

Cherwell District Council

Planning Committee

8 September 2022

Appeal Progress Report

Report of Assistant Director - Planning and Development

This report is public

Purpose of report

To keep Members informed about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

1.0 Recommendations

To note the position on planning appeals contained within the report.

2.0 Introduction

This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress, and determined appeals.

3.0 Report Details

3.1 New Appeals

a) 21/03445/F – 41 Fernhill Road, Begbroke, OX5 1RR

Extension and subdivision into two houses

Officer recommendation: Refused (Delegated)
Method of determination: Written Representations
Start Date: 10.08.2022
Statement due: 14.09.2022
Appeal reference: 22/00038/REF

b) 21/04112/OUT – OS Parcel 2778 Grange Farm North West of Station Cottage, Station Road, Launton

Outline application for the erection of up to 65 dwellings, including up to 8 live-work dwellings (use class sui generis), public open space, access, infrastructure and demolition of existing buildings (all matters reserved except principle means of access from Station Road)

Officer recommendation: Approval (Committee)
Method of determination: Hearing
Hearing date: 11th October 2022 Start Time: 10:00
Hearing Venue: Council Chamber, Bodicote House TBC
Start Date: 11.08.2022

Statement due: 15.09.2022
Appeal reference: 22/00039/REF

3.2 New Enforcement Appeals

None

3.3 Appeals in Progress

a) 20/01122/F - OS Parcel 9635 North East of HMP Bullington Prison, Widnell Lane, Piddington

Material Change of Use of land to use as a residential caravan site for 12no. gypsy/ traveller families, each with two caravans, including improvement of access, laying of hardstanding and installation of package sewage treatment plant.

Officer recommendation: Refused (Committee)
Method of determination: Hearing
Hearing Date: Tuesday 22nd November 2022
Hearing Venue: River Cherwell Meeting Room, Bodicote House
Start Date: 08.10.2021
Statement Due: 26.11.2021
Appeal reference: 21/00033/REF

b) 20/02192/LB - Manor Farm, Station Road, Hook Norton, OX15 5LS

Repairs, alterations and extension to dwellinghouse. Alterations to agricultural buildings to facilitate their conversion to ancillary residential use and erection of newbuildings to be used ancillary to the dwellinghouse. Associated landscaping.

Officer Recommendation: Refused (Delegated)
Method of determination: Hearing – 18th/19th May 2022
Start Date: 30.11.2021
Statement due: 19.02.2022
Appeal reference: 21/00037/REF

c) 20/02193/F – Manor Farm, Station Road, Hook Norton, OX15 5LS

Repairs, alterations and extension to dwellinghouse. Alterations to agricultural buildings to facilitate their conversion to ancillary residential use and erection of newbuildings to be used ancillary to the dwellinghouse. Associated landscaping.

Officer Recommendation: Refused (Delegated)
Method of determination: Hearing – 18th/19th May 2022
Start Date: 30.11.2021
Statement due: 19.02.2022
Appeal reference: 21/00036/REF

d) 21/01818/F – Pakefield House, St Johns Street, Bicester, OX26 6SL

Redevelopment of the site to form 38 no. Retirement apartments including communal facilities, access, car parking and landscaping

The appeal is a non-determination appeal however the application was heard at Planning Committee on 13th January 2022.

Officer recommendation: Refusal (Committee)
Method of determination: Virtual Hearing
Hearing date: 6th September 2022 Start Time: 09:30
Start Date: 21.04.2022
Statement Due: 26.05.2022
Appeal reference: 22/00021/REF

e) 21/02007/F – 15 Heath Close, Milcombe, OX15 4RZ

To complete driveway by replacing breeze block section with block paving to match. Also to complete the dropped kerb to fall in line with the full width of the house. To install either two or three lower trims and one angled trim. (resubmission of 21/01238/F)

Officer recommendation: Refused (Delegated)
Method of determination: Written Representations
Start Date: 15.03.2022
Statement Due: 19.04.2022
Appeal reference: 22/00016/REF

f) 21/02346/F – 1 Cranesbill Drive, Bicester, OX26 3WG

Loft conversion with rooflights to front roof slope and dormer extension to rear roof slope.

