

Cherwell District Council

Planning Committee

21 May 2015

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 None

2.2 Results

Inspectors appointed by the Secretary of State have:

Allowed the appeal by Mr and Mrs J Honour against the refusal of application 14/01702/PAMB for Change of use of an agricultural building to a dwelling at Home Farm, Mansmore Lane, Charlton on Otmoor, Kidlington, Oxon, OX5 2US (Delegated) – The Inspector concluded that neither the location nor siting of the appeal building would make it impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse. Thus paragraph 55 of the Framework, which seeks to avoid isolated new homes in the countryside is not relevant to the determination of this appeal and the proposal would accord with the parts of the Framework which are relevant to the subject matter for the prior approval.

Quashed enforcement notice following appeal by Mr Dean Wood The Firs Garage, Hook Norton, Banbury, OX15 5DD, The breach of planning control alleged that without planning permission, the use of the land for the siting of a mobile home, the erection of a timber fence and the installation of wooden decking. The requirements of the notice were to (i) Stop using the land for the siting of a mobile home, remove the mobile home from the land, (ii) remove the fence (including both the fence and fence post) from the land, and (iii) remove the wooden decking from the land. The period for compliance with the requirements was 13 weeks after the date the notice took effect. The Inspector took the view that the Council's reason for issuing the enforcement notice, did not refer to the use of the mobile home. The Council's statement of case Para. 1 describes the siting of the mobile home, fencing and deck as a material change to use of the land, but it does not specify a use. Furthermore, the Council considered the mobile home to be unlawfully occupied residentially. In this instance, the enforcement notice should have alleged a material change of use of the land from a vehicle sales repair and service use to a mixed use for vehicle sales, repair and service and residential use of the land. Views by both parties on the justification for a residential use of the land could then have followed if an appeal against a corrected notice was made, or arguments put forward as to whether a residential use was necessary to the main use of the site. Because of the above omission, the Inspector concluded that the allegation in the enforcement notice was fundamentally flawed. If the allegation were changed to refer to an alleged unlawful residential use of the land as part of a mixed use, the present notice's first requirement would not sensibly follow, as it did not require cessation of the use. Finally the enforcement notice alleged the carrying out of unlawful operational development, that is erection of a timber fence and the installation of wooden decking. However the Inspector could not sensibly separate that facilitating development from the main use, described in the notice as the station of a mobile home.

Dismissed the appeal by Mr Dean Wood against the refusal of application 14/00142/OUT for an outline application for the erection of a staff cottage at Land adjacent to Holly Barn Stables, north of The Firs Garage, Hook Norton, Banbury, OX15 5DD (Committee). The Inspector concurred with the Council that there are strong national and local policy objections to the construction of a new dwellings in rural location such as the appeal site, especially where they are remote from settlements. Para. 55 of the Planning Policy Guidance, contained in the National Planning Policy Framework, says that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstance such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. Local plan policy H18 follows the national policy guidance in allowing for new dwellings in the countryside where a particular essential need can be shown. He agreed that in this case the need for the staff accommodation was not sufficient to allow this.

Dismissed the appeal by Ms Catherine Adams and Mr Mark Wells against the refusal of application 13/01844/F for the erection of a detached contemporary four bedroom dwelling together with access drive and parking area (both on-plot), restoration of stone wall to front of site and hard and soft landscaping of site at Land adjacent to The Old Cottage, Church Street, Somerton, Bicester, OX25 6NB. It is the Inspectors view that the proposed development would not constitute sustainable development and would fail to comply with the saved Local Plan Policies identified and those of the National Planning Policy Framework (NPPF) which seek to preserve the historic environment. Specific

policies within the NPPF indicate that the proposed development should be restricted and the adverse impacts of granting planning permission would significantly outweigh the benefits when assessed against the policies in the NPPF taken as a whole. Accordingly the appeal is dismissed.

Dismissed the appeal by Mr John Miller against the refusal of application 14/01545/F for the proposed conservatory and porch at Fir Tree Farm, Northampton Road, Weston-on-the-Green, Oxon, OX25 3QL. The Inspector concluded that the proposed development would be inappropriate in the Green Belt and the National Planning Policy Framework (NPPF) makes it clear that substantial weight should be accorded to any harm to the Green Belt. The Inspector had regard to the matters cited by the appellant in support of the proposal but none of these factors clearly outweighed the totality of the harm found and mean that very special circumstances do not exist. For these reasons, and taking into account all other matters raised, the Inspector concluded that the appeal should fail.

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 Crussell, Service Accountant, 01327 322188,
kate.crussell@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, 01295 221687,
nigel.bell@cherwellandsouthnorthants.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, 01295 221687,

nigel.bell@cherwellandsouthnorthants.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	
Report Author	Tom Plant, Technical Support Officer, Development Directorate
Contact Information	01295 221811 tom.plant@cherwell-dc.gov.uk