

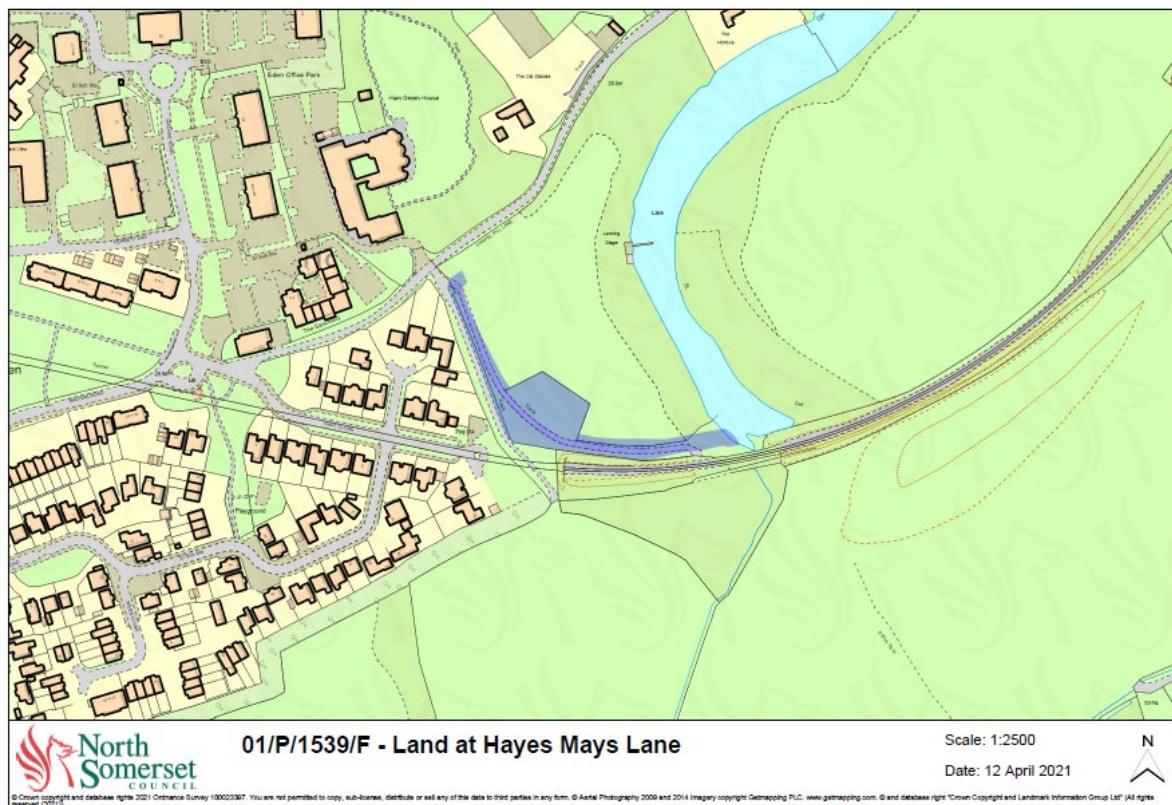
Response to Examiners Clarification Note on behalf of North Somerset Council

North Somerset Council Local Development Scheme

The current [Local Development Scheme](#) has recently been approved and published

Previous planning application and appeal decisions relating to policy HO 2 Site B on Chapel pill Lane

Planning application 01/P/1539/F Access roadway and car park for fishing lake



TOWN AND COUNTRY PLANNING ACT 1990

REFUSE PERMISSION FOR DEVELOPMENT

Notice of Decision

Day Associates
Channel Court
Hill Road
Clevedon
North Somerset

Application Number: 01/P/1539/F

Category: Full Planning Permission

Application No: 01/P/1539/F
Applicant: S M & R J Millard
Site: Land at Hayes Mays Lane, Ham Green, Somerset
Description: Construction of access roadway and car park for fishing club

