

Cherwell District Council

Planning Committee

7 December 2023

Appeals 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 **23/00797/ADV – Land on South West Side of Gatteridge Street, Banbury, OX16 5DH.**

Erection of 1no internally illuminated freestanding digital advertisement display.

Officers Recommendation: Refusal (Delegated)

Method of Determination: Written Representation (CAS)

Start Date: 25.10.2023.

Appeal Reference: 23/00099/REF.

3.2 22/03445/F – The Bungalow, 2 Queen Street, Bloxham, Banbury, OX15 4QQ.

Single storey reduced level extension to existing bungalow, with associated landscaping.

Officers Recommendation: Refused (Committee)
Method of Determination: Written Representations (HAS)
Start Date: 27.10.2023.
Appeal Reference: 23/00100/REF.

3.3 22/02551/F – 15 Farmfield Road, Banbury, Oxon, OX16 9AP.

Demolition of 2 garages and replacement with 2 x 2-bedroom semi-detached dwellings, with access off Beechfield Crescent.

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representations.
Start Date 31.10.2023.
Appeal Reference: 23/0010/REF.

3.4 21/03522/OUT - Os Parcel 3673 Adjoining And West Of 161 Rutten Lane, Yarnton, OX5 1LT.

The erection of up to 540 dwellings (Class C3), up to 9,000sqm GEA of elderly/extra care residential floorspace (Class C2), a Community Home Work Hub (up to 200sqm)(Class E), alongside the creation of two locally equipped areas for play, one NEAP, up to 1.8 hectares of playing pitches and amenity space for the William Fletcher Primary School, two vehicular access points, green infrastructure, areas of public open space, two community woodland areas, a local nature reserve, footpaths, tree planting, restoration of historic hedgerow, and associated works.

All matters are reserved, save for the principal access points.

Officers Recommendation: Would have Refusal (Committee)
Method of Determination: Public Inquiry.
Start Date: 01.11.2023.
Appeal Reference: 23/00102/REF.

3.5 23/00173/OUT – Land South of Green Lane, Chesterton, OX26 1DF.

Outline planning application for up to 147 homes, public open space, flexible recreational playing field area and sports pitches with associated car parking, alongside landscaping, ecological enhancements, SuDs, green/blue and hard infrastructure, with vehicular and pedestrian/cycle accesses, and all associated works (all matters reserved except for means of access)

Officers Recommendation: Refusal (Committee)
Method of Determination: Public Inquiry.
Start Date: 02.11.2023.
Appeal Reference Number: 23/00103/REF

New Enforcement Appeals

3.6 21/00333/ENF – Fairway Cottage, Main Road, Swalcliffe, Banbury, Oxon, OX15 5HB.

Without planning permission, the construction of a timber outbuilding and associated engineering operations, including the raising of land levels and the construction of a retaining wall, as shown edged in blue on the attached plan titled 'Location Plan'.

Officers Recommendation: Enforcement Notice.
Method of Determination: Written Representation.
Start Date: 10.11.2023.
Appeal Reference: 23/000104/ENF

Appeals in Progress

3.7 22/02104/F - Land to The Rear of No.12 And South of Dismantled Railway, Heath Close, Milcombe, OX15 4RZ.

Erection of 35 two storey dwelling houses, construction of access off Rye Hill, together with garaging, parking, open space with LAP, landscaping and all enabling works.

Officers Recommendation: Refusal (Committee)
Method of Determination: Hearing. (1 Day)
Hearing Date: 18/10/2023.
Application Reference: 22/02104/F
Appeal Reference: 23/00088/REF
Start Date: 08.08.2023.

3.8 21/04289/OUT - OS Parcel 1570 Adjoining and West of Chilgrove Drive And Adjoining And North of Camp Road, Heyford Park.

Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access.

Officers Recommendation: Refusal (Committee)
Method of Determination: Inquiry (5 Day)
Hearing Date: 05/12/2023.
Application Reference: 21/04289/OUT
Appeal Reference: 23/00089/REF
Start Date: 14.08.2023.

3.9 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

3.10 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

3.11 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

3.12 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

3.13 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

3.14 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.

3.15 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)
Method of determination: Hearing
Hearing Date: 25.10.2023
Hearing Venue: Council Chambers, Bodicote House
Application Reference: 22/03741/F
Appeal Reference: 23/00087/REF
Start Date: 11.07.2023.

3.16 20/00236/ENF - Ambrosden Post Office and Newsagents, Post Office, Merton Road, Ambrosden, Bicester, OX25 2LX.

