

# Cherwell District Council

## Planning Committee

19th July 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 T Catling - Demolition of existing chapel and erection of 1 dwelling
- 18/00032/F - Stratton Fields Livery Stables, Launton Road, Stratton Audley, Bicester.** Appeal by Mr M Chick - Single yard managers dwelling in connection with existing Stratton Fields Livery Stables
- 18/00249/OUT - Fringford Cottage, Main Street, Fringford, Bicester, OX27 8DP.**  
Appeal by Mr Stuart Wright - Residential development of up to 10 dwellings
- 18/00278/F - Land Adj. to West Cottages, Bicester Road, Stratton Audley.**  
Appeal by Stonebridge Investments - Erection of detached dwellinghouse including demolition of existing single garage

2.2 Forthcoming Public Inquires and Hearings between 19 July and the 23 August 2018.

**Hearing commencing 31<sup>st</sup> July 2018 at River Cherwell Room, Cherwell District Council, White Post Road, Bodicote, Banbury, OX15 4AA.** Appeal by LNT Care Developments Ltd/Greenlight Developments Ltd against the refusal of planning permission for erection of two-storey 64 bed care home for older people (Class C2 Use) with associated new access (off Skimmingdish Lane), parking and landscaping, and new linear park/public open space. 17/01428/F

## 2.3 Results

Inspectors appointed by the Secretary of State have:

**1) Allowed the appeal by Mr M Horgan against the refusal of planning permission for Formation of new track and access (Re-submission of 16/02598/F). Crouch Farm, Bloxham Road, Banbury, OX16 9UN - 17/01617/F (Delegated)**

The Inspector identified the main issues in this case as the effect of the proposed development would have on the character and appearance of the area including landscape character

The Council contended that the scale and formal nature of the access was out of keeping with the countryside environment and that the long winding access was contrived. The Council also raised concerns about the necessity of the new access given that there was already an existing adequate vehicular access further to the north.

In short, the Inspector disagreed and found that in the context of an increasing urbanised southern edge to Banbury the proposed access was not harmful to landscape character and that the track sensitively followed field boundaries. As the proposals were not in conflict with identified landscape protection policies (i.e. Policy ESD13 of the Cherwell Local Plan 2011-2031 Part 1) and therefore accorded with the development plan as a whole, there was no need to consider the necessity or otherwise of the access/track as a material consideration.

On the basis of the above the appeal was therefore allowed.

**2) Dismissed the appeal by Mr Geoffrey Noquet against the refusal of planning permission for change of use from A4 to C3 (ACV Listed). The Pheasant Pluckers Inn, Street Through Burdrop, Burdrop, OX15 5RQ - 17/01981/F (Committee)**

The Inspector considered the main issue to be whether it was demonstrated that the public house, as an Asset of Community Value (ACV), could not be financially viable in the long term, and if the change of use accords with the provisions of the development plan and national guidance.

The Inspector noted the long planning history of the site that the local community regarded the Pheasant Pluckers Inn as a much valued facility, providing food,

drink and a community meeting place, whilst also noting that the appellant has maintained for a long time that the premises are not viable as a pub.

The Inspector observed that in previous appeals it had not been demonstrated that the public house would not be viable in the long term. The Council commissioned a report by Bruton Knowles to consider the viability of the public house, the conclusions of which the Inspector gives considerable weight in reaching his opinion with regard to the issue of viability. The Inspector notes the lack of financial information available on the business to assess a realistic value in the current market and its future potential; an issue put forward in the Council's Statement of Case.

The Inspector concluded that on the issue of viability there was evidence to support the Council's case that the appellant has not demonstrated that the lawful use of the premises as a public house cannot be made viable in the long term, despite the pub being shut at the moment, and therefore, that the proposed change of use to a dwelling house would conflict with saved Policy S29 of the 1996 Cherwell Local Plan 1996, Policy BSC12 of the Cherwell Local Plan 2011-2031 Part 1 and the Government guidance in the NPPF to safeguard against the loss of what has been a valued local facility.

When assessing the planning balance the Inspector reasoned that the conflict with the Development Plan suggested that the appeal should not be allowed. However, he also noted that the balance in favour of the development plan policy was marginal; highlighting serious concerns about whether there is enough adult population in 'the Sibfords' to sustain another pub and also that a move towards a 'gastro-pub' may put the appeal site premises in direct competition with the Wykham Arms in Sibford Gower.

The Inspector picked up on the tensions between the community and the appellant, but indicated that given the status of the premises as an ACV, the onus was now on the community to demonstrate that the pub can be viable in the long term and make a considered offer to purchase it.

On balance the Inspector concluded that conflict with the policies of the Development Plan were not outweighed by any other considerations and therefore 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:

Denise Taylor, Group Accountant, 01295 221982,  
[Denise.Taylor@cherwellandsouthnorthants.gov.uk](mailto: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:

Nigel Bell, Team Leader – Planning & Litigation, 01295 221687,  
[Nigel.Bell@cherwellandsouthnorthants.gov.uk](mailto:Nigel.Bell@cherwellandsouthnorthants.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:

Nigel Bell, Team Leader – Planning & Litigation, 01295 221687,  
[Nigel.Bell@cherwellandsouthnorthants.gov.uk](mailto:Nigel.Bell@cherwellandsouthnorthants.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

<b>Appendix No</b>	<b>Title</b>
None	
<b>Background Papers</b>	
None	
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