North Somerset District Council in pursuance of powers under the above mentioned Act hereby **REFUSE** planning permission for the above mentioned development for the following reason(s):

1. The proposal constitutes inappropriate development within the Green Belt by reason of the extensive amount of land given over to hardstanding for vehicular access and parking. The proposal fails to maintain the openness of the Green Belt and conflicts with the purposes of including land within the Green Belt. In the absence of any very special circumstances to outweigh the harm caused the proposed development is, therefore, contrary to Policy GRB/3 of the North Somerset Local Plan and Policy 16 of the Joint Replacement Structure Plan (as intended to be adopted) and would also conflict with the guidance contained in PPG2 (Green Belts).

2. The proposal, by reason of its scale and extent and rural location, would have a detrimental effect on an attractive landscape area and would adversely affect its character and quality, contrary to Policy C.7 of the Avon County Structure Plan.

The applicant is advised that this application has been refused on the basis of the following plans/letter: A61- 103, dated 17th July 2001, A61-104 dated 3rd August 2001, A61-106 and A61-103/B dated 24th August 2001.

Date: 1st October 2001

Signed 
Director of Planning & Environment



Appeal Decision

Site Visit made on 5th August 2002

by Robert Watson BA(Hons)

an Inspector appointed by the Secretary of State for Transport,
Local Government and the Regions

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Date - 5 AUG 2002

Appeal Ref: APP/D0121/A/02/1087159

Land at Hayes Mays Lane, Ham Green.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by S M & R J Millard against the decision of North Somerset District Council.
- The application (Ref:01/P/1539/F), dated 16th July 2001, was refused by notice dated 1st October 2001.
- The development proposed is the formation of access roadway and car park for fishing club.

Summary of Decision: The appeal is dismissed

Background

1. The proposed access and car park would be based on an existing track and hard-standing that was created by contractors under Permitted Development Rights in connection with works relating to the renovation and repair of the adjoining railway line to the south. I note that conditions attached to the Permitted Development Rights required the subsequent removal of the track and hard-standing, and the re-instatement of the land. The track and hard-standing is surfaced with stone and scalplings and fenced on the western side. The hard-standing area measuring approximately 40m x 30m, formerly used as a compound by the contractors, has been covered with a surface of topsoil, and is now overgrown. The track, which remains exposed, runs for some 90m in a southerly direction from a double-gated access and compound at the junction of Hayes Mays Lane and Hospital Lane to the area of hard-standing. It then turns to the east and runs parallel to the railway, descending quite steeply for some 120m before terminating at a further area of hard-standing, some 250m² in area, close to the railway viaduct and the southern limit of Ham Green Lake. This area is to be given over to car parking for disabled users. This proposed car park, together with the formation of the access road, has been the subject of a separate application, which was refused planning permission and a subsequent appeal dismissed.
2. The application that is the subject of the current appeal seeks the retention of the roadway and hard-standing and its development as an access and car park for the fishing club. It is on this basis that I have considered the appeal.

Planning Policy

3. The whole of the appeal site and surrounding land lies within an area designated as Green Belt in the South West Avon Green Belt Local Plan, adopted in December 1988. The 3rd Alteration to the Avon County Structure Plan became operative in July 1994. General policies GB.6, which sets a presumption against inappropriate development in the Green Belt, and C7, that does not normally permit proposals in the countryside that would detract from landscape character or quality, are relevant. The submitted extract of the Policies as

Appeal Decision APP/D0121/A/02/1087159

intended to be adopted in the Joint Replacement Structure Plan (JRSP) highlights Policy 16. In the context of the Green Belt around Bristol and Bath it seeks to keep the Green Belt open in accordance with the purposes set out in paragraph 1.5 of PPG 2. In particular, it states that, provided the openness of the Green Belt is maintained, the positive use of land within it will be promoted by, among other things, allowing appropriate opportunities for improved access to the open countryside, outdoor sport and recreation near urban areas and safeguarding and enhancing attractive landscapes.

