

Cherwell District Council

Planning Committee

23 November 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 **17/00133/F – Rockery Barn, 66 Lower End, Piddington, OX25 1QD.** Appeal by Dr and Mrs Brener against the refusal of planning permission for the erection of building to provide an indoor manege.

17/00195/F - Former Agricultural Building Adj To OS Parcel 4108, Blackbull Lane, Fencott. Appeal by Welland Design and Build Ltd against the refusal of planning permission for the conversion of agricultural buildings to single storey dwelling.

17/00713/F + 17/00714/LB – Bristow House, Broad Gap, Bodicote, OX15 4DD. Appeal by Mr Alexander against the non-determination of planning and listed building consent for Replacement of existing garden room with the erection of an oak framed garden room to rear elevation and reconfiguration of existing rear extension adjacent to replacement garden room.

17/00778/OUT – Land Adj to Manor Farm Barns, Spring Lane, Cropredy. Appeal by Catesby Estates Ltd against the refusal of outline planning permission for

the demolition of existing building and outline planning application for residential development for up to 37 dwellings (use class C3) including means of access into the site (not internal roads) and associated works, will all other matters (relating to appearance, landscaping, scale and layout) reserved (resubmission of 16/01468/OUT).

17/00902/F – 5 Timms Road, Banbury, OX16 9DJ. Appeal by Mrs Copeland against the refusal of planning permission for first floor extension above existing extension to create two further bedrooms.

17/01469/F – 17 Somerville Drive, Bicester, OX26 4TU. Appeal by Mr Tagliaferro against the refusal of planning permission for an extension to form a new dwelling.

- 2.2 Forthcoming Public Inquiries and Hearings between 23 November 2017 and 14 December 2017

Planning Hearing commencing Wednesday 29 November 2017 at 10am, River Cherwell Meeting Room, Cherwell District Council, Bodicote House, White Post Road, Bodicote, OX15 4AA. Appeal by Midcounties Cooperative Society And Cantay Estates Ltd against the refusal of planning permission for the erection of new buildings off Sterling Road approach to contain 46 x 2 bedroom flats, conversion of offices above existing retail store to form 8 x 2 bedroom flats, and alterations to existing retail store. Construction of new accesses, car parking, service and turning areas and landscaping. Co-Op, 26 High Street, Kidlington, OX5 2DH. 15/01872/F.

Planning Hearing, following postponement, commencing Tuesday 5 December 2017 at 10am Sor Brook Meeting Room, Cherwell District Council, Bodicote House, White Post Road, Bodicote, OX15 4AA. Appeal by Daejan Enterprises Limited against the refusal of prior approval for the change of use from B1 (office) to C3 (dwelling) to provide 9 residential units. 30 Crouch Street, Banbury, OX16 9PR.

2.3 Results

Inspectors appointed by the Secretary of State have:

- 1) Allowed the appeal by Mr & Mrs Besterman against the refusal of planning permission for the demolition of an existing dwelling and a range of large scale equestrian buildings and the erection of a replacement dwelling including associated works and landscaping ((revised scheme of 15/01693/F). Muddle Barn Farm, Colony Road, Sibford Gower, OX15 5RY. 16/01563/F (Committee).**

This application was refused by Planning Committee contrary to officer recommendation. The application related to the demolition of an existing dwelling and a range of equestrian buildings and the erection of a replacement dwelling plus associated works.

The main issue was the proposal's effect on the character and appearance of the area.

The Inspector noted that the new dwelling would be 'considerably larger' than the one to be demolished, even when comparing with the existing dwelling with permitted development (PD) rights applied and the proposed dwelling with PD rights taken away. Although not drawn on whether the proposal was a replacement dwelling or a new dwelling in the countryside, the Inspector noted that the proposed dwelling would be located in a different part of the site to the existing dwelling.

The Inspector found some conflict with saved Policies H17 and H18 of the CLP 1996, but also held that the proposal would yield 'notable improvement' in architectural design over the existing dwelling, and that its orientation to follow the existing field pattern and its proposed materials palette would ensure it would be sensitive to the characteristics of the local area. The Inspector concluded that these factors outweighed the 'limited policy conflict'.

In terms of landscape impact, the Inspector agreed with the findings of the appellant's Landscape and Visual Impact Assessment and concluded that, while the proposed dwelling would have some impact on the landscape principally because it would be large and more noticeable than the existing dwelling, it would cause 'minimal harm' in this regard.

In allowing the appeal, with the exception of a requirement for alternative dormer design, the Inspector imposed all the conditions recommended by the Council, including a condition to remove PD rights, which the Inspector held to be reasonable and necessary because of the size of the dwelling, and a condition to require demolition of the existing dwelling.

