

Cherwell District Council

Planning Committee

15 June 2023

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

The meeting is recommended:

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

2.0 Introduction

- 2.1 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

New Appeals

- 3.1 **22/02403/F – 19 Fairford Way, Bicester, Oxon, OX26 4YG.**

RETROSPECTIVE - Change of Use from amenity land to domestic garden and erection of fence along the boundary line adjacent to footpath.

Officers Recommendation: Refusal.

Method of Determination: Written Representation.

Start Date: 18.05.2023.

Appeal Reference: 23/00073/REF

- 3.2 **22/02969/F – Attock Ho., Church Lane, Horton-Cum-Studley, Oxford, OX33 1AW**

Ground floor extension to the rear with a green roof and roof light.

Officers Recommendation: Refusal.

Method of Determination: Written Representation (Fast Track)

Start Date: 18. 05.2023.

Appeal Reference: 23/00074/REF

New Enforcement Appeals

None

Appeals in Progress

3.3 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.

Appeal reference: 21/00037/REF

3.4 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.

Appeal reference: 21/00036/REF

3.5 22/00173/CLUP – 15 Arccott 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.

Appeal reference: 22/00023/REF

3.6 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

3.7 **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

3.8 **21/01630/OUT – Firethorne Development Ltd – Land at Northwest Bicester, Home Farm, Lower Farm and SGR2 Caversfield.**

Outline planning application for up to 530 residential dwellings (within Use Class C3), open space provision, access, drainage and all associated works and operations including but not limited to demolition, earthworks, and engineering operations, with the details of appearance, landscaping, layout, and scale reserved for later determination.

Officer Recommendation: Refusal.
Method of determination: Inquiry.
Start Date: 16.02.2023.
Appeal Reference Number: 23/00062/NON

3.9 **21/03066/OUT – Land North of Banbury Road, Finmere, MK18 4BW**

OUTLINE application for up to 30 Dwellings and detailed access from Banbury Road, with all other matters reserved.

Officers Recommendations: Refusal (Committee)
Method of Determination: Hearing.
Start Date: 09/03/2023.
Appeal Reference: 23/00065/REF

3.10 **22/01354/OUT – 6 Goldsmith Close, Bicester, Oxon, OX26 2XT**

OUTLINE application - Proposed new single dwelling to side garden of the existing property (Resubmission of 21/01041/OUT)

Officers Recommendation: Refusal (Delegated).
Method of Determination: Written Representation.
Start Date: 13/03/2023.
Appeal Reference: 23/00066/REF

3.11 **22/01772/PIP – Land to Rear of Bridge House, Wendlebury, Oxon, OX25 2PW.**

Residential development of 2-3 dwellings.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation
Start Date: 13/03/2023.
Appeal reference: 23/00067/REF

3.12 22/01645/OUT – Part of OS Parcel 01621, Fulwell Road, Finmere, MK18 4AS

Outline application for the erection of 5 dwellings with all matters reserved except for the principal means of access to Fulwell Road.

Officers Recommendation: Refusal.
Method of Determination: Written Representation.
Start Date: 27.03.2023.
Appeal Reference: 23/00068/REF

3.13 22/01696/LB – Rectory Farmhouse, Back Lane, Epwell, Banbury, OX15 6LG

Insertion of a dormer window to roof of existing lean-to extension to rear of listed farmhouse.

Officers Recommendation: Refusal
Method of Determination: Written Representation.
Start Date: 20.04.2023.
Appeal Reference: 23/00070/REF

3.14 22/02133/F – 18 Fairford Way, Bicester, OX26 4YG

RETROSPECTIVE – Replacement of 7FT high, 5FT wide conifer hedge with 3 fence panels with concrete posts.

Officers Recommendation: Refusal.
Method of Determination: Written Representation.
Start Date: 26.04.2023.
Appeal Reference: 23/0007/REF.

Forthcoming Public Inquiries & Hearings between 18 May 2023 - 15 June 2023

3.15 21/01630/OUT – Firethorne Development Ltd - Land at Northwest Bicester Home Farm, Lower Farm and SGR2 Caversfield.

Outline planning application for up to 530 residential dwellings (within Use Class C3) open space provision, access, drainage and all associated works and operations including but not limited to demolition, earthworks, and engineering operations, with the details of appearance, landscaping, layout, and scale reserved for later determination.

Officer Recommendation: Refusal (Committee).
Method of determination: Inquiry.
Start Date: 16.02.2023.
Appeal Reference Number: 23/00062/NON.
Date of Inquiry: 06.06.2023 -16.06.2023 (8 Day).