4. The North Somerset Local Plan was adopted in June 2000. Policy GRB/3 states that, within the Green Belt, planning permission will not be granted except for, among other things, the carrying out of engineering or other operations or for changes in the use of land which maintain openness and do not conflict with the purposes of including land in the Green Belt

Main Issues

5. In the light of the above, and from what I have seen and read, I consider that the main issues in this case are whether the proposal would be inappropriate development in the Green Belt and if so, whether there are any very special circumstances that would outweigh the consequential intrinsic harm.

Reasons

Inappropriate Development

6. As the development seeks to provide enhanced access and parking facilities for a fishing club, it would provide opportunities for access to the open countryside for the urban population and for outdoor sport and recreation near urban areas. In that sense it would fulfil some of the objectives set in paragraph 1.6 of PPG 2 and the provisions of Policy 16 in the JRSP. However, it must be borne in mind that the temporary track and hard-standing are required to be removed and the land re-instated. By contrast, the development proposed would result in the creation of a permanent access road and car park in what is an open field that contributes to the open setting of the attractive valley occupied by the lake. Although the appeal site and the adjacent sloping field are relatively secluded, as I saw on my visit there are clear views of the land from Hospital Lane, which forms part of the Avon Cycle Way, a popular route for walkers and cyclists. Notwithstanding the landscaping and the surface treatment proposed, in my view, the development would significantly affect the open visual character of the area. Accordingly, it would fail to maintain the openness of the land and would undermine the purpose of assisting in the safeguarding of the countryside from encroachment. I conclude, therefore, that the proposal would be inappropriate development that would not comply with Structure Plan Policy GB.6 or Local Plan Policy GRB/3 and would conflict with the guidance in paragraph 3.12 of PPG 2. Moreover, it would run counter to the provisions of Structure Plan Policy C7.

Very Special Circumstances

7. For these to outweigh the harm identified, they must provide positive planning benefits. In this case it is argued that the access and car park is required to resolve problems of parking that fishing club members currently experience. Apart from an access available over the land to the upper lake, there is no dedicated parking area provided off-road for club members in relation to the two lake sections. Vehicles are able to park on Hospital Lane a short distance to the west of Hayes Mays Lane. However, this is not ideal because of the

Appeal Decision APP/D0121/A/02/1087159

narrow carriageway available. Reference has been made to a provision in the Section 106 Agreement relating to the Ham Green development for a dedicated parking area to be set aside, as part of the future pub/restaurant scheme to the west, for the use of cyclists and fishing club members. However, notwithstanding the Council's comments and the widely held view of local residents, together with the letter from Redrow Homes, the Agreement clearly specifies this parking provision as being for the use of cyclists only. Nevertheless, the provision of additional off-street space would help release the parking pressure on the narrow carriageway.

8. For this argument to carry decisive weight, in my view, I have to be convinced that the parking problem is acute and is causing serious highway and congestion difficulties. I am not able to draw this conclusion from the evidence put before me. I have no detailed information as to numbers and frequency of vehicles seeking parking space on a regular basis or the likely programme of fishing competitions. There is no cogent, precise evidence before me that demonstrates the harmful consequences of the present parking in terms of highway safety or congestion. I appreciate that the dedicated access and parking provision would be a useful facility for fishing club members. I am not satisfied, however, that the problems are so serious as to provide a convincing case that the development is essentially required in order to resolve them, thereby providing positive planning benefits that would outweigh the harm to the openness of the area.

Conclusions

9. In reaching my conclusion that the proposed scheme would be inappropriate and unacceptable, I have taken account of all other matters raised in the representations, including the possible use of the lake by the District Scouts, the importance of security to the fishing club, the effect on residential amenity through noise and disturbance and the other various concerns referred to by local residents. However, in my opinion, these are not of such weight, either individually or collectively, as to lead me to alter my conclusions on the main defined issues.

