

# **Cherwell District Council**

## **Planning Committee**

**10 August 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**

The meeting is recommended:

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

#### **2.0 Introduction**

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

#### **3.0 Report Details**

##### **New Appeals**

- 3.1. 22/03741/F – Land Adj to Wise Crescent, Opposite The Laurels, Fringford, Oxon, OX27 8DZ.

Erection of 6 one and a half and two storey dwellings, with the construction of new access and footpath, together with carports, parking, landscaping and all enabling works

Officers Recommendation: Refusal (Delegated)

Application Reference: 22/03741/F

Appeal Reference: 23/00087/REF

Start Date: 11.07.2023.

##### **New Enforcement Appeals**

- 3.2. None

##### **Appeals in Progress**

**3.3. 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: 09.002.2023.  
Appeal Reference Number: 23/00061/ENF

**3.4. 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  
Start Date: 09.02.2023.  
Appeal Reference Number: 23/00060/ENF

**3.5. 21/03066/OUT – Land North of Banbury Road, Finmere, MK18 4BW**

OUTLINE application for up to 30 Dwellings and detailed access from Banbury Road, with all other matters reserved.

Officers Recommendations: Refusal (Committee)  
Method of Determination: Hearing.  
Start Date: 09/03/2023.  
Appeal Reference: 23/00065/REF

**3.6. 22/01696/LB – Rectory Farmhouse, Back Lane, Epwell, Banbury, OX15 6LG**

Insertion of a dormer window to roof of existing lean-to extension to rear of listed farmhouse.

Officers Recommendation: Refusal  
Method of Determination: Written Representation.  
Start Date: 20.04.2023.  
Appeal Reference: 23/00070/REF

**3.7. RETROSPECTIVE – Replacement of 7FT high, 5FT wide conifer hedge with 3 fence panels with concrete posts.**

Officers Recommendation: Refusal.  
Method of Determination: Written Representation.  
Start Date: 26.04.2023.  
Appeal Reference: 23/0007/REF

**3.8. 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

**3.9. 22/02403/F – 19 Fairford Way, Bicester, Oxon, OX26 4YG.**

RETROSPECTIVE - Change of Use from amenity land to domestic garden and erection of fence along the boundary line adjacent to footpath.

Officers Recommendation: Refusal.  
Method of Determination: Written Representation.  
Start Date: 18.05.2023.  
Appeal Reference: 23/00073/REF

**3.10. 22/02969/F – Attock House, Church Lane, Horton-Cum-Studley, Oxford, OX33 1AW.**

Ground floor extension to the rear with a green roof and roof light.

Officers Recommendation: Refusal.  
Method of Determination: Written Representation (Fast Track)  
Start Date: 18.05.2023.  
Appeal Reference: 23/00074/REF

**3.11. 22/02000/TEL56 – Area of Grass Verge, Peregrine Way, Langford Village, Bicester, Oxon, OX26 6XB.**

Proposed 5G telecoms installation: 16m street pole and 3 additional ancillary equipment cabinets and associated ancillary works.

Officers Recommendation: Refused (Delegated)  
Method of Determination: Written Representations  
Start Date: 06.06.2023.  
Appeal reference: 23/00075/REF

**3.12. 22/02773/F – 4 Manor Road, Fringford Bicester, OX27 8DH.**

First floor extension above existing lounge; extension to rear of existing garage to provide utility/workshop space with home-working office above and link to main house. New pedestrian access gate to front. PV panels to new south facing roof. New external boiler, oil tank and rainwater harvesting tank.

Officers Recommendation: Refusal (Delegated)  
Method of Determination: Householder Appeal (HAS)  
Start Date: 15.06.2023.  
Appeal Reference: 23/00076/REF

**3.13. 22/03716/F – Jackdaw, Horton-Cum-Studley, Oxford, OX33 1AY.**

Erection of a close boarded timber fence on western boundary (Retrospective)

Officers Recommendation: Refused (Delegated)

Method of Determination: Written Representation.  
Start Date: 15.06.2023.  
Appeal Reference: 23/00077/REF

**3.14. 22/02637/F – Chapel Cottage, Wroxton Lane, Horley, Banbury, OX15 6BD.**

Single-storey rear extension, removal of an existing door to create opening and removal of the window, and cut down of wall to FFL. (resubmission of 21/02720/F)

Officers Recommendation: Refused (Delegated)  
Method of Determination: Written Representation.  
Start Date: 15.06.2023.  
Appeal Reference: 23/00078/REF

**3.15. 23/00519/F – 44 Shearwater Drive, Bicester, OX26 6YS.**

Extension to domestic dwelling – extend at the rear and side of property to create open plan kitchen and orangery to the ground floor and additional two bedrooms to the first floor above the garage.