2) Allowed the appeal and quashed the enforcement notice against the notice served on Ms Robinson-Smith for the erection of an external coursed stone hearth with a stone chimney, grey brick flaunching and clay chimney pot to match existing building. The Lion, Main Street, Wendlebury, OX25 2PW. 16/00132/EUNDEV (Delegated).

The appeal related to the refusal of a retrospective planning application for the erection of a hearth and external chimney at the Grade II Listed The Lion Public House, and issuing of an enforcement notice for the breach of planning control that had taken place.

The Inspector identified the main issue as whether the external hearth and chimney harms the significance of the listed building.

The Council had argued that the chimney is large and somewhat obtrusive and is a feature not typical of an 18th century coaching inn, distinctly modern and bulky, disrupting the original form and dominating the original elevation. The Council accepts that the building has already been considerably altered. The Inspector considered therefore that the appeal needs to be assessed in the context of these alterations to the building. The Inspector notes the hearth and chimney have been attached to part of the building that has been re-roofed and extended, and the structure has not obscured historic features and could be removed without harm to the building. Also noted are the use of materials, with the stone considered to match the adjacent wall and brick detailing visibly similar to the chimneys on the front range. Having particular regard to the considerable

alterations to the rear, the Inspector finds that the external hearth changes, but does not harm the character of the listed building, and the effect is neutral. In comparison however to the bulky flues in the adjacent roof of the kitchen, the structure is innocuous; and as such there was no conflict with Policy C18 of the CLP1996 and was therefore acceptable in this regard.

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

3) Dismissed the appeal by Mr and Mrs Sadler against the refusal of planning permission for the demolition of existing garage and erection of two storey side extension (resubmission of 16/01225/F). 11 Graham Road, Bicester, OX26 2DU. 16/02635/F (Delegated).

The appeal sought approval for the demolition of an existing garage and the erection of a two storey side extension, at an end of terrace residential property within Bicester.

The main issue identified was the effect of the proposal on the character and appearance of the streetscene.

The Inspector considered that a two storey development sited as proposed would be unduly intrusive in the streetscene, particularly in views from the south-east along Barry Avenue looking north-west. The Inspector states that this road junction contributes to the established pattern and rhythm of development in the immediate area. It was emphasised that the upper storey and roof was to intrude in to the openness of the road junction and into the important open area and sightline. However, the Inspector states that a ground floor single storey extension is likely to be substantially screened by the existing boundary fence to the between the appeal site and 45 Barry Avenue.

The Inspector added that although the Local Planning Authority had concerns with the design and lack of fenestration giving the extension a stark and utilitarian appearance, the extension was considered to include sufficient fenestration, articulation and detail to avoid this.

On the basis of the above, it was concluded that given the identified harm to the character and appearance of the streetscene, the appeal should be dismissed as it would run contrary to Policy ESD15 of the CLP 2031 and saved Policies C28 and C30 of the CLP 1996.

4) Dismissed the appeal by Mr Freeman against the refusal of prior approval for the conversion of agricultural building into a dwellinghouse (class C3). Hovel Meadow Barn, Clump Lane, Horley. 16/02491/Q56 (Delegated).

The application sought prior approval for the change of use of a modern agricultural barn into one dwellinghouse (Class C3).

An important factor in this case was the previous prior notification application which was refused (reference 16/01114/Q56) on the grounds that, the curtilage exceeded that of the existing barn, insufficient information had been provided,

and that substantial construction of structural elements were proposed that were not 'reasonably necessary'.

Following the issue of this decision, the appellant undertook a number of works to the building (which were identified in the structural report for 16/01114/Q56), although the appellant maintained that these works fell under the original permission for the building (00/01007/AGD) and would nevertheless be *de minimus* (not development). However, the Council considered these to form part of structural works that were required to facilitate the change of use and therefore the proposal would not be classed as permitted development (given that they had been carried out since 2013).

The Inspector considered that, *"given the works to the building were those approved under Class A (a) or Class B (b) of Part 6 of Schedule 2 of the GPDO, and that they were undertaken after 20 March 2013, the conversion of the barn into a dwellinghouse is not permitted development under Class Q"*. Furthermore, the Inspector did *"not consider that foundations are de minimus as suggested by the appellant... They are a fundamental part of a building's construction and comprise building operations as set out in Section 55 of the Town and Country Planning Act 1990 (as amended)"*.

The Council further considered that the modern agricultural barn was not suitable for conversion, given the substantial alterations that would be required to reasonably convert the building. The Inspector agreed adding, *"whilst in good condition, the purpose of the barn was principally to enclose space for storage of hay bales and farm machinery, rather than to support the more considerable loading that would be likely to arise from the residential use proposed. Whilst noting the appellant's assertions that the inner roof is a type of suspended ceiling and that the building is capable of accommodating the additional loads associated with conversion, I am not convinced given the span of the building that new structural works would not be required to accommodate the additional loading that would result from the inner roof when taken with the other features proposed to facilitate the residential conversion. As such, and mindful of paragraph W (3) (b) of Schedule 2, Part 3 of the GPDO, I am not satisfied on the basis of the evidence before me, that the proposed conversion would comply with paragraph Q.1 (i) of the GPDO"*.

