

**Cherwell District Council  
Planning Committee  
12 August 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

**20/03175/Q56 - Part of OS Parcel 5900 East Of Broughton And North, Sandfine Road, Broughton** - Conversion of existing barn to a single large dwellinghouse under Class Q permitted development (re-submission of 20/02051/Q56).

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Start Date:** 13.07.2021      **Statement Due:** 17.08.2021      **Decision:** Awaited

**Appeal reference** – 21/00020/REF

**20/03327/F - Land SW of Coleridge Close and Rear 6, Chaucer Close, Bicester, OX26 2XB** - Development of a detached dwelling with new access onto Howes Lane - Resubmission of 20/00138/F.

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Start Date:** 13.07.2021      **Statement Due:** 17.08.2021      **Decision:** Awaited

**Appeal reference** – 21/00021/REF

**21/00182/Q56 – Little Haven, Barford Road, South Newington, OX15 4LN** - Change of Use of part of an agricultural building and curtilage to one residential dwelling.

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Start Date:** 12.07.2021      **Statement Due:** 16.08.2021      **Decision:** Awaited

**Appeal reference** – 21/00019/REF

**21/01057/F – 177 Warwick Road, Banbury, OX16 1AS** - Variation of Condition 2 (opening times) of 03/00144/F - amendment of opening hours at the store, trading hours for Monday-Saturday 11.00am - 12.00am and Sunday 12.00 noon - 11.00pm

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Start Date:** 26.07.2021      **Statement Due:** 02.08.2021      **Decision:** Awaited

**Appeal reference – 21/00022/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 June – Inquiry now close. The Inspector has advised a decision will not be issued earlier than 18<sup>th</sup> August

**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, openspace 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 June 2021. Hearing now closed.

**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**

**20/00871/F - OS Parcel 3300 north of railway line adjoining Palmer Avenue, Lower Arncott** - 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**

**20/01747/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

**20/01902/Q56** – Barns, Crockwell House Farm, Manor Road, Great Bourton - Change of use of existing farm buildings into a single residential dwelling (use class C3).

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Start Date:** 10.06.2021      **Statement Due:** 15.07.2021      **Decision:** Awaited

**Appeal reference** – 21/00018/REF

**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

#### 3.4 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

**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

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

**Hearing date:** Tuesday 16 November 2021

**Appeal reference:** 21/00008/ENF

#### 3.5 Forthcoming Public Inquires and Hearings between 13 August 2021 and 9 September 2021

None

### 3.6 Results

Inspectors appointed by the Secretary of State have:

#### 3.6.1 **20/00964/OUT – Dismissed the appeal by Mr A Shooter against the refusal of planning permission for Erection of up to 8 dwellings with all matters reserved except the means of access on to Heyford Road. The Beeches, Heyford Road, Steeple Aston, OX25 4SN.**

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Appeal reference** – 20/00037/REF

- 3.6.2 The Inspector considered the main issues to be whether the proposed development would be a suitable location for housing, and its effect on the character and appearance of the area.
- 3.6.3 The Inspector observed, following his site visit, that the north-eastern corner of the appeal site is clearly located adjacent to the settlement boundary but that, as the northern boundary of the appeal site extends away from Heyford Road, the relationship with the settlement boundary becomes less obvious. The Inspector found the land to the rear of adjoining properties to be distinctly different in terms of character and appearance, and concluded that the vast majority of the site would not be adjacent to the settlement which in this respect failed to meet Policy PD1.
- 3.6.4 The Inspector found that the majority of the site is open and relatively undeveloped and does not intrude into, or detract from, the wider landscape or edge of village setting. Other than the main dwelling, existing buildings are generally single storey, clustered around the main dwelling and assimilate well into the landscape. The Inspector agreed with the Council that, in contrast, the proposal would introduce new built development into the undeveloped part of the site that would encroach into the open countryside, would be visually intrusive and would harm the character of the surrounding area.
- 3.6.5 The Inspector noted that all parties agreed the land was to be classed as Previously Developed Land (PDL), and noted the proposals for substantial additional landscaping, but concluded that neither would mitigate the harm identified, and that overall the proposal would conflict with Policy PD1 of the Mid Cherwell Neighbourhood Plan (MCNP) due to its poor relationship with the built form of Steeple Aston and its impact on the landscape.
- 3.6.6 The Inspector found that the tilted balance of para 11d of the NPPF applied because the MCNP is now two years old. The Inspector gave 'considerable' weight to the delivery of new housing, 'moderate' weight to the site's status as PDL and 'moderate' weight to the proposal's economic benefits, but concluded that the harm identified significantly and demonstrably outweighs these benefits.
- 3.6.7 Accordingly the appeal was dismissed.
- 3.6.8 **20/01650/TPO – Dismissed the appeal by Mr S Douglas against refusal of the application for works to a tree subject to a tree preservation order which consisted of 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. Pendula House, 9 Old School End, Hook Norton, OX15 5QU.**

