

Cherwell District Council

Planning Committee

19 January 2017

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 **16/00548/F Land at Hempton Lodge, Snakehill Lane, Hempton.** Appeal by Cre8ive Homes against the refusal of planning permission for development of a single storey dwelling – re-submission of 15/01563/F.

16/00892/OUT 15 and 17 Milton Road, Bloxham, OX15 4HD. Appeal by Mr Barmby against the refusal of planning permission for outline of 3 dwellings.

16/01706/F Land North Of OS 0006 And South East Of College Farm, Pinchgate Lane, Bletchington. Appeal by JE and AJ Wilcox against the refusal of planning permission for the erection of 6 no. agricultural buildings for poultry production, together with associated infrastructure of boiler building, ancillary buildings, feed bins, harstandings access and drainage attenuation pond.

16/02001/F 18 New Street, Bicester, OX26 6EY. Appeal by Bicester Golf and Country Club against the refusal of planning permission for a two storey front and single storey side extension (revised scheme of 16/00524/F).

16/02030/F Bishops End, Burdrop, Banbury, OX15 5RQ. Appeal by Mr Noquet against non-determination for the erection of a single storey building providing 3 No. en-suite letting rooms – re-submission of 16/01525/F.

16/02058/F March House, Main Street, Mollington, OX17 1BP. Appeal by Mr and Mrs Finlay against the refusal of planning permission for erection of replacement garage and garden store with home officer over.

- 2.2 Forthcoming Public Inquires and Hearings between 19th January 2017 and 16th February 2017.

Planning Hearing commencing Tuesday 7th February 2017 at 10am in the River Cherwell Meeting Room, Cherwell District Council, White Post Road, Bodicote, OX15 4AA. Appeal by Vanderbilt Homes & International Wood Agency Ltd against the refusal of 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. Hearing rescheduled following the cancellation of the originally scheduled date (30th November 2016).

2.3 Results

Inspectors appointed by the Secretary of State have:

- 1) Dismissed the appeal by Mr Hussain against the refusal of planning permission for two storey extension and conversion to form four flats. 42 Grimsbury Square, Banbury, OX16 3HP. 16/00042/F – (Delegated).**

The appeal relates to a two storey side extension and conversion to 4 flats of an existing residential property. The Inspector identifies the main issues as being the effect of the proposal on the character and appearance of the area, and whether it would provide satisfactory living conditions for future occupiers with regard to outdoor amenity space.

On the first issue, the Inspector concluded that the extension would result in a substantial and disproportionate addition, failing to follow the prevailing building line along this side of Grimsbury Square. The Inspector also noted that the extension would thus give the property an unbalanced appearance, incongruous in views from around the junction of Grimsbury Square and Grimsbury Drive, and from further along the latter. The inspector considered that the prominent location on this junction draws attention to this. Whilst the appellant made note of other extensions in the immediate area that had also been extended, the Inspector concluded that insufficient evidence was provided to demonstrate the reasoning for these decisions, and in any case, each application and appeal should be judged on its individual merits.

Regarding the second issue, the Inspector made note that the extension would substantially reduce the amount of space to the side of the property, and would leave a substantially smaller rear garden compared to most of the dwellings in the area. However he considered that whilst the resulting outdoor space would not be sufficient to provide an adequate outdoor amenity space in itself considering the likely number of future occupants, given the substantial area of public open space in Grimsbury Square, the Inspector concluded that their overall needs would be met.

The Inspector therefore concluded that whilst the proposal would provide acceptable living conditions for the proposed development's future occupiers, this would be significantly and demonstrably outweighed by the harm to the character and appearance of the area.

2) Dismissed the appeal by Mr Dunford against the refusal of planning permission for the change of use of land to residential curtilage and erection of new fence. 25 Eden Way, Bicester, OX26 2RP. 16/00291/F – (Delegated).

The proposal was to enclose an open area of land to the side of a suburban dwelling. The Council considered that the amenity space formed a valuable part of the public realm and streetscene. The main issue for consideration, therefore, was whether the proposed fence would adversely affect the character and appearance of the area.

The Inspector found that the land was physically contiguous with an area of public open space to the rear of the property and that the erection of timber fencing around the land would have resulted in a *small but nonetheless pronounced adverse effect by diminishing the overall spaciousness that is a characteristic of the street scene*, contrary to Policy C28 of the Cherwell Local Plan 1996 and Policy ESD15 Cherwell Local Plan 2011-2031 Part 1 which states that *new development should, amongst other things, contribute positively to an area's local distinctiveness and integrate with existing streets and public spaces*.

Although the appellant provided examples of other schemes nearby, the Inspector could not draw any useful comparisons between them and the appeal proposal. The Inspector did however agree with the Council's argument that the grant of planning permission would set a precedent for similar development in the surrounding area and the approval of this proposed could have been used in support of similar schemes in the locality. The Inspector found that this *was not a generalised fear of precedent, but a realistic and specific concern given that there are other properties nearby with areas of land within their grounds but outside of their physically contained garden areas*. The appeal was therefore dismissed.

3) Dismissed the appeal by Mr Allmond against the refusal of outline planning permission for the erection of a single detached dwellinghouse – re-submission of 15/00800/OUT. Land adj to Corner Cottage, Bignell View, Chesterton. 16/00422/OUT – (Delegated).