Officers Recommendation: Refused (Delegated)  
Method of Determination: Written Representation.  
Start Date: 15.06.2023.  
Appeal Reference: 23/00079/REF

**3.16. 23/00150/CLUE – Unit 22 Beaumont Close, Banbury, Oxon, OX16 1SH.**

Certificate of Lawfulness for the Existing Development: Implementation of planning permission 18/01366/F subsequent to 20/00046/DISC. Erection of 10 small commercial units (B2/B8) with associated car parking and landscaping - (resubmission of 22/00193/CLUE)

Officers Recommendation: Refusal (Delegated)  
Method of Determination: Written Representation.  
Start Date: 15.06.2023.  
Appeal Reference: 23/00080/REF

**3.17. 22/03215/PIP – Land West of School Lane & Foxden Way, Great Bourton, Bourton, OX17 1R.**

Application for permission in principle for the proposed development of 4-5 bungalows

Officers Recommendation: Refusal (Delegated)  
Method of Determination: Written Representation.  
Start Date: 16.06.2023.  
Appeal Reference: 23/00082/REF.

**3.18. 21/01561/F - Allotment Gardens West Of Roebuck Inn And South East Of The Blinking Owl Ph, Banbury Road, North Newington, OX15 6AB**

Erection of one detached dwelling and detached garage

Officers Recommendation: Refusal (Committee)

Method of Determination: Written Representation.  
Start Date: 19.06.2023.  
Appeal Reference: 23/00084/REF

**3.19. 23/00149/F – 3 Byron Way, Bicester, Oxon, OX26 2YP**

Single Storey Detached Garage.

Officers Recommendation: Refusal (Delegated)  
Method of Determination: Written Representation.  
Start Date: 16.06.2023.  
Appeal Reference: 23/00063/REF

**3.20. 22/02832/TEL56 - Telecommunications Cabinet CWL18723 H3G Network, The Hale Chesterton.**

Proposed 15.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

Officers Recommendation: Refusal (Delegated)  
Method of Determination: Written Representation.  
Start Date: 22.06.2023.  
Appeals Reference: 23/00085/REF.

**3.21. 22/00998/REF - Land North East Of Fringford Study Centre Adjoining Rectory Lane, Fringford.**

Erection of a 4-bedroom detached dwelling with garage and access.

Officers Recommendation: Refusal (Committee)  
Method of Determination: Written Representation.  
Start Date: 27.06.2023.  
Appeal Reference: 23/00086/REF.

**3.22. 22/01980/F - The Paddock, Main Street, Great Bourton, Yarnton, Kidlington,**

Change of Use of land to mixed use for keeping of horses (existing) and as a residential caravan site for 3 gypsy/traveller families, each with a static caravan/mobile home, together with storage of touring caravan and laying of additional hardstanding.

Officer recommendation: Refusal.  
Method of determination: Hearing.  
Hearing Date: 03.10. 2023.  
Hearing Venue: Council Chambers, Bodicote House.  
Start Date:05.04.2023.  
Appeal Reference: 23/00079/REF

**3.23. Forth Coming Public Inquiries and Hearings between 11 August 2023 and 7 September 2023**

None

### 3.24. Appeal Results

#### 3.25. **22/01645/OUT – The Planning Inspector DISMISSED the Appeal by NYC Estates for Outline application for the erection of 5 dwellings with all matters reserved except for the principal means of access to Fulwell Road at Part of Parcel 01621, Fulwell Road, Finmere, Bucks.**

Officers Recommendation: Refused (Delegated)  
Method of Determination: Written Representation.  
Start Date 27/03/2023.  
Appeal Reference: 23/00068/REF.

Whilst there are limited facilities in Finmere, the proposals would support the NPPF which promotes the development of housing where it will enhance or maintain the vitality of rural communities, especially where they would support local services and would avoid the development of isolated homes. The dependency on private cars for a portion of their day-to-day activities was noted, however this was balanced with the proximity of other larger towns with ample services and employment opportunities. The Inspector concluded there was no harm in terms of the principle of the location of the appeal and the small scale of the development (5 dwellings) was a key factor in this conclusion.

