

Cherwell District Council

Planning Committee

18 December 2019

Appeals Progress Report

Report of Assistant Director Planning 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

19/00621/F – Huckleberry Farm, Heathfield, Kidlington, OC5 3DU -
Continued use of transportable building to be made permanent
(Retrospective)

**19/00301/OUT - Land And Buildings, The Junction Of Spring Lane,
Chapel Lane, Little Bourton - OUTLINE -** New dwellings, garaging, access
and external works

2.2 New Enforcement Appeals

None

2.3 Appeals in progress

**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

19/00444/F – 2 Boxhedge Terrace, Boxhedge Road, Banbury, OX16 0BX -
Erection of single storey porch (Retrospective)

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 30.08.2019 **Statement Due:** N/A **Decision:** Awaited

19/00596/OUT – Land to the West of Northampton Road, Weston On The Green - Residential development of up to 18 dwellings with associated access, internal roads, car parking, public open space, landscaping, drainage and other associated infrastructure.

Method of determination: Hearing – 29th October 2019

Key Dates:

Start Date: 20.08.2019 **Statement Due:** **Decision:** Awaited

19/00661/F – Purbeck End, 5 Vicarage End, Kidlington, OX5 2EL -
RETROSPECTIVE - Change of Use of attached garage to independent dwelling unit

Method of determination: Written Reps.

Key Dates:

Start Date: 23.09.2019 **Statement Due:** 28.10.2019 **Decision:** Awaited

19/00667/Q56 – Godwins Farm, Somerton Road, North Aston, Bicester, OX25 6AA – Change of use of an agricultural building to dwellinghouse

Method of determination: Written Reps.

Key Dates:

Start Date: 11.09.2019 **Statement Due:** 16.10.2019 **Decision:** Awaited

19/00848/F – 3 Denbigh Close, Banbury, OX16 0BQ - Change of Use from HMO within Class C4 to 7 bed HMO (sui generis) and new access from Broughton Road

Method of determination: Written Reps.

Key Dates:

Start Date: 22.10.2019 **Statement Due:** 26.11.2019 **Decision:** Awaited

19/00910/F - OS Parcel 6091 East Of Duiker House, Fencott, OX5 2RD -
Erection of 1no single storey dwelling and ancillary carport/garden workshop

Method of determination: Written Reps.

Key Dates:

Start Date: 03.09.2019 **Statement Due:** 08.10.2019 **Decision:** Awaited

19/00962/F - Sycamore House, Shepherds Close, Weston On The Green, Bicester, OX25 3RF - Erection of building to form 1-bed dwelling, on the siting of the previously demolished barn, with courtyard garden and dedicated parking space - re-submission of 18/01644/F

Method of determination: Written Reps.

Key Dates:

Start Date: 11.09.2019 **Statement Due:** 16.10.2019 **Decision:** Awaited

Enforcement appeals

None

2.4 Forthcoming Public Inquires and Hearings between 19 December and 16 January 2020

2.5 Results

Inspectors appointed by the Secretary of State have:

- 1. Allowed the appeal by Land & Partners Limited for Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage. OS Parcel 4300 North Of Shortlands And South Of High Rock, Hook Norton Road, Sibford Ferris – 18/01894/OUT
Officer recommendation – Approval (Committee)**

The appeal was considered on the basis that all matters were reserved. The Inspector found that the appeal site affords good views to the west of the Cotswolds AONB, and that it was separated from Sibford Gower and Burdrop by approx. half a mile across the steep valley of the River Sib.

The Inspector considered that there were three main issues in this Appeal:

- Whether the proposals comply with the housing policies of the development plan
- The effect of the proposals on the character and appearance of the settlement of Sibford Ferris and the surrounding area, and
- Whether the proposals include adequate provision for the necessary infrastructure directly required by this development.

