

**Cherwell District Council
Planning Committee**

15 April 2021

Appeal Progress Report

This report is public

Report of Assistant Director - Planning and Development

Purpose of report

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

1. Recommendations

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

19/00934/F - Bicester Sports Association, The Tudor Jones Building, Akeman Street, Chesterton, Bicester, OX26 1TH - Change of Use of Agricultural land and extension of the existing Bicester Sports Association facilities for enhanced sports facilities including relocation and reorientation of existing pitches and archery zone, 2 No training pitches with floodlighting, 2 No match pitches, new flexible sports pitch, new rugby training grids, new clubhouse with events space, new rifle and shooting range, cricket scorers building, storage and maintenance buildings and provision of associated car parking, amended access, landscaping and other associated works

Officer recommendation – Refusal (Committee)

Method of determination: Public Inquiry

Start Date of Inquiry – Tuesday 29th June – TBC

Start Date: 31.03.2021 **Statement Due:** 07.05.2021 **Decision:** Awaited

Appeal reference – 21/00012/REF

20/00763/F - Manor Farm Bungalow, Northampton Road, Weston On The Green, Bicester, OX25 3QL - Removal of condition 9 (occupation of site by caravan, motor caravan or tent) of 00/01162/F

Officer recommendation – Refused (Delegated)

Method of determination: Written Representations

Start Date: 02.03.2021 **Statement Due:** 06.04.2021 **Decision:** Awaited

Appeal reference – 21/00009/REF

20/01643/OUT - Land North And West Of Bretch Hill Reservoir Adj To, Balmoral Avenue, Banbury - Erection of up to 49 homes, public open space and other infrastructure, with all matters reserved except access - revised scheme of 19/01811/OUT

Officer recommendation – Approval (Committee)

Method of determination: Public Inquiry

Start Date of Inquiry – Tuesday 20th July – TBC

Start Date: 29.03.2021 **Statement Due:** 04.05.2021 **Decision:** Awaited
Appeal reference – 21/00011/REF

20/01650/TPO - Pendula House, 9 Old School End, Hook Norton, OX15 5QU – Application for works to a Tree Preservation Order - T1-3 (Silver Birch) - Removal of trees to prevent damage to drains running under the property and to the property itself - Subject to TPO 07/1991

Officer recommendation – Refusal (Delegated)

Method of determination: Fast Track

Key Dates:

Start Date: 16.03.2021 **LPA Questionnaire Due:** 30.03.2021 **Decision:** Awaited

Appeal reference – 21/00010/REF

3.2 New Enforcement Appeals

None.

3.3 Appeals in Progress

19/00963/OUT - OS Parcel 9100 Adjoining And East Of Last House Adjoining And North Of Berry Hill Road Adderbury - Resubmission of application 17/02394/OUT – Outline application for permission for up to 40 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road (all matters reserved other than access)

Officer recommendation – Refused (Committee)

Method of determination: Hearing

Start Date: 12.02.2021 **Statement Due:** 19.03.2021 **Decision:** Awaited

Hearing date – Wednesday 5th May 2021

Appeal reference – 21/00004/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

20/00841/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

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Key Dates:

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

Appeal reference – 20/00039/REF

20/00871/F - OS Parcel 3300 North Of Railway Line Adjoining, Palmer Avenue, Lower Arcott -
Erection of a free range egg production unit, gatehouse and agricultural workers dwelling including all associated works - re-submission of 19/00644/F

Officer recommendation – Refused (Committee)

Method of determination: Written Representations

Start Date: 26.02.2021 **Statement Due:** 02.04.2021 **Decision:** Awaited

Appeal reference – 21/00007/REF

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

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Key Dates:

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

Appeal reference – 20/00037/REF

20/01747/F - Land South Side Of, Widnell Lane, Piddington -
Change of Use of land to a 6no pitch Gypsy and Traveller site to include 6no mobiles, 6no tourers and associated operational development including hardstanding and fencing.

Officer recommendation – Refused (Committee)

Method of determination: Written Representations

Start Date: 12.02.2021 **Statement Due:** 19.03.2021 **Decision:** Awaited

Appeal reference – 21/00003/REF

20/01905/F - 110 Lyneham Road, Bicester, OX26 4FD -
Formation of access and associated dropped kerb

Officer recommendation – Refused (Delegated)

Method of determination: Householder (Fast Track)

Start Date: 15.02.2021 **Statement Due:** N/A **Decision:** Awaited

Appeal reference – 21/00005/REF

20/02592/F - 28 The Moors, Kidlington, OX5 2AJ -
Variation of Condition 2 (plans) of 20/01170/F to allow for amendments to the layout of bin and cycle stores, the relocation of the second parking space to Plot 1, amendments to landscaping, alterations to fenestration, and alterations to the externally facing materials of the dwellings.

