

Bath and North East Somerset Council			
MEETING: Development Control Committee	AGENDA		
MEETING DATE: 13 February 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: 24 th January 2013			
AN OPEN PUBLIC ITEM			
BACKGROUND PAPERS: Enforcement file 12/00372/UNAUTH			
TITLE: Enforcement Report: Red Hill House, Red Hill, Camerton, Bath BA2 0NY			
WARD : Bathavon West			

1.0 PURPOSE OF REPORT

To seek Members view on the harm caused to highway safety with respect to the unauthorised material change of use of a single dwellinghouse to a mixed use of dwelling, daily yoga classes, weekend retreats and other associated business activities. Officers are seeking Authority from Members to issue an enforcement notice to require the use of the dwelling for business purposes, yoga classes and weekend retreats to cease.

2.0 LOCATION OF PLANNING CONTRAVENTION

Red Hill House, Red Hill, Camerton, Bath BA2 0NY (“the Property”), as outlined in bold on the attached site location plan (Appendix 1).

3.0 OUTLINE OF PLANNING CONTRAVENTION

Without planning consent the material change of use of a single dwellinghouse to a mixed use of dwelling, daily yoga classes, weekend retreats and associated business activities.

4.0 RELEVANT PLANNING HISTORY

08/00669/FUL – Conversion of car port to sun room – Permitted
08/04291/FUL- Change of use of existing sun room to provide yoga classes and creation of hardstanding for associated parking (retrospective) – Refused
09/01515/CLPU – Use of dwelling to teach yoga classes (Certificate of Lawfulness for a Proposed Use) – Refused
09/03166/CLPU – Use of dwelling to teach yoga classes (Certificate of Lawfulness for a Proposed Use) – Refused, appeal dismissed.

11/05201/FUL - Change of use from dwelling to mixed use dwelling and yoga school (Retrospective) – Refused

5.0 BACKGROUND

On 15 April 2008 planning permission was granted, reference 08/00669/FUL, for the conversion of the existing car port to a sun room. In November 2008 an application was submitted for the change of use of existing sun room to provide yoga classes and creation of hardstanding for associated parking (retrospective), reference 08/04291/FUL. It was proposed that clients would park on land opposite Red Hill House and the applicant would stand in the highway to stop traffic and see clients across the road. This application was subsequently refused on 10 February 2009 for the following reasons:

- 1. The proposed change of use of the residential dwelling to business use will result in an increase in pedestrian movement to and from the dwelling (when operating as a Yoga studio) both along the carriageway and to the proposed car park at a point where there is insufficient visibility to ensure the safe crossing of the highway. This is in conflict with policy T24 of the Bath and North East Somerset Local Plan.*
- 2. The proposed change of use of the residential dwelling to business use will result in an increase in vehicular movements to and from the western and eastern side of Red Hill to the detriment of students of the Yoga studio and other road users. This is in conflict with policy T24 of the Bath and North East Somerset Local Plan.*
- 3. The proposed creation of a formal parking area on land located on the eastern side of Red Hill within open countryside would detract from the rural character of this part of Red Hill contrary to policy D2 of the Bath and North East Somerset Local Plan.*

Since this time there have been a number of applications seeking permission to operate a yoga business at this location all of which have been refused due to highway safety implications. The applicant has appealed the Council's decision on one occasion namely the decision against a refusal to grant a certificate of lawful use or development, reference 09/03166/CLPU which was refused on 11 June 2010. The Inspector in his decision letter dated 5 April 2011 stated "the vehicle movements associated with the proposed yoga classes would, as a matter of fact and degree, bring about a material change of use in the character of the use of the appeal property, compared with its use as a single dwellinghouse". The appeal was subsequently dismissed.

Since this time activity has increased, Yoga classes, workshops and retreats continue to take place at Red Hill House. The current level of activity includes at least 16 regular classes per week at various times in the day including morning, afternoon and evening. It is advertised that each class has no more than 13 students. In addition, there are occasional Saturday workshops throughout the year and additional monthly classes. There are approximately 7 instructors. A number of weekend retreats take place throughout the year. The property is also advertised as being available for rent for private classes and weekend workshops able to cater for up to 40 people seated. The main house is offered as a bed and breakfast facility with up to 6 bedrooms capable of sleeping up to 15 people.

In an attempt to overcome highway concerns the owner has suggested various alternative parking proposals. The attached plan shows the alternative parking proposals which have been considered which include parking on land on the opposite side of the road to Red Hill House, utilising parking at an existing restaurant site approximately 720m to the north of the site, and the use of an existing car park at Travis Perkins. More recently the owner has proposed parking in an adjacent field directly to the North of Red Hill House. Each of these proposals has been considered however Officers consider that none of the proposals overcome highway safety concerns. Furthermore, it is considered the proposals to create a parking area within the open countryside would detract from and have an adverse impact on the rural character of the area contrary to Policies D.2 which seeks to reduce the impact of car parking on the character of an area and NE.1 which seeks to retain and enhance local landscape character in resisting development which does not conserve or enhance the local distinctiveness of the landscape.

The Council wrote to the owner in August 2012 advising that an alternative venue should be sought. Since this time the yoga business has continued to operate. In January 2013 Officers agreed with the owner that the unauthorised business activities would cease on or before 31st March 2013.

There have been considerable amounts of correspondence with the owner attempting to seek an acceptable resolution to this situation. However, the situation has not been resolved and the use of this dwelling in connection with a yoga business remains unacceptable. Your Officers are therefore seeking authority to take appropriate action.

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). Of particular relevance are T.24 and T.26 relating to highway safety and parking provision.

National Planning Policy Framework (“NPPF”) was published March 2012 and is a material consideration. Local Plan policies T.24 and T.26 are consistent with national policy contained in the NPPF.

7.0 EXPEDIENCY OF ENFORCEMENT ACTION

Red Hill House is a large residential dwelling located to the north of the Camerton housing development boundary. It has seven bedrooms and stands within grounds of approximately 0.25ha.

Red Hill is a classified road of relatively limited width. The road is well used by local residents and also provides a link/short cut between the Radstock /Bath road (A367) and the Timsbury/Bath Road (B3115). The highway does not benefit from a footway in either direction to/from the application site and due to the line of the road, including bends, does not provide a safe pedestrian access to the property.

The programme of classes is currently advertised by way of a website, social media sites and local leaflet distribution. The classes are advertised as ‘taking place in a

purpose built studio' (a former sun room which was granted planning permission in 2008). In addition, bed and breakfast, retreats and weekend workshops as well as private classes to all levels, ages and abilities are also advertised. The Council is of the opinion that the overall use by virtue of the number and nature of classes held (including weekend retreats); the frequency of the classes; the number of attendees; staffing levels; and the levels of associated traffic, greatly exceed that which would reasonably be expected in association with purely domestic occupation. The increased use of the sub- standard access is prejudicial to highway safety.

In the circumstances, enforcement action against the unauthorised yoga classes, weekend retreats and associated business activities is therefore 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.

9.0 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 Head of Planning Services, and*
- (d) maintenance of a proper record of action taken.*