

This report is Public.

Appeals Progress Report

Committee	Planning Committee
Date of Committee	1 August 2024
Portfolio Holder	Portfolio Holder for Planning and Development, Councillor Jean Conway.
Date Portfolio Holder agreed report.	In progress
Report of	Assistant Director Planning and Development, David Peckford

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. Recommendations

The Planning Committee resolves:

- 1.1 To note the position on planning appeals as set out in the report.

2. Executive Summary

- 2.1 This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress, and determined appeals.
- 2.2 The report sets out the main issues of the appeal and, where determined, the decision is summarised.

Implications & Impact Assessments

Implications	Commentary
Finance	Whilst there are no direct implications arising from the report the appeals it refers to can be expensive when defending decisions at appeal, especially when the Council must put together an external team to defend a case when dealing with member overturns from planning committee. There is also the potential for an award of costs both for and against the Council in appeal situations. These can involve significant sums that have to be addressed by identifying underspends across the council. It is to be noted that at this time, significant levels of successful appeals have meant the

	<p>budget provision for 2024-25 has been exceeded and alternative sources of funding further successful appeals will need to be identified including the call of the appeals reserve will be necessary for mitigation.</p> <p>Kelly Wheeler, Finance Business Partner, 18/07/2024.</p>			
Legal	<p>As this report is purely for information there are no legal implications arising; the report will assist Legal in assessing the need for provision of the appropriate level of support.</p> <p>Kim Maher, Solicitor, 17/07/2024.</p>			
Risk Management	<p>This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation. Any arising risk will be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary.</p> <p>Celia Prado-Teeling, Performance Team Leader, 18/07/2024.</p>			
Impact Assessments	Positive	Neutral	Negative	Commentary
Equality Impact				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		Not applicable. This is an information report where no recommended action is proposed. As such there are no equality implications arising from accepting the recommendation. Celia Prado-Teeling, Performance Team Leader.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		Not applicable
Climate & Environmental Impact				Not applicable
ICT & Digital Impact				Not applicable
Data Impact				Not applicable
Procurement & subsidy				Not applicable

Council Priorities	Not applicable
Human Resources	Not applicable
Property	Not applicable
Consultation & Engagement	Not applicable in respect of this report

Supporting Information

3. Background

- 3.1 When a planning application is refused, the applicant has the right to appeal within six months of the date of decision for non-householder appeals. For householder applications the time limit to appeal is 12 weeks. Appeals can also be lodged against conditions imposed on a planning approval and against the non-determination of an application that has passed the statutory time period for determination.
- 3.2 Where the Council has taken enforcement action, the applicant can lodge an appeal in relation to the served Enforcement Notice. An appeal cannot be lodged though in relation to a breach of condition notice. This is on the basis that if the individual did not agree with the condition then they could have appealed against the condition at the time it was originally imposed.
- 3.3 Appeals are determined by Inspectors appointed by the Secretary of State and administered independently by the Planning Inspectorate.
- 3.4 Monitoring of all appeal decisions is undertaken to ensure that the Council's decisions are thoroughly defended and that appropriate and defensible decisions are being made under delegated powers and by Planning Committee.

4. Details

New Appeals

- 4.1 23/01960/PIP – Barn Farm Planys Garden Centre, Thorpe Road, Wardington, Banbury, OX17 1SN.

To develop the site for 7-9 dwellings with associated access, parking and amenity space.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Application Reference: 23/01960/PIP
Appeal Reference: 24/00018/REF

Start Date: 06/06/2024.

- 4.2 23/02423/F – Rickfield Farm, Station Road, Milcombe, Banbury, OX15 4RS.

Change of Use of existing poultry shed and Dutch barn to container storage (Use Class B8) including associated landscaping.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Application Reference: 23/02423/F.
Appeal Reference: 24/00019/REF.
Start Date: 19.06.2024.

- 4.3 24/00698/PIP – 81 North Street, Fritwell, Bicester, OX27 7QR.

Permission in Principle - proposed 7-9 dwellings.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Application Reference: 24/00698/PIP.
Appeal Reference: 24/00020/F.
Start Date: 27.06.2024.

- 4.4 21/02058/F – Shelswell Inn, Buckingham Road, Newton Purcell, MK18 4AU.

Erection of Barns.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Application Reference: 21/02058/FUL.
Appeal Reference: 24/00022/REF.
Start Date: 02.07.2024.

- 4.5 23/02772/PIP – Land Adj And T The West Of Number 42 Green Lane, Upper Arncott, Oxfordshire, OX25 1PA.

