

Cherwell District Council

Planning Committee

6 July 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 **16/02295/OUT - Land South West Of Woodbank, Mill Lane, Kirtlington.** Appeal by Messers E and G King against the refusal of outline planning permission for the erection of 10 No dwellings.

17/00472/REM - OS Parcels 1200 3100 2000 1981 South Of Salt Way, Bloxham Road, Banbury. Appeal by Redrow Homes South Midlands against the non-determination of reserved matters application to 16/00597/F for the approval of layout, scale, external appearance and landscaping for 321 dwellings.

17/00579/F – 42 Devon Way, Banbury, OX16 1UJ. Appeal by Mrs Sheharyar against the refusal of planning permission for a two storey side extension and extensions to an outbuilding.

- 2.2 Forthcoming Public Inquires and Hearings between 6th July 2017 and 3rd August 2017.

None.

2.3 Results

Inspectors appointed by the Secretary of State have:

- 1) Allowed the appeal and quashed the enforcement notice served on Mrs MacPherson against the refusal of retrospective planning permission and subsequent serving of an enforcement notice for the erection of one bedroom self-contained annex above existing store rooms. Withycombe Barn, Wigginton Heath, Whichford Road, Hook Norton, OX15 5HH. 16/00626/F + 16/00201/EUNDEV – (Delegated).**

This appeal related to the refusal of a retrospective planning application for the unauthorised erection of a 1 bed, self-contained annexe above existing store rooms and the subsequent issuing of an enforcement notice for the breach of planning control that had taken place.

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

- Whether the proposed development would constitute an ancillary annexe or a separate dwelling;
- The effect of the development on the character and appearance of the area.

The Council had argued that the development was tantamount to a new dwelling in the countryside, given the distance from the main dwelling and because it could be lived in without any reliance on the main dwelling. Whilst having some sympathy for the Council's position, the Inspector placed weight on the fact that the application was submitted on the basis of it being annexe accommodation for a family member and that there was no evidence to the contrary. He considered that subject to the building remaining ancillary to the main house, which could be secured through condition, that there was no conflict with Policy H18 of the CLP1996 and was therefore acceptable in this regard.

In terms of the impact on the character and appearance of the area, the Inspector again noted the Council's concerns with regards to conflicting design elements, but also noted the limited visibility of the development from the public domain. The Inspector argued that given its contextual scale with the main dwelling, the timber clad construction, the roof material and colours which assisted in clearly identifying the building as a minor (secondary) building to the main house, and in the Inspector's opinion the building did not result in an inappropriate intrusion into the wider landscape setting. The Inspector concluded that the development was appropriate and compatible with the residential character and appearance of the main dwelling house, the wider site, and its rural setting; and as such there would be no material conflict with Policy C28 of the CLP1996, and Policies ESD13 and ESD15 of the CLP2031 Part 1.

The planning appeal was therefore allowed and the enforcement notice was quashed.

2) Dismissed the appeal by Siteplan UK LLP against the refusal of planning permission for a residential development of up to 47 dwellings and associated infrastructure. Heatherstone Lodge, Banbury Road, Finmere, MK18 4AJ. 16/01209/OUT – (Committee).

This proposal was for the erection of 47 dwellings on the edge of Finmere.

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

- Whether the potential scale of development would be appropriate to the settlement and the facilities it offers, having regard to the relevant policies of the development plan: and
- The effect of the proposal on the settlement pattern of Finmere and the character and appearance of the surrounding area.

The Inspector noted that the limited public transport provision would not provide an appealing or practicable mode for many necessary journeys and not at all in the evenings or on Sundays. The Inspector went on to state that the scale of the appeal proposal would be at odds with the requirement to direct growth to the more sustainable locations where dependency on the car can be reduced.

In addition, the Inspector stated that a development of up to 47 houses would represent a significant proportion of the remaining balance of the number of rural houses allocated under Policy Villages 2 of the CLP2031 Part 1 at an early stage of the plan period. The Inspector noted that this development would be in a location where the sustainability credentials are limited and would leave little plan-led manoeuvrability to direct such development to other Category A villages which have better sustainability attributes.

The Inspector concluded that the potential scale of the proposed development at a settlement with few facilities and poor public transport connectivity renders the appeal proposal unacceptable and that it would conflict with Policies ESD 1 and Villages 2 of the CLP2031 Part 1. The Inspector also noted that the proposal would also fail to accord with the objectives of the NPPF to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to mitigate and adapt to climate change.

The Inspector noted that the appeal proposal would appear and function as a separate development at odds with the established village development pattern. The Inspector went on to state that, visually, the appeal proposal would have a significant adverse effect for people using the rural rights of way which pass close the appeal site. The Inspector therefore concluded that the appeal proposal would result in significant harm to both the settlement pattern of Finmere and the character and appearance of the surrounding area and as such, it would be contrary to Policies ESD 13, ESD 15 and Villages 2 of the CLP2031 Part 1 and saved Policies C8 and C28 of the CLP1996.

