

Cherwell District Council

Planning Committee

5 October 2023

Appeals 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 **23/00662/F - The Pheasant Pluckers Inn, Burdrop, Banbury, OX15 5RQ**

RETROSPECTIVE - Change of Use of public house (Sui Generis) to hotel/bed and breakfast (Class C1)

Officers Recommendations: (Application did not pass Validation)

Method of Determination: Written Representations

Appeal against non-determination

Start Date: 13/09/2023

Appeal reference: 23/00092/NON

- 3.2 **22/02866/OUT – Land East of Ploughly 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)
Hearing Date: 21/11/2023.
Hearing Venue: Council Chambers.
Planning Reference: 22/02866/OUT
Appeal Reference: 23/00091/REF
Start Date: 22/08/2023.

3.3 22/03802/OUT - Part Of OS Parcel 8752 East Of Combe Cottage And South Of St Johns Way, Hempton Road, Hempton.

Outline planning application for the erection of up to 9 dwellings and creation of associated vehicular and pedestrian access onto Hempton Road, highway improvements, parking, landscaping, drainage features, open space, and associated infrastructure, with all matters to be reserved except new vehicular access into the site from Hempton Road - all matters reserved except for access.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Hearing (1 Day)
Hearing Date: 14/11/2023.
Hearing Venue: Council Chambers.
Planning Reference: 22/03802/OUT
Appeal Reference: 23/00091/REF
Start Date: 22/08/2023.

New Enforcement Appeals

3.4 None

Appeals in Progress

3.5 22/02104/F - Land to The Rear of No.12 And South of Dismantled Railway, Heath Close, Milcombe, OX15 4RZ.

Erection of 35 two storey dwelling houses, construction of access off Rye Hill, together with garaging, parking, open space with LAP, landscaping and all enabling works.

Officers Recommendation: Refusal (Committee)
Method of Determination: Hearing. (1 Day)
Hearing Date: 18/10/2023.
Application Reference: 22/02104/F
Appeal Reference: 23/00088/REF
Start Date: 08.08.2023.

3.6 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.

3.7 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

3.8 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

3.9 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 22/02969/F – Attock House, 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

3.11 22/02637/F – Chapel Cottage, Wroxton Lane, Horley, Banbury, OX15 6BD.

Single-storey rear extension, removal of an existing door to create opening and removal of the window, and cut down of wall to FFL. (resubmission of 21/02720/F)

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representation.
Start Date: 15.06.2023.
Appeal Reference: 23/00078/REF

3.12 23/00519/F – 44 Shearwater Drive, Bicester, OX26 6YS.

Extension to domestic dwelling – extend at the rear and side of property to create open plan kitchen and orangery to the ground floor and additional two bedrooms to the first floor above the garage.

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representation.
Start Date: 15.06.2023.
Appeal Reference: 23/00079/REF

3.13 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

3.14 22/03215/PIP – Land West of School Lane & Foxden Way, Great Bourton, Bourton.

Application for permission in principle for the proposed development of 4-5 bungalows

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 16.06.2023.
Appeal Reference: 23/00082/REF

3.15 21/01561/F - Allotment Gardens West Of Roebuck Inn And South East Of The Blinking Owl PH, Banbury Road, North Newington, OX15 6AB.

Erection of one detached dwelling and detached garage

Officers Recommendation: Refusal (Committee)
Method of Determination: Written Representation.
Start Date: 19.06.2023.
Appeal Reference: 23/00084/REF

3.16 **23/00149/F – 3 Byron Way, Bicester, Oxon, OX26 2YP**

Single Storey Detached Garage.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 16.06.2023.
Appeal Reference: 23/00063/REF

3.17 **22/02832/TEL56 - Telecommunications Cabinet CWL18723 H3G Network, The Hale Chesterton.**

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

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 22.06.2023.
Appeals Reference: 23/00085/REF.

3.18 **22/00998/F - Land North East Of Fringford Study Centre Adjoining Rectory Lane, Fringford.**

Erection of a 4-bedroom detached dwelling with garage and access.

Officers Recommendation: Refusal (Committee)
Method of Determination: Written Representation.
Start Date: 27.06.2023.
Appeal Reference: 23/00086/REF

3.19 **22/01980/F - The Paddock, Main Street, Great Bourton, Yarnton, Kidlington**

Change of Use of land to mixed use for keeping of horses (existing) and as a residential caravan site for 3 gypsy/traveller families, each with a static caravan/mobile home, together with storage of touring caravan and laying of additional hardstanding.