Permission in Principle application for the erection of up to 2 No dwellings.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Application Reference: 23/02772/PIP.
Appeal Reference: 24/00021/REF.
Start Date: 02.07.2024.

- 4.6 24/00628/Q56 - Quarry Farm, Rattlecombe Road, Shenington, Oxon, OX15 6LZ.

Change of Use and associated building operations to convert existing agricultural building to single dwellinghouse.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representations.
Application Reference: 24/00628/Q56.
Appeal Reference: 24/00023/REF.

Start Date:09/07/2024.

4.7 24/00379/TPO – Rectory Farm, Mill Lane, Upper Heyford, OX25 5LH.

T1 Walnut - overall crown reduction of approximately 1m back from branch tips to previous pruning points. Pruning extent indicated on attached photographs. Lateral branch spread beyond boundary and into Glebe House curtilage shall not exceed 1.8m; T2 - Beech - overall crown reduction of approximately 1m back from branch tips to previous pruning points. Pruning extent indicated on attached photographs. Lateral branch spread beyond boundary and into Glebe House curtilage shall not exceed 1m. - subject to TPO 13/2019.

Appeal lodged against split decision.

Application Ref: 24/00379TPO.

Appeal Ref: 24/00024/REF.

06.07.2024.

New Enforcement Appeals

4.8 None

Appeals in Progress

4.9 21/04289/OUT - OS Parcel 1570 Adjoining and West of Chilgrove Drive And Adjoining And North of Camp Road, Heyford Park.

Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access.

Officers Recommendation: Refusal (Committee)

Method of Determination: Inquiry (5 Day)

Hearing Date: 05/12/2023.

Application Reference: 21/04289/OUT

Appeal Reference: 23/00089/REF

Start Date: 14.08.2023.

4.10 21/00078/ENF – Cherwell Concrete – Bagnalls Haulage Ltd,Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX.

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers, and storage tanks.

Officers Recommendation: Enforcement Notice

Method of Determination: Written Representation

Start Date: 09.002.2023.

Appeal Reference Number: 23/00061/ENF

- 4.11 21/00078/ENF – Mr & Mrs Murphy – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX.

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers and storage tanks.

Officers Recommendation: Enforcement Notice
Method of Determination: Written Representation
Start Date: 09.02.2023.
Appeal Reference Number: 23/00060/ENF

- 4.12 23/00150/CLUE – Unit 22 Beaumont Close, Banbury, Oxon, OX16 1SH.

Certificate of Lawfulness for the Existing Development: Implementation of planning permission 18/01366/F subsequent to 20/00046/DISC. Erection of 10 small commercial units (B2/B8) with associated car parking and landscaping - (resubmission of 22/00193/CLUE)

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 15.06.2023.
Appeal Reference: 23/00080/REF

- 4.13 22/02866/OUT – Land East of Ploughley Road, Ambrosden.

OUTLINE planning application for up to 120 dwellings, vehicular and pedestrian access off Ploughley Road, new pedestrian access to West Hawthorn Road, surface water drainage, foul water drainage, landscaping, public open space, biodiversity and associated infrastructure. Access off Ploughley Road is not reserved for future consideration.

Officers Recommendation: Refusal (Committee)
Method of Determination: Inquiry (5Days)
Appeal Reference: 23/00091/REF
Start Date: 22/08/2023.

- 4.13 23/00173/OUT – Land South of Green Lane, Chesterton, OX26 1DF.

Outline planning application for up to 147 homes, public open space, flexible recreational playing field area and sports pitches with associated car parking, alongside landscaping, ecological enhancements, SuDs, green/blue and hard infrastructure, with vehicular and pedestrian/cycle accesses, and all associated works (all matters reserved except for means of access)

Officers Recommendation: Refusal (Committee)
Method of Determination: Public Inquiry.
Start Date: 02.11.2023.
Appeal Reference Number: 23/00103/REF

4.14 21/00333/ENF – Fairway Cottage, Main Road, Swalcliffe, Oxon, OX15 5HB.

Without planning permission, the construction of a timber outbuilding and associated engineering operations, including the raising of land levels and the construction of a retaining wall, as shown edged in blue on the attached plan titled 'Location Plan'.

Officers Recommendation: Enforcement Notice.
Method of Determination: Written Representation.
Start Date: 10.11.2023.
Appeal Reference: 23/000104/ENF

4.15 19/02554/DISC – The Unicorn, 20 Market Place, OX16 5JL.

Discharge of Conditions 3 (external materials), 4 (doors/windows/rooflights) and 5 (external staircase) of 16/01661/F.

