

**Cherwell District Council
Planning Committee
9 September 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

20/03409/F - Heath Barn, Sibford Gower, Banbury, OX15 5HQ - A single storey, connecting link between the garage and the original barn conversion dwelling.

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Start Date: 10.08.2021 Statement Due: N/A Decision: Awaited

Appeal reference – 21/00025/REF

21/00043/F - Greystones, Banbury Road, Deddington, OX15 0TN - Installation of a two bay wood framed garage with adjoining log store in the front left hand corner of the plot.

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Start Date: 11.08.2021 Statement Due: N/A Decision: Awaited

Appeal reference – 21/00026/REF

21/00087/F - 51 Walton Avenue, Twyford, OX17 3LA - First floor side extension with associated internal and external works

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Start Date: 09.08.2021 Statement Due: N/A Decision: Awaited

Appeal reference – 21/00024/REF

21/01083/F - Wykham House, Wykham Lane, Broughton, OX15 5DS - Creation of new driveway from Wykham Lane to existing car parking area of Wykham House - Removal of 4m of brick wall and build pillars to exposed ends. Remove grass bank from brick wall to road, install Marshalls permeable paving - scoop/blend edges of grass bank into permeable driveway - install cobble setts to join Wykham Lane to Marshalls permeable paving.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 04.08.2021 Statement Due: 08.09.2021 Decision: Awaited

Appeal reference – 21/00023/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, 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 Arcnott - 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

20/01902/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
20/03175/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, OX262XB
- 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

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

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

3.4 Enforcement Appeals in Progress

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 16th and Wednesday 17th November 2021

Appeal reference: 21/00008/ENF

3.5 Forthcoming Public Inquiries and Hearings between 10 September 2021 and 7 October 2021

None

3.6 Results

Inspectors appointed by the Secretary of State have:

- 3.6.1 19/00934/F – Allowed the appeal by Bicester Sports Association against the refusal of planning permission for 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. Bicester Sports**

Association, The Tudor Jones Building, Akeman Street, Chesterton, Bicester, OX26 1TH

Officer recommendation – Refusal (Committee)

Method of determination: Public Inquiry

Appeal reference – 21/00012/REF

Following a refusal of planning permission for an extension to the existing Bicester sports association facility at Chesterton a public inquiry was held in June.

The application was refused by Cherwell District Council in 2020 by reason of the location of the site being unsustainable by reason of its location, being not served by public transport and being a long distance for its catchment users to access the site by cycles or walking, and detriment to the landscape character of this green field site located outside the settlement of Chesterton.

The inspector found that the principle issues were as follows;

- Whether the proposed development would be in a suitable location, with particular regard to the extent to which the site is accessible by a range of modes of transport and reliance on private vehicle journeys.
- The effect of the proposal on the character and appearance of the appeal site and surrounding area.
- If harm and conflict with the development plan is identified whether this would be outweighed by other material considerations.

The Inspector found that the transport proposals to be put in place by the applicants was sufficient to overcome the identified shortcomings of the location in transport terms as follows:

‘Accordingly, it would not be in conflict with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011 – 2031 Part 1 (‘the LP’). When taken as a whole these require all development where reasonable to do so, to facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Furthermore, that measures are taken to mitigate the impact of development within the district on climate change, delivering development that seeks to reduce the need to travel and which encourages sustainable travel options’.

The Inspector found that whilst there would be some short to medium term harm to the adjoining land’s landscape character that identified harm would with the mitigation measures offered by the appellants acceptable following the establishment and maturing of the proposed landscaping scheme for the site.

The Inspectors findings on the principal issues and the perceived need for the development were sufficient to overcome the conflicts with policy identified by the Council.

3.6.2 20/01891/F – Dismissed the appeal by Mr A Bradbury against the refusal of planning permission for Erection of a 4 bedroom detached dwelling with garage and access Land North East Of Fringford Study Centre Adjoining, Rectory Lane, Fringford, OX27 8DD

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Appeal reference – 21/00015/REF

The Inspector considered the main issues to be the proposal’s effect on (1) the character and appearance of the area, including the impact to existing trees, and (2) potential archaeological resources at the site.

