

Cherwell District Council

Planning Committee

1 October 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

2.1 New Appeals

15/00485/F – Former Rosemary (Plot 1), Main Street, Fringford, OX27 8DP – Appeal by Mrs and Mrs Ward against the refusal of planning permission for variation of Conditions 1 and 2 of 13/00718/F - Plot 1 only (to retain house with an altered façade/side elevation) - No changes to Plot 2.

15/00486/F – Former Rosemary (Plot 1), Main Street, Fringford, OX27 8DP – Appeal by Mr and Mrs Ward against the refusal of planning permission for removal of Conditions 1 and 2 of 13/00718/F (retain Plot 1 building "as built" with first floor side window to be removed) - Plot 1 only.

15/01190/F – Former Rosemary (Plot 1), Main Street, Fringford, OX27 8DP – Appeal by Mr and Mrs Ward against the refusal of planning permission for variation of condition 1 of planning permission 13/00718/F - In relation to Plot 1 only.

14/01475/F (14/00194/ENDEV) – Brookside House and The Annexe, Weston-on-the-Green, OX25 3QQ – Appeal by Mr Hawes against an enforcement notice for the matters which appear to constitute the breach of planning control,

- 1) Without planning permission, the use of the building (which was previously used as two separate dwellinghouses comprising Brookside House and the Annexe) as seven separate dwellinghouses (comprising Brookside House and 6 bedsits).
- 2) Without planning permission, the erection of conservatories to form kitchens for the unauthorised bedsits

14/02139/OUT – Land West of Oxford Close and North of Corner Farm, Station Road, Kirtlington, Oxfordshire – Appeal by Gladman Developments against the refusal of outline planning permission for demolition of an existing bungalow and agricultural buildings and the construction of up to 75 dwellings including highway works, landscaping and public open space.

15/00211/F – The Hey Cabin, Blacklocks Hill, Nethercote, Banbury, OX17 2BN – Appeal by Mr Chris Rankin against the refusal of planning permission for the change of use from B1 to B2 - Re-submission of 14/01280/F.

2.2 **Forthcoming Public Inquires and Hearings between the 1 October and October 29 2015.**

None

2.3 **Results**

Inspectors appointed by the Secretary of State have:

- 1) **Dismissed the appeal by Mrs Jackie Noquet against non-determination of Change of Use for the Certificate of Lawful Use Proposed - from A4 to A1 – Bishops End, Street Through Burdrop, Burdrop Banbury, OX15 5RQ – 14/01383/CLUP (Delegated).**

Bishops End was vacant at the time of the application and its last use was mixed use A1 and residential. Permitted development rights can only be exercised if Bishops End is in use or last used as an A4 use. Class A provisions do not apply in this case. The Inspector fully supported the assessment of the Council's Planning Officers.

- 2) **Dismissed the appeal by Gladman Developments Ltd against the non-determination of Outline - Demolition of existing bungalow and agricultural buildings and residential development of up to 95 dwellings including highway works, landscaping and public open space – Land off Lince Lane, Kirtlington, OX5 3HE – 14/01531/OUT (Committee).**

The Inspector considered the appeal raised two main issues. The first was whether the development would be appropriate having regard to the relevant Local Plan policies and the character, setting and settlement pattern of Kirtlington and its location in the countryside. The second was whether the Council has a five year housing land supply.

On the first issue the Inspector concluded that the development would not be appropriate. In particular she found that: *although not perhaps the most elegant*

description, I agree with (the Council's witness) that the proposal represents a large bulge jutting out from the long and relatively narrow shape of Kirtlington into the open countryside. Furthermore she found that although the development could fall to be considered under Policy Villages 2 of the recently adopted Local Plan (which provides for a total of 750 dwellings to be delivered at the District's Category A villages of which Kirtlington is one): the proposed development, involving a large number of houses and residents at one time, would considerably exceed the threshold of incremental change and expansion that has occurred in Kirtlington and would be detrimental to the established character of the village. She also concluded that the development would not reflect the linear settlement pattern of the village, and that the opportunities to integrate the development into the existing village were limited.

On the second issue, the Inspector noted that the Local Plan had been found sound and adopted "after a lengthy process and full examination". In weighing up the differences in position between the Council and the appellant, she gave particular importance to the findings of the Local Plan Inspector. In particular she concluded that: *it is clear that he was satisfied that the figures provided in the (Local Plan) housing trajectory, which were based on a 5% buffer, represented a reasonable and realistic, deliverable and justified basis for meeting local needs over the plan period...if he had not been so satisfied, it is a reasonable assumption that he would not have found the Local Plan to be sound.* She went on to observe that in respect of supply and rates of delivery: *The case made by the Appellant in this appeal was in many respects similar to the representations made to the Local Plan Inspector which were rejected.* She was also satisfied that the Council's specific data and analysis on supply and delivery rates was more reliable in the circumstances than the appellant's "more generalised data". Finally, in coming to the conclusion that the Council is indeed able to demonstrate a five year housing land supply, she was mindful that: *the Appellant's case (that a 20% buffer should be applied) as put at this Inquiry would mean that the Local Plan is not deliverable contrary to the Local Plan Inspector's conclusions.*

For the avoidance of doubt, the Inspector made clear in her concluding remarks that even had she found in favour of the appellant's case in respect of housing land supply, she would still have found that the benefits of the scheme would have been significantly and demonstrably outweighed by the harm caused, which she considered to be "very substantial" in this case.

