

This report is Public.

Appeals Progress Report

Committee	Planning Committee
Date of Committee	5 December 2024
Portfolio Holder	Portfolio Holder for Planning and Development, Councillor Jean Conway.
Date Portfolio Holder agreed report.	27 November 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	<p>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.</p> <p>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.</p> <p>Kelly Wheeler, Finance Business Partner, 21 November 2024</p>

Legal	As this report is purely for information there are no legal implications arising. Kim Maher, Planning Solicitor, 27 November 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, 27 November 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
24/01405/F	Quarry Farm Rattlecombe Road Shenington Oxfordshire OX15 6LZ	Conversion of barn to form a dwellinghouse - self-build	Delegated Refusal	28.10.2024.
24/01489/F	17 Read Place Ambrosden Bicester OX25 2BH	Single storey side extension, flat roof, to add a bedroom for disabled person	Delegated Refusal	29.10.2024.
24/01541/F	Cherry Tree House, 7 Evenlode, Banbury,	Dropped kerb along with tarmac from road to the access in our rear garden. The current fence height will be	Delegated Refusal	04.11.2024.

	Oxon, OX16 1PQ.	lowered to allow safe entry and exit.		
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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.
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.
23/01960/PIP	Barn Farm Planys 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
23/01616/F	Leys Farm, Hook Norton,	Change of use of land from agricultural to residential and	Delegated Refusal	08.10.2024.

	Banbury, OX15 5BZ.	construction of swimming pool with associated landscaping.		
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
21/02028/F	The Coach House, Hanwell	Free-standing garden room in the grounds, to	Delegated Refusal	03.09.2024

	Castle, Hanwell	serve existing household		
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 vehicular entrance (Retrospective).	Delegated Refusal	09.09.2024
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
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
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.

Informal Hearings

4.3. New Appeals

Application Number	Location	Description (summary)	LPA Decision:	Start Date
22/01293/F	Land at Manor View (West of Manor Park) Hampton Poyle, Kidlington, OX5 2PW.	Change of use of land for the creation 2 Gypsy/Traveller pitches, comprising the siting of 1 mobile home, 1 touring caravan, and the erection of 1 dayroom per pitch.	Delegated Refusal	04.11.2024.

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

None

4.6. In Progress/Awaiting Decision

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 Farm and East of Daventry Road, Banbury,	Outline planning application for the construction of up to 140,000 sqm of employment floorspace (use class B8) with ancillary offices and facilities and servicing and infrastructure including new site accesses. Internal roads and footpaths,	Officers Recommendation. Committee.	14.10.2024.

	Oxon, OX17 2FJ	landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse.		
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Enforcement Appeals

4.7. **New Appeals**

None

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

Forthcoming Public Inquiries and Hearings between 5 December 2024 to 7 January 2025.

4.9.

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

Appeals Results

4.10. **24/01017/F - Vine Cottage, Main Street, Hethe, Oxfordshire OX27 8HD**

Replace existing driveway gate with a cladded electric hardwood gate.

Appeal Dismissed

The Inspector stated that the main issue in this case was whether the proposed gate would preserve or enhance the character or appearance of the Hethe Conservation Area. The Inspector concluded that the gates, given their solid nature and height, would result in a loss of openness and 'would also be incongruous and overtly modern, jarring unacceptably with the traditional rurality of the area'. The Inspector was not convinced by any precedent other similar gates within the vicinity would set, arguing that they were the 'exceptions rather than the norm'. The Inspector gave only limited weight to any safety benefits arguing that there would be other schemes that could ensure the safety of the applicant's children.

On the basis of this assessment, the Inspector dismissed the appeal concluding that the proposed gates were not of a high-quality design and would fail to conserve the historic environment.

4.11. **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.

Appeal was Dismissed.

The Inspector concluded that Bloxham is a sustainable settlement capable of supporting growth with the total number of housing in Category A villages not compromising the overall strategy of growth in the District. The site would be capable

of being accessed by alternative modes of transport despite concerns about the distance being well over the guidance for walking.

The appellant had failed to provide certainty or development fixes as part of the outline proposals and as such issues such as flooding and the sequential approach, noise to the neighbouring farm and the future of the current access track were not adequately dealt with. These were issues not raised in a reason for refusal but raises the importance of development fixes in the consideration of the outline applications.

The Inspector largely agreed with the LPA case that there would be harm that would be caused to the character and appearance of the area in particular viewpoints from Hob Hill. The proposal would detract from a key view of Bloxham which has been specifically identified for preservation to assist in protecting the rural character of the village. In this respect it would conflict with the Neighbourhood Plan and Development Plan in particular. It however did not conflict with Policy Villages 2 as there were not significant adverse landscape impacts.

Whilst the Inspector did not come to a conclusion on housing land supply the issue of flood risk was a significant factor which overrides the consideration of the tilted balance in accordance with the NPPF.

There were a number of positive elements weighing in favour of the development, but these were outweighed by the harm identified by the Inspector and the s106 requests sought by the LPA and County Council would have met the CIL tests. The Inspector's conclusions would be salient should planning application 24/01908/OUT (refused by Planning Committee at the meeting in October 2024) be submitted to an appeal.

4.12. **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.

The Appeal was a split Decision.

The Inspector considered the main issues to be the proposal's effect on the character and appearance of the local area and the living conditions of occupiers of 13 Sandford Green, with particular regard to light and outlook.

