

This report is Public.

Appeals Progress Report

Committee	Planning Committee
Date of Committee	7 November 2024
Portfolio Holder	Portfolio Holder for Planning and Development, Councillor Jean Conway.
Date Portfolio Holder agreed report.	29 October 2024.
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 this report it should be noted that the cost of defending appeals can be costly, with additional risk of significant costs when exceeding the 10% Quality threshold. The spend to date on appeals is £0.499m against an original budget provision of £0.100m. This has meant it has been necessary to call upon the appeals reserve to mitigate the overspend on spend to date. Any further cost incurred in defending appeals will require alternative sources of funding.

	Kelly Wheeler, Finance Business Partner, 28 October 2024			
Legal	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. Cobi Bonani Locum Planning Solicitor 29 October 2024			
Risk Management	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. Celia Prado-Teeling, Performance Team Leader. 29 October 2024.			
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

Written Representations

4.1. New Appeals

Application Number	Location	Description (summary)	LPA Decision:	Start Date
24/01766/PIP	Former Paddocks, Land off Backside Lane, Sibford Gower, OX5 5RS.	Permission in Principle - construction of up to 5no. dwellings.	Delegated Refusal	04.10.2024.
23/01616/F	Leys Farm, Hook Norton, Banbury, OX15 5BZ.	Change of use of land from agricultural to residential and construction of swimming pool with associated landscaping.	Delegated Refusal	08.10.2024.

24/00917/LB	Village Farm, Blackbull Lane, Fencott, Kidlington, OX5 2RD.	Single storey front, rear, end extensions and carport with associated internal/external works.	Delegated Refusal	11.10.2024.
24/01732/F	54 Dashwood Ave, Yarnton, Kidlington, OX5 1NJ	Erection of three-bedroom dwelling to the rear, accessed off Meadow Way (Self-Build).	Delegated Refusal	15.10.2024.

4.2. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/00150/CLUE	Unit 22 Beaumont Close, Banbury	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)	Delegated Refusal	15.06.2023.
22/03245/F	Apollo Office Park, Ironstone Lane, Wroxton	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.	Committee Refusal (Officer recommended refusal)	16.04.2024
23/03078/CLUP	Manor Cottage, Middleton Park, Middleton Stoney	Certificate of Lawfulness of Proposed Development: Repositioning of existing "tarmac" driveway with a gravel driveway.	Delegated Refusal	23.04.2024.

23/02346/F	Birdhouse, 43 Lapsley Drive, Banbury	Demolish conservatory. Single storey rear extension on footprint of existing conservatory. New door to existing side elevation (revised scheme of 23/00257/F)	Delegated Refusal	15.05.2024
23/01960/PIP	Barn Farm Plants Garden Centre, Thorpe Road, Wardington	To develop the site for 7-9 dwellings with associated access, parking and amenity space.	Delegated Refusal	06/06/2024.
24/00698/PIP	81 North Street, Fritwell	Permission in Principle - proposed 7-9 dwellings	Delegated Refusal	27.06.2024
21/02058/FUL	Shelswell Inn, Buckingham Road, Newton Purcell	Erection of Barns	Delegated Refusal	02.07.2024
24/00628/Q56	Quarry Farm, Rattlecombe Road, Shenington	Change of Use and associated building operations to convert existing agricultural building to single dwellinghouse.	Delegated Refusal	09/07/2024.
24/00379/TPO	Rectory Farm, Mill Lane, Upper Heyford	T1 Walnut - overall crown reduction of approximately 1m back from branch tips. 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 Lateral branch spread beyond boundary and into Glebe House curtilage shall not exceed 1m. - subject to TPO 13/2019.	Delegated Refusal	06.07.2024.

