

# Cherwell District Council

## Planning Committee

14 April 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 **15/01384/OUT - Land South Of Little Shotover And East Of Cherry Tree Cottage, Horn Hill Road, Adderbury.** Appeal by Mr William Aylward against the refusal of outline planning permission for the erection of 5 residential dwellings.

**15/02269/F – 34 Bretch Hill, Banbury, OX16 0NP.** Appeal by Mrs Susan Gull against the refusal of planning permission for two storey side and rear extension with additional porch.

- 2.2 **Forthcoming Public Inquires and Hearings between and April 14<sup>th</sup> and May 19<sup>th</sup> 2016**

None.

- 2.3 **Results**

Inspectors appointed by the Secretary of State have:

- 1) **Dismissed the appeal by Mr Matthew Grimes against the refusal of planning permission for the erection of a two storey building which would**

**contain 1 No one bedroom flat, two single garages, bicycle and bin store and associated parking. - Land To Rear Of 181 And 183, The Moors, Kidlington. – 15/01403/F – (Delegated)**

The appeal proposal sought to replace an approved garage and store with a two garage unit, with bin and bike storage, with a 1 bedroom flat above. This included the addition of two projecting dormers/gables. The approved garage is part of a development to the rear of The Moors, Kidlington.

The Inspector considered the main issues to be the impact on the character and appearance of the area, and the effect on the living conditions of the future residents of neighbouring dwellings. On the first issue, the Inspector agreed with the Council that “The dormers would be very conspicuous...overwhelming the ground floor and would look ungainly and disproportionate to the overall unit both from the south and from the sides”. On the second issue however, the Inspector concluded that the dormer windows “would be set at a reasonable distance from the opposite dwellings, stated by the appellant to be some 17.85m, and this relationship would not be noticeably different to the distances between the other dwellings in the approved cul de sac”. As such the Inspector concluded the proposal would be acceptable in this respect.

**2) Dismissed the appeal by Mr C Rankin against the refusal of planning permission for the change of use from B1 to B2 - Re-submission of 14/01280/F. The Hey Cabin, Blacklocks Hill, Nethercote, Banbury. – 15/00211/F. – (Delegated)**

The application sought permission for the change the use of the site from B1 to B2 general industrial use, in connection with the appellant’s business of specialist car preparation and repair.

The Inspector considered the main issues were:

- The effect of the proposal on the character and appearance of the surrounding area;
- The effect of the proposal upon the living conditions of nearby residents, with reference to noise and disturbance.

The Inspector noted the context of the site, considering it primarily agricultural landscape, notwithstanding sporadic housing within the area. He considered that outside storage of materials and cars would be contrary to the nature of the surrounding area. Although the applicant had stated that the proposed use would be fairly low key, and contained within the site screened by a compound and landscaping, the Inspector considered that he did not have enough information to convince him that the use would not become more intensive over time and that a business of the nature described would not require external storage that could be injurious to the character and appearance and appear out of place in the surrounding rural area; concluding that the proposals would be contrary to ESD 13 of the Cherwell Local Plan 2011-2031 Part 1 through the harm caused by undue visual intrusion into the countryside and inconsistency with the local character.

With regard to the impact on living conditions of nearby residential properties, the Inspector noted that an unrestricted B2 use could result in the appeal site being used for a wide range of potentially noisy activities, but that some noises

would not be detectable above the background noise of the nearby M40. He considered that the application was sufficiently detailed that conditions limiting working hours and types of process to be carried out could sufficiently control the types of activities being carried out, and thus control the noise likely from the site; concluding that with such conditions, the proposal would comply with Policy ENV1 of the Cherwell Local Plan 1996 and guidance within the NPPF relating to seeking a good standard of amenity for all existing occupants of land and buildings. Notwithstanding the lack of harm in this respect, the Inspector concluded that the proposal's impact on the character and appearance of the surrounding area was such that the appeal should be dismissed.

**3) Allowed the appeal by Ms Clari Worth against the refusal of planning for a two storey side extension and part two storey rear extension. – 15/01782/F. 10 Marlborough Avenue, Kidlington, OX5 2AN – (Delegated)**

The appeal proposal, relating to 15/01782/F and a revised scheme of 15/00981/F which had also been refused, was a double storey side extension and part double storey rear extension. The appeal was allowed.

The main issues:

- a. The character and appearance of the surrounding area and living conditions of No 8 in terms of loss of outlook and loss of light.
- b. Would the proposed extension create a terracing effect and result in an impact to the character and appearance of the area?

The Inspector considered a terracing effect to apply only when buildings (and any extensions) essentially follow a common building line resulting in a continuous mass of buildings. The Inspector adjudged in this instance that the first floor set-back and resultant drop in the roof height did not result in a terracing effect and that therefore the proposal did not harm the character and appearance of the surrounding area and thus complied with Policies C28 and C30 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and the NPPF, despite the extension being sited close to the boundary.

The effect of the extension on the closest neighbour's living conditions was considered acceptable with regard to the effects on the daylight and sunlight to the neighbour's side facing windows serving the carport and bathroom/en-suite openings, given that they were obscurely glazed and did not serve any habitable rooms. However, the Inspector did not appear to have considered the impact of the rearward side projection on the neighbour.

**4) Dismissed the appeal by Mr J Brewer against the refusal of planning and listed building consent for alteration and extension of Model Farm House to incorporate the change of use of existing farm buildings into ancillary residential use. Landscaping and relocation of modern agricultural building. – 14/01711/F + 14/01712/LB. Model Farm, 19 Bletchington Road, Hampton Poyle, Kidlington, OX5 2QG – (Delegated).**

The Inspector concluded that the main issues in this case were:

- whether the proposal would be inappropriate development in the Green Belt; and
- whether the proposal would preserve the special architectural and historical interest of the Grade II listed buildings, and preserve or enhance the character or appearance of Hampton Poyle Conservation Area.

When considering the principle of the extensions against Green Belt policy, the Inspector noted that: “The size of the Heart of the Home extension (linking the farmhouse to two curtilage listed farm buildings) would be a relatively low slung single storey flat roof structure and would in pure space terms effectively infill a gap between the farmhouse and the existing structures...The garden link would cover a small area between the farmhouse and Cart Shed and the porch would be relatively insubstantial.” Taken together the Inspector concluded that these extensions would not be disproportionate additions to the original dwelling.

Turning to the impact on the heritage assets, the Inspector stated that whilst the ‘heart of the home’ extension would cover a ‘fairly large area’ and went on to state that “The construction of the single storey flat roof structure in the middle of the open space that links the north and east farmyards together would have an adverse effect on the coherence as a whole of the historic farmstead and would not enhance the current plan form and context of the farm.” Furthermore, the Inspector observed that this structure would not be “subordinate to the host dwelling” and that the proposal would not integrate successfully with the existing buildings.

The Inspector was also critical of the ‘garden link’, a proposed structure joining the dwellinghouse to a nearby cart shed. The Inspector argued that it would draw attention to itself, detracting from the design and details of the main farmhouse and the simplicity of the cart shed. The Inspector also questioned the acceptability of the proposed pond and swimming pool arguing that these would have the potential to adversely affect the context and form of the farm yard plan.

When summing up the proposal, the Inspector found that the development would cause less than substantial harm to the significance and the setting of the Grade II listed buildings and that in so doing it would also fail to preserve the historic character and appearance of the Hampton Poyle Conservation Area. Whilst concluding that the harm would be less than substantial, the Inspector nonetheless went on to state that “there would be real and serious harm requiring clear and convincing justification”. Both of the appeals were dismissed.

**5) Dismissed the appeal by Mr J Brewer against the refusal of planning and listed building consent for alteration and extension of Model Farm House and alterations to existing farm buildings to facilitate conversion to ancillary residential use, landscaping and relocation of modern agricultural building – re-submission of 14/01711/F + 14/01712/LB. – 15/00949/F + 15/00950/LB. Model Farm, 19 Bletchingdon Road, Hampton Poyle, Kidlington, OX5 2QG. (Delegated).**

The appeals at the site relate to a second round of applications at Model Farm which were also dismissed. The scheme made some alterations to the previous scheme which was dismissed earlier in the year, most notably a reduction in the width of the Heart of the Home extension.

The Inspector concluded that the main issues in this case were:

- whether the proposal would be inappropriate development in the Green Belt; and
- whether the proposal would preserve the special architectural and historical interest of the Grade II listed buildings, and preserve or enhance the character or appearance of Hampton Poyle Conservation Area.

When considering the principle of the extensions against Green Belt policy, the Inspector noted that: *“The Heart of the Home extension would be a relatively low slung single storey flat roof structure and would in pure space terms effectively infill a gap between the farmhouse and the existing structures of the Stone Barn and Granary & Dairy. The garden link would cover a small area between the farmhouse and the Cart Shed and the porch would be relatively insubstantial. Taken together I do not consider that these additions would be disproportionate over and above the size of the original building.”* The Inspector therefore concluded, as with the previous appeal proposals, that the proposal would not constitute inappropriate development in the Green Belt.

Turning to the impact on the designated heritage assets, the Inspector stated the construction of the Heart of the Home extension in the middle of the open space that links the north and east farmyards together would have an adverse effect on the coherence as a whole of the historic farmstead and would not enhance the current plan form and context of the farm. The Inspector went on to note that the enclosure by the proposed Heart of the Home extension would adversely affect this functional relationship and the setting of the listed buildings. The Inspector also questioned the acceptability of the proposed pond and swimming pool arguing that these would have the potential to adversely affect the context and form of the farm yard plan.

When summing up the proposal, the Inspector found that the development would cause less than substantial harm to the significance and the setting of the Grade II listed buildings and that in so doing it would also fail to preserve the historic character and appearance of the Hampton Poyle Conservation Area. Whilst concluding that the harm would be less than substantial, and whilst appearing to conclude that the harm would be less than would have resulted from the previous appeal proposals, the Inspector nonetheless went on to state that there would be *“real harm which requires clear and convincing justification”*. The Inspector did not consider there were public benefits that had been adequately demonstrated to outweigh the harm. As such both of the appeals were 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:

Nigel Bell, Team Leader – Planning, Law and Governance, 01295 221687,  
[nigel.bell@cherwellandsouthnorthants.gov.uk](mailto: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:

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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

<b>Appendix No</b>	<b>Title</b>
None	
<b>Background Papers</b>	
None	
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