Formal Decision

10. In exercise of the powers transferred to me, I dismiss the appeal.

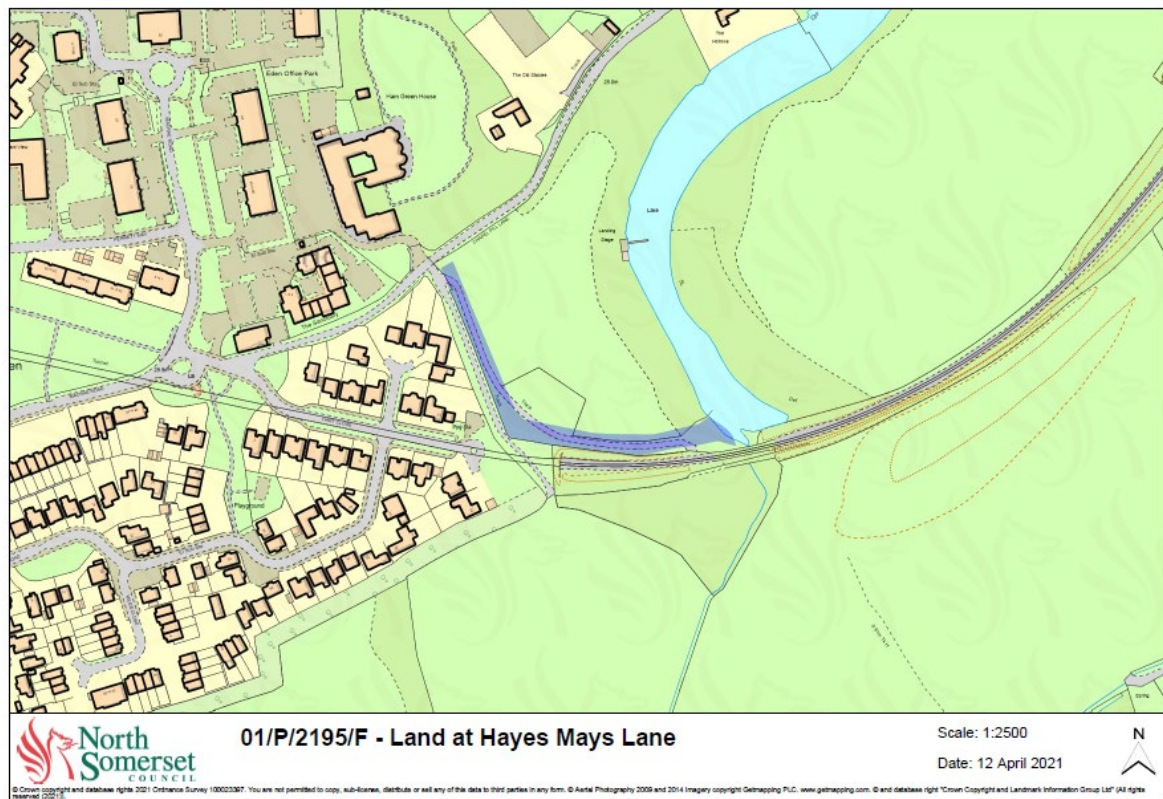
Information

11. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.



Inspector

Planning application 01/P/2195/F Access roadway and disabled parking area for fishing club



TOWN AND COUNTRY PLANNING ACT 1990

REFUSE PERMISSION FOR DEVELOPMENT

Notice of Decision

Day Associates
Channel Court
Hill Road
Clevedon
North Somerset

Application Number: 01/P/2195/F

Category: Full Planning Permission

Application No: 01/P/2195/F
Applicant: S M & R F Millard
Site: Land at Hayes Mayes Lane, Ham Green, Somerset
Description: Construction of access roadway for maintenance and creation of disabled parking area for fishing club.

