

# **Cherwell District Council**

## **Planning Committee**

**9 March 2023**

### **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 decisions received and the scheduling of public inquiries and hearings for new and current appeals.

#### **1.0 Recommendations**

To note the position on planning appeals contained within the report.

#### **2.0 Introduction**

This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress, and determined appeals.

#### **3.0 Report Details**

##### **3.1 New Appeals**

**a) 22/02210/F – 2 Cottage View, Great Close Road, Yarnton, Kidlington, OX5 1QW**

Remove existing garage and rear extension; erection of new single and two storey extensions to provide new garage and additional living space - re-submission of 21/04246/F.

Officer Recommendation: Refusal  
Method of determination: Written Representation  
Start Date: 26/01/2023  
Appeal Reference: 23/00056/REF

**b) 22/02534/F – 46 Dashwood Avenue, Yarnton, Kidlington, OX5 1NJ**

Officer Recommendation: Refused  
Method of Determination: Written Representation (Fast Track)  
Start Date: 26/01/2023  
Appeal Reference Number: 23/00055/REF

Render existing house and retrospective application for front boundary treatment including dwarf wall, pillars, posts, and metal railings.

**c) 22/03009/F – 2 Old Chapel Close, Kidlington, OX5 2HN**

Two Storey Side Extension.

Officer Recommendation: Refusal  
Method of Determination: Written Representation  
Start Date: 09/02/2023  
Appeal Reference Number: 23/00058/F

**d) 22/02121/F – 10 Austin Way, Ambrosden, Bicester, OX25 2DA**

RETROSPECTIVE - Driveway Fence - To restore the property to the intended specification as agreed at the planning stage with the developer. This would take the form of a fence adjacent to the driveway. Side Fence - to replace the existing side fence with a fence of same or lower height, plus a gate to allow a degree of privacy and safety near the highway.

Officer Recommendation: Refusal  
Method of Determination: Written Representation  
Start Date: 02/02/2023  
Appeal Reference Number: 23/00057/REF

**e) 22/01908/TEL56 - Street Record, Lucerne Avenue, Bicester**

Proposed 5G telecoms installation: H3G street pole and additional equipment cabinets.

Officer Recommendation: Refusal  
Method of Determination: Written Representation  
Start Date: 13/02/2023  
Appeal Reference Number: 23/00059/REF

### **3.2 New Enforcement Appeals**

**a) 21/00078/ENF – Cherwell Concrete – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX**

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers and storage tanks.

Officers Recommendation: Enforcement Notice  
Method of Determination: Written Representation  
Start Date: 09/02/2023  
Appeal Reference Number: 23/00061/ENF

**b) 21/00078/ENF – Mr & Mrs Murphy – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX**

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers and storage tanks.

Officers Recommendation: Enforcement Notice  
Method of Determination: Written Representation

### 3.3 Appeals in Progress

**a) 20/01122/F - OS Parcel 9635 North East of HMP Bullingdon Prison, Widnell Lane, Piddington**

Material Change of Use of land to use as a residential caravan site for 12no. gypsy/ traveller families, each with two caravans, including improvement of access, laying of hardstanding and installation of package sewage treatment plant.

Officer recommendation: Refused (Committee)  
Method of determination: Hearing  
Hearing Date: Tuesday 22<sup>nd</sup> November 2022  
Hearing Venue: River Cherwell Meeting Room, Bodicote House  
Start Date: 08.10.2021  
Appeal reference: 21/00033/REF

**b) 20/02192/LB - Manor Farm, Station Road, Hook Norton, OX15 5LS**

Repairs, alterations and extension to dwellinghouse. Alterations to agricultural buildings to facilitate their conversion to ancillary residential use and erection of new buildings to be used ancillary to the dwellinghouse. Associated landscaping.

Officer Recommendation: Refused (Delegated)  
Method of determination: Hearing – 18<sup>th</sup>/19<sup>th</sup> May 2022  
Start Date: 30.11.2021  
Appeal reference: 21/00037/REF

**c) 20/02193/F – Manor Farm, Station Road, Hook Norton, OX15 5LS**

Repairs, alterations and extension to dwellinghouse. Alterations to agricultural buildings to facilitate their conversion to ancillary residential use and erection of new buildings to be used ancillary to the dwellinghouse. Associated landscaping.