Whilst the Inspector noted the proposals included the introduction of soft landscaping, the construction of a significant built form with the subdivision of the agricultural field and its development with five dwellings and associated features, including large areas of hardstanding would urbanise the plot. Although the proposal would have a linear pattern of development, it would significantly diminish the contribution that the site makes to the villages rural setting. The proposal would therefore visually intrude into the open countryside and would greatly reduce the sense of openness on approach to the village.

The appeal was dismissed for the harm to the local character as the benefits of the proposals and did not outweigh this harm.

#### 3.26. **22/01772/PIP – The Planning Inspector DISMISSED the Appeal by SGJ Limited for Residential Development of 2-3 dwellings at Land to Rear of Bridge House, Main Street, Wendlebury, OX25 2PW.**

Officers Recommendation: Refused (Delegated)  
Method of Determination: Written Representation.  
Start Date: 13/03/2023.  
Appeal Reference: 23/00067/REF

The appeal was for an application for permission in principle for the construction of 2-3 dwellings. Officers recommended that the application The site is situated behind the Lion Pub in Wendlebury. The site is currently a paddock land. Wendlebury is a Cat C village, which only allows for infilling and conversions. At the time of the decision CDC did not have a 5-year housing land supply and at the time the appeal was heard the housing land supply changed. The inspector agreed paragraph 11d was not engaged.

The Planning Inspector agreed the development would not be infilling as it would not result in a continuous built-up frontage, it would extend the built-up limits of Wendlebury. The principle of development would be against Policy Villages 1 of the CLP 2011-2031 and Saved Policy H18 of CLP 1996.

In addition, the Planning Inspector agreed that it would be likely the residents would be largely dependent on travel by car, due to the residents will not cycle in hours of darkness

and poor weather, and the lack of accessible bus service. The location of the site would undermine the Council's plan-led approach to the delivery of housing, and its reliance on private cars.

The inspector, therefore, dismissed the application.

**3.27. 21/01630/OUT – The Planning Inspector ALLOWED the appeal by Firethorn Development Ltd - Land at Northwest Bicester. Home Farm, Lower Farm and SGR2 Caversfield.**

Outline planning application for up to 530 residential dwellings (within Use Class C3), open space provision, access, drainage and all associated works and operations including but not limited to demolition, earthworks, and engineering operations, with the details of appearance, landscaping, layout, and scale reserved for later determination.

Officer Recommendation: Approval  
Planning Committee Would have refused.  
Method of determination: Inquiry.  
Start Date: 16.02.2023.  
Appeal Reference Number: 23/00062/NON

In February, Firethorn Trust (the Appellant) appealed to the planning inspectorate over Cherwell District Council's non-determination of a proposal for 530 homes on the site.

At that time the application fell short of meeting the Council's policy requirements for this important strategic site and, in March, the planning committee resolved that had the decision rested with them, they would have refused the application. They advised that they would have refused the application on the grounds of:

- a. A failure to meet the requirements of Policy Bicester 1 in relation to the requirement to achieve a true carbon zero scheme as defined in that policy;
- b. A failure to meet the requirements of Policy Bicester 1 and BSC3 in relation to providing as much affordable housing as it is viable to provide;
- c. Causing the unacceptable, and unnecessary, loss of street trees on Charlotte Avenue via highways works;
- d. failing to demonstrate an absence of a severe transport effect given failures in highways modelling; and
- e. A failure to fully mitigate adverse impacts on infrastructure including education, strategic highways and others.

Subsequently, the Appellant then challenged the Council's Five Year Housing Land Supply position.

However, in the build-up to the Public Inquiry, the Council's planning officers engaged in detailed and comprehensive negotiations with the Appellant. The end result of these debates and negotiations was that the Appellant's team were able to significantly change

their position (through additional assurances and evidence submitted to the Council) and address and, eventually, overcome the Council's five putative reasons for refusal. This allowed the Council to remove all five putative reasons for refusal by the time the Inquiry opened.

