

# **Cherwell District Council**

## **Planning Committee**

**15 June 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 **16/02378/O56 – Thames Valley Police, 30 Church Street, Banbury, OX16 9PR.** Appeal by Daejan Enterprises Limited against the refusal of prior approval for change of use from B1 (office) to C3 (dwelling) to provide 9 residential units.

**16/02491/Q56 – Hovel Meadow Barn, Clump Lane, Horley.** Appeal by Mr Freeman against the refusal of prior approve for the conversion of agricultural building into a dwelling house (Class C3).

**16/02538/F – Land Adj to 65 The Phelps, Kidlington, OX5 1SU.** Appeal by Mr Ronaldson against the refusal of planning permission for the demolition of existing porch to 65 The Phelps and erection of new dwelling.

**17/00090/F – Greenheys, 97 Green Road, Kidlington, OX5 2HA.** Appeal by Mr Nowakowski against the refusal of planning permission for the development of 2 No. dwellings and change of use of 97 Green Road to 2 No. flats – re-submission of 16/00543/F.

**17/00138/F – Otmoor House, High Street, Charlton on Otmoor.** Appeal by Mr Littlewood against the refusal of planning permission for a first floor side extension

over existing extension to provide bedroom with en suite - re-submission of 16/00438/F.

**17/00397/F – 32 Orchard Way, Bicester, OX26 2EJ.** Appeal by Mr White against the refusal of planning permission for the erection of a two storey side extension.

2.2 Forthcoming Public Inquires and Hearings between 15<sup>th</sup> June and 6<sup>th</sup> July 2017.

**None.**

## 2.3 Results

Inspectors appointed by the Secretary of State have:

**1) Allowed the appeal by Mr Douglas against the refusal of planning and listed building consent for the conversion of a single storey outbuilding to become part of the Lower Green Farm house to form an external glazed link to the outbuilding with a new single storey garden room between the existing farm house and the outbuilding. Lower Green Farm, Church Lane, Horton Cum Studley, OX33 1AQ. 16/00849/F + 16/00850/LB – (Delegated).**

The proposed development was to convert a single storey outbuilding to become part of the main Lower Green Farm House (Grade II listed), by constructing a glazed link. The scheme also sought approval for a single storey garden room between the farmhouse and the outbuilding. The main issue in this case was whether the proposed works would preserve the special architectural and historical interest of the Grade II listed building and its setting.

The Inspector noted that the significance of the farmhouse, as far as its exterior is concerned, derives essentially from its architectural quality and detailing, and its prominent setting facing towards the village. This setting is enhanced by the property's positioning on slightly higher ground than the village centre. The Inspector considered that the siting and placement of the garden room would be fully subordinate to the principal elevation of the listed building, being set back and of single storey height. Further, the Inspector considered that whilst the proposals would remove the physical separation between the farmhouse and its outbuildings, this would be done in a low key and acceptable manner. The Inspector therefore concluded that the appeals should be allowed.

**2) Dismissed the appeal by Mr Hyett against the refusal of Tree Preservation Order consent for the felling of 1 No Cedar Tree, subject to TPO 8/200. 5 Ty Craig, Victoria Road, Bicester, OX26 6PP. 16/01582/TPO – (Delegated).**

The appellant sought approval to remove a mature cedar tree located to the front of their property. The Inspector concluded that the main issue was the impact the removal of the tree would have on the character and appearance of the area and whether sufficient justification to fell the tree had been provided.

The Inspector concluded that the semi-mature tree made a positive contribution to what is a 'densely developed urban area'. The appellant's case for removing the tree was based on: falling debris and needles being a nuisance; the difficulty in growing anything under the canopy; and that nearby block paving had risen

slightly. The Inspector, unsurprisingly, was not persuaded by any of these arguments. Therefore, given that it was not in dispute that the tree was in good health, the Inspector dismissed the case.

**3) Dismissed the appeal by Mr Noquet against the refusal of planning permission for the erection of a single storey building providing 3 No en-suite letting rooms – re-submission of 16/01525/F. The Pheasant Pluckers Inn, Burdrop, OX15 5RQ. 16/02030/F – (Committee).**

The development proposed was for the erection of a single storey building providing three en-suite letting rooms.

The Inspector identified the main issues as:

- The effect of the development on the character and appearance of the street scene; and
- whether it would preserve or enhance the character and appearance of the Sibford and Burdrop Conservation Area.

The Inspector identified that the Locally Listed public house (PH) currently makes a positive contribution to the Conservation Area. It is proposed to erect a low, single storey building to provide a further 3 en-suite holiday letting rooms (the old bottle store already has permission for one holiday letting room) for use in conjunction with the PH. Given the slope of the land, which falls away to the south, the proposed single storey building would sit higher than the PH. Other buildings in the village to the north sit on higher ground, and on a similar level to the proposed building and furthermore, two storey dwellings facing the Green sit on even higher ground. Therefore the Inspector concluded that the proposed building would not appear particularly prominent or intrusive given its single storey nature and the immediate street scene which comprises variations in building levels.

Currently views of the Sibford Gap are possible across the existing car park and it was argued by the Council that the proposal would disrupt these views, however the Inspector concluded that these views would be largely retained due to a good sized gap retained between the proposal and adjacent properties. Secondly because the proposed building would, in the main, be viewed against the backdrop of the PH and thirdly, the elevated position of the adjacent roads and buildings combined with single storey form of the proposal would mean any reduction in view would not be significant. The Inspector concluded that the proposed building would appear ancillary to the PH as it is single storey and located within the PH car park and would cause no harm to the character and appearance of the street scene and would preserve the character and appearance of the Conservation Area.

