

Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **28th September 2011**

AGENDA
ITEM
NUMBER

RESPONSIBLE OFFICER: Lisa Bartlett, Development Control Manager,
Planning and Transport Development (Telephone:
01225 477281)

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: 11/00491/FUL
Location: The Pelican Inn 10 South Parade Chew Magna Bristol
Proposal: Erection of new dwelling and associated amendments to adjoining car
park layout
Decision: REFUSE
Decision Date: 15 April 2011
Decision Level: Chair Referral
Appeal Lodged: 23 August 2011

App. Ref: 11/00768/FUL
Location: 4 James Street West City Centre Bath BA1 2BT
Proposal: Construction of new hotel of 108 bedrooms with ancillary bar, restaurant,
guest drop-off area, disabled parking, cycle storage, enclosed service bay
and plant area following demolition of all existing buildings at 4 James
Street West/1(a) and 2 Kingsmead North
Decision: REFUSE
Decision Date: 15 July 2011
Decision Level: Planning Committee
Appeal Lodged: 23 August 2011

App. Ref: 11/01732/AR
Location: Prop Cosy Club 20 Southgate Place Bath BA1 1AP
Proposal: Display of 2no. internally illuminated projecting signs.
Decision: REFUSE
Decision Date: 7 July 2011
Decision Level: Delegated
Appeal Lodged: 24 August 2011

App. Ref: 11/02210/AR
Location: Land Between Mill Road And Frome Road Mill Road Radstock
Proposal: Display of 1no non-illuminated sign at the junction of Frome Road and Mill Road
Decision: REFUSE
Decision Date: 21 July 2011
Decision Level: Delegated
Appeal Lodged: 25 August 2011

APPEAL DECISIONS

App. Ref: 10/03878/LBA & 10/03876/FUL
Location: Miles House, Dunsford Place, Bathwick Hill, Bath BA2
Proposal: External alterations to boundary wall to provide widened vehicular access and provision of new timber gates.
Decision: Refused
Decision Date: 3 November 2010 & 26 October 2010 respectively
Decision Level: Delegated
Appeal Decision: **Dismissed**

Summary:

The proposal is to remove part of the wall between the pedestrian gate and the left hand carriageway pier and relocate the pier in order to widen the access way. New timber boarded gates to match the existing ones to be installed with longer strap hinges on the existing gudgeon pins. This particular section of wall appears to be finished with render and tooled to resemble the ashlar walling on each side. No historical analysis has been submitted to explain the change in materials at this point. Thus there is little on which to base an assessment of the significance of the proposed loss of fabric of this part of the wall. However, the render is in good condition and has weathered to the same colouring and texture as the limestone such that it appears well integrated with it. Furthermore it is reasonable to suppose that this part was in place at the time of listing and is also protected by its listed status. Whether or not the fabric in this particular section of wall is historically significant, the pedestrian gate is centred between two almost identical lengths of wall, one of which includes a quadrant curve. The proposed alteration would shorten the right hand section and result in the re-located pier looking too close to the pedestrian gateway; the heavy detail of each would be crowded together. The existing carefully designed visual balance would be disturbed and this would harm the architectural significance of the listed wall and gateways at a key point. This would also harm the setting of the listed building and the character and appearance of the conservation area. The proposal omits details

of the slightly dropped paving and quadrant shaped kerb stones at the footway edge to the highway; these currently correspond to the existing gate position. They are integral to the fine stone pavement at this point and the proposed alteration would be incomplete without appropriate adjustments. This deficiency adds to the concern with respect to the impact of the proposal on the historic environment. The 2.8m clear width that exists at the gateway is a standard garage door width for private cars. It is reduced at the foot by the stone kickers, now missing, and this serves to ensure a centred approach to protect the caps above from damage by taller vehicles. This results in cars turning in from the uphill carriageway needing to take a wide approach.

National policy recognises that the alteration of listed buildings is sometimes necessary to adapt them for continuing use. The appellant wishes to improve vehicular access to his property, which is in use as a day nursery, to accommodate larger modern vehicles (particularly emergency vehicles) and facilitate the authorised use of the building as a non-residential institution. However, whilst some vehicle widths have been provided, little information on the frequency with which these larger vehicles visit or of the type of vehicles that regularly use the gateway, no records of highway safety incidents caused by the current width of the gate or comment from the emergency services in support of a need for the alteration have been submitted. The government's Planning Policy Statement 5 *Planning for the Historic Environment* (PPS5), at policy HE9, sets out a presumption in favour of the conservation of designated heritage assets. It clarifies that loss affecting any designated heritage asset should require clear and convincing justification. The need for the proposal in relation to the future viable use of the building has not been demonstrated and it is not clear that the benefits of a widened access are sufficient to outweigh the harm to the architectural interest of the designated heritage asset that would result. It was noted that the coping at this section of wall is damaged and the caps to the carriageway are both recently chipped with one dislodged at an angle to the pier shaft. The stone quadrant kickers shown on the drawing at the foot of each gate pier are missing. Overall the wall, coping and piers appear to be in need of maintenance and repair. No doubt the proposed works would improve the appearance of the wall in this respect and help to safeguard the historic fabric, but good maintenance could be achieved without widening the gateway.

