

Planning Committee

Appeals Progress Report

5 January 2012

Report of Head of Public Protection and Development Management

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 **11/00169/F and 11/00170/LB- Also Known As, 54/56 Parsons Street Banbury** –appeal by Mr M Sylvester against the refusal of planning permission and listed building consent for Retrospective – Timber decking to rear – Written Reps
- 1.2 **11/01126/F – 12 Chatsworth Drive Banbury** – Appeal by Mrs Abby Hussain against the refusal of planning permission for a first floor side extension, conservatory to rear and garage to side – Written Reps
- 1.3 **11/01286/OUT – Land off Stuchfield Close, Church Lane, Wendlebury**- Appeal by Shanly Homes Ltd against the refusal of outline planning permission for means of access and layout of 2 detached houses - Written Reps

- 1.4 **11/00808/F – Land adjacent to Dormer House, Ardley Road, Somerton** – Appeal by Mr Peter Hawes against the refusal of planning permission for the erection of a detached house – Written Reps
- 1.5 **11/01420/F – 47 Cromwell Way, Kidlington** – Appeal by Mrs Nerissa Smith against the refusal of planning permission for the demolition of detached garage and erection of two storey extension to the side and single storey extension to rear- Written Reps

Forthcoming Public Inquiries and Hearings between 5 January 2012 and 26 January 2012

- 2.1 None

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeal by Mr S Smith against the refusal of application 11/00837/F for the erection of a UPVC conservatory to the side of the property at Fenbury, South Newington, Banbury (Delegated)** – The Inspector concluded that notwithstanding the acceptability of the principle of a conservatory in the proposed location, the proposal, by reason of the non-traditional material to be used, would cause unjustified harm to the character and appearance of the property and the surrounding area, and would neither preserve nor enhance the character or appearance of the Conservation Area.
- 3.2 **Dismissed the appeal by Ms S Callan against the refusal of application 11/00927/F for a first floor side extension over the existing ground floor extension at Pear Tree Cottage, West Street, Shutford (Delegated)** - In the Inspector's view, the proposal would materially detract from the neighbouring occupier's living conditions (Rose Cottage), making the room concerned a less pleasant place to be. Policy C30 of the Adopted Cherwell Local Plan seeks to protect against such harm and as the proposal would clearly not accord with those Policies, the proposal was unacceptable.
- 3.3 **Dismissed the appeal by Mr & Mrs C Hodges against the refusal of application 11/01013/F for the formation of two dormer windows in the front roof slope at Appleton House, South Side, Steeple Aston (Delegated)**- The Inspector commented " Apart from historically inaccurate and unsympathetic replacement windows, the original dwelling appears to remain largely as built and I share the Council's view that, without clear and convincing justification, the loss of integrity that would arise from the insertion of dormers into the present uncluttered roof would not be acceptable."

- 3.4 **Dismissed the appeal by Mr David Allen against the refusal of application 11/00659/F for the construction of a single bedroom two storey cottage with parking and garden at Plum Tree Cottage, Crumps Butts, Bicester (Delegated)** –The Inspector stated “ Whilst the proposal before me displays a degree of ingenuity in its attempt to achieve a workable design on what is clearly a constrained site, the result falls some way short of what is required to accord with the high design standards set by both local and national policies. Because of this, I am drawn to the conclusion that the proposal would fail to harmonise with existing development in the locality, causing material harm to the character and appearance of the area and neither preserving nor enhancing the character or appearance of the Conservation Area.
- 3.5 **Dismissed the appeal by Michael Furey against the service of an enforcement notice alleging a breach of planning control – without planning permission the erection of three ornamental walls to the front of the property at 72 Daimler Avenue, Banbury** – The property has a planning history which includes an appeal decision, as recently as April this year, for, three ornamental walls to the front of the property nearly enclosing the drive. The Inspector considered the previous Inspector’s findings and decision which had been based primarily on the grounds of the development causing harm to the character and appearance of the locality and could find nothing from the evidence before him to indicate the case had changed since the April appeal decision. The Inspector gave the previous Inspector’s findings considerable weight and could find nothing of sufficient weight to lead him to a different conclusion. As a result the appeal did not succeed.
- 3.6 **The Council’s application for a full award of costs against Mr Furey for pursuing an appeal that plainly had no prospect of success at 72 Daimler Avenue Banbury was allowed by the Inspector.** The Inspector commented” Where a party has indicated an intention to apply for costs and has clearly set out the basis for the claim; their case will be strengthened if the opposing party is unable to explain why the matters referred to have not led to a changed stance of position. The appellant was informed of the Council’s intention; there was no response at that stage or subsequently. That clearly strengthens the Council’s case. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.”

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 Nigel Bell, Team Leader-Planning and Litigation 01295 221687
- 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 Nigel Bell, Team Leader-Planning and Litigation 01295 221687

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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