23/03376/F	5 Mill Lane, Adderbury, Banbury	Natural ironstone rear extension with natural slate roof incorporating 1 No conservation rooflight, internal alterations, removal of timber shed and replacement with timber garden studio (revised scheme of 16/01819/F).	Delegated Refusal	17.07.2024.
24/00620/F	7 Launton Road, Bicester	Demolition of existing detached garage and erection of new 2-bedroom dwelling. Existing 3-bedroom dwelling to be retained.	Delegated Refusal	19.07.2024
24/00792/F	10 Chestnut Close, Chesterton, Bicester	Single storey side and rear extensions to create a 1 no. new dwelling	Delegated Refusal	30.07.2024.
23/02071/F	Land to Rear of Wheelright Cottage, Main Street, North Newington	New Build Dwelling.	Delegated Refusal	31.07.2024.
23/03109/F	Land Adj to 20 Almond Road, Bicester	Subdivision of land at 20 Almond Road to form site for 2 no. new detached dwellings with associated parking and gardens.	Committee Refusal (Overturn)	31.07.2024.
23/02865/F	Slatters Barn, Epwell Road, Shutford	RETROSPECTIVE - Installation of two shepherd's huts for use as holiday lets and construction of a driveway to the shepherd's huts - re-submission of 22/02411/F.	Delegated Refusal	01.08.2024.
24/005421/F	1 St Peters Crescent, Bicester	Proposed detached two storey dwelling and two number car spaces	Delegated Refusal	07.08.2024.

24/00466/F	15A South Street, Banbury	Alterations and extension to existing house and outbuildings.	Delegated Refusal	20.08.2024
24/00342/F	141 Bismore Road, Banbury	Erection of Single Storey Garage	Delegated Refusal	21.08.2024
24/01225/F	14 Bismore Road, Banbury	Erection of a single-storey flat roof garage at end of driveway into rear garden	Delegated Refusal	21.08.2024
23/02780/F	Land to West of Griffin Gate, Station Road, Blackthorn	Detached dwelling/holiday let and associated works.	Delegated Refusal	27.08.2024
24/01017/F	Vine Cottage, Main Street, Hethe	Replace existing driveway gate with a clad electric hardwood gate.	Delegated Refusal	02.09.2024
21/02028/F	The Coach House, Hanwell Castle, Hanwell	Free-standing garden room in the grounds, to serve existing household	Delegated Refusal	03.09.2024
24/00633/F	14 Sandford Green, Banbury	Demolition of outbuilding and erection of single storey rear extension with sliding door to the rear and 2no roof windows; external walls to be insulated and rendered	Delegated Refusal	03.09.2024
24/00779/F	6 Railway Cottages, Shipton on Cherwell	1m extension to existing ground floor with new first floor extension over - re-submission of 23/03177/F.	Delegated Refusal	06.09.2024
24/00753/F	40 Ardley Road, Fewcott	Removal of existing 1m height 'close boarded' timber fencing and replacement with 1.8m height, including gated	Delegated Refusal	09.09.2024

		vehicular entrance (Retrospective).		
24/01391/F	82 High Street, Banbury	Change of use for the ground floor existing charity shop (Class E1) to a tanning salon (sui generis).	Delegated Refusal	17.09.2024
24/00298/Q56	Malthouse Farm, North Aston Road, Duns Tew	Change of Use of two agricultural buildings to form five dwellinghouses	Delegated Refusal	19.09.2024

Informal Hearings

4.3. New Appeals

Application Number	Location	Description (summary)	LPA Decision:	Start Date

4.4. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/02355/F	Waverley House, Registrar, Queens Street, Bicester	Demolition of existing building and construction of 33 No apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure	Committee Refusal (Overturn)	23.08.2024

Public Inquiries

4.5. New Appeals

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/03428/OUT	Land East of J11 of the M40, (OS Parcel 5616 South West of Huscote	Outline planning application for the construction of up to 140,000 sqm of employment floorspace (use class B8) with	Officers Recommendation. Committee.	14.10.2024.

	Farm and East of Daventry Road, Banbury, Oxon, OX17 2FJ	ancillary offices and facilities and servicing and infrastructure including new site accesses. Internal roads and footpaths, landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse.		
--	---	---	--	--

4.6. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
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.	Committee Refusal (Officer recommended refusal)	07.12.2023 Inquiry Start Date: 08/10/2024 (4 days)

Enforcement Appeals

4.7. New Appeals

Application Number	Location	Description (summary)	LPA Decision:	Start Date

4.8. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
21/00333/ENF	Fairway Cottage, Main Road, Swalcliffe	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'.	Enforcement Notice	10.11.2023 Written Reps
23/00001/ENF	Ashberry Cottage, Duns Tew, Bicester	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)	Enforcement Notice	28.11.2023 Written Reps
20/00295/ENF	16 Almond Avenue, Kidlington	Garage/Garden building converted to residential premises	Enforcement Notice.	13.03.2024 Written Reps

Appeals Results

- 4.9 a) 21/00078/ENF – Cherwell Concrete – Station 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.