Officer Recommendation: Refused (Delegated)
Method of determination: Householder (Fast Track)
Start Date: 21.02.2022
Statement due: N/A
Appeal reference: 22/00014/REF

g) 21/02804/F – 19 Hastings Road, Banbury, OX16 0SE

Erection of dwelling

Officer recommendation: Refused (Delegated)
Method of determination: Written Representations
Start Date: 14.06.2022
Statement due: 19.07.2022
Appeal reference: 22/00032/REF

h) 21/02986/F – 2 The Orchard, Horton Cum Studley, OX33 1BW

Two storey rear/side extension and associated internal alterations

Officer recommendation: Refused (Delegated)
Method of determination: Householder (Fast Track)
Start Date: 20.04.2022
Statement Due: N/A
Appeal reference: 22/00020/REF

i) 21/03057/F – 3 Denbigh Close, Banbury, OX16 0BQ

Change of use from HMO (Class C4) to 7 Bedroom HMO (Sui-Generis)

Officer recommendation: Refused (Delegated)
Method of determination: Written Representations
Start Date: 17.05.2022

Statement Due: 21.06.2022
Appeal reference: 22/00025/REF

j) 21/03190/F - Land North of Camp Road, East of Holly Trees and 1 Jalna Lodge, Camp Road, Upper Heyford

Erection of dwelling, detached garage, widening of vehicular access and all associated works

Officer recommendation: Non-Determination
Method of determination: Written Representations
Start Date: 21.06.2022
Statement due: 27.07.2022
Appeal reference: 22/00034/NON

k) 21/03452/TEL56 – Street Record, Station Road, Kirtlington

Proposed 15.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

Officer recommendation: Refused (Delegated)
Method of determination: Written Representations
Start Date: 21.04.2022
Statement Due: 26.05.2022
Appeal reference: 22/00021/REF

l) 21/03726/F – 123 Oxford Road, Kidlington, OX5 2NP

Demolition of existing lean-to structure, erect new single storey extension. Convert existing 3-bed chalet-style house into 3 no separate apartments with off-road parking - re-submission of 21/01654/F

Officer recommendation: Refused (Delegated)
Method of determination: Written Representations
Start Date: 20.06.2022
Statement due: 25.07.2022
Appeal reference: 22/00033/REF

m) 21/04166/F – The Pheasant Pluckers Inn, Burdrop, OX15 5RQ

Permission is sought to re-position and amend the structure of the previously allowed 3-bedroom building

Officer recommendation: Refused (Delegated)
Method of determination: Hearing
Hearing date: 4th October 2022 Start Time: 10:00
Hearing Venue: River Cherwell Meeting Room, Bodicote House
Start Date: 08.07.2022
Statement due: 12.08.2022
Appeal reference: 22/00035/REF

n) 21/04199/Q56 - Quarry Farm, Oxford Road, Adderbury, OX17 3HH

Change of Use of agricultural building to dwellinghouse (Use Class C3)

Officer recommendation: Refused (Delegated)
Method of determination: Written Representations
Start Date: 19.05.2022
Statement Due: 23.06.2022
Appeal reference: 22/00028/REF

o) 22/00173/CLUP – 15 Arcott Road, Piddington, OX25 1PS

Certificate of Lawfulness of Proposed Development for the erection of a wooden workshop to be use for dog grooming services.

Officer recommendation: Refused (Delegated)
Method of determination: Written Representations
Start Date: 05.05.2022
Statement Due: 16.06.2022
Appeal reference: 22/00023/REF

p) 22/00642/F – 2 Dewars Farm Cottages, Ardley Road, Middleton Stoney, OX25 4AE

Proposed single & 1.5 storey front extension (re-submission of app. No. 21/01851/F)

Officer recommendation: Refused (Delegated)
Method of determination: Householder (Fast Track)
Start Date: 26.07.2022
Statement due: N/A
Appeal reference: 22/00036/REF

q) 22/00721/F – 2 East Street, Bicester, OX26 2EX

Front and rear single storey extensions

Officer recommendation: Refused (Delegated)
Method of determination: Householder (Fast Track)
Start Date: 28.07.2022
Statement due: N/A
Appeal reference: 22/00037/REF

3.4 Enforcement Appeals in Progress

a) 20/00115/HH - Thames Valley Police, Headquarters South, 169 Oxford Road, Kidlington, OX5 2NX

Appeal against the decision by the Council not to issue a remedial notice on a high hedge complaint made by a local resident.

