

# Cherwell District Council

## Planning Committee

15 February 2018

### Appeals Progress Report

#### Report of Interim Director of Planning and Regeneration

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 **17/01483/F – Half Acre Cottage, Heathfield, OX5 3DU.** Appeal by Mr Jarvis against the refusal of the removal of condition 11 of permission 12/00882/F – *‘The living accommodation hereby permitted shall be occupied solely in conjunction with and ancillary to the new cattery buildings also hereby approved and shall not be sold, leased or occupied as a separate unit of accommodation’.*

**17/01428/F - Part Of OS Parcels 0625 And 0914 North Of Coopers Buckingham Road, Bicester.** Appeal by LNT Care Developments Ltd/Greenlight Developments Ltd against the refusal of planning permission for the erection of two-storey 64 bed care home for older people (Class C2 Use) with associated new access (off Skimmingdish Lane), parking and landscaping, and new linear park/public open space.

**17/01617/F – Crouch Farm, Bloxham Road, Banbury, OX16 9UN.** Appeal by Mr Horgan against the refusal of planning permission for the formation of new track and access (re-submission of 16/02598/F).

**17/02185/F – 2 Garden Cottages, Bicester Road, Stratton Audley, OX27 9BT.** Appeal by Mrs Gibbs against the refusal of planning permission for the removal of double garage and erection of dwelling with access and parking.

**17/02277/F – Keepers Cover, Church Lane, Weston-On-The-Green, OX25 3QU.** Appeal by Mr & Mrs Maxted against the refusal of retrospective change of use of site edged in red on enclosed OS extract as private amenity space – re-submission of 17/00458/F.

**17/02315/ F – Keepers Cover, Church Lane, Weston-On-The-Green, OX25 3QU.** Appeal by Mr & Mrs Maxted against the refusal of the erection of 1.5 storey extension, with internal remodelling.

2.2 Forthcoming Public Inquires and Hearings between 15 February and 15 March 2018.

None.

## 2.3 Results

Inspectors appointed by the Secretary of State have:

**1) Dismissed the appeal by Mr Smithson against the refusal of planning permission for the change of use from business to residential and erection of new dwelling and detached garage. Demolition of existing building. Land West of Lock Barn, Canal Road, Thrupp. 17/00518/F (delegated).**

The Inspector considered that the main issues were the principle of development in the Green Belt including impact on openness and whether any harm by reason of inappropriateness was clearly outweighed by any very special circumstances, plus the location of the development, its impact on the character and appearance of the area and impact on protected species.

The Inspector noted that apart from certain clearly defined exceptions set out in paragraph 89 of the Framework the erection of new buildings in the Green Belt is to be regarded as inappropriate development. The Inspector found that the proposal would result in a change of use which would not be an exception under para 89, but that the proposal could be treated as previously developed land, another exception. Nonetheless he concluded on this point that the development would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development due to the greater footprint and height of the proposed dwelling and would lead to an encroachment into the countryside. He therefore considered that the development would not fall within the exception of the redevelopment of previously developed land.

The Inspector held that due to its location the proposal did not amount to infilling, thus conflicting with Policy Villages 1 of the CLP 2031, and that the location within the countryside – although not ‘isolated’ – was environmentally unsustainable as future occupiers of the dwelling would be likely to rely on the private motor car to access day-to-day services facilities and employment opportunities. The location was therefore unsuitable, conflicting with CLP Policy ESD1.

He also considered that the development would not comply with Policy H18 of the CLP 1996 in that the dwelling was not required to meet an essential need for agriculture or any other existing undertaking. However, as Policy H18 was more restrictive than paragraph 55 of the Framework, he gave limited weight to Policy H18.

The Inspector found that an ecology survey was required and that in the absence of one could not concluded that the proposal would not result in demonstrable harm to protected species or habitat, the proposal thus conflicting with CLP 2031 Policy ESD10.

