

Cherwell District Council

Planning Committee

13 August 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 New Appeals

20/00167/F – Esso, Banbury Service Station, Oxford Road, Bodicote, OX15 4AB - RETROSPECTIVE - to retain storage container to rear of petrol filling station kiosk

Officer recommendation – Refusal (Delegated)

Method of determination: Written Reps.

Key Dates:

Start Date: 07.07.2020 **Statement Due:** 11.08.2020 **Decision:** Awaited

Appeal reference – 20/00023/REF

20/02465/LB – Cedar Lodge, North Side, Steeple Aston, OX25 4SE - Creation of jib door and stair, and associated works to include the removal of ceiling joists

Officer recommendation – Refusal (Delegated)

Method of determination: Written Reps.

Key Dates:

Start Date: 09.07.2020 **Statement Due:** 13.08.2020 **Decision:** Awaited

Appeal reference – 20/00021/REF

2.2 New Enforcement Appeals

None

2.3 Appeals in progress

19/00831/OUT - Land South Of Home Farm House, Clifton Road, Deddington, OX15 0TP - OUTLINE - Residential development of up to 15 dwellings

Officer recommendation – Refusal (Committee)

Method of determination: Written Representations

Key Dates:

Start Date: 03.03.2020 **Statement Due:** 09.04.2020 **Decision:** Awaited

Appeal reference – 20/00010/REF

19/02444/OUT - Land South Of Home Farm House, Clifton Road, Deddington, OX15 0TP - Outline planning permission for the residential development of up to 14 dwellings - all matters save for the means of access are reserved for subsequent approval - revised scheme of 19/00831/OUT

Officer recommendation – Refusal (Committee)

Method of determination: Written Representations

Key Dates:

Start Date: 03.03.2020 **Statement Due:** 09.04.2020 **Decision:** Awaited

Appeal reference – 20/00007/REF

19/00969/F - Bowler House, New Street, Deddington, OX15 0SS – Single storey rear extension forming new Sun Room

Officer recommendation – Refusal (Delegated)

Method of determination: Written Reps.

Key Dates:

Start Date: 27.01.2020 **Statement Due:** 02.03.2020 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00009/REF

19/00970/LB – Bowler House, New Street, Deddington, OX15 0SS - Single storey rear extension forming new Sun Room

Officer recommendation – Refusal (Delegated)

Method of determination: Written Reps.

Key Dates:

Start Date: 20.02.2020 **Statement Due:** 26.03.2020 **Decision:** Awaited

Appeal reference – 20/00008/REF

19/01621/F – 1 Derwent Road, Bicester, OX26 2JA - Retrospective - Replace existing part fence (6 ft 6" high x 17 ft long), part hedge (7-8 ft high) boundary on Dryden Avenue, with new 5 ft high x 6 ft wide wooden fence panels and 1 ft high concrete gravel boards and concrete posts.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Key Dates:

Start Date: 18.06.2020 **Statement Due:** 23.07.2020 **Decision:** Awaited

Appeal reference – 20/00018/REF

19/01685/F – 21 Coppice Close, Banbury, OX16 9SW - Removal of dead/dying leylandii hedge approximately 20 metres. To be replaced with pressure treated close board fencing 1.8m high.

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 01.04.2020 **Statement Due:** N/A **Decision:** Awaited

Appeal reference – 20/00015/REF

19/02267/F – 1 Beechfield Crescent, Banbury, OX16 9AR - First floor side extension. Single storey rear extension.

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 27.06.2020 **Statement Due:** N/A **Decision:** Awaited

Appeal reference – 20/00017/REF

19/02399/F – Cowpastures Farm, Arccott Road, Piddington, OX25 1AE - Redevelopment of site; demolition of existing buildings and erection of building for B8 use.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Key Dates:

Start Date: 18.06.2020 **Statement Due:** 23.07.2020 **Decision:** Awaited

Appeal reference – 20/00020/REF

20/00174/Q56 – Barn, Folly Farm, Grange Lane, Sibford Ferris, OX15 5EY - Change of Use and conversion of 1no agricultural building into 1no self-contained dwellinghouse (Use Class C3) including associated operational development under Part 3 Class Q (a) and (b)

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Key Dates:

Start Date: 01.07.2020 **Statement Due:** 05.08.2020 **Decision:** Awaited

Appeal reference – 20/00022/REF

Enforcement appeals

None

2.4 Forthcoming Public Inquires and Hearings between 14 August 2020 and 10 September 2020

None

2.5 Results

Inspectors appointed by the Secretary of State have:

- 1. Dismissed the appeal by Miss Fiona Morrison for Construction of new greenhouse (retrospective). Swallows Barn, Manor Farm Lane, Balscote, OX15 6JJ**
Officer recommendation – Refusal (Delegated) 19/02194/F
Appeal reference – 20/00013/REF

The Inspector considered that the main issue of the appeal was the effect of the scheme on the character and appearance of the Balscote Conservation Area. The application sought retrospective permission for a greenhouse located to the side of Swallows Barn, a 1.5 storey barn conversion constructed of natural ironstone close to the centre of the village.

