

Cherwell District Council

Planning Committee

20 May 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

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

20/01891/F - Land North East Of Fringford Study Centre Adjoining, Rectory Lane, Fringford, OX27 8DD - Erection of a 4 bedroom detached dwelling with garage and access.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 21.04.2021 **Statement Due:** 26.05.2021 **Decision:** Awaited

Appeal reference – 21/00015/REF

20/02504/F – 11 The Holt, Mollington, OX17 1BE - Single storey front extension.

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Start Date: 23.04.2021 **Statement Due:** N/A **Decision:** Awaited

Appeal reference – 21/00016/REF

20/02669/F - Moorlands Farm, Murcott, OX5 2RE - Demolition of existing agricultural buildings and erection of three dwellings.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 06.04.2021 **Statement Due:** 11.05.2021 **Decision:** Awaited

Appeal reference – 21/00013/REF

20/02717/HPA - 4 Summer Ley, Barford St Michael, Banbury, OX15 0RG - Demolition of existing conservatory and erection of lounge dining room extension, kitchen extension to form utility room - length 4.2m, height to eaves 2.7m, overall height 3.8m.

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Start Date: 06.04.2021 **Statement Due:** N/A **Decision:** Awaited

Appeal reference – 21/00014/REF

3.2 New Enforcement Appeals

None.

3.3 Appeals in Progress

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 – Estimated to last 4 days

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

Appeal reference – 21/00012/REF

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 – Tuesday 22nd June 2021

Hearing originally scheduled for 5th May was postponed by the Planning Inspectorate.

Appeal reference – 21/00004/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

20/01643/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

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

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

20/02592/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

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 21 May 2021 and 17 June 2021*

None

3.6 *Results*

Inspectors appointed by the Secretary of State have:

1. **20/01905/F – Dismissed the appeal by Mr N Satchell against the refusal of planning permission for Formation of access and associated dropped kerb. 110 Lyneham Road, Bicester, OX26 4FD.**
Officer recommendation – Refusal (Delegated)
Appeal reference – 21/00005/REF

The Inspector considered the main issue to be the proposal's effect on the safe use of the highway for pedestrians.

The Inspector noted that there was a dropped kerb to some of the frontage adjacent to the footway and that a hedge to the front of the driveway had been removed. He also noted that the neighbour had a dropped kerb to which the appellant's existing dropped kerb connected and formed one continuous dropped kerb.

The Inspector concluded that, “would result in a very wide expanse of dropped kerb, increasing the area of footway that vehicles could traverse. This would unduly hinder the ability of pedestrians to move to a safe place and be clear of vehicles coming and going from both the appeal site and its neighbours. The effect would be particularly dangerous for pedestrians with mobility problems, the elderly and children.”

The Inspector considered the benefits to the applicant to be mainly of a private nature which therefore attracted limited weight, and noted that the provision of this benefit would result in harm to the safe use of the highway. Accordingly he dismissed the appeal.

**2. 20/03191/F – Dismissed the appeal by Ms R Maxted against the refusal of planning permission for Single storey residential extension - re-submission of 20/01265/F. Keepers Cover, Church Lane, Weston On Th Green, OX25 3QU
Officer recommendation – Refusal (Delegated)
Appeal reference – 21/00006/REF**

The Inspector for this case identified the key considerations to be the impact on the Oxford Green Belt and the weight that should be given to a legal agreement

In making their initial assessment the Inspector concluded that the present building represents ‘the original building’ and that the modest proposals would be acceptable under the exception in NPPF paragraph 14. c) which allows for proportionate extension of the original dwellinghouse.

However, the site is subject to an earlier legal obligation prohibiting any development to enlarge the property. This obligation relates to a planning permission for a replacement dwelling which is 75% larger than the original.

The Inspector found that ‘there has been no fundamental change in Green Belt policy, either locally or nationally, since the obligation was entered into’ and that the original legal agreement therefore continues to serve a useful purpose in limiting extensions to the dwelling in an area of Green Belt. Reiterating the conclusions of earlier decisions, the appeal to extend the property was dismissed on this basis.

**3. 20/00763/F – Dismissed the appeal by Mrs L Godwin against the refusal of planning permission for Removal of condition 9 (occupation of site by caravan, motor caravan or tent) of 00/01162/F. Manor Farm Bungalow, Northampton Road, Weston On The Green, Bicester, OX25 3QL
Officer recommendation – Refusal (Delegated)
Appeal reference – 21/00009/REF**

The Inspector considered the main issues to be whether the disputed condition is necessary having regard to (i) Green Belt policy and (ii) the effect on the character and appearance of the area.