Officer Recommendation: Refused (Delegated)  
Method of determination: Hearing – 18<sup>th</sup>/19<sup>th</sup> May 2022  
Start Date: 30.11.2021  
Appeal reference: 21/00036/REF

**d) 21/02986/F – 2 The Orchard, Horton Cum Studley, OX33 1BW**

Two storey rear/side extension and associated internal alterations

Officer recommendation: Refused (Delegated)  
Method of determination: Householder (Fast Track)  
Start Date: 20.04.2022  
Appeal reference: 22/00020/REF

**e) 21/03190/F - Land North of Camp Road, East of Holly Trees and 1 Jalna Lodge, Camp Road, Upper Heyford**

Erection of dwelling, detached garage, widening of vehicular access and all associated works

Officer recommendation: Application not determined

Method of determination: Written Representations

Start Date: 21.06.2022

Appeal reference: 22/00034/NON

**f) 21/03445/F – 41 Fernhill Road, Begbroke, OX5 1RR**

Extension and subdivision into two houses

Officer recommendation: Refused (Delegated)

Method of determination: Written Representations

Start Date: 10.08.2022

Appeal reference: 22/00038/REF

**g) 21/04271/F - Land South of Faraday House, Woodway Road, Sibford Ferris**

Erection of 6 one storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure

Officer recommendation: Approval (Committee)

Method of determination: Written Representations

Start Date: 02.09.2022

Appeal reference: 22/00040/REF

**h) 22/00173/CLUP – 15 Arncott Road, Piddington, OX25 1PS**

Certificate of Lawfulness of Proposed Development for the erection of a wooden workshop to be use for dog grooming services.

Officer recommendation: Refused (Delegated)

Method of determination: Written Representations

Start Date: 05.05.2022

Appeal reference: 22/00023/REF

**i) 22/01488/OUT - OS Parcel 5616 South West Of Huscote Farm And East Of Daventry Road, Banbury.**

Construction of up to 140,000 sq m of employment floorspace (use class B8 with ancillary offices and facilities) and servicing and infrastructure including new site accesses, internal roads and footpaths, landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse.

Officers Recommendation: Application not yet determined.

Method of determination: Public Inquiry.  
Hearing Date: 11 April – 20 April 2023  
Hearing Venue: Banbury Town Council  
Start Date: 21/12/2022.  
Appeal Reference: 22/00053/NON

**j) 21/02573/F – Waverley House, Queens Avenue, Bicester, OX26 2PY**

Demolition of existing building and erection of building to form 48 numbered apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure.

Officer Recommendation: Refusal  
Method of Determination: Hearing  
Hearing Date: 18<sup>th</sup> April 2023  
Hearing Venue: To Be Arranged  
Start Date: 24/01/2023  
Appeal Reference: 23/00054/REF

**3.4 Forthcoming Public Inquiries and Hearings between 12<sup>th</sup> February and 9<sup>th</sup> March 2023**

None.

**3.5 Appeal Results**

Inspectors appointed by the Secretary of State have issued the following decisions:

**a) 21/03177/F – The Planning Inspector allowed the appeal by Albion Land for employment development (Use Classes E(g)(iii), B2 and/or B8) comprising 5 units within 3 buildings and associated parking and servicing, landscaping and associated works at Land West of Howes Lane, Bicester.**

Method of determination: Hearing  
Appeal reference: 22/00045/REF

The Inspector identified that the main issue is whether the proposed development would accord with the Council's development strategy for employment land and housing.

The Inspector found that:

- The Masterplan is embodied within the SPD rather than the Local Plan and therefore it is not part of the development plan and therefore carries comparatively reduced weight.
- Funding for the SLR has been re-allocated to elsewhere in the District and there is no further funding allocated for the SLR. There is no certainty that the SLR will be delivered in the foreseeable future. Whilst the Council stated that they are seeking contributions from developers of other sites within the masterplan area towards the SLR, given the importance of the

SLR in the masterplan, the uncertainty of its funding and therefore its delivery, the weight attributed to the SPD is further reduced.

- The outline permission for 150 dwellings on the site expired in December 2022 and therefore could not be implemented.
- The Residential Viability Report submitted by the Appellant during the appeal process concludes that there would be a substantial viability deficit driven primarily by the abnormal site costs which include road works and the 'true' zero costs of the Eco Town. The Council accepted that there was a need to be more flexible with policy requirements particularly with respect to affordable housing, environmental requirements and eco town build standards. As such, although it was not independently assessed by the Council, the conclusions of the report reflect the Council's experience in this respect. Therefore, even if a transport impact assessment found that a scheme for housing on the site without the SLR would not result in a severe impact, there is no realistic prospect that a policy compliant housing development could be delivered on the site within the next five years. Since housing on the site is not deliverable, the proposal for change of use of the site would not adversely affect the existing housing land supply position for the next five years.

