

Cherwell District Council

Planning Committee

20 September 2018

Appeals Progress Report

Report of Assistant Director: Planning Policy and Development

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

2.1 New Appeals

18/00956/TPO The Corporate Innovations Co Ltd, 21 Horse Fair, Banbury, OX16 0AH. Appeal by Tanya Hudson, Corporate Innovations Co Ltd against the refusal of permission to fell to the ground 1 no horse chestnut tree subject to Tree Preservation Order 017/1999.

Method of determination: Fast Track Appeal

Key Dates: Start Date: 14.08.2018 **Questionnaire Due:** 29.08.2018

17/01962/F OS Parcel 9635 North East of HM Bullingdon Prison, Widnell Lane, Piddington. Appeal by Mr H.L Foster against the refusal of planning permission for Material change of use of land to use as a residential caravan site for 6 gypsy families, each with two caravans, including improvement of access and laying of hardstanding

Method of determination: Public Inquiry

Key Dates: Start Date: 04.09.2018 **Statement Due:** 16.10.2018

18/00249/OUT Fringford Cottage, Main Street, Fringford, Bicester, OX27 8DP Appeal by Mr Stuart Wright against the refusal of Planning Permission for Residential development of up to 10 dwellings

Method of determination: Written Reps

Key Dates: Start Date: 05.09.2018 **Statement Due:** 10.10.2018

2.2 Appeals in progress

Public Inquiries

17/01173/OUT OS Parcel 4846 South East Of Launton Road And North East Of Sewage Works Blackthorn Road Launton. Appeal by Manor Oak Homes against the refusal of Planning Permission for Outline Development of up to 72 dwellings with associated large area of public open space. All matters reserved except for access.

Key Dates:

Start Date: 03/01/2018 **Public Inquiry:** 10.07.2018 **Decision:** Awaited

Hearings

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.

Method of determination: Hearing

Key Dates:

Start Date: 17/04/2018 **Hearing Date:** 31.07.2018 **Decision:** Awaited

Written Representations

17/02465/F OS Parcel 6091 East Of Duiker House Fencott. Appeal by Mr Ben Ancil against the refusal of Planning Permission for the Erection of 1 No single storey dwelling and ancillary garage/workshop

Key Dates:

Start Date: 16.04.2018 **Statement Date:** 21.05.2018 **Decision:** Awaited

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

Key Dates:

Start Date: 14/05/2018 **Statement Due:** 25.06.2018 **Decision:** Awaited

17/01675/M106 Keepers Cover Church Lane Weston On The Green Bicester OX25 3QU. Appeal by Mrs Ruth Maxted against the non-determination of an application for the Modification of Section 106 - Application 97/02148/F

Start Date: 14.05.2018 **Statement Due:** 25.06.2018 **Decision:** Awaited

17/02277/F Keepers Cover Church Lane Weston On The Green Bicester OX25 3QU. Appeal by Mr & Mrs Maxted against the refusal of retrospective Planning Permission for the Change of Use of site edged in red on enclosed OS Extract as private amenity space - Re-submission of 17/00458/F

Start Date: 14.05.2018 **Statement Due:** 25.06.2018 **Decision:** Awaited

17/02315/F Keepers Cover Church Lane Weston On The Green Bicester OX25 3QU. Appeal by Mr & Mrs Maxted against the refusal of Planning Permission for the Erection of 1.5 storey extension, with internal remodelling

Start Date: 14.05.2018 **Statement Due:** 25.06.2018 **Decision:** Awaited

17/02011/F The Stables, The Courtyard, Milton, Banbury, OX15 4SX

Appeal by Mr Martin Smethurst against the refusal of Planning Permission for the Erection of 1 No. three bedroom, 1.5 storey dwelling to land south of the existing house and associated landscaping. Demolition of existing stone boundary wall.

Start Date: 31.07.2018 **Statement Due:** 04.09.2018 **Decision:** Awaited

17/02131/F St Georges Catholic Church, Round Close Road, Adderbury

Appeal by Mr Tim Catling against the refusal of Planning Permission for the Demolition of existing chapel and erection of 1 dwelling.

Start Date: 01.08.2018 **Statement Due:** 05.09.2018 **Decision:** Awaited

17/02203/F 17 The Camellias, Banbury, OX16 1YT

Appeal by Mr Tony 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 parking for the new dwelling

Start Date: 09.08.2018 **Statement Due:** 13.09.2018 **Decision:** Awaited

17/02292/F Byeways, East End, Hook Norton, Banbury, OX15 5LG

Appeal by Mrs Debbie Lewis against the refusal of Planning Permission for the Erection of a new dwellinghouse.