The Inspector noted that the area has a mix of older and more modern dwellings, mostly detached in spacious plots, and that it has a verdant quality. He noted that the site is currently undeveloped and has some mature trees, which are subject to a Tree Preservation Order.

The Inspector opined that the house would be comparable in size to others locally, would not overdevelop the site, would be of a suitable design that would not be at odds with its context and overall that it would be an appropriate infill within the village. The Inspector considered that even with the development the site would remain verdant and that only one tree would be felled, a 'C' class Sycamore. The Inspector held that from the information submitted there was no substantive reason to conclude that any other tree would need to be felled and that, although the house would be in close proximity to the retained trees, it would not be so close as to assume it likely that there would be significant pressure to remove any of them. He noted that some of the trees were subject of a TPO and that any proposed future cutting back or felling would be in CDC's control.

The Inspector noted the dismissal of a previous appeal but held that the revised proposals would not require the same level of tree loss and that with the retention of the trees the development of the plot would now be acceptable.

With regard to archaeology, the appellant had submitted an Archaeological Desk Based Assessment, which stated that there was some likelihood of remains being present but that no further investigative work was required prior to determination and a condition for further archaeological assessment would suffice.

The Inspector noted the advice of the County Council's archaeologist that there was high potential for early-medieval period remains, which would be of high significance. The Inspector was minded to agree with this advice, found the desk top study was not sufficient to draw informed conclusions and concluded that a condition would not be appropriate and that an archaeological field evaluation or similar would be necessary prior to determination to ensure sufficient evidence of the archaeological heritage.

The Inspector concluded that the proposal's benefits to housing growth and local business through construction would be limited given the proposal was only for one dwelling and that despite the Council's lack of sufficient housing land supply these benefits were outweighed by the harm to archaeology, and accordingly dismissed the appeal.

3.6.3 18/00059/ENFB - Allowed the appeal by Mr G Payne against the enforcement notice being served on the address of Land at The Digs and The Studio, Heathfield, Kidlington, OX5 3DX for "Without the benefit of planning permission the erection of two units of residential accommodation with associated residential curtilages".
Method of determination: Written Representations
Appeal reference - 21/00001/ENF

The enforcement notice related to the erection of two units of residential accommodation with associated curtilages and was issued following the refusal of a planning application. The use of the two buildings as separate units of accommodation was established, but the Council argued that major re-construction works amounted to the erection of two new dwellings.

The Notice required the demolition of the dwellings and the removal of any walls or fences erected to create the garden area.

The time period given to comply was 12 months.

The appeal was submitted under grounds (a), (c), (f) and (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; (f) that the requirements of the notice are excessive 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 concluded the main issues to be:

- i) whether the development amounts to inappropriate development in the Green Belt;
- ii) the effect of the development on the character and appearance of the surrounding area.

The Inspector concluded that the poor quality of the design and build of the dwellings meant that planning permission should not be granted unless it could in some way be overcome by the imposition of conditions.

In this instance, the Inspector decided that the harm could be overcome and so quashed the Notice, granted planning permission and imposed the following condition:

“Within 6 months of the date of this decision the dormer windows on the rear (southern) roof slope shall be removed, and the resultant voids in the roof shall be made good and covered with slates to match the rest of the roof, except insofar as any rooflights may be installed.”

The Inspector concluded that the ground (b) appeal failed on the following grounds:

“There is no dispute that the building is used as two dwelling houses, and thus I conclude, on the balance of probabilities that, as a matter of fact, the matters alleged in the notice have occurred.”

Given the grant of planning permission under ground (a) the appeals on ground (f) and (g) fall away and have not been considered.

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

- 5.1 **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,
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Legal Implications

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

Comments checked by:

Simon Aley, Solicitor, 01295 221848
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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:

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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:

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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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