Officer recommendation: Refusal.
Method of determination: Hearing.
Hearing Date: 03.10. 2023.
Hearing Venue: Council Chambers, Bodicote House.
Start Date:05.04.2023.
Appeal Reference: 23/00079/REF

3.20 **22/03741/F – Land Adj to Wise Crescent, Opposite The Laurels, Fringford, Oxon, OX27 8DZ.**

Erection of 6 one and a half and two storey dwellings, with the construction of new access and footpath, together with carports, parking, landscaping and all enabling works

Officers Recommendation: Refusal (Delegated)
Method of determination: Hearing
Hearing Date: 25.10.2023
Hearing Venue: Council Chambers, Bodicote House
Application Reference: 22/03741/F
Appeal Reference: 23/00087/REF
Start Date: 11.07.2023.

3.21 20/00236/ENF - Ambrosden Post Office and Newsagents, Post Office, Merton Road, Ambrosden, Bicester, OX25 2LX.

Breach of Condition 8 - 01/00694/F – Parking.

Officers Recommendation: Enforcement Notice.
Method of Determination: Written Representation.
Start Date: 13th September 2022
Appeal Reference: 22/00043ENF

3.22 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

3.23 22/02773/F – 4 Manor Road, Fringford Bicester, OX27 8DH.

First floor extension above existing lounge; extension to rear of existing garage to provide utility/workshop space with home-working office above and link to main house. New pedestrian access gate to front. PV panels to new south facing roof. New external boiler, oil tank and rainwater harvesting tank.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Householder Appeal (HAS)
Start Date: 15.06.2023.
Appeal Reference: 23/00076/REF

Forthcoming Public Inquiries and Hearings between 6 October and 2 November 2023

3.24 22/01980/F - The Paddock, Main Street, Great Bourton, Yarnton, Kidlington

Change of Use of land to mixed use for keeping of horses (existing) and as a residential caravan site for 3 gypsy/traveller families, each with a static caravan/mobile home, together with storage of touring caravan and laying of additional hardstanding.

Officer recommendation: Refusal.
Method of determination: Hearing.
Hearing Date: 03.10. 2023.
Hearing Venue: Council Chambers, Bodicote House.
Start Date:05.04.2023.
Appeal Reference: 23/00079/REF

3.25 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: 1 day Hearing.
Hearing Date: 17.10.2023
Hearing Venue: Council Chambers, Bodicote House
Start Date: 09/03/2023.
Appeal Reference: 23/00065/REF

3.26 22/03741/F – Land Adj to Wise Crescent, Opposite The Laurels, Fringford, Oxon, OX27 8DZ.

Erection of 6 one and a half and two storey dwellings, with the construction of new access and footpath, together with carports, parking, landscaping and all enabling works

Officers Recommendation: Refusal (Delegated)
Method of determination: Hearing
Hearing Date: 25.10.2023
Hearing Venue: Council Chambers, Bodicote House
Application Reference: 22/03741/F
Appeal Reference: 23/00087/REF
Start Date: 11.07.2023.

Appeal Results

3.27 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

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 open frontages and planted areas contribute positively and significantly to the character of the area, resulting in an open and leafy character where openness and soft landscaping is a striking and positive feature.

This was an obvious and planned feature of the area and arises from the original planning permission. The Inspector considered that compared to the strong and prevailing open character of the frontages within the area, the fence appears significantly out of place and is contrary to the identified character. Rather than appearing as a green and natural feature, as a hedge may have done, it appears harsh and presents a hard-edged frontage.

The Inspector did not accept that the erection of the fence is the only means of resolving issues with regard to the poor state of the previous hedge, litter and dog fouling. The appellant's concerns in this respect were not considered to outweigh the negative effects that the fence has on the area. The Inspector concluded that the development is contrary to Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996.

3.28 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

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 open frontages and planted areas contribute positively and significantly to the character of the area, resulting in an open and leafy character where openness and soft landscaping is a striking and positive feature. This was an obvious and planned feature of the area and arises from the original planning permission.

The Inspector considered that compared to the strong and prevailing open character of the frontages within the area, the fence appears significantly out of place and is contrary to the identified character. Rather than appearing as a green and natural feature, providing space between the pavement/road and the boundary of the gardens, it appears harsh and presents a hard edge to the back of the pavement.

The Inspector did not accept that the erection of the fence and the enclosing of the area is the only means of resolving issues with regard to the poor state of the previous wall, litter and dog fouling. The appellant's concerns in this respect was not considered to outweigh the negative effects that the development has on the area. The Inspector concluded that the development is contrary to Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996.