The Inspector noted that the use itself was capable of being appropriate development in the Green Belt if it preserved openness and did not conflict with the purposes of Green Belt policy.

He observed that the touring caravan park involves the stationing of caravans and pitching of tents, which reduce spatial openness by reason of their bulk and volume. He noted that caravans on the site were seen across fields from parts of Northampton Road and through gaps in the boundary vegetation, and that there are views through adjoining fields and nearby public rights of way. He held that there would be a loss of spatial openness.

The Inspector found no clear explanation as to why the Council had granted the original planning permission and held that the Council’s previous determination did not a precedent

that he was bound to follow, but concluded that the proposal would be more harmful to Green Belt openness than the development allowed under the existing planning permission, and therefore that the condition serves a useful purpose having regard to Green Belt policy.

The Inspector considered that, by virtue of its size and siting, the caravan park stands out as a significant encroachment into the surrounding field area rather than part of the building complex. He noted that caravan sites often lie outside urban areas but in this instance the park detracts from the views of fields and so fails to respect the agricultural feel of the area.

The Inspector held that the disputed condition serves to avoid caravans and tents being unduly visible and detrimental to the character and appearance of the area during times when the site is most exposed to view, and was unconvinced that additional planting would address the visual harm of the park from November to February.

The Inspector concluded that the condition was reasonable and necessary, and that the harm that would result from its removal would outweigh the economic benefit to which he afforded positive weight, and therefore dismissed the appeal.

**4. 19/02550/F - Allowed the appeal by Great Lakes UK Ltd against the refusal of planning permission for 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. Land to the east of M40 and south of A4095, Chesterton, Bicester
Officer recommendation – Refusal (Committee)
Appeal reference – 20/00030/REF**

The appeal has been allowed and planning permission granted.

During the Inquiry a drainage statement of common ground was agreed between OCC & Appellant, so Reason for Refusal 5 was not pursued. The Appellant offered a signed s106 Deed for: a financial bond; the payment of fees; financial contributions for cultural wellbeing, public transport and cycle improvements; traffic calming in Middleton Stoney; off-site provision of footpaths and cycleways; a shuttle bus service for staff and guests; day passes for local residents; travel, training and employment plans; and a golf mitigation scheme, so Reason for Refusal 6 was also not pursued.

This left the following key issues:

1. effect on the safety and free flow of traffic on the highway network, with particular reference to the Middleton Stoney junction;
2. landscape and visual impact;
3. implications for golf provision;
4. locational sustainability of the appeal site;
5. whether the proposal conflicts with the development plan and, if so, whether there are any material considerations that would outweigh that conflict.

Issue 1 – Highway Safety – Other than the effect on the Middleton Stoney junction, OCC confirmed that the development would not have a severe effect on the network. Insofar as the junction was concerned, the Inspector concluded that development would not make a material difference to its operation and capacity. With regard to other roads, the Inspector commented that the level of traffic likely to use these roads was not a matter of concern for OCC as Highway Authority and he considered that he saw nothing to suggest that the impact would unacceptably affect the safety and free flow of traffic. Whilst the route from the A41 through Little Chesterton to the A4095 is poor and an entirely unsuitable route to access the development the Inspector considered that through a comprehensive signage strategy, as proposed by the Appellant, and the potential to reinforce the message during the visitor booking process, the effect on this route could be acceptably mitigated. Insofar as car parking was concerned, the Inspector deemed the proposed 902-space car parking of sufficient size to cater for the facility and would not have an unacceptable impact on the safety and free flow of traffic on the highway network.

Issue 2 – Landscape and Visual Impact – The site lies within open countryside but with no national or local landscape designations. The Inspector concluded that the site would not fall to be considered as parkland. Rather, given the heavily managed and manicured appearance of the golf course, the most that can be said is that it has some limited parkland characteristics and did not constitute a ‘valued landscape’ in NPPF Para.170 terms. He noted that traffic noise from the M40, has a material impact and found that the site had a medium landscape value. Notwithstanding the substantial mass and scale of the proposed building, the Inspector considered the scheme’s architects and landscape architects had produced a building that was neither institutional nor monolithic in its appearance in this rural setting. He noted that the landscaping proposed would be substantial and he recognised strong cues to the grand country house characteristic of the Cotswolds. Thus, he concluded that the scheme would contribute positively, by creating its own local distinctiveness. The appeal site itself would experience significant change and permanent transformation. However, given the scale of physical enclosure, the site and its landscape setting have a low susceptibility to change in his opinion. Therefore, the change to landscape character would not be significant and at Year 15 would be negligible. He deemed that visual impact of the development would be localised. Insofar as the A4095 was concerned, he found that the proposed footpath works were relatively minor features and no more than is found on many rural roads and the proposed footway/cycleway works would have no material impact on this element. With the addition of proposed planting and the setback of the building from the boundary (between 98m-202m) there would, apart from the main access be no views of the building from the A4095. With respect to the access, he considered that type of access proposed was not unusual on a rural A Class road. In his opinion, the combination of the setback of the building, the design of the front façade and the landscaping within the car park and to the front of the hotel entrance would acceptably mitigate its visual impact. With respect to other public landscape views, the Inspector concluded they would either be insignificant or of no more than minor-moderate adverse impact.