Reason for Appeal - Appeal made against conditions imposed on the approval decision notice.

Officer recommendation – Approved (Delegated)

Method of determination: Written Representations

Start Date: 11.02.2021 **Statement Due:** 18.03.2021 **Decision:** Awaited

Appeal reference – 21/00002/CON

20/03191/F - Keepers Cover, Weston-On-The-Green, BICESTER, OX25 3QU -
Single storey residential extension - re-submission of 20/01265/F.

Officer recommendation – Refused (Delegated)

Method of determination: Householder (Fast Track)

Start Date: 23.02.2021 **Statement Due:** N/A **Decision:** Awaited

Appeal reference – 21/00006/REF

3.4 Enforcement Appeals in Progress

18/00059/ENFB - Land at The Digs and The Studio, Heathfield, OX5 3DX – Appeal against the enforcement notice served for Without the benefit of planning permission the erection of two units of residential accommodation with associated residential curtilages.

Method of determination: Written Representations

Key Dates:

Start Date: 01.02.2021 **Statement Due:** 15.03.2021

Decision: Awaited

Appeal reference: 21/00001/ENF

19/00128/ENFC – OS Parcel 3349, Spruce Meadows, Cropredy Lane, Williamscot -

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: Tuesday 20th April 2021, 10:00 start

Decision: Awaited

Appeal reference: 20/00019/ENF

20/00419/ENF - The Stables, at OS Parcel 3873, Main Street, Great Bourton, Cropredy, Oxfordshire, OX17 1QU

Appeal against the enforcement notice served for without planning permission the change of use of the land to use as a caravan site currently accommodating one mobile home type caravan designed and used for human habitation together with associated parking and storage of motor vehicles and trailer, storage of touring caravans and associated domestic paraphernalia.

Method of determination: Hearing

Key Dates:

Start Date: 24.02.2021 **Statement Due:** 07.04.2021

Hearing date: TBC

Decision: Awaited

Appeal reference: 21/00008/ENF

3.5 Forthcoming Public Inquires and Hearings between 16 April 2021 and 20 May 2021

19/00128/ENFC - OS Parcel 3349, Spruce Meadows, Cropredy Lane, Williamscot -

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

Appeal reference: 20/00019/ENF

Method of determination: Hearing

Virtual Hearing date: Tuesday 20th April 2021, 10:00 start

Details on how to attend the Hearing can be viewed on the Council's online planning register.

19/00963/OUT - OS Parcel 9100 Adjoining And East Of Last House Adjoining And

North Of Berry Hill Road Adderbury - Resubmission of application 17/02394/OUT – Outline application for permission for up to 40 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road (all matters reserved other than access)

Appeal reference – 21/00004/REF

Method of determination: Hearing

Virtual Hearing date: Wednesday 5th May 2021

Details on how to attend the Hearing can be viewed on the Council's online planning register.

3.5 Results

Inspectors appointed by the Secretary of State have:

- 1. 20/01517/F - Dismissed the appeal by Messrs Calcutt against the refusal of planning permission for Erection of a one-bedroom studio dwelling and conversion of existing outbuilding; associated works (Resubmission of 20/00311/F). Manor Farm Cottage, Church Lane, Charlton On Otmoor, OX5 2UA.
Officer recommendation – Refusal (Delegated)
Appeal reference – 20/00033/REF**

The Inspector considered the main issues to be the proposal's effect on the character and appearance of the area and the conservation area, and its effect on the living conditions of the occupiers of two neighbours having particular regard to outlook within their rear gardens.

The Inspector noted the site is highly visible from the public realm, on approach from the south along Church Lane and from the churchyard. He found that, despite the dilapidated nature of the application building, the site positively contributes to the character and appearance of the Conservation Area.

The Inspector held that the proposal would occupy a large proportion of the area between Manor Farm Cottage and the surrounding buildings and that while it would make efficient use of land, it would not be appropriate to its context, would appear cramped, would significantly erode the spaciousness at this point and would harm the character and appearance of the Conservation Area. The Inspector concluded this harm would "more than outweigh" the proposal's benefits. The Inspector afforded limited weight to the lawful development certificate at the site for a different development.

In relation to amenity, the Inspector found that the proposal would result in an overbearing effect on 6 Manor Farm Barns, and that the garden of Manor Farm Cottage would be dominated by the built form proposed and therefore the proposal was harmful to the outlook of any occupiers.

Accordingly the Inspector dismissed the appeal.

- 2. 19/01715/F - Allowed the appeal by Mr C Coles against the refusal of planning permission for Restoration of building to be used for storing ground maintenance equipment. Land To East Of Webbs Way, Mill Street, Kidlington
Officer recommendation – Refused (Delegated)
Appeal reference – 20/00032/REF**

The Inspector considered the main issue the principle of development in the Green Belt, and the proposal's effect on the character and appearance of the Church Street Conservation Area having particular regard to trees.

