

Bath & North East Somerset Council

MEETING: Development Control Committee

MEETING DATE: 6th July 2011

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: 10/05317/FUL
Location: Workshop Kilkenny Lane Englishcombe Bath
Proposal: Erection of replacement builders store and workshop
Decision: Non-determination
Decision Date: Non determination
Appeal Lodged: 6 June 2011

App. Ref: 10/03877/FUL
Location: 1 Holly Court High Street Midsomer Norton Radstock
Proposal: Change of use of Units 1 & 2 from retail (Use Class A1) to Use Class A3
Decision: REFUSE
Decision Date: 3 December 2010
Decision Level: Delegated
Appeal Lodged: 10 June 2011

App. Ref: 10/04219/FUL
Location: Avon Prior Durley Park Keynsham Bristol
Proposal: Conversion of double garage into two storey two bedroomed dwelling
(Retrospective)
Decision: REFUSE
Decision Date: 8 December 2010
Decision Level: Delegated
Appeal Lodged: 10 June 2011

APPEAL DECISIONS

App. Ref: 10/02354/FUL
Location: Land at South View, Radstock, Somerset BA3 3DW
Proposal: The development proposed is a dwelling and parking bay.
Decision: REFUSE
Decision Date: 2nd August 2010
Decision Level: Delegated
Appeal Decision: **Dismissed**

Summary:

- The principal issue is the effect of the proposed development on the character and appearance of the area.
 - The Inspector was of the opinion that the semi-rural character of South View is defined by the houses on one side of the cul-de-sac and the open aspect on the other. It was considered that the dwelling would appear incongruous in relation to the terrace of two-storey houses, and its siting would relate poorly to the built forms around it.
 - The proposal would appear cramped on its narrow plot, incongruous with the more spacious setting of the modern two-storey house which lies opposite.
 - It was concluded that the proposed development would be out of keeping with the character and appearance of the area, contrary to policies D2 and D4 of the 2007 Bath and North East Somerset Local Plan.
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App. Ref: 10/003608/FUL
Location: East Chapel, 195a High Street, Batheaston, Bath, BA1 7NS
Proposal: Replacement and enlargement of existing decking.
Decision: Refused
Decision Date: 23rd November 2010
Decision Level: Delegated
Appeal Decision: **Allowed**

Summary:

The Inspector was of the opinion that the main issues are the impact of the proposal on, firstly, the setting of the adjacent listed building and the Conservation Area and, secondly, the outlook and privacy of Pencoyd.

Having regard to the scale and position of the proposed development and the fact that the outline of the balustrade would be softened by existing vegetation, he did not consider that it would materially affect the setting of the listed building or the character or appearance of the Conservation Area, which would therefore be preserved.

In respect of loss of amenity to Pencoyd it was accepted that the removal of vegetation in order to lay the decking in the north-east corner of the garden could increase the potential for overlooking between the two properties at this point. However, vegetation could be removed whether or not decking is laid and fencing could be erected without the need for planning permission. It was therefore not justified to dismiss the appeal on the grounds of impact on the outlook and privacy of this adjoining dwelling. For the above reasons the Inspector allowed the appeal.

App. Ref: 10/04471/FUL
Location: 15 Northview Close, Bath
Proposal: The development proposed is a two-storey side and rear extension, and single-storey garden room extension.
Decision: Refused
Decision Date: 29 December 2010.
Decision Level: Delegated
Appeal Decision: **Dismissed**

Summary:

The Inspector considered the main issues to be the effect that the proposed development would have upon the character and appearance of the area, and upon the protected tree in the rear garden of No. 15.

In views from the street, the proposed development would extend the front elevation of No. 15 by some 3.6m, and would involve the creation of two new windows at first-floor level, and two at ground-floor level. The substantial increase in width would disrupt the existing symmetry of the semi-detached pair, and considerably narrow the gap between Nos. 14 and 15. This would undermine the visual balance of the existing building, and disrupt the harmony of the established pattern of development.

It was therefore found to conflict with the aims of Policies D.2 and D.4 of the Bath & North East Somerset Local Plan Adopted October 2007, which seek to ensure that new development maintains the character of the public realm, responds to its context in terms of appearance, siting and spacing, and reinforces or complements attractive qualities of local distinctiveness.

The rear garden of No. 15 contains an oak tree that is protected by a Tree Preservation Order. It is a large specimen over 100 years old, and is clearly visible, in views from the street, above the roof of No. 15 and through the gap between Nos. 14 and 15. As such, it is a significant feature in the landscape.

Taking into account the degree that proposed works would project towards the tree and required ground works, the Inspector was concerned that the proposed development could severely compromise the continuing health and longevity of this important protected tree. It was therefore concluded that it would fail to meet the objectives of Policy NE.4 of the Local Plan, which provides that development will only be permitted where it does not have an adverse impact upon veteran trees, or trees of landscape value.