Breach of Condition 8 - 01/00694/F – Parking.

Officers Recommendation: Enforcement Notice.
Method of Determination: Written Representation.
Start Date: 13th September 2022
Appeal Reference: 22/00043ENF

3.17 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

3.18 23/00662/F - The Pheasant Pluckers Inn, Burdrop, Banbury, OX15 5RQ

RETROSPECTIVE - Change of Use of public house (Sui Generis) to hotel/bed and breakfast (Class C1)

Officers Recommendations: (Application did not pass Validation)
Method of Determination: Written Representations
Appeal against non-determination
Start Date: 13/09/2023.
Appeal reference: 23/00092/NON

3.19 22/03802/OUT - Part Of OS Parcel 8752 East Of Combe Cottage And South Of St Johns Way, Hempton Road, Hempton.

Outline planning application for the erection of up to 9 dwellings and creation of associated vehicular and pedestrian access onto Hempton Road, highway improvements, parking, landscaping, drainage features, open space, and associated infrastructure, with all matters to be reserved except new vehicular access into the site from Hempton Road - all matters reserved except for access.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Hearing (1 Day)
Hearing Date: 14/11/2023.
Hearing Venue: Council Chambers.
Planning Reference: 22/03802/OUT
Appeal Reference: 23/00091/REF
Start Date: 22/08/2023.

3.20 22/02866/OUT – Land East of Ploughley Road, Ambrosden.

OUTLINE planning application for up to 120 dwellings, vehicular and pedestrian access off Ploughley Road, new pedestrian access to West Hawthorn Road, surface water drainage, foul water drainage, landscaping, public open space, biodiversity and associated infrastructure. Access off Ploughley Road is not reserved for future consideration.

Officers Recommendation: Refusal (Committee)
Method of Determination: Inquiry (5Days)
Appeal Reference: 23/00091/REF
Start Date: 22/08/2023.

3.21 23/0086/FULL – 67 Oxford Road, Banbury, Oxon, OX16 9AJ

Conversion from 10-bed HMO to 12-bed HMO (Sui Generis) (Resubmission of 23/00120/F)

Confirmation of Valid Appeal by PINS. Awaiting Start Letter.

3.22 23/00676/F – 12 Mill Close, Charlton on Otmoor, Kidlington, OX5 2UE.

Remove rear conservatory and outbuilding. Remove concrete garage, timber shed and greenhouses. Construct new two storey side and rear extension, with lean-to single storey infill to rear.

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representation.
Start Date: 20.09.2023.
Appeal Reference: 23/00093/REF

3.23 22/03698/TEL – Area of Grass Verge, Austins Way, Hook Norton.

5G telecoms installation: H3G 15m street pole and additional equipment cabinets.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representations.
Start Date: 20.09.2023.
Appeal Reference: 23/00094/REF

3.24 23/000176/F – 1 School Paddock, Bucknell, OX27 7LR.

Variation of Condition 2 (plans) of 21/03977/F - minor alteration to position of the garage, small increase in width, modest increase in ridge height.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 21.09.2023.
Appeal Reference: 23/00095/REF

3.25 23/00065/OUT – Land North of Ells Lane, Bloxham, Banbury, Oxon.

Outline planning permission for up to 30 dwellings including access off Ells Lane and demolition of the existing stabling on site - All Matters Reserved except for access.

Officers Recommendation: Refusal (Committee)
Method of Determination: 1 Day Hearing.
Start Date: 02.10.2023.
Appeal Reference: 23/00097/REF

3.26 23/00987/F – 67 The Fairway, Banbury, Oxon, OX16 0RR.

Single Storey Rear Extension.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation (HAS)
Start Date: 03.10.2023.
Appeal Reference: 23/00098/REF
Appeal Withdrawn – 14.10.2023.

Forthcoming Public Inquiries and Hearings between 7 December 2023 and January 2024.

3.27 21/04289/OUT - OS Parcel 1570 Adjoining and West of Chilgrove Drive And Adjoining And North of Camp Road, Heyford Park.

Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access.

Officers Recommendation: Refusal (Committee)
Method of Determination: Inquiry (8 Days)
Hearing Date: 05/12/2023.
Application Reference: 21/04289/OUT
Appeal Reference: 23/00089/REF
Start Date: 14.08.2023.
Venue: Council Chambers.

Appeal Results

3.28 22/02832/TEL56 -The Inspector dismissed the appeal by CK Hutchison Networks (UK) Ltd for proposed telecommunications installation: proposed 15.0m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works at The Hale, Chesterton, OX26 1UJ.