Housing

The Inspector noted the Local Plan housing target of 22,840 and that its focus was on the main centres of Bicester and Banbury. The Inspector noted the focus of Policy Villages 1 to manage small scale development proposals within the built up limits of each village, and that Policy Villages 2 (PV2) “provides a rural allocation of sites of 10 or more dwellings at the Category A villages” and identifies that 750 houses will be delivered at the Category A villages, in addition to the ‘rural allowance’ of small site windfalls and planning permissions that existed at 31.03.2014. The Inspector noted that the Local Plan Part 2 had not progressed because of the inception of the ‘growth deal’ for Oxfordshire (albeit not mentioning the Council’s commitment to reviewing Local Plan Part 1 to meet Oxford’s unmet housing need).

The Inspector found that the 750 housing figure was not a “target” but “should be regarded as a benchmark to govern future decisions on applications for housing development otherwise the integrity of the plan would be undermined”. The Inspector noted that by 31.03.2019 planning permissions

had been granted for “over 750 houses on 18 large sites and to date 271 units had been built out on these sites in line with ...PV2”.

The Inspector noted the reference to ‘material exceedance’ in several other appeal decisions including recently at Ambrosden, but did not consider that ‘material exceedance’ was an issue for this appeal “given the modest number of units proposed and the categorisation and size of the Sibfords”, finding that “the Category A status of the village in the plan warrants further investment in housing”. This conclusion differed from that of other Inspectors at Weston on the Green (26 dwellings), Finmere (25 dwh) and Fringford (10 dwh) (all Category A villages), which had all been dismissed on the grounds that they were not sustainable locations for such numbers of new dwellings. The Inspector did not consider “that a decision to allow this appeal would undermine the essential thrust of PV2 and by extension the local plan”.

The Inspector noted that local connectivity between the three settlements of the Sibfords was restricted by the steep sided Sib Valley and that while services do exist within reasonable proximity of the site it is “unlikely that the development of any site around the Sibfords would readily enable access by sustainable transport modes”. However, at variance with other decisions at Weston on the Green, Finmere and Fringford, this Inspector opined that this was “an argument against the inclusion of the Sibfords as a Category A village” but “not a matter before [him] in this Appeal”.

On this first issue the Inspector concluded that the proposals were in line with the Local Plan’s housing policies and in line with the NPPF, would not amount to a material exceedance in breach of PV2.

Character and appearance

The Inspector noted that the site’s landscape context was shaped by the Cotswolds AONB, and found that the nature of the rolling landscape interspersed with hedgerows and trees meant that views into the site from its immediate boundaries are limited compared to those from further away. The Inspector noted the suggested height parameters, and opined that these were important in reducing the proposals’ visual impacts from surrounding ‘receptor points’, i.e. key points in the landscape from where the development might be seen. The Inspector identified the two most sensitive receptor points as being from the west within the Cotswolds AONB and from the south. The Inspector concluded that the proposal would not have an ‘urbanising effect’ on the site, and that its low density combined with the proposed planting belts would successfully mitigate its visual impact. As such, the Inspector held, the proposals would not unacceptably affect the setting of either the Cotswolds AONB or the village of Sibford Ferris, and therefore would not be in conflict with Policies ESD13, ESD15, PV1 and PV2 of the 2015 Local Plan or saved Policy C28 of the 1996 Local Plan.

Infrastructure provision

The Inspector found the completed Section 106 agreement covered the requirements for: 35% of the dwellings to be Affordable; provision of and commuted payments for local play area and public amenity space within the scheme; maintenance arrangements for onsite trees and boundary

hedgerows; a sustainable drainage system; a contribution to the provision of waste management facilities; and contributions in relation to community hall facilities, the local secondary school, and the Sibford School for indoor and outdoor recreation opportunities. In addition, the agreement included provisions made under Section 278 for a new pedestrian footway, crossing and access into the site, bus shelter, local play and provisions for a traffic regulation order to ensure lower speed on Hook Norton Road as drivers approach from the south. The Inspector held that all of these planning obligations were in line with paragraphs 56 and 57 of the NPPF.

Other matters

The Inspector considered the issues of traffic generation and congestion raised by the Sibford Action Group, but noted he had not provided with any evidence to dispute the Appellant's traffic survey, and found that the Sibfords were designated as Category A villages in the 2015 Local Plan subsequent to the CRAITLUS survey (2009). The Inspector "saw only limited examples" of local road congestion during the school run when he visited the village, and observed "the amount of traffic on local roads was low". Lastly, the Inspector noted but disagreed with objections relating to the loss of Grade 2 agricultural land and impact on flood risk.

Conclusion

Taking all of the above into account, the Inspector concluded that the proposal was sustainable development and accordingly allowed the appeal subject to a series of (13no) conditions, including that the development must be carried out in accordance with the Parameter Plan and the Landscape Strategy Plan; as well as conditions relating to construction traffic management, surface water drainage, landscape and ecology management, an energy statement, and archaeological investigation and recording.

- 2. Allowed the appeal by Mrs N Prior for Demolition of existing conservatory; erection of single storey front and rear extensions and conversion of garage to habitable accommodation. 97 Isis Avenue, Bicester, OX26 2GR – 19/00885/F**
Officer recommendation – Refusal (Delegated)

Allowed the appeal by Ms Prior against the refusal of planning permission for an extension to the front of the property to connect to the existing garage, the conversion of the garage to living accommodation and a single storey rear extension. The Inspector considered the main issue to be the effect of the proposed development on the character and appearance of the host dwelling and the street scene.

The Council's view was that the proposed front extension constituted an incongruous form of development with no precedent on Isis Avenue. The properties on Shannon Road with similar extensions built in the 1980s, some 300 metres away, were considered irrelevant to the assessment of the application. The Inspector concluded that the design would be unusual, but that the building line would be contiguous with the existing structure and the effect in the wider street scene would be minimal. The appeal was therefore allowed.

**3. Dismissed the appeal by RW and RM Elsey for Change of use of building and curtilage from agriculture to single dwellinghouse with associated physical works. Brockford Farm Agricultural Building, Tadmarton Heath Road, Hook Norton, OX15 5BU - 19/00231/Q56
Officer recommendation – Refusal (Delegated)**

The Inspector considered the main issues to be firstly, whether the works to enable the barn to be used are so extensive to constitute a new building, and secondly, whether the location of the building is practical or desirable for a dwelling.

On the first issue, the Inspector noted the building was a steel framed barn with concrete blockwork with a mixture of timber cladding and profile sheet cladding above, and had a corrugated roof. The Inspector noted the concluded of a visual structural inspection report for the building. The Inspector found the proposed alterations to be relatively minor and to constitute repairs, and noted the report's recommendation to replace the existing roof covering was advice rather than a requirement. Overall the Inspector concluded the building was not "in such a poor state of repair that the works would consist of a new building".

On the second issue, the Inspector noted that the appeal building was set within an active, working farm complex, which supported 390 acres, and that the site was set down a slope below the main buildings with many operations taking place at close proximity to the appeal building and with working farm vehicles passing regularly. The Inspector found the proposed amenity space for the dwelling to be directly adjacent to the yard and to the existing farm vehicle route to the polytunnels, and would be subject to noise and disturbance in close proximity at any time. The Inspector agreed with the Council that a condition to preclude livestock from being sited in buildings neighbouring the site, and concluded the activity of the yard would be "disruptive and prejudicial to residential amenity".

Accordingly the Inspector upheld the Council's decision and dismissed the appeal.

**4. Dismissed the appeal by Mr Richard Gibbs for Remove existing garage roof and trusses, build on top of existing garage walls to form a first-floor bedroom, re-install trusses and re-roof in the original roof tiles; partition off existing bedroom to form hallway and study room. 2 Deene Close, Adderbury, OX17 3LD – 19/00688/F
Officer recommendation – Refusal (Delegated)**

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

The Inspector noted the appeal site is on a prominent corner in the Twyford Estate, seen both from within Deene Close and when entering the Close from Aynho Road or Rochester Way. The Inspector also found there to be "a pleasing rhythm to the street scene", a sense of spaciousness around and

between the dwellings, and the overall character in the vicinity not to have been eroded by the alterations hitherto carried out.

