

**Committee** East and West Area Planning Committees  
**Date** 2 and 8 October 2019

**Title** Appeals Summary

<b>Summary and recommendations</b>	
<b>Purpose of report:</b>	To provide an overview of recent appeal performance including key appeal decisions and the issues raised in the appeals.
<b>Recommendation:</b>	That the East and West Area Planning Committees note the contents of the report

<b>Appendices</b>	
Appendix 1	Appeal Decision – 10 and 12 Watlington Road
Appendix 2	Appeal Decision – 3 and 4 South Parade
Appendix 3	Appeal Decision – 3 David Nicholls Close
Appendix 4	Appeal Decision – 18 Osler Road

## Introduction and background

1. This report provides a summary of recent appeal performance including key decisions and the issues raised in those appeals. The purpose of this report is to ensure that members of the planning committee are aware of the appeals that are allowed and dismissed and the potential implications this has on the determination of future applications.

List of appeal decisions (December 2018 – September 2019, for those in bold a more detailed summary is given below)

<b>Site Address</b>	<b>Application Proposal and Reference</b>	<b>Appeal decision</b>	<b>Issues</b>
<b>10 and 12 Watlington Road</b>	Demolition of B1 building, erection of single storey building to provide vehicle hire facility (Sui Generis) - 18/02598/FUL	Allowed	Loss of employment floorspace; visual amenity

4 Woodlands Road	Erection of dwelling - 19/00219/FUL	Dismissed	Visual amenity; Residential amenity
26 Warneford Road	Change of use of C4 HMO to Sui Generis HMO - 19/00417/FUL	Dismissed	Internal Space; cycle and refuse storage
Advertising Right Adjacent 208 Garsington Road	Display of 2no. externally illuminated hoarding signs – 19/00377/ADV	Allowed	Visual amenity
111 Fern Hill Road	Change of use of C4 HMO to Sui Generis HMO – 18/02722/FUL	Allowed	Highway safety; cycle and refuse storage
90 Bullingdon Road	Change of use from C3 dwelling to C4 HMO - 18/01821/FUL	Dismissed	Balanced mix of housing; highway safety
1 Outram Road	Two storey side and rear extension – 18/03021/FUL	Dismissed	Visual amenity
9 Gordon Close	Two storey side extension to create a 1 x 1-bed dwelling – 18/02315/FUL	Dismissed	Visual amenity; Residential amenity
15 Priors Forge	Erection of 2 x 1 bedroom flats – 18/02425/FUL	Dismissed	Visual amenity; future occupiers residential amenity; highway safety; environmental impacts (sustainable construction, trees and biodiversity)
77 Bridge Street	Formation of two dormers in association with loft conversion – 18/03295/FUL	Dismissed	Visual amenity including impact on Conservation Area
Meadowside Retail Park, Lamarsh Road	Display of 5No. internally-illuminated fascia signs and 1No. non-illuminated entrance sign and 1No. internally-illuminated estate sign – 18/01478/ADV	Allowed	Visual amenity
50 Church Way	Erection of an orangery to north east elevation – 18/02754/FUL & 18/02755/LBC	Both dismissed	Impact upon the Grade II listed building, wall and Conservation Area
103 Church Way	Replacement of 7	Dismissed	Impact on Grade II

	windows to main building – 18/00195/LBC		listed building and Conservation Area
1 Aldebarton Drive	Erection of 1x2-bed dwelling house – 18/02931/FUL	Dismissed	Visual amenity; space standards
28 Sandfield Road	Erection of 2 x 3-bed semi-detached dwellings – 18/00837/FUL	Dismissed	Visual amenity; residential amenity of future occupiers and neighbours; highway safety
Rear of 27 Iffley Road	Erection of a two storey extension existing outbuilding to create a 1x 1 bed dwelling. Alterations to roof from slanted to pitched, raising the roof height – 18/01787/FUL	Dismissed	Visual amenity including impact on Conservation Area; residential amenity of future occupiers and neighbours
4 Fairfax Road	Erection of part single, part two storey side and rear extension – 18/02657/FUL	Allowed	Visual amenity; residential amenity; effect on SSSI
13 Elmthorpe Road	Erection of a first floor rear extension and terrace – 18/02237/FUL	Allowed	Visual amenity; residential amenity
13 Dashwood Road	Demolition of existing rear conservatory. Erection of a two storey side extension and erection of part single, part two storey rear extension – 18/02643/FUL	Dismissed	Visual amenity; residential amenity
20 Stainfield Road	Erection of two storey side extension and single storey rear extension. – 18/02802/FUL	Allowed	Visual amenity; residential amenity
<b>3 &amp; 4 South Parade</b>	Change of use of car park to hand car wash (Sui Generis) (Part retrospective) – 18/02146/FUL	Dismissed (costs awarded)	Residential amenity, whether in a suitable location, highway safety, visual amenity including impact on non- designated heritage assets
147 Headley Way	Change of use from C3	Dismissed	Balanced mix of

