

Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **4th September 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: 13/01541/FUL
Location: 13 Bennett's Road Lower Swainswick Bath BA1 7AW
Proposal: Erection of 1no. detached dwelling with associated works
Decision: REFUSE
Decision Date: 6 June 2013
Decision Level: Delegated
Appeal Lodged: 17 July 2013

App. Ref: 13/00172/FUL
Location: 84 Newbridge Hill Newbridge Bath BA1 3QA
Proposal: Erection of detached dormer bungalow following demolition of existing garage block
Decision: REFUSE
Decision Date: 9 May 2013
Decision Level: Delegated
Appeal Lodged: 25 July 2013

App. Ref: 13/00496/LBA
Location: Basement Ground Floor 7 Walcot Terrace Walcot Bath
Proposal: Internal and external alterations for the erection of a single storey rear extension following demolition of existing and internal alterations.
Decision: CONSENT
Decision Date: 2 May 2013
Decision Level: Delegated
Appeal Lodged: 25 July 2013

App. Ref: 13/01587/AR
Location: Chimichanga Bluecoat House Sawclose City Centre Bath
Proposal: Display of 7 no. internally illuminated free standing signs behind glazed windows.
Decision: REFUSE
Decision Date: 30 May 2013
Decision Level: Delegated
Appeal Lodged: 31 July 2013

App. Ref: 13/01309/FUL
Location: The Byre House Knowle Hill Chew Magna Bristol
Proposal: Reinstatement and repairs to existing barn (Retrospective).
Decision: REFUSE
Decision Date: 20 June 2013
Decision Level: Delegated
Appeal Lodged: 13 August 2013

Enf. Ref: 08/00552/NONCOM
Location: Opa 14 North Parade City Centre Bath BA2 4AJ
Breach: Unauthorised material change of use of Opa from a restaurant to a mixed use of restaurant, drinking establishment and nightclub
Appeal Lodged: 6 August 2013

APPEAL DECISIONS

App. Ref: 13/00159/FUL
Location: 1 Phillis Hill, Midsomer Norton, RADSTOCK, BA3 2SW
Proposal: Erection of a single storey rear extension and provision of a loft conversion.
Decision: Refused
Decision Date: 28.03.2013
Decision Level: Delegated
Appeal Decision: Appeal allowed

Summary:

The application was refused due to the impact on the neighbouring property in respect of sunlight and daylight and outlook.

The Inspector concluded that the proposed extension would be set far enough away and the slope of the roof would mean that 2 Phillis Hill would not be significantly affected by the development in terms of light loss.

The Inspector acknowledged that there would be some impact on outlook but did not consider this to be harmful and did not consider the development to be overbearing.

A condition was recommended in respect of a timber sample.

Enf. Ref: 11/00297/UNDEV
Location: Land adjacent to Winsbury House, Bath Road, Marksbury, Bath BA2 9HF.
Breach: Without planning permission, the erection of a steel framed building with a concrete base; and the construction of a hardstanding.
Appeal Decision: Enforcement Notice quashed, and planning permission granted on the deemed application, subject to conditions.

Summary:

The enforcement notice required a) the demolition of the building, and the removal of all resulting materials; b) the removal of the concrete base; and c) the removal of the hardstanding. The appeal was lodged on ground (a) – *that planning permission should be granted for what is alleged*; ground (f) – *that the requirements of the notice are excessive*; and ground (g) - *that the compliance period is unreasonable*.

With regard to ground (a), the Inspector identified the main issues as:

- a) whether the development amounted to inappropriate development in the Green Belt;
- b) the effect of the development on the openness of the Green Belt;
- c) the effect of the development on the character and appearance of the countryside; and
- d) whether there are any very special circumstances sufficient to outweigh any identified harm.

The Inspector noted that the building contained hay bales and a trailer, and that the adjacent land was being grazed by a small number of sheep. He found that the building was reasonably required for the purpose of agriculture and was not, therefore, inappropriate development in the green belt. With regard to openness, he considered that the overall net impact of the new building was not great. With regard to character and appearance, the Inspector determined that whilst the building was not conspicuous in its context, it would be better integrated into the landscape with appropriate planting around its sides. Subject to the implementation of an appropriate landscape scheme, the Inspector determined that the development would not result in material harm either to the Green Belt or the character and appearance of the surrounding area. The conditions imposed by the Inspector require a scheme to be submitted for approval, and subsequently implemented. In the event of a failure to comply with the conditions, the building, base and hardstanding are required to be removed.

