 planning permission. At the Hearing the Council argued that a satisfactory profile could be achieved with material already on the site and the difference between this and the approved profile would not be significant in terms of the after-use of the land. In contrast the appellant accepted that work had continued without planning permission but argued that this had been done to finish the work as quickly as possible and at the current rate of importation the appellant also stated that the subsoil would be in place by Christmas 2012. The Inspector acknowledged this and accepted that the sooner the work is complete the sooner the openness and visual amenity of the Green Belt can be safeguarded. The Inspector therefore allowed the appeal in a decision letter dated 27<sup>th</sup> December 2012 and stated 'in light of what I have read and heard I find that it would be reasonable to allow the requested 6 months extension, until 31<sup>st</sup> December 2012.' Accordingly, the Inspector varied condition no.3 to:

'The permission shall be limited to a period of 24 months from the commencement of operations as notified by condition 1, by which date the importation of materials shall have ceased and the site shall be restored in accordance with the approved details.'

However, it should be noted that at the Hearing it was agreed that operations commenced in January 2011 so according to the Inspectors new condition operations must cease in January 2013, rather than by the end of December 2012. As no specific date in January 2011 has been agreed for the commencement of operations Officers have decided not consider if works have ceased until after 31<sup>st</sup> January 2013.

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<b>App. Ref:</b>	11/00151/UNDEV
<b>Location:</b>	Land at Stitching Shord Farm, Stitching Shord Lane, Bishop Sutton.
<b>Development:</b>	Unauthorised development comprising the erection of a wooden single storey building for use as a dwelling.
<b>Notice Issued:</b>	24 <sup>th</sup> January 2012
<b>Appeal Decision:</b>	Enforcement Notice quashed and planning permission granted for a temporary period.

### **Summary:**

The Land is situated beyond the settlement of Bishop Sutton, within the Green Belt and the Mendip Hills Area of Outstanding Natural Beauty.

The appeal was made against an enforcement notice relating to the erection of a wooden single storey building for use as a dwelling. The notice required the demolition of the building and the removal of all materials resulting therefrom, within a period of 6 months. The appeal was lodged on ground (a) – *that planning permission should be granted for what is alleged*; ground (b) – *that the breach alleged has not occurred as a matter of fact*; ground (c) – *that there has not been a breach of planning control*; and ground (f) – *that the compliance period is unreasonable*.

With regard to ground (b), the Inspector was not persuaded by the appellant's claim that the building had been erected for agricultural purposes and noted that, had it been so, then the

necessary process of prior notification had not taken place. He concluded that the breach alleged had occurred as a matter of fact.

With regard to ground (c), the Inspector concluded that the necessary planning permission had not been granted for the development and that there had, therefore, been a breach of planning control.

With regard to ground (a), the Inspector considered the main issue to be whether the building comprises inappropriate development in the Green Belt and, if so, whether the harm (by reason of inappropriateness) and any other harm is clearly outweighed by other considerations amounting to very special circumstances.

The Inspector determined that the building comprises inappropriate development in the Green Belt. He considered however that a functional need for an agricultural dwelling had in the circumstances been demonstrated, and that such need would not be fulfilled by other properties in Bishop Sutton. He further found there to be financial justification at present for a worker to live on the holding.

Besides harm to the Green Belt through inappropriate development, the Inspector found that the dwelling, being fairly well concealed, has a harmful but limited effect on the openness of the Green Belt and the natural beauty of the AONB. Traffic movements, he considered, would be likely to be no more than would be the case if the appellant were to travel to and from the land from a dwelling elsewhere.

In conclusion, the Inspector determined that the building comprises inappropriate development in the Green Belt although, overall, the harm and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development. Accordingly, the Inspector allowed the appeal, quashed the enforcement notice and granted conditional planning permission in respect of the deemed application. The first condition limits the permission to 3 years; the second limits occupation to those engaged in agriculture; and the third restricts permitted development rights.

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<b>App. Ref:</b>	10/05121/FUL
<b>Location:</b>	Gladys House, 2 South Road, Midsomer Norton.
<b>Proposal:</b>	Change of use of ground floor from offices to 2no flats.
<b>Decision:</b>	Refuse
<b>Decision Date:</b>	20 <sup>th</sup> October 2011
<b>Decision Level:</b>	Delegated
<b>Appeal Decision:</b>	Appeal dismissed.

#### **Summary:**

The Inspector identified the main issue to be whether the proposal would be contrary to the Council's strategy for safeguarding employment land.

He opined that both the Local Plan and the (then) Draft Core Strategy gave clear indication of the continued need for increased employment space within this location, of the kind that has been made available by the appeal building. Furthermore, he noted that there was nothing to suggest that Gladys House, which is a modern building constructed specifically for office purposes, is incapable of offering such accommodation to an adequate standard; and that the proposal did not seek to provide any alternative employment opportunities of an equivalent economic benefit to the area. The change of use of the ground floor of the premises to residential use

The Inspector was not persuaded by the appellant's argument that there is no reasonable prospect of the building being used for employment purposes.

