

Cherwell District Council

Planning Committee

17 March 2016

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 **15/01359/OUT – Land to the Rear of 21 to 23 Park Close and Adjacent to Church Lane, Yarnton.** – Appeal by Mr K Miller against the refusal of outline planning permission for the erection of a 2 bedroom house with garage.

15/01454/OUT – The Tally Ho Inn, 45 Ploughley Road, Arncott, OX25 1NY. – Appeal by B A Property Management Ltd against the refusal of outline planning permission for 5 no. dwellings.

15/01483/F – Land to the Rear of 58 to 66 Merton Road, Ambrosden. – Appeal by Mr and Mrs Clive and Lesley Collisson against the refusal of planning permission for the erection of 6 houses, garages and associated works.

15/01685/F – Land North of Office Building at Former Northern Aluminium Co Ltd, Southam Road, Banbury. – Appeal by Mr M Byrom of First Industrial against the refusal of planning permission for the installation of a peak power generation plant and associated development.

15/01895/F – Orchard Way, Heyford Road, Somerton, OX25 6LL. – Appeal by Mr David Berlouis against the non-determination of alterations and erection of extension.

2.2 **Forthcoming Public Inquires and Hearings between and February 18th and 17th March 2016**

Hearing commencing Wednesday 23rd March 2016 at 10:00 am in the River Cherwell Meeting Room at Bodicote House, White Post Road, Bodicote.

14/01601/LB – Chancel Cottage, Fir Lane, Steeple Aston, OX25 4SF – Appeal by Mr Justin Grainger against the refusal of listed building consent for internal alterations, external alterations (including insertion of six rooflights), demolition of attached outbuildings and erection of single storey extension.

2.3 **Results**

Inspectors appointed by the Secretary of State have:

- 1) **Dismissed the appeal by Philippa and Georgina Pain against the refusal of outline planning permission for up to 51 dwellings with vehicular access from The Hale together with public open space and surface water retention pond and associated infrastructure – Land North of Green lane and East of The Hale, Chesterton – 15/00454/OUT – (Committee).**

Housing Supply and Distribution

- No evidence before the Inspector to come to a different conclusion on the District's five year housing supply position than that taken by the SoS (Hook Norton decision) and the Inspector on the Kirtlington appeal decision. The Appellants dropped their case regarding lack of five year housing supply at the hearing as a result of these two earlier decisions. Nevertheless the Inspector noted the Council's improving housing supply position as demonstrated in the latest 2015 AMR.
- Inspector found that Local Plan Part 1 to be a sustainable strategy for housing growth in the District and noted the overall objectives to rebalance growth away from rural areas and towards Bicester/Banbury. Any significant increase beyond the 750 rural housing allocation for Category A settlements as set out in Policy Villages 2 would render the policy meaningless.
- Whilst Policy Villages 2 does not explicitly contain phasing requirements, the Inspector concluded that if disproportionate numbers of housing are provided in one single Category A settlement early within the plan period, it would leave other Category A settlements unable to meet their housing needs (including for affordable housing) later on in the plan period without being in conflict with Policy Villages 2.
- Inspector reiterated the findings of the Kirtlington Inspector by stating that the size of a Category A settlement was a factor to take into account in considering distribution of the rural housing allocation of Policy Villages 2. The Inspector concluded that Chesterton was one of the smaller Category A settlements and had comparatively limited services and amenities. She also noted that whilst it is close to Bicester it is not actually particularly accessible to Bicester given the lack of attractive pedestrian/cycle links or bus services. Inspector also referenced the likely reduction in bus services to the village in

light of the probable decision in April by OCC to withdraw subsidies. She went on to find that Chesterton had already received a significant amount of new housing over the past 2-3 years (including before the April 2014 date specified in Policy Villages 2).

