

**Cherwell District Council  
Planning Committee**

**17 June 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

**20/03542/F – 91 Mallards Way, Bicester, OX26 6WT** - Single storey extension at principal elevation

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Householder (Fast Track)

**Start Date:** 18.05.2021      **Statement Due:** N/A      **Decision:** Awaited

**Appeal reference** – 21/00017/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 29<sup>th</sup> June – Expected 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 22<sup>nd</sup> June 2021

Hearing originally scheduled for 5<sup>th</sup> 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

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

**Appeal reference** – 20/00034/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

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

**Appeal reference** – 20/00037/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

**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

**20/01891/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

**20/02592/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

**20/02669/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

### 3.4 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

**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 Inquiries and Hearings between 18 June 2021 and 15 July 2021

**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)

**Virtual Hearing to be held on Tuesday 22<sup>nd</sup> June at 10:00.**

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

**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.

**Virtual Public Inquiry Start Date and Days of Inquiry:** Tuesday 29<sup>th</sup> June – 2<sup>nd</sup> July 2021

Details on how to register to attend Inquiry can be found on the Council's online planning register.

### 3.6 Results

Inspectors appointed by the Secretary of State have:

1. **19/00128/ENFC – Dismissed the appeal by Mr Featherstone against the enforcement notice being served on the address of OS Parcel 3349, Spruce Meadows, Cropredy Lane, Williams Scot for the breach of planning control of 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**

The enforcement notice related to the unauthorised use of the land as a caravan site including the stationing of a caravan/mobile home and its use for residential purposes as an independent unit of occupation in the open countryside, together with associated vehicles and structures facilitating this change of use.

The notice required a number of actions to remedy the breach including the cessation of the unauthorised use, removal of the caravan/mobile home and the removal of the associated structures and domestic paraphernalia.

The time period given with which to comply was 4 months.

The appeal was submitted under ground (a), ground (c) and ground (g) of section 174(2) of the Town and Country Planning Act 1990 as amended. (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged; (c) that the matters alleged do not constitute a breach of planning control and (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Under the ground (a) appeal the Inspector considered the main issues to be:

- (i) Whether the development accords with National Policy
- (ii) Whether there was an essential need for a rural worker to live permanently on the site
- (iii) The effect of the development on the character and appearance of the rural area.

The Inspector concluded that an essential need had not been established, that the residential use would undermine the Council's spatial strategy for sustainable accommodation and that it would cause significant harm to the character and appearance of the rural area and Williamscott Conservation Area and that the appeal on ground (a) failed.

Under ground (c) the Inspector found that in the absence of evidence to the contrary and on the balance of probability, the matters alleged in the Enforcement Notice were part and parcel of the material change of use of the land to a residential use and that the appeal on ground (c) failed.

Under ground (g) the appellant argued that the compliance period was too short. Following discussions, the Inspector concluded that an extension of the compliance period from 4 to 6 months would strike a proportionate and reasonable balance and that to that extent the ground (g) appeal succeeded.

The description of the breach was amended to read:

"Without the benefit of planning permission, the material change of use of the land by the stationing of a caravan and using the caravan and land for residential purposes together with associated parking of cars, associated domestic paraphernalia, the storage of motor vehicles, and the use of shipping containers and a summer house for storage, as shown in current locations on the attached Plan".

Other minor amendments to the wording were also made.

The appellant now has until 21 November 2021 to fully comply with the requirements of the notice and an inspection will take place shortly after that date to ensure compliance.

The full requirements of the notice (as varied) are as follows:

1. Cease the residential use of the land.
2. Remove from the land the caravan currently in the approximate location shown in Blue on the attached plan.
3. Remove from the land the shipping containers in the approximate location shown in Green on the attached plan.
4. Remove from the land the summer house in the approximate location shown in Yellow on the attached plan.

5. Remove from the land the motor vehicles currently stored and cars parked on the land in the approximate location shown in Purple on the attached plan.
6. Remove from the land all domestic paraphernalia brought onto the land in connection with the residential use of the land, and
7. Return the land to its previous condition before the breach took place.

