

Cherwell District Council

Planning Committee

14 March 2019

Appeals Progress Report

Report of Assistant Director of Planning and Economy

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

18/01891/F – 2 Grimsbury Drive, Banbury, OX16 3HL – appeal by Mrs Helen Beckett - First floor side extension

18/01432/Q56 - Agricultural Barn, Oak Tree Farm, Tadmarton Road, Bloxham – appeal by Mr P Davenport - Change of use of barn to 1no dwelling house and associated operational development

18/01113/F - Motor Fuel Ltd, Bloxham Service Station, South Newington Road, Bloxham, Banbury, OX15 4QF – appeal by Motor Fuel Group - New recessed forecourt canopy lights - Retrospective

18/014326/F – Land Adjacent and West of Roba, Camp Road, Upper Heyford – appeal by Sharon Haddy & Mandy Borton - Erection of three residential dwellings

18/01203/F – The Oxfordshire Inn, Meadow Walk, Heathfield, Kidlington, OX5 3FG – appeal by Investfront Ltd - Demolition of existing function hall and redevelopment of the site to provide 2no detached dwellings

18/00350/F – The Dower House, Church Road, Weston On The Green, OX25 3QP – appeal by Mr & Mrs A and P Doyle - Alterations, extensions to and conversion of existing timber frame garage and store to form one dwelling (revised scheme of 17/01865/F)

18/01248/F – Heathfield Cattery, Heathfield, Kidlington, OX5 3DX – appeal by Mr Paul Jarvis - Alteration and conversion of cattery building to form a single detached dwelling house

18/01332/F - Land West Of M40 Adj To A4095, Kirtlington Road, Chesterton – Appeal by Mr C Smith and Mr R Butcher - Change of use of land to use as a residential caravan site for 3 gypsy families, each with two caravans and an amenity building; improvement of existing access, construction of driveway, laying of hardstanding, installation of package sewage treatment plant and acoustic bund

18/00920/F - Corble Farm, Piddington, Aylesbury, HP18 9XB – Appeal by Mr and Mrs S Amies - Provision of a glazed link between the existing farmhouse and the existing barn - Re-submission of 17/00285/F

18/00921/LB - Corble Farm, Piddington, Aylesbury, HP18 9XB – Appeal by Mr and Mrs S Amies - Provision of a glazed link between the existing farmhouse and the existing barn

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 **Inquiry Date:** 26.03.2019 **Decision:** Awaited

Informal Hearings

18/00032/F - Stratton Fields Livery Stables, Launton Road, Stratton Audley, Bicester, OX27 9AS - Single yard managers dwelling in connection with existing Stratton Fields Livery Stables

Start Date: 06.09.2018 **Hearing Date:** 20.02.2019 **Decision:** Awaited

Written Representations

18/00228/F - 107 Middleton Road, Banbury OX16 3QS. Appeal by Mr J Kent-Baguley against the refusal of Planning Permission for Sub-division of existing 4 flats into 7 individual self-contained units (part retrospective)

Start Date: 25.09.2018 **Statement Due:** 30.10.2018 **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

18/00875/F – 41 Easington Road, Banbury, OX16 9HJ – Appeal by Mr Nigel Carter against the refusal of Planning Permission for Erection of 2no detached 3 bedroom dwellings and associated car parking (4 spaces) (revised scheme of 17/01255/F).

Start Date: 07.12.2018 **Statement Due:** 11.01.2019 **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

18/01074/F Stonelea, School Lane, Great Bourton, Banbury OX17 1QY. Appeal by Mr and Mrs Martin against the refusal of Planning Permission for Two dwellings with new shared access from School Lane.

Start Date: 07.12.2018 **Statement Due:** 11.01.2019 **Decision:** Awaited

18/01113/F - Motor Fuel Ltd, Bloxham Service Station, South Newington Road, Bloxham, Banbury, OX15 4QF – Appeal by Motor Fuel Group - New recessed forecourt canopy lights – Retrospective

Start Date: 26.02.2019 **Statement Due:** 05.03.2019 **Decision:** Awaited

18/01119/F - 58-60 North Street, Fritwell, Bicester, OX27 7QR – Appeal by Mr And Mrs David Bignell against the refusal of Planning Permission for Retrospective - replacement of rotten fence - frontage no 60, replacement of broken trellis / rotten posts no 58. replaced with post and rail.

Start Date: 12.12.2018 **Statement Due:** 16.01.2019 **Decision:** Awaited

18/01144/Q56 - Barn At Wooden Hill Farm, Barford Road, Bloxham, OX15 4LP. Appeal by Mr Bruce Bennett against the refusal of Prior Approval for Change of use to convert existing agricultural building into two dwellinghouses.

Start Date: 07.12.2018 **Statement Due:** 11.01.2019 **Decision:** Awaited

18/01490/F - Manor Farm Cottage, Church Lane, Charlton On Otmoor, Kidlington, OX5 2UA. Appeal by David and James Aubrey Calcutt against the refusal of Planning Permission for Erection of building to replace existing outbuilding, the erection of a new glazed link, alterations to another existing building, and their conversion to form one single bedroom dwelling with private amenity area.