- Overall the Inspector came to the view that the appeal proposals would see an excessive number of new homes proposed in Chesterton over a short time period which the village could not sustainably accommodate and which would in turn prejudice rural housing growth in other Category A settlements.
- Inspector noted the SoS recovered appeal decision at Hook Norton and concluded that, despite allowing the appeal, the SoS had applied a similar approach to considering suitability and sustainability of housing growth in Category A settlements though in that case ultimately came to a different view due to the larger size of Hook Norton and its wider range of facilities etc.
- Interestingly the Inspector found that the amount of affordable housing proposed did not act in favour of the proposals given that, cumulatively with other recent developments, far more affordable housing would be provided in Chesterton than the Council's own housing needs surveys suggested was required. This added further weight to claims that the level of housing growth in Chesterton was excessive and disproportionate. This view was similar to that expressed by the Inspector in the Kirtlington appeal decision.

Landscape Character

- Inspector noted that the site was not subject to any particular landscape or environmental designation. However, the Inspector concluded that it was open agricultural land that was important to the rural countryside setting of Chesterton which was reinforced by the surrounding network of rural lanes that made it feel remote.
- Overall the Inspector found that the new housing proposed together with the necessary associated highway works (which included new footways, traffic calming and a variety of signage associated with speed limit changes etc) would have a significant suburbanising effect to the detriment of local landscape character and the rural countryside setting of Chesterton.

2) **Allowed the appeal by Highfield Social Club against the refusal of planning permission for the removal of roof features, internal alterations and the erection of a two storey front extension (revised scheme of 14/02165/F) – Highfield Social Club, George Street, Bicester, OX26 2EE – 15/01079/F – (Delegated).**

The application sought consent for the erection of a two storey front extension to Highfield Social Club.

The application was refused as the height, depth and position was considered to result in an unacceptable loss of outlook, and an overbearing appearance when viewed from the nearest side and rear facing openings at Primrose Cottage, resulting in significant detriment to the living amenities of occupants. Further, first floor openings were proposed that would result in the perception of a loss of privacy to rear and side openings at the dwelling.

The rear elevation of Primrose Cottage is positioned to the front of the Social Club where the extension was proposed. The case officer visited the neighbour and viewed the site from inside the dwelling. The ground floor openings serve the lounge (rear) and utility area (side), and the first floor opening serves and bedroom. The existing building appeared quite overbearing from these openings and the officer considered bringing the two storey element of the Social Club a further 3.2 metres forward would worsen the existing situation. The extension protruded into the 45 degree line taken from both rear openings at Primrose Cottage. In addition, first floor openings were proposed in the extension, albeit furthest from the shared boundary, that would serve a meeting room and stairwell. Whilst these could have been conditioned as obscurely glazed, the case officer considered that openings in such close proximity to the neighbour would result in the perception of a loss of privacy.

The Inspector disagreed with the officer's assessment. As the meeting room window would be obscurely glazed this was considered sufficient to avoid overlooking. The staircase was somewhere people were unlikely to dwell for periods of time and, combined with the separation distance, this was not considered to affect the privacy enjoyed at Primrose Cottage. The extension was considered to be some distance from Primrose Cottage, and with the hipped roof reducing the bulk and mass of the extension nearest to the neighbour's boundary, the proposal was not considered to be within a line of vision that was overbearing or harmful to the outlook from the cottage.

- 3) Dismissed the appeal by Mr and Mrs Ward against the refusal of variation of conditions 1 and 2 of 13/00718/F – Plot 1 only (to retain house with altered façade / side elevation) – Former Rosemary, Main Street, Fringford, OX27 8DP – 15/00485/F – (Delegated).**
- 4) Dismissed the appeal by Mr and Mrs Ward against the refusal of 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. Former Rosemary, Main Street, Fringford, OX27 8DP – 15/00486/F – (Delegated).**
- 5) Allowed the appeal by Mr and Mrs Ward against the variation of condition 1 of planning permission 13/00718/F –Plot 1 only. Former Rosemary, Main Street, Fringford, OX27 8DP – 15/01190/F – (Committee).**

Planning permission (ref 11/01160/F) was granted in September 2011 for a pair of semi-detached properties on a site formerly occupied a single dwelling. During construction it was discovered that the new dwellings were set further forward than shown on the approved plans. A subsequent revision to the scheme, which sought to address the impact on the neighbouring property by removing part of the first floor, was allowed on appeal (ref 13/00718/F). The approved amendment to the design has not been implemented.

