

Cherwell District Council

Planning Committee

3 April 2014

Appeals Progress Report

Report of Head of Development Management

This report is public

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.

1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

2.0 Report Details

New Appeals

- 2.1 **13/00996/F – OS parcel 3491, North of Adderbury Court, Oxford Road, Adderbury** - appeal by Cala Homes Ltd against the refusal of planning permission for residential development of 26 units – Inquiry

13/00383/EUNDEV – Bishops End Burdrop – appeal by Mrs J Noquet against the service of an enforcement notice alleging a breach of planning control related to the erection of a timber cabin on the land – Written reps

13/01740/F – 19 Mewburn Road, Banbury – appeal by Mr Mike Beames against the refusal of planning permission for part retrospective, erection of an extension to constructed garage and retention of concrete base – Householder written reps

13/01133/F – Long Hill, Shutford- appeal by Mr Robin Drummett against the refusal of planning permission for the installation of solar panels and associated equipment – Written Reps

13/01533/ADV and 13/01875/LB– Mehfil Restaurant, 35 Market Square, Bicester- appeal by Mr Eisan against the refusal of advertisement and listed building consent for the retention of signage and 1no. illuminated fascia sign-
Written Reps

Forthcoming Public Inquiries and Hearings between 3 April 2014 and 24 April 2014

2.2 None

Results

Inspectors appointed by the Secretary of State have:

2.3 **Dismissed the appeal by Mr J Hester, Miss R Hester and Miss J Hester against the refusal of application 12/01580/F to demolish 2 dwellings and construct 4 no. dwellings with garages at Little Stoney and The Cottage, Paradise Lane, Milcombe (Committee)** – The Inspector concluded that although the proposal would not result in material harm to neighbours living conditions, the harm that was found that would result from the conflict with housing policy for the area, to character and appearance, to the setting of Farnell Fields and to wildlife clearly outweighs this and as a result the appeal should be dismissed.

Dismissed the appeal by Mr G R Noquet against the service of enforcement notice 13/00259/ECOU alleging a breach of planning control related to the change of use of the land for the storage of a mobile home at Bishops End, Burdrop (Delegated) – The Inspector commented “ I find that the appellant has not discharged the onus of proof on him and the evidence submitted does not demonstrate that a material change of use of the land by the storage of a mobile home on the land did not constitute a breach of planning control. I therefore conclude that the appeal must fail”

Dismissed the appeal by Mr & Mrs Chris Baker against the refusal of application 13/01070/F for the erection of a new two-storey dwelling with attached garage and alterations to existing vehicular access at Land adjacent Cotswold House, Church Lane, Epwell (Delegated) – The Inspector concluded that the proposed development would materially harm the rural character of the area and would fail to protect or conserve the beauty and environment of the Cotswold AONB and the AHLV.

Allowed the appeal by Miller Strategic Land against the refusal of application 13/00656/OUT for up to 300 dwellings, with access from Warwick Road together with associated open space, allotments and a 500sq.m retail store at Land West of Warwick Road, Banbury (Committee) – Following discussions with the appellant and the receipt of further information, the Council withdrew 2 of its reasons for refusing permission. The Council also accepted that the third reason for refusal relating to the provision of infrastructure, could be overcome through a planning obligation under S106.

The Inspector concluded that the proposed development would cause a degree of harm to the character and appearance of the area, by encroaching upon the countryside – but the harm would be limited and not unacceptable. The impact of the development on the landscape would be adequately mitigated by new and

retained open spaces and planting. The setting of heritage assets would be preserved. The adverse impacts of development would not significantly and demonstrably outweigh the benefits outlined.

The Inspector went on to comment with regard to Drayton Leisure Golf Centre (DLGC) “that the proposed development subject to the full approval of the ball stop netting, would be compatible with the DLGC. There would be no unacceptable threat to the living conditions of future occupiers or the operations of DLGC. The proposed development would accord with LP policy C30 which seeks to ensure that new housing provides adequate standards of amenity.”

Quashed the enforcement notice 13/00138/EPlan relating to a breach of planning control and allowed the planning appeal against the refusal of application 13/00718/F regarding the demolition and replacement with 2 no. new dwellings without complying with a condition attached to planning permission 11/01160/F at land at Rosemary, Main Street, Fringford (Committee) With regard to the enforcement notice, the Inspector was of the view that the allegation in the notice did not accurately reflect the material deviation of the development that has taken place from the approved plans and the stated requirements would not ensure compliance with the approved plans. The Inspector could not amend the notice without causing injustice to the appellants and therefore the notice was quashed. The Inspector went onto the state that “The Council is not prejudiced by my decision to quash the notice as under the “second bite” provisions of S171B(4)(b) of the Act it would be able to issue a second or subsequent notice if appropriate”

With regard to the planning appeal, the Inspector was of the view that the proposed set back of the first floor front of Plot 1 would reduce the visual impact of the side of that dwelling in the street scene although Plot 2 would remain in its present form. The appeal scheme would reduce the visual impact of the first floor of Plot 1 on the outlook from Kohanka such that it would not be dominant or harmful to the living conditions of occupants of that dwelling. The proposed set back of the front of the first floor of Plot 1 would have the effect of moving windows to a WC and bathroom further back behind the front elevation of Kohanka. That would improve the present arrangement where the proximity and forward position of those windows relative to the window of the first floor (office) at Kohanka causes concern to the occupants of that dwelling. A condition could be attached to a permission to ensure that the windows would be obscure glazed and non-opening unless more than 1.7m above floor level. As a result the appeal was allowed subject to conditions that include the requirement to demolish and rebuild the first floor of Plot 1 within 6 months of the date of the appeal decision and conditions requiring the windows at ground floor level and windows to the bathroom and en-suite at first floor level of Plot 1 and the side elevation of Plot 2 to be obscured glazed and retained at all times with obscured glass and shall be non-opening unless more than 1.7m above the floor in which the windows are installed.

3.0 Consultation

None

4.0 Alternative Options and Reasons for Rejection

- 4.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To accept the position statement.

Option 2: Not to accept the position statement. This is not recommended as the report is submitted for Members' information only.

5.0 Implications

Financial and Resource Implications

- 5.1 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:

Kate Drinkwater, Service Accountant, 01327 322188,

kate.drinkwater@cherwelladnsouthnorthants.gov.uk

Legal Implications

- 5.2 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,

nigel.bell@cherwell-dc.gov.uk

Risk Management

- 5.3 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,

nigel.bell@cherwell-dc.gov.uk

6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

None

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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