

Planning Committee

Appeals Progress Report

19 July 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:

- (1) To accept the position statement.

Details

New Appeals

- 1.1 **11/01906/F – Oxford Cottage, Oxford Road, Wendlebury-** appeal by Miss Sue Jacobs against the refusal of planning permission for the demolition of existing garage and construction of new dwelling and alterations to existing access and new access to existing dwelling – resubmission of 11/00925/F- Written Reps

- 1.2 **12/00059/F – Land adjacent and west of 17- 19 Freehold Street, Lower Heyford-** appeal by Mr P Kyte against the imposition of conditions 6 and 7 of the planning consent requiring the existing wall to be demolished by hand and the stone reused to construct a repositioned wall – Written reps

- 1.3 **12/00134/LB and 12/00133/F – Barn End, 5 Field Court, Duns Tew-** appeal by Mr John Adams against the refusal of planning permission and listed building consent for a single storey garden room extension on the front elevation – Written Reps
- 1.4 **12/00359/F – 15 Neithrop Avenue Banbury** – appeal by Mr Sital Singh Dhaliwal against the refusal of planning permission for a ground floor extension to rear of property and loft conversion with dormer window – Written Reps
- 1.5 **12/00453/F – 14 The Crescent, Twyford** – appeal by Mr & Mrs Mike Adams against the refusal of planning permission for the erection of a timber pre-fabricated granny annex – Householder written reps

Forthcoming Public Inquiries and Hearings between 19 July 2012 and 16 August 2012

- 2.1 **Inquiry commencing at 10.00am on Wednesday 25 July 2012 in the Council Chamber, Bodicote House, Bodicote, Banbury** to consider the appeals by Schyde Investments Ltd against
- (i) the service of enforcement notice alleging a breach of planning control :Without planning permission, the material change of use of the land in 2010 by reason of intensification from a use for motorcross racing and practising to a use comprising materially more noisy and more frequent motorcross racing and practising amounting to a definable change in the character of the use of the land and
 - (ii) the decision of the Council to refuse a certificate of lawfulness of existing use or development in respect of the use of land as a motorcross practise/race track at Arncott Racetrack, Murcott Road, Upper Arncott
- 2.2 **Inquiry commencing at 10.00am on Tuesday 14 August 2012 in the Council Chamber, Bodicote House, Bodicote, Banbury** to consider the appeal by Mr G R Noquet and Mrs J Noquet against the service of an enforcement notice alleging a breach of planning control : Without planning permission, the material change of use of the land from a public house (Use Class A4) to a residential dwelling house (Use Class C3) at Bishops End, Burdrop, Banbury

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeals by Mr Marc Sylvester against the refusal of planning application 11/00169/F and listed building application 11/00170/LB for a decked area, enclosure and awning to the rear of 54-56 Parsons Street, Banbury-**
The Inspector concluded that the structure and associated awning do not satisfy the requirements or objectives of national, regional and local policies, resulting in significant and unjustified harm to the

setting of the property, the setting of neighbouring listed buildings and the character or appearance of the Banbury Conservation Area.

- 3.2 **Dismissed the appeal by Berkeley Homes (Oxford and Chiltern) Ltd against the non-determination of application 11/01409/OUT for the erection of 65 dwellings with associated access, open space and landscaping and provision of sports pitch (football) with changing facilities and car park at OS parcel 4100 adjoining and to the south of Milton Road, Adderbury** –The Inspector found that the location of the appeal site is sustainable in terms of it being on the edge of a specified Category 1 rural settlement and in providing alternatives to the motor car as a means of access to the main urban centre of Banbury. He was not satisfied that the approach to the development of the appeal site as shown on the design and access statement and illustrative Masterplan represented the basis of good design and in the light of guidance in the NPPF was not able to conclude that the proposals overall constitute sustainable development. Adderbury Parish Council indicated a wish to produce a neighbourhood plan but accept that this will have to accord with the terms of the emerging Core Strategy. This plan led approach is strongly supported by the guidance at para .17 of the Framework which seeks to empower local people to shape their surroundings. The Inspector concluded that this is important in the context of Adderbury for two reasons. Firstly irrespective of the difficulties CDC has encountered in achieving an urban-centred supply of housing in Banbury, Adderbury has made a more than adequate contribution bearing in mind that it appears to have provided within the first 6 years of the draft Core Strategy plan period sufficient sites for the anticipated supply of housing in the village for the whole of the plan period. Secondly, it is clear from both the earlier and current expressions of interest in sites around the village that the appeal site is not the only site that needs to be considered. At this point in time it is not possible to say which site or sites should come forward and there are clear uncertainties as to the scale of development that would eventually occur in the western part of the village if planning permission were to be granted for the appeal proposal now. It would also clearly conflict with the guidance at para .17 of the Framework given that this proposal is currently not supported by the local community. The Inspector's overall conclusion in this finely balanced case was that the obvious benefits of providing an additional 65 dwellings in the short term, including affordable housing, are outweighed by the dis-benefits summarised above.
- 3.3 **Dismissed the application for a full award of costs made by Berkeley Homes (Oxford and Chiltern) Ltd against the Council** – The Inspector did not consider the Council to have been unreasonable in expressing concern as to the potential impact of this

decision and other similar decisions in rural North Cherwell, on the principle strategy of focusing most development in North Cherwell on Banbury and its immediate surrounding area. Further it was not unreasonable for the Council not to carry out its own formal landscape assessment particularly in circumstances where there had been no change in the use or character of the appeal site since the appeal decision in 2011. As a result, the Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense as described in Circular 03/2009 has not been demonstrated.

- 3.4 **Dismissed the appeal by Regeneco Ltd against the refusal of application 11/01391/F for the erection of a temporary wind monitoring mast at land at Bury Court Farm, North of Hanwell, Banbury (Committee)** – The Inspector commented “This is a scheme that would cause slight harm to the character and appearance of the area and in respect of which there is an appreciable possibility that aviation safety would be prejudiced. That harm and uncertainty is not outweighed by the possibility that the appeal proposal might support further development that would bring wider environmental benefits.”

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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