While it is possible that the cost of achieving the net zero requirements could reduce in the future, there is no certainty in this respect. Therefore, together with the uncertainty of the delivery of the SLR, the deliverability of policy compliant housing on the site in the long term is also in doubt. Therefore, the harm that would result from the proposed change of use of the site and resulting conflict with Policy Bicester 1 would be limited.

The benefits of the proposed employment units include a significant number of job opportunities which could be delivered early in the plan period. This would contribute towards the employment requirements set out in Policy Bicester 1 and provide economic benefits during and after construction. The significant benefits compared with the limited harm that would result from the Development Plan conflict are a material consideration which indicate a decision other than in accordance with the development plan.

**b) 21/03925//LB – The Planning Inspector dismissed the appeal by Mr Peter Vance for a proposed single storey extension and installation of a Solar Panels to southern roof slope at Urina Cottage, Chapel Lane, Adderbury, OX17 3LZ.**

Method of determination: Written Representations  
Appeal Reference: 22/00050/REF

The Inspector identified the main issues as whether the proposed development/works would preserve the grade II listed Urina Cottage or its setting and any features of special architectural or historic interest that it possesses and whether the scheme would preserve or enhance the Adderbury Conservation Area.

The inspector found that the extension proposed had a much larger footprint than that it would replace and would further erode the original long and narrow plan form of the property. Moreover, its roof would have a large lantern, flat roof and hipped roof elements giving it a complicated appearance which would be in stark contrast with the traditional architectural form of the grade II listed building.

Regarding the Solar Panels, the inspector found that the proposed panels would have a highly modern appearance and would cover the majority of the large south facing roof slope of the existing first floor extension. Through their scale and highly contemporary appearance they would have a dominant and visually conflicting effect on the listed building. Consequently, the proposed solar panels would have the effect of drawing attention away from the simple traditional architectural detailing of the heritage asset

- c) 22/01585/F – The Planning Inspector allowed the appeal by Mr John Humphreys for a change of use of grass verge/land within the appellant’s ownership to enclosed residential garden area. Erect 1.8m high close board fencing set back from pavement to match existing rear to boundary fencing at 6 Willow Road, Banbury, Oxon, OX16 9EY.**

Method of determination: Written Representation.  
Appeal Reference: 22/00046/REF

The Inspector identified the main issues as the effect of the proposed development on the character and appearance of the area.

The inspector found that the appeal site was small and due to the position of an adjacent wall, it is largely concealed from wider views on Maple Close. Also, the site is not readily visible from wider views on Willow Road, other than from a distance at the entrance to the lane. Accordingly, having regard its size and position in the lane, enclosing the grass verge would not be damaging to the openness experienced at either end of the lane, and it would not detract from the pockets of larger green spaces that add value to the character and appearance to the area. The timber fence would also be of a height that would be comparable to the walls and fences in the immediate vicinity. The comparable height of the fence together with its short length and setback ensures it would not appear as a dominate feature to the users of the lane.

- d) 22/10188/F – The Planning Inspector allowed the appeal by Mr Lee Maskery for the proposed for a Single storey front porch extension and incorporation of garage to provide a utility room and study at 2A Strawberry Hill, Bloxham, Banbury, Oxon, OX15 4NW.**

Method of determination: Written Representation.  
Appeal Reference: 22/00048/REF

The Inspector identified the main issue as the effect of the proposal on the street scene.

The inspector found that the proposed addition would be neither obtrusive nor incongruous and it would fit comfortably in its setting. The Council’s Home Extensions & Alterations Design Guide (2007) acknowledges that extensions to the front of houses can disrupt the pattern of the buildings in the street and obscure the original elevation and so they are generally discouraged. However, he found find no material conflict with this guidance, nor the advice on porches contained in the Cherwell Residential Design Guide Supplementary Planning Document (2018). Although the Council focus on the scale of the proposed porch, as being ‘unusually large’, the porch is but one element of the existing forward projection and a similar component of the proposed extension.

In light of these conclusions the inspector allowed the appeal.