Method of determination: Written representation

Appeal Reference: 22/00085/REF

The Inspector identified the main issue as the effect of the siting and appearance of the proposed development on the character and appearance of the area, including the effect on the setting of the Chesterton Conservation Area.

The Inspector found that the abundance of greenery and tree cover on the edge of the village together with the areas of open, undeveloped space provide a spacious and verdant setting which positively contributes to the significance of the

Conservation Area. Whilst there is existing street furniture including road signs and lighting columns located in the vicinity of the appeal site, that provide a degree of verticality, by virtue of their height and scale, they are not overly prominent in the streetscene which is open and verdant. At 15 metres in height, the proposed monopole would exceed the height of the existing street furniture by a significant margin and be conspicuously tall. Whilst recognising that the equipment has been designed to utilise the existing natural screening, it would nevertheless read as a highly obtrusive, utilitarian addition to the streetscene, particularly in the winter months when the tree canopies are reduced. Further, despite being described as slimline by the appellant, the monopole would be substantially wider than the other vertical structures in the immediate area, resulting in a bulky and unduly dominant development. In addition, whilst the appellant contends that the ground based cabinets are permitted development, they are identified on the submitted plans, and in combination with the monopole, the Inspector considered would result in the undesirable accumulation of unsightly clutter on a generally verdant, open area of verge, and the prominent roadside location would contribute to the visual dominance of the proposal as perceived by passers-by.

In addition, the Inspector considered that there was no substantive evidence to sufficiently demonstrate why the option of moving the equipment along the road, as set out in the Council's delegated report, would not be possible. Based on the available evidence, the Inspector was not persuaded that the proposed location would be the least harmful in the locality. Further, whilst unfortunate, the lack of pre-application advice with the Council had no bearing on the Inspector's consideration of the planning merits of the proposal. The Inspector acknowledged that the height of the monopole had been reduced, that it would not impact the free flow of pedestrians and that there were no objections from consultees. The development would also not harm the setting of any listed buildings or neighbouring properties, although these were considered to be neutral factors that do not weigh in favour of the proposal.

The Inspector considered that the GPDO does not provide any specific authority for imposing additional conditions beyond those set out by Class A and that they were therefore unable to impose a condition regarding the external finish.

The Inspector concluded that the proposed development would erode the verdant and spacious setting of the Conservation Area, negatively affecting the significance of a designated heritage asset. The harm caused was found to be less than substantial. The social and economic benefits of improved connectivity were public benefits weighing in favour of the scheme and the Inspector afforded these moderate weight. However, these benefits would not outweigh the less than substantial harm that the proposal would cause to the setting of the Conservation Area, to which the Inspector attached great weight. The Inspector considered that the proposal would fail to satisfy the requirements of paragraph 197 of the Framework, and would conflict with Local Plan Policies ESD 15 and Saved Policies C28 and C39 of the Cherwell Local Plan 1996.

- 3.29 **22/01980/F – The Inspector Allowed the appeal by Mr for the 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 at The Paddock, Main Street, Great Bourton, Oxon, OX17 1QL.**

Officer recommendation: Refusal.
Method of determination: Hearing.

Inspector Elizabeth Pleasant considered that the main issues were:

- A. Effect on the character and appearance of the area.
- B. Whether the development would provide acceptable living conditions for future residents.
- C. Whether there would be unacceptable risk of flooding; and
- D. Whether the needs of gypsies and travellers for sites were adequately provided for.

Issue A: Although in a rural, open countryside location where there would inevitably be some landscape impact with encroachment into the countryside, the Inspector noted that the NPPF and national Planning Policy for Traveller Sites do not object in principle to gypsy and traveller development in rural areas. From her site inspection, she concluded that the site was “*well screened*”, was “*well related to existing built development on the site and to the adjoining caravan site*” and “*would not be visually conspicuous*” so concluded that any harm would be “*localised*” and impacts could be mitigated.

Issue B: The Inspector concluded that “*the size of the site [and] pitches would not be cramped...would not preclude outdoor play...[and]...the adjoining paddock would provide space for outdoor recreation*” so concluded that the site would provide acceptable living conditions/environment for gypsies and travellers.

Issue C: Whilst the site was shown to be susceptible to flooding, the Inspector noted that the land lay in EA Flood Zone 1 (land at least flood risk) and concluded that she was satisfied that a technical solution could be found to deal with any increase in surface water and that could be secured by a condition.