Start Date: 07.12.2018 **Statement Due:** 11.01.2019 **Decision:** Awaited

Householder (Fast Track)

18/01891/F – 2 Grimsbury Drive, Banbury, OX16 3HL. Appeal by Mrs H Beckett against the refusal of Planning Permission for first floor side extension.

Start Date: 12.02.2019 **Decision:** Awaited

2.3 Forthcoming Public Inquires and Hearings between 14 March and the 17 April.

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.

Method of determination: Public Inquiry

Key Dates

Start Date: 04.09.2018 **Inquiry Date:** 26.03.2019 (5days) **Decision:** Awaited

2.4 Results

Inspectors appointed by the Secretary of State have:

- 1. Allowed the appeal by Teesbourne Properties Limited for Change of Use from Offices to Residential apartments (revised scheme of application 17/00681/F). 49A Castle Street, Banbury, OX16 5NX – 18/00439/F (Delegated)**

The proposal related to the first floor commercial floor space. The ground floor was not part of the proposal and there were no external changes proposed.

The main issue was the impact on the living conditions of neighbouring residents. There would only be 15 metres between the windows serving the proposed development and the windows on the rear of the properties and rear gardens of a number of terrace properties on to which the development faced.

Although acknowledging the Council applies a 22m back to back distance which the Inspector considered was reasonable and appropriate in general terms, the Inspector stated that two particular factors supported a lower standard in this case.

- (1) No new windows were proposed and therefore overlooking already occurred to the residential properties by office workers. The Inspector noted that since the application was determined the windows in the appeal building had been changed from obscure glass to clear glass and there was no restriction in this regard.

(2) The densely built up location of the weighed in favour of smaller separation distance. The Inspector also noted that intervening parking areas along with a high fence provided extra privacy.

The Inspector therefore concluded that the proposal would not unduly affect living conditions at the neighbouring houses and would provide adequate living conditions at the proposed flats, in terms of privacy.

2. Dismissed the appeal by Mrs Andrea Douglas for Erection of new two-storey dwelling and associated ancillary buildings. Land On The North Side Of Water Lane, Fewcott – 17/02561/F (Delegated)

The Inspector considered that the main issues were

- (i) whether the proposal would preserve or enhance the character or appearance of the Fewcott Conservation Area and setting of nearby listed building and
- (ii) whether the proposed dwelling would be acceptably located in terms of access to key services.

With regard to the impact on heritage assets, the Inspector found that the view of open countryside to which this site forms part of is important to the character of the local area, with the field providing a green buffer between the settlements. Whilst noting that the design of the dwelling in itself would be appropriate for a rural location, its siting here would be intrusive to the key views from both Water Lane and the nearby public right of way connecting the 2 villages, introducing built form and domestic activities into this piece of countryside, outside the built up limits and in conflict with the Fewcott Conservation Area Appraisal's aim to preserve the area.

The Inspector concluded that the proposal would cause harm to the character and appearance of the Fewcott Conservation Area. The Inspector concluded that the nearby listed building was sited a sufficient distance from the site as for its setting to not be materially affected. The Inspector concluded the harm to the Conservation Area was less than substantial, and noted great weight should be given to this matter.

With regard to the location of the proposed dwelling, the Inspector noted that the site is next to the built up areas of Ardley and Fewcott, and that these villages are Category C in Policy Villages 1 of the CLP 2031. The Inspector noted that whilst there are dwellings to the east, and a farm set back from the road to the west, this is much more than a small gap and as such the proposal would result in encroachment into the countryside rather than being the CLP 2031 definition of infilling. With this in mind, the Inspector concluded that future occupiers would be heavily reliant on the private car for transport. The Inspector concluded that the proposal would not be acceptably located with reference to Development Plan policies and the accessibility of services.

The Inspector found no significant public benefit that would outweigh these impacts, and concluded the proposal was not sustainable development.

3. Dismissed the appeal by Mr S Wright for Residential development of up to 10 dwellings. Fringford Cottage, Main Street, Fringford, Bicester, OX27 8DP – 18/00249/OUT (Committee)

The Inspector considered that the main issues were

- (i) whether the development's location was suitable and accessible,
- (ii) the effect of the proposal on the living conditions of both the occupants of the host and proposed dwelling, and
- (iii) the effect of the proposal on the character and appearance of the area.

A key part of the Appellant's case was that that Para 79 of the revised NPPF applied (which relates to new isolated homes in the countryside). The Inspector concluded that, as the appeal site is near the host dwelling, the site is not isolated and as such Para 79 did not apply. The Inspector added, in line with the Council's interpretation of Para 79, that the proposal was for the conversion of an existing outbuilding rather than the subdivision of an existing dwelling and therefore bullet point 4 in particular did not apply.

The Inspector found that Saved Policy H18 of the CLP 1996 did not apply as the proposal did not fall within the limited number of exceptions that this policy allows. When assessing the proposal against Policy Villages 1 of the CLP 2031, the Inspector concluded that the appeal site is noticeably separated from the built-up limits of the nearest village (Chacombe). The Inspector noted that the bus service within Chacombe is inaccessible, failing to provide a safe pedestrian access due to there being no lit pavement on the stretch along Wardington Road into the village. On this basis, the Inspector concluded that private car dependency is likely for future occupants of the proposed dwelling.

