

Cherwell District Council

Planning Committee

17th January 2019

Appeals Progress Report

Report of Assistant Director of Planning and Economy

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

18/01074/F – Stone Lea, School Lane, Great Bourton, Banbury OX17 1QY
– appeal by Mr & Mrs Martin - Two dwellings with new shared access from School Lane

18/01490/F - Manor Farm Cottage, Church Lane, Charlton On Otmoor, Kidlington, OX5 2UA - Erection of building to replace existing outbuilding, the erection of a new glazed link, alterations to another existing building, and their conversion to form one single bedroom dwelling with private amenity area

18/01144/Q56 - Barn At Wooden Hill Farm, Barford Road, Bloxham, OX15 4LP - Change of use to convert existing agricultural building into two dwellinghouses

18/00875/F – 41 Easington Road, Banbury, OX16 9HJ - Erection of 2no detached 3 bedroom dwellings and associated car parking (4 spaces) (revised scheme of 17/01255/F)

18/01119/F - 58-60 North Street, Fritwell, Bicester, OX27 7QR -
Retrospective - replacement of rotten fence - frontage no 60, replacement of broken trellis / rotten posts no 58. replaced with post and rail.

2.2 Appeals in progress

Public Inquiries

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 the 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

Start Date: 04.09.2018 **Statement Due:** 16.10.2018 **Decision:** Awaited

Informal Hearings

None

Written Representations

17/01919/F - 30 Arbury Close, Banbury, OX16 9TE – Appeal by Mrs Fiaz - Change of use of open space to residential and two storey side and part rear extension (revised scheme of 17/00460/F).

Method of determination: Written Reps

Start Date: 17.09.2018 **Statement Due:** 22.10.2018 **Decision:** Awaited

17/02561/F - Land On The North Side Of Water Lane, Fewcott – Appeal by Mr and Mrs Douglas - Erection of new two-storey dwelling and associated ancillary buildings

Method of determination: Written Reps.

Start Date: 04.10.2018 **Statement Due:** 11.10.2018 **Decision:** Awaited

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

Start Date: 05.09.2018 **Statement Due:** 10.10.2018 **Decision:** Awaited

18/00278/F Land Adj To West Cottages, Bicester Road, Stratton Audley. Appeal by Stonebridge Investments against the refusal of Planning Permission for erection of detached dwelling house including demolition of existing single garage.

Method of determination: Written Reps.

Start Date: 26.10.2018 **Statement Due:** 30.11.2018 **Decision:** Awaited

18/00439/F - 49A Castle Street, Banbury, OX16 5NX – Appeal by Teesbourne Properties Limited - Change of Use from Offices to Residential apartments (revised scheme of application 17/00681/F).

Method of determination: Written Reps.

Start Date: 10.10.2018 **Statement Due:** 09.11.2018 **Decision:** Awaited

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: Written Reps

Start Date: 14.08.2018 **Statement Due:** N/A **Decision:** Awaited

2.3 Forthcoming Public Inquires and Hearings between 18 January and the 14 February.

None

2.4 **Results**

Inspectors appointed by the Secretary of State have:

1. **Allowed the appeal by Mr Smethurst for 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. The Stables, The Courtyard, Milton, Banbury, OX15 4SX – 17/02011/F**
(Delegated)

The application had been refused on the grounds that, by reason of its siting, scale, massing and articulation, the proposal would fail to preserve the character and appearance of the Milton Conservation Area or the setting of the adjacent listed buildings. The Inspector agreed that this was the main issue to consider in the appeal.

The Inspector noted the context of the appeal site and that the existing buildings and courtyard had both a distinct group value and an individual value that makes a positive contribution to the character and appearance of the CA, and a positive effect on the setting of nearby listed buildings.

The Inspector noted that the proposed materials and fenestration to the front elevation would be relatively low key and responded to the local vernacular, and considered that the proposals would not appear out of character with the surrounding architecture. The Inspector agreed with the Council that the dwelling's more contemporary appearance would be in contrast with the simple rural architecture of the courtyard. However, he considered the ground floor of the rear elevation would be well screened due to the lower level of the road to the rear and the presence of a tall boundary enclosure, and that any elements that would be clearly visible could be appropriately controlled by way of condition securing appropriate detail.

Whilst the Inspector noted the concerns of the Council, which had largely been focussed on the scale/height of the building, and the dwelling's contemporary appearance to the rear elevation, he considered that the proposals would provide a modern take on the vernacular architecture, and

would represent a sensitive addition to the form and layout of the existing courtyard. The Inspector concluded that the proposal would preserve the character and appearance of the CA and would also preserve the setting of the nearby listed buildings.

2. Allowed the appeal by Mr & Mrs Tustian for Removal of condition 10 (dwelling occupancy) of 17/01619/F. Chilaway Farm, Sibford Road, Epwell, Banbury, OX15 6LL – 17/02102/F (Delegated)

The permission to which this appeal related was for the conversion of agricultural buildings to C3 dwellinghouse, small link extension and new utility/parking barn to replace existing Dutch barn at Chilaway Farm, Epwell.

Condition 10 of that consent required that the dwelling be occupied only by a person solely or mainly employed, or last solely or mainly employed in the locality in agriculture, as had been indicated to be the case by the applicant during the application, and was considered necessary as the level of amenity that would be afforded to potential future occupants of the proposed development would be affected by agricultural operations from the continued operation of the farming operations, given the proximity of existing farm buildings and associated access tracks and areas of hardstanding; and that someone employed within agriculture would likely be more accommodating of nuisance arising from agricultural operations.

The Inspector considered that the main issue to be whether Condition 10 was necessary to make the development acceptable, and was otherwise reasonable, with regard to the relevant tests for the use of planning conditions set out in NPPF paragraph 55 and in the Planning Practice Guidance (PPG).

The Inspector gave weight to the size of the farm holding and the current, “relatively limited” intensity of farming activity at the site, e.g. no grain or crop processing on the site and only very occasional use for housing livestock. The Inspector agreed there was some logic to the Council’s position, noted that things may change in the future with regard to the activity at the farm and accepted that any liability for future complaint in respect of living conditions could not be ruled out, even appearing to give some thought to dismissing the appeal.

The Inspector noted, however, that the PPG sets a high threshold for where residential conversion of an agricultural building may be considered undesirable. He opined that people make an informed choice about where they live, and concluded overall that the evidence before him suggested that the potential for harm was not so significant that condition 10 was necessary to safeguard the living conditions of the dwelling’s future occupants.

The Inspector dismissed the appellant’s separate award of costs application.

The Inspector considered that it was not unreasonable for the Council to have supposed that the proposed dwelling would relate to the needs of rural workers, and that there was some functional logic to Condition 10 in order to ensure adequate living conditions for future occupants. The Inspector

considered it was not realistic to expect local planning authorities to produce detailed technical evidence on each case, and that the lack of such evidence, related to potential nuisances, did not inherently mean that the Council's position was based on unsubstantiated assertions; he held that it was primarily for the applicant to demonstrate how a proposal would be appropriate.

The Inspector considered that Council had showed that it considered the potential for some form of alternative resolution, and that the Council had explained how the decision was arrived at rationally with regard to the evidence before them and based on the context to the appeal site.

The Inspector concluded that, notwithstanding the outcome of the main appeal, no action or inaction of the Council had amounted to unreasonable behaviour resulting in unnecessary or wasted expense.

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:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer
David.Mytton@Oxfordshire.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:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer

David.Mytton@Oxfordshire.gov.uk

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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