The Inspector determined that the additional income that the holiday let would create for the business weighed in favour of the proposal and particularly in the light of the designation of the PH as an Asset of Community Value. He went on further to state that the PH could not be viable without it. The proposal promotes the retention of a PH in line with the NPPF.

The Inspector, when allowing the appeal, agreed with the recommended conditions to restrict the use of the building for short term holiday lets up to a

period of 28 days in any calendar year and the building is to remain ancillary to the property known as the Pheasant Pluckers Inn (formerly Bishops Blaize/Bishops End).

**4) Dismissed the appeal by Mr Hardiman against the refusal of planning permission for a two storey side extension to provide a garage and bedroom accommodation and new orangery to rear – revised scheme of 16/01299/F. 1 Buchanan Road, Upper Arncott, OX25 1PH. 16/02175/F – (Delegated).**

The appeal related to a proposed two storey side extension and single storey rear extension).

The Inspector found that the main issues in this case were the effect of the proposed development on:

- The character and appearance of the application site and surrounding area; and
- The living conditions of the occupants of 2 and 4 Woodpiece Road - in terms of loss of light, overshadowing and overbearing appearance.

The Inspector considered that there would be no terracing effect caused by the extension. However, the two storey element was considered to detract from the symmetry of the original building given the lack of subservience from the front elevation and ridgeline. The lack of symmetry was considered to be further emphasised by the single storey front and rear extension. Rather than being discrete and providing some variety, the Inspector considered that the extension would attract the eye by projecting in front of the existing front elevation and the lean-to roof against the side elevation would be seen on entering Buchanan Road which detracts from the simplicity of the existing dwelling.

The Inspector found that the relationship between the appeal property and Nos 2 and 4 Woodpiece Road would be much tighter than between other properties within the area. As a result it was considered that the proposed two storey extension would be unacceptably overbearing when from these neighbours. Whilst no objections were received from these neighbours or the Parish Council, this did not justify allowing the appeal as other occupiers might have a different view. Whilst there would be no unacceptable loss of daylight, overshadowing or perceived overlooking, the proposal would be unacceptably overbearing contrary to Policy ESD15 of the CLP2031, and saved Policy C30 of the CLP1996.

The Inspector concluded that, notwithstanding the presumption in favour of sustainable development in the NPPF, the adverse impacts would significantly outweigh the benefits which would generally be private not public and the appeal was dismissed.

**5) Allowed the appeal by Mr Gardner against the refusal of planning permission for a two storey rear extension and internal alterations to form additional bedroom, repositioned bathroom and extended kitchen. 28 Barn Close, Kidlington, OX5 1SW. 16/02243/F – (Delegated).**

The development proposed was the erection of a two storey rear extension and internal alterations to form an additional bedroom, repositioned bathroom and extended kitchen.

The Inspector identified the main issue as the effect the development would have on the living conditions of the neighbouring property, 25 Barn Close, in terms of outlook and overshadowing.

25 Barn Close has a limited rear garden area and the separating distance between rear facing openings and the blank wall of the proposed extension would fall short of the 14 metre minimum set out in the Cherwell District Council Home Extensions and Alterations Guide (2007) at only 11 metres. Due to the narrow width of this neighbour's dwelling, this would result in the extension running across the entirety of the rear of 25 Barn Close and associated rear garden with no respite, which officers believed would cause harm in terms of an overbearing appearance. Further, as the extension was positioned to the east of the neighbour, it was considered that a loss of morning sunlight would result.

However, the Inspector concluded that despite the size of the rear garden, they did not consider that the proposed extension would have any significant effect upon the outlook from the neighbouring property and given the size and scale, the proposal would not lead to unacceptable effects from overshadowing. The Inspector further determined that it was unlikely that the proposed development would create an unacceptable sense of enclosure when viewed from the neighbouring property. Based on this assessment the appeal was therefore allowed.

**6) Dismissed the appeal by Mr Lodge against the refusal of planning permission for raising the existing roof to create second floor extension. 14 Redwing Close, Bicester, OX26 6SR. 17/00074/F – (Delegated).**

The development proposed was the raising of the existing roof to create a second floor extension.

The main issue was the effect of the proposed development on the character and appearance of the streetscene.

The property consists of a two storey link detached property, a prominent dwelling at the end of a row, within a larger development of two and three storey terraced, detached, linked detached and semi-detached dwellings. The form, design details and materials are all very similar throughout the development.

The proposal would involve adding a third floor level of accommodation by raising the plate level and building a new simple gable ended roof to match that removed. Due to the location of the dwelling on a corner plot the Inspector considered that the increase in height would result in a prominent addition to the streetscene, although given that three storey dwellings are a feature of the wider development the Inspector was not persuaded that a well-designed three storey dwelling here would necessarily be so out of scale with its neighbours as to cause harm to the character of the existing streetscene. The principle of a three storey dwelling may therefore be acceptable.

The Inspector noted that the existing dwelling, due to the proportions of the existing windows, has a strong horizontal emphasis. The appellant, as well as

proposing to keep the existing window design and proportion on the lower floors, also proposed that the new windows at third floor level would be identical, which would be in direct contrast to the nearby three storey dwellings, where the windows are of a vertical proportions, reflecting the verticality of the buildings form. It was considered that the retention and adoption of the existing cottage style window format would be seriously detrimental to the overall visual appearance and character of the dwelling. Further, given the proportion of the windows, the overall lack of any modelling, and the proportion of void to solid, these elements would fail to achieve the necessary quality of design required for such an extension to visually enhance rather than detract from the streetscene. The dwelling would, as a result of its design, appear so overly prominent as to draw undue attention to itself, appearing as such a dominant addition as to cause substantial harm to the streetscene.

Based on this assessment, the appeal was 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, 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:

Nigel Bell, Team Leader – Planning, 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	
Report Author	Tom Plant, Appeals Administrator, Development Directorate
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