

Cherwell District Council

Planning Committee

21 June 2018

Appeals Progress Report

Report of Assistant Director of 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

New Appeals

- 2.1 **17/02131/F - St Georges Catholic Church, Round Close Road, Adderbury.**
Appeal by Mr Tim Catling - Demolition of existing chapel and erection of one dwelling.
- 18/00278/F - Land Adj To West Cottages, Bicester Road, Stratton Audley.**
Appeal by Stonebridge Investments - Erection of detached dwelling house including demolition of existing single garage.
- 16/00242/EUNDEV – 44 West Street, Banbury, OX16 3HD.** Appeal by Total Property Developments UK Ltd - Appeal against an Enforcement Notice for the unauthorised conversion of an outbuilding into a separate dwelling.

2.2 Forthcoming Public Inquires and Hearings between 21 June and the 19 July 2018.

Planning Inquiry commencing Tuesday 10 July at Council Chamber, Cherwell District Council, Bodicote House, White Post Road, Bodicote, Banbury, OX15 4AA. Appeal by Manor Oak Homes against the refusal of outline planning permission for a development of up to 72 dwellings with associated large area of public open space. All matters reserved except for access. 17/01173/OUT - South East Of Launton Road And North East Of Sewage Works Blackthorn Road Launton

2.3 Results

Inspectors appointed by the Secretary of State have:

1) Allowed the appeal by Mr Kerr Smith against the issue of an Enforcement Notice for the removal of hard standing. The Lion, Main Street, Wendlebury, Bicester, OX25 2PW - 17/00109/EUNDEV (Delegated)

The appeal was against an Enforcement Notice that required the removal of the hard-standing in the car park of the public house known as The Lion. The appeal centred around three reasons those being that permission was granted in 2015. A further application in 2016 that was labelled "car park tarmac retained" shows that there is no breach and the third reason being that the requirements of the notice were unreasonable. The Planning Inspector stated that whilst conditions had been discharged for the 2016 application, the 2015 conditions had not which included that the surface of the car park should be permeable. The Planning Inspector further stated that the 2016 application did not over-ride the 2015 application and the conditions that contained which were not discharged.

The Planning Inspector did agree with the appellant that the requirements of the notice "would be onerous and a breach of natural justice."

It is the Council's assertion that the appeal was allowed on a technicality given that the Planning Inspectorate stated that the decision to allow the appeal would "affect the Council's ability to issue a 'second bite' notice under the provisions of s171B(4)(b)".

It would appear, given the Planning Inspectorates decision, that there has been two different views taken by the Council and PINS. The Council issued a Planning Enforcement Notice as it was understood there was no planning permission in place for the tarmac car park and therefore no conditions. The Council were aware of the reference on the plans to the retention of the tarmac car park but gave little weight to this annotation. However, the Planning Inspector has come to his decision from a different angle that being there is a breach of condition of the original 2015 planning permission hence his comment reference a second bite.

The Council could now issue a further notice, that being a Breach of Condition Notice, however, the pub is now under new ownership and a working relationship has been developed with them. This has been further bolstered by

discussions with the Parish Council who have agreed that working with the new owners is the best way forward and feel that results can be achieved without any further notices being issued. This combined with the fact that the new owners are too keen to find a solution to the car park water issue means that remedy can be sought far quicker than going through formal enforcement proceedings.

Maybe better care and weight could have been given to the original 2015 planning permission and a Breach of Condition Notice served and this is a lesson that can be learned when interpreting the situation on a site and ensuring the correct notice is served first time around.

2) Dismissed the appeal by Catesby Estates Ltd against the refusal of outline planning permission for residential development of up to 37 dwellings (Use Class C3) including means of access into the site (not internal roads) and associated works, with all other matters (relating to appearance, landscaping, scale and layout) reserved (Resubmission of 16/01468/OUT). Wyevale Garden Centres, - 17/00778/OUT (Committee)

The Inspector considered the main issue to be the proposal's effect on the character and appearance of the area, including Cropredy Conservation Area, and the setting of the Grade II listed building known as Springfields.

In respect of the Conservation Area, the Council had argued the main impact was on the character and appearance of Spring Lane. The Inspector found that Spring Lane makes no more than a moderate contribution to the character and appearance of the village and the conservation area. He agreed that Spring Lane would require alterations in order to serve the scale of development proposed, including widening, re-aligning and re-surfacing, but concluded that Spring Lane would "retain some of its informality" and that the addition of further housing "would not be greatly harmful". While openness would be lost, the route through to the countryside would remain, he found, and there would be limited negative impact on views towards the Conservation Area. He concluded the harm to the significance of the Conservation Area would be modest.

In respect of Springfields, the Inspector found that there were clear views of the listed buildings from within the appeal site ('the paddock'), with the church tower seen behind it. He considered that the paddock made an important contribution to the setting of the listed building and a positive contribution to its significance. He found that the modern housing on the eastern side of Station Road did not detract from the qualities of the land west of Springfields. The Inspector held that the proposed housing would introduce harm on the view from the southern part of the paddock towards Springfields and the church beyond. He concluded that the appeal proposal would erode the open and undeveloped backdrop to Springfields, and would result in 'considerable encroachment' of built development into the setting of the listed building. The Inspector attached considerable weight to this harm.

The Inspector agreed with the Council that the provision of housing including affordable housing was a significant public benefit but that the other matters

construed by the appellant as benefits (e.g. financial contributions towards education, community and support facilities, as well as a drainage system) were necessary to make the development acceptable and so carried neutral weight in the planning balance. The Inspector agreed with the Council that the benefits arising from the site's location were 'broadly' cancelled out by the infrequency of the bus service.

The Inspector concluded that the proposal's public benefits would not outweigh the harm to the significance of the Grade II listed Springfields.

The Inspector noted that the appellant had not challenged the Council's position in respect of housing land supply. He noted that the site had formed part of successive SHLAAs as suitable, available and achievable but also noted that each SHLAA had highlighted potential constraints including heritage assets. He noted that SHLAA assessment does not guarantee that sites will be allocated or granted planning permission. The Inspector held that neither Cropedy's status as a Category A village or the lack of other housing sites outweighed the harm identified to the listed building.

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:

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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:

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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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