3.16 **21/03066/OUT – Land North of Banbury Road, Finmere, MK18 4BW**

OUTLINE application for up to 30 Dwellings and detailed access from Banbury Road, with all other matters reserved.

Officers Recommendations: Refusal (Committee)

Method of Determination: Hearing.

Start Date: 09/03/2023.

Appeal Reference Number: 23/00065/REF

Date of Hearing: 14.06.2023.

Appeal Results

3.17 **20/01122/F – The Planning Inspector dismissed the appeal by Mr Patrick Foster for a 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 at OS Parcel 9635 Northeast of HM Bullington Prison Widnell Lane, Piddington**

Method of determination: Hearing

Hearing Date: Tuesday 22nd November 2022

Hearing Venue: River Cherwell Meeting Room, Bodicote House

Start Date: 08.10.2021

Appeal reference: 21/00033/REF

The appeal site is a site which has a history of applications and appeals relating to the proposed development.

The Council lost the argument on the matter of whether the proposals could be mitigated in terms of the character of the countryside as it was felt that neighbouring land (within the appellant's ownership) could be utilised to mitigate the impacts. The Inspector also dealt with a recent Court case on the definition of the Gypsy and Traveller communities and raised concerns about the Council's Gypsy, Traveller and Travelling Showpeople Accommodation Assessment, 2017 (GTAA). The Inspector concluded that there was a likely increase in the need for pitches across the district, particularly with the closure of some sites (e.g., Newlands Caravan Park and the Station site in Banbury). Further work will therefore be needed soon to address the matters raised on need to provide robust evidence for future applications and appeals.

The appeal follows a similar appeal dismissal on neighbouring land which was also dismissed on matters relating to protected species. The information submitted with the appeal was generally considered out of date and more recent evidence presented by the appellant was not specific to the site or the proposals. On Flood Risk the Inspector noted and agreed with the submissions of the LLFA which was different to the position previously held on neighbouring sites.

The Inspector concluded that matters relating to protected species and flood risk were matters which outweighed the modest benefits of the proposals and dismissed the appeal. The Local Planning Authority also applied for costs and whilst the Inspector noted the concerns raised, he did not consider that the behaviour of the appellant merited an award of costs in this instance.

3.18 **21/03190/F - The Inspector dismissed the appeal by Sharon Haddy and Mandy Borton for the erection of a dwelling, detached garage, widening of vehicular access and all associated works at Land North of Camp Road, East of Holly Trees and 1 Jalna Lodge, Upper Heyford**

Method of determination: Written representation

Start Date: 21.06.2022

Appeal Reference: 22/00034/NON

The Inspector identified the main issues as whether the site is a suitable location for development with regard to the Council's spatial strategy for the area, and the effect of the proposal on the significance of the Rousham Conservation Area and setting of the Upper Heyford Conservation Area.

The Inspector found that the site was not within the built-up limits of the village, although the proposal would not result in a new isolated home in the countryside given that it would be located on the edge of Upper Heyford village and within walking distance of Heyford Park, providing access to a range of local facilities and services. The site is also in very close proximity to a bus stop on Camp Road providing services to Bicester, thus supporting local services and helping to enhance and maintain the vitality of the rural communities. However, the Inspector had no substantive evidence of an essential need for the proposed dwelling, and it would therefore be contrary to the Council's spatial strategy and conflict with saved Policy H18 of the CLP 1996 and Policy ESD 1 of the CLP 2015.

With regards to the Conservation Areas, the Inspector found that the site in its current undeveloped form makes a positive contribution to both the Rousham Conservation Area and the Upper Heyford Conservation Area. The site is beyond the edge of a settlement and despite not being farmed, it has an open and rural character which adds to the significance of both Conservation Areas. The dwelling, domestic curtilage and boundary treatments would be prominent, and would encroach into the open countryside setting of the village and would not relate to the historic linear pattern of the settlement, harming the significance of the Rousham Conservation Area and the setting, and significance, of the Upper Heyford Conservation Area. The harm would be less than substantial. The public benefits arising from the scheme were deemed to be modest and did not outweigh the harm identified.

3.19 **22/01908/TEL56 – The Inspector allowed the appeal by CK Hutchison Networks (UK) Ltd for the Proposed 5G telecoms installation: H3G street pole and additional equipment cabinets at Street Record, Lucerne Avenue, Bicester.**

Officer Recommendation: Refusal

Method of Determination: Written Representation

Start Date: 13.02.2023

Appeal Reference Number: 23/00059/REF

The Inspector identified the main issues being the effect of the proposed mast on living conditions at nearby properties with particular regards to matters of outlook and visual impact.