The Inspector considered that the proposal would have a neutral impact on the character of the area, and would preserve the character and appearance of the Conservation Area and setting of the nearby listed building. He attached little weight to the personal circumstances of the appellant, and found that there were limited benefits of the scheme including its energy efficient design, recycling of waste, additional landscaping, economic benefits through the construction and occupation of the dwelling and the social benefits of making a small contribution to the housing supply.

He concluded that these benefits did not clearly outweigh the Green Belt harm and other harm in relation to the unsuitable location and protected species, that there was conflict with the development plan and NPP|F as a whole and that the very special circumstances necessary to justify the development did not exist.

**2) Dismissed the appeal by Mr R and D Walker against the refusal of planning permission for the change of use of poolhouse to a self-contained dwelling and erection of new double garage. The Poolhouse, 57 West End, Launton, OX26 5DG. 17/01008/F (delegated).**

The Inspector considered that the main issues for consideration was whether the pool house is an appropriate for a dwelling having particular regard for the character of the surrounding area.

The pool house and existing garage building are located towards the end of what was the rear garden of 57 West End, a detached dwelling in Launton, which has since been separated from the application site by fencing. Vehicular access to the site remains via the adjacent track/footpath.

The Inspector considered that the application site falls outside the built-up limits of Launton as the area immediately surrounding the pool house is largely undeveloped land free from built forms, be it the large residential gardens

belonging to 57 and 51 West End or countryside. On this basis Policy H19 was applied. The Inspector considered that the use of the pool house as a self-contained dwelling would attract far more human activity on a day-to-day basis than a pool house, whereas the access and parking immediately adjacent to the front of the 57 West End would be far more convenient for its occupiers to use than the garage to the rear, given its close proximity to the house. The Inspector had regard for the supporting text of Policy H19, which explains the importance of protecting against the character of the countryside and how residential use can bring with it characteristics which are difficult to reconcile in such areas. With this in mind the Inspector considered that the change of use of the pool house would bring with it a material increase in human activity, the effects of which would be increased vehicle movements along an adjacent track. The Inspector found this to be undesirable in what is a predominantly quiet, undeveloped rural area and as such harmful to the character.

It is important to note that the Inspector gives 'saved' Policy H19 significant weight in this case, in that the policy seeks to protect the character of the countryside, so is consistent with the Framework which similarly requires the planning system to contribute to conserving and enhancing the natural environment.

The Inspector therefore concluded that the proposed change of use would be harmful to the character of the surrounding area and that any benefits would not outweigh the identified harm. The appeal was dismissed.

**3) Dismissed the appeal by Mr North against the refusal of planning permission for a single and two storey rear extensions. 79 Bloxham Road, Banbury, OX16 9JS. 17/01510/F (delegated).**

The main issues raised by the Inspector was the potential impact on the living conditions of the neighbouring properties in terms of loss of light, outlook and whether the extension would have an overbearing effect.

The Inspector acknowledged that the extension had been designed in an attempt to minimise impact to the neighbouring properties either side of the site, with the two storey element stepped in from either boundary. However the extension's massing would nonetheless be considerable. The effect of this projection would be to reduce the outlook from 77 Bloxham Road as well as causing some overshadowing due to its orientation.

The Inspector also considered that the 'tunnelling effect' on the first floor windows on the neighbour at 81 Bloxham Road would result in loss of light and outlook.

It was noted that the extension would not conflict with the 45 degree rule, however the Inspector stated that this should only be used as a guide and it is not a conclusive tool and regard should be had to the design and site context. Based on this assessment, the Inspector dismissed the appeal.

### **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, Interim Legal Services Manager – Planning, Law and Governance,  
01295 221687,  
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#### **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:

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## 6.0 Decision Information

### Wards Affected

All

### Links to Corporate Plan and Policy Framework

A district of opportunity

### Lead Councillor

Councillor Colin Clarke

## Document Information

Appendix No	Title
None	
Background Papers	
None	
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