

Cherwell District Council

Planning Committee

15 August 2019

Appeals Progress Report

Report of Assistant Director 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

18/01841/F - 22 Campbell Close, Bicester, OX26 6RY - Demolition of part of existing house and garage and erection of new two bedroom dwelling (re-submission of 18/00402/F)

18/01894/OUT - OS Parcel 4300 North Of Shortlands And South Of High Rock, Hook Norton Road, Sibford Ferris, Oxfordshire, OX15 5QW - Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage – To be decided by Hearing

1900231/Q56 - Brockford Farm Agricultural Building, Tadmarton Heath Road, Hook Norton, OX15 5BU - Change of use of building and curtilage from agriculture to single dwellinghouse with associated physical works

2.2 New Enforcement Appeals

None

2.3 Appeals in progress

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

Key Dates

Start Date: 04.09.2018 **Inquiry Date:** 29.07.2019 **Decision:** Awaited

18/00792/OUT - Land At Tappers Farm, Oxford Road, Bodicote, Banbury, OX15 4BN - Outline application (all matters reserved except for access) for the demolition of existing buildings and erection of up to 46 no dwellings, with associated works and provision of open space

Method of determination: Hearing – Wednesday 4th September

Key Dates:

Start Date: 20.06.2019 **Statement Due:** 25.07.2019 **Decision:** Awaited

18/01074/F - Stonelea, School Lane, Great Bourton, Banbury

OX17 1QY. Appeal by Mr and Mrs Martin against the refusal of Planning Permission for Two dwellings with new shared access from School Lane.

Method of determination: Written Reps.

Key Dates:

Start Date: 07.12.2018 **Statement Due:** 11.01.2019 **Decision:** Awaited

18/01332/F - Land West Of M40 Adj To A4095, Kirtlington Road, Chesterton – Appeal by Mr C Smith and Mr R Butcher - Change of use of land to use as a residential caravan site for 3 gypsy families, each with two caravans and an amenity building; improvement of existing access, construction of driveway, laying of hardstanding, installation of package sewage treatment plant and acoustic bund

Method of determination: Public Inquiry

Key Dates:

Start Date: 29.01.2019 **Inquiry date:** 15.10.2019 **Decision:** Awaited

18/01436/F – Land Adjacent and West of Roba, Camp Road, Upper Heyford – appeal by Sharon Haddy & Mandy Borton against the refusal of Planning Permission for Erection of three residential dwellings.

Method of determination: Written Reps.

Key Dates:

Start Date: 18.01.2019 **Statement Due:** 22.02.2019 **Decision:** Awaited

18/01501/F – The Pheasant Pluckers Inn, Burdrop, Banbury, OX15 5RQ - Change of use from Class A4 (ACV Listed) to Class C3 dwellinghouse.

Method of determination: Written Reps.

Key Dates:

Start Date: 17.05.2019 **Statement Due:** 21.06.2019 **Decision:** Awaited

18/01727/F – 126 Churchill Road, Bicester, OX26 4XD - Externally re-clad and re-image an existing office and the attached industrial brick factory,

storage and distribution unit. This includes splitting the existing industrial unit into 5 separate areas with additional DDA access and Accessible WC provision to all areas.

Method of determination: Written Reps.

Key Dates:

Start Date: 02.07.2019 **Statement Due:** 06.08.2019 **Decision:** Awaited

18/01822/F - Bicester Service Station, Oxford Road, Bicester, OX26 1BT -

Re-development of the existing service station including the retention of the existing petrol filling station (PFS) and kiosk; demolition of existing restaurant building and construction of a drive-thru coffee-shop; construction of a restaurant building on land currently used for HGV parking; associated parking provision; retention of existing vehicular access from Oxford Road and reconfiguration of internal access routes to serve the development; creation of separate pedestrian/cycle access; all associated engineering and landscape works - re-submission of 17/01967/F

Method of determination: Written Reps.

Key Dates:

Start Date: 24.06.2019 **Statement Due:** 29.07.2019 **Decision:** Awaited

18/02056/OUT – Land North of Merton Road, Ambrosden - OUTLINE -

Erection of up to 84no dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Merton Rd - All matters reserved except for means of access.

Method of determination: Public Inquiry

Key Dates

Start Date: 20.05.2019 **Inquiry Date:** 20.08.2019 **Decision:** Awaited

19/00163/F - Part Land East And Adj To Roundabout At Junction Of Bicester Road, Launton -

Erection of accommodation building and associated ancillary external works to accommodate gas fuelled demand response electric generation facility to support the National Grid.

Method of determination: Written Reps.

Key Dates:

Start Date: 30.04.2019 **Statement Due:** 04.06.2019 **Decision:** Awaited

Enforcement appeals

None

- 2.3 Forthcoming Public Inquires and Hearings between 16 August and 19 September 2019

18/02056/OUT – Land North of Merton Road, Ambrosden - OUTLINE -

Erection of up to 84no dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Merton Rd - All matters reserved except for means of access.

