

Cherwell District Council

Planning Committee

13 February 2020

Appeals Progress Report

Report of Assistant Director Planning and Development

This report is public

Purpose of Report

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled, or appeal results achieved.

1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

2.0 Report Details

2.1.1 New Appeals

19/01214/F – Old Forge, Wroxton Lane, Horley, OX15 6BB - Change of Use from an office to a one-bedroom bungalow

19/00634/F – Plot of Land South of 1 Greystones Court, Kidlington – New dwelling

19/01634/F – 30 Somerville Drive, Bicester, OX26 4TU - Erection of new two storey dwelling including new vehicle access

2.2 New Enforcement Appeals

18/00057/ENFB – The Kings Head, 92 East Street, Fritwell, OX27 7QF. Appeal against the enforcement notice served for change of use to residential.

2.3 Appeals in progress

18/01332/F - Land West Of M40 Adj To A4095, Kirtlington Road, Chesterton – Appeal by Mr C Smith and Mr R Butcher - Change of use of land to use as a residential caravan site for 3 gypsy families, each with two caravans and an amenity building; improvement of existing access,

construction of driveway, laying of hardstanding, installation of package sewage treatment plant and acoustic bund

Method of determination: Public Inquiry

Key Dates:

Start Date: 29.01.2019 **Inquiry date:** 15.10.2019 **Decision:** Awaited

19/00301/OUT - Land And Buildings, The Junction Of Spring Lane, Chapel Lane, Little Bourton - OUTLINE - New dwellings, garaging, access and external works

Method of determination: Written Reps.

Key Dates:

Start Date: 26.11.2019 **Statement Due:** 31.12.2019 **Decision:** Awaited

19/00464/F - Land OS Parcel 8751 South West Of Moorlands Farm, Murcott - Change of use of land for the siting of a mobile home (log cabin)

Method of determination: Hearing – 26th February 2020

Key Dates:

Start Date: 11.12.2019 **Statement Due:** 15.01.2019 **Decision:** Awaited

19/00621/F – Huckleberry Farm, Heathfield, Kidlington, OC5 3DU - Continued use of transportable building to be made permanent (Retrospective)

Method of determination: Hearing – 11th February 2020

Key Dates:

Start Date: 08.11.2019 **Statement Due:** 13.12.2019 **Decision:** Awaited

19/02020/F – 2 Springfield Avenue, Banbury, OX16 9HT - Two storey extension to front of property

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 24.12.2020 **Statement Due:** N/A **Decision:** Awaited

Enforcement appeals

None

- 2.4 Forthcoming Public Inquires and Hearings between 14 February 2020 and 12th March 2020

19/00464/F - Land OS Parcel 8751 South West Of Moorlands Farm, Murcott - Change of use of land for the siting of a mobile home (log cabin)

Hearing – Wednesday 26th February 2020. Council Chamber, Bodicote. 10.00 start.

2.5 **Results**

Inspectors appointed by the Secretary of State have:

1. **Dismissed the appeal by Mr Ben Ancil for Erection of 1no single storey dwelling and ancillary carport/garden workshop. OS Parcel 6091 East Of Duiker House, Fencott – 19/00910/F**

Officer recommendation – Refusal (Delegated)

The Inspector considered the main issues to be: whether the proposal would be inappropriate development in the Green Belt, its effect on the openness of the Green Belt; whether the proposed development would be in a suitable location with particular regard to accessibility of services and facilities; its effect on the character and appearance of the area; and, if the proposal was inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

The Inspector agreed with the Council that the proposal would be inappropriate development in the Green Belt and would also lead to the significant loss of openness to the Green Belt.

The Inspector noted that there are very limited services in Fencott and few services and facilities in the nearby village of Murcott such that they are insufficient to meet the day to day needs of the residents, and that the highway adjacent to the site lacks footpaths or street lights, and therefore that future occupiers would be reliant on the private motor car to access key services and facilities. The Inspector therefore concluded that the site was not a suitable location for new housing, and would conflict with the Council's rural housing strategy contained in Local Plan Policies ESD1 and Villages 1. The Inspector held this conclusion would apply irrespective of whether the site was inside or outside the village boundary.