- 3) **Allowed the appeal by Mr David Stanton of D J Stanton Engineering Ltd against the refusal of planning permission for the demolition of existing farm buildings. Erection of new build industrial building with associated vehicle yard and car parking. – Railway Farm, Station Road, Hook Norton, OX15 5LT- 14/01087/F (Committee).**

The Inspector made the following observations:

...The site is on farm land and so is recognisably countryside. But it is not in deep countryside, isolated from other development. It is immediately outside the built-up area of Hook Norton. The site is hard up against the embankment of a dismantled railway. Other industrial premises (KMS litho) are positioned on the opposite side of the road.

...The proposal is not inherently contradictory to policy SLE1 of the Cherwell Local Plan 2011-2031, (the Local Plan) adopted on 20th July 2015. This replaced and is less restrictive than policy EMP4 of the previous Local Plan, referred to in the reasons for refusal. The new policy provides (in part) that employment development in the rural areas should be located within or on the edge of villages in Category A of policy Villages 1. Policy Villages 1 includes Hook Norton as a Category A Service Village.

Policy SLE1 goes on to provide that new employment proposals within rural areas on non-allocated sites will be supported if they meet seven criteria....

...Of more significance is the observation in the emerging Neighbourhood Plan that local employment opportunities are limited and many residents travel long distances to work. It records that consultation showed support for local employment and homeworking.

Although the emerging Neighbourhood Plan makes no provision for new employment development, one of its goals is to maintain and enhance employment opportunities and businesses providing sustainable services and local employment. It includes the objectives of encouraging and supporting local agriculture and businesses in suitable locations and opportunities for local people.

The appellant's business currently employs six people. Others are added in response to fluctuating workloads. Expansion would add two or four more. So the proposal would give employment to few people but the policy does not envisage large scale employment in rural locations. Nor can there be any guarantee that this or any other business located in Hook Norton would employ people who live in Hook Norton. But it cannot be denied that it would provide opportunities and that these are sought...

- 4) Split decision for the appeal by Mr A Jordan and Ms N Roberts against the refusal of planning and listed building consent for erection of two storey rear extension and first floor side extension including works to adapt dwelling. Raising roof of outbuilding to rear garden. Widening of existing entrance in frontage wall and provision of off-street car parking area. – The Malt House, Weston Road, Bletchington, Kidlington, OX5 3DH – 14/01861/F + 14/01862/LB (Delegated).**

The Planning Inspector issued a split decision in relation to the appeal by Mr A Jordan and Ms N Roberts.– Dismissed the appeal in relation to the 2 storey extension and first floor side extension to the house, and works to adapt the dwelling consisting of alterations to an opening in the rear wall at ground floor level, and at first floor level, the rearrangement of the internal partitions; the infilling of an existing opening and the formation of a new opening in the rear external wall; and the formation of a new opening in the north-east elevation, and the widening of the existing entrance in frontage wall and provision of off-street parking. Allowed the appeal in relation to the extension and raising the roof of the outbuilding to the rear garden and works to adapt the dwelling consisting of the rearrangement of the internal partitions and the infilling of two

window openings at ground floor level - The Malt House, Weston Road, Bletchington, OX5 3DH (Delegated).

The Inspector concluded that the proposed two storey rear extension element would be harmful to the listed building, the conservation area, and in terms of its impact on the Green Belt. It was concluded by the Inspector that the first floor side extension would have a significant detrimental effect on the living conditions of the occupiers of Nos.1-3 Blenheim Terrace and would harm both the special interest of the listed building and the character and appearance of the Conservation Area. The Inspector stated that the remaining elements of the adaptations to the dwelling, at ground floor, and first floor levels, would have detrimental effects on the listed building itself.

The Inspector concluded that the widening of the opening in the boundary wall and the provision of a parking area in the front garden would detract from the special interest of the listed building, its setting, and the conservation area despite the Local Planning Authority granting permission and consent for these elements.

The Inspector noted that the extension proposed to the outbuilding is acceptable, as are some of the adaptations proposed to the ground floor of the dwelling, subject to the conditions dealing with materials and aspects of detailed design. The Local Planning Authority has previously granted permission and consent for the extension to the roof of the outbuilding.

5) Dismissed the appeal by B A Property Management Ltd against the refusal to vary the planning obligation to approved application 13/01576/OUT (14/01827/OBL) – The Tally Ho Inn, 45 Ploughly Road, Arncott, Bicester, OX25 1NY (Delegated)

The principal consideration with this appeal was whether the affordable housing contribution, set out in the signed S106 agreement, made the development economically unviable. It was accepted by both parties that although the original description of development was for 17 retirement homes, the appellant had an unfettered C3 (dwellinghouses) use.

The Inspector determined that the appellant had a couple of options to progress the scheme: omitting a communal facility which formed part of the approved scheme; or constructing the communal facility and retaining a realistic hope value for its subsequent conversion. Taking these scenarios into account as well factoring in local land values, the Inspector concluded that the development was economically viable without any adjustment to the affordable housing contribution.

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,
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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,
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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,
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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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