North Somerset District Council in pursuance of powers under the above mentioned Act hereby **REFUSE** planning permission for the above mentioned development for the following reason(s):

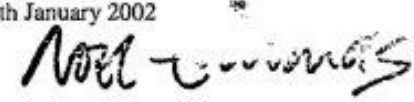
1. The proposal constitutes inappropriate development within the Green Belt by reason of the extensive amount of land given over to hardstanding for vehicular access and parking. The proposal fails to maintain the openness of the Green Belt and conflicts with the purposes of including land within the Green Belt. In the absence of any very special circumstances to outweigh the harm caused the proposed development is, therefore, contrary to Policy GRB/3 of the North Somerset Local Plan and Policy 16 of the Joint Replacement Structure Plan (as intended to be adopted) and would also conflict with the guidance contained in PPG2 (Green Belts).

2. The proposal, by reason of its scale and extent and rural location, would have a detrimental effect on an attractive landscape area and would adversely affect its character and quality, contrary to Policy C.7 of the Avon County Structure Plan.

The applicant is advised that this application has been refused on the basis of the following plans/letter:

A86-104, A86-103, and A86-106 dated 14th November 2001.

Date: 7th January 2002


Signed
Director of Planning & Environment



Appeal Decision

Site visit made on 12 June 2002

by Douglas Machin BSc Dip TP MRTPI

An Inspector appointed by the First Secretary of State

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Date

24 JUN 2002

Appeal Ref: APP/D0121/A/02/1083742

Land at Hayes Mayes Lane, Ham Green, North Somerset

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by S M and R J Millard against the decision of the North Somerset District Council.
- The application Ref. 01/P/2195/F, dated 16 November 2001, was refused by notice dated 7 January 2002.
- The development proposed is the formation of an access road way for maintenance vehicles and disabled parking for fishing club.

Summary of Decision: The appeal is dismissed.

Planning Policy

1. The appeal land is on the edge of the village of Ham Green and comprises an access track some 200-m long and 5 to 7 m wide. The track is surfaced with hardcore and was laid down as part of the work to reinstate a railway line. The track should have been reinstated to its previous unsurfaced state but the appellants wish to retain the hard surfacing. The Council has refused permission on 2 previous occasions. The proposal concerns land that is part of the South West Avon Green Belt. Policy GB.6 of the Avon County Structure Plan presumes against inappropriate development in the Green Belt. Policy C7 does not normally permit proposals in the countryside that would detract from landscape character or quality. Policy GRB/3 of the North Somerset Local Plan states that within the Green Belt planning permission will not be granted for, amongst other matters, the carrying out of engineering or other operations that do not maintain openness and conflict with the purposes of including land in the Green Belt.

Main Issue

2. From all I have seen and read in connection with this appeal, I consider that the main issue is whether the proposal would be inappropriate development in the Green Belt. Therefore very special circumstances to outweigh the harm that would be caused to the openness of the land are required to justify approval.

Reasons

3. The proposal is intended to provide better access for users of the fishing lake, including some provision for disabled parking next to the lake. I accept that recreation is one of the categories of appropriate uses in the Green Belt. However that does not mean that any form of development associated with recreation will also necessarily be acceptable. In this case, I consider that the retention of the hard surfacing, even at a reduced width and with some overgrowth of grass and hedging as the appellants intend, would erode the open

appearance and encroach upon the countryside character of the land on the edge of Ham Green. Whilst the appeal land is relatively secluded, nevertheless the continued existence of the hard surfacing would compromise the open character of the land, and therefore conflict with one of the aims of Green Belt designation. I am satisfied that the proposal is therefore inappropriate development in the Green Belt for which very special circumstances are needed to justify allowing it.

4. I note that there is an alternative access to the lake. I do not consider that the very limited evidence on the need for additional access by maintenance vehicles or for disabled parking amounts to the very special circumstances required to justify exceptionally approving this kind of harmful development. I have therefore reached the conclusion that the proposal is contrary to the Development Plan Green Belt policies, and this appeal should be dismissed.
5. I have taken account of all the other matters raised but none outweigh the considerations that have led to my decision to dismiss this appeal.

