

# Cherwell District Council

## Planning Committee

13 December 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

##### 2.1 New Appeals

None

##### 2.2 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

###### Informal Hearings:

None

## Written Reps:

**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, Fewcott** – 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

**18/00249/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

**18/00278/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.

**Start Date:** 26.10.2018 **Statement Due:** 30.11.2018 **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

**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 14 December and the 17 January 2019:

None

## 2.4 Results

Inspectors appointed by the Secretary of State have:

1. **Dismissed the appeal by Mrs Lewis for Erection of new dwelling house. Byeways, East End, Hook Norton, Banbury, OX15 5LG – 17/02292/F (Delegated)**

This appeal related to refusal of full planning permission (17/02292/F) for the erection of a new dwelling house on land at Byeways Hook Norton. The access to the site lies within the Hook Norton Conservation Area, the remainder of the site being outside.

The Inspector considered that the main issue was whether the proposed development would preserve or enhance the character or appearance of the Hook Norton Conservation Area (the Conservation Area), and the surrounding area more generally.

The Inspector noted that currently the appeal site serves to provide a visual break between two areas of distinct development - more modern development to the north, and more traditionally detailed and proportioned properties fronting the main street to the south - and as such has some importance in the pattern of development in the area, and further agreed with Council opinion that the site had a closer association with the character of development to the south.

The Inspector noted that there is a sense of spaciousness when within the site and the appeal site serves to provide a visual break, between existing residential developments. The Inspector considered that the proposed dwelling, together with associated parking provision, would intensify the site's domestic appearance, which would have a discordant and harmful effect on the area. The Inspector further acknowledged the proximity of the PRow which runs through the site and that significant views would be had from this route. The addition of the proposed dwelling with parking was considered to impinge on this spaciousness and the development would therefore be visually incongruous, not well related to the surrounding built form.

The Inspector did not share the Council's concerns with regards to specific design details of the proposed dwelling, subject to approval of specific materials, and considered that the formalisation of the existing part of the track to form the access would have a negligible impact on the character and appearance of the conservation area.

The Inspector concluded that the proposed development would have a harmful impact on the character and appearance of the surrounding area, and on the setting of the conservation area. Consequently the proposal would fail to accord with policies C28, C30 and C33 of the Cherwell Local Plan (1996) and Policy ESD 15 of the Cherwell Local Plan – Part 1 (2011-2031), and also with Policies HN-CC 1, HN-CC 2 and HN-CC 3 of the Hook Norton Neighbourhood Plan.

**2. Dismissed the appeal by Mr Partridge for Erection of 2 bedroom, 2 storey dwelling and division of existing double garage to provide a single garage and parking for the new dwelling. 17 The Camellias, Banbury, OX16 1YT – 17/02203/F (Delegated)**

This appeal related to refusal of full planning permission for the erection of a 2 bedroom, 2 storey dwelling and division of existing double garage to provide a

single garage and parking for the new dwelling. The appeal site is currently garden land associated with 17 The Camellias Banbury.

The Inspector considered that the main issues were the effect of the proposal on: (i) the character and appearance of the area; (ii) highway safety; (iii) existing residential amenity (iv) future occupant amenity

The Inspector disagreed with the Council with regard to the level of harm that would result from the proposed development, concluding that the proposal would not appear as an incongruous or discordant feature and would not be at odds with the existing characteristics of the area; therefore being considered acceptable in this regard.

However, the Inspector agreed with the Council in all other respects: With regards to highway safety the Inspector found that given the inconvenience of the internal space (smaller than OCC guidance), it would be likely vehicles associated with the dwellings would be likely to be parked in the public highway close to the dwellings which would be likely to have an adverse effect upon the operation of an adjacent turning head, making it difficult for other road users to use when vehicles were parked within it. It was considered that the scheme failed to make adequate provision for off-street parking which would be harmful to highway safety, in conflict with Policy ESD15 of the Cherwell Local Plan – Part 1 (2031) and unacceptable in this regard.

The Inspector agreed that the proposal would result in development being located closer to the rear elevation of No 17 Conifer Rise to the west of the site. The proposal would introduce a large built element into these views, at closer proximity than the existing dwelling, resulting in a reduced outlook from this property with the remaining view would be dominated by the side elevation of the proposal. This would result in harm to the living conditions of occupiers of this property and would be likely to reduce the enjoyment of their home as a result.

