

Cherwell District Council

Planning Committee

11 February 2021

Appeal Progress Report

Report of Assistant Director - Planning and Development

This report is public

Purpose of report

To keep Members informed about planning appeal progress including the scheduling of public inquiries and hearings and decisions received.

1. Recommendations

The meeting is recommended:

- 1.1 To note the position on planning appeals contained within the report.

2. Introduction

- 2.1 This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress and determined appeals.

3. Report Details

3.1 New Appeals

20/00964/OUT – The Beeches, Heyford Road, Steeple Aston, OX25 4SN -

Erection of up to 8 dwellings with all matters reserved except the means of access on to Heyford Road

Method of determination: Written Representations

Key Dates:

Start Date: 07.01.2021 **Statement Due:** 11.02.2021 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00037/REF

20/00878/F - Ashfield House, Alkerton Road, Balscote, OX15 6JR - Detached Dwelling (Re-submission of Planning Application 19/00550/F).

Method of determination: Written Representations

Key Dates:

Start Date: 15.01.2021 **Statement Due:** 19.02.2021 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00038/REF

20/00841/F - Barn And Land South West Of Cotefield Farm, Church Street, Bodicote - Erection of garage adjacent to approved dwelling and change of use of agricultural land to residential use

Method of determination: Written Representations

Key Dates:

Start Date: 26.01.2021 **Statement Due:** 02.03.2021 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00039/REF

20/01230/TPO - The Brambles, Somerton Road, Upper Heyford, Bicester, OX25 5LB - T1 (Horse Chestnut) - fell. Tree subject to TPO 4/88

Method of determination: Fast Track

Key Dates:

Start Date: 27.01.2021 **LPA Questionnaire Due:** 10.02.2021 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00040/REF

3.2 New Enforcement Appeals

None

3.3 Appeals in Progress

19/00290/F - Hebborns Yard, Bicester Road, Kidlington, OX5 2LD - Use of land for the storage of (non-residential) portable fairground rides and equipment in connection with, and strictly ancillary to, the authorised use of Hebborn's Yard, Kidlington as Showmen's Permanent Quarters (existing unauthorised).

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 01.12.2020 **Statement Due:** 05.01.2021 **Decision:** Awaited

Appeal reference – 20/00031/REF

19/01542/F – Aviyal, Station Road, Ardley, OX27 7PQ - Change of use from Equestrian to Dog Agility Training Centre and extension of the domestic curtilage of Aviyal to include the existing land to the north enabling the existing stable block to be used as ancillary outbuilding.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 06.10.2020 **Statement Due:** 03.11.2020 **Decision:** Awaited

Appeal reference – 20/00026/REF

19/01715/F – Land To East Of Webbs Way, Mill Street, Kidlington - Restoration of building to be used for storing ground maintenance equipment

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 01.12.2020 **Statement Due:** 05.01.2021 **Decision:** Awaited

Appeal reference – 20/00032/REF

19/02550/F - Land to the east of M40 and south of A4095, Chesterton, Bicester - Redevelopment of part of golf course to provide new leisure resort (sui generis) incorporating waterpark, family entertainment centre, hotel, conferencing facilities and restaurants with associated access, parking

and landscaping

Officer recommendation – Refusal (Committee)

Method of determination: Public Inquiry

Start Date: 23.10.2020 **Statement Due:** 27.11.2020 **Decision:** Awaited

Inquiry opens – Tuesday 9 February 2021 and anticipated to run for 13 to sitting days

Appeal reference – 20/00030/REF

20/00789/CLUE – Belmont, 8 Foxglove Road, Begbroke, Kidlington, OX5 1SB - Certificate of Lawful Use Existing for amenity land to west of dwelling at no. 8 Foxglove Road as a domestic garden, with the introduction of boundary fence and hedge on the western and northern boundaries.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 11.12.2020 **Statement Due:** 22.01.2021 **Decision:** Awaited

Appeal reference – 20/00035/REF

20/00805/F – Highway House, Park Road, Hook Norton, OX15 5LR - Demolition of existing dwelling, demolition of existing outbuildings/structures, erection of replacement dwelling and new outbuilding containing a garage, residential annexe and associated landscaping.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Key Dates:

Start Date: 16.12.2020 **Statement Due:** 13.01.2021 **Decision:** Awaited

Appeal reference – 20/00034/REF

20/01517/F – Manor Farm Cottage, Church Lane, Charlton On Otmoor, OX5 2UA – Erection of a one bedroom studio dwelling and conversion of existing outbuilding; associated works (Resubmission of 20/00311/F)

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 01.12.2020 **Statement Due:** 05.01.2021 **Decision:** Awaited

Appeal reference – 20/00033/REF

20/02498/F – Esso, Banbury Service Station, Oxford Road, Bodicote, OX15 4AB - Single storey rear extension

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Key Dates:

Start Date: 14.12.2020 **Statement Due:** 18.01.2021 **Decision:** Awaited

Appeal reference – 20/00036/REF

Enforcement appeals

19/00128/ENFC – OS Parcel 3349, Spruce Meadows, Cropredy Lane, Williamscoth.