Start Date: 09.08.2018 **Statement Due:** 13.09.2018 **Decision:** Awaited

17/02366/F Portway Cottage, Ardley Road, Somerton, Bicester, OX25 6NN Appeal by Mr Marvyn Harris against the refusal of Planning Permission for the Change of use from garage/workshop to two bed cottage - Re-submission of 17/00492/F

Start Date: 09.08.2018 **Statement Due:** 13.09.2018 **Decision:** Awaited

17/02014/F South Barn, Street From Wigginton To Swerford, Wigginton, Banbury, OX15 4LG Appeal by Mr Chris Benians against the refusal of Planning Permission for the Extension to existing dwelling, landscaping,

formation of an additional access from the road and change of use of land from agricultural to residential purpose.

Start Date: 15.08.2018 **Statement Due:** 19.09.2018 **Decision:** Awaited

2.3 Forthcoming Public Inquires and Hearings between 23 August and the 20 September 2018.

Nil

2.4 Results

Inspectors appointed by the Secretary of State have:

- 1. Allowed the Appeal by Mrs J Gibbs for Removal of double garage and erection of dwelling with access and parking. 2 Garden Cottages, Bicester Road, Stratton Audley, Bicester, OX27 9BT – 17/02185/F (delegated)**

The application was for the erection of a dwelling on an infill plot in a Category C Village (Policy Villages 1 of the CLP 2031 Part 1). Permission had been granted for an attached dwelling on the site and the sole issue related to the impact on the character and appearance of the area. The Inspector disagreed that a detached dwelling on the site would appear cramped or contrived. He considered that the removal of the detached garage was a positive and considered that the varied design and size of the linear development to the south of the site and the space retained between the dwellings resulted in an acceptable development. The appeal was therefore allowed, subject to condition.

- 2. Allowed the Appeal by Mr Ed Kirk for Single storey extensions. 1 Austins Way, Hook Norton, OX15 5LQ – Condition 3 of 17/01922/F (delegated)**

This appeal related to the appeal of a grant of planning permission subject to conditions. The development permitted was for single storey extensions to a dwelling, with one extension to the front and one to the rear. The condition in dispute was condition 3 which read

‘Notwithstanding the details shown on drawing number 6359-04, the extensions hereby approved shall be constructed from stone to match the existing dwelling. Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.’ It had been proposed for the extensions to be built in timber cladding.

The Inspector considered that the main issues was whether the requirement of Condition 3 for the approved extensions to be constructed in stone is reasonable and necessary in the interests of the appearance of the appeal property and surrounding area.

The appeal site is located in a cul-de-sac in the east of Hook Norton. In particular the appeal property comprises a detached bungalow located in a prominent position at the entrance of this cul-de-sac, close to the highway. The Inspector recognised that the principal building material was buff stone and that this gives Austins Way a particularly distinct and cohesive appearance. The dwelling has a very small area of timber cladding at present.

The Inspector considered that if the front extension were constructed in timber cladding it would appear particularly discordant, would fail to assimilate with the host property and would also detract from its appearance and that of the surrounding area. It was considered that the rear extension would be more discreet and better screened and would not be as harmful if it were constructed in timber cladding.

The Inspector therefore considered that consider that Condition 3 was reasonable and necessary in relation to the front extension but not in relation to the rear extension. Accordingly, deleting the condition in its entirety would conflict with Policy ESD15 of the CLP 2031 Part 1, which requires that development should contribute positively to an area's character by reinforcing local distinctiveness, and Saved Policy C28 of the Cherwell Local Plan 1996, which requires that the choice of external-finish materials are sympathetic to the context of that development. However, the Inspector considered that replacing Condition 3 with one which excludes the requirement for the en-suite to be built in stone but retains it for the utility/garden room would not result in any conflict with the above policies.

The Inspector concluded that the appeal should be allowed with a reworded condition 3, which only related to the front extension.

3. Dismissed the Appeal by J & R Homes Ltd for 2 no. one bed flats. 2 Hudson Street, Bicester, OX26 2EP – 17/102428/F (delegated)

The appeal related to a refusal of full planning permission for the erection of 2 one bedroom flats.

The Inspector considered the main issue to be the effect of the development on the character and appearance of the area.

2 Hudson Street forms one of a pair of semi-detached houses, similar to other properties located on this street, although there are other building forms present including the small enclave of bungalows and garages immediately adjacent to the application site. The proposal sought the demolition of a garage and conservatory and the construction of a 2 storey building to accommodate 1 flat at each floor, with 2 parking spaces provided.