The Inspector disagreed with the appellant that the proposal involved the re-use of a building of permanent and substantial construction – the structure has no roof – and as such he was "drawn to the Council's argument that the proposal would involve a new building" but the Inspector concluded that the proposal would serve recreation land and so would in principle constitute one of the exceptions set out in para 145 of the NPPF for new buildings in the Green Belt, and therefore would not be inappropriate development, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

On the question of openness, the Inspector noted the proposal would increase the height of the structure by introducing a roof, and that it would enclose a small section along one length and add doors to an opening on one end, the most notable of these being the roof. However, he noted that the roof would have a shallow pitch and would be hipped at both ends, and therefore that the increase in height and mass would be limited. He found the proposal would not conflict with the purposes of Green Belt as set out at para 133 of the NPPF. The Inspector therefore concluded the proposal was appropriate development in the Green Belt.

In light of the appellant's arboricultural report, only submitted during appeal i.e. after the planning application had been refused, the Council withdrew a second refusal reason on the grounds of impact on trees and the Conservation Area. The Inspector placed significant weight on the Council's comments on the tree report. The Inspector noted the Sycamore was proposed for retention, would be appropriately managed, and that the White Willow contributed little to the significance of the Conservation Area, overall concluding there would no harm to the character and appearance of the Conservation Area.

The Inspector noted the third party objections regarding the proposal's effect on living conditions but concluded the impact did not merit refusal.

The Inspector concluded the appeal should be allowed, subject to conditions to agree samples of the roof tiles and to require the development be carried out strictly in accord with the appellant's tree method statement and tree protection plan.

- 3. 19/00290/F - Dismissed the appeal by Mr W Hebborn against refusal of planning permission for 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). Hebborns Yard, Bicester Road, Kidlington, OX5 2LD.
Officer recommendation – Refused (Delegated)
Appeal reference – 20/00031/REF**

The Inspector considered the main issue to be the proposal's effect on flood risk.

The majority of the site is located within Flood Zone 3b. The Inspector noted that the appellant did not seek to challenge this classification.

The proposal was for the use of land for the storage of (non-residential) portable fairground rides and equipment in connection with, and ancillary to, the authorised use of Hebborn's Yard, Kidlington as Showmen's Permanent Quarters. The application had been refused on the grounds that the proposed development would be at direct risk of flooding and that it had not been demonstrated that the development would not increase flood risk elsewhere or where possible reduce flood risk overall. The application proposal had therefore been refused as contrary to Policy ESD6 of the Cherwell Local Plan 2011-2031 and the provisions of the NPPF and the PPG.

The Inspector agreed that, under table 3 within the relevant section of the PPG, the proposal should not be permitted, and the Inspector noted the Environment Agency's objection, on which he placed significant weight.

The Inspector noted that the Council had not identified any other sites for travelling show people that were not in a Flood Zone, which weighed in favour of the appellant, but also that the site is located in the Green Belt, which weighed against this.

The appellant had stated that it was necessary for insurance and safety reasons that their equipment be located adjacent to their existing site, and had also stated that the use of the site for storage was necessary to enable them to stay at their permanent base at Hebborn's Yard. However, while the Inspector recognised that the proposal would have commercial

benefits for the appellant and that finding an alternative storage location may be challenging for them, the Inspector found that this was not sufficient justification for allowing development in the floodplain, and that dismissing the appeal would not necessarily mean the appellant's family having to leave their settled base.

The Inspector found that the submitted Flood Evacuation Plan would only partially address the EA's concerns and provided little detail to factor in climate change, and no evidence the proposed evacuation sites identified in the evacuation plan would be genuinely available and capable of accommodating the fairground rides and equipment that would be stored on the appeal site. The Inspector concluded that there was insufficient information to ensure that the appellant's Flood Evacuation Plan would mitigate the flood risk on the site for the lifetime of the development.

Overall, the Inspector concluded the benefits of the scheme did not outweigh the high probability of flood risk, and accordingly dismissed the appeal.

**4. 20/00878/F - Dismissed the appeal by Mr J Dyer against refusal of planning permission for Detached Dwelling (Re-submission of Planning Application 19/00550/F). Ashfield House, Alkerton Road, Balscote, OX15 6JR.
Officer recommendation – Refused (Delegated)
Appeal reference – 20/00038/REF**

The appeal relates to the erection of a new detached dwelling, within the confines of Balscote.

The Inspector considered that the main issues were:

- whether the proposal would preserve or enhance the character and appearance of the Balscote Conservation Area; and
- the effect of the proposal on the living conditions of occupiers of Ash Hollow and Ash Barn, with particular respect to privacy and outlook.