Method of determination: Public Inquiry

Inquiry Start Date: 20.08.2019 (expected to last 4 days)

18/00792/OUT - Land At Tappers Farm, Oxford Road, Bodicote, Banbury, OX15 4BN - Outline application (all matters reserved except for access) for the demolition of existing buildings and erection of up to 46 no dwellings, with associated works and provision of open space

Method of determination: Hearing

Hearing date: 04.09.2019

2.4 Results

Inspectors appointed by the Secretary of State have:

- 1. Dismissed the appeal by Mr and Mrs R Hooke for the erection of new detached dwelling with integral garage. Steamways, 8 Rectory Close, Wendlebury, OX25 2PG – 18/00848/F (Delegated)**

The Inspector considered that the main issues relating to this proposal were the impact on the character and appearance of the area, and flood risk.

The Inspector found that the proposed dwelling would be set back from the street frontage, would not be highly visible in the street scene, would fill the plot width (but that this would follow the pattern of other properties in the street), and that its siting would provide sufficient garden and parking provision. The Inspector therefore concluded that the proposal would not result in overdevelopment of the site or appear cramped and would be in keeping with the form and character of the area.

The Inspector noted that the appeal site is located within Flood Zones 2 and 3 as identified by the Environment Agency's flood mapping, and is therefore considered to be at a medium to high risk of flooding, and that the footprint of the dwelling itself would be on land identified as Flood Zone 2. The Inspector noted that in such cases the Local Planning Authority must apply the Sequential Test and that the onus is on the applicant to demonstrate that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The Inspector concluded that the Flood Risk Assessment (FRA) submitted as part of the appeal did not demonstrate that there are no reasonably available sites of a lower probability of flooding, and as such found that development on this site would fail the Sequential Test. The Inspector thus concluded that due to the lack of evidence to demonstrate suitable alternative sites in areas of a lower probability of flooding the proposal failed to comply with Policy ESD8 of the CLP 2031 and the relevant paragraphs of the Framework. Accordingly the Inspector dismissed the appeal.

The Inspector found that that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, had not been demonstrated by the Local Planning Authority and accordingly refused the Appellant's claim for costs. In particular the Inspector noted that the Appellant had chosen not to engage in any pre-application discussions with the Council and found that taking five days to return a

telephone call compared to the Council's stated aim of doing so in three days was not significant.

2. Allowed the appeal by Mr J Pickup for RETROSPECTIVE - Brick wall with pier caps. 13 Longford Park Road, Banbury, OX15 4FU – 18/01734/F (Delegated)

The inspector considered that the main issue of the appeal was the effect of the development on the character and appearance of the area. The appeal was for retrospective permission for the erection of a brick wall with pier caps and flower beds to the front of the application dwelling.

The council had argued that the development was out of proportion and out of keeping with the relatively minor scale boundary treatments along the spine road of the Longford Park development. The inspector concluded that the brick wall did not interrupt the coherent boundary treatments along Longford Park Road due to its sensitive design, high quality materials and siting on a corner plot. These details allow it to sit comfortably within the streetscene.

The inspector therefore allowed the appeal.

3. Dismissed the appeal By Mrs H Beckett for First floor side extension. 2 Grimsbury Drive, Banbury, OX16 3HL – 18/01891/F (Delegated)

The application was for a first floor side extension to a semi-detached, two storey property located on a residential street to the east of Banbury town centre. The Inspector considered that the main issue of the appeal was the effect of the scheme on the character and appearance of the area.

The Inspector stated that the scale of the roof element would be wholly disproportionate to the simple and well-proportioned elevational features of the host dwelling, and its detailed design would appear contrived and awkward. The Inspector concluded that the scheme would result in harm to the uniform and simple character of Grimsbury Drive and would be in conflict with Saved Policies C28 and C30 of the Cherwell Local Plan 1996, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Paragraph 130 of the NPPF as it would detract from the established local character and appear an incongruous addition to the streetscene.

The appellant submitted an additional plan detailing how the property could be altered through permitted development from a hipped to gabled roof as a means to justify the appeal scheme. The Inspector found that the existence of a permitted development 'fallback' does not serve to justify the harm arising from the appeal scheme. The appeal was therefore dismissed.

4. Dismissed the appeal by Brunel Securities LLP And The Curtis Family for Outline development for up to 7,161 m2 of B2 and/or B8 industrial development with ancillary offices (B1a), access and landscaping. OS Parcel 8233 South Of Baynards Green Farm, Street To Horwell Farm, Baynards Green – 18/00672/OUT (Committee)

The Inspector considered the main issues to be:

- Whether the site is an appropriate location for employment having regard to national and local policy.
- The effect on the character and appearance of the area, including whether it would preserve or enhance the setting of the barn at SP 5487 2940, a Grade II Listed Building.

The Inspector noted that the site was located in the countryside, outside of a settlement, and that Policy SLE1 directs employment development to existing employment sites and the main urban settlements, states that in rural areas employment development should be located within or on the edge of category A villages identified in Policy Villages 1, unless exceptional circumstances are demonstrated, and sets out the criteria which new employment in rural areas is required to meet.

The Inspector disagreed with the Appellant that there was a complete policy vacuum, and that delay in the delivery of Local Plan Part 2 did not in this case provide exceptional circumstances to justify the appeal proposal.