Start date: 31.01.2020

Questionnaire due: 28.02.2022

b) 17/00334/ENF – 107 Middleton Road, Banbury, OX16 3QS

Without planning permission, the creation of 7No. Self-Contained units of residential accommodation (6No. Studio Flats and 1No. bedroom flat)

Officer recommendation: Refused (Delegated)

Method of determination: Written Representations

Start Date: 13.05.2022

Statement Due: 24.06.2022

Appeal reference: 22/00024/REF

3.5 Forthcoming Public Inquires and Hearings between 8 September 2022 and 6 October 2022

a) 21/04166/F – The Pheasant Pluckers Inn, Burdrop, OX15 5RQ

Permission is sought to re-position and amend the structure of the previously allowed 3-bedroom building

Hearing date: Tuesday 4th September. Start Time: 10:00

Hearing Venue: River Cherwell Meeting Room, Bodicote House

3.6 Appeal Results

Inspectors appointed by the Secretary of State have issued the following decisions:

a) 21/02909/F – Allowed the appeal by Mr W Skinner against refusal of planning permission for Erection of 1 dwelling (resubmission of 21/02218/F). 37A Hertford Close, Bicester, OX26 4UX

Officer recommendation: Refused (Delegated)

Method of determination: Written Representations

Appeal reference: 22/00017/REF

The Inspector identified the main issue of the appeal to be whether the lack of dedicated parking provision associated with the proposal would be acceptable or not.

The Inspector noted that the parking survey, supplied by the appellant, demonstrated a good level of on-street car parking capacity within Hertford Close.

The Inspector concluded because of the above, there is no basis to conclude that the proposed development would pose an unacceptable highway safety risk.

The Inspector allowed the appeal.

- b) 21/04299/OUT – Allowed the appeal by Mr and Mrs Bushby against refusal of planning permission for Removal of Condition 11 (no dwelling above one storey height) of 21/02146/OUT - Outline application demolition of workshops, stables and tennis court and erection of three dwellings and conversion of existing building to form a dwelling. Reynards Lodge, North Lane, Weston on the Green, OX25 3RG**

Officer recommendation: Refused (Delegated)

Method of determination: Written Representations

Appeal reference: 22/00027/REF

The Inspector identified the main issue of the appeal to be whether the condition is necessary in order to preserve or enhance the character or appearance of the area, including on the CA and the Grade II listed Westfield Farm Cottage and its setting.

The Inspector found that there would be limited glimpses of Plots 1 and 2 from the public realm through the gaps and spaces between dwellings, but that the site would be largely screened by buildings and trees. The Inspector also found that Westfield Farm Cottage was not particularly prominent from within the site.

On their site visit, the Inspector found that the appeal site is screened from Westfield Farm Cottage by tall trees and fencing with little inter-visibility between the two and that plots 1 and 3 would be located some distance from it, far enough away to accommodate Plot 3 and its garden.

The Inspector advised that given the site's limited visibility and the pattern of building eights locally, a development that does not accord with the restriction imposed by condition 11 could have a neutral effect that would not harm the semi-rural nature of the conservation area.

The Inspector concluded that the disputed condition is not necessary to preserve or enhance the character or appearance of the area, including the CA as a whole and the Grade II listed Westfield Farm Cottage and its setting.

The appeal was allowed, and planning permission granted without the disputed conditions but retains the non-disputed conditions from the previous permission.

- c) 21/00215/ENF – Dismissed the appeal by Threshold Investments Limited against the enforcement notice served on the address of Land Adjacent To 1 Coleridge Close, Bicester, OX26 6XR for Without planning permission, the erection of a timber fence above 1 metre in height and adjacent to a highway**

Method of determination: Written Representations

Appeal reference: 22/00011/ENF

The enforcement notice relates to the unauthorised erection of a timber fence above 1 metre in height and adjacent to a highway.