The Inspector notes that the appeal proposal would appear out of scale with many local dwellings, sitting taller and further forward than Ash Hollow. The Inspector viewed that the scale and siting of the dwelling, in combination with the current open character of the plot, would result in a building that would be clearly visible from the street. Furthermore, he considered that the prominence of the development would erode the open views through the site and consequently, that the proposal would not relate well to adjacent dwellings and would be a disharmonious addition to the street scene. The use of stone/slate and its inclusion of design features which reduce some of its overall scale and bearing were not considered aspects that offset the overall harmful impact of development.

Furthermore, the Inspector noted that the appeal proposal would be of a similar scale as Ashfield House, but would have a greater mass than Ash Hollow. Moreover, its main bulk would be sited closer to the highway than Ashfield House. As a result, he concluded that proposed dwelling would be a dominant and disharmonious feature in the street and consequently be harmful to the character and appearance of the surrounding area, including the significance of the designated Balscote Conservation Area. The Inspector found conflict with Policies ESD15 and Villages 1 of the CLP 2031 and saved Policies C23, C28, C30 and C33 of the CLP 1996.

The Inspector also found that the appeal proposal would result in substantial harm to the living conditions of occupiers of Ash Hollow due to a loss of outlook and to occupiers of Ash Barn through a loss of privacy. This was resulting from proposed dwelling appearing cramped and obtrusive to this neighbouring dwelling due to the proposal's proximity to the adjacent plot's boundary and windows. It was however considered by the Inspector that overlooking towards this property would be limited due to the location and orientation of proposed rear windows. Nevertheless, as a consequence of local topography and the relationship between the dwelling's, the Inspector considered that the proposal would

demonstrably harm the outlook for occupiers of Ash Hollow. The Inspector again found conflict with Policy ESD15 of the CLP 2031 and saved Policy C30 of the CLP 1996 on grounds of harm to living conditions.

Accordingly, this appeal was dismissed.

- 5. 19/01542/F - Dismissed the appeal by Mr D Munnings against refusal of planning permission for 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. Aviyal, Station Road, Ardley, OX27 7PQ.
Officer recommendation – Refused (Delegated)
Appeal reference – 20/00026/REF**

The Inspector considered the main issue to the proposal's effect on highway safety.

The appellant's dog agility training business would result in more traffic being attracted to the site than the current situation. There was no dispute that the general location was appropriate for the business. The access to the site exists and its geometry would be improved as part of the proposal. The Inspector agreed with the Council that the issue was the increase in movements over and above the existing use of the site, even taking into account that employees at the business may be resident at the site, reducing peak-time movements.

The Inspector gave limited weight to the new residential development further along Station Road, which was further within the 40mph speed limit and had a better relationship to the village, and he gave limited weight to a fallback position of use of the fields for 28 days per year for a similar purpose.

The Inspector also disagreed with the appellant's suggestion that, to accompany a reduction in the speed limit, a build-out could be constructed to secure priority or shuttle working along a small stretch of highway. Such has been installed elsewhere in Oxfordshire. He found that, even if traffic could negotiate the build-out without causing severe delay to traffic, the road alignment would restrict forward visibility of the obstruction. Forward visibility would be further reduced if a queue were to form, so the build-out could result in a risk of nose-to-tail or failure to give way collisions. A further Road Safety Audit recommended that adequate forward visibility should be provided to address this concern but, even assuming lower speeds from a reduced speed limit, the Inspector was not persuaded that this could be achieved.

Accordingly, the appeal was dismissed. The Inspector also refused the appellant costs award application. The local highway authority had advised as part of the Council's pre-app enquiry response that it was unlikely to raise an objection and, while the Inspector acknowledged the frustration caused by a different view at application, he found this did not amount to unreasonable behaviour.

- 6. 20/01230/TPO - Dismissed the appeal by Mr P Noble against refusal of the application for works to Tree Preservation Order tree at The Brambles, Somerton Road, Upper Heyford, Bicester, OX25 5LB. 20/01230/TPO
Officer recommendation – Refused (Delegated)
Appeal reference – 20/00040/REF**

The Inspector identified main issues in this case to be the effect of the proposed felling of the horse chestnut tree on the character and appearance of the area and whether sufficient justification had been demonstrated for its proposed felling.

The Inspector concluded that the tree, one of the largest on this part of Somerton Road, has a positive impact on the Rousham, Lower Heyford and Upper Heyford Conservation Areas. The Inspector concluded that it has high amenity value and therefore any justification to remove it should be compelling.

Whilst the Inspector noted that the tree suffered from bleeding canker, he agreed with the findings of one of the two reports submitted by the appellant '*that the structure of the tree not to be significantly compromised*'. Notwithstanding the appellant's willingness to plant a replacement tree, the Inspector therefore dismissed the appeal.

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:

Jennifer Crouch, Principal Solicitor
jennifer.crouch@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
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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	No
Community Impact Threshold Met	No

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

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