On visiting the site, the inspector found that the boundary hedge is about 6m tall, and quite broad and dense. The nearby trees are of varying heights, with some, a good deal taller, although spaced with gaps between in some cases. All were in full leaf, and although this would be different in winter, the inspector found that even then, the hedge

in particular would be likely to continue to provide a considerable amount of screening, due to its breadth and density.

Although the mast proposed would be taller than either the hedge or the trees, it was found that the screening would still be highly effective in relation to many potential viewpoints, and especially those closest to the site itself. In addition, as well as providing screening, the inspector saw that the vegetation has the effect of creating a clear visual and physical separation between the housing areas and the roadside environment of Lords Lane. This sense of separation is further reinforced by the design and layout of the dwellings, with the main focus being directed inwards towards the shared, enclosed spaces of the access ways, rather than beyond.

In summarising, the Inspector concluded that the effect of the mast would be neither unduly imposing or overbearing and that living conditions would thus materially be unharmed. In addition, that the development would comply with the relevant development plan policies and advance the NPPFs aims for the expansion of advanced telecommunications networks in the national interest.

3.20 **21/02573/F – The Inspector Dismissed the appeal by GG Oxford Investment Ltd for the proposed Demolition of existing building and erection of building to form 48 no apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure at Waverley House, Queens Avenue, Bicester, OX26 2PY.**

Officer Recommendation: Refusal

Method of Determination: Hearing

Hearing Date: 18th April 2023

Hearing Venue: John Paul II Centre, Bicester

Start Date: 24.01.2023.

Appeal Reference: 23/00054/REF

Following the withdrawal of two reasons for refusal (one relating to drainage, the other relating to planning obligations), the appeal dealt with the three remaining reasons for refusal which were:

(i) the effect of the proposed development on the character and appearance of the area, having particular regard to the setting of the adjacent Locally Listed Building and the Bicester Conservation Area.

(ii) whether the demolition and loss of the Locally Listed Building on the site would be acceptable and its impact on the setting of the adjacent Locally Listed Building and the Bicester Conservation Area; and

(iii) whether the proposed development would make appropriate provision for off-street visitor parking in the interest of highway safety.

The Inspector upheld the majority of Council's objections to the scheme, as set out in these reasons for refusal. He concluded that:

- The proposal would have a harmful effect on the character and appearance of the area, including the setting of the adjacent Locally Listed Building at the Police House and the Bicester Conservation Area.
- The proposal would have an unacceptable impact on highways safety and would lead to on-street parking.

Disappointingly, the Inspector attributed a low degree of harm to the loss of this Non-Designated Heritage Asset, and accepted the appellant's argument that, due to viability constraints (at the time he made his decision), there is no reasonable prospect of this building being converted. The Inspector also reached a view that an additional third storey (the current building is two storeys) being introduced to a development on this site "*would not necessarily be harmful in principle*".

The Appellants had lodged an application for costs against the Council which case officers rebutted. The Inspector refused the appellants costs application.

The Council's Five Year Housing Land Supply position was also discussed at the appeal. The Inspector concluded, in paragraph 64 of his decision letter, that the Council is able to demonstrate a Five Year Housing Land Supply.

Overall, the Inspector found there to be insufficient public benefit arising from this proposal to offset the identified harm that the scheme would bring.

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:

Kelly Wheeler-Finance Business Partner, 01295 221570

Kelly.wheeler@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:

Shahin Ismail, Interim Deputy Monitoring Officer – shahin.ismail@cherwell-dc.gov.uk

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. Any arising risk will be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary.

Comments checked by:
Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556
Celia.Prado-Teeling@Cherwell-dc.gov.uk

7.3 **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, Performance & Insight Team Leader, 01295 221556
Celia.Prado-Teeling@Cherwell-dc.gov.uk

8.0 **Decision Information**

Key Decision:

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

Wards Affected

Various, depending on appeal.

Links to Corporate Plan and Policy Framework

N/A

Lead Councillor

Councillor Dan Sames, Portfolio Holder for Planning & Development

Document Information

Appendix Number and Title

None

Background papers

None

Report Author and contact details.

Sarah Gevaux, Appeals Administrator, sarah.gevaux@cherwell-DC.gov.uk

Paul Seckington, Development Management paul.seckington@cherwell-gov.uk