	to C4 HMO (Retrospective) – 18/01192/FUL		housing
14 Burdell Avenue	Erection of a single storey rear extension and two storey side and rear extension – 18/01023/FUL	Dismissed	Visual amenity; residential amenity
<b>3 David Nicholls Close</b>	Change of use from current annexe (Use Class C3) to 2 bed independent dwelling house. Introduction of amenity space – 18/00012/FUL	Allowed (Committee overturn)	Visual amenity; residential amenity of future occupiers
<b>18 Osler Road</b>	Demolition of existing dwelling. Erection of a one and a half storey building to provide 2 x 2-bed dwellings – 18/00850/FUL	Allowed (Committee overturn)	Visual amenity; residential amenity; highway safety
23 & 25 Spring Lane	Outline application (seeking approval of access and layout) for the erection of 2 x 2-bed bungalows – 17/01338/FUL	Dismissed	Visual amenity; residential amenity; highway safety; affordable housing
4 Southfield Road	Demolition of existing garage to create a 1x 1-bed dwelling (Use Class C3). Formation of new access etc – 17/02894/FUL	Dismissed	Visual amenity; residential amenity
1 Burbush Road	Sub-division of garden and erection of 1x 2 bed detached dwelling – 18/2066/FUL	Dismissed	Visual amenity
5 Clinton Close	Conversion of garage to habitable space, erection of a front porch and erection of a first floor side extension above garage – 18/02139/FUL	Dismissed	Residential amenity
Land adj 1 Trevor Place	Demolition of a garage and erection of a one-bed dwelling and associated works – 18/01764/FUL	Dismissed	Residential amenity of future occupiers and neighbours

33 Perrin Street	Application to certify that the proposed demolition of garden shed and erection of a rear garden outbuilding is lawful development – 18/00991/CPU	Allowed	Incidental use
29 Old High Street (Public Inquiry)	Application to certify that proposed sub division of existing house to form 2x 2-bed flats (Use Class C3) and erection of 3no. dwellings to create a 2x 2-bed flat and 1x 1-bed flat (Use Class C3) is lawful development – 17/02576/CEU	Dismissed (costs, both parties, dismissed)	Complex issues related to the planning history of the site and in particular whether the reserved matters applications were a grant of reserved matters, works that had allegedly taken place to implement permissions and whether a new planning chapter in the history of the site had commenced
24 Lathbury Road	Sub-division of existing 4-bed dwelling house into 2 x 2-bed flats (Use Class C3) without change to the 2nd floor flat. Use of garden outbuilding as a 1x 1-bed flat (Use Class C3). Re-positioning of existing front door to side elevation – 17/02512/FUL	Split decision – all allowed bar the removal of the front door which was dismissed	Loss of a family dwelling; visual amenity including impact on Conservation Area; residential amenity for neighbours and future occupiers; parking and highway safety
75 Town Furze	Erection of 2 x 3-bed and 2 x 4-bed dwelling houses – 17/02437/FUL	Dismissed	Visual amenity; effect on SSSI; affordable housing; conditions relating to archaeology and surface water management
12 Crick Road	Part demolition and reconstruction of the western part of the house with alterations etc. Formation of a new access and light well to extended basement level, with single, two	Allowed (Committee overturn)	Visual amenity including impact on Conservation Area; residential amenity

	and three storey extensions above to the rear. Reconstruction of the single storey side extension with an increased height. Landscaping and changes to the front boundary including installation of wall, gates and railings – 17/02229/FUL		
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**Further detail/summary on those highlighted above:**

**10 and 12 Watlington Road - 18/02598/FUL - Allowed**

2. A planning application was submitted for the demolition of the existing building (Use Class B1), erection of single storey building to provide vehicle hire facility (Sui Generis) and associated hard surface and landscaping works. The application was refused for the following reasons:
  - (i). *The proposed development would result in the loss of the equivalent of four full-time employment positions and 586m2 of employment space at a Key Protected Employment Site. The development would not make the best or most efficient use of the land and would be contrary to the policy CS28 of the Core Strategy which seeks to retain and intensify employment use at Key Protected Employment Sites.*
  - (ii). *The proposed development would result in the loss of an attractive period property that contributes positively to the street scene and its replacement with a single storey building of low-quality design would fail to do so and unacceptably detract from the character and appearance of the area. The proposed development would result in the loss of the character of the site and coupled with the level of car parking proposed would have a harmful visual impact.*
  