The Inspector agreed that the proposal would adversely affect the amenities of the host property. The proposed dwelling would be sited on an area of side garden and whilst some garden would remain the area of retained garden slopes down steeply from south to north and would be of little practical use to the occupiers of this property. The Inspector opined that the garden areas retained with the host property would not be of sufficient quality to provide acceptable living conditions for the occupiers of it, with regard to outdoor amenity space. The proposal would thus conflict with Policy ESD 15 of the Cherwell Local Plan – Part 1 (2031) and saved Policy C30 of the Cherwell Local Plan (1996).

With regards to future occupant amenity the Inspector considered that the proposal adequately provided for the day to day requirements of its intended future occupiers in terms of internal space and would result in acceptable living conditions in this respect. However, the Inspector reiterated his concerns with regards to the usefulness of the external garden/amenity areas and that the scheme would result in harm to the living conditions of the future

occupiers in terms of poor quality outdoor garden space, contrary to the development plan policies highlighted above.

The Inspector concluded that whilst the proposed development would not harm the character or appearance of the area, this did not outweigh the harm that he identified with regard to living conditions and highway safety in this instance.

**3. Allowed the appeal by Mr Benians for Extension to existing dwelling, landscaping, formation of an additional access from the road and change of use of land from agricultural to residential purpose. South Barn, Street From Wigginton To Swerford, Wigginton, Banbury, OX15 4LG – 17/02014/F (Delegated)**

This appeal related to refusal of full planning permission (17/02014/F) 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 on land South Barn, Wigginton. The site is a previously converted barn that sits in open countryside to the north-west of the A361 between the villages of Swerford and Wigginton.

The Inspector considered that the main issue was the effect of the proposed development on the character and appearance of the countryside.

The original application had been refused on the grounds that the proposed development, by virtue of its siting, scale and form, would represent a disproportionate and inappropriate form of over-development of the site, which would fail to reflect or reinforce the rural character and appearance of the existing site and form and arrangement of the former agricultural buildings. This coupled with the extended residential curtilage would see an expansion of the built form and residential use intruding into the open countryside causing harm to visual amenities of the site and its setting within the rural landscape; contrary to the provisions and aims of saved Policy C28 of the Cherwell Local Plan 1996, Policies ESD 13 and ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework with regards to conserving and enhancing the natural environment.

The Inspector was mindful that permission had previously been granted for a similar development, albeit with the omission of a single storey bedroom extension, under application 17/00664/F, and the Inspector limited his consideration to the elements that differed from the previous consent, i.e. alterations to the original main barn, development of the single storey bedroom wing, and expansion of the residential use into the countryside.

The Inspector noted that the existing building had been a residential dwelling for some time and therefore considered the proposed development as an extension to a residential dwelling in a rural context, rather than the conversion of farm buildings.

In this context, he concluded the proposed extension would be in keeping with the existing building and, subject to the proposed new landscaping being secured by condition, would not cause undue visual intrusion into the countryside.

The Inspector noted the Council's concerns regarding pressure for incremental development to provide additional accommodation, but found that the proposed change of use of land was limited to the construction of the bedroom wing and that such harm would be mitigated by the orchard within proposed landscaping scheme, which would retain the area's rural character; and that these measures would together safeguard the character of the countryside and the proposed development therefore according with provisions of the NPPF (Para. 170) which seek to conserve and enhance the natural environment.

The Inspector considered the proposals acceptable subject to a schedule of conditions to include prior approval of materials, landscaping and access, along with restrictions on permitted development rights.

**4. Dismissed the appeal by Mr Harris for Change of use from garage/workshop to two bed cottage - Re-submission of 17/00492/F. Portway Cottage, Ardley Road, Somerton, Bicester, OX25 6NN – 17/02366/F (Delegated)**

The appeal related to a refusal for full planning permission for the change of use from garage/workshop to two bed cottage.

The Inspector considered that the main issues were the suitability of the location for new residential unit given its location in the countryside, and the effect on the character and appearance of the area.

The appeal site lies outside any defined settlement boundary and within the countryside. The building itself comprises an existing outbuilding, adjacent to the parking area associated with the existing dwelling at the site. Also located at the site are various buildings associated with the cattery business which operates from the site.

