

Cherwell District Council

Planning Committee

25 October 2018

Appeals Progress Report

Report of Assistant Director 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 **17/01919/F - 30 Arbury Close, Banbury, OX16 9TE** – Appeal by Mrs Fiaz - Change of use of open space to residential and two storey side and part rear extension (revised scheme of 17/00460/F).

17/02561/F - Land On The North Side Of Water Lane, Fewcott – Appeal by Mr and Mrs Douglas - Erection of new two-storey dwelling and associated ancillary buildings

17/00439/F - 49A Castle Street, Banbury, OX16 5NX – Appeal by Teesbourne Properties Limited - Change of Use from Offices to Residential apartments (revised scheme of application 17/00681/F).

Appeals in progress

Public Inquiries:

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.

Start Date: 04.09.2018 **Statement Due:** 16.10.2018 **Decision:** Awaited

Hearings:

17/02102/F - Chilaway Farm, Sibford Road, Epwell, Banbury, OX15 6LL - Removal of condition 10 (dwelling occupancy) of 17/01619/F.

Hearing Date and venue – 13th November, River Ray Meeting Room, Bodicote House

Written Representations:

17/01463/CLUE Keepers Cover Church Lane Weston On The Green Bicester OX25 3QU. Appeal by Mr & Mrs Maxted against the refusal of a Certificate of Lawfulness of Existing Use for the use of the identified land as residential garden.

Start Date: 14/05/2018 **Statement Due:** 25.06.2018 **Decision:** Awaited

17/01675/M106 Keepers Cover Church Lane Weston On The Green Bicester OX25 3QU. Appeal by Mrs Ruth Maxted against the non-determination of an application for the Modification of Section 106 - Application 97/02148/F

Start Date: 14.05.2018 **Statement Due:** 25.06.2018 **Decision:** Awaited

17/02277/F Keepers Cover Church Lane Weston On The Green Bicester OX25 3QU. Appeal by Mr & Mrs Maxted against the refusal of retrospective Planning Permission for the Change of Use of site edged in red on enclosed OS Extract as private amenity space - Re-submission of 17/00458/F

Start Date: 14.05.2018 **Statement Due:** 25.06.2018 **Decision:** Awaited

17/02315/F Keepers Cover Church Lane Weston On The Green Bicester OX25 3QU. Appeal by Mr & Mrs Maxted against the refusal of Planning Permission for the Erection of 1.5 storey extension, with internal remodelling

Start Date: 14.05.2018 **Statement Due:** 25.06.2018 **Decision:** Awaited

17/02011/F The Stables, The Courtyard, Milton, Banbury, OX15 4SX

Appeal by Mr Martin Smethurst against the refusal of Planning Permission for the Erection of 1 No. three bedroom, 1.5 storey dwelling to land south of the existing house and associated landscaping. Demolition of existing stone boundary wall.

Start Date: 31.07.2018 **Statement Due:** 04.09.2018 **Decision:** Awaited

17/02131/F St Georges Catholic Church, Round Close Road, Adderbury

Appeal by Mr Tim Catling against the refusal of Planning Permission for the Demolition of existing chapel and erection of 1 dwelling.

Start Date: 01.08.2018 **Statement Due:** 05.09.2018 **Decision:** Awaited

17/02203/F 17 The Camellias, Banbury, OX16 1YT

Appeal by Mr Tony Partridge against the refusal of Planning Permission for the Erection of 2 bedroom, 2 storey dwelling and division of existing double garage to provide a single garage and parking for the new dwelling

Start Date: 09.08.2018 **Statement Due:** 13.09.2018 **Decision:** Awaited

17/02292/F Byeways, East End, Hook Norton, Banbury, OX15 5LG

Appeal by Mrs Debbie Lewis against the refusal of Planning Permission for the Erection of a new dwellinghouse.

Start Date: 09.08.2018 **Statement Due:** 13.09.2018 **Decision:** Awaited

17/02366/F Portway Cottage, Ardley Road, Somerton, Bicester, OX25

6NN Appeal by Mr Marvyn Harris against the refusal of Planning Permission for the Change of use from garage/workshop to two bed cottage - Re-submission of 17/00492/F

Start Date: 09.08.2018 **Statement Due:** 13.09.2018 **Decision:** Awaited

17/02014/F South Barn, Street From Wigginton To Swerford, Wigginton, Banbury, OX15 4LG

Appeal by Mr Chris Benians against the refusal of Planning Permission for the Extension to existing dwelling, landscaping, formation of an additional access from the road and change of use of land from agricultural to residential purpose.

Start Date: 15.08.2018 **Statement Due:** 19.09.2018 **Decision:** Awaited

18/00249/OUT Fringford Cottage, Main Street, Fringford, Bicester, OX27

8DP Appeal by Mr Stuart Wright against the refusal of Planning Permission for Residential development of up to 10 dwellings

Start Date: 05.09.2018 **Statement Due:** 10.10.2018 **Decision:** Awaited

18/00956/TPO The Corporate Innovations Co Ltd, 21 Horse Fair, Banbury, OX16 0AH. Appeal by Tanya Hudson, Corporate Innovations Co Ltd against the refusal of permission to fell to the ground 1 no horse chestnut tree subject to Tree Preservation Order 017/1999.