3. The Inspector did not agree with either of the reasons for refusal. With regard to the first reason, the Inspector argued that the proposal would not result in the loss of a key protected employment site as the whole of the site would continue to be used for commercial purposes. Although it is likely that the reduction in the size of the building means that fewer people would be employed at the site, employment would nevertheless be secured and there was no evidence that the type of employment proposed would not be important to the local workforce. While the Inspector noted the Council's concerns in relation to the loss of floorspace, she argued that there is no reference to any particular criteria in Policy CS28 to be applied when assessing whether proposals are higher-density development that seek to make the best and most efficient use of land and floorspace and number of employees are not necessarily the only relevant factors to be considered. The Inspector felt that the proposal would fully utilise the entire site and would enable it to be used more efficiently by the appellant's business. The Inspector concluded that the proposals accorded with policy CS28. Reference was made to the

emerging Local Plan and policy E1 but as limited weight can only be given at this stage, no further consideration was given to it.

4. With regard to the second reason for refusal and impact upon the character and appearance of the area, the Inspector felt that the existing building had a neutral impact on the surroundings. She noted that there was no defining character in the area and that the replacement building would be in a similar position to the existing but would be smaller, flat roofed and more utilitarian in its appearance. She commented that it would incorporate large areas of glazing, cladding and render, all features found on existing buildings in the immediate surrounding area and that parking around a building is not an uncommon feature of the area. The Inspector therefore concluded that the proposal would not be out of keeping with its surroundings and consequently would not be harmful, in accordance with policies CP1, CP8 and CP10 of the Oxford Local Plan 2001-2016 and Policy CS18 of the CS
5. The Inspector allowed the appeal, subject to conditions, and the decision was issued on 17<sup>th</sup> September 2019.

### **3 and 4 South Parade – 18/02146/FUL – Dismissed but costs awarded**

6. A planning application was submitted for the change of use of car park to hand car wash (Sui Generis) (Part retrospective). The Council refused the application for the following reasons:
  - (i). *The proposed development would fail to make maximum and appropriate use of the site, which is situated in a sustainable location in a District Centre with excellent public transport links, and as such would fail to make efficient use of land contrary to policies CP6 of the Oxford Local Plan 2001-2016 and CS1 of the Core Strategy 2026, and paragraphs 122 and 123 of the NPPF.*
  - (ii). *The activities generated by the proposed use of the site would result in an increase in noise and emissions and as such the proposals would fail to adequately safeguard the amenity of present and future occupiers of nearby dwellings, particularly 2A South Parade, contrary to the requirements of policies CP1, CP10, CP19 and CP21 of the Oxford Local Plan 2001-2016 and policy CS28 of the Oxford Core Strategy.*
  - (iii). *The proposed development, by the generation of continuous vehicle movements from the road across the pavement, would fail to achieve a safe and convenient environment for pedestrians; reduce conflicts between pedestrians and road users; and promote measures to improve the pedestrian environment in the District Centre, and as such would fail to achieve the objectives of Policy RC11 of the Oxford Local Plan 2001-2016.*
  - (iv). *The proposal, by virtue of the equipment and associated activity that would be introduced by the proposed use, would result in a visually cluttered appearance which would be at odds with, and have a harmful impact on, the character of the surrounding area, and particularly the immediate context of the site at 4 South Parade which is of heightened sensitivity due its status as a non-designated heritage asset, and as such would be contrary to Policies CP1, CP6, CP8 and CP10 of the Oxford Local Plan 2001-2016, Policy CS18 of the Core Strategy (2011) and paragraphs 127, 130 and 197 of the NPPF.*
7. In terms of the use of the site, the Inspector agreed that the appeal proposal did not make an efficient or best use of the site's capacity or a greater intensity of

development that adds to the sites vitality. The Inspector argued that the use would not be compatible with the surrounding area and would prejudice the longer term redevelopment. A temporary permission would not be appropriate in the Inspector's opinion due to noise concerns, detailed below.

8. In terms of noise, the Inspector agreed there would be an unacceptable impact upon nearby properties because of what was witnessed during the appeal site visit i.e. intermittent noise of a pressure washer coupled with other likely noise sources such workers, vehicle movements etc. The Inspector commented that the Council had made reference to 2A South Parade in the reason for refusal but that this did not appear to be in residential use. The Inspector also commented that the Council had not evidenced its concerns about emissions so did not agree with that aspect. Nonetheless with respect to noise, the Inspector concluded that the impacts could not be controlled by condition and would be harmful to the amenities of nearby properties.
9. The third refusal reason related to highway and pedestrian safety. From what the Inspector witnessed on site i.e. cars being able to leave the site in a forward gear, the Inspector did not agree with the Council's view in this regard. It was concluded that there was adequate visibility and turning which meant the access was safe and suitable and would not harm the pedestrian environment.
10. The final reason for refusal related to the impact upon the character and appearance of the area and non-designated heritage assets. The Inspector did not agