

Cherwell District Council

Planning Committee

7 July 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 **15/00758/F – Land Adjacent to Esso Station, Baynards Green, OX27 7SG.** Appeal by McDonald's Restaurant Ltd against the refusal planning permission for freestanding single storey restaurant with associated drive-thru, car parking and landscaping; installation of customer order display and canopy.
- 15/01515/F – 172 Mill Street, Kidlington, OX5 2EE.** Appeal by Mr Jamshidifard against the refusal of planning permission for insertion of window (existing unauthorised).
- 15/01724/F – Bicester Furniture Studio, 24 Church Street, Bicester, OX26 6AZ.** Appeal by Papa John's (GB) Ltd against the refusal of planning permission for a change of use from a shop (Use Class A1) to a hot food takeaway (Use Class A5) with internal and external alterations.

15/02353/OUT – S and S Motors, Rear of 63 Ploughley Road, Arccott, Bicester, OX25 1NY. Appeal by Mr & Mrs Ivetic against the refusal of planning permission for redevelopment of site for the erection of nine new 2-storey open market dwellings, with associated parking spaces and upgraded access.

16/00205/LB – 2 Tithe Barn, Street Through Merton, Merton, Bicester, OX25 2NF. Appeal by Mr Stubbs against the refusal of listed building consent for replacement of all first floor windows.

16/00206/LB – 1 Tithe Barn, Street Through Merton, Merton, Bicester, OX25 2NF. Appeal by Dr Roy levers against the refusal of listed building consent for the replacement of 7 wooden windows with double glazed units.

16/00657/OUT – Jack Barn, West End, Launton, OX26 5DG. Appeal by Mr Howson against the refusal of outline planning permission for the erection of 2 No. dwellings – re-submission of 15/02006/OUT.

2.2 Forthcoming Public Inquires and Hearings between 7th July and 4th August 2016.

None.

2.3 Results

Inspectors appointed by the Secretary of State have:

1) Dismissed the appeal by Mr J Baguley against refusal of planning permission for proposed second floor extension with associated internal and external works. 17 and 18 East Street, Banbury, OX16 3LL. 15/01425/F. (Delegated).

Planning permission was sought for a '*second floor extension with associated internal and external works*' for both properties 17 & 18 East Street in Banbury. The site is wholly within the Grimsbury Conservation Area, and the main issue was the effect of the proposed development on the character and appearance of the Grimsbury Conservation Area. The appeal was dismissed.

The Inspector found that the proposal would significantly increase the mass of building above the existing eaves resulting in the loss of a significant gap in the roof line on this stretch of East Street and the loss of strong chimney forms. Although the Inspector found there would still be a small step in ridge heights between Nos. 18 and 19, the Inspector concluded that, 'the characteristic varied and undulating historic roof form would be lost as the appeal properties are the only two storey dwellings in this section of otherwise three storey properties'. The Inspector stated that, '*whilst increasing the height and changing the roof pitch in this case may appear minor, incremental changes can have a significant effect on the significance of a heritage asset*'. The Inspector was not convinced matching materials could be found so as not to appear incongruous within the street scene.

The Inspector concluded at paragraph 11 that ‘the proposed development would detract from the historic representation of an important period in the history of Banbury. This would amount to less than substantial harm to the significance of the designated CA as a whole’, and that there were no material public benefits arising as a direct consequence of the development and therefore the harm identified was not outweighed by any identifiable overriding public benefit.

As a point of interest, the appellants drew attention to something similar at 102 Causeway. The Inspector visited, noted that it did nothing to change his/her mind and concluded: *“there are other similar circumstances in the CA where proposals to increase roof heights may come forward. Whilst each planning proposal and appeal must be considered on its own merits I consider the granting of permission in this case may well make it more difficult for the Council to resist similar proposals in the future further eroding the historic character and appearance of the CA”*.

2) Dismissed the appeal by B A Property Management Ltd against the refusal of outline planning permission for development of No. 5 dwellings. The Tally Ho Inn, 45 Ploughley Road, Arccott, Bicester, OX25 1NY. 15/01454/OUT. (Delegated).

The site is located within the over flow car park of the Tally Ho Hotel. The development proposed was 5 dwellings each with 2 car parking spaces and the retention of and revised layout of parking ancillary to the Tally Ho Hotel. The appeal was dismissed.

The main issues are:

- The effect of the proposal on the character and appearance of the area;
- Whether the proposal would provide satisfactory living conditions for future occupiers of the development with respect to noise and disturbance, and;
- The effect of the proposal on highway safety.
- Housing need.

In relation to the issues above the Inspector concluded the following:

- The development in this area is of a linear form sandwiched between Ploughley Road to the east and railway lines to the west. All the dwellings in the area have a frontage to Ploughley Road and the only development set back is the car repair garage and a block of rooms for the hotel. The proposal would project further to the rear than any part of the existing hotel. The dwellings would not have a frontage to the road and are therefore not infill and therefore constitute minor development. The Inspector found that the siting of the proposed dwellings would not respect its context and the character of the village. The re-use of this previously developed land was found not to outweigh the requirement for the proposal to respect its context. It is considered by the Inspector that the development would harm the character and appearance of the area and would fail to accord with Policy Villages 1 and in addition, policy ESD15 and saved Policies C28 and C30.