Enf. Ref: 09/00640/UNDEV
Location: Quarry Lodge (Parcel 8593), Woollard Lane, Whitchurch, BS14 0QS.
Breach: Without planning permission, the erection of a wooden chalet.
Appeal Decision: Appeal dismissed, and the enforcement notice upheld.

Summary:

The enforcement notice requires the owner to dismantle the building, and remove all resulting materials from the land. The appeal was lodged on ground (b) – *that the alleged breach has not occurred as a matter of fact*; ground (c) – *that planning permission is not required*; and ground (d) - *that the development is immune from enforcement action*.

With regard to ground (b), the Inspector noted that the building had been erected, and that it was being occupied. He did not accept therefore that the breach had not occurred.

With regard to ground (c), the Inspector did not concur with the appellant's view that planning permission was not required since the building replaced another building which had become dilapidated.

With regard to ground (d), the Inspector considered the evidence submitted by the appellant, third parties and the Council. On the balance of probabilities he considered the evidence of local people about when construction started more likely to be correct than that of the appellant. He found that that evidence placed the erection of the building within the four year period prior to the issue of the notice and that, consequently, the development was not immune from enforcement.

The Council submitted an application for an award of costs, on the basis that the appellant's unreasonable approach had incurred unnecessary expense. The Inspector found that the appellant's grounds had no realistic prospect of success, and demonstrated unreasonable behaviour. He therefore awarded full costs.

Application no: 13/00996/FUL
Address: 50 Park Road, Keynsham
Details: Erection of a single storey rear extension and provision of a loft conversion/roof extension.
Date of Refusal: 07/05/2013
Decision Level: Delegated
Appeal Decision: Appeal dismissed

Summary

The application was refused due to the effect of the proposed roof extension on the character and appearance of 50 Park Road and the street scene. The side roof extension was considered incongruous in relation to the pair of semi-detached hipped-roofed building and the wider street scene.

The Inspector found that the roof extension would fail to properly respond to its local context or to respect and complement the host building. Overall the conclusion was that the proposal would be harmful to the character and appearance of 50 Park Road and the street scene.

Application no: 12/05504/FUL
Address: 78 Purlewent Drive, Upper Weston, Bath
Details: Installation of a rear dormer.
Date of Refusal: 26/02/2013
Decision Level: Delegated
Appeal Decision: Appeal allowed

Summary

The application for the erection of a flat roofed dormer window on the rear elevation of the property was refused due to its incongruous visual appearance in the context of generally unaltered character of the roof slopes on the urban fringe, which are exposed to the public views towards the City. The Inspector found that the proposed dormer would not dominate the 'host' roof slope. He concluded that, despite the absence of similar dormers in the rear roof slopes of neighbouring dwellings, it would have no injurious impact on the views, or the character or appearance of the area, because, it would not appear incongruous.

Enf. Ref: 11/00271/NONCOM
Location: Old Orchard, 1 The Shrubbery, Lansdown, Bath BA1 2RU.
Development: Failure to comply with conditions nos. 5 & 10 of planning permission 09/00367/FUL granted 23rd September 2009.
Appeal Decision: Enforcement Notice upheld (as varied by the Inspector) and planning permission refused on the deemed application.

Summary:

The appeal was made against an enforcement notice issued as a consequence of the owner's apparent failure to comply with conditions attached to a planning permission. The notice required i) the replacement of a loose gravel surface, with a bonded gravel; ii) the removal of gates and the reduction of openings; and iii) the erection of alternative gates, all as described in previously approved drawings. The compliance period was 3 months. The appeal was lodged on ground (a) – *that planning permission should be granted for what is alleged*; ground (c) – *that there has not been a breach of planning control*; ground (f) – *that the requirements of the notice are excessive*; and ground (g) - *that the compliance period is unreasonable*.

With regard to ground (c), the Inspector considered that the gravel and stone was consolidated into the surface and was not what he would understand to be a loose gravel surface. With regard to ground (a), the Inspector identified the main issue as being the effect of the development on those using The Shrubbery. He noted that The Shrubbery was a pedestrian only route, where none of the users would expect to encounter a motorised vehicle. The arrangement of the gates would, he considered, allow a vehicle to cross the footpath. Taking account of the interests of disabled users, and emergency access, the Inspector concluded that the conflict with policy was such that the deemed planning application should not succeed. With regard to ground (f), the Inspector determined to vary the notice to remove the requirement relating to the surface treatment.

With regard to ground (g), the Inspector determined that the requirements of the notice (as varied) were fairly straightforward and easily achieved within the 3 month period allowed.