Appeal against the enforcement notice served for change of use of the Land to use as a caravan site accommodating one mobile home type caravan designed and used for human habitation together with associated parking and storage of motor vehicles and a trailer, storage of shipping containers, erection of a summer house/shed type wooden structure, erection of a free-standing canvas shelter and associated domestic paraphernalia

Method of determination: Hearing

Key Dates:

Start Date: 06.10.2020 **Statement Due:** 17.11.2020

Hearing date: TBC

Decision: Awaited

Appeal reference: 20/00019/ENF

3.4 Forthcoming Public Inquires and Hearings between 12 February 2021 and 11 March 2021

19/02550/F - Land to the east of M40 and south of A4095, Chesterton, Bicester
- Redevelopment of part of golf course to provide new leisure resort (sui generis) incorporating waterpark, family entertainment centre, hotel, conferencing facilities and restaurants with associated access, parking and landscaping

Online Public Inquiry Start Date and Days of the Inquiry: Tuesday 9 February. 10am start. 9th Feb – 12th Feb, 16th Feb – 19th Feb, 1st March – 5th March

Details on how to live stream the online Public Inquiry will be are on the Council's online planning register.

3.5 Results

Inspectors appointed by the Secretary of State have:

- 1. Dismissed the appeal by Mr G Cochrane for Certificate of Lawfulness of Existing Use for the use of the annex building as an independent, self-contained dwelling (Class C3). The Lodge, Swift House Farm, Stoke Lyne, OX27 8RS – 20/00675/CLUE**
Officer recommendation – Refusal (Delegated)
Appeal reference – 20/00025/REF

The case relates to a building that sits within what is a largely separate plot from the adjoining house and has a separate access. The building contains a kitchen, a bathroom and several other rooms.

The Inspector considered the main issue to be whether a material change of use had occurred and if so whether it continued for long enough to be immune from planning control. If a material change of use to a single dwellinghouse has occurred, it is necessary for that to have continued for a period of 4 years prior to the date of the application. This relates to the time limit for taking enforcement action as set out in S171B(2) of the Act.

The Inspector noted that there was no dispute between the parties that the facilities currently provide viable facilities for potential independent living, but that a building with the facilities of a self-contained unit may nonetheless remain part of the same planning unit as the original dwellinghouse. The Inspector further noted that the onus of proof is on the appellant to demonstrate the case but that if the evidence alone is sufficiently precise and unambiguous and the Council has no evidence to contradict that of the appellant's there is no good reason to dismiss the appeal.

The Inspector found there to be 'very little detail' within the submissions about the nature of the occupation of the building, and no explanation of the terms "independent" or "main residence". The Inspector found it clear that the building

had originally been used for purposes ancillary to the occupation of the main dwelling, and noted the appellant's confirmation during his site visit that (1) the annexe and the main dwelling were sharing utilities and (2) there was a degree of functional linkage between the two buildings. The Inspector noted the lack of clarity about when any changes to the nature of the occupation may have occurred.

The Inspector concluded on the basis of the evidence submitted and the representations made that "it is less than probable that 'The Lodge' had been used as a completely independent dwelling within a separate planning unit for any period of 4 years prior to the submission of the application" and therefore that the Council's refusal to grant a certificate of lawful use or development in respect of the use of the annex building as an independent, self-contained dwelling (Class C3), was well founded. Accordingly the appeal was dismissed.

4. Conclusion and Reasons for Recommendations

- 4.1 The report provides the current position on planning appeals which Members are invited to note.

5. Consultation

None.

6. Alternative Options and Reasons for Rejection

- 6.1 None. The report is presented for information.

7. Implications

Financial and Resource Implications

- 7.1 There are no financial implications arising from this report. The report is for information only. The cost of defending appeals is met from existing budgets other than in extraordinary circumstances.

Comments checked by:

Karen Dickson, Strategic Business Partner, 01295 221900,
karen.dickson@cherwell-dc.gov.uk

Legal Implications

- 7.2 As this report is purely for information there are no legal implications arising from it.

Comments checked by:

Karen Jordan, Deputy Principal Solicitor
karen.jordan@oxfordshire.gov.uk

Risk Implications

- 7.3 This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:
Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786
louise.tustian@cherwell-dc.gov.uk

Equality & Diversity Implications

7.4 The recommendation does not raise equality implications.

Comments checked by:
Robin Rogers, Head of Strategy, Policy, Communications & Insight, 07789 923206
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8. Decision Information

Key Decision:

Financial Threshold Met N/A

Community Impact Threshold Met N/A

Wards Affected

All

Links to Corporate Plan and Policy Framework

Seeking to uphold the Council's planning decisions is in the interest of meeting the strategic priorities from the Business Plan 2020/21:

- Housing that meets your needs
- Leading on environmental sustainability
- An enterprising economy with strong and vibrant local centres
- Healthy, resilient and engaged communities

Lead Councillor

Councillor Colin Clarke, Lead Member for Planning

Document Information

None

Background papers

None

Report Author and contact details

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