Formal Decision

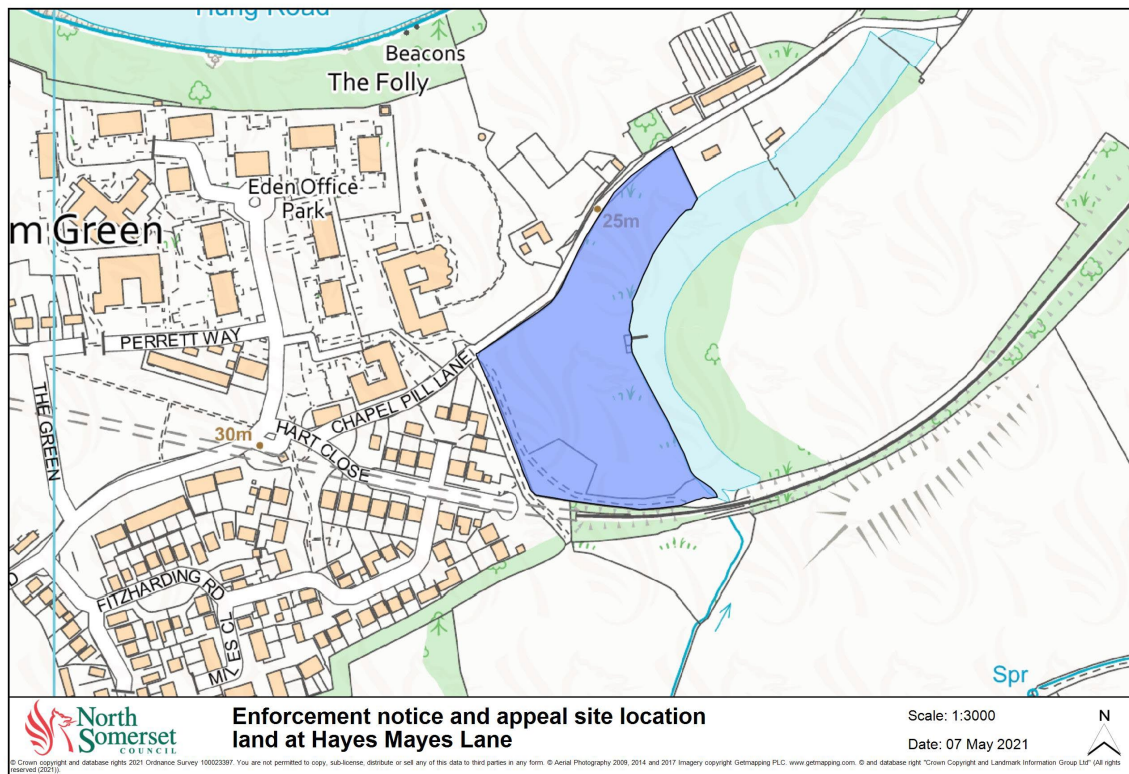
6. In exercise of the powers transferred to me, I dismiss the appeal.

Information

7. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

D. P. Machin.

Previous planning enforcement notice and appeal decisions relating to policy HO 2
Site B on Chapel Pill Lane





Appeal Decisions

Site visit made on 19 November 2002

by **C A Thompson** DiplArch DipTP RegArch RIBA
MRTPI IHBC
an Inspector appointed by the First Secretary of State

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NORTH SOMERSET COUNTY COUNCIL
DEVELOPMENT & ENVIRONMENT DIRECTORATE
Date **27 NOV 2002**

Application No

Acceptance Date

14 FEB 2003

Category

Sub-category

**Appeal Ref: APP/D0121/C/02/1096921 and 22
Land at Hayes Mayes Lane, Ham Green, Pill**

- The appeal is under section 174 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991.
- The appeal is by S M and R J Millard against an enforcement notice issued by North Somerset Council.
- The Council's reference is MJC/02/0012/E.
- The notice was issued on 18 July 2002.
- The breach of planning control as alleged in the notice is that without planning permission, the retention of a track and the hard stand parking area and creation of a soil bank, hatched black on the plan.
- The requirements of the notice are:
 - (i) Remove the gravel from the track, re-seed to grass.
 - (ii) Level the soil bank created by excavating the track to ensure that it is level with the surrounding field is level.
 - (iii) Remove the top soil from the hard stand area. Remove all gravel, replace with top soil and then re-seed to grass.
- The period for compliance with the requirements is 3 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the 1990 Act.

