

Cherwell District Council

Planning Committee

18th May 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 **16/00132/EUNDEV - The Lion, Wendlebury, OX25 2PQ.** Appeal by Ms Robinson-Smith against the serving of an enforcement notice as a result of the erection of an outdoor stone built hearth with tall chimney and inside fire grate approximately 4.8m tall from ground to chimney pot attached to the rear of the property on the land without planning permission.

16/01468/OUT - Land Adj to Manor Farm Barns, Spring Lane, Cropredy. Appeal by Catesby Estates Ltd - Mr Ed Barrett against the refusal of outline planning permission for the demolition of existing building and outline planning application for residential development of up to 60 dwellings; provision of open space, landscaping and car parking for Cropredy Primary School (all matters reserved except access).

16/01563/F - Muddle Barn Farm, Colony Road, Sibford Gower, OX15 5RY. Appeal by Mr and Mrs Besterman against the refusal of planning permission or the demolition of an existing dwelling and a range or large scale equestrian buildings

and the erection of a replacement dwelling including associated works and landscaping (revised scheme of 15/01693/F).

16/02181/F - The Olde Smithy, Kings Head Lane, Islip, OX5 2SA. Appeal by Ms Ellis against the refusal of planning permission for a two storey side extension and first floor extension over existing single storey extension.

16/02302/F - Mallows, Hopcraft Lane, Deddington, OX15 0TD. Appeal by Mr and Mrs Toll against the refusal of planning permission for the erection of rear / side extension, demolition of chimney breast, alterations to loft to form habitable accommodation, addition of front and rear dormer windows.

16/02465/F - Formerly The Star Public House, Bucknell Road, Bicester, OX26 2DG. Appeal by Castlepride Management Limited against the refusal of planning permission for alterations to create 2 No. 2 bed flats in roofspace and 2 No. 2 bed flats and 1 No. 1 bed flat at first floor level (amendments to 14/02062/F).

16/02150/F - Land Adj To B4035 CTIL 201348, Unnamed B4035 Single Carriageway 6811256, Sibford Gower. Appeal by CTIL and Telefónica UK Ltd against the refusal of planning permission for the installation of 1.no. 21 metre high RT Swann Lattice tower on new concrete base with 6 no. antennas, 2 no. dishes, 4 no. cabinets and ancillary development thereto.

16/02548/F - 4 Church Lane, Mollington, Banbury, OX17 1AZ. Appeal by Mr and Mrs Fisher against the refusal of planning permission for a single storey rear extension with log burning flue. Dormer window to North elevation. Pitched roof on existing flat roof porch. Gravel finish to driveway.

17/00423/F - Faraway, Brill Road, Horton-Cum-Studley, OX33 1BX. Appeal by Mr and Mrs Worrall against the refusal of planning permission for a single storey rear extension.

- 2.2 Forthcoming Public Inquires and Hearings between 18th May 2017 and 15th June 2017.

Planning Hearing commencing Tuesday 6th June 2017 at Banbury Cricket Club, White Post Road, Bodicote, OX15 4AA. Appeal by Mrs MacPherson against the refusal of planning permission and serving of an enforcement notice in relation to the retrospective erection of one bedroom self-contained annex above existing store rooms. Withycombe Barn, Wigginton Heath, Banbury, OX15 5HH

2.3 Results

Inspectors appointed by the Secretary of State have:

- 1) Allowed the 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. Former Lear Corporation, Bessemer Close, Bicester, OX26 6QE. 15/02074/OUT – (Committee).

The development proposed was for the demolition of an industrial building on the corner of Launton Road and Bessemer Close, an industrial estate, and the erection of 70 residential units, including 21 affordable houses. The main issues were noise and vibration and the poor living environment created for the new residents having regard to the proximity and relationship with the adjacent Launton Road, railway line and industrial units, and scale form and design resulting in an overdevelopment of the site.

The Inspector considered in terms of noise and vibration, that mitigation measures would be necessary, including double glazing and acoustic fencing to ensure that noise levels would be within World Health Organisation limits for external and internal noise for residential developments, which could be secured by an appropriate condition. She also considered that successful enforcement action in respect of an adjacent unit meant that the commercial buildings are being effectively controlled and are subject to conditions restricting their use and therefore the relationship between the industrial units and the new residential would not be an issue. The Inspector also accepted that the appellant's noise and vibration assessment was not technically compliant with the methodology set out in BS4142:2014. However, she agreed with the appellant's assessment that with mitigation, residents would not be significantly adversely affected by the ambient background noise level in the locality.

