

Planning Committee

Appeals Progress Report

24 March 2011

Report of Strategic Director, Planning Housing and Economy

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.

This report is public

Recommendations

The meeting is recommended to:

- (1) Accept the position statement.

Details

New Appeals

- 1.1 **10/01316/F – Langford Park Farm, London Road, Bicester** – appeal by Leda Properties Ltd against the refusal of planning permission for engineering works comprising lowering of land to allow 1:100 year plus climate change flooding – Hearing
- 1.2 **09/01592/OUT – Land south of Talisman Road, adjacent London Road, Bicester** – appeal by Leda Properties Ltd against the refusal of outline planning permission for Residential development for 140 no. dwellings with associated parking, access and public open space- Hearing

- 1.3 **10/01611/F – 9 The Closes Kidlington** – appeal by Mr G Durand and Miss H Ferguson against the refusal of planning permission for a single storey at first floor and two storey side extensions and loft conversion- Householder Written Reps
- 1.4 **10/01720/F – 72 Daimler Avenue Banbury** – appeal by Mr Michael Furey against the refusal of planning permission for 3no. walls to front of property (retrospective) – Householder Written Reps
- 1.5 **10/00336/EUNDEV – Eco Fridge UK Ltd, Unit 2 Wedgewood Road, Bicester-** appeal against the service of an enforcement notice alleging a breach of planning control – Without planning permission, the erection of a perimeter fence and gates- Written Reps

Forthcoming Public Inquiries and Hearings between 24 March 2011 and 21 April 2011

- 2.1 **None**

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeal by Miss J Wyatt against the refusal of application 10/01165/F for the retention of a boundary fence at 15 Heathcote Avenue, Banbury (Delegated)** – The Inspector stated “ Permitted development rights have been removed for front fences within this housing development to protect its open character and appearance. This appears to have been successful on the whole and resulted in an attractive development which has been softened by planting within front gardens. This solid timber fence, even if reduced in height and screened with planting, would erode the established character and appearance of the surrounding area to a harmful degree and conflict with adopted Cherwell Local Plan policy C28.”
- 3.2 **Dismissed the appeal by Matthew Hynes against the refusal of application 10/01399/F for the erection of 1.8m wooden fence to boundary at 21 Lawrence Way, Bicester (Delegated)** – In the Inspector’s view, the section of fence forward of the front elevation of No.21, is visually prominent when entering Lawrence Way from Shakespeare Drive because of its height and solid design. It appears in stark contrast to many of the much lower boundary treatments nearby and reduces the general open character and appearance here. While the rear section of the fence that screens the rear garden and driveway is acceptable, the front section has a significant detrimental effect on the character and appearance of the surrounding area and conflicts with adopted Cherwell Local Plan Policy C28. The front section could be significantly reduced in height and still prevent trespassers cutting across the front garden

- 3.3 **Dismissed the appeal by Brandon Gate Homes Ltd against the refusal of application 10/01220/F for 1 x 3 bedroom detached house at Land at Farriers Close, Fringford, Bicester (Delegated)**- The Inspector stated “that the appeal site creates a break in development here and is an important and integral part of its established character and appearance. The combination of the loss of the tree, which form an attractive copse and the introduction of a dwelling on this elevated site, would alter its character and appearance and that of the street scene to a significantly harmful degree, particularly when view from Rectory Lane.” With regard to the matter of archaeology, the Inspector found that insufficient information has been provided by the applicants to enable an adequate assessment of the impact of the proposal on archaeology at this stage
- 3.4 **Dismissed the appeal by Mr David Morgan against the refusal of application 09/01879/CLUE for a certificate of lawful use or development at the Lone Barn, Stoke Lyne, Bicester (Delegated)** – The Inspector considered that the conversion and extension of the appeal barn to form a single dwelling was not dependant upon the prior approval of a landscaping scheme. Therefore, condition 3 of CHS.129/88 regardless of how it is worded, is not a true condition precedent as it does not go to the heart of the permission, that is, something so important that commencement of development prior to the discharge of a particular condition must be regarded as unlawful. Failure to comply with condition 3 amounted to a breach of condition, which could have been enforced against, but did not render the entire barn conversion and extension unlawful. The Inspector concluded that the Council’s refusal to grant a certificate of lawful use or development in respect of the use of Lone Barn as a single dwellinghouse and surrounding land as residential curtilage was well founded and that the appeal should fail.

Implications

- Financial:** 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 Joanne Kaye, Service Accountant 01295 221545
- Legal:** 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

Risk Management: 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 Rosemary Watts, Risk and Insurance Manager 01295 221566

Wards Affected

All

Document Information

Appendix No	Title
-	None
Background Papers	
All papers attached to the planning applications files referred to in this report	
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