Summary of Decision: the appeals are dismissed and the enforcement notice is upheld with corrections

Background Matters

1. The works, the subject of the enforcement notice, were carried out by contractors doing renovations and repairs to an adjoining railway line, under permitted development rights. Conditions attached to these rights require the removal of the track and hard standing and reinstatement of the land following completion of the renovations and repairs to the railway line. But the contractors were prevented from removing the track and hard standing by the landowner who took over responsibility for the works at the beginning of 2002.
2. This site has been the subject of two recent (2002) section 78 appeals. The first, APP/D0121/A/02/1083742 referred to the formation of an access road way for maintenance vehicles and disabled parking for the fishing club. The second APP/D0121/A/02/1087159 referred to the formation of an access roadway and car park for the fishing club. Both were refused planning permission.

The Notice

3. The notice refers to the track and hard stand being constructed from gravel. I saw that this material could be crushed stone. Also there is a typing mistake in paragraph 5(ii), there is

one too many *is levels*. Because no injustice would be caused, only small corrections for the avoidance of doubt are needed which would not materially impact upon any of the requirements, I will use my powers to correct the notice.

Appeal on Ground (a)

4. The appeal site and the surrounding land are within an area designated as Green Belt. There is one main issue in this case. This is whether the works are inappropriate development in the Green Belt and, if they are, whether there are any very special circumstances sufficient to outweigh the harm caused by reason of inappropriateness.
5. The development plan includes the 1988 *South West Avon Green Belt Local Plan*, the 2002 *Joint Replacement Structure Plan* and the 2000 *North Somerset Local Plan*. Section 54A of the Act requires that an application for planning permission or an appeal shall be determined in accordance with the development plan, unless material considerations indicate otherwise.
6. Planning Policy Guidance 2: *Green Belts*, PPG7: *the Countryside Environmental Quality and Economic and Social Development* and PPG17: *Planning for Open Space Sport and Recreation* are germane to these cases.
7. I saw that the access track is some 200m long. It is constructed out of gravel or crushed stone and is generally about 5m wide. It has a dog-legged alignment following the edges of Hayes Mayes Lane and the railway land. At the point where the track breaks eastwards is a widened section which, outside the line of the track itself, has been covered with earth and has rough grass growing on it. The access track and the widened section are raised about 0.3m or so above the level of the adjacent field.
8. There is a general presumption against inappropriate development in the Green Belt; this is set out in the development plan and is a long-standing objective of Government policy. The statutory definition of development includes engineering and other operations, and the making of any material change in the use of land. The carrying out of such operations and the making of material changes in the use of land are inappropriate unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.
9. In my assessment the earth covering to the widened section of track, especially now that rough grass is covering most of it, reduces the visual impact of the works. If the rest of the track were to be similarly treated, as the landowners intend, much of the track's engineering harshness would be ameliorated. But it would still be possible to perceive the raised parts of the construction, which would have a harmful impact on openness if only by a small amount.
10. The purpose of the track is to give vehicular access to the higher fishing lake, and allow easy car parking. At present the impact that fishing has on the Green Belt hereabouts is minimal. This is because in all but dry conditions, or possibly in the wet with the use of specialist all terrain vehicles, access for fishermen to the upper lake would be by foot from Chapel Pill Lane. Allowing the retention of the hardened access track and the widened area would permit more vehicles to penetrate the Green Belt and park there. This would have a materially damaging impact on openness, which together with the harm caused by the raised track, would not assist in the safeguarding of the countryside from encroachment. It follows that retention of the works would be inappropriate development in the Green Belt

and the appeal should be dismissed unless very special circumstances exist which would clearly outweigh the harm caused by reason of inappropriateness.

