

Cherwell District Council

Planning Committee

11 January 2024

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 22/03626/F – Land North of Burycroft Road, Book Norton, Banbury.

Erection of a single detached dwelling, associated garage, access and new landscaping.

Officers Recommendation: Refusal (Delegated)

Method of Determination: Hearing (1 Day)

Hearing Date 6th February 2024.

Application Reference: 22/03626/F

Appeal Reference: 23/00106/REF

Start Date: 24.11.2023.

3.2 23/01414/F – 1 Benmead Road, Kidlington, Oxon, OX5 2BZ.

RETROSPECTIVE - Replacement of hedge with fence

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representative (Householder Fast Track)
Application Reference: 23/01414/F
Appeal Reference: 23/00105/REF
Start Date: 22.11.2023.

3.3 23/01634/F – Ashberry Cottage, Duns Tew, Bicester, OX25 6JS.

Front porch with associated internal and external works.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Application Reference: 23/01634/F.
Appeal Reference: 23/00109/REF
Start Date: 29.11.2023.

3.4 23/01316/F – Land South of Farady House, Woodway Road, Sibford Ferris, OX15 5RF.

Erection of 5no two storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representations.
Application Reference: 23/01316/F
Appeal Reference: 23/00110/REF
Start Date: 04.12.2023.

3.5 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: Written Representations.
Application Reference: 19/02554/DISC
Appeal Reference: 23/00011/REF

3.6 22/03719/OUT – Land at Lince Lane, Kirtlington, OXON, OX5 3JY

Erection of 9 no new Live/ work Units, each with C3 Residential and integral B1 Office - on former Quarry land/more recently agricultural use site - all matters reserved except for access.

Officers Recommendation: Refusal. (Delegated)
Method of Determination: Written Representations.
Application Reference: 22/03719/OUT
Appeal Reference: 23/00112/REF

3.7 23/01952/F – 1 Elizabeth Rise, Banbury, Oxon, OX16 9LZ.

Single and two storey front extensions, first floor side extension and single and two storey rear extensions, removal of chimney on south-west elevation (revised scheme of 22/03323/F and 23/01059/F)

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representations (HAS)
Application Number: 23/01952/F
Appeal Reference: 23/00113/REF

3.8 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

New Enforcement Appeals

3.9 23/00001/ENF – Ashberry Cottage, Duns Tew, Bicester, 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.

Appeals in Progress

3.10 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.

3.11 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.

3.12 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

3.13 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

3.14 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

3.15 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

3.16 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.

3.17 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.

3.18 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

3.19 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

3.20 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.

3.21 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.

3.22 23/0086/FULL – 67 Oxford Road, Banbury, Oxon, OX16 9AJ

Conversion from 10-bed HMO to 12-bed HMO (Sui Generis) (Resubmission of 23/00120/F)

Confirmation of Valid Appeal by PINS. Awaiting Start Letter.

3.23 22/03698/TEL – Area of Grass Verge, Austins Way, Hook Norton.

5G telecoms installation: H3G 15m street pole and additional equipment cabinets.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representations.
Start Date: 20.09.2023.
Appeal Reference: 23/00094/REF

3.24 23/000176/F – 1 School Paddock, Bucknell, OX27 7LR.

Variation of Condition 2 (plans) of 21/03977/F - minor alteration to position of the garage, small increase in width, modest increase in ridge height.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 21.09.2023.
Appeal Reference: 23/00095/REF

3.25 23/00065/OUT – Land North of Ells Lane, Bloxham, Banbury, Oxon.

Outline planning permission for up to 30 dwellings including access off Ells Lane and demolition of the existing stabling on site - All Matters Reserved except for access.

Officers Recommendation: Refusal (Committee)
Method of Determination: 1 Day Hearing.
Start Date: 02.10.2023.
Appeal Reference: 23/00097/REF

3.26 23/00797/ADV – Land on South West Side of Gatteridge Street, Banbury, OX16 5DH.

Erection of 1no internally illuminated freestanding digital advertisement display.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation (CAS)
Start Date: 25.10.2023.
Appeal Reference: 23/00099/REF.

3.27 22/03445/F – The Bungalow, 2 Queen Street, Bloxham, Banbury, OX15 4QQ.

Single storey reduced level extension to existing bungalow, with associated landscaping.

Officers Recommendation: Refused (Committee)
Method of Determination: Written Representations (HAS)
Start Date: 27.10.2023.
Appeal Reference: 23/00100/REF.

3.28 22/02551/F – 15 Farmfield Road, Banbury, Oxon, OX16 9AP.

Demolition of 2 garages and replacement with 2 x 2-bedroom semi-detached dwellings, with access off Beechfield Crescent.

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representations.
Start Date 31.10.2023.
Appeal Reference: 23/0010/REF.

3.29 21/03522/OUT - Os Parcel 3673 Adjoining And West Of 161 Rutten Lane, Yarnton, OX5 1LT.

The erection of up to 540 dwellings (Class C3), up to 9,000sqm GEA of elderly/extra care residential floorspace (Class C2), a Community Home Work Hub (up to 200sqm)(Class E), alongside the creation of two locally equipped areas for play, one NEAP, up to 1.8 hectares of playing pitches and amenity space for the William Fletcher Primary School, two vehicular access points, green infrastructure, areas of public open space, two community woodland areas, a local nature reserve, footpaths, tree planting, restoration of historic hedgerow, and associated works.

All matters are reserved, save for the principal access points.

Officers Recommendation: Refusal (Committee)
Method of Determination: Public Inquiry.
Start Date: 01.11.2023.
Appeal Reference: 23/00102/REF.