Whilst he found that there was no evidence to suggest that the proposed residential use would generate any unacceptable levels of parking on street, the Inspector concluded, overall, that the proposal would be contrary to the Council's strategy for safeguarding employment land.

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**App. Ref:** 11/00896/FUL  
**Location:** School House, Chapel Road, Clandown.  
**Proposal:** Change of use of premises from Non-Residential Institution (formally Clandown Primary School) (Use Class D1) to Storage and Distribution  
**Decision:** Refuse.  
**Decision Date:** 23<sup>rd</sup> December 2011  
**Decision Level:** Delegated.  
**Appeal Decision:** Dismissed.

**Summary:**

The appeal in fact relates to the entire former Clandown School.

Three main issues were identified. Firstly, the effect of the use on highway safety; secondly, the effect of the use on the living conditions of occupiers along Chapel Road; and thirdly, whether the use preserves or enhances the character and appearance of the Conservation Area.

On the first issue, the Inspector noted the restricted nature of Chapel Road, and the potential for conflict resulting in particular from its use by large vehicles generated by the existing business at its western end. The Inspector accepted that the proposed use would likely result in a greater number of such vehicles; and that vehicle movements generated by the proposal would be markedly different to those which would have been generated by the former school, and would result in an escalation in conflict between different vehicles using the highway and also between vehicles and pedestrians along this residential street. The restricted nature of the area at the point of access to the site added to the Inspector's overall concern in relation to the practical use of the site for general storage and distribution purposes and the implications for highway safety.

On the second issue, the Inspector recognised that the movement of large vehicles was already a feature along Chapel Road. He considered however that the proposed use could give rise to unacceptable intensification of goods vehicle traffic. In addition to highway safety issues, this would result in a noticeable increase in noise nuisance and disturbance from an upsurge in such vehicles and the conflict arising between them. The Inspector determined that harm to the amenities of neighbouring occupiers would result.

On the third issue, the Inspector observed that whilst the adjoining scrapyard has a predictably industrial appearance about it, it was not typical of the developed and open parts of the Conservation Area. Furthermore, he considered that the form of the former school set it apart from the intensive use of the neighbouring land. In his view the ad hoc storage associated with the use dominated the site and detracted from the simple form and arrangement of the existing building. Overall, he considered the proposal to be harmful to the character and appearance of the Conservation Area.

In dismissing the appeal, the Inspector recognised the economic benefits of the proposal, but concluded that such benefits did not outweigh the identified harm.

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**App. Ref:** 10/05317/FUL  
**Location:** Builders Yard, Kilkenny Lane, Bath  
**Proposal:** Erection of a replacement builders store and workshop.  
**Decision:** None  
**Decision Date:** None – non determination  
**Decision Level:** None  
**Appeal Decision:** Appeal dismissed.

#### **Summary:**

The main issues were determined to be a) whether the proposed development constitutes inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt; and c) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The Inspector found that the proposal represented inappropriate development in the Green Belt which is, by definition, harmful.

Although the proposed development would replace the existing store, the Inspector found that it would be significantly taller with a larger footprint, introducing additional development to the Green Belt to the detriment of its openness, adding to the harm by virtue of inappropriateness.

The Inspector noted that although the existing building is in a poor state of repair and somewhat unsightly in appearance landscape and would appear as an obtrusive feature, adding to the harm and contrary to Policies D.2 and D.4 which seek to ensure that development responds to its local context and maintains or enhances the public realm; and to Policy NE.1 which states that development which does not either conserve or enhance the character and local distinctiveness of the landscape will not be permitted.

The benefit of secure storage did not in his opinion clearly outweigh the harm by virtue of inappropriateness and other harm so as to justify the scheme on the basis of very special circumstances. The proposed development is therefore contrary to national policy and Policy GB.1.

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**App. Ref:** 07/00952/UNDEV  
**Location:** Prospect Stile Farm, Limestone Link, Hinton Blewitt.



**Development:** Unauthorised development comprising (1) the stationing of a mobile home and the use of the land for residential purposes; and (2) engineering works.  
**Notice Issued:** 17<sup>th</sup> March 2011  
**Appeal Decision:** Enforcement Notice upheld, as corrected and varied.

**Summary:**

At the hearing the Council requested that the notice be corrected by the deletion of the allegation relating to the stationing of a mobile home and the use of the land for residential purposes. This issue may however yet be the subject of a further Enforcement Notice. Furthermore, having considered the nature of the engineering works, the Inspector corrected the notice to make it clear that the breach of planning control alleged in the notice relates to the carrying out of works for the erection or extension of a building.

