

Cherwell District Council

Planning Committee

24 November 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 **16/00281/Q56 Field Farm, Whichford Road, Hook Norton.** Appeal by Ms Taylor against the refusal of planning permission of change of use of 3 barns to 3 dwellings including operational development.

16/00468/F Land Aji to 33 Nuffield Drive, Banbury. Appeal by Mr Freeman against the refusal of planning permission for the erection of 1 new dwelling – re-submission of 15/01538/F.

16/01394/F 16-30 Fairfax Centre, Kidlington. Appeal by Mr Meadowcroft against the refusal of planning permission for the formation of 3 No studio dwellings in roof space – re-submission of 15/02114/F.

16/01582/TPO 5 Ty Craig, Victoria Road, Bicester, OX26 6PP. Appeal by Mr Hyett against the refusal of permission to fell 1 no cedar tree subject to Tree Preservation Order 8/2000.

- 2.2 Forthcoming Public Inquires and Hearings between 24th November 2016 and 15th December 2016.

Planning Hearing commencing Wednesday 30th November 2016 at 10am, River Cherwell Meeting Room, Cherwell District Council, Bodicote House, White Post Road, Bodicote, OX15 4AA. Appeal by Vanderbilt Homes & International Wood Agency Ltd against the refusal of outline planning permission for the demolition of existing industrial buildings and erection of 21 affordable dwellings and 49 open market dwellings, with associated new access, open space and landscaping. 15/02074/OUT. Former Lear Corporation, Bessemer Close, Bicester.

2.3 Results

Inspectors appointed by the Secretary of State have:

- 1) Dismissed the appeal by Mr Jamshidifard against the refusal of planning permission for the insertion of window (existing unauthorised). Mill Street Chiropractic, 127 Mill Street, Kidlington, OX5 2EE. 15/01515/F (Delegated).**

The main issue was whether the development would preserve or enhance the character or appearance of the Church Street Conservation Area.

The Inspector agreed with the Council that the historic street pattern and range of types and styles of historic and listed buildings in the Conservation Area contribute positively to its character, as do the traditional building forms and use of local building materials in most of the historic buildings.

The terrace at 127 to 135 (odd numbers) Mill Street (the terrace) is identified as a locally listed building in the Cherwell District Council Kidlington Conservation Areas Appraisal. The host building is part of a terrace constructed of a simple pitched roof form, traditional building materials, and is prominently sited where Evans Lane meets Mill Street and makes a positive contribution to the character and the appearance of the Conservation Area. The terrace has a degree of significance as a non-designated heritage asset that merits consideration in planning decisions.

Although now including shops at ground floor level, the repeated chimney stacks and first floor window openings in the stone-built terrace allow the main part of the building to be appreciated as a row of modest historic dwellings. The Inspector referred to the Council's photographs, which were taken before the development was carried out, as demonstrating that the pattern of multi-paned glazed doors and mainly-paned shop windows and awnings maintained the scale and rhythm of the dwellings in the terrace.

The door and window in the shop front at the appeal building have been replaced by a large plastic-framed plain-glazed window, which broadly aligns with the former window sill. The lower part of the doorway has been filled in rendered and painted and the awning and its lead flashing have been removed and replaced by a flat fascia panel.

The Inspector judged that, due to the loss of the doorway and its replacement with modern materials such as a wider plastic-framed window, and the replacement of the awning with a fascia sign panel, the development harmfully disrupts the important rhythm in the terrace. Its inharmonious proportions and modern appearance result in demonstrable harm to the significance of the Conservation Area as a whole and damage the positive contribution made by the terrace to the character and the appearance of the Conservation Area.

The Inspector concluded that nearby developments did not provide support to this harmful development. The Inspector took into account the appellant's concerns regarding flood risk, hygiene and ventilation, but concluded that the new side entrance to the premises is at a similar level to the removed doorway, so the adverse effects of flooding, including its impact on hygiene, would not be materially mitigated by its repositioning and there is little to show that the development achieves any other public benefit.