With regard to living conditions, the Inspector found that a fence could be erected between the two dwellings, whilst obscurely glazed windows at first floor of the host dwelling and the pitch roof of the conservatory would limit overlooking from the main elevations of the two dwellings. The main elevation of the proposed dwelling in any case faces south, away from the host dwelling. The Inspector concluded that a reasonable degree of privacy for both occupiers would be achieved.

With regard to the proposal's visual impact, the Inspector found that the appeal building would remain largely unchanged, the increase in domestic activity/paraphernalia was minor given the small scale of development and also the surrounding grounds of the host dwelling provided a setting in which such new domestic elements can be assimilated visually. The Inspector concluded that the proposal would fit in visually within the appeal site, without harming the form and character of the building, its immediate setting and the surrounding countryside.

The Inspector noted that the proposal would result in benefits, i.e. a minor increase in the supply of housing, and a temporary benefit to local employment, but concluded that these would not outweigh the conflict with the Development Plan through the inaccessibility of the location to key services, which the Inspector found was "a substantive and overriding objection which must be decisive".

4. Dismissed the appeal by Mrs S Fiaz for Change of use of open space to residential and two storey side and part rear extension (revised scheme of 17/00460/F). 30 Arbury Close, Banbury, OX16 9TE – 17/01919/F (Delegated)

The appeal related to a refusal of a change of use of land from open amenity land to residential and the erection of a single/two storey side extension.

The Inspector considered the main issue of the appeal would be the effect of the proposed development on the character and appearance of the area.

The Inspector acknowledged that the grass verges are a key distinctive element of the pattern of development of Arbury Close and surrounding streets. He also observed that the verge running adjacent to 30 Arbury Close is visually prominent and makes a valuable contribution to the spacious character of the streetscene. The proposed single storey garage extension would encroach onto the verge and disrupt the degree of openness, and be visually jarring and incongruous within the streetscene.

The Inspector dismissed the appellant's argument that the removal of a tree being and replacement with a garage would result in less obstruction and light loss than at present.

The Inspector concluded that the proposed development would harm the character and appearance of the area; agreeing with the Council; and therefore dismissed the appeal.

5. Dismissed the appeal by Mr and Mrs Henson for Change of use of existing ancillary residential annexe to self-contained dwelling. Glen Meadows House, Chacombe Road, Wardington, OX17 2JU – 17/02556/F (Delegated)

The Inspector considered that the main issue was whether the proposed development would provide a suitable site for housing, having regard to the character and appearance of the area including the setting of nearby listed buildings, the proximity of services, and the effect of the scheme on the living conditions of the occupiers of Bakery Cottage.

The Inspector noted that Fringford is a Category A village but that, given the small size of the village and limited bus service (which had been reduced since the adoption of the Local Plan), considered that the future residents of the proposal would use private transport for most of their day to day needs. While acknowledging that sustainable transport options vary from urban to rural areas, the Inspector did not consider the houses would be located within an area with sufficient service provision.

The Appellant argued that the proposal would be not be harmful to the character and appearance of the areas and would be seen as an extension to St Michael's Close to the north of the site. However, the Inspector noted that St Michael's Close is an abnormality to the linear pattern of development to

the south east of Main Street and agreed with the Council that the proposal would harmfully extend the village envelope and accentuate this anomalous effect. The Inspector found that the development would be clearly visible from the footpaths and would mask views of the linear development on Main Street and would appear poorly integrated with the village form. The Inspector did not consider harm would be mitigated by landscaping, which would take time to establish and would do little to change or mask the form of the proposal compared to the areas to the south of the area. The Inspector also agreed with the Council there would be harm to the setting of a listed building on Main Street given the change from a rural setting to a suburban setting, even though the development was some distance from the listed building.

The Council also refused the application due to the impact on the neighbouring property in terms of noise and disturbance from the access. However, Inspector did not consider that the harm to the neighbouring property would be substantial given the width of the access arrangements and scale of the proposal.

The Appellant had argued that the Council Housing and Economic Land Availability Assessment (HELAA) stated that the site could accommodate 14 dwellings and thus planning permission should be approved. The Inspector agreed with the Council that the guidance in the Planning Practice Guidance makes it clear that such inclusion does not in itself determine whether a site should be allocated for development. It is the role of the HELAA to provide information on the range of sites which are available to meet need but it is for the development plan to determine which of the sites are the most suitable to meet those needs. Therefore the Inspector gave moderate weight to the HELAA but did not consider this outweighed the identified harm.

The Inspector concluded that, while the proposed development would not have an adverse effect on the living conditions of the occupiers of Bakery Cottage, it would not provide a suitable site for housing, having regard to the character and appearance of the area including the setting of nearby listed buildings and the proximity of services. The Inspector concluded that the proposal would be contrary to Policies Villages 1, Villages 2, ESD1, ESD13 and ESD15 of the Local Plan, as well as to the Framework.

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:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer

David.Mytton@Oxfordshire.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:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer

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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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