The corrected notice requires the cessation of the works relating to the erection/extension of a stone barn, and the reinstatement of the land to its former levels. The appeal was lodged on grounds (c), (d), (f) and (g), although grounds (d) and (f) related to the mobile home and were not ultimately considered in view of the corrections to the notice.

With regard to ground (c), the Inspector did not accept the appellant's argument that the works comprised 'permitted development', since the necessary conditions for such development had not been complied with. He found that the appellant had not discharged the burden of proof placed upon him of showing that there has not been a breach of planning control.

With regard to ground (g), the Inspector considered that a compliance period of 6 months (rather than the 3 months stated in the notice) was reasonable in view of the likely weather conditions during the winter months.

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**App. Ref:** 10/05272/FUL  
**Location:** Oxleaze Farm, Nempnett Thrubwell.  
**Proposal:** Installation of 2no. 11kW Gaia wind turbines  
**Decision:** None  
**Decision Date:** None – non determination  
**Decision Level:** None  
**Appeal Decision:** Appeal dismissed.

**Summary:**

The main issues were determined to be a) whether the proposed development constitutes inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt and the landscape character of the surrounding area; c) its effect on living conditions at nearby properties; and d) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whilst noting that there were some points from which the turbines would not be visible, the Inspector was not persuaded by the appellant's argument that, when viewed from points at

distances of about 150 metres, the proposal would conserve or enhance the landscape. He considered, rather, that the turbines would add to the visual harm caused by an existing electricity pylon and, by the introduction of new built structures, would reduce the openness of the Green Belt.

The Inspector did not fully accept the Council's concerns with regard to the assessment of potential noise nuisance. He found that a simplified noise condition – as advocated in the published guidance – would adequately safeguard the amenities of nearby residential properties.

The Inspector attached substantial weight to the harm to the Green Belt by reason of inappropriateness. He attributed significant weight to the wider environmental and economic benefits associated with the proposal, and concluded that such benefits did not clearly outweigh the harm to the Green Belt by reason of inappropriateness, and the identified harm to openness and the landscape. Accordingly, he found that the question of very special circumstances could not arise.

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**App. Ref:** 09/04350/FUL  
**Location:** Old Chapel Site, The Firs and Old Pit Lane, Clandown.  
**Proposal:** Change of use of land to provide secondary peak time vehicle access to/from Tiger Works with provision of 5no. customer parking spaces and landscape moundings  
**Decision:** None  
**Decision Date:** None – non determination  
**Decision Level:** None  
**Appeal Decision:** Appeal dismissed.

### **Summary:**

The Inspector noted that land which formed part of the appeal site is the subject of an Enforcement Notice – upheld on appeal - which related, inter alia, to engineering works comprising the construction of an access road.

The main issues were determined to be a) the effect of the proposed development on the character and appearance of the Conservation Area; b) its effect in terms of the safety and convenience of users of Old Pit Lane; and c) its effect on the living conditions of neighbouring residents.

On the first issue, the Inspector noted that Clandown Batch is a distinctive and prominent feature in the local landscape which makes a positive contribution to the character and appearance of the Conservation Area; and that there was a clear distinction between the undeveloped character of the Batch and the developed part of the village below. He considered it likely that the proposed track would be used to an extent that would have an appreciable impact when viewed from Chapel Road.

The Inspector opined that the proposed earth bank would be seen as a contrived response to concerns previously expressed in relation to the enforcement appeal and would not entirely achieve its aim of screening the harmful effect identified by the Inspector in that appeal from

view. In addition he considered that the movement of vehicles across the Batch would be uncharacteristic of this part of the CA and would detract from its character and appearance.

Whilst noting that much of the length of the track would be screened by the trees and vegetation on the Batch, supplemented by additional tree planting, the Inspector considered that vehicles using the track towards its junction with Old Pit Lane would be widely open to view from numerous public viewpoints in the surrounding area.

On the second issue, the Inspector noted that Old Pit Lane is a well-used public footpath, with only limited vehicular access; and that the proposed access would likely result in it being used by vehicles to a significantly greater extent. The restricted width of the lane would, he felt, result in conflict between vehicles and pedestrians.

Whilst the Inspector considered that visibility at the junction of Old Pit Lane with Smallcombe Road was acceptable, and that there would be some consequent reduction in traffic along Chapel Road, he concluded that the proposed development would have an unacceptable effect on the safety and convenience of users of the public footpath.

On the third issue, the Inspector found that the vehicular use of Old Pit Lane would result in increased overlooking, a perception of being overlooked and an overall degree of disturbance which would cause significant harm to the amenities of the occupiers of properties adjacent to the lane. The harm would not, he considered, be outweighed by any benefits to residents along Chapel Road.

An application for an award of costs against the Council was dismissed.

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