

Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **31st July 2013**

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: 12/04345/FUL
Location: Parcel 2462 Chelwood Road Marksbury Bath
Proposal: Erection of Solar PV Farm and associated works to Parcel 2462 and
Parcel 0153, Chelwood Road.
Decision: REFUSE
Decision Date: 14 February 2013
Decision Level: Delegated
Appeal Lodged: 21 June 2013

App. Ref: 12/05630/FUL
Location: 1 North Hill Cottages Tunley Road Tunley Bath
Proposal: Change of use of a double garage to a dwelling.
Decision: REFUSE
Decision Date: 12 April 2013
Decision Level: Delegated
Appeal Lodged: 24 June 2013

App. Ref: 13/01024/FUL
Location: 70 Frederick Avenue Peasedown St. John Bath BA2 8JA
Proposal: Erection of detached dwelling on land to the rear of the existing dwelling
Decision: REFUSE
Decision Date: 24 May 2013
Decision Level: Delegated
Appeal Lodged: 24 June 2013

App. Ref: 13/01397/FUL
Location: The Chalet 52 Charlton Road Midsomer Norton BA3 4AH
Proposal: Erection of 3no dwellings (2no two storey + 1no single storey), associated garaging, formation of new vehicular access, and erection of detached single storey garage (for The Chalet).
Decision: REFUSE
Decision Date: 30 May 2013
Decision Level: Delegated
Appeal Lodged: 26 June 2013

App. Ref: 13/00245/FUL
Location: 35 Maple Gardens Oldfield Park Bath BA2 3AG
Proposal: Provision of loft conversion with rear dormer
Decision: REFUSE
Decision Date: 26 March 2013
Decision Level: Delegated
Appeal Lodged: 27 June 2013

App. Ref: 13/00701/FUL
Location: Richer Sounds York Place 4A London Road Walcot Bath
Proposal: Erection of 3no new dwellings on land to the rear of York Place (resubmission).
Decision: REFUSE
Decision Date: 15 April 2013
Decision Level: Delegated
Appeal Lodged: 28 June 2013

App. Ref: 12/04590/OUT
Location: Parcel 0025 Monger Lane Welton Midsomer Norton
Proposal: Residential development comprising up to 135 dwellings, vehicular access from Monger Lane, public open space, and other associated infrastructure
Decision: REFUSE
Decision Date: 15 May 2013
Decision Level: Planning Committee
Appeal Lodged: 2 July 2013

App. Ref: 13/00731/FUL
Location: The Bath Bun 2 Abbey Green City Centre Bath BA1 1NW
Proposal: Remodelling of existing Bath Bun Tea Shoppe comprising a proposed extension linking the tea shop to no.7 North Parade Passage at ground floor via a new staircase (revised resubmission).
Decision: REFUSE
Decision Date: 15 April 2013
Decision Level: Delegated
Appeal Lodged: 2 July 2013

App. Ref: 12/04551/FUL
Location: 2 Hermitage Road Lansdown Bath BA1 5SN
Proposal: Erection of dwelling following demolition of existing bungalow
Decision: REFUSE
Decision Date: 12 December 2012
Decision Level: Delegated
Appeal Lodged: 3 July 2013

App. Ref: 13/01191/FUL
Location: Woodborough Peppershells Lane Compton Dando Bristol BS39 4LL
Proposal: Change of use of agricultural store to residential dwelling with associated works. (Resubmission)
Decision: REFUSE
Decision Date: 15 May 2013
Decision Level: Delegated
Appeal Lodged: 3 July 2013

App. Ref: 12/05431/FUL
Location: Parsons Farm Wick Lane Stanton Wick Bristol BS39 4BX
Proposal: Erection of extension, removal of lean-to store to barn, internal alterations and extension of accommodation into attached barn (Resubmission)
Decision: REFUSE
Decision Date: 25 June 2013
Decision Level: Delegated
Appeal Lodged: 9 July 2013

App. Ref: 13/01520/FUL
Location: Dairy Cottage Shockerwick Lane Bathford Bath
Proposal: Provision of loft conversion to include side pitched roof dormer and conservation rooflights
Decision: REFUSE
Decision Date: 6 June 2013
Decision Level: Chair Referral
Appeal Lodged: 11 July 2013