Ground (a) - The development is acceptable and deemed permission should be granted.

The enforcement notice followed the refusal of retrospective planning application ref. 21/02214/F at Planning Committee. The Inspector agreed that the development would give rise to an increased noise above background level causing an adverse impact on the living conditions of occupants of a neighbouring dwelling. This impact could not be sufficiently mitigated through conditions such as sound proofing or acoustic barriers. The highway access, particularly the acute angle for entry/egress

in the easterly direction, was unsuitable for HGVs causing an unacceptable effect on highway safety. Due to an absence of information, the Inspector could not conclude there would be no adverse impacts to protected species or ensure preservation of the Oxford Canal wildlife corridor. Consequently, the development was found to be in conflict with the Development Plan and no material considerations outweighed this conflict; the Inspector concluded that deemed permission should not be granted.

Ground (g) – The compliance timeframe is insufficient.

The Inspector agreed that the 3 months compliance timeframe was sufficient, having regard to the highway safety imperative of ceasing the use against the need to safeguard employment and ensure business continuity. The compliance date is 11/12/2024.

4.10 **21/00078/ENF – Mr & Mrs Murphy – Land at Station 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.

Ground (e) – The notice was not properly served on everyone with an interest in the land.

The inspector found that few details were supplied about other tenants and moreover, the 2021 retrospective planning application suggested that the site was not occupied by other tenants at that time. Furthermore, the appellants did not seek to argue that anyone had been prejudiced by not receiving a copy of the notice and therefore that any failure in terms of service should be disregarded.

Ground (b) – The matters have not occurred.

The Inspector found that the appellant did not seek to argue the development had not occurred and therefore the appeal on this ground failed.

Ground (c) – The matters which have occurred do not require planning permission.

The Inspector found that the site's lawful use is Use Class B8 (storage and distribution), and that concrete batching involves manufacturing and industrial processes of significant scale. As a matter of fact, and degree, the concrete batching use fell within Use Class B2 (general industrial). Changing between use classes constitutes development for which no express planning permission had been granted and no permitted development rights applied. Furthermore, the concrete batching apparatus were of sufficient size, permanence and physical attachment to be considered building operations for which no express permission had been granted. The Inspector concluded that both the change of use and associated operational development required planning permission.

Ground (d) – It is too late to take enforcement action.

The Inspector found that the use commenced in early 2021, i.e. well within the period for taking enforcement action.

4.11 **23/02772/PIP - Land Adj And To The West Of Number 42 Green Lane, Upper Arccott.**

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

The Appeal sought Permission in Principle for the construction of up to two dwellinghouses at the site, which is located on the northern outskirts of Arccott to the rear of Green Lane and is bounded to the rear by MOD land. There is woodland to the remaining boundaries and the village playing fields and hall are beyond this to the south. The application was refused on the grounds that the site is outside the built-up limits of the settlement and is therefore an unsustainable location for development. Arccott is a Category A village.

The Inspector acknowledged that the site has historically appeared to be towards the edge of the village but found that the settlement has changed significantly and, by virtue of the continuation of residential development beyond the playing fields, the site is no longer at the edge of the village. The contribution of the undeveloped appearance of the site to preventing coalescence between the village and the MOD land was also acknowledged, however the Inspector considered that the layout could be designed to retain an aspect of openness and was mindful that the woodland beyond the site would also remain. It was therefore considered that there is a clear physical and visual connection with the surrounding built development and that the site is within the built-up limits of the settlement, in light of which the Appeal was allowed."

4.12 **23/03376/F - Cobb Cottage, 5 Mill Lane, Adderbury.**

Natural ironstone rear extension with natural slate roof incorporating 1 No conservation rooflight, internal alterations, removal of timber shed and replacement with timber garden studio (revised scheme of 16/01819/F).

The application was refused due to the impact of the proposal on the neighbouring amenities on outlook, light and overbearingness. The appeal inspector concluded that there will be an impingement on the neighbouring property, however the site was subject to another permission which had similar impact. This permission has since expired. The inspector gave this weight and allowed the appeal.

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
Report Author contact details	Sarah.gevaux@cherwell-dc.gov.uk Paul.seckington@cherwell-dc.gov.uk