Issue 3 – Sport & Recreation – Although development would involve loss of the back 9-holes, the front 9-holes of the Golf Course would be reconfigured by inserting a second tee at each hole, the driving range would be upgraded, the outfield of which would be shared with a 9-hole Par 3 Academy Course for beginners and family play and a short-game practice area. The Inspector was not convinced by the LPA evidence with respect to supply/demand for golf provision, which he deemed at odds with the findings of England Golf. On balance, the Inspector concluded that the proposals as modified by the mitigation proposed and included within the s.106 would be sufficient to satisfy the tests in NPPF Para.97.

Issue 4 – Locational Sustainability – Recognising the value of tourism to the local economy through increasing overnight stays and visitor numbers, LP Policy SLE 3 indicates that new tourist proposals, in sustainable locations, will be supported. In terms of the sequential approach, it was common ground that there are no town centre sites or edge-of-centre sites within Cherwell that are suitable and available for such a use. NPPF para.103 indicates that significant development should be focused on locations that are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. In this instance, a package of measures is proposed including: provision of footpath and cycleway links to Chesterton; a financial contribution to upgrade cycle links between Chesterton and Bicester; a financial contribution for 10 years for a public bus service between Bicester and the site, where no service currently exists, offering a half-hourly service; plus a dedicated Shuttle Bus service for visitors and staff, linking the resort with the 2 railway stations; and the car park would provide a material number of spaces dedicated for electric vehicle charging. Taken in the round, with the package of transport measures proposed, the Inspector concluded that the proposed development would, given its nature, be in a location that could be made locationally sustainable and would not therefore conflict with the objectives of Policy SLE 3 or the NPPF.

Issue 5 – The Development Plan – In undertaking the balance of harmful and beneficial impacts and the relationship to Development plan policy and NPPF guidance, the Inspector concluded that economic benefits included up to 945 construction jobs over the 2-year build period, contributing £1.3m to the local economy. The half million annual visitors to the resort would significantly stimulate local tourism and enhance the attractiveness of this part of Oxfordshire as a tourist destination. During the operational phase, development would provide up to 600 jobs (460 FTE) contributing up to £1.57m to the local economy and the potential to support some 700 additional jobs (540 FTE) in the wider Oxfordshire economy. Overall, estimated that development would contribute up to £23m per annum to the local economy. Whilst the proposal is a, “everything under one roof” offer, there is potential for some £4.9m per year on spin-off expenditure from those coming to and going from the resort whilst in the area. On social benefits, the resort offer would focus on families with children aged 2 to 12. The concept provides for families and extended families to undertake short breaks where a variety of activities is provided on-tap. Whilst it might appear trite, the value of this, should not be underestimated. Moreover, whilst several of the benefits listed by the appellant arise out of the need for the development to mitigate its effect, these would provide wider benefits to the local community. Based on the above, the proposal would provide alternative recreational provision, the benefits of which would clearly outweigh the loss of 9 golf holes in the Inspector’s opinion.

Conclusion

Overall, the Inspector found that the proposal would not conflict with LP Policies SLE 5, BSC 10, ESD 13, ESD 15, SLE 2, or SLE 3 and Saved LP Policy TR7. The impact on the PROW and residents would be significantly and materially outweighed by the acknowledged benefits of the development, particularly the economic and social benefits that would accrue in the local area. For these reasons, the proposal would accord with the development plan when read as a whole.

Appeal decision summary to follow in next month’s appeal progress report.

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:
Matthew Barrett, Solicitor, 01295 753798
matthew.barrett@cherwell-dc.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:
Emily Schofield, Project Manager
Emily.Schofield@oxfordshire.gov.uk

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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