The Inspector summarises that the development would appear very close to the front boundary of the site in considerable contrast to the other 2 storey buildings which have a setback of 6m whereas the development would have a setback of 2m from Hudson Street. The adjacent garages, which are sited in closer proximity to the road than the 2 storey dwellings, are considered by the Inspector to have a completely different character and of a less height and as such their effect on the street-scene is limited. Whilst noting that a proposal does not necessarily have to follow an existing pattern, the Inspector concludes that the proposal would appear over-dominant and cramped within its site as a result of a lack of space at the frontage, despite frontage planting and the removal of the boundary fence, which are not considered to outweigh the negative aspects of the proposal.

The Inspector also has regard to the rear amenity space, concluding that whilst this would not be immediately visible from the frontage, there are a number of residential properties to the rear that this cramped appearance could be seen, therefore the limited size of amenity space would have a further negative and harmful effect on the character of the area. Similarly the Inspector finds the small, obscurely glazed rear windows result in a stark and harsh rear elevation which would be viewed from the properties to the rear. Finally the Inspector finds that the lack of space around the building, its forwarding setting and thus prominence, means that a lack of harmony with the surroundings is further heightened.

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 Part 1 and saved Policies C28 and C30 of the CLP 1996.

4. Dismissed the Appeal by Mr S Roe for Side extension to create a new dwelling. 7 St Peters Crescent, Bicester, OX26 4XA – 17/02416/F (delegated)

The appeal related to a refusal of full planning permission for the erection of a side extension to create a new dwelling.

The Inspector considered that the main issues for this appeal were the impacts the proposal on the existing residents as well as the character and appearance of the area.

The application site is located within a residential area of Bicester and relates to a detached 2 storey house with an attached double garage to one side. The proposal sought the removal of the garage to be replaced with a 2 storey element which would form the new dwelling, with the front and rear gardens divided accordingly.

The proposed extension was to extend deeper than the existing house by 4.5m to the ground and 2.1m to the first floor. In this case, the Inspector had regard for the Council's 'Home Extensions and Alterations, Design Guide' 45 degree guideline, concluding that the proposal would fail to accord with this guidance in relation to the nearest bedroom and kitchen, with the outlook from

these rooms being unacceptably affected by the proposal due to its proximity and depth, also appearing dominating onto this property through its size and siting.

The Inspector, whilst acknowledging that ordinarily hard-surfacing can be undertaken without requiring planning permission, concluded that the provision of the hard-surfacing is as a direct result of the need to provide parking for the scheme, with no indication that this would be required otherwise. The Inspector notes that houses where the entire frontage are hard-surfaced do detract from the quality of the area and in this case the hard-surfacing is a negative aspect. The Inspector found that physical form of the proposed extension when viewed from the front would not disrupt the general pattern of dwellings in St Peters Crescent and would not appear out of place in relation to the original dwelling, but this does not outweigh the harm caused by the hard-standing.

On the basis of the above assessment, the Inspector concluded that the appeal should be dismissed as it would run contrary to Policy ESD15 of the CLP 2031 Part 1 and saved Policies C28 and C30 of the CLP 1996.

5. Dismissed the Appeal by Siteplan UK LLP for Outline application for residential development. OS Parcel 3498 East of Heatherstone Lodge, Fulwell Road, Fimere – 17/01328/OUT (committee)

The proposal sought outline consent for 25 dwellings on the site. It followed an earlier dismissed appeal for 47 dwellings on the site. The Inspector concluded that whilst Fimere is a Category A settlement (Policy Villages 1 of the CLP 2031 Part 1) given the lack of facilities and lack of bus/walking/cycling routes residents would be reliant on the private car contrary to the aims of the Council's rural housing strategy to direct growth to sustainable located where dependency on the car can be reduced. The Inspector agreed that given the progress made on the 750 dwellings under Policy Villages 2 early in the plan period there is no pressing need for the development in housing delivery terms and the proposal would take up a sizable amount of the remaining balance of the rural housing allocation. As such the proposal would prejudice the aim of aligning the provision of rural housing with the sustainability of a location and would be contrary to Policies ESD1 and Villages 2 of the CLP 2031 Part 1.

The Inspector also agreed that the proposal would be poorly related to the settlement pattern and would provide an isolated extension to the village and form a dislocated limb of development. The proposed access would be quite separate from the rest of the village and would serve to accentuate this unacceptable form of development and the proposal would have a significant adverse effect on the rural character of the area and setting of Fimere. The Inspector also concluded that as the Strategic Policies are less than 5 years old they are not to be considered as out of date in the context of paragraph 73 of the NPPF as the appellant had sought to argue. Based on this assessment, the appeal was therefore 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

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 & Litigation, 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 & Litigation, 01295 221687,
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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, Lead Member for Planning

Document Information

| Appendix No | Title |
|---------------------|--|
| None | |
| Background Papers | |
| None | |
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