

# **Cherwell District Council**

## **Planning Committee**

**15 March 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 **17/02203/F – 17 The Camellias, Banbury, OX16 1YT.** Appeal by Mr Partridge against the refusal of planning permission for the erection of 2 bedroom, 2 storey dwelling and division of existing double garage to provide a single garage and for the new dwelling.

**17/02292/F – Beyways, East End, Hook Norton, OX15 5LG.** Appeal by Mrs Lewis against the refusal of planning permission for the erection of a new dwelling.

**17/02428/F – 2 Hudson Street, Bicester, OX26 2EP.** Appeal by J+R Homes against the refusal of planning permission for 2 No. one bed flats.

**17/02465/F – OS Parcel 6091 East of Duiker House, Fencott.** Appeal by Mr Ancil against the refusal of planning permission for the erection of 1 No single storey dwelling and ancillary garage workshop.

2.2 Forthcoming Public Inquires and Hearings between 12 April and 24 May 2018.

**Planning Hearing commencing Tuesday 20 March 2018 at 10am River Cherwell Meeting Room, Cherwell District Council, Bodicote House, White Post Road, OX15 4AA.** Appeal by Mr Bell against the refusal of planning permission or the conversion of an agricultural barn into a single dwelling and demolition of outbuildings. Winwood, Noke, Oxford, OX3 9TT. 17/01555/F.

## 2.3 Results

Inspectors appointed by the Secretary of State have:

- 1) Allowed the 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 30 Crouch Street, Banbury, OX16 9PR. 16/02378/O56 (Delegated).**

The application sought prior approval for the change of use of an office building into 9 flats (Class C3).

The main issue was whether the proposal was permitted development given that the plans submitted in the prior approval application had included operational development, whereas Class O does not allow for operational development. The Inspector adapted this to a consideration of “the necessity for some operational development to implement the change of use.”

The Inspector noted that there was no dispute between the main parties that some operational development would be required to fully implement the change of use, and the Inspector agreed that the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) does not make provision for operational development as part of the change of use permissible under Class O, whereas operational development is expressly permitted (in principle) under other Classes.

The Council's view was that if some Classes of the GPDO introduced in 2013/14 allowed for operational development and some did not, it was logical to conclude that those that did not mention operational development did not allow for it, and therefore any proposal including operational development in the plans required to be submitted pursuant to that proposal rendered it not permitted development.

This question had been considered by Planning Inspectors previously. One had agreed with the Council's position; one had disagreed. Another discussed the issue but did not conclude clearly on the question, dismissing that appeal on other grounds.

In the present case, the appellant contended that there were no provisions or limitations within Class O to state that where operational development was included the principal of the change of use was not permissible.

The Inspector commented that (1) the Government's planning practice guidance (PPG) did not specify the order in which permission should be secured (i.e. prior approval for change of use; planning permission for physical alterations); and (2) operational development was "not listed as a disqualifying factor under Paragraph O.1 of Class O.

He therefore allowed the appeal, concluding that "an application for a proposed change of use under Class O should not be disqualified on the basis that some operational development is required" even though "some operational development, which will require separate planning permission, will be required to implement it" and that it was merely at the appellant's own risk as to when it sought permission for the external alterations.

The Inspector did not explain why some Classes of the GPDO expressly allow for external alterations as well as a change of use and others do not. The Inspector did not engage with the question as to the status of any permission under Class O should the external alterations required to facilitate the change of use be inappropriate and considered unacceptable. It is unfortunate that these questions went unanswered, and consequently this is a somewhat unhelpful decision.

**2) Dismissed the appeal by Mr and Mr Smith against the refusal of planning permission for outline consent for development of two houses including associated parking and amenity space. Land South West of Ridgeway House Adj to The Ridgeway, Bloxham. 17/00718/OUT (Delegated).**

This appeal related to the refusal of outline planning permission for the development of part of an agricultural field to provide two houses including associated parking and amenity space. Access was the was the only matter that was not deferred to the reserved matters stage.

The Inspector considered that the main issues were the principle of development and the impact on the character and appearance of the area.

The appeal site is currently an agricultural field currently used for grazing, east of the village of Bloxham, accessed from The Ridgeway.

With regard to the principle of development, the Inspector considered that whilst there were no defined settlement boundaries the site was located outside of the built-limits of Bloxham, as it was not contiguous with any other development and that the appeal site represented a clear and distinct transition from residential and recreational land uses to open and expansive countryside. The Inspector concluded that the development would therefore be contrary to saved Policy H18 of the Cherwell Local Plan 1996, Policy BL2 of the Bloxham Neighbourhood Plan, and Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1, which requires residential development to be located in the most sustainable locations. The Inspector also found that the proposals would also fail to comply with Paragraph 17 of the NPPF which requires development to take account of the different roles and character of different areas, and to recognise the intrinsic character and beauty of the countryside.

With regard to the impact on the character and appearance of the area, the Inspector considered that the site would be remote from the built-up area and would be unrelated to the settlement pattern and would appear as an urbanising intrusion along The Ridgeway and into open countryside. Whilst noting that associated amenity areas and domestic activity could be screened through the imposition of appropriate conditions, the Inspector considered that given the harm caused by its location, the development would be detrimental to the rural setting of the settlement, and have an adverse effect on the character and appearance of the area.

The Inspector highlights that planning should be genuinely plan-led, as advocated by the NPPF, and concluded that the proposed development would be contrary to the Development Plan and there were no material considerations of sufficient weight to outweigh the harm identified in this instance. The appeal was therefore dismissed.

**3) Dismissed the appeal by Mrs Muckelberg against the refusal of planning permission for the change of use from amenity land to domestic use and dropped kerb. 6 Little Green, Bloxham, OX15 4QB. 17/01344/F (Delegated).**

The main issues raised by the Inspector were the character and appearance of the Bloxham Conservation Area and the safety of highway users.

The Inspector paid special attention to the Bloxham Conservation Area Appraisal and agreed that the change of use of the land and subsequent parking of the car on the land would be contrary to the appraisal. It was concluded that a parked vehicle would diminish the visual impact on the grassed area in relation to the cottages, and would have a negative effect on the appearance of Little Green.

The Inspector acknowledged there may be minor benefits to congestion along Little Green with the removal of one parked car from the roadside but this benefit would not be sufficient to warrant allowing the appeal.

The Inspector reasoned that, from a highways safety perspective, there would not be any undue potential danger to highway users as a result of reversing into/out of the proposed parking space.

Based on the assessment above, 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:

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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.

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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 Clark

## Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Tom Plant, Appeals Administrator, Development Management, Cherwell and South Northants Councils.
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