The notice requires a number of actions to remedy the breach including the removal of the timber fence, restoring the land to its former condition and removing all debris resulting from the compliance actions.

The time period given with which to comply was 1 month.

The appeal was submitted under ground (c) of section 174(2) of the Town and Country Planning Act 1990 as amended. (c) that the matters alleged do not constitute a breach of planning control.

Under ground (c) the Inspector found that the fence to be adjacent to the highway. As the fence exceeds 1 metre in height, the Inspector advised the development is in breach of limitation A.1(a)(ii) to Class A of Part 2 of Schedule 2 to the GPDO and planning permission has not been granted.

The Inspector found a breach of planning control and dismissed the appeal.

d) 21/04093/F – Dismissed the appeal by Mr C Simms against refusal of retrospective planning permission for Rear extension, porch and dormer in converted roof space (resubmission of 21/02697/F). 5 St Peters Close, South Newington, OX15 4JL

Officer recommendation: Refused (Delegated)

Method of determination: Householder (Fast Track)

Appeal reference: 22/00018/REF

The Inspector identified the main issues of the appeal to be the effect of the proposed development on a) the character and appearance of the area and b) the living conditions of the occupiers of 6 St Peters Close, with specific regard to the rear extension.

In respect of the first issue, the Inspector found that the proposed gable dormer would be inconsistent to the street scene's roof space and would unbalance the pair of semi-detached prosperities and how they present to the street. The Inspector also found that the finished ridge height of the rear extension is visible from the high to the front.

The Inspector concluded on issue a that the development would be harmful to the character and appearance of the area.

In regard to the second issue, the Inspector found that the rear extension would lead to an unacceptable loss of light to the window in the rear elevation of No. 6 and that the new window at the first-floor level would lead to an unacceptable degree of overlooking into the rear garden of No. 6.

In conclusion, the Inspector found that the development scheme would conflict with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance therewith.

The Inspector dismissed the appeal.

e) 21/00500/OUT – Allowed the appeal by Greystoke Land Ltd against refusal of planning permission for Erection of up to 43 new homes, access from Station Road and associated works including attenuation pond. Land North of Railway House, Station Road, Hook Norton.

Officer Recommendation: Approval (Committee)

Method of determination: Hearing

Appeal reference: 21/00044/REF

The Inspector identified the main issues of the appeal to be on a) Whether the appeal site would be a suitable location for the proposed development, having regard to the development plan and national policy b) The effect of the proposal on the character and appearance of the area including landscape character; and c) Whether the development would make adequate provision for affordable housing and any other necessary infrastructure requirements arising from the development.

In respect to issue one, the Inspector found that the site is currently a field which evidently sits outside the built-up limits of the village, a point that the appellant confirmed at the hearing is not disputed. Therefore, the proposal does not fall to be considered against Policy Villages 1. The Inspector also considered that the site was not isolated in the terms described in the NPPF and the site has a close physical relationship to the built-up limits of Hook Norton.

The Inspector advised that the latest Annual Monitoring report indicated that the completed and under construction new homes in Category A villages falls some way below the 750-home figure stated in Policy Villages 2 of the Local Plan.

The Inspector concluded on the issue that they find the appeal site a suitable location for a new housing development in principle subject to an assessment of the bullet pointed criteria under Policy Villages 2 of the Local Plan.

On the second issue the Inspector saw for himself that the local topography and the well treed wider surroundings meant that the site does not sit within a prominent or highly sensitive part of the landscape. Nevertheless, the Inspector accepted that the site forms part of the countryside which surrounds Hook Norton and provides an attractive rural edge to the settlement.