11. In considering this latter point I have taken into account the benefits the scheme could have for road safety, if fishermen's vehicles were not parked on or alongside to the highway. But I have no information, such as evidence of high accident rates, that the present situation causes any significant danger to road users. I have also considered the benefits which vehicle access and parking near to the lake could bring for disabled anglers. They can already access the lower lake so an ability to get more easily to the upper one as well, although desirable, is not of overriding importance, even taking account of the Disability Discrimination Act 1995. Whether the use of the lake by local Scouts undergoing canoe training is practical, or compatible with fishing, is a matter for those concerned. But the likely limited nature of such a use is not in itself a compelling reason to override Green Belt policy.
12. Being able to have greater use of the upper lake would improve access to the countryside and have some economic and recreational benefits, but such benefits would have to be balanced against the harm caused to interests of acknowledged importance. The lake is not very prominent in any public views, although it can be seen from Chapel Pill Lane which is also part of a major footpath and cycle way into Bristol. But the fact that the works are not very prominent is not a good reason to allow inappropriate development in the Green Belt because it is a justification, which could be repeated too often causing obvious cumulative harm. Access for maintenance could be achieved without the hardened track, particularly in dryer conditions and if tracked machines were used. None of these matters are very special circumstances sufficient to justify inappropriate development in the Green Belt.

Conclusion

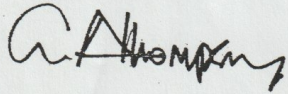
13. For the reasons given above and having regard to all other matters raised, including any possible dispute over legal rights of vehicular access for fishermen using Chapel Pill lane to get to the lower lake, I consider that the appeal should not succeed.

Formal Decision

14. In exercise of the powers transferred to me, I direct that the enforcement notice be corrected by deleting the present paragraph 5 and substituting a new one as follows:
 - (i) remove the gravel or crushed stone from the track, re-seed to grass;
 - (ii) level the soil bank created by excavating the track to ensure that it is level with the surrounding field, and;
 - (iii) remove the top soil from the hard stand area. Remove all gravel or crushed stone, replace with top soil and then re-seed to grass.
15. Subject to this correction I dismiss the appeals and uphold the enforcement notice. I refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the Act as amended.

Information

16. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

A handwritten signature in black ink, appearing to read 'A. Thompson'.

Inspector

Date: 28th February 2003
My Ref: 02/0012/E

Contact: Mr D P Tate
Direct Dial: 01275 888684



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S M and R J Millard
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COPY

Dear Mr & Mrs Millard

Enforcement No: 02/0012/E
Description: Unauthorised construction of access track for maintenance and creation of disabled parking area for fishing club.
Location: Land at Hayes Mayes Lane, Ham Green, Somerset

As you will be aware, your enforcement appeal relating to the retention of the above access track was dismissed by the Planning Inspectorate on the 27th November 2002.

The revised requirements of the Notice are as follows:

- (i) remove the gravel or crushed stone from the track, re-seed to grass;
- (ii) level the soil bank created by excavating the track to ensure that it is level with the surrounding field, and;
- (iii) remove the top soil from the hardstanding area. Remove all gravel or crushed stone, replace with top soil and then re-seed to grass.
(see copy of appeal decision attached)

These works should have been carried out within 3 months of the date of the Inspectors decision letter, namely the **27th February 2003**.

I made a site inspection on the 27th February 2003 and there was no evidence that the stone-laid track has been removed or evidence that the removal of stone is intended to be started.

In order to avoid legal action in the Courts I would ask that you arrange for the Enforcement Notice to be complied with as a matter of urgency.

Yours sincerely

David P Tate
Principal Planning Officer

Cc Mr Bill Hunt
Cllr. G Duck