

# Cherwell District Council

## Planning Committee

14 December 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 **15/00837/OUT - Part Land on the North East Side of Gavray Drive, Bicester.** Appeal by Gallagher Estates, Charles Brown and Simon Digby against the refusal of outline planning permission for a residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting.

**17/00109/EUNDEV - The Lion, Wendlebury, OX25 2PQ.** Appeal by Mr Smith against the serving the serving of an enforcement notice as a result of the of unauthorised construction and retention of an asphalt car park on that part of the land shown hatched on the attached plan on the notice without planning permission.

**17/00511/F - Keepers Cover, Church Lane, Weston-On-The-Green, OX25 3QU.** Appeal by Mr and Mrs Maxted against the refusal of planning permission for the erection of 1.5 storey extension. – Appeal returned as out of time.

**17/01328/OUT - OS Parcel 3498 East Of Heatherstone Lodge, Fulwell Road, Finmere.** Appeal by Siteplan UK LLP against the refusal of outline planning permission for a residential development.

**17/01463/CLUE - Keepers Cover, Church Lane, Weston-On-The-Green, OX25 3QU.** Appeal by Mr and Mrs Maxted against the refusal of Certificate of Lawfulness of Existing Use for the use of the identified land as residential garden.

**17/01555/F - Winwood, Noke, OX3 9TT.** Appeal by Mr Bell against the refusal of planning permission for the conversion of an agricultural barn into a single dwelling and demolition of outbuildings.

**17/01675/M106 - Keepers Cover, Church Lane, Weston-On-The-Green, OX25 3QU.** Appeal by Mr and Mrs Maxted against the non-determination of Modification of Section 106 - Application 97/02148/F.

**17/01876/ADV - Wyevale Garden Centre, Bicester Avenue Garden Centre, Oxford Road, Bicester, OX25 2NY.** Appeal by Wyevale Garden Centres against the refusal of advertisement consent for a roadside non-illuminated V sign.

2.2 Forthcoming Public Inquires and Hearings between 14 December 2017 and 18 January 2018.

None.

## 2.3 Results

Inspectors appointed by the Secretary of State have:

**1) Dismissed the 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. Land adj. to 65, The Phelps, Kidlington. 16/02538/F (delegated).**

The appeal site comprised a modern two storey end of terrace property. The appellant proposed to erect a side extension to the existing terrace in the form of a separate dwelling. The Council contended that this would result in harm to the character and appearance of the street scene, living conditions of the occupiers of the perpendicular dwellings and highway safety.

The Inspector noted that the new dwelling would be prominent within the street scene and despite the appellant providing examples of similar local extensions, the Inspector found that the proximity of the development to the road was rare and that the overall design of the estate was based on a more open aspect between the properties and the highway. The loss of the open area adjacent to the highway and projection of the building was considered at odds with the present streetscape and harmful to the character and appearance of the area. The proposal was found not to improve the quality and appearance of the area

and did not therefore meet the requirements of Policy ESD15 of the CLP2031 and Policy C28 of the CLP1996

The Inspector also considered the effect of the proposal on the living conditions of those living adjacent to the proposed extension and found that the view from the front aspect of these properties would be towards blank two-storey flat, the proximity of which would materially impose on the aspect of these properties and harm the living conditions of the occupiers.

The Inspector also found that the proposed car parking space had not been designed with highway safety in mind and raised concerns over visibility due to the location of a screen wall.

When considering the planning balance, the Inspector found that while the general principle of a new dwelling in the existing developed area of the settlement would be acceptable, the proposal would result in a form of development which would not fit in with the character of the area and be at odds with the appearance of the present street scape. Taking into account the issues relating to living conditions and highway safety, the Inspector found that the proposal would not accord with the relevant provision of the development plan and despite the dwelling making a small contribution to housing supply and economic activity, these factors were not considered to outweigh the significant adverse effects of the proposal.

**2) Dismissed the appeal by Mr and Mrs Price against the refusal of planning permission for a single storey front extension. Corner Flag, Main Street, Murcott, OX5 2RE. 17/00514/F (delegated).**

The Inspector considered that the principal consideration in this case was whether the extension would result in a disproportionate addition over and above the size of the original building and thereby unduly impact on the openness of the Oxford Green Belt.

Officers calculated that the proposal when taking into account previous extensions would result in a 106% increase over and above the size of the original property. Although the Inspector did not consider that a mathematical calculation necessarily proved to be conclusive, he nonetheless concluded that the increase in footprint, bulk and massing would unduly affect the openness of the Oxford Green Belt. In the absence of any very special circumstances, the appeal was therefore dismissed.

**3) Dismissed the appeal by Mr West against the refusal of planning permission for a two storey side extension to dwelling or first floor side extension over approved ground floor extension (16/02145/F). Bluebell Cottage, 22 Spring Hill Road, Begbroke, OX5 1RX. 17/00569/F (delegated).**

The Inspector considered the proposal was correctly described as a two-storey extension on account of the approved single storey extension not having yet been constructed, and that the main issues to be whether or not the proposal would be inappropriate development, its effect on openness, and whether any

harm to the Green Belt would be clearly outweighed by other considerations so as to amount to very special circumstances.