App. Ref: 09/04496/FUL
Location: Parcel 2095 Warminster Road Bathampton Bath BA2 6RU
Proposal: Erection of 4no. dwellings in south east corner of paddock (Resubmission)
Decision: Refused
Decision Date: 23.04.2010
Decision Level: Delegated
Appeal Decision: **Dismissed**

Summary:

Impact on the open space, conservation area and setting of listed buildings:

The Inspector reasoned that the appeal site was an important open area and that the scheme would compromise the open space. The proposal would conflict with Local Plan Policy BH.15. The site is important to the setting of the conservation area making a positive contribution. The proposed three storey houses and access splays which necessitates the removal of large lengths of hedgerow and the driveway would be intrusive. The size, height and prominence above Bathampton lane would detract from the open space. The proposals would cause significant harm to the character and appearance of the conservation area. The setting of five adjacent grade II listed buildings would likewise be harmed by the development. The prominence and classical design of the new houses might confuse the historical development of the listed buildings or detract from their authenticity.

Trees:

The proposed visibility splays would necessitate the removal of a protected tree and a length of hedgerow. One house would be close to a protected tree which would shade the garden area and may result in pressure for it to be reduced/removed.

Flooding:

There is limited information on the susceptibility of the site to flooding and no percolation tests have been carried out to determine the feasibility of using soakaways. A sustainable drainage system could be required but this might necessitate the creation of a pond which is operational development for which interested parties will have been unable to comment. This issue would need to be resolved before permission should be granted. The proposal as it stands conflicts with Policy NE.14.

Protected species:

The Inspector acknowledges the importance of the nearby SAC and the presence of Greater Horseshoe Bats in particular. However in the Inspector's assessment, it is unlikely that the foraging patterns over the site have altered so significantly since 2008. Subject to conditions protection for bats would therefore be adequate.

Affordable housing:

There is a substantial housing need in the area and the Inspector gives considerable weight to the potential benefits of providing affordable housing. The proposed density of development at 2 dwellings per hectare would be a profligate use of land in an area where housing need is high. The Inspector found that there were no sound reasons why affordable housing cannot be provided on site.

The relevant unilateral undertaking submitted with the appeal in respect of providing a commuted sum put forward £250,000 towards off-site provision. The Inspector advised that the submitted figures appear to overstate the cost of building the houses and the figures have not in any case been corroborated. The principle of accepting a financial contribution in lieu of on-site provision has not in any case been justified.

Precedent:

The Inspector acknowledged the concerns of residents that a precedent may be set for the development of the remainder of the site if this appeal were to be allowed.

App. Ref: 10/04622/LBA
Location: Land West of Bloomfield Crescent, Bath BA2 2BE
Proposal: The works proposed are regularisation of works to form vehicular access
Decision: Refused
Decision Date: 21 February 2011
Decision Level: Delegated
Appeal Decision: **Dismissed**

Summary

Although drawn out in a line away from the terrace, the walled gardens are connected to each other, the communal footpath and, in turn, the wash house, the drying ground and the site of the orchard, now occupied by a house. The appeal site is the closest of the gardens to the terrace and adjoins the drying ground. There is therefore a strong association between the listed terrace and the walled gardens in their physical layout. The function of the gardens when the walls were built was directly linked to the terrace.

The works, which have been partially carried out but not completed, include the partial demolition of the wall, with the majority of the structure remaining, and the erection of close boarded gates. As such it would not comprise substantial demolition of the structure of the garden wall. Nevertheless, the new opening is a significant alteration such that listed building consent is required.

The 20th century alterations and rebuilding identified by English Heritage have affected some but not all of the south walls to the gardens. It is accepted that these reduce the impact that the proposals would have on the character of the wall as a whole. On the other hand, they increase the significance of the surviving historic walls, particularly those closest to the terrace. Therefore the partial demolition of the wall has significantly reduced its integrity and harmed its significance as part of an important designated heritage asset. The demolition is therefore contrary to government policy in Planning Policy Statement 5 (PPS5): *Planning for the Historic Environment* which sets out the presumption in favour of the conservation of designated heritage assets, including listed buildings, the significance of which can be harmed by alteration. Where this would be less than substantial, the harm should be weighed against the public benefit (Policy HE9.4). Given that there is existing access to the site, and that there is little information on the proposed use of the access, limited weight can be given to any potential benefits. For all the above reasons the conclusion is that the works would harm the listed building and conflict with policy in PPS5 and therefore Appeal A should fail.

App. Ref: 10/03667/LBA
Location: 14 Burlington Street, Bath BA1 2SA
Proposal: The works proposed are the repair and damp-proofing of one vault and entrance vault under jack-arch
Decision: Refused
Decision Date: 22 October 2010

Decision Level: Delegated
Appeal Decision: Dismissed

Summary

The fixing of the proposed lining in the vault would inevitably cause some damage to the original fabric of the building, which would also then be concealed from view. While in theory the work would be reversible it is not accepted that this is a sufficient justification for alterations which would harm the significance and thus the special architectural and historic interest of the listed building. This part of the proposal would therefore conflict with the policies in PPS 5. With regard to the lobby area, this is already part of the living accommodation and the stonework is already covered over. It does not therefore have the same architectural interest or significance to the building as a whole. Taking account of these factors and of the benefit which the work would bring to the up-keep of the building, it is considered that this part of the proposal is justified. Subject to appropriate conditions, the re-laying of the floor slabs and the alterations to the door would not harm the architectural or historic interest of the building and therefore there are no objections to them.

However notwithstanding this, generally, the works to the vault would be harmful to their historic architectural interest and character and to the protected building as a whole and therefore it is concluded that, for the above reasons and having regard to all other matters raised, the appeal should fail.