The Council's third reason for refusal related to the curtilage of the existing barn. The Council considered the proposed curtilage exceeded the land area occupied by the agricultural building, that the line shown on the plan was an arbitrary line drawn to satisfy the condition and that it did not relate to the existing site or any of its existing boundary features. However, the Inspector disagreed and advised that this issue could have been dealt with by way of a condition.

In conclusion, the Inspector agreed with the first two reasons for refusal (eligibility for prior approval and structural works) and dismissed the appeal.

- 5) Allowed the 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. Greenheys, 97 Green Road, Kidlington, OX5 2HA. 17/00090/F (Delegated).**

The appeal related to the refusal of two dwellings and the change of use of 97 Green Road to two flats.

The Inspector identified the main issues to be the effect of the proposal on the character and appearance of the area including the Kidlington High Street Conservation Area (KHSCA), and on the setting of the locally listed building (No.97).

The Inspector noted that the proposed two dwellings would be positioned deep into the site and that there are no other examples of 'backland' housing in the area, and therefore that the layout of the development would depart from the character of the area. However, the Inspector went on to note that views of the buildings from the road would be limited and that the divergences from the layout of the surrounding area would not be conspicuous and the effect would not be harmful.

The Inspector stated that whilst the two proposed dwellings would be bigger than some of the neighbouring houses, there are a number of large houses in the area to which they would compare, and because of their position deep into the site they would stand alone as a distinct development.

The Inspector considered that the garden to the rear of No.97, part of which is proposed to serve an access to the two new dwellings, does not strongly define the edge of the KHSCA and that any urbanising effect would be minimal given the use of natural stone in the driveway and the low level of traffic it would carry. Furthermore, the Inspector stated that the insertion of a domestic driveway would not obscure the significance of this point being the boundary of the original settlement.

The Inspector therefore concluded that the proposed houses would not harm the character and appearance of the area and would preserve the character and appearance of the KHSCA.

In relation to the locally listed building, the Inspector stated that much of the rear garden of No. 97 would be lost as a result of the proposal, but that this garden adds little to the character of the area and it does not contribute greatly to the significance of the locally listed building. The Inspector went on to note that, although No. 97 would be somewhat sandwiched between two driveways as a result of the proposal, this is balanced by the increased presence of the rear of this building in the street scene. Thus, the Inspector concluded that the setting of the locally listed building would be preserved.

Thus, the Inspector therefore concluded that the appeal should be allowed subject to conditions.

- 6) Dismissed the appeal by Mr Ng against the refusal of planning and listed building permission for extensions to Shipton Manor House and associated outbuildings, conversion of outbuildings to wine store and pedestrian link, creation of new driveway from existing access and alteration to existing access, removal of existing internal tarmac roads. Shipton Manor, Shipton On Cherwell, OX5 1JL. 17/00356/F + 17/00357/LB (Delegated).**

This appeal related to refusal of planning permission and listed building consent for a garage extension, conversion of the outbuildings, a creation of a new driveway and the removal of existing internal tarmac roads at Shipton Manor. The building is Grade II listed.

The Inspector considered that the main issues were:

- Whether the proposal amounts to inappropriate development in the Green Belt
- The effects of the proposal on the listed building and its setting
- Whether there are any other matters which are capable of outweighing the harm to the Green Belt and other harm.

In the officer's report, the Council considered that the authorised use of the land on which the garage extension would be located was agricultural land, not residential. The Inspector concluded the land benefitted from residential use as it was included in the red line for the application to change the use of the site to residential use in 1996 (95/01993/F relates). The Inspector found that the proposal would not constitute a change of use of agricultural land.

The proposal would have represented a 48% increase in floor area when compared to the original building as it stood in 1948. The appellants were of the opinion that additions of 50% or greater were disproportionate. The garage extension was partially subterranean, however the Inspector was of the opinion that the proposal would have appeared large in itself and due to its separation from the main body of the house it would have appeared as an isolated entity rather than a well-integrated addition. The Inspector considered that the proposal would constitute inappropriate development in the Green Belt, which is harmful by definition.

The appellant made reference to a previous planning permission for an extension to the property which was approved in 1990 under CHS.LB.591/90, though this permission was not implemented and has since lapsed. This extension had a greater floor area than the appeal development. The Inspector considered that due to the time scale involved, the changes to policies both national and local and the fact that that planning permission had long since lapsed mean that this consent could only be afforded limited weight.