- e) **21/03452/TEL56 – The Planning Inspector dismissed the appeal by CK Hutchison Networks (UK) Ltd for a 15M Phase 8 Monopole coupled with wraparound cabinet at base and associated ancillary works at Station Road, Kirtlington.**

Officer recommendation: Refused (Delegated)  
Method of determination: Written Representations  
Appeal reference: 22/00021/REF

The Planning Inspector identified the main issue as whether the proposed development would preserve or enhance the character or appearance of the Conservation Area.

In conclusion the inspector stated that whilst there would be economic and social benefits associated with the upgrading of telecommunication systems in this area. These aspects weigh favourably but to an extent. He is satisfied that the proposed development would cause harm to the Conservation Area by failing to preserve or enhance its character and appearance and this assessment must be matters of considerable importance and weight. In addition, the development would also be contrary to the Development Plan and Framework.

- f) **22/01404/F – The Planning Inspector allowed the appeal by Mrs T Sharif for a Single storey rear extension and part double storey rear extension at 83 Mold Crescent, Banbury.**

Officer recommendation: Refusal (Delegated)  
Method of determination: Householder (Fast Track)  
Appeal reference: 22/00049/REF

The Planning Inspector identified the main issue as the location of No.83 Mold Crescent in the middle of a terrace of three dwellings and the effect of the proposal on the neighbours at nos. 81 and 85 Mold Crescent, in regard to resulting loss of outlook and light.

In reviewing the Appeal, the Inspector used the Cherwell District Council Home Extensions & Alterations Design Guide as a general guide, and the development plan as a whole, having particular regard to saved Policies C28 and C30 of the Cherwell Local Plan (1996) and Policy ESD 15 of the Cherwell Local Plan (Part 1) (2015).

In terms of the first-floor extension, the design guide points to the acceptability of two storey extensions on the common boundary of up to 2.4 metres in length. Here the proposal is 3.0 metres but set in from each boundary. In such circumstances an assessment of the effect on a neighbour's light and amenity is required based on an angle of 45 degrees taken horizontally from the mid-point of the nearest habitable room window.

In the case of no. 85, the criterion would be met. However, for no. 81 there would be a marginal encroachment of 645mm in relation to a first-floor window. Given that the rear of the dwellings has an open south-easterly aspect, and good length gardens, he considered that the effect of the infringement would be marginal at the very worst and neither dwelling would



experience a significant loss of amenity.

It was found that the proposal as a whole, would not appear imposing and overbearing, resulting in loss of outlook and light, and that there would be no adverse effect on the neighbours at nos. 81 and 85 Mold Crescent. As such, there would be no tangible conflict with the aims of the design guide based on the site-specific circumstances noted.

## **4.0 Conclusion and Reasons for Recommendations**

The report provides the current position on planning appeals which Members are invited to note

## **5.0 Consultation**

None.

## **6.0 Alternative Options and Reasons for Rejection**

None. The report is presented for information.

## **7.0 Implications**

### **7.1 Financial and Resource Implications**

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:  
Kimberley Digweed, Service Accountant  
[kimberley.digweed@cherwell-dc.gov.uk](mailto:kimberley.digweed@cherwell-dc.gov.uk)

### **7.2 Legal Implications**

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

Comments checked by:  
Shahin Ismail, Interim Monitoring Officer – [shahin.ismail@cherwell-dc.gov.uk](mailto:shahin.ismail@cherwell-dc.gov.uk)

### **7.3 Risk Implications**

This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation. Any arising risk will be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary.

Comments checked by:  
Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556  
[Celia.Prado-Teeling@Cherwell-dc.gov.uk](mailto:Celia.Prado-Teeling@Cherwell-dc.gov.uk)

## 7.4 Equality & Diversity Implications

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:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556

[Celia.Prado-Teeling@Cherwell-dc.gov.uk](mailto:Celia.Prado-Teeling@Cherwell-dc.gov.uk)

## 7.5 Decision Information

### Key Decision:

Financial Threshold Met: No

Community Impact Threshold Met: No

### Wards Affected

All

### Links to Corporate Plan and Policy Framework

Business Plan Priorities 2022-2023:

- Housing that meets your needs
- Supporting environmental sustainability
- An enterprising economy with strong and vibrant local centres
- Healthy, resilient, and engaged communities

### Lead Councillor

Councillor Colin Clarke, Portfolio Holder for Planning

### Document Information

None

### Background papers

None

### Report Author and contact details

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