The Inspector found the proposal to significantly increase the bulk and massing of the dwelling at first floor level, and concluded that “it would overwhelm the original dwelling” and would harmfully alter the appearance of the dwelling and erode the character of the area. The Inspector concluded that the height, bulk and proximity of the proposed extension to the public footpath adjacent to the site would make it an intrusive feature, and it would be a prominent and dominant addition to the street scene. The Inspector found the proposal not to conflict with Policy AD15 of the Adderbury Neighbourhood Plan as its 3 specific design principles were not offended by the appeal proposal but for the above reasons found the proposal would conflict with Policy ESD15 of the 2015 Cherwell Local Plan and Saved Policies C28 and C30 of the 1996 Plan.

Accordingly the Inspector upheld the Council’s decision and dismissed the appeal.

5. Dismissed the appeal by Mr Jason Stead for Addition of rooflights to front and rear elevation and dormer to rear elevation to facilitate loft conversion. Penny Meadow, 2 The Ridgeway, Bloxham, OX15 4NF – 19/01043/F
Officer recommendation – Refusal (Delegated)

The Inspector considered the main issues to be (i) whether the proposal would preserve or enhance the character or appearance of the Bloxham Conservation Area (CA); and (ii) the proposal’s effect on the living conditions of neighbouring occupants at The Shippon with particular regard to privacy.

On the first issue, the Inspector noted the site’s context in terms of heritage assets, and that the dwellings within the host terrace are typically stone fronted, with a rendered rear elevation and a slate roof. The Inspector found the roof slope of the terrace largely unaltered, retained “a pleasant uniform appearance” and made “a positive contribution to the host terrace and the significance of the heritage asset”. The Inspector found the proposal to be at significant variance with the form and character at roof level and by reason of its scale and bulk to appear as a “strident and discordant addition” to the roof slope and an “incongruous feature” in the local area, and would result in harm to the character and appearance of the Conservation Area (CA). The Inspector considered the examples put by the Appellant but found none of them provided a direct parallel to the appeal proposal, and instead opined that “their presence points to the need for such proposals to be carefully controlled if the character and appearance of the area is to be safeguarded.” The Inspector found the harm to the CA to be less than substantial. The Inspector found no public benefits to weigh against that harm. Accordingly the proposal was contrary to Policies BL10 and BL11 of the 2016 Bloxham Neighbourhood Plan, Policy ESD15 of the 2015 Cherwell Local Plan and saved Policy C28 of the 1996 Local Plan.

On the second issue, the Inspector found that by reason of the increased height of the dormer and rooflights and their “undue proximity” to the neighbouring dwellings, this would lead to a significant increase in overlooking of the neighbouring rear garden and an “unacceptable perception of being overlooked”. The Inspector noted that while the openings serving the en suite could include obscured glazing, the dormer window would be main source of light and outlook for the proposed bedroom and to require it to be obscurely glazed would be inappropriate. The Inspector concluded that the living conditions of the occupants of the neighbouring dwelling would be unduly harmed and the proposal would thus be contrary to NP Policy BL9, LP Policy ESD15 and Policy C30 of the 1996 Plan.

Accordingly the Inspector upheld the Council’s decision and dismissed the appeal.

**6. Dismissed the appeal by Mr M Readman for Two storey side extension. 76 Sinclair Avenue, Banbury, OX16 1DW – 18/02002/F
Officer recommendation – Refusal (Delegated)**

Dismissed the appeal by Mr Readman against the refusal of planning permission for a two storey side extension to the property. The inspector considered that the main issue is the effect of the development on the character and appearance of the area. The Inspector stated that the proposal would extend the host property at the same height and depth and would significantly increase its width. As a result, it would not appear secondary to the existing dwelling and would unbalance the pair of dwellings and detract from their symmetry. It would therefore be contrary to the advice in the Council’s Home Extensions and Alterations Design Guide.