The Inspector accepted that the scale of the development at up to 43 dwellings had the potential to intensify the presence of residential development to the northern side of Station Road. However, the Inspector also commented that the illustrative plan envisages a layout which would retain the majority of the existing roadside vegetation and provide open space within the appeal site next to the boundary with Station Road. The existing and new planting could be tapered to facilitate visibility splays while also providing a soft landscaped frame to the access point. During his site visit, the Inspector saw a similar approach to landscaping at Ironstone Hollow and the Inspector considered that this was very effective in maintaining a prevailing soft edge to the northern side of Station Road. By emulating this approach, the Inspector considered that it is likely that the development would be sympathetic to the village's gateway location and would minimise the visual impact. Following a walk around the area the Inspector concluded that agreed with the LVIA that the development would continue an established pattern of settlement growth and would form a logical extension of the settlement seen in the context of Ironstone Hollow, The Sidings and The Grange. Notwithstanding this the Inspector accepted that there would

be some moderate harm to the character and appearance of the area and this includes landscape character where such harm would be moderately adverse. In that regard, significant adverse landscape impacts would be avoided in line with the requirements of PV2.

On the third issue, the Inspector concluded that the development would make adequate provision for affordable housing and any other necessary infrastructure requirements arising from the development. In that regard, it would comply with the infrastructure requirements in Policies BSC3 (Affordable) and INF1 (Infrastructure) as outlined in the agreed S106.

The Inspector also consider other points raised during the hearing. In terms of the Hook Norton Neighbourhood plan the Inspector highlighted that the plan is nearly seven years old. With reference to paragraph 14 of the Framework and being mindful that the housing policies of the development plan cannot be considered up-to-date due to the housing land supply position in the area, this limits the weight which the conflict with the above policies of the NP carries.

On the concern raised by the Parish Council relating to the provision of access to the site and highway safety. The Inspector accepted that there is a drop in levels between the field and the boundary with Station Road. Even so, the level changes are not so substantial that the spine road and access point could not be gradually graded from the junction to ensure they successfully respond to visual and highway safety requirements.

The Inspector allowed the appeal.

- f) **21/02884/F – Allowed the appeal by Mr M Wise against the refusal of planning permission for Erection of one new dwelling. Land To The Rear Of 16-18 Twyford Gardens And Adj To Claire House, Twyford Grove, Twyford, OX17 3LD.**

Officer recommendation: Refused (Delegated)

Method of determination: Written Representations

Appeal reference: 22/00029/REF

The Inspector identified the main issue of the appeal to be whether the proposal for a single dwelling on the site makes an efficient use of land in accordance with the development plan and the National Planning Policy Framework (the Framework).

The Inspector found that it would be possible to design a scheme for 2 dwellings on the site however the individual plot sizes would be significantly smaller than those surrounding, and the buildings would be closer to the boundaries with adjacent gardens. The Inspector advised this would increase the impact on neighbours, so they do not consider that it would be prudent to develop the site at an increased density.

The Inspector concluded that the proposal would comply with the development plan taken as a whole and that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme

The Inspector allowed the appeal.

g) 21/04202/F – Allowed the appeal by Churchill Retirement Living against non-determination of the application for planning permission for Redevelopment for 78 retirement living apartments including communal facilities, access, car parking and landscaping.

Officer recommendation: Non-Determination

Method of determination: Public Inquiry

Appeal reference: 22/00019/NON

The appeals were heard by Public Inquiry between 9th and 16th August 2022 and decisions were issued by PINS on 30th August. The appeals were both allowed.

Inspector George Baird noted that the appeals against non-determination were the subject of a Committee report to CDC Planning Committee in May, when Members resolved that had they been in a position to determine the applications then they would have refused the planning application for redevelopment of the former Buzz Bingo site on four grounds, although no concerns were raised in respect to the listed building application for minor remedial works necessary to adjoining Grade II listed Trelawn House in the event that redevelopment took place. The LPAs four suggested reasons for refusal of the planning application were: 1) heritage harm to the setting of the Grade II listed building and the character and appearance of Banbury's town centre Conservation Area; 2) drainage concerns; 3) piecemeal development of a larger allocated site; and 4) absence of an appropriate s106 obligation with OCC to pay for monitoring of Green Travel Plan requirements.