The Inspector stated that the appearance of the greenhouse is one of a domesticated nature in a prominent part of the street scene and existing building line. This is in contrast to the rural character of the area, which becomes even more apparent when travelling away from the centre of the village, as views of the open countryside emerge at the edge of the village. The Inspector concluded that the scheme has resulted in less than substantial harm to the character of the Balscote Conservation Area and is in conflict with Saved Policies C28 and C30 of the Cherwell Local Plan 1996, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Paragraph 130 of the NPPF which seek to protect the historic environment and require development to complement, and enhance the character of its context through sensitive siting, layout and high quality design.

The Inspector noted that references were made to paragraphs 14, 17 and 134 of the Framework in the reason for refusal, however, considered that these paragraphs are not relevant to the development or the issues raised.

- 2. Allowed the appeal by J & R Homes for Erection of 2no one bedroom dwellings - revised scheme of 18/02046/F. 2 Hudson Street, Bicester, OX26 2EP**
Officer recommendation – Refusal (Delegated) 19/02861/F
Appeal reference – 20/00012/REF

The Inspector considered the main issue to be the proposal's effect on the character and appearance of the site and surrounding area.

This appeal followed two previous appeals, both dismissed, the last appeal relating to a very similar scheme as this one. The only difference between the two schemes was that the bungalows were now proposed to be set 1.8 metres (6 feet) further back into the site.

The Council's principal case had been that the proposal would have resulted in a cramped form of development, visually incongruous by virtue of its necessary lack of set back compared to the prevailing pattern of development, and that the additional 1.8m set back was not sufficient to address the harm identified by the previous inspector.

The Inspector recognised that the area was characterised by two storey, semi detached dwellings, set back from the road, and that the frontages are

generally open, but found the proposal would have an open and verdant garden to the front of the dwelling and held that the proposed bungalows would provide a transition in scale between existing garages to one side and two-storey dwellings to the other.

On the matter of the set back from the road, the current Inspector noted there was some variety in the locality and not all frontages were uniform in their design and size. The Inspector considered that this variety was particularly apparent around the bend and the way properties are positioned around it. The Inspector held that, although smaller than some of the nearby properties, the frontage for the bungalows would be open and green and not out of keeping with those in the vicinity. Effectively – since it was the only difference between the last scheme and this – the Inspector disagreed with the Council as to whether the 1.8m set back had addressed the previous inspector's issue.

Consequently, the Inspector found that the proposed development would not harm the character and appearance of the site and surrounding area, would thus comply with Policy ESD15 of the CLP 2031 and saved Policies C28 and C30 of the CLP 1996, and accordingly allowed the appeal.

**3. Allowed the appeal by Mr L Knaggs for Scanlite Digital Electronic LED Full Colour Ticker Display. 10 Banbury Cross Retail Park, Lockheed Close, Banbury, OX16 1LX
Officer recommendation – Non-determination (19/02381/ADV)
Appeal reference – 20/00016/NON**

The main issue for the appeal was the visual impact of the advertisement on the building and the surrounding area.

The Council had contended that, notwithstanding the appeal site's urbane context, the proposal would result in undue proliferation of signage on one particular unit, resulting in harm to the visual amenity of the locality.

The Inspector disagreed, on the basis of the functional appearance and size of the buildings and the degree to which the existing signage is only visible within the retail park itself. The Inspector acknowledged that the signage would be mobile and would be eye-catching when in the vicinity of the building, but held that it would not appear out of context and would not be incongruous, and therefore allowed the appeal.

The Inspector reminded the Council that while Policy ESD15 was material to the consideration of the appeal proposal, it was not determinative and that powers to control advertisements "may be exercised only in the interests of amenity and public safety".