The Appellant suggested that the conversion of the building was required in order to meet an essential need for a rural worker to reside at the site. The Inspector found that there had been no information submitted as to the frequency of such visits, or the impact on the operation of the cattery business. Furthermore, the Appellant referenced the benefits of having two trained persons when hand rearing kittens, with reference to the "kitten season", but the inspector noted that there was no reference to the frequency of such activities or whether two members of staff were required at all times of day for this activity, and held that the mention of 'season' suggested a requirement for a defined period of time and not an all year round requirement. Additionally, the Inspector noted that the existing dwelling on site currently provides permanent residence, with no detailed evidence of the breakdown of activities on the site that would require more than one person on site at all times. It had not been demonstrated that other options had been

explored, such as additional overnight accommodation within the existing dwelling, having a night shift worker, or having a person on call when certain times arise. The Inspector therefore concluded that an essential need for an additional dwelling at the site had not been demonstrated, finding that that neither safety of boarding cats or continued viability of the business would be jeopardised by the lack of a further dwelling on the site.

The Inspector also found that the introduction of a further residential unit into the countryside, resulting in the subdivision of the site, laying out of a garden and parking area, which would likely contain additional domestic paraphernalia, would result in a further intrusion into the countryside at this location.

The Inspector concluded that the location would not be suitable for a new residential unit, conflicting with Policies ESD1, ESD13, ESD15 and Villages 1 of the CLP (2031) and saved Policies H18, H19, C8, C28 and C30 of the CLP (1996).

**5. Allowed the Appeal by Manor Oak Homes for OUTLINE - Development of up to 72 dwellings with associated large area of public open space. All matters reserved except for access. OS Parcel 4846 South East Of Launton Road And North East Of Sewage Works, Blackthorn Road, Launton – 17/01173/OUT (Committee)**

This appeal was subject of a Public Inquiry in July. At the inquiry the Inspector identified the main issues to be:

- Whether Cherwell District Council (“the Council”) could demonstrate a five year supply of land for housing;
- Whether the proposal would be in accordance with the Council’s housing strategy; and
- Whether the proposal would cause harm to the built form, character and setting of Launton village.

During the course of the appeal the Appellant submitted a revised proposal for 70 dwellings which in the Council’s view addressed refusal reason 4 relating to lack of provision outside of the flood risk area for recreation and children’s play space. And in the days immediately before the Inquiry the Appellant’s amended proposals and revised modelling information were adjudged by the Environment Agency and Oxfordshire County Council to have adequately addressed their concerns relating to flood risk and drainage. Accordingly the Council withdrew refusal reason 3. In addition a satisfactory planning obligation was provided which overcame refusal reason 5. Notwithstanding the above the Inspector made his decision based on a proposal for up to 72 dwellings.

On the matter of the Council’s housing strategy, the Inspector noted that the Local Plan focusses the bulk of its 22,840 house allocation on Bicester, Banbury and Heyford, limited growth in the rural areas and directing any such development in the rural areas to the larger and more sustainable villages.

The Inspector noted that Launton was identified as a category A village and that a total of 750 homes will be delivered at category A villages over the course of the Plan period. The Inspector found that there was no further guidance about distribution of delivery within the villages and no timeframe or trajectory for delivery associated with the overall figure.

Four previous Inspectors (Kirtlington, Cropredy and Finmere x 2) who had all concluded that the provision of significant numbers of new homes in one location at an early stage of the Local Plan period, “would leave little scope for development in the other Category A villages either in terms of numbers or timing and would thus not be in accordance with the housing strategy for the villages as set out in the Local Plan.”

However, the Launton Inspector disagreed with these conclusions, as “none of these have been the subject of the full scrutiny of Public Inquiry”. He also found that in most of those decisions there had been other issues related to either heritage or sustainability. He also considered that in terms of timing, “matters [had] moved on” since the last of those decisions in April 2018.

The Inspector also focussed on the word ‘delivery’ in Policy Villages 2, concluding that only 103 dwellings had been delivered of the 664 approved. He also stated that the current delivery rate of 34 units per annum at category A villages would be “too low to reach 750 in the plan period” if it continued, though elsewhere in the Inquiry he agreed with the Appellant that approved housing could take five years to come forward. The Inspector placed weight on the fact that he had not been provided with evidence that the granting of permission at Launton would prevent development at a more sustainable location in another category A village.

Overall, the Inspector concluded that the proposal would not materially conflict with Policy Villages 2.

In addition, the Inspector concluded that the proposal would cause no harm at all to the character and setting of Launton. The Inspector agreed with the Appellant that the proposal would not “result in the appearance that the village boundary had appreciably extended into the open countryside as the development would be within the village entrance demarcation and would be well contained by landscape features”.

The Inspector commented that since he was concluding the proposal accorded with the Local Plan he did not need to form a view on the Council’s housing land supply.

### **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,  
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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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