The LPA did not pursue suggested reasons for refusal 2 and 4 at the Inquiry because a) OCC confirmed subsequently that they were satisfied with the drainage proposals for the site; and b) the Appellants provided a signed Unilateral Undertaking to demonstrate that the necessary £1600 Green Travel Plan monitoring obligation would be paid to OCC. During the Inquiry, the LPA also confirmed that it would no longer pursue suggested reason for refusal 3. This was agreed after it was confirmed that the Local Plan Policy Banbury 8: Bolton Road Development Area and the accompanying Banbury Vision & Masterplan SPD allowed for partial phased development of the allocation site and the Council had not identified in its suggested refusal reason any specific harmful impact derived from the exclusion of the neighbouring Tyre Depot from the Appeal site redevelopment proposals. Consequently, the only ground upon which the appeal was considered was heritage impact and whether or not 'less than substantial' heritage impact of 'moderate' harm on the appearance and setting of Grade II listed Trelawn House and the 'lower to moderate' harmful impact on the character and appearance of Banbury's town centre Conservation Area would demonstrably and significantly outweigh the social, economic and environmental benefits associated with providing 78 retirement living apartments on the site.

The Inspector concluded that there would be no substantive harm caused by the development to the Conservation Area by virtue of the existing harmful Buzz Bingo development previously permitted on the appeal site, which would be removed, and by virtue of the unsympathetic development permitted elsewhere on neighbouring sites around the Castle Street/Warwick Road/Southam Road/North Bar Street junction. In his opinion, removal of the Buzz Bingo and attached office buildings in North Bar Street with the proposed redeveloped apartments would represent a positive enhancement to the setting of the

surrounding Conservation Area, not a detrimental one. In respect to Trelawn House, the Inspector accepted that there would be a small harmful impact upon the listed building but that harm would be offset in his opinion by the 'opening-up' of its immediate setting to completely reveal its northern flank elevation and partially reveal in southern flank elevation, which would give greater prominence to its views from North Bar Street and across the signalised road junction.

The Inspector concluded in all other respects that there were significant benefits associated with developing 78 retirement living apartments in an District with no 5-year housing land supply, where the District had a proven need for such accommodation and where the units were to be provided on a sustainable town centre location, which was previously developed land, was positively allocated for redevelopment in the Local Plan and where the proposals would make effective and efficient use of a redundant site. The consequential remedial works to Trelawn House, which the LPA was not opposed to, were considered a further benefit and the Inspector accordingly concluded that the appeals should be allowed and conditional planning permission and listed building consent should be granted.

- h) 21/04179/LB - Allowed the appeal by Churchill Retirement Living against non-determination of the application for listed building consent for Remedial works to the external elevations of Trelawn House following the demolition of the Buzz Bingo building.**

Officer recommendation: Non-determination
Method of determination: Public Inquiry
Appeal reference: 22/00026/NON

Please see above decision summary under application reference 21/04202/F

4.0 Conclusion and Reasons for Recommendations

The report provides the current position on planning appeals which Members are invited to note

5.0 Consultation

None.

6.0 Alternative Options and Reasons for Rejection

None. The report is presented for information.

7.0 Implications

7.1 Financial and Resource Implications

There are no financial implications arising from this report. The report is for information only. The cost of defending appeals is met from existing budgets other than in extraordinary circumstances.

Comments checked by:
Kimberley Digweed, Service Accountant
kimberley.digweed@cherwell-dc.gov.uk

7.2 Legal Implications

As this report is purely for information there are no legal implications arising from it.

Comments checked by:

Donna Lee, Planning Solicitor, 01295 221586
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7.3 Risk Implications

This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:

Celia Prado-Teeling, Interim Assistant Director – Customer Focus, 01295 221556
celia.prado-teeling@cherwell-dc.gov.uk

7.4 Equality & Diversity Implications

This is an information report where no recommended action is proposed. As such there are no equality implications arising from accepting the recommendation.

Comments checked by:

Celia Prado-Teeling, Interim Assistant Director – Customer Focus, 01295 221556
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7.5 Decision Information

Key Decision:

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

All

Links to Corporate Plan and Policy Framework

Business Plan Priorities 2022-2023:

- Housing that meets your needs
- Supporting environmental sustainability
- An enterprising economy with strong and vibrant local centres
- Healthy, resilient, and engaged communities

Lead Councillor

Councillor Colin Clarke, Portfolio Holder for Planning

Document Information

None

Background papers

None

Report Author and contact details

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