The Inspector concluded that the refusal reasons relating to archaeology and flood risk could be successfully addressed by the imposition of appropriate conditions.

In relation to Oxford City Council's unmet housing need, the Inspector stated that the CLP2031 Part 1 review process would, in the context of the NPPF, deal with this matter. In the absence of any other evidence, the Inspector considered that the housing supply policies of the CLP2031 Part 1 were therefore up-to-date and could be afforded full weight.

The Inspector noted that there would be modest social and economic benefits arising from the appeal proposal, but that these benefits would be significantly and demonstrably outweighed by the harm identified above in respect of the environmental dimension of sustainable development. The Inspector therefore concluded that the appeal should be dismissed.

3) Allowed the appeal by Mrs Ellis against the refusal of planning permission for a two storey side extension and first floor extension over existing single storey extension. The Olde Smithy, Kings Head Lane, Islip, OX5 2SA. 16/02818/F – (Delegated).

The appeal sought consent for a two storey extension to a 2-bed cottage, deemed a non-designated heritage asset in the village of Islip. The site lies in the Oxford Green Belt and in the Islip Conservation Area.

The Inspector considered the main issues to be:-

- i. Whether the proposal would be inappropriate development in the Green Belt having regard to the NPPF and any relevant development plan policies.
- ii. The effect of the proposal on the significance of heritage assets including: (i) the setting of The Old Rectory, a Grade II* listed building; and (ii) the character and appearance of the Islip Conservation Area.
- iii. The effect of the proposed extension on the living conditions of the occupiers of Black Fire Cottage and Church Square Cottage, with regard to outlook and sunlight within their private amenity spaces.

The Inspector found that the development did not impact on the Green Belt; as the nature of the development matched the built up area of its immediate surroundings in the core of the village and that this would not therefore affect the openness of the Green Belt. He concluded that none of the five purposes of the Green Belt was impacted negatively by the development and that it was consistent with Policy ESD14 of the CLP2031.

In terms of heritage assets the Inspector found that there was no reason to believe that The Olde Smithy should be considered a heritage asset particularly as there is little or no evidence of its former use and therefore attribute it any significance. The Inspector also found that the development would 'positively add to the informal mix of building styles, pitched rooflines and materials in the run of tightly arranged buildings' in which it sits and thus not impact negatively on the conservation Area. With regards the setting of the Grade II* listed building, The Old Rectory, the Inspector found 'the building was conceived to face south' and the 'the appeal site is to the north of the Old Rectory and as such does not affect the setting of the Old Rectory'.

The Inspector found that there would be no appreciable blocking of sunlight or massing from the proposed development on the neighbouring dwellings and

their outdoor spaces. It 'would be no higher than any surrounding ridges and would be of a modest increased massing compared to the existing extension'.

Thus the Inspector concluded the appeal should succeed on these grounds.

4) Allowed the 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. Mallows, Hopcraft Lane, Deddington, OX15 0TD. 16/02302/F – (Delegated).

The appeal related to the refusal of an application for a side/rear extension, demolition of chimney breast and loft conversion with rear dormer window and two rooflights on the front.

The demolition of the chimney breast, the dormer window and the rooflights were considered to be acceptable and therefore the appeal focussed on the proposed extension.

The Inspector considered the main issues of the case were:

- Effect of the proposal on the setting of Oak Tree Cottage (neighbouring Grade II listed building)
- Whether the works would preserve or enhance the character and appearance of the Deddington Conservation Area

The Council had argued that the proposed rear extension would be of a scale and design that would dominate the original, relatively simple features and form of this prominent house in the street scene. The relatively wide side part of the proposed extension, with its pitched roof, would also significantly close the gap and thereby result in the loss of the ability to appreciate the views of the rolling landform and trees which form the rural context to this part of the village. Furthermore, as the scale and footprint of the proposed extension encroaches significantly into the gap between the Mallows and Oak Cottage, the Council considered that this together with the relative visibility of Oak Cottage and its close juxtaposition with the proposed extension would not conserve, sustain and enhance the setting of the listed building.

The Inspector concluded that as a result of its single storey height, three dimensional form, simple plain detailing and its set back from the main façade of the property facing the street, the extension would not dominate the host dwelling or detract from the visual presence of the four dwellings in the street scene.

The Inspector went one to say that due to the existing gap between the properties, its single storey form and the fact that the gap widens out towards the rear of the buildings, he did not consider that it would significantly impinge on the gap. The small amount that it might impinge would not serve to close that gap to the extent that it would result in the loss of the ability to appreciate the views of the countryside beyond which, as identified in the conservation area character appraisal, serve to reinforce the scale of the settlement and its relationship with its rural context.

Given the above, the Inspector was not persuaded that the extension would harm the setting of Oak Cottage (Grade II listed building).

The appeal was allowed and planning permission granted subject to 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,
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	
Report Author	Tom Plant, Appeals Administrator, Development Directorate
Contact Information	01295 221811 tom.plant@cherwell-dc.gov.uk