Officers Recommendation: Refusal (Delegated)
Method of Determination: 1 Day Hearing.
Hearing Date: 20.08.2024.
Application Reference: 19/02554/DISC
Appeal Reference: 23/000111/REF
Start Date: 07.12.2023.

4.16 19/02553/DISC – The Unicorn, 20 Market Place, Banbury, OX16 5LJ.

Discharge of Conditions 3 (external materials), 4 (doors/windows/rooflights) and 5 (external staircase) of 16/01661/F.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representations
Application Number: 19/02553/DISC
Appeal Reference: 23/00114/REF
Start Date: 07.12.2023.

4.17 23/00001/ENF – Ashberry Cottage, Duns Tew, OX25 6JS.

Without the benefit of planning permission, the unauthorised erection of a single-storey porch, finished with timber cladding, to the principal elevation of a mid-terrace dwelling attached to a curtilage listed grade II building Owl Barn (Historic England reference 1046304)

Officers Recommendation: Enforcement Notice.
Method of Determination: Written Representation.
Application Reference: 23/00001/ENF.
Appeal Reference: 23/00108/ENF.
Start Date: 28.11.2023.

4.18 23/01667/F – West End Farmhouse, 56 West End, Launton, Bicester, OX26 5DG

Replacement windows and doors.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representations.
Application Number: 23/01667/F
Appeal Reference: 24/0001/REF
Start Date: 11.01.2024.

4.19 23/02770/F – 5 St Peters Close, South Newington, Oxon, OX15 4JL.

RETROSPECTIVE - Single storey rear extension and loft conversion.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation (HAS)
Application Number: 23/02770/F
Appeal Reference: 24/00003/REF
Start Date: 07.02.2024.

4.20 23/00853/OUT – Land East of Warwick Road, Banbury,

Outline application for up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury; All matters reserved except for access.

Officers Recommendation: Refusal (Committee)
Method of Determination: Public Inquiry
Application Reference: 23/00853/OUT
Appeal Reference: 24/00004/REF
Start Date 15.02.2024.

4.21 23/01265/OUT – OS Parcel 0078 North West of Quarry Close, Bloxham.

Outline planning application for the erection of up to 60 dwellings with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access.

Method of Determination: Public Hearing.
Hearing Date: 22.05.2024. 2 Days
Planning Application: 23/01265/OUT.
Appeal Reference: 24/0005/REF.
Start Date: 07.03.2024.

4.22 22/02455/OUT – Land West of Church Ley Field, Adj to Blackthorn Road, Ambrosden, OX25 2DH.

Erection of up to 55 new dwellings including affordable homes; formation of new pedestrian access; formation of new vehicular access from Blackthorn Road; landscaping and associated works.

Method of Determination: Public Hearing.

Hearing Date: 26.06.2024

Planning Reference: 22/02455/OUT

Appeal Reference: 24/00010/REF

Start Date: 19.03.2024.

4.23 23/02470/F – Offside the Green, Barford St Michael, Banbury, Oxon, OX15 0RN.

Erection of a 2-bedroom bungalow on vacant plot

Method of Determination: Written Representation.

Planning Reference: 23/02470/F

Appeal Reference: 24/00011/REF

Start Date: 08.04.2024.

4.24 23/00020/F – Part OS Parcels 0700 and 2800, NE of Godlington Hall, Street Through Godlington, Godlington, Bicester, Oxon, OX27 9AE.

Change of Use of agricultural building to car storage falling within Use Class B8 of the Town and Country Planning (Use Classes) Order, 1987 (as amended)

Method of Determination: Written Representation.

Planning Reference: 23/00020/F

Appeal Reference: 24/00012/REF

Start Date: 12.04.2024.

4.25 22/03245/F – Apollo Office Park, Ironstone Lane, Wroxton, Oxon, OX15 6AY.

Provision of 10 employment units (Office, Research and Development and Light Industry), associated car parking, landscaping/biodiversity enhancements/works and provision of foul water treatment plant - re-submission of 22/00928/F.

Method of Determination: Written Representation.

Planning Reference: 22/02345/F

Appeal Reference: 24/00013/REF

Start Date: 16.04.2024.

4.26 22/03297/F – Willow Cottage, Gravel Pits Lane, Yarnton, Kidlington, OX5 1PX.

Retrospective application for the erection of an outbuilding and change of use of land to domestic residential.

Method of Determination: Written Representations.

Planning Reference: 22/03297/F.

Appeal Reference: 24/00014/REF

Start Date: 23.04.2024.

4.27 23/03078/CLUP – Manor Cottage, Middleton Park, Middleton Stoney, Bicester, OX25 4AQ.