In terms of the character and appearance of the development, she concluded that a continuous built frontage to Launton Road was not essential as the existing building was set back from the road and the retail buildings opposite were also set back from the road with surface parking dominating the street scene. She considered therefore that some dwellings fronting the street would make a positive contribution to the character of the area. In terms of the design of the apartment blocks, she accepted that the architectural relationship between some of the elements was somewhat awkward, but concluded that they would not be particularly prominent in public views and would therefore not be so harmful to make the development unacceptable and that the scale of the buildings would not be markedly out of scale with the adjacent warehouse buildings.

On the basis of this assessment the appeal was dismissed. Officers consider this to be an unfortunate decision given the location of the proposed development.

2) Dismissed the appeal by Cre8ive Homes against the refusal of planning permission for a development of a single storey dwelling – re-submission of 15/01563/F. Land at Hempton Lodge, Snakehill Lane, Hempton, OX15 0QL. 16/00584/F – (Delegated).

The appeal sought consent for a single storey dwelling on the edge of the village of Hempton. The appeal followed an earlier dismissed appeal on the site which was for a larger two storey dwelling.

The main issue was the impact of the development on the character and appearance of the area. The Inspector noted that the site formed part of a grouping of buildings adjacent to the open countryside where dwellings have a good amount of space around them which positively contributes to the loose-knit layout of edge of settlement location. The Inspector noted that whilst the dwelling was single storey it would introduce a significant amount of built form into the area resulting in a loss of spaciousness. It would also sit uncharacteristically close to the adjacent property. Whilst the Inspector noted the outbuildings at neighbouring properties, which the appellant had referenced in support of the appeal, the Inspector considered these clearly to be ancillary outbuildings whereas the proposal would be a far larger building with its own separate access and drive and as such would clearly read as a separate dwelling. Its single storey form and material would also be at odds with the surrounding properties.

The Inspector therefore concluded the proposal was of an inappropriate design and would lead to the loss of an important local gap and therefore runs contrary to Policies C28, C30 and C33 of the CLP1996 and Policy ESD15 of the CLP2031.

3) Dismissed the appeal by Ms Barmby and Howard against the refusal of outline planning permission for the erection of 3 No. dwellings. 15 and 17 Milton Road, Bloxham, OX15 4HD. 16/00892/OUT – (Committee).

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

- The effect of the proposed development on the character and appearance of the area,
- The effect of the access to the proposed development upon the living conditions of the residents of No's 15 and 17 Milton Road, with respect to noise and disturbance, and
- The effect of the proposal on highway safety in Milton Road.

The Inspector stated that in the direct vicinity of the appeal site and towards the west, the character remains of a linear form of development characterised by large houses in substantial plots. The Inspector noted that the proposal, by placing 3 dwellings in the rear of the existing plots to 2 houses, would inevitably increase the density of the area at odds with the prevailing character to the west of the site. The Inspector went on to state that the proposal would appear incongruous and would not relate to the pattern of local development, which although has altered in recent years, 'backland' development in the form proposed remains rare. The Inspector therefore concluded that the proposed development would have an adverse effect on the character and appearance of the area, contrary to Policies Villages 1, ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996, as well as Policies BL11 and BL12 of the Bloxham Neighbourhood Plan.

In relation to living conditions of No's 15 and 17 Milton Road, the Inspector stated that the access would be shielded from No 15 by the hedgeline, which would adequately mitigate any adverse effect of the proposal. The Inspector noted that the access would be closer to No 17, but that mitigation in the form of

landscaping and possible acoustic fencing, which could be dealt with under reserved matters, would be sufficient to alleviate this issue. The Inspector went on to note that the access would remain a reasonable distance from the habitable rooms of No.17. The Inspector therefore concluded that the access to the proposed development would not have a significant adverse upon the living conditions of the residents of No's 15 and 17 Milton Road, with respect to noise and disturbance.

Regarding highways safety, the Inspector made reference to evidence supplied by the appellant subsequent to the application decision, which demonstrated that the hedges to the front of the site could be replanted behind the vision splays, as well as reference to comments made by Oxfordshire County Council as Highways Authority that this arrangement would be acceptable and achievable. As such, the Inspector notes that a safe access could be achieved on the site within the ownership of the two properties and that such provisions could be conditioned and considered in detail at Reserved Matters stage. The Inspector therefore concluded that the proposal could be designed so as not to have an adverse effect on highway safety in Milton Road.

Thus, the Inspector concluded that whilst the proposal with suitable mitigation would not harm highway safety or the living conditions of existing occupants, the proposal would have an adverse effect on the character and appearance of the area and would be contrary to the development plan, and that the appeal should therefore be dismissed.