Following this approval, three further planning applications were submitted, which sought permission for alternative solutions. All these proposals were refused and are the subject of this appeal decision.

When assessing the three schemes, the Inspector concluded that the key issues were the effect on:

1. The character and appearance of the wider area with particular regard to the street scene in Main Street and the setting of the Old Forge (a Grade 2 listed thatched house) and;
2. The living conditions of the occupiers of Kohanka, with particular regard to outlook.

Appeal A (15/00485/F) – leave the building as built

The Inspector considered that in terms of character and appearance *“that leaving the building in its current form would be harmful to the street scene in Main Street and to the rural character and appearance of the area.”* However, as with all three appeal cases, she concluded that there was “sufficient separation distance between Plot 1 and the Old Forge such that its setting would be preserved.”

With regard to the outlook and living conditions of Kohanka, the Inspector reasoned that the proximity of the side gable to a first floor window in Kohanka *“is harmful to the outlook from the property and to the living conditions that the occupiers could reasonably expect.”*

Appeal B (15/00486/F) – alter the building to produce an asymmetric gable

In this instance the Inspector argued that the alterations proposed *“would be prominent in the street scene and would appear awkward and contrived. It would be out of keeping with the symmetrical side gables that are visible when approaching along Main Street from the south-west. It would be prominent in the street scene and would ‘draw the eye’ causing material harm to the rural character and appearance of the street scene.”*

With regard to the impact on Kohanka, it was determined that this revision *“would improve the outlook from Kohanka and would not be harmful to the living conditions of the occupiers.”*

Appeal C (15/01190/F) – alter the building to produce a reduced gable.

The Inspector’s assessment in respect of design was that *“given the variety in the type and design of dwellings in Main Street, the variation in appearance between plots 1 and 2 could be accommodated without appearing unusual or incongruous in the street scene.”*

As with Appeal B, the Inspector concluded that the revised scheme would have an acceptable impact on the residential amenities of the occupiers of Kohanka.

On the basis of the above the Inspector dismissed Appeals A and B and allowed Appeal C. The Inspectorate has given the appellant six months to implement the approved scheme.

- 6) **Dismissed the appeal by Mrs M Shingler against the refusal of planning and listed building consent for a single story side extension, associated landscaping and restoration of garden area – Adderbury House, Lake Walk, Adderbury, OX17 3PE – 15/01234/F + 15/01235/LB – (Delegated).**

The Inspector concluded the main issue in both applications to be whether the proposal would preserve the special architectural and historical interest of the Grade II listed building.

Whilst the Inspector noted the size of the existing house, he considered that: *the length and design of the proposal would adversely affect the largely symmetrical southern frontage of the House which makes an important contribution to its special architectural and historic interest.* He also considered that this would result in harm to the Conservation Area despite views from public areas being limited. The appellant had sought to argue a fall-back position, referring to a previous planning permission they considered to be extant. However the Inspector concluded that: *it appears that the consented scheme mainly provides for detached garden buildings...this is in contrast to the proposal which provides for an extension of the house. I am not convinced therefore that the extant scheme would cause more harm to the significance of the listed building than the current proposal and this limits any weight I can ascribe to it as a fallback position.*"

The Inspector concluded that the proposed extension would cause less than substantial harm to the significance of this Grade II listed building, and would not preserve its special architectural or historic interest. The Inspector concluded that it had not been shown that public benefits would outweigh this harm and that the proposal would be contrary to Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. Given the above, the Inspector concluded that both of the appeals should be dismissed.

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:

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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:

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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:

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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	
None	
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