APPEAL DECISIONS

Application no: 12/02433/FUL
Address: 31 Richmond Place, Bath, BA15QA
Proposal: Rear 2nd floor bedroom extension plus 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
Date of Refusal: 17 August 2012
Decision Level: Delegated
Appeal Decision: ALLOWED

Summary

The application sought planning permission for a number of external alterations to the building, including the addition of a second floor to the existing rear extension and a rooflight, as well as widening of the single storey rear kitchen extension. The planning application was refused as having an adverse effect on the special historic and architectural features of this listed cottage, and that no compelling evidence was provided to justify this harm. The parallel listed building application 12/02434/LBA was also refused on the same grounds and subsequently allowed on appeal.

The Inspector found that the extension at second floor level would represent very modest changes to the form and appearance of the building and would not, more widely, harm the rhythm of the rear elevation of the terrace. He asserted that the proposals would conceal a small part of the rear stone wall and leave very considerable part visible and unaltered. Neither had he thought that the obscuring of the original window would be harmful.

On the whole the Inspector concluded that the proposal would enhance the conservation area and preserve the special interest of the listed building and would thus not harm its value as a designated heritage asset.

App. Ref: 13/05438/AR
Location: 86 Lower Bristol Road, Bath
Proposal: Non-illuminated display board on wall in front of shop to advertise offers using banners or sign board.
Decision: Refuse
Decision Date: 19 February 2013
Decision Level: Delegated
Appeal Decision: DISMISSED

Summary:

The Inspector considered that the sign was a large and dominant feature and that its presence was emphasised by its bold colours. As a result it was considered intrusive and would detract from this part of the Bath World Heritage Site. It was considered that the sign would also appear noticeable in contrast to the wall of the Grade II listed cemetery and would obscure views of the greenery behind. The display of banners in a PVC material was considered unacceptable for a long term basis and would detract from the setting of the listed cemetery. The appeal was DISMISSED.

App. Ref: 12/05022/FUL
Location: Home Cottage, 103 Park Road, Keynsham
Proposal: Proposed dormers to front and rear of property.
Decision: Refuse
Decision Date: 2 January 2013
Decision Level: Delegated
Appeal Decision: DISMISSED

Summary:

The Inspector found that the proposed dormers were disproportionate in size and also inappropriate in design in this context, and would thereby look unduly prominent and out of place, harming the character and appearance of the house and its surroundings. The proposal was therefore contrary to D.2 and D.4

The inspector also found that a dormer window of this size, even if obscure glazed, would increase the perception of overlooking which residents feel in their rear gardens. It was considered to detract from the privacy of the adjoining residents contrary to policy D.2.

App. Ref: 12/03103/REM
Location: Vale View Cottage, Vale View Place, Bath
Proposal: Removal of condition 12 of application 01/00050/FUL (Erection of a dwelling).
Decision: Refuse
Decision Date: 20 September 2012
Decision Level: Delegated
Appeal Decision: DISMISSED
Costs Decision: COSTS AWARDED against the appellant

Summary:

Condition 12 of the original permission restricted parking within an area of the site on the grounds that the area in question was insufficient in size to allow turning. Therefore vehicles leaving the site would not be able to do so in a forward gear. Given the sub-standard access to the site and the position of the access on a bend it was considered to prejudice highways safety.

An appeal against condition 12 was originally submitted in 2007 whereupon it was dismissed by an inspector. The Inspector for the current appeal saw no reason to disagree with the conclusions of the original inspector agreed that the condition was necessary to prevent a danger to highways safety. The appeal was therefore dismissed.

The Council applied for costs against the appellant. The Inspector stated that the appellant did not advance any arguments of substance to refute the original Inspector's decision. It was concluded that the lodging of an appeal was unreasonable and put the Council to unnecessary expense in processing and arguing against it. Cost were therefore awarded against the appellant.