4) Dismissed the appeal by Investfront Ltd against the refusal of planning permission for the redevelopment of site (function hall) to provide for 8 No. two bedroom dwellings. The Oxfordshire Inn, Heathfield, Kidlington, OX5 3DX. 16/01109/F – (Delegated).

The appeal was for the demolition of the existing building accommodating the Oxfordshire Inn in Heathfield and the erection of 8 dwellings on the site.

The site lies with the Oxford Green Belt. The development was therefore considered in the context of the 6th bullet point of paragraph 89 of the NPPF - the 'complete redevelopment of previously developed sites....which would not have a greater impact on the openness of the Green Belt and the purpose of including the land within it than the existing development'. It was agreed between parties that the site involved the redevelopment of a brown field site in the Green Belt however the impact on openness was disputed. The Inspector agreed with the Council that the increase in ridge and eaves height of the proposal would result in a building of significant more bulk than the existing building despite a 25% reduction in volume and 48% reduction in footprint of the building. This in combination with the enclosed garden spaces would lead to harm to the openness of the Green Belt and the development therefore constituted 'inappropriate development' in the Green Belt.

In relation to the location of the site, the Inspector concluded that Heathfield did not constitute a village for the purposes of the development plan and that the dwellings would be isolated from services and not in a sustainable location. It was not considered that a potential reduction in traffic associated with the

existing use, as a public house, outweighed this. The unsustainable location of the site was therefore contrary to ESD1 of the CLP2031 and Saved Policy H18 of the CLP1996.

The appellant also disputed the fact that the proposal was a community facility and argued it operated as part of the hotel for which the Council had already granted permission for all the rooms to be converted to new dwellings. The Inspector agreed with the Council that the planning history supported the view that the proposal was an independent A4 use and therefore was protected by local and national planning policy. He also agreed that insufficient information had been provided to demonstrate that the loss of such a community facility would be justified despite a lack of public objections. The design of the proposal was also considered to be inappropriate and too suburban for the site and would not reflect the 'rural feel of the area'. A revised parking scheme for the site, which was submitted to overcome an inadequate parking reason for refusal, was also considered to be harmful to the rural character and appearance of the area.

The Inspector also concurred with the Council's view that the garden sizes of two of the plots would not be sufficient to provide adequate outdoor amenity space for future residents, particularly families. This was despite the appellant offering to provide a further area of shared amenity space to the rear of the site. The proposal was therefore not considered to result in an acceptable level of amenity for future occupants.

Based on this assessment and in the absence of a compelling very special circumstances case, the appeal was dismissed.

5) Dismissed the appeal by R C Baker Ltd against the refusal of prior approval for the conversion of part of existing barn to 2 dwellings with associated development. Spring Hill Farm, Barford St. Michael, OX15 0PL. 16/01116/Q56 (Delegated).

The appeal sought approval for the change of use of part of a steel framed agricultural building to a residential use. The appellant was seeking to achieve this under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

The main issue identified was whether the proposal would accord with Q(b), i.e. that the building operations proposed were reasonably necessary to convert the building. This is assessed against Q.1 (i), which limits conversions under this class to the installation or replacement of windows, doors, roofs or exterior walls to the extent that they are reasonably necessary for the building to function as a dwelling.

The proposed works included replacement walls, the construction of a new wall along one elevation, new doors and windows, a new first floor, and works to the roof. The only parts of the building that would likely be retained are the existing steel frame and the concrete floor.

The Inspector concluded that these proposed works were extensive and would go beyond the limits of what could be considered reasonably necessary to achieve a conversion. The appeal was therefore dismissed.

- 6) Dismissed the appeal by Mr Howson against the refusal of planning permission for the demolition of development at Jack's Barn and the erection of ten dwellings. Jack Barn, West End, Launton, OX26 5DG. 16/01598/F – (Committee – Resolution only).**

The proposal was for the demolition of an existing agricultural building and the construction of ten dwellings at a site on the edge of Launton. The Inspector considered that the principal issue in this case was the potential visual harm to the character and appearance of the surrounding area. Whilst an earlier appeal allowed the redevelopment of the barn and immediately surrounding land for two dwellings, the Inspector concluded that the development of a larger site area, including a paddock would have a detrimental effect on the surrounding area. The Inspector was also critical of the design, with one of the detached properties being described as being 'overly dominant in the street scene'. Given the harm identified, the Inspector concluded that the principle of development was unacceptable and that the development did not accord with Policy Villages 2 of the CLP2031 as well as the Council's design and landscape policies.