Start Date: 14.08.2018 **Statement Due:** N/A **Decision:** Awaited

- 2.3 Forthcoming Public Inquires and Hearings between 26 October and the 25 November 2018.

17/02102/F - Chilaway Farm, Sibford Road, Epwell, Banbury, OX15 6LL - Removal of condition 10 (dwelling occupancy) of 17/01619/F.

Method of determination – Hearing

Date and venue – 13 November, River Ray Meeting Room, Bodicote House

2.4 **Results**

Inspectors appointed by the Secretary of State have:

1. Allowed the Appeal by LNT Care Developments Ltd/Greenlight Developments Ltd 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. North Of Coopers, Buckingham Road, Bicester – 17/01428/F (Committee)

The appeal related to a refusal of full planning permission for the erection of a 64 bed care home with associated access, parking and landscaping, and the change of use of land to public open space.

The inspector considered the main issue to affect the development was *'whether the location of the proposed development would be consistent with the strategy for development set out within the development plan, with particular regard to public open space'*.

The appeal site is 'reserved' for recreation use by Policy R1 of the CLP 1996 (the inspector commented that the policy itself does not specify how it will be implemented) and the inspector considered the proposal to conflict with this policy.

Policy Bicester 7 of the CLP 2011-2031 seeks to address current and future deficiencies in open space, sport and recreation provision, including by establishing an urban edge park. The inspector considered a path through the site would contribute to linear route provision and the establishment of an urban edge park and therefore the proposal was in accordance with Policy Bicester 7.

The significant need for care home provision within the district and within Bicester was demonstrated by the appellant and acknowledged by the inspector.

The inspector concluded proposal conflicted with the development plan. However, *'the proposal would contribute towards a linear route provision within an urban edge park in accordance with Policy Bicester 7 of the CLP 2011-2031 and would provide a care home that would contribute toward care provision in the area. In addition, there would be benefits to ecology and biodiversity and from the other provisions of the Unilateral Undertaking. I consider that these factors are sufficient material considerations to indicate planning permission should be granted in this instance.'*

Other matters:

As part of appeal it was requested that the inspector review all of the requirements/contributions of the unilateral undertaking.

With regards to hedgerow and public open space maintenance contributions, the Council put forward a clear breakdown of costs associated with public open space maintenance to justify the request for a contribution. The inspector concluded the contribution was necessary to

make the development acceptable in planning terms and the request was compliant with CIL regulations.

Oxfordshire County Council was requesting a sum to cover costs associated with travel plan monitoring. Clear justification was provided with a full breakdown of the costs associated with this work. The inspector concluded that travel plan monitoring would be necessary on this development and the costs clearly represented additional officer time involved in the work. Therefore, the request complied with CIL regulations.

The appellant disputed the request for public art provision on the site. The Council suggested that this would consist of something functional for the public realm. Regarding this matter, the inspector concluded *'the public art scheme would assist the development in functioning well and adding to the overall quality of the area as required by the Framework'*.

A final point that is worthy of note, relates to paragraph 11 of the Framework which sets out the presumption in favour of sustainable development. It sets out the so-called 'tilted balance' where there are no relevant development plan policies. There was some discussion about this paragraph during the hearing and whether it applied to the site in question. In the decision letter, the inspector provides clarity on this matter and states: *'It seems to me that a relevant policy would be one that could apply to a particular site or proposal. Consequently, a policy that allocates or designates (or, in this case, reserves) land for some purpose must be a relevant development plan policy'*. Subsequently, he concluded that the 'tilted balance' did not apply to this case.

On the basis of the above, the inspector concluded that the appeal should be allowed subject to appropriate conditions and the requirements set out in the unilateral undertaking.

2. Dismissed the appeal by Mr Ancil for Erection of 1No single storey dwelling and ancillary garage/workshop. OS Parcel 6091 East Of Duiker House, Fencott - 17/02465/F (Delegated)

The Inspector identified the main issues to be:

- Whether or not the proposal would be inappropriate development in the Green Belt
- The effect of the proposal on the openness and purposes of the Green Belt
- Whether the location for the proposal would be environmentally sustainable
- The effect of the proposal on the character and appearance of the area
- If the proposal would be inappropriate whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by any very special circumstances

The Inspector noted that the appeal site was not within the built up limits of the village and was in open countryside, as well as being within the

Green Belt. The Inspector concluded that the proposal amounted to inappropriate development, and that it would result in some loss of openness and would lead to encroachment into the countryside.

The Inspector agreed with the Council that due to its location the proposal would not be in a sustainable location and would increase dependence on private cars.

In terms of impact on the character and appearance of the area, the Inspector opined that no matter how well designed the proposal would appear as an intrusion into the countryside, detracting from its open character. The Inspector also agreed with the Council that the proposal would not reinforce distinctiveness in respect of the local vernacular.

Lastly the Inspector concluded that the very special circumstances necessary to justify the development did not exist.

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

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

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

6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clark

Document Information

| Appendix No | Title |
|----------------------------|--|
| None | |
| Background Papers | |
| None | |
| Report Author | Paul Seckington, Senior Manager of Development Management |
| Contact Information | 01327 322341 paul.seckington@cherwellandsouthnorthants.gov.uk |