The Inspector found that the proposal would diminish the open rural nature of the site, would comprise encroachment of built development into the open countryside and would adversely affect the character and appearance of the area, conflicting with the Development Plan in that respect.

The Inspector noted that 'substantial weight' needed to be afforded to the harm to the Green Belt, and did not consider that the proposal's ecological benefits, or the need for 1 bedroom dwellings or the proposal's high standard of design, or any other matters, to amount to Very Special Circumstances to outweigh the harm arising from the proposal. Accordingly the Inspector upheld the Council's decision and dismissed the appeal.

2. Dismissed the appeal by Kerry Beckingsale for Change of Use from HMO within Class C4 to 7 bed HMO (sui generis) and new access from Broughton Road. 3 Denbigh Close, Banbury, OX16 0BQ – 19/00848/F Officer recommendation – Refusal (Delegated)

The Inspector considered the main issue to be the effect of the proposed development on highway safety and whether there would be adequate parking provision.

The Inspector noted that the two additional parking spaces proposed at the rear of the property would be accessed from Broughton Road. The Inspector observed that the site is located near the edge of the settlement and, although within the 30 miles per hour (mph) zone, Broughton Road is a relatively busy

road and that vehicles travel at some speed. The Inspector noted that whilst the proposed parking spaces would be of an adequate size, given the lack of manoeuvring space vehicles would either be required to reverse to enter or exit the site, and that this would lead to unacceptable highway safety risk.

In respect of parking provision the Inspector acknowledged the requirements of the Local Highways Authority for 7no spaces to be provided, to serve the proposed development, and that this could not be achieved off-street without the 2 additional spaces being proposed onto Broughton Road. He considered such spaces would be materially harmful to highway safety and further that there would be insufficient space within the cul-de-sac to accommodate displaced vehicles without having an adverse effect on the safety and convenience of existing residents and other highway users.

The Inspector concluded that the proposal would adversely affect highway safety and would not make adequate parking provision, and accordingly the Inspector upheld the Council's decision and dismissed the appeal.

The Inspector also refused the appellant's application for award of costs. The Inspector found that the Council had not failed to properly evaluate the application or consider the merits of the scheme, and therefore it was not the case that the appeal could have been avoided. He found that the Council's concerns about the impact of the proposed development were reasonable and justified its decision. The Inspector concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, had not been demonstrated.

**3. Dismissed the appeal by Mr I Dinev for Erection of single storey porch (Retrospective). 2 Boxhedge Terrace, Boxhedge Road, Banbury, OX16 0BX – 19/00444/F
Officer recommendation – Refusal (Delegated)**

The retrospective proposal was for the erection of a front porch on a property which forms part of a Victorian terrace. The main issues that the Inspector considered were the visual impact on the terrace, the Banbury Conservation Area, and whether it would preserve the significance of other designated and non-designated heritage assets. The Inspector concluded that the uPVC porch is an incongruous feature that adversely affects the character and appearance of the Conservation Area and fails to preserve the significance of the settings of the nearby listed buildings. The Inspector did not consider that there were any public benefits to outweigh the harm identified. The appeal was therefore dismissed.

3.0 Consultation

None

4.0 Alternative Options and Reasons for Rejection

4.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To accept the position statement.

Option 2: Not to accept the position statement. This is not recommended as the report is submitted for Members' information only.

5.0 Implications

Financial and Resource Implications

- 5.1 The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Comments checked by:

Kelly Wheeler, Business Partner, 01295 225170,
Kelly.wheeler@cherwell-dc.gov.uk

Legal Implications

- 5.2 There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Comments checked by:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer
David.Mytton@Oxfordshire.gov.uk

Risk Management

- 5.3 This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer
David.Mytton@Oxfordshire.gov.uk

6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clarke

Document Information

Appendix No	Title
None	
Background Papers	
None	
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