2) Dismissed the appeal by Mr and Mrs Ivetic against the refusal of planning permission for the redevelopment of site for the erection of nine new two storey open market dwellings, with associated parking spaces and upgraded access. S & S Motors, Rear of 63 Ploughley Road, Arncott, OX15 1NY. 15/02353/OUT (Delegated).

The Inspector concluded that the main issues in the appeal were the effect on the character and appearance of the area and highway and pedestrian safety within the site.

The Inspector stated that whilst the garage part of the site is previously developed land and could be considered to be located within the developed limits of Arncott, the paddock area of the site is beyond the existing village envelope.

The Inspector also noted that whilst the existing garage, the development at the Tally Ho, and Manor Farm extend back from the road frontage, the character of the residential element of this ribbon development is one of frontage development to Ploughley Road. The Inspector went on to note that proposed dwellings, which would be sited behind Nos 59-69 Ploughley Road, would be in contrast with the prevailing form of residential development in Lower Arncott and the general form of the village as a whole. Furthermore, the Inspector stated that the proposal would not represent a logical rounding off of Arncott given the relative juxtaposition between the existing and proposed development in the area.

The Inspector therefore concluded that the dwellings would lead to unacceptable harm to the character and appearance of the area, contrary to Policies ESD13, ESD15 and Policy Villages 1 of the Cherwell Local Plan Part 1 (LP), saved Policies H18 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within National Planning Policy Framework (NPPF).

In relation to the matter of highway safety, the Inspector noted that whilst there is a path along the property frontages, this would not extend down the driveway to Ploughley Road. In addition, the Inspector stated that it is unclear whether service vehicles, being the largest vehicle likely to visit the site, would be able to enter and exit in a forward gear. The Inspector stated that because that the

layout of the site is being considered at the outline stage, changes required to address these issues cannot therefore be reserved for future approval, nor could they be resolved through a suitably worded planning condition. The Inspector therefore concluded that the layout of the development would be likely to give rise to significant harm to highway and pedestrian safety and as such the proposal would conflict with Policy ESD15 of the LP and Government guidance contained within NPPF.

Costs Appeal

A costs application was submitted in relation to the decision to refuse the planning application. The costs application was made on the basis that the Council acted unreasonably in that:

- 1) They had previously indicated broad support for the proposal;
- 2) Arncott is deemed a highly sustainable location to accommodate new residential development;
- 3) The District is still seeking to accommodate around 3,500 extra dwellings which cannot be accommodated at nearby Oxford; and
- 4) The refusal of the application was an attempt to thwart development at neighbouring land rather than a proper consideration of its own merits.

In relation to the 1st ground, the Inspector concluded that such pre-application advice is usually given without prejudice to the final determination of any application and that this is a matter for local government accountability rather than an issue relating to the planning merits of the appeal.

Regarding the 2nd ground, the Inspector stated that the Council's concern was based upon the effect of the development on the character and appearance of the area, being a 'backland' style proposal. The Inspector therefore concluded that the Council provided sufficient evidence to justify their views and as such no unreasonable behaviour occurred.

In relation to the 3rd ground, the Inspector noted that at the time of the adoption of the Cherwell Local Plan 2011-2031 (LP) it was acknowledged that there would be some unmet housing need arising from Oxford, and whilst the exact amount to be accommodated within Cherwell was not agreed at that point in time, the LP made provision for this by means of a partial review within 2 years (July 2017). The Inspector went on to state that given the relatively recent adoption of the LP, and that it provides for a timely review to deal with unmet need arising from Oxford, it remains up-to-date when considered against the NPPF as a whole. Consequently, the Inspector considered that the housing supply policies are up-to-date. Thus, the Inspector concluded that in determining the application in accordance with the LP, the Council have not acted unreasonably.

Regarding the fourth ground, the Inspector noted that on the evidence put forward, there is nothing to suggest that the Council's handling of this application was an attempt to thwart development at neighbouring land.

The Inspector therefore concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, had not been demonstrated and that an award of costs was not justified.

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:

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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	
None	
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