In conclusion it is regarded that the proposal would harm the special architectural and historic interest of the listed wall and the setting of the listed building. It would also fail to preserve the character or appearance of the Bath Conservation Area, contrary to local and national policy. In reaching this decision due regard has been given to the recently published consultation draft National Planning Policy Framework but it carries little weight in this case as it proposes little change to the aspects of national policy that have a direct bearing on it.

Enf. Ref:	09/00524/UNDEV
Location:	Site Of Former Newnham Nurseries Stockwood Vale Keynsham BS31 2AL
Breach:	Without planning permission, a change of use of the Land to use for the storage, repair, and refurbishment of caravans together with the erection of steel fence and gate around the "Land"
Notice Issued:	31.01.2011
Appeal Decision:	Dismissed

Summary

The appeal was against the service of an Enforcement Notice which required the cessation of the unauthorised use of the land for the maintenance and repair of caravans, and the removal of fencing associated with that use. As the appellant subsequently complied with the requirement to cease the use, the Inspector was left to consider only the fencing which bounded the land.

The Inspector did not accept the appellant's argument that the fence was associated with a previous use of the land and was not, therefore subject to the enforcement notice. He concurred with the Council's view that the fence was intended to facilitate the unauthorised use of the land, providing enclosure and security. He considered that no lesser steps than the complete removal of the fence would be appropriate. The fence should be removed by the 21st September.

App. Ref:	08/00887/CLPU
Location:	41 Elliston Drive, Southdown, Bath, BA2 1LU
Proposal:	Provision of loft with rear dormer
Decision:	REFUSED
Decision Date:	01.05.2008
Decision Level:	Delegated
Appeal Decision:	Dismissed
Enf. Ref:	10/00222/UNDEV
Breach:	Without the benefit of Planning Permission, the unauthorised development comprising of the raising of the roof ridge of the dwelling and the installation of a rear dormer roof extension
Location:	41 Elliston Drive, Southdown, Bath, BA2 1LU
Notice Issued:	11.05.2010
Appeal Decision:	Dismissed

Summary

These appeals were firstly, against the service of an Enforcement Notice which required the removal an unauthorised dormer roof extension; and secondly, against the refusal of a Certificate of Lawful Proposed Development.

With regard to the first appeal, at the Inquiry the appellant withdrew two of the four initial grounds of appeal; the Inspector was left to consider ground a): that planning permission should be granted, and ground f): that lesser steps could be required.

The Inspector determined that the dormer was particularly incongruous, dominating the roof slope and finished in inappropriate materials. Suggested alternative materials would not, he felt, mitigate the identified harm to the character of the surrounding area. He further determined that the dormer created a perception of overlooking, and was overbearing of neighbouring properties. The lesser steps suggested by the appellant were the re-cladding of the dormer, and the introduction of obscure glazing and fixed windows. The Inspector considered that these measures would not overcome the harm caused by the development.

With regard to the second appeal, the Inspector confirmed that the burden of proof is firmly on the applicant. He agreed that the submitted details were confusing and ambiguous. The

inaccurately drawn or misleading plans demonstrated, on the balance of probability, that the dwellinghouse would, as a result of the works proposed, exceed the height of the original roof and would not therefore benefit from the provisions of the General Permitted Development Order in force at the date of the application. In the circumstances, the Inspector concluded that the Council's refusal to grant a Certificate of Lawful Proposed Development was well-founded.

The Inspector allowed a partial award of costs to the Council, on the basis of the unreasonable behaviour of the appellant; and refused an application by the appellant for an award of costs against the Council.

App. Ref:	09/03166/CLPU
Location:	Redhill House, Red Hill, Camerton, BA2 0NY
Proposal:	Use of dwelling to teach yoga classes (Certificate of Lawfulness for a Proposed Use)
Decision:	Refused
Decision Date:	11.06.2010
Decision Level:	Delegated
Appeal Decision:	Dismissed

Summary

This appeal was against the refusal of a Certificate of Lawful Proposed Use in respect of the (part) use of the dwelling for yoga classes; and (part) use for weekend retreats.

The Inspector determined that the level of activity associated with the weekday classes would be quite unlike the more scattered activity resulting from purely domestic occupation, resulting in a material change in the character of the use of the dwelling. He considered however that the weekend retreats would not result in a material change in the character of the use, having regard to the size of the dwelling.

The Inspector's findings in respect of the weekend retreats did not however outweigh the conclusion reached in respect of the weekday classes. He therefore found, overall, that the decision of the Council was well-founded.

App. Ref:	10/01076/VAR
Location:	Spaces Personal Storage Bellotts House, Bellotts Road, Twerton, Bath, BA2 3RT
Proposal:	Variation of condition 2 of application 05/02402/VAR granted on 30th September 2005 regarding opening hours
Decision:	Refused
Decision Date:	28.05.2010
Decision Level:	Delegated
Appeal Decision:	Dismissed

Summary

This appeal was against the refusal of planning permission for the variation of a condition relating to hours of operation. It was proposed to extend the hours by 30mins on weekday and Saturday mornings, and to operate on Sundays between 10.00 and 16.00 hrs.

The Inspector agreed with the Council's view that the restricted hours conditioned in the original planning permission afforded neighbouring residents a degree of respite from commercial activity and that, if allowed, the proposal would result in noise and disturbance which would be harmful to residential amenity.
