

Cherwell District Council

Planning Committee

22 November 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 **18/00278/F Land Adj To West Cottages, Bicester Road, Stratton Audley.**
Appeal by Stonebridge Investments against the refusal of Planning Permission for erection of detached dwelling house including demolition of existing single garage.

Appeals in progress

Written Representations

- 2.2 **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

17/02203/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

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

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

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).

Start Date: 17.09.2018 **Statement Due:** 22.10.2018 **Decision:** Awaited

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

Start Date: 04.10.2018 **Statement Due:** 11.10.2018 **Decision:** Awaited

18/00439/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).

Start Date: 10.10.2018 **Statement Due:** 09.11.2018 **Decision:** Awaited

- 2.3 Forthcoming Public Inquiries and Hearings between 23 November and the 13 December 2018:

None

2.4 **Results**

Inspectors appointed by the Secretary of State have:

- 1. Dismissed the appeal by Mr T Catling for the Demolition of existing chapel and erection of 1 dwelling. St Georges Catholic Church, Round Close Road, Adderbury – 17/02131/F (Delegated)**

Appeal dismissed – The application sought permission for a new dwelling on the site of a church.

The inspector agreed that the design of the proposal would fail to preserve the character or appearance of the Conservation Area. In particular the Inspector noted the predominance of gable end onto the street and found that the hipped roof design to one end of the proposed building was out of character. The Inspector also agreed that the east facing projection was insufficiently subordinate.

The proposal was also considered to fail to provide a good standard of amenity for the neighbouring properties or the future occupants of the property as the existing properties have habitable window directly on the boundary with the proposed garden areas.

Finally whilst the site was not in a flood risk area (as identified by the Environment Agency) there is a partly culverted watercourse that runs through the site and the inspector agreed with the Council that in the absence of a Flood Risk Assessment it was not possible to reach an informed opinion on whether the proposed dwelling would be at risk of flooding or whether the proposed development would increase the risk of flooding elsewhere.

- 2. Allowed the appeal by Mr and Mrs Maxted for Certificate of Lawfulness of Existing Use for the use of the identified land as residential garden. Keepers Cover, Church Lane, Weston On The Green, Bicester, OX25 3QU – 18/01463/CLUE (Delegated)**

See summary below

- 3. Dismissed the appeal by Mr and Mrs Maxted for Modification of Section 106 - Application 97/02148/F. Keepers Cover. Church Lane, Weston On The Green OX25 3QU – 17/01675/M106 (Delegated)**

See summary below

- 4. Allowed the appeal by Mr and Mrs Maxted for RETROSPECTIVE - Change of Use of site edged in red on enclosed OS Extract as private amenity space - Re-submission of 17/00458/F. Keepers Cover. Church Lane, Weston On The Green OX25 3QU – 17/02277/F (Delegated)**

See summary below

- 5. Dismissed the appeal by Mr and Mrs Maxted for Erection of 1.5 storey extension, with internal remodelling. Keepers Cover. Church Lane, Weston On The Green OX25 3QU – 17/02315/F (Delegated)**

(Summary for items 2-5)

The four applications which were being appealed simultaneously at this site sought approval to extend the property and a change of use of the surrounding land to garden land. In addition to a planning application to extend the property, the appellant sought to vary an existing legal agreement which prevented any additions to the property. A certificate of lawfulness sought to establish that the extension to the garden land was lawful as it had been used as such for more than 10 years.

These appeals are framed by a 1997 planning permission which allowed for an extension to the footprint to the dwelling on the proviso that there were no subsequent additions, given that the property was located in the Green Belt. Control over further development was secured by a legal agreement.

The Inspector argued that the area to the rear of the property was not included in the aforementioned legal agreement, as it only identified the area immediately around the dwelling. The Inspector then found the appellant's evidence – 2 letters, and a number of pictures of the site – to be compelling enough to allow the appeal. They did however note that 'this does not necessarily mean that the appeal site should be considered as being land within the curtilage of a dwellinghouse for permitted development purposes as that is not a matter before me'. The Inspector also allowed a change of use of the land – citing his own decision which created the 'very special circumstances required to justify the proposal'.

Turning to the enlargement of the dwelling, the Inspector found that 'there has been no fundamental change in Green Belt policy, either locally or nationally, since the obligation was entered into' and that the original legal agreement therefore 'continues to serve a useful purpose in limiting extensions to the dwelling in an area of Green Belt'. Both the appeal to extend the property and the one to vary the legal agreement were therefore dismissed on this basis.

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 Clarke

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Paul Seckington, Senior Manager of Development Management
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