Turning to the garage extension's impact on the listed building, the Inspector considered that the large openings of the garage and the flat-roof design would appear as a cumbersome addition which would cause harm to the setting of the listed building. The garage extension would have been located on an open green space and the Inspector considered that this area contributed positively to the setting of the listed building. The erosion of this space with a building of such large proportions and an incongruous appearance would cause harm to the setting of the listed building.

The extensions also included a link between the existing outbuildings and main dwelling. The Inspector considered that although the buildings would be linked, the strong visual differences between the buildings would remain and there would be no confusion in relation to the status of the two buildings and for this

reason found that this element would not cause harm to the significance of the listed building.

A driveway was proposed to link an existing access to the main road through Shipton-on-Cherwell. At the hearing, the appellant's stated that this element could be undertaken as permitted development. However, as no certificate of lawfulness application had been made to the Council and as it formed part of the proposals for the appeal scheme, the Inspector decided to determine it. The Inspector concluded that the driveway would erode the open and semi-rural character of the site due to its length and form and that this would cause harm to the significance of the listed building.

The Inspector considered that as there were no considerations or very special circumstances sufficient to outweigh the identified harm and that the appeal should be dismissed.

7) Dismissed the appeal by Mr White against the refusal of planning permission for a two storey side extension. 32 Orchard Way, Bicester, OX26 2EJ. 17/00397/F (Delegated).

The appeal sought approval for the demolition of an existing detached garage and the erection of a two storey side extension, on a semi-detached residential property within Bicester. The building had already been extended to the side.

The main issues identified were; the effect of the proposal on the character and appearance of the area, and also the effect on the living conditions in terms of outlook for the neighbouring residents.

Importantly the Inspector noted that although the current dwelling sits on a generous plot, which could physically accommodate the development, the proposal would still cause harm to the character of the area. The Inspector found that the proposal would have a negative impact on the streetscene, which they regarded was characterised by a pattern of semi-detached properties of a similar style, that it would *'not appear subservient to the host dwelling'* and that *'the proposal would create a terracing effect, unbalancing the host building'*.

The Inspector considered the effect on the living conditions of the neighbouring property to be centred around the outlook from the *'overall scale and mass of the proposal'* which would *'result in the development appearing overbearing for the occupants'*.

On the basis of the above it was concluded that the appeal should be dismissed as it would run contrary to Policy ESD15 of the CLP 2031 and saved Policies C28 and C30 of the CLP 1996.

8) Allowed the appeal by Mrs Chennels against the refusal of retrospective planning permission for the erection of replacement conservatory. 1 The Cottage, Blackthorn Hill, Blackthorn, OX25 1TJ. 17/00449/F (Delegated).

The appeal sought approval for a retrospective erection of a replacement conservatory in front of the principal elevation of a dwellinghouse.

The main issues identified by the Inspector were; the effect of the development on the character and appearance of the surrounding area, and whether or not the conservatory preserves the significance of the host building which was identified as a non-designated heritage asset (NDHA).

Whilst the Inspector conceded the dwelling was a '*fairly attractive building*' he observed that the semi-attached neighbouring dwelling had been altered in form and, unlike the stone appeal property, had also been rendered. The Inspector therefore gave limited weight to the host building's significance as an NDHA.

The Inspector also found that the impact of the conservatory was not too damaging to the principal elevation of the dwelling, citing '*its glazed nature*' and how white uPVC was already present on the existing windows. He went on to conclude that a boundary fence and set back from the road screened the dwelling and the extension from the wider area.

On the basis of this assessment the appeal was allowed.

9) Part dismissed and part allowed the appeal by Mrs Sheharyar against the refusal of planning permission for a two storey side extension (dismissed) and extension of outbuilding (allowed). 42 Devon Way, Banbury, OX16 1UJ. 17/00579/F (Delegated).

The appeal proposal was for a two storey side extension and a modest addition to an outbuilding at the front of the property.

The main issues raised by the Inspector are the character and appearance of the area and the living conditions of neighbours with regards to outlook.

The Inspector observed that the dwelling is in a prominent location and the current arrangement with its neighbours creates a sense of openness within the street scene. The proposed two storey side extension was considered to create an extension of substantial scale and mass which would be out of proportion with the existing dwelling and would appear incongruous and out of character in its setting.

Turning to the impact on the neighbouring residents, the Inspector noted that the siting of the two storey side extension would result in a diminutive gap between the host dwelling and 40 Devon Way and that the scale and height of the proposed extension combined with its siting would have an imposing and overbearing impact on these neighbours.

Based on the assessment above, the Inspector dismissed the appeal insofar as it related to the two storey side extension but allowed the appeal in respect of the extension of the appellant's outbuilding.

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, Interim Legal Services Manager – 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, Interim Legal Services Manager – 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

Councillor Colin Clark

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Tom Plant, Appeals Administrator, Development Management, Cherwell and South Northants Councils.
Contact Information	01295 221811 tom.plant@cherwellandsouthnorthants.gov.uk