Issue D: With respect to land supply for gypsies and travellers, having reviewed the published needs from 2017 and 2021 against the number of subsequent losses and additions, the Council had to concede a shortfall of three (3no.) pitches as required by Policy BSC6 in the 2015 Local Plan and the Inspector attached significant weight to that shortfall.

Having concluded that there would be no material harm in respect to Issues A, B and C and with an acknowledged shortfall in pitch provision on sites to satisfy needs, the Inspector allowed this appeal and granted conditional planning permission for three gypsy/traveller static caravan/mobile homes together with storage of up to 3 touring caravans and the laying of additional hardstanding.

On the basis of this appeal decision, the Council no longer has a shortfall in provision, as the three-pitch shortfall has now been satisfied by this new consent.

- 3.30 22/00998/F – The Inspector Allowed the appeal by Mr A Bradbury for the erection of a 4 bedroom detached dwelling with garage and access st Land North East of Fringford Study Centre Adjoining Rectory Lane, Fringford, Oxon.

The application sought to gain permission for the construction of a single four-bedroom detached dwelling with garage and access. Officers recommended approval of the scheme, following a similar application in 2020 which was dismissed at appeal on Archaeology grounds. The Inspector in the 2021 appeal considered

that the proposal was acceptable on character and appearance grounds. The Committee in determining the 2022 application, opted to refuse permission on the basis that the proposal would have an unacceptable impact on the character and appearance of the area, would result in significant harm to the verdant setting of the site and the open, rural character of the area and would result in the unacceptable loss of an undeveloped gap impacting on the existing loose-knit character of the area.

The Inspector considered that given the extent of landscaping to be retained, the verdant character of the site would be maintained and would not read as an overly intensive form of development. Further, that the removal of the dwarf wall would not be to the detriment of the site's immediate surroundings nor the character and appearance of the wider locale. The Inspector also considered that the proposal would be contextually in-keeping with the surrounding area. The Inspector concluded that the proposal would not harm the character and appearance of the area and therefore upheld the appeal.

The applicant was awarded costs. The Inspector noted that Council Members have the discretion to reject a recommendation put to them by professional officers, however the reasoning for a subsequent refusal of planning permission needs to stand up to scrutiny and be supported by robust objective evidence. The Inspector concluded that no credible evidence was provided to satisfactorily explain the rejection of the conclusion set out within the Officer's report and thus there was no reasonable basis for the Council to justify a refusal of the planning application on the grounds of character appearance.

3.31 21/03066/OUT – The Inspector Dismissed the Appeal by Miss Katie Christou for an Outline application for up to 30 Dwellings and detached access from Banbury Road with all other matters reserved at Land West of Chinnalls Close Adjoining to Banbury Road, Finmere.

This was an application that was refused by members, due to its unsustainable location with regard to the local services. The refusal of the application included other matters such as archaeology and a S106, however, these matters were addressed prior to the hearing. The appellants did not argue a 5 year housing land supply, as this was agreed upon prior to the hearing taking place.

The Planning Inspectorate noted that the development in Finmere has been small-scale and linear in nature, commensurate with its very limited range of facilities. Overall, the application was dismissed due to the overall size of the development would be too large in relation to the range of local facilities. Therefore the residents would be dependent on the motor vehicle. The appeal was therefore dismissed, the benefits would not outweigh the fundamental objection of providing too many homes in a village with too few facilities.

4.0 Conclusion and Reasons for Recommendations

- 4.1 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

- 6.1 None. This report is submitted for information.

7.0 Implications

Financial and Resource Implications

- 7.1 The cost of defending appeals is met from existing budgets other than in extraordinary circumstances.

Significant levels of appeals have now been submitted against the Council that means the budget provision for the 2023/24 is forecast to be exceeded by £313k.

This is being mitigated by an allocation from the Appeals Reserve of £209k (subject to approval from the Executive). The balance of £104k will need to be addressed by identifying underspends across the Council.

Any further appeals submitted against the Council will result in further mitigations needing to be identified to meet these additional costs.

Comments checked by:
Kelly Wheeler
Finance Business Partner
kelly.wheeler@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:
Shahin Ismail, Interim Head of Legal Services,
shahin.ismail@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. 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

Equalities and Inclusion 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:

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

Celia.Prado-Teeling@Cherwell-dc.gov.uk

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

Sarah Gevaux, Appeals Administrator, sarah.gevaux@cherwell-DC.gov.uk

Paul Seckington, Development Management paul.seckington@cherwell-gov.uk