App. Ref: 12/05430/FUL
Location: 1 Lincombe Road, RADSTOCK, BA3 3YJ
Proposal: Erection of new second floor extension and loft conversion to include 2no dormers
Decision: Refused
Decision Date: 18.02.2013
Decision Level: delegated
Appeal Decision: Appeal dismissed

Summary:

The application was refused due to the visual impact of the front and rear dormer windows proposed to the property. There was no objection to the two storey side extension.

The Inspector agreed that the proposed dormer windows would dominate the appearance of both roof slopes and would significantly increase the bulk of the building at roof level. The Inspector considered the dormers to appear seriously at odds with the surrounding properties. The fact that dormer windows existed on dormer bungalows in the area did not outweigh the harm caused.

The Inspector concluded that the proposed dormers would be harmful to the character and appearance of the host building and the area in conflict with saved policies D.2 and D.4 of the Bath and North East Somerset Local Plan¹. They would also be in conflict with the National Planning Policy Framework's core principle of securing high quality design.

App. Ref:	12/01882/OUT
Location:	Parcel 0006, Maynard Terrace, Clutton, Bristol
Proposal:	Erection of 36no. dwellings and associated works (revised resubmission
Decision:	Refuse
Decision Date:	17 th December 2012
Decision Level:	Committee, (Member Overturn)
Appeal Decision:	Allowed
Costs Decision:	Dismissed

Summary:

This outline planning application was refused by Development Control Committee in December 2012 with three reasons for refusal cited. During the course of the appeal, the Council advised that it would not pursue the second reason relating to ecological impacts or the third reason relating to highway safety. The appeal focused on the first reason for refusal, namely, the sustainability of the site.

The Inspector noted the Council cannot demonstrate a five-year supply of deliverable housing sites, and confirmed, in line with paragraph 49 of the NPPF that relevant policies for the supply of housing should not be considered up-to-date. The Inspector considered the main issue for the determination of the appeal to be whether the adverse impacts of granting planning permission for the proposed development would significantly and demonstrably outweigh the benefits, in accordance with paragraph 14 of the NPPF.

Whilst the Core Strategy was only afforded limited weight, the Inspector made specific reference to the Core Strategy in respect of housing requirements in her decision. The Inspector stated "*it is material to note that the emerging Core Strategy recognises that a considerable proportion of its housing requirement will need to be met through provision of new dwellings in rural settlements*".

With regard to the issue of housing shortage, the Inspector noted that the Council accepts both a significant shortfall in supply and a persistent under-delivery of both market and affordable housing in the district. In respect of paragraph 47 the Inspector considered that the

acknowledged need for both “*open-market and affordable housing carries considerable weight in favour of the proposed development*”.

In respect of comments made that 36 dwellings would make little overall difference in the context of the district the Inspector commented that “*in the context of a significant existing housing shortage, the provision of any new housing must, in principle, be beneficial in terms of redressing the shortfall*”.

With regard to accessibility by sustainable modes of transport the securing of £150,000 through a Section 106 agreement towards the support and enhancement of bus services to Bath was accepted as being reasonable and proportionate however the Inspector did acknowledge that, given the distance to bus stops, services and amenities it would be likely that many of the future occupiers would be reliant on the use of private cars, contrary to T.1 of the Local Plan.

Turning to the issue of Highway Safety, although the Council did not pursue this reason for refusal at the appeal, the Parish Council (who had Rule 6 Status for the appeal) maintained the view that the development would harm highway safety. The Inspector noted that the change in priority of the junction of Maynard Terrace/Clutton Hill/Station Road would serve to reduce the speed of southbound traffic as it entered the village.

The Inspector considered the provision of new footways concluding that there is an existing risk of conflict and that the provision of footways would present only a partial solution. Nevertheless, the Inspector remarked that the footways would have the safety benefit of reducing the extent of the risk without compromising the ability of safe access to and from the properties on Maynard Terrace.

In summary, the Inspector found that the alterations proposed constitute an overall improvement to the existing situation and did not consider the increased pedestrian and traffic movements generated by the development to adversely impact on highway safety or the capacity of the network. The Inspector disregarded references made to an appeal decision made in 1988 on the basis that in that case, the Highway Authority were opposed to the development whereas in this case they consider the package of improvements to be acceptable.