The Council's five putative reasons for refusal were overcome by:

1. The Appellant agreeing to a suitably worded condition, and supporting planning obligation, which combine to ensure the scheme will deliver a True Zero Carbon Development
2. The Appellant provided an assurance via revised indicative plans, and precise terms within the s.106 agreement, that any highways scheme in relation to Charlotte Avenue would not cause damage to or result in the loss of the existing trees
3. The Appellant provided more comprehensive traffic modelling work which (after careful scrutiny) the Council's Highways Consultant concluded now demonstrated that this proposal will not result in severe impact on the local highways network
4. The Appellant agreed that it is necessary and reasonable to include two viability review mechanisms within the s.106 agreement to ensure that any shortfall in affordable housing provision is captured should the viability picture change during the build out stages.
5. The Appellant, having previously contested the proposed planning obligations, no longer raised any challenge to any of the obligations and agreed that these should be imposed.

Although agreement had now been reached between the two main parties on all the substantive points, the Inspector still needed to satisfy herself that she was comfortable and in agreement with what was now proposed.

I am pleased to say that the Inspector was in agreement with the revised position. For ease of reference, the key elements of the Inspector's decision are:

1. The Inspector found that all the obligations in the S106 Agreement meet the relevant CIL tests and remain enforceable
2. The Inspector accepted that the viability review mechanisms were needed to secure further affordable housing provisions, and their inclusion in the s.106 agreement weighed in favour of the scheme
3. The Inspector was satisfied that the True Zero Carbon cascade mechanism would ensure that a true zero carbon development would be delivered
4. The Inspector agreed that the revised Highways Safety plans relating to Charlotte Avenue, along with bespoke wording in the S106 Agreement, would mean that none of the existing trees on Charlotte Avenue would be damaged or lost.
5. The Inspector also concluded that, following the submission of further modelling work, the development would not result in severe transport harm
6. The Inspector considered that, given the evidence that underpins the Council's Five Year Housing Land Supply, she had no reason to dispute the Council's Five Year housing land position.

In short, by supporting these key conditions and obligations, the Inspector has granted permission for a scheme which is now in line with an up to date set of policies and, most importantly, Policy Bicester 1 of the Local Plan, whilst also accepting that the Council currently has a five year housing land supply.



### **3.28. 22/01354/OUT – The Planning Inspector DISMISSED the appeal at 6 Goldsmith Close, Bicester**

The Planning Inspector has dismissed this appeal.

The Appellant had sought planning permission for a new single dwelling in the side garden of an existing property. Prior to the appeal, it had been refused by the Council for the following reasons:

- a. Material harm to the character and appearance of the surrounding area*
- b. Harmful impact on the daylight, sunlight and outlook levels current experienced by the occupiers of 7 Goldsmith Close*

In their Statement of Case, the Appellant had argued that a similar proposal had been allowed on appeal elsewhere in Bicester (6 Chaucer Close).

The Inspector, in reaching her decision, concluded that:

- The proposal would unacceptably harm the character and appearance of the surrounding area. The Inspector commented that the building would occupy a welcome gap between No.6 & No.7 Goldsmith Close, result in a cramped appearance to the front of the appeal site, and not leave enough space for a meaningful landscaping scheme.
- The appeal scheme would have an impact on the neighbouring occupiers with respect to outlook. However, the Inspector took the view that, as it is an Outline application, and the scale, height and layout would be dealt with during the reserved matters stage, then any potential impact on the private amenities of the neighbouring occupiers could be avoided and addressed at that stage.
- The Appellant's reference to another scheme in the surrounding area was not relevant to this appeal site because each application is assessed on its own merits
- The fall back position of sub-dividing the existing house would be a better development than the appeal scheme, and have "considerably less impact" on the surrounding area and the neighbouring occupiers of No.7 Goldsmith Close.

Overall, the Inspector found against the scheme in principle, and concluded that a new dwelling in this location would be "*at the expense of achieving good design*".

## **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:

Kelly Wheeler-Finance Business Partner, 01295 221570

[Kelly.wheeler@cherwell-dc.gov.uk](mailto:Kelly.wheeler@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

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## 7.3 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

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## 8.0 Decision Information

**Key Decision:**

**Financial Threshold Met: N/A**

**Community Impact Threshold Met: N/A**

**Wards Affected**

Various, depending on appeal.

**Links to Corporate Plan and Policy Framework**

N/A

**Lead Councillor**

Councillor Daniel Sames, Portfolio Holder for Planning

**Document Information**

**Appendix Number and Title**

None

**Background papers**

None

**Report Author and contact details.**

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