The Inspector concluded that the main issue is the effect of the proposed development on the character and appearance of the Chesterton Conservation Area.

The Inspector stated that the development in Bignell View is mainly one house deep with most dwellings on relatively generous plots with spacious gardens and that there is a sense of spaciousness in a relatively low density built environment. The Inspector went on to note that the siting of the dwelling, albeit with its limited height, on the plot would occupy the visual space that exists between Ailleen and Corner Cottage and it would therefore adversely affect

views towards traditional stone historic buildings of Bignell View and the Conservation Area from the roads to Kirtlington and Little Chesterton. The Inspector stated that these are the first views of the Conservation Area at that entry point to the village and are of value, despite not being identified in the Chesterton Conservation Area Appraisal.

The Inspector considered that the design, footprint and height of the proposal would be likely to draw the eye to the detriment of the Conservation Area and would also appear incongruous in the street scene in its prominent location. The Inspector also noted that the mass and density would compromise the spacious character of this part of the village at the start of the conservation area.

The Inspector concluded that the development would cause less than substantial harm the character and appearance of the conservation area and whilst there are some limited public benefits to the scheme, these were not considered to outweigh the harm identified therefore the appeal was dismissed.

4) Dismissed the appeal by Farima Properties Ltd against the refusal of planning permission for the erection 1 No. dwelling with associated parking and garden (resubmission of 15/01996/F). Land at Third Acre, Shutford Road, Balscote, OX15 6JQ. 16/00567/F – (Delegated).

The appeal related to the construction of a two storey dwelling to the front of the bungalow at Third Acre, Balscote. The Inspector identified the main issue as being the effect of the proposal on the character and appearance of the area with particular regard to whether it would preserve or enhance the character or appearance of the Balscote Conservation Area and the Grade II listed Butchers Arms Public House.

The appeal site is located outside of the conservation area but located directly adjacent to it. The site is located directly to the north of the Grade II listed Butchers Arms.

On the matter of the impact on the conservation area, the Inspector stated that though the site was located outside of the conservation area, it still made a positive contribution to the loose-knit and spacious character of the area. The erection of a dwelling on a parcel of land that contributes to the character and appearance of the conservation area was considered to have a harmful effect on the conservation area.

On the matter of the impact on the setting of the nearby listed building, the Inspector stated that the open spaces to the north and south of the Butchers Arms provide a very important part of its setting. The dwelling would have been of a much smaller scale than the public house and because of the combination of this incongruous contrast in proportions and the impact on the space surrounding the listed building, it was considered that the development would be harmful to the setting of the heritage assets. This harm was considered to be less than substantial and the provision of one further dwelling was not considered to be a sufficient public benefit to outweigh the harm caused to the significance of the heritage assets.

The Inspector concluded that the development would harm the character and appearance of the area and in particular harm the significance of the CA and the

Grade II listed building. The development would be contrary to Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28, C30 and C33 of the Cherwell Local Plan 1996.

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

The appeal related to the removal of the existing large, modern store/workshop building, clad in grey steel over concrete panels and including roller doors and its replacement with two detached dwellings. The Inspector identified the main issue in this case being the effect of the proposed development on the character and appearance of the area.

Whilst a previous appeal Inspector, who dealt with an enforcement appeal on the site, considered the site to be within the open countryside, the current Inspector concluded that there was now an obvious physical and visual relationship with the village (following the construction of a new dwelling on an adjacent site) and that the appeal development “would relate well to it”.

The Inspector considered that *“the replacement of the large, industrial looking building with 2 dwellings, in an area already characterised by residential development would not result in the urbanisation of the site or detract from the rural character or setting of this part of Launton. Consequently, the proposed development would not have a harmful effect on the character and appearance of the area.”* The development was therefore concluded to be policy compliant and the appeal was allowed.

Turning to the appellant’s application for costs, it had been alleged by the appellant that the Council had behaved unreasonably by virtue of: ignoring the planning merits of the site; becoming side-tracked by the enforcement investigation; providing mixed messages regarding the acceptability of the proposal; and failing to positively and proactively engage with the appellant.

The Inspector dismissed these accusations and found that the Case Officer had acted reasonably and that the application report was not either biased or negative. As unreasonable behaviour had not been demonstrated, the application for costs was refused.

6) Allowed the appeal by Mr Castle against the refusal of planning permission for a single storey extension to rear, new roof light window and summer house. Orchard Barn, 40 Yew Tree Close, Launton, OX26 5AE. 16/00798/F – (Delegated).

The appeal proposal was for a single storey rear extension, a new roof light window and summer house. The main issue identified by the Planning Inspector was the impact on the character and appearance of the host converted barn (non-designated heritage asset) and its surrounding area.

In respect of the extension, the Inspector concluded that it would reflect the roof form of the original barn but would be set down at roof level and set back from

the side elevation and would be narrower in width than the host dwelling. The Inspector considered that the primarily glazed elevation fronting Station Road would appear as a later addition and would also limit the visual impact of its massing.

The Inspector was of the opinion that the proposed summer house would not have any greater impact than the domestic paraphernalia which can be currently be seen. Notwithstanding the fact that it was to be inserted into a converted barn, the Inspector found that the proposed roof light was small in size and would be similar to others seen on the adjoining building.

The Inspector therefore concluded that the appeal should be allowed as, in their opinion, not only did it comply with the development plan it also accorded with the Council's design guide for the conversion of farm buildings.

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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