**2. 20/00841/F – Dismissed the appeal by Mr R Bratt against the refusal of planning permission for Erection of garage adjacent to approved dwelling and change of use of agricultural land to residential use. Barn And Land South West Of Cotefield Farm, Church Street, Bodicote.**

**Officer recommendation – Refused (Delegated)**

**Appeal reference – 20/00039/REF**

The Inspector for this case identified the main issue to be the effect on the character and appearance of the area.

In making their assessment the Inspector considered that the proposed garage would share a close physical and visual relationship with the dwelling and would be seen in this context. Further, whilst acknowledging the scale and somewhat commercial appearance of the garage, concluded that it would not be at odds with the character of the site and its surroundings, and that the appeal scheme would not be harmful.

However, the Inspector was conscious that since the time of the refusal of the planning application, a further planning permission had been granted by the Council for the erection of the same garage in a different position. The Inspector noted that the two garages (appeal scheme and approved scheme) could both be constructed independently. The Inspector noted that there was willingness, by the appellant, for the granted planning permission to be revoked, but that this would need to be the subject of a separate process which had not been undertaken.

In drawing a conclusion, the Inspector considered that by allowing the appeal in light of the granted planning permission, that this would potentially lead to increased quantum of built development and harmful proliferation of buildings at the site, harming the rural character of the location. Accordingly, he dismissed the appeal.

**3. 20/01643/OUT – Allowed the appeal by Lone Star Land against refusal of planning permission for Erection of up to 49 homes, public open space and other infrastructure, with all matters reserved except access - revised scheme of 19/01811/OUT. Land North And West Of Bretch Hill Reservoir Adj To Balmoral Avenue, Banbury.**

**Officer recommendation – Approval (Committee)**

**Appeal reference – 21/00011/REF**

Following a confidential report to the planning committee of 15 April 2021 where officers sought instructions from Members on the conduct of the appeal, and the case conference with the appointed Inspector in May where the Inspector determined that having regard to the statement of common ground jointly submitted by the appellants and the Council the appeal could now be conducted as a written representation case.

The Inspector in allowing the appeal considered that the Council no longer had a 5 year land supply and that the requirements of the National Planning Guidance Framework paragraph 11d and footnote 7 on page 6 of the Framework was engaged, namely that unless there were any adverse matters which outweighed the 'tilted balance' the appeal should be considered acceptable. The inspector found that neither the effect of the

adjoining water tower or lattice telecommunications mast whilst being unsightly were such as to provide arguable reasons to reject the appeal.

The Inspector also found that the 3rd party objections on grounds of highway safety were not sufficient to warrant refusal. Nor was the reason for refusal on the basis of biodiversity an arguable reason for refusal that could not be dealt with by planning condition.

The necessary S106 dealing with contributions for necessary infrastructure including off site highway works, education, community facilities, open space, refuse and waste, and affordable homes was concluded by the appellants, the land owners, CDC and OCC prior to the Inspectors decision, who was satisfied that the agreement was compliant with section 122 of the CIL regulations.

#### **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](mailto: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](mailto: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  
[louise.tustian@cherwell-dc.gov.uk](mailto:louise.tustian@cherwell-dc.gov.uk)

## **Equality & Diversity Implications**

7.4 The recommendation does not raise equality implications.

Comments checked by:

Emily Schofield, Acting Head of Strategy, 07881 311707

[Emily.Schofield@oxfordshire.gov.uk](mailto: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

### **Report Author and contact details**

Matthew Swinford, Appeals Administrator

[Matthew.Swinford@Cherwell-DC.gov.uk](mailto:Matthew.Swinford@Cherwell-DC.gov.uk)

Alex Chrusciak, Interim Senior Manager, Development Management

[Alex.Chrusciak@cherwell-dc.gov.uk](mailto:Alex.Chrusciak@cherwell-dc.gov.uk)