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Fast Track

**Appeal reference** – 21/00010/REF

- 3.6.9 The two issues identified by the Inspector were the effect of the removal of the three silver birch trees on the character and appearance of the area and whether sufficient justification has been demonstrated for their removal.
- 3.6.10 The Inspector concluded that the trees were in good overall physiological condition and were a prominent landscape feature with their elevated position making them visible from the surrounding roads.
- 3.6.11 Whilst the Inspector acknowledged that the cumulative impact of the three trees caused a degree of seasonal inconvenience to the appellant and the roots caused minor disruption to an area of paving; he concluded that the harm was minimal (the paving could simply be relayed). Further there is little evidence to demonstrate that either the appellant's house or neighbouring dwelling were at risk of structural damage resulting from the influence of the trees.
- 3.6.12 The appeal was therefore dismissed as the justification to remove the trees did not outweigh the significant harm that would result to the character and appearance of the area.
- 3.6.13 20/02592/F – Allowed the appeal by Oxhold Limited against the conditions imposed onto the approval of the planning permission for 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. 28 The Moors, Kidlington, OX5 2AJ.<sup>1</sup>**

**Officer recommendation** – Approved (Appeal challenged the conditions imposed)

**Method of determination:** Written Representations

**Appeal reference** – 21/00002/CON

- 3.6.14 The Inspector considered the main issues to be whether the conditions imposed by the Council met the tests of conditions set out in the NPPF and the regulations concerning pre-commencement conditions ('the Regulations').
- 3.6.15 The Appellant was contesting 12 conditions. Having asked the Council to determine the application before consultation responses had been received, the Appellant subsequently contended that those conditions should not have been imposed because the required details had been submitted and could have been referred to in the decision.
- 3.6.16 The Inspector concluded three of the conditions were not necessary along with one part of a fourth. All of the other 9 conditions were found to be necessary, most being amended to reflect details which the Council had approved in the intervening period since the time of the contested decision.
- 3.6.17 In relation to a separate costs application made by the Appellant, the Inspector found that 4 of the 12 conditions were pre-commencement ones and that there had been no explicit notification to the Appellant or agreement by him to these conditions, and so were in breach of the Regulations. Accordingly the Inspector made a partial award of costs against the Council in respect of 3 of the 12 conditions and a part of a fourth condition.

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<sup>1</sup> This appeal was against the conditions listed on the approved planning decision notice so the application was approved but the applicant did not agree with the conditions imposed on the decision notice so the applicant appealed against the conditions imposed and some of the conditions have been removed and some amended by the Inspector.

**3.6.18 20/02669/F – Dismissed the appeal by Mr B Franklin against refusal of planning permission for “Demolition of existing agricultural buildings and erection of three dwellings (resubmission of 20/01442/F)”. Moorlands Farm, Murcott, Kidlington, OX5 2RE.**

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Appeal reference** – 21/00013/REF

- 3.6.19 The Inspector considered the main issues to be (1) whether the proposal would be inappropriate development in the Oxford Green Belt, (2) whether any harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances to justify the development and (3) the proposal’s effect on the character and appearance of the area.
- 3.6.20 The Inspector found the site not to be previously developed land, and that the existing buildings on the site had a functional agricultural appearance and were not inappropriate development in the Green Belt. The Inspector held that the proposal for three substantial dwellings would be overly assertive, would harm the perceived openness of the Green Belt and that overall the proposal would be inappropriate development in the Green Belt.
- 3.6.21 The Inspector held that the proposed dwellings were unconvincing as converted barns (the Appellant’s intention) since they would not be associated with a farmyard but would be clearly domestic, and by reason of their scale, form and siting concluded the proposal would harm the character and appearance of the area.
- 3.6.22 The Inspector considered the extant permission for the conversion of the three barns but noted they had a smaller footprint than the proposal and covered a smaller site area which would consequently have less impact on openness. The Inspector noted the proposal’s economic benefits but that the same benefits would be derived from the extant permission.
- 3.6.23 On the basis of the harm to the Green Belt by reason of inappropriateness (to which ‘substantial’ weight was given, ‘a very high hurdle to overcome’), the absence of very special circumstances, and the harm to the character and appearance of the area, the Inspector dismissed the appeal.
- 3.6.24 20/03542/F – Allowed the appeal by L Nichol against refusal of planning permission for “Single storey extension at principal elevation”. 91 Mallards Way, Bicester, OX26 6WT.**

**Officer recommendation** – Refusal (Delegated)

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

**Appeal reference** – 21/00017/REF

- 3.6.25 The Inspector for this case identified the main issue to be the effect on the character and appearance of the area.
- 3.6.26 In making their assessment, the Inspector considered that whilst the proposed extension would disrupt the symmetry of the front elevation, they considered that the proposals would not be prominent and would be a subservient addition. Further, much of the symmetry would remain and that the balance of the dwellings would not be significantly affected by the proposed extension. The Inspector noted that the Design Guide states that extensions are preferable to the rear, however due to the property having a small rear garden they reached the slightly odd conclusion that it afforded a justification for extending to the front.

3.6.27 The Inspector in allowing the appeal, concluded that the proposals would not be harmful to the character and appearance of the area.

#### **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  
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##### **Equality & Diversity Implications**

7.4 This is an information report where no recommended action is proposed. As such there are no equality implications arising from accepting the recommendation.

Comments checked by:

Emily Schofield, Acting Head of Strategy, 07881 311707  
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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

## **Report Author and contact details**

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