Certificate of Lawfulness of Proposed Development:
Repositioning of existing "tarmac" driveway with a gravel driveway.

Method of Determination: Written Representation.
Planning Reference: 23/03078/CLUP
Appeal Reference: 24/00015/REF
Start Date: 23.04.2024.

4.28 23/03137/F – 17 The Glebe, Hook Norton, Oxon, OX15 5LD.

Conversion and extension of existing utility, toilet and workshop space to provide a one bed, self-contained dwelling with off-street parking, bin/cycle storage and rear garden.

Method of Determination: Written Representation.
Planning Reference: 23/03137/F
Appeal Reference: 24/00016/REF
Start Date: 01.05.2024.

4.29 20/00295/ENF - 16 Almond Avenue, Kidlington, OX5 1EN.

Garage/Garden building converted to residential premises.

Officers Recommendation: Enforcement Notice.
Method of Determination: Written Representation.
Enforcement Reference: 20/00295/ENF
Appeal Reference: 24/00007/REF
Start Date: 13.03.2024.

Forthcoming Public Inquiries and Hearings between 1 August 2024 and 5 September 2024.

4.30 19/02554/DISC – The Unicorn, 20 Market Place, OX16 5JL.

Discharge of Conditions 3 (external materials), 4 (doors/windows/rooflights) and 5 (external staircase) of 16/01661/F.

Officers Recommendation: Refusal (Delegated)
Method of Determination: 1 Day Hearing.
Hearing Date: 20.08.2024.
Application Reference: 19/02554/DISC
Appeal Reference: 23/000111/REF
Start Date: 07.12.2023.

Appeals Results

4.31 23/02437/F – 1 Stevenson Close, Bicester, Oxon, OX26 2YJ.

The Inspector allowed the Appeal for construction of a pitched roof entrance porch to front elevation. Removal of rear uPVC conservatory and construction of single storey extension. In allowing the appeal, the Inspector concluded that:

The Inspector considered the main issue to be the effect of the proposed porch on the character and appearance of the area.

The Inspector held the porch would be larger than that allowable under permitted development rights, however the rights remain available and therefore the appellant's fall-back position was given weight. In terms of design it was noted, the size would be proportionate to the bungalow, and pitched roof was complementary to the dwelling. Further, due to the fence at no. 11 Buchan Road the porch would only be seen at the head of the cul-de-sac. There are no porches on the street however, regard was given to the porches on adjoining streets.

Based on the above and subject to conditions, the Inspector concluded that the appeal should be allowed.

4.32 22/03868/OUT – Land West Adj to Salt Way and West of Bloxham Road, Banbury.

The appeal was allowed planning permission for a development of up to 60 homes including open space provision, parking, landscaping, drainage and associated works. In allowing the appeal, the Inspector concluded that:

- With respect to the Spatial Strategy, although the site is in the Countryside and therefore there would be conflict with Saved Policy H18, the site would not conflict with Policy BSC1 and the underlying sentiment and aims of it, which is to focus housing on the 2 most sustainable towns in the district (Banbury and Bicester). It would therefore be in line with the guidance in the Framework.
- With regard to Character and appearance, the proposal would not be isolated from, divorced from or poorly related to the Bloxham Vale development. There would be some limited visual intrusion into the countryside, and some harm to its intrinsic character and beauty especially in the early years which would result in conflict with Policy ESD13 and the Framework.
- In terms of the effect on residents, the Inspector was content that some form of access for construction traffic could be secured and that other measures could be agreed to mitigate for other effects arising from construction through the imposition of conditions which would ensure no unreasonable harm to residents in the vicinity. In addition, the additional traffic flows associated with this scheme would not be significant or compromise highway safety or result in unacceptable noise or disturbance for occupiers on the estate.
- The effect of the development on the setting of the listed building would not cause harm to its significance.
- Whilst Officers attempted to secure 35% affordable housing given the development would be outside the built up limits of Banbury (and not on an allocated site), the Inspector concluded that the site would be 'at' Banbury and therefore that 30% affordable housing would be policy compliant.
- The Inspector accepted all matters secured within the Unilateral Undertaking as meeting CIL Reg 122 and that the effect on the town's infrastructure would be appropriately addressed.
- The Inspector found that the effects on ecology and wildlife would be acceptable on the field and the woodland given the various ecological improvements that could be included and that the illustrative details provided show that there is the opportunity for the scheme to be appropriately laid out in design terms.