4. Dismissed the appeal by Mr John Attley for Erection of a detached dwelling with parking, access, landscaping and associated works. Land To The Rear Of The Otmoor Lodge Hotel, Horton Hill, Horton Cum Studley
Officer recommendation – Non-determination (19/02501/F)
Appeal reference – 20/00014/NON

The Inspector considered the main issues to be (i) whether the proposal is inappropriate development in the Green Belt, (ii) whether the proposal would be in a sustainable location; (iii) the proposal's effect on the living conditions of future occupiers; and (iv) the proposal's effect on the character and appearance of the area.

On the first two issues, the Inspector noted the site comprised part of a car park at the rear of the former hotel, and found the land south of the site to be open and undeveloped and that the built frontage in the vicinity was not continuous. Nevertheless the Inspector concluded the proposal would comprise 'limited infilling in a village' and so would not be inappropriate development in the Green Belt or conflict with Policy Villages 1 in terms of the sustainability of the location.

On the issue of amenity, the Inspector found that the proposal would only have a relatively small garden which would be overlooked to the rear and side by adjoining properties and that its front elevation would sit very close to the boundary of the property facing the car park exposed to views from the car park. She concluded that the proposal would fail to provide appropriate living conditions for future occupiers.

On the last issue the Inspector found that, despite the diverse range of styles evident in Horton cum Studley, dwellings in the village sit comfortably within their context and that, in contrast, the proposal was of poor design with a large expanse of unrelieved façade across the entirety of the rear elevation (designed to prevent overlooking to the rear) and a mismatched range of window shapes and sizes. She therefore found the proposal would be visually intrusive and concluded the proposal would adversely affect the character and appearance of the area.

The Inspector held that meaningful weight could not be given to the proposal's limited contribution to housing supply on account of its failure to provide adequate living conditions, and noted the appellant had not provided substantive evidence of its contention that the Council could not demonstrate an adequate supply of housing land. The Inspector noted local residents' concerns regarding access but did not conclude on that matter given the harm she had found in respect of visual and residential amenity.

Accordingly the Inspector dismissed the appeal.

**5. Dismissed the appeal by Mr & Mrs Purewal for Erection of 4no dwelling houses with associated garages, access and landscaping. The Old Vicarage, Fringford Road, Caversfield, OX27 8TH
Officer recommendation – Refusal (Delegated) 19/02075/F
Appeal reference – 20/00011/REF**

The Inspector considered the main issues to be (i) the proposal's effect on the character and appearance of the area, (ii) whether the proposal would be in a suitable location, having regard to the provision of local services; and (iii) the proposal's effects on highway safety.

The Inspector held that the site could be considered to lie within the settlement, but that it had an open undeveloped appearance which contributes to the spacious, rural character of Caversfield. The Inspector found that the proposed dwellings would be relatively closely spaced, would occupy a significant proportion of the site and would result in a relatively dense development that together with the strong element of uniformity would result in a suburban form of development at odds with the open and varied character of the area. She also found that the close proximity of the proposals to the existing hedge would lead to future pressure for removal, further eroding the rural character of the area.

On the second issue, the Inspector noted the bus service but that it provided limited service to destinations further than Bicester and that the lack of street lighting and natural surveillance together with vehicle speeds along Aunt Ems Road would make it less attractive for walking or cycling at night or in bad weather. The Inspector therefore found that future occupiers would be largely dependant on the private car for transport. The Inspector held that although within the built up limits of the village the site did not form a gap and the proposal was not infilling. The Inspector therefore concluded the proposal would conflict with Policy Villages 1 and Policy ESD1.

On the issue of highway safety, the Inspector noted vehicle speeds were between 40 and 60 mph, that the Council-requested speed survey had not been provided by the appellant and that the plans did not show the full extent of visibility splays. The appellant had suggested the use of a Grampian condition as an appropriate way of securing safe access to the site. The Inspector noted she had not been provided with any evidence that highways could not be used to achieve appropriate visibility or that there was no reasonable prospect of the required works being achieved, and therefore concluded that subject to conditions the proposal would not cause harm to highway safety.

The Inspector weighed the proposal's benefits against the harm identified. She also covered the issues of heritage and ecology but found no harm in either respect subject to conditions, and also considered the effect on living conditions, trees, flood risk, drainage and light pollution, all issues raised by local residents in objection.

Accordingly the Inspector dismissed the appeal.

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,
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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:

Matthew Barrett, Planning Solicitor 01295 753798
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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:

Matthew Barrett, Planning Solicitor 01295 753798
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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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