The Inspector noted there was no dispute between the parties as to the proposal's increase in floor area over that of the original dwelling, and that this increase in floor area would be around 139%. The Inspector held that this would result in a substantial increase in volume and external dimensions and which would result in disproportionate additions over and above the size of the original building. The inspector concluded that the NPPF makes no provision for the visual appearance of the building concerned, but instead relates solely to making a comparison with the size of the original building. The Inspector found the proposal would cause harm to the openness of the Green Belt and that there were no very special circumstances to outweigh the harm, affording little weight to a decision in Guildford raised by the appellant.

**4) Dismissed the appeal by Mrs Simmons against the refusal of planning permission for the demolition of existing conservatory and erection of a single storey rear extension. 8 Otmoor View, Merton, OX25 2NL. 17/00626/F (delegated).**

The Inspector gave some weight to the Council's Home Extensions and Alterations Design Guide ("the Design Guide") due to its role in supporting the relevant development plan policies. The Inspector considered the main issue to be the proposal's impact on the neighbours in terms of outlook, sunlight and daylight.

The Inspector noted that the proposal would extend from the main rear elevation of the house beyond the 4 metres set out in the Design Guide as being normally acceptable for extension on a common boundary and that it would conflict with 45 degree rule from the mid-point of the nearest rear facing habitable room window on the ground floor of serving both No 7 and 8a, resulting in the proposal being unacceptably enclosing and having an overbearing effect.

The Inspector noted the permitted development ("PD") fall back position of a rear extension and outbuilding, but held that this PD scheme would not cause the same degree of harm to outlook as would the appeal proposal.

The Inspector concluded that although the proposal would not cause an unacceptable loss of sunlight or daylight to the neighbouring properties this did not deflect from the fact that it would cause unacceptable harm to the living conditions of the neighbouring residents with regards to outlook.

**5) Dismissed the appeal by Respect Properties Limited against the refusal of planning permission for proposed extensions and alterations to the building including change of use of ground floor from public house (use class A4) to retail (use class A1), 3 flats on the first floor and 2 flats in the extended roof space. Formerly The Star Public House, Bucknell Road, Bicester, OX26 2DG. 17/00888/F (delegated).**

The appeal followed an earlier dismissed appeal on the site for a box dormer to the roof which would connect the front and rear roof elements of the building and also a steel staircase to the side of the property. In the current appeal the external staircase to the 2nd floor was removed and the box dormer slightly reduced in size. The Inspector agreed with the Council that the proposed box dormer would be a dominating and bulky addition to the building and would not be characteristic of the building or area. Whilst noting there would be limited visibility of the proposed it was noted that the dormer would be seen in close vicinity of the site through the gaps between building and would appear as an incongruous addition to the street scene.

**6) Dismissed the appeal by Paul Harris Homes Ltd against the refusal of planning permission for the demolition of outbuildings, erection of single dwelling house with associated access, landscaping and hardstanding. Evelyns Farm, Brill Road, Horton-Cum-Studley, OX33 1BZ. 17/01095/OUT (delegated).**

The Inspector considered that the main issues were:

- Whether the principle of development accords with the development plan
- Whether the proposal amounts to inappropriate development in the Green Belt and the effect on openness
- The effect on the character and appearance of the area
- The effect on the setting of the nearby Evelyn's Farm, a grade II listed building

The appeal site is located in an area of countryside to the northeast of Horton cum Studley. The site has a number of dilapidated buildings and is relatively overgrown with vegetation. To the south of the site lies Evelyn's Farmhouse, a grade II listed building. The site is located in the Oxford Green Belt.

The Inspector considered that the site was located outside of the village of Horton cum Studley and that the proposal should be assessed against Policy ESD1 of the CLP2031 and saved Policy H18 CLP1996. The appellant argued that the site was not isolated due to the presence of other buildings in proximity of the site, however the Inspector considered that given the distance between the site and the village that it was not within the limits of Horton cum Studley. The Inspector considered that the purpose of saved Policy H18 mostly, but not wholly, accord with the NPPF and therefore the policy should be afforded moderate weight.

The buildings on the site have no planning history, however the appellant states that they were previously used for B1 purposes. A lawful development certificate was submitted for earlier in 2017, however this was withdrawn after the appellant could not demonstrate ten years continuous use. Despite this, the Inspector took the view that the site had the characteristics of previously developed land and therefore the principle of redeveloping the site for housing could be acceptable, subject to the proposal's effect on the openness of the Green Belt. The indicative site plan showed the removal of the existing single-storey buildings on the site and their replacement with a large dwelling. The

Inspector considered that the evidence submitted did not provide sufficient certainty that the development would result in the construction of a new building with no greater impact on the openness of the Oxford Green Belt and that the proposal had not demonstrated that it accorded with Paragraph 89 of the NPPF or Policy ESD14 of the CLP2031. This lack of certainty led the Inspector reached a similar conclusion in respect of the impact on the surrounding landscape as well as the setting of the listed building.

The Inspector considered that there were some benefits of the proposal through the redevelopment of the site, however these benefits would not outweigh the harm identified and that the appeal should be 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:

Denise Taylor, Group Accountant, 01295 221982,  
[Denise.Taylor@cherwellandsouthnorthants.gov.uk](mailto: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](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, Interim Legal Services Manager – Planning, Law and Governance,  
01295 221687,

[Nigel.Bell@cherwellandsouthnorthants.gov.uk](mailto: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 <a href="mailto:tom.plant@cherwellandsouthnorthants.gov.uk">tom.plant@cherwellandsouthnorthants.gov.uk</a>