

Planning Committee

Appeals Progress Report

3 November 2011

Report of Development Control Team Leader

PURPOSE OF REPORT

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled or appeal results achieved.

This report is public

Recommendations

The Planning Committee is recommended to:

- (1) Accept the position statement.

Details

New Appeals

- 1.1 **11/00164/ECOU- Unit 3A Bessemer Close Bicester**- appeal by Mr Paul Jobling against the service of an enforcement notice alleging a breach of planning control namely, without planning permission, there has been a change of use of the land from B8 (storage and distribution) to B2 (General Industrial)- Written Reps
- 1.2 **11/00837/F – Fenbury, South Newington**- appeal by Mr S Smith against the refusal of planning permission for the erection of a conservatory to the side – Written Reps
- 1.3 **11/00279/F – 31 North Street Bicester**- appeal by Mr J Blunsden against the refusal of planning permission for the demolition of existing rear extensions and outbuildings and removal of prefabricated garaging. Development of 3 no.dwellings incorporating the original dwelling- Written Reps

- 1.4 **11/00927/F- Pear Tree Cottage, West Street, Shutford** – appeal by Ms S Callan against the refusal of planning permission for a first floor side extension- Written Reps

Forthcoming Public Inquiries and Hearings between 3 November 2011 and 1 December 2011

- 2.1 None

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Allowed the appeal by Mr David Goddard against the refusal of application 10/00839/F for the change of use of land for British Romany Gypsy families comprising 8 mobile homes, 8 touring caravans for nomadic use only and 8 utility day rooms at OS Parcel 2678 adjoining A34 by Hampton Gay and Poyle (Committee)** - In summary, the Inspector concluded that there is a general need for all of the 8 pitches proposed on this site and stated “Clearly the Council will not be in a position to meet the accepted need to 2011 through the development plan system, and it is likely to be some considerable time before any need is met through site identification. It is clear that the Council cannot demonstrate a 5 year supply of deliverable sites for gypsies and travellers and that they will not be able to meet the aim of the Circular. Significant weight needs to be given to the unmet need. The failure of the development plan to meet the identified need should also be given significant weight in favour of the appeal, especially as there is no dispute about the need for an additional 8 pitches within the District and given that it will be some time before the need will be met through the development plan. The lack of suitable, available alternative sites which could accommodate the entire family group should be given a significant amount of weight in favour of the appeal.” In the Inspector’s view, very special circumstances exist so as to justify this inappropriate development in the Green Belt.
- 3.2 **Dismissed the application made by Mr David Goddard for a full award of costs against the Council on grounds of ‘unreasonable behaviour’** – The Inspector stated “given the number of different matters to be taken into account in the consideration of a gypsy development in the Green Belt, I do not consider that the case can be described as being one *‘which should clearly be permitted’*; the weight to be given to the material considerations is a matter of judgement for the decision maker. I have come to a different conclusion to that reached by the Council, in making my recommendation to the Secretary of State. However, I do not consider that it was unreasonable of the Council to take the view that they did.”

- 3.3 **Dismissed the appeals by Mr Derek Clarke, Mr & Mrs McCarthy, Mr Jason Willis, Mr I Kirkpatrick, Mrs J M Chattaway and Mr K Clarke relating to the service of enforcement notices alleging a breach of planning control at plots 1, 2,12,13,15 and 16, at Land adjacent to Oxford Canal. Boddington Road Claydon (Delegated)** - In the Inspector's view, any reasonable person walking along the tow path on the opposite side of the canal would not regard these plots as being in agricultural use. The land no longer has an agricultural character but has a domestic character. The change of use of agricultural land to use as a private plot for mixed domestic garden and open storage has as a matter of fact and degree occurred. The appeals therefore fail.
- 3.4 **Allowed the appeals by Miss Rebecca Lloyd, Mr & Mrs Cox and Mr T Wallstrom relating to the service of enforcement notices alleging a breach of planning control at plots 3, 8 and 14 at Land adjacent to Oxford Canal, Boddington Road, Claydon (Delegated)** - In the Inspector's view, any reasonable person walking along the tow path on the opposite side of the canal would regard these plots to be in agricultural use. The change of use to a private plot for mixed domestic garden and open storage purposes has, as a matter of fact and degree, not occurred. The appeals therefore succeed and the enforcement notices are quashed.
- 3.5 **Dismissed the appeal by Mr David Thompson against the refusal of application 11/00068/F for the demolition of the existing detached garage and the erection of a detached two storey dwelling and garage workshop at r/o 8 Chestnut Close, Launton (Delegated)** – In the Inspector's view the proposal would extend built form away from the settlement towards the countryside. It would not be within the built-up area of the village and would constitute an inappropriate intensification of built form. The Inspector went onto conclude that the proposed dwelling would not sit within the built up area of Launton and that the requirement of LP saved policy H13 which seeks to restrict development to within the built up area, would not be met.
- 3.6 **Dismissed the appeal by Mrs M Green against the refusal of application 10/01617/F for a two storey dwelling to the side of 103 South Avenue Kidlington (Delegated)** – The Inspector concluded that the proposal would result in serious harm to the character and appearance of the surrounding residential area.
- 3.7 **Allowed the appeal by Basharat Hussain against the refusal of application 11/00590/F for a single storey and two storey extension to rear elevation and porch to front elevation at 92 The Fairway, Banbury (Delegated)** – The Inspector concluded that the proposal would not unacceptably detract from the living conditions of the occupiers of dwellings to the north as regards light and would not conflict with Policy C30 of the Cherwell Local Plan 1996.

Implications

- Financial:** The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.
Comments checked by Karen Muir, Corporate System Accountant 01295 221559
- Legal:** There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.
Comments checked by Ross Chambers, Solicitor 01295 221690
- Risk Management:** This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.
Comments checked by Ross Chambers, Solicitor 01295 221690

Wards Affected

All

Document Information

Appendix No	Title
-	None
Background Papers	
All papers attached to the planning applications files referred to in this report	
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