The Inspector when dismissing the appeal on the grounds set out above, did not feel the need to adjudicate on the appellant's failure to commit to provide contributions to affordable housing and the maintenance of play areas.

- 7) Dismissed the appeal by Mr Payne against the refusal of planning permission for the erection of a two storey front and single storey side extension. 18 New Street, Bicester, OX26 6EY. 16/02001/F – (Delegated).**

The proposed scheme was for the erection of a two storey front and single storey side extension. The Inspector identified the main issue for consideration was 'the effect of the proposed extensions on the character and appearance of the host dwelling and the street scene of New Street'.

The Inspector noted the appellant's observation that the proposed roof design would not be out of place in a street where there are a variety of roof designs. However, the Inspector concluded the proposal was of an over complicated design, which would jar with the existing roof form, resulting in an incongruous and unsympathetic addition that would have an adverse impact on the street scene. The Inspector therefore dismissed the appeal concluding that it would not accord with Policy ESD 15 of the CLP2031 and Policy C30 of the CLP1996.

- 8) Dismissed the appeal by Mr and Mrs Finlay against the refusal of planning permission for the erection of replacement garage and garden store with home office over. March House, March Road, Mollington, OX17 1BP. 16/02058/F – (Delegated).**

The development proposed was the erection of a replacement garage and garden store with home office over. The main issue is the impact of the building on the character and appearance of the surrounding area.

The Inspector considered that the proposed building would be appreciably more noticeable than the existing building when viewed from the surrounding area and would create a hard, built edge to the village where currently the transition between countryside and village is predominantly soft. The Inspector concluded the additional height of the proposed building, coupled with the width, would give it a scale comparable to that of the dwelling, exacerbating the harmful effect on the character and appearance of the village fringe and the open countryside beyond. Further, although the design and materials would not be out of place in this rural area, their use would not overcome the harm resulting from the excessive scale of the building. The appeal was therefore dismissed.

An application for costs against the Council was submitted based on the lack of accuracy in the report, conflicting officer advice, an unwillingness to agree an extension of time and communicate with the appellant. The Inspector concluded that these accusations had no validity and the application for costs was dismissed.

9) Allowed the appeal by Mr Robin Booth against the refusal of planning permission for a rear extension. 66 Bath Road, Banbury, OX16 0TR. 16/01728/F – (Delegated).

The Inspector identified the main issue to be the effect of the proposed development on the living conditions of the occupiers of 64 Bath Road. The Inspector noted that the extension would come closer to the neighbour than the existing addition it would replace. The Inspector concluded that the impact would not be so different to that of the existing addition, that it would not be overbearing or result in an unacceptable reduction in daylight to the neighbour.

However, the Inspector refused the appellant's costs application, concurring with the Council that an extension of time to determine an application is a discretionary power.

The Inspector noted that it may well have been the case that the Council did not consider there were any changes which could be made to the scheme that would have made it acceptable. In a post-application meeting a number of potential solutions were offered to the applicant to reduce the impact on residential amenity. The Inspector mentioned that the attendance of the Planning Officer at the meeting also demonstrates a constructive approach being taken to engage with the appellant albeit after the original decision.

10) Dismissed the appeal by Mr Greenslade against the refusal of planning permission for the erection of a four bay garage with home office and storage over. Green House, Brill Road, Horton cum Studley, OX33 1BZ. 16/01633/F – (Delegated).

The proposed building was to be sited to the front of the main dwelling and accessed by means of an existing driveway from the south side of Brill Road. The Inspector identified the main issue to be whether the proposal was inappropriate development within the Green Belt, its effect on the openness of the Green Belt and whether the harm by reason of inappropriateness, and any

other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

The NPPF states that the erection of new buildings within the Green Belt should be regarded as inappropriate development and such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The Inspector concluded that the proposal did not fall within any of the exceptions set out at paragraph 89 of the NPPF, and also conflicted with Policy ESD 14 of the Local Plan which the Inspector found to accord with the NPPF. The Inspector also concluded that, given its bulk, height, permanent construction and location within the currently open area to the front of Greene House, would be harmful to the openness of the Green Belt.

The Inspector confirmed that substantial weight must be attached to that harm and planning permission should not be granted unless it is found that other considerations clearly outweigh the harm to the Green Belt. The Inspector noted that the Council had considered potential Permitted Development rights fall back positions and agreed that none existed. The Inspector concluded that the very special circumstances that are necessary to justify the development did not exist.

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,

Denise.Taylor@cherwellandsouthnorthants.gov.uk

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,
nigel.bell@cherwellandsouthnorthants.gov.uk

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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