The Inspector noted that the proposal was made on a speculative basis, and agreed with the Council that it was for the market to decide, alongside any planning constraints, what size units come forward on allocated sites. The Inspector found that the Appellant had not adequately demonstrated that the speculative needs could not be met on the allocated sites, and found that there was insufficient substantive evidence to support the Appellant's view that there were doubts that smaller format units would be suitable and appropriate on the edge of Category A villages.

In addition the Inspector found that, in the absence of any identified end user for the appeal development, there was no evidence to show that the sites identified by the Council as being available could not meet the needs of a business looking to locate in the area, especially since the Council was able to identify that businesses are successfully operating from similar units, and there was insufficient evidence to support the Appellant's claim that SMEs are having to compromise on their requirements due to lack of supply.

The Inspector agreed with the Council that it had not been adequately demonstrated that it was necessary in this case to site a development in an unsustainable location inaccessible by non-car modes of transport.

The Inspector agreed with the Council that the proposal would result in urbanisation of the countryside, would be visible from certain vantage points around the site and that the use of appropriate materials would not mitigate the harm, and concluded that the proposal would harm the character and appearance of the area.

The Inspector also found that the proposal would fail to preserve the setting of the Listed Building and would cause less than substantial harm to its significance as a heritage asset, and that there would be no public benefits to outweigh this harm.

Accordingly the Inspector dismissed the appeal.

5. Dismissed the appeal by J&R Homes for 2 No one bed bungalows. 2 Hudson Street, Bicester, OX26 2EP – 18/02046/F (Delegated)

The Inspector considered the main issues to be the effect on the character and appearance of the area, and whether the proposed development would make adequate garden provision for future occupants.

The Inspector noted that a key characteristic of the area is that dwellings are noticeably set back from the pavement with good sized front garden spaces, contributing to a sense of spaciousness in the surrounding area.

The Inspector found that, whilst the dwellings would appear similar in design to nearby bungalows in The Crescent, the relatively shallow depth of the site and footprint of the bungalows proposed meant that they would be positioned much closer to the pavement than the vast majority of other single and two storey dwellings in the immediate area. The Inspector therefore found that this would result in a cramped design at odds with the prevailing spacious character.

The Inspector also noted the height difference of the bungalows to existing garages close by meant that their relative positioning adjacent to the pavement was not directly comparable. The Appellant had contended the appeal proposal would allow for a staggered transition in building heights between those garages and the adjacent two storey dwellings. The Inspector concluded that providing a transition between the existing two storey dwelling and garages was due very limited weight in the absence of any evidence as to why the absence of a transition is harmful. The Inspector also noted that whilst the density of the appeal proposal accorded with the prevailing character, its siting did not.

The Inspector found that the size of rear gardens was appropriate for the size of dwelling proposed. The Inspector found that there would not be any harmful degree of overlooking from the appeal proposal to existing neighbours due to the angle and distance from adjacent dwellings.

Notwithstanding, the Inspector concluded that the proposal would materially harm the character and appearance of the area, and in view of this fundamental conflict would conflict with the development plan, read as a whole. Accordingly the appeal was dismissed.

6. Dismissed the appeal by Mr and Mrs Martin for Two dwellings with new shared access from School Lane. Stonelea, School Lane, Great Bourton, Banbury, OX17 1QY – 18/01074/F (Delegated)

The Inspector considered the main issues to be the effect of the development on (i) the character and appearance of the area; and (ii) the living conditions of existing and future occupiers.

The Inspector concluded, contrary to the view of the Council, that the appeal site is located within the built up limits of Great Bourton, finding it to be physically connected to the village, relating to an area of domestic garden, edged by a natural defined boundary, and neither open or rural in character. The Inspector also found the small scale of the proposal to be appropriate to the size of the village and its level of service provision, and held that it would not be out of place with the form and character of the village.

However, the Inspector considered that the two-storey gable of plot 2 would be at odds with the prevailing build line and character of the immediate area and would appear incongruous in context.

In addition, the Inspector agreed with the Council – and the Appellant – that “the proposal would result in a poor standard of amenity and living environment for both the occupiers of the existing dwelling and that of plot 1, through the potential lack of privacy”.

The Inspector concluded that the harm to the character and appearance of the area and the living conditions of existing and future occupiers would outweigh the benefits of the scheme and accordingly dismissed the appeal.

2.5 Appeals Withdrawn

17/02394/OUT - OS Parcel 9100 Adjoining And East Of Last House, Adjoining And North Of Berry Hill Road, Adderbury – Appeal by Hollins Strategic Land LLP against the refusal of Planning Permission for Outline planning permission for up to 55 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road.
Appeal withdrawn 13th June 2019

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:

Kelly Wheeler, Principal Accountant, 01295 225170,

Kelly.wheeler@cherwell-dc.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:

Jennifer Crouch, Deputy Principal Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer

jennifer.crouch@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:

Jennifer Crouch, Deputy Principal Solicitor, For and on behalf of Nick Graham, Director of Law

and Governance and Monitoring Officer

jennifer.crouch@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	
Report Author	Sarah Stevens, Interim Senior Manager, Development Management
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