3.29 22/02000/TEL56 – Area of Grass Verge, Peregrine Way, Langford Village, Bicester, Oxon, OX26 6XB.

Proposed 5G telecoms installation: 16m street pole and 3 additional ancillary equipment cabinets and associated ancillary works.

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representations
Start Date: 06.06.2023.
Appeal reference: 23/00075/REF

The Inspector identified the main issues as the effect of the proposal on the character and appearance of the area and the living conditions of the occupants of neighbouring residential properties with regard to outlook.

The Inspector found that there are long clear views along Peregrine Way with low level planting and the backdrop of the dwellings providing only very limited visual mitigation to the proposed mast. However, given its height, the mast would still project well above the surrounding dwellings and be seen clearly against the skyline. The Inspector considered that the mast would be seen as a prominent feature by local residents, road users and pedestrians. Further, the mast would be much taller and bulkier than the lamp columns which lie nearby and its height would set it apart from other street furniture. The Inspector considered that the mast would appear as an intrusive feature and would harmfully detract from the character and appearance of the area. The Inspector recognised that policies and decisions should support the expansion of the communications network, however, this must be balanced against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative of the Framework for development to achieve well designed places for the long term. From what the Inspector had seen and read there appeared to be no obvious alternative sites that might be suitable and available.

The Inspector did not consider that the proposal had been sympathetically design as required by the Framework and concluded that the development would be harmful to the character and appearance of the area and does not consider that harm to be outweighed by the support in the Framework for high quality communications when weighed against the Development Plan harm and the wider requirements of the Framework. With regard to the effect of the proposal on the character and appearance of the area, the Inspector considered the proposal to be contrary to the aims of Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28, C30 and C39 of the Cherwell Local Plan 1996 and paragraph 126 of the Framework.

With regard to the living conditions of the occupants of neighbouring residential properties in terms of outlook, the Inspector considered that the proposed mast would be clearly visible from the ground and first floor windows in the rear elevations of 1 Falcon Mead and 19 Partridge Chase. Whilst the Inspector acknowledged that the lower part of the proposed mast would be screened by landscape features in the rear gardens of these properties, the top portion would be clearly visible from within the properties and their rear gardens, at close range, appearing as a prominent and incongruous feature on the skyline, causing harm to the occupant's outlook. Whilst the Inspector considered the impact upon outlook from properties on Merlin Way to be more limited due to the greater distances involved, the proposed mast would be visible, against the skyline, when viewed from their rear facing windows and their respective gardens, causing harm to the outlook of the occupants of those properties. The Inspector concluded that the proposal would be contrary to the aims of Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and paragraph 130 of the Framework.

The Inspector also commented on concerns raised with regard to the potential effects on health, particularly the proximity of the proposed monopole to residential properties, although the appellant had provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The Inspector considered that in these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. Further, the Inspector commented that no sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

3.30 **22/03716/F – Jackdaw, Horton-Cum-Studley, Oxford, OX33 1AY.**

Erection of a close boarded timber fence on western boundary (Retrospective)

Officers Recommendation: Refused (Delegated)

Method of Determination: Written Representation.

Start Date: 15.06.2023.

Appeal Reference: 23/00077/REF

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 properties in the vicinity of the appeal site were generally enclosed at the fronts with the predominant form of boundaries being stone walls or hedging, and that timber fencing is not a common feature of the streetscene. The Inspector considered that the fencing is a prominent feature in the streetscene and it is clearly visible from both Horton Hill and The Green, appearing stark and at odds with the other boundary treatments in the vicinity of the site. The Inspector considered that the appellant's need for privacy and security, and to prevent parking on his land, could be addressed by other types of boundary treatment.

The Inspector concluded that the fence is out of character and unacceptably harmful to the appearance of the area, conflicting with the provisions of Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

4.0 Conclusion and Reasons for Recommendations

- 4.1 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

- 6.1 None. This report is submitted for information.

7.0 Implications

Financial and Resource Implications

- 7.1 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

Legal Implications

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

Comments checked by:
Shiraz Sheikh, Assistant Director of Law and Governance and Democratic Services and Monitoring Officer
shiraz.sheikh@cherwell-dc.gov.uk

Risk Implications

- 7.3 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

Equalities and Inclusion Implications

- 7.4 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 Daniel Sames, Portfolio Holder for Planning

Document Information

Appendix number and title

None

Background papers

None

Report Author and contact details

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