The Inspector considered various other matters as part of her decision:

- With regard to concerns about drainage raised by the CPRC, the Inspector was satisfied that this issue can be adequately addressed by condition.
- With regard to visual impact, the Inspector accepted that views would be altered but did not conclude the development would necessarily lead to visual harm. The Inspector concluded that the new development would be viewed in the context of the existing dwellings on Maynard Terrace and not as an isolated new development in the countryside.
- The Inspector accepted that in principle, 36 dwellings could be accommodated on the site.
- The Inspector noted the increased pressure on the primary school but stated that there was no substantive evidence to indicate that capacity would be reached or exceeded by this development. The Inspector accepted the Section 106 agreement terms.
- The Inspector agreed with the terms of the S.106 in respect of financial contributions for youth service provision, improved transport links, allotments and open space as well as ecological mitigation.

- The Inspector disregarded the concerns that affordable housing would create social problems in light of the lack of any clear evidence to the contrary. The provision of 53% affordable housing secured with a local tie was agreed.

In concluding the appeal, the Inspector found that the need for both open-market and affordable housing carried considerable weight in favour of the development proposal. The Inspector stated that the only significant adverse impact arising from a development in this location would be the likelihood that occupiers would travel by private car, rather than more sustainable modes of transport however found that the associated level of harm would not come anywhere close to “significantly and demonstrably” outweighing the benefit obtained from the contribution the proposal would make toward addressing the current significant shortfall in housing.

Costs appeal

The appellant sought a full award of costs against the Council on the basis of paragraph B20 of Circular 03/2009 which explains that while planning authorities are not bound to accept the recommendations of their officers, they 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”.

It is noted in the decision letter that “Officers recommended the appeal scheme for approval” but that “the Committee rejected that recommendation”. The appellant’s case related to the fact that the Council could not demonstrate a 5 year housing land supply and therefore as its policies could not be considered up to date, permission should have been granted and the fact that the Council abandoned two of the reasons for refusal prior to the appeal because it could not sustain the reasons. Reference was made to the Council’s lack of evidence to justify its position and that ultimately it had acted unreasonably in refusing permission. (Full details of the appellant’s case are listed in the appeal documents and the Inspector’s decision letter).

The Council’s rebuttal referred to its position that whilst Clutton itself may be considered “sustainable” it did not necessarily mean this site was as noted by the fact the site is remote from services and public transport and therefore it was not unreasonable to have refused permission for a development in this particular location. (Full details of the Council’s case are listed in the appeal documents and the Inspector’s decision letter).

In considering the application for costs, the Inspector noted the appellant’s assertion that the Council may have wrongly relied on out-of-date policies however also noted that the Council had proceeded its case on the basis that it understood the position in respect of its policies although it maintained its position that the location of the appeal site is unsustainable. The Inspector considered that the Council had made its position in respect of the weight that could be attached to the relevant policies clear.

Notwithstanding, the Inspector found the Council’s position in respect of policy “*something of a struggle to understand*”. The Inspector noted the location of the site in respect of the village however confirmed that the “*Council has not identified any such alternative sites... but instead placed considerable reliance on having granted permission for a number of dwellings on other, “better”, sites in Clutton over the past two years.*”

Whilst the Inspector dismissed the costs appeal finding that the Council had not demonstrated unreasonable behaviour, it was made very clear that the Council had acted in a manner that “*comes very close to being unreasonable*” with the Inspector stating “*the Council’s*

apportionment of weight in this case is surprising, difficult to justify". Ultimately, whilst the appeal was itself allowed, the Inspector accepted "that the basis on which it was reached was not wholly without reason or evidential support."

FORTHCOMING PUBLIC INQUIRIES

App. Ref:	12/05315/OUT
Location:	Parcel 8966 Manor Road Saltford
Proposal:	Erection of up to 99no. dwellings and associated parking on Parcel 8966 and Parcel 0064, 1 no vehicular access from Manor Road and separate pedestrian access to Manor Road, associated engineering works and the construction of 2no. car parking lay-bys on Manor Road.
Date of Inquiry:	13 th August – 20 th August 2013
Venue:	Fry Club, Keynsham