The Inspector agreed with the Council that the proposed rear extension was acceptable in visual terms but that the existing brickwork was a key characteristic of the estate and that the installation of external insulation and rendering on all outside walls would be visually incongruous and would adversely affect the character and appearance of the area.

However, in respect of the rear extension the Inspector concluded that, given the position of the neighbour's window and the size of their garden, the proposal would not adversely affect their outlook. The Inspector agreed with the Council that, given the orientation of the properties, the extension would lead to some reduction in direct sunlight entering No 13's ground floor rear windows and overshadowing of the garden in front of them, but held that this would not significantly harm the living conditions of No. 13's occupiers.

4.13. 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)

The Appeal was Allowed.

The Inspector determined the appeal on the basis of amended plans that show an extension of reduced dimensions from the one originally submitted with the application.

The Inspector considered the main issue to the proposal's effect on the living conditions of the occupiers of 45 Lapsley Drive, with particular regard to light and outlook.

The Inspector considered that, while No 45 and its garden are modest in width, the extension would extend along only part of the boundary between the properties and concluded that the proposal would not harm the living conditions of the occupiers of 45 Lapsley Drive.

4.14. 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.

The Appeal was Dismissed.

The Inspector considered the main issues to be (a) whether the appeal site is a suitable location for the proposed development, with particular regard to the scale, character and appearance of the surrounding area and vehicle journeys; and (b) the proposal's effect on existing trees.

The Inspector noted that while adjacent to the existing office park the site forms part of the open countryside in a rural location. The Inspector found that Policy SLE1 is broadly consistent with the NPPF in that there is some flexibility for development of an appropriate scale in rural areas provided that exceptional circumstances are demonstrated.

The Inspector noted that the Council had not disputed the Appellant's evidence regarding the apparent level of demand for the proposed new units, but also noted that the Appellant had not demonstrated evidence for why the countryside location was required or that employees would come from the nearby rural area, and noted that (1) the proposed uses could be considered appropriate within established industrial areas or within or on the edge of the nearest settlement, and (2) that no comparative assessment between the transport links in established sites and the appeal site had been put forward.

The Inspector also agreed with the Council that the proposal was by definition a single major development, that unless it could be demonstrated there would be no

significant adverse impacts on the character of the area the development should be small scale, and that the proposal was not small scale.

The Inspector was not convinced that there would be sufficient room within the site to satisfactorily screen views of the proposal and that it would be an incongruous incursion into the surrounding area.

Overall, the Inspector concluded that the appeal site is not an appropriate location for the proposed development, having regard to (i) character and appearance of the surrounding area and (ii) vehicle movements, and that the proposal would conflict with Policies ESD1 and SLE1, and would conflict with paragraph 114 in not promoting sustainable transport modes and paragraph 135 in terms of landscape impact.

The Inspector also found that the removal or loss of trees would reduce the screening of the development and increase its urbanising effect and exacerbate its visual harm and concluded that in the absence of information the proposal would have a harmful effect on existing trees and failed to accord with Policy ESD10 and paragraph 136 of the NPPF.

The Inspector afforded significant weight to the identified harm, moderate weight to the suggested benefits and limited weight to the proposals' energy efficiency and biodiversity net gain, concluding overall that the cumulative harms and related policy conflict outweighed the benefits.

4.15. 19/02554/DISC / 19/02553/DISC – The Unicorn, Market Place, Banbury, OX16 5JJ.

Discharge of conditions 3, 4, 5, 7, 8, 9 and 10 of planning permission 16/01661/F and listed building consent 16/01662/LB.

Split Decision

The Inspector referred to the considerable discussion at the hearing as to the scope of the Inspector's determinations. It was clarified that condition 7 of both consents and condition 8 of the LB consent had already been discharged, that conditions 8 and 9 had been removed by a separate planning permission and condition 10 of the LB consent was a statement condition. The Inspector noted the appellant's contention at the hearing that condition should also be considered but held that it did not form part of her determinations.

The Inspector confirmed that there was nothing to prevent her from making a decision on the discharge of conditions applications irrespective of whether the permissions had expired and that she was confining her deliberations to an assessment of the details forming part of the applications, i.e. conditions 3, 4 and 5 of the planning permission and conditions 3, 4, 5 and 9 of the listed building consent.

The Inspector found that the information submitted was not sufficiently precise in respect of condition 3 and that no samples had been supplied to the Council and noted the Appellant's agreement that no samples had been by the Council on site. The Inspector concluded that the requirements of condition 3 had not been met.

Also, for reasons set out in detail in her decision, the Inspector found that the requirements of condition 9 of the LB consent had not been met.

Various details had not been seen by the Council until the hearing, the Inspector having adjourned the hearing for an hour to allow the Conservation Officers to consider these details.

In assessing the details during the hearing, the Conservation Officers were content with some elements provided in respect of condition 5, but not for the other conditions.

The Inspector concluded that the details submitted at the hearing met the requirements of Conditions 4 and 5 and were acceptable, but that the details submitted in respect of conditions 3 and 9 were inadequate and that the development would be contrary to the relevant local plan policies and sections of the NPPF as well as the requirements of the relevant legislation.

At the hearing the appellant contended that a similar level of detail in respect of the Woolpack Inn and 16 Market Place had been considered acceptable, but the Inspector found there was insufficient evidence in this respect and in any event noted that listed buildings by their nature are unique and it does not automatically follow that what may be an acceptable level of detail in relation to one listed building will be equally applicable to others.

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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Corporate Director Approval (unless Corporate Director or Statutory Officer report)	Ian Boll - Corporate Director for Communities 27 November 2024