- Whilst conflict with Policies ESD13 and H18 was found, various benefits were found including the benefit of additional housing which would serve to boost the supply of homes in line with the Framework and the provision of 30% affordable housing which were afforded significant weight especially given the sites location with reasonable access to services and facilities in one of the 2 most sustainable towns in the district. There would also be some economic and environmental benefits.
- The Council considered that a 'flat balance' should be applied as the benefits of the scheme would outweigh any harm and permission should be granted. However, the Inspector engaged paragraph 11(d) and applied the 'tilted' balance as he concluded that Policies BSC1 and H18 are out of date and, in doing this, found that the adverse impacts of the scheme would not significantly and demonstrably outweigh the benefits. Material considerations indicate the decision should be otherwise than in accordance with the Development Plan and so he granted permission subject to conditions and the submitted UU.

4.33 22/03297/F – Willow Cottage, Gravel Pits Lane, Yarnton, Oxon, OX5 1PX.

The Inspector allowed the appeal for the retrospective erection of an outbuilding and change of use of land to domestic resident. In allowing the appeal, the Inspector concluded that:

The Inspector identified the main issue as the effect of the development on the character and appearance of the area.

The Inspector found that the appeal site is surrounded by predominantly residential properties, varying in style and period, and that there is limited consistency of character within the street or surrounding area. The Inspector determined that the outbuilding was not highly visible from the surrounding area, although glimpsed from the private access, from part of Gravel Pits Lane and from some private vantage points. Whilst the choice of materials is not common in the surrounding area, similarly sized outbuildings in the form of garages exist nearby, together with a series of informal and formal car parking areas along the private track. It was considered that the private road was not unadulterated and that it does contain features of a domestic nature. The Inspector concluded that the development had an acceptable effect on the character and appearance of the surrounding area, in accordance with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996.

The Inspector advised that the comments raised in respect of highway safety and private ownership matters did not lead them to an alternative conclusion on the main issue. In addition, there was no substantive evidence that demonstrated the air quality and noise levels are, or would be, compromised due to the small scale and nature of the proposal.

4.34 23/02338/OUT – Land off Lince Lane, Kirtlington, Oxon, OX5 3HE.

The Inspector dismissed the appeal for Erection of 15 detached and semi-detached single and two-storey dwellings (including affordable housing) together with access - re-submission of 22/03049/OUT. In dismissing the appeal, the Inspector concluded that:

The Inspector considered the main issue to be the effect of the proposal on the character and appearance of the area. He separated his considerations into two main sections before considering the disputed housing land supply position:

Settlement pattern

The Inspector noted that the application site has an attractive green and rural appearance, and that the settlement of Kirtlington retains a linear form as identified by the Heritage and Character Assessment (HCA) included in the Mid-Cherwell Neighbourhood Plan (NP). He also noted that the proposal would divide the site from the existing fields. He considered that the proposal would extend the village to the west in an arbitrary protrusion in to the countryside that would not relate to any natural or physical features and would fail to reflect the linear form of the settlement.

Landscape

The Inspector noted that the HCA identifies important views and vistas that the NP requires sensitivity to, including several views across the application site. He disagreed with the findings of the LVIA, considering that it “underplays the magnitude of the proposal” from relevant viewpoints and considered that the proposal would have an urbanising effect on the rural character of the area and significantly harm the views identified by the HCA and NP.

He concluded that the proposal would fail to respond to the distinctive character and pattern of the settlement and would detract from the landscape, and afforded the resultant conflict with Neighbourhood, Local and National Policies substantial negative weight.

Housing land supply

The Inspector summarised the Appellant’s and the Council’s positions regarding housing land supply and considered whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits of providing additional dwellings as required by the tilted balance. He found that the proposal conflicted with the Development Plan as a whole and afforded moderate positive weight to the relatively small number of additional dwellings that would be provided by the scheme. Limited additional positive weight was given to the extra affordable housing that was proposed due to lack of evidence in relation to the area’s affordable housing need. Limited positive weight was afforded to the remaining benefits collectively. Overall, the Inspector therefore concluded that the benefits of the scheme would not outweigh the significant harm caused to the identified views or the conflict with the Development Plan as a whole.

5. Alternative Options and Reasons for Rejection

5.1 None. This report is submitted for information.

6 Conclusion and Reasons for Recommendations

6.1 The report provides the current position on planning appeals for information for Members.

Decision Information

Key Decision	Not applicable
Subject to Call in	Not applicable
If not, why not subject to call in	Not applicable
Ward(s) Affected.	Appeal dependent

Document Information

Appendices	
Appendix 1	None
Background Papers	None
Reference Papers	All documents in respect of the planning appeal
Report Author	Sarah Gevaux, Appeals Administrator Paul Seckington, Development Manager
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