3.30 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

3.31 21/00333/ENF – Fairway Cottage, Main Road, Swalcliffe, Banbury, 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

Forthcoming Public Inquiries and Hearings between 7 December 2023 and 11 January 2024.

3.32 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 (8 Days)
Hearing Date: 05/12/2023.
Application Reference: 21/04289/OUT
Appeal Reference: 23/00089/REF
Start Date: 14.08.2023.
Venue: Council Chambers.

Appeal Results

3.33 The Inspector dismissed the appeal by Mr Dai David for the erection of a ground floor extension to the rear with a green roof and roof light to facilitate an open-plan kitchen/dining area at Attock House, Church Lane, Horton-Cum-Studley, Oxfordshire OX33 1AW.

Method of determination: Written representation

Appeal Reference: APP/C3105/D/23/3315829
Original Planning Reference: 22/02969/F

The Inspector identified the main issues as:

- Whether the proposal would be inappropriate development in the Green Belt
- If the proposal would be inappropriate development, whether the harm would be outweighed by other considerations so as to amount to very special circumstance necessary to justify it

The Inspector agreed that the cumulative effect of the appeal proposal, plus the previously built extensions to the original building, would take the new floorspace to about 87% of the original floor area, and they considered that this, together with the inevitable increase in volume that would create, would be clearly disproportionate to the original building and would result in inappropriate development in the Green Belt, which would reduce the spatial openness of the Green Belt. They did however consider that since the extension would be largely screened from view, the proposal would result in only moderate harm to the openness of the Green Belt.

They noted that the appellant gave a fallback position of a permitted development extension which could be carried out but stated that since the appellant could erect this fallback position as well as the extension under consideration, they did not consider this fallback position to have much weight.

They concluded that the proposal would comprise inappropriate development in the Green Belt which would result in moderate harm to the openness of the Green Belt contrary to Policy ESD14 of the LP and the Green Belt provisions of the current Framework and dismissed the Appeal.

3.34 22/00043/ENF – Dismissed the appeal by Mr Gabriele Di Genova against the enforcement notice served on “Land rear of the Post Office on Merton Road, adjoining 2 Chapel Drive, Ambrosden, OX25 2RS” for the failure to comply with condition 8 imposed on planning permission ref. 01/00694/OUT granted on 30 August 2001.

Method of determination: Written Representations
Appeal reference: 22/00043/ENF

The enforcement notice relates to the obstruction of a parking and manoeuvring area associated with the Ambrosden post office in contravention of condition 8 of planning permission ref. 01/00694/OUT.

The notice requires several actions to remedy the breach, including ceasing the use of the land as a garden, removing close boarded fencing, removing domestic paraphernalia and reinstating the land to its former condition as a car park. The time period given with which to comply was 3 months.

The appeal was submitted on ground (d) of section 174(2) of the Town and Country Planning Act 1990 as amended: *“that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters”*.

The appellant argued that the planning condition was never discharged, resulting in a breach of condition 8 occurring continuously since 2005, rendering the breach immune under the “ten-year rule”. It was further argued that the car park obstruction was continuous through 2012-2022, again rendering the breach immune under the “ten-year rule”.

The inspector concluded that condition was discharged in 2002 under a reserved matters planning application, refuting the appellant’s first argument. The inspector also found that the appellant’s evidence was not sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, that a breach of the condition occurred continuously between 2012-2022.

The Inspector found a breach of planning control and upheld the enforcement notice, save for a minor variation to the location wording.

3.35 The Inspector dismissed the appeal by Mr J McAdam to remove the rear conservatory, outbuilding and concrete garage, timber shed and greenhouses

and Construct new two storey side and rear extension, with lean-to single storey infill to rear at 12 Mill Close, Charlton On Otmoor, Kidlington OX5 2UE

Method of determination: Written representation

Appeal Reference: APP/C3105/D/23/3323654

Council Reference: 23/00676/F

The Inspector identified the main issues as:

- Whether the proposal would be inappropriate development in the Green Belt
- The impact of the development on the openness of the Green Belt
- If the proposal would be inappropriate development, whether the harm would be outweighed by other considerations so as to amount to very special circumstance necessary to justify it.

The Inspector noted that the Council considers extensions of greater than 50% of the original floor area to be disproportionate, but noted that that this 50% rule is not within the Local Plan.

However, they noted that regardless of the numerical values, the scheme would result in a significantly larger dwelling than the original. Furthermore, the addition of a two-storey extension to the side and rear of the property would substantially increase the bulk and massing of the building and would result in a dwelling which was disproportionate in size compared to the original building.

This increase in bulk and volume was considered to affect the openness of the Green Belt, as was the visibility from the street.

In terms of very special circumstances, they considered that there was no compelling evidence (such as an approved Certificate of Lawfulness for the work) that the fallback position afforded by Permitted Development rights would be implemented.

Nor did they give great weight to the argument that the proposal would improve visual amenity by removing existing unsympathetic buildings.

They stated that the proposal conflicted with the development plan and the Framework, and there were no other material considerations identified that outweighed this finding and dismissed the Appeal.

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.

Significant levels of appeals have now been submitted against the Council that means the budget provision for the 2023/24 is forecast to be exceeded by £313k.

This is being mitigated by an allocation from the Appeals Reserve of £209k (subject to approval from the Executive). The balance of £104k will need to be addressed by identifying underspends across the Council.

Any further appeals submitted against the Council will result in further mitigations needing to be identified to meet these additional costs.

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:
Shahin Ismail, Interim Monitoring Officer,
shahin.ismail@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

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

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