The Inspector noted the appellant’s submission of a list of addresses with two storey extensions where subservience was not achieved, however concluded that the dwellings were of different design to the appeal site and are spread across Banbury, therefore were considered not applicable to the proposed development. The appeal was dismissed.

**7. Dismissed the appeal by Mr R and D Walker for Conversion of pool house into a two bedroom dwelling (existing unauthorised) (revised scheme of 17/01008/F). The Old Poolhouse, 59 West End, Launton, OX26 5DG – 18/02079/F
Officer recommendation – Refusal (Delegated)**

The Inspector considered that the main issue was whether the conversion of the pool house is an appropriate location for a dwelling, having particular regard to the character of the area.

The Inspector noted that in respect of the previous appeal (Ref: APP/C3105/W/17/3181034) relating to the same development on the same site and against the same development plan policies as the present appeal, that Inspector had found that the pool house fell outside of the built-up limits of Launton and as such the previous appeal was considered in light of saved Policy H19 of the CLP 1996. The Inspector noted the Appellants’ reference to

a number of permissions for new dwellings in the village, but in each case found that these sites are materially different to the appeal site, and that it remained the case that the site lies outside the built-up limits of Launton – surrounded by undeveloped land in either residential gardens or open countryside – and therefore that Policy H19 continued to apply.

Consistent with the previous decision, this Inspector concluded that whilst the development would re-use an existing building, the change of use of the pool house for residential purposes would still undermine the character of the area and the surrounding countryside by virtue of increased activities including noise, light pollution and vehicular movements. The absence of harm in relation to landscape or residential impact did not alter the Inspector's conclusion in relation to the main issue.

The Inspector considered the personal circumstances of the Appellants but was mindful of Government guidance that in general planning is concerned with land use in the public interest, and found it probable that the proposed development would remain long after the current personal circumstances ceased to be material.

The Inspector concluded that the proposal would therefore conflict with Policies H19, C28 and C30 of the 1996 Local Plan and Policies ESD1, ESD15 and Policy Villages 1 of the 2015 Local Plan and accordingly upheld the Council's decision and dismissed the appeal.

**8. Dismissed the appeal by A & J Properties for Detached dwelling. Land Adjacent to 26 Winchester Close, Banbury – 19/00775/F
Officer recommendation – Refusal (Delegated)**

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

The Inspector noted the numerous trees and shrubs in the area and the visual prominence of the appeal site and found there to be a spacious, green and pleasant character locally and that collectively the trees on the appeal site contribute positively to the character of the area.

The Inspector noted that the proposed dwelling would have a similar footprint to nearby properties, but that it would have a significantly narrower first floor, emphasised by the incongruously narrow gabled roof, creating a poorly proportioned dwelling which would contrast sharply with neighbouring properties. The Inspector concluded that the proposal would appear cramped and contrived and would be a prominent and incongruous feature in the street scene. The Inspector also found the proposed fence would create a hard edge to Middleton Road and the path, and that opportunities for planting would be significantly constrained by the need to provide the necessary visibility for cars, pedestrians and cyclists, and the narrow area between proposed dwelling and path.

The Inspector concluded that the proposal would therefore conflict with Policy ESD15 of the 2015 Cherwell Local Plan and saved Policies C28 and C30 of

the 1996 Local Plan, as well as paragraphs 124 and 127 of the NPPF which seek to create high quality buildings and places that add to the overall quality of an area. The Inspector weighed in the balance the site's sustainable location and the minor contribution to the District's housing supply. The Inspector disagreed with the Appellant that there were benefits of tidying the site, and found the lack of harm to flood risk, highway safety, parking and living conditions to be of neutral consequence in the planning balance.

Accordingly the Inspector upheld the Council's decision and 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:

Kelly Wheeler, Business Partner, 01295 225170,
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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:

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
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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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