App. Ref: 12/05071/AR
Location: Norton Hill Garage, Fosseyway, Midsomer Norton, Somerset, BA3 4AU
Proposal: Display of 1 no. non-illuminated totem sign.
Decision: Refuse
Decision Date: 10th January 2013
Decision Level: Delegated
Appeal Decision: **Dismiss**

Summary:

The appeal related to a proposed totem sign at the Co-operative Store in Midsomer Norton.

The Inspector agreed that the proposed sign would at 5.5m it would be almost as tall as the terrace, and appear as a brightly coloured and excessively dominant feature. Its proximity to the terrace would accentuate its incongruity and the sense that it was out of proportion. The Inspector considered the proposed site would be too close to the nearby terrace of houses and harm both the character and appearance of the area and the amenity of the occupiers of the terrace

Application no: 12/05653/FUL
Address: Thyme Barn, Claverton
Details: Installation of a new garage and glazed link
Date of Refusal: 28/03/13
Decision Level: Delegated
Appeal Decision: Appeal allowed

Summary

The application for erection of an attached garage was refused because the proposed alterations, by reason of incremental additions (some other alterations were approved earlier) and the significant change to the barn's plan form would result in an excessively domesticated and uncharacteristic appearance, detracting from the building's historic character, neither preserving nor enhancing the character and appearance of Claverton Conservation Area. It was also deemed that the cumulative effect of the extensions would contribute to the deterioration in rural character in the context of Green Belt.

The Inspector found the concern over the impact on the openness or visual amenity of Green Belt unfounded given the moderate size of the proposal and the location of the property in a part of the village where the buildings tend to be tightly clustered. He concluded that the proposal would not be either prominent or obtrusive, being mostly set below the road wall. He therefore considered that that the proposed development would preserve the character and appearance of the Claverton Conservation Area.

App. Ref: 12/02021/FUL and 12/04616/AGRA
Location: Watership Farm, Warminster Road, Claverton, Bath BA2 7BJ
Proposal: Both applications proposed the erection of an agricultural storage building
Decision: Both applications Refused
Decision Date: Appeal A refused 7th December 2012
Appeal B refused 11th October 2012
Decision Level: Delegated
Appeal Decision: Appeal A – Allowed
Appeal B - Dismissed

Summary:

The appeal was a combined appeal following the refusal of two applications. Appeal A related to a refusal of approved details in respect of an Agricultural Permitted Development and appeal B

related to a planning application for an agricultural building on the same site but in an alternative location.

The main issues in relation to both appeals were:

The main issues in relation to both Appeal A and Appeal B are:

- (a) Whether the proposed developments would be inappropriate development in the Green Belt;
- (b) The effect of the proposed developments on the openness of the Green Belt; and,
- (c) The effect on the character and appearance of the surrounding area, which forms part of the Cotswold Area of Outstanding Natural Beauty (AONB).

The Inspector determined that the proposed development was not inappropriate development in the Green Belt. As the building would be recognisably agricultural the Inspector considered that it would not contribute to urban sprawl. He gave some weight to the harm to the openness of the Green Belt and that this was greater for the larger (planning application) building.

The Inspector did not consider that an agricultural building would be out of character with the landscape.

It was considered that the smaller building would be more appropriate and could be better screened and could still meet the applicants needs.

The Inspector concluded that it is a sensitive site, located within the Green Belt and AONB. While the principle of agricultural use is accepted, the scale of the building is material to the impact on the character and appearance of the area, and the openness of the Green Belt. In the case of Appeal B, I consider that the benefits arising, in relation to the farming enterprise and the visual appearance of the site, do not outweigh the harm to the AONB and Green Belt openness resulting from the proposal. However, the smaller building, with additional screening, as set out in

Appeal A, is of a size more commensurate to the benefits that could accrue to the enterprise, and these benefits would outweigh the harm I have identified to the Green Belt in terms of its openness.

Conditions were attached.

FORTHCOMING PUBLIC INQUIRIES

App. Ref:	12/05279/FUL
Location:	Parcel 9181 Wick Road Bishop Sutton Bristol
Proposal:	Erection of 41 no. two, three, four and five bedroom dwellings including 14 no. affordable housing units along with the provision of informal public open space, vehicular access from the A368, landscaping and drainage.
Date of Inquiry:	28 th August – 30 th August 2013
Venue:	Fry Club, Keynsham

App. Ref:	10/05199/EFUL
Location:	Stowey Quarry Stowey Road Stowey Bristol BS39 5UJ
Proposal:	Restoration of Stowey Quarry by landfilling of Stable Non Reactive

Hazardous Waste (SNRHW) including asbestos and inert wastes and that the application is accompanied by an environmental statement

Date of Inquiry:

3rd September 2013

Venue:

Fry Club, Keynsham