- The proposal is sited within what has previously been used as an overflow car park for the hotel. The proposed layout would involve a row of 13 parking spaces in front of four of the dwellings proposed. 6 of the spaces would be used by the dwellings but the remainder would be for hotel use. A further 14 spaces opposite the proposal dwellings would also be for hotel use, a total of 23 spaces for hotel use. The Inspector identified that the parking spaces would lead to noise and disturbance from cars arriving and leaving, car doors shutting, odour and glare from lights and noise from customers and such noise could take place late at night. The proximity to the proposed dwellings to the parking would be likely to result in an adverse effect on the living conditions of the future occupiers of the development and would be contrary to Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and saved Policies C30 and ENV1 of the Cherwell Local Plan 1996.
- The Inspector considered the parking spaces available across the site for the proposed dwellings and the hotel was sufficient. As such, it is unlikely that the proposed development would result in parking on the public highway. The development would comply with ESD15.
- In terms of housing need, the Inspector recognised that the Council do have in excess of a five year supply of housing. Moreover, the limited contribution the development would make to the Council's supply of housing does not outweigh the harm that the proposal would cause.

3) Dismissed the appeals by Mr and Mrs Walters-James against the refusal of planning and listed building consent for the demolition of existing extensions and garage and formation of basement and erection of new replacement extension. White Horse Cottage, 37 Freehold Street, Lower Heyford, OX25 5NS. 15/01552/F + 15/01553/LB. (Delegated).

The appeal relates to the proposed demolition of existing extensions and garage and replacement with a linear and perpendicular extension. The Inspector identified the main issues as whether the proposal would preserve the Grade II listed building and the extent to which it would preserve or enhance the character and appearance of the Rousham Conservation Area.

The Inspector noted that the significance of the Conservation Area primarily related to its vernacular architecture, materials and the traditional layout of buildings. Notwithstanding the modern garage, the linear arrangement of the buildings within the plot indicates a clear functional relationship with the yard and the special interest of the building derives from its original linear form and traditional materials. The combined extensions would result in a footprint that would be approximately 170% of the area of the original cottage and would overly-dominate the original cottage. The stepped ridge heights would not mitigate the harm and the fenestration would be highly incongruous.

Given the above, the appeal scheme was at odds with the prevailing character of the Conservation Area, with the harm being identified as less than substantial. The Inspector concluded that there would no public benefits relating to the scheme. The adverse impacts, through failing to preserve the special historic

interest of the Grade II listed building or Conservation Area, would significantly outweigh the benefits of the scheme. The Inspector also noted that a previous approval for a similar but smaller scheme was given limited weight when reaching the decision to dismiss the appeal.

4) Dismissed the appeal by Mr and Mrs Moss against the refusal of planning permission for the conversion and extension of outbuilding to form annexe. The Bungalow, 52A Mill Street, Kidlington, OX5 2EF. 15/01639/F. (Delegated).

The appeal related to the conversion and extension of an outbuilding to form an annexe to the main dwelling of 52A Mill Street in Kidlington. The Inspector identified the main issues as being the effect of the proposal on the character and appearance of the Kidlington Church Street Conservation Area and the effect on the setting of the Grade II listed building at Hazelwood.

On the matter of the Conservation Area, the Inspector noted that “the increase in the size and height of the building would be a considerable visual intrusion into the open area in front of Nos. 50 and 52A and would appear prominently when viewed from the public footpath. Furthermore it would not be subordinate to the existing dwelling at No 52A and would appear as a distinct dwelling positioned forward of the existing houses. For these reasons the development would not reflect the open character of the immediate area and would appear strikingly incongruous in its context”. The design and the materials to be used on the building were considered to be acceptable, however the existing garage is also in keeping with the character of the Conservation Area in terms of its appearance and its removal and replacement by the proposed building would not be of aesthetic benefit to the area.

On the matter of the impact on the nearby listed building, the Inspector noted that the proposed building would have an impact on the listed building to which it lies adjacent to, Hazelwood. The roof of the proposed building would project above the wall which divides 52A Mill Street and Hazelwood and the proposed building would be clearly visible in the context of the listed building, particularly when viewed from the public footpath. The proposed building would be a significant development in close proximity to, and forward of, the listed building and as a result it would adversely affect its setting.

The Inspector concluded that the proposed building would cause less than substantial harm to significance of the Conservation Area, and that the public benefits would be limited and would not outweigh the harm caused to the character and appearance of the Conservation Area. The development was also considered to cause less than substantial harm to the setting of the listed building and again, the public benefit of the proposal would not outweigh the harm caused to the setting of the listed building. The proposal was considered to be contrary to Policies Villages 1 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and saved Policies C28 and C33 of the Cherwell Local Plan 1996.

5) Allowed the appeal by Builders Ede Ltd against the refusal of prior approval for the conversion of existing office building into 8 x 1 bed residential units. Eden House, Lyne Road, Kidlington, OX5 1AD. 15/02100/O56. (Delegated).

The applicant applied for prior approval for the conversion of an existing office building into 8 x 1 bedroom residential units under Schedule 2, Part 3, Class O of the General Permitted Development Order 2015.

At the time of the site visit, the case officer noted that the existing ground and first floor openings had been replaced, a ground floor door indicated on the plans for the proposed flats had been installed, a first floor opening had been inserted and cladding had been applied to the exterior of the building. Whilst the ground floor works constituted permitted development under Schedule 2, Part 7, Class F of the General Permitted Development Order 2015, it was considered that the first floor works were external alterations that required planning permission.

Schedule 2, Part 3, Class O of the General Permitted Development Order 2015 does not permit external alterations to the building and as such, prior approval for the works was refused.

Whilst the appeal was being considered, the applicant applied for and obtained retrospective planning permission for the external works.

The Inspector agreed that Class O does not provide scope for operational development in association with a change of use. However, as the external alterations were not considered fundamental to or solely related to residential use, they would not prevent the use of the building as an office, and as the change of use had not yet commenced (despite internal walls being under construction), the external works were held to be distinguishable from the proposed development.

The appeal was allowed and prior approval granted, with no conditions.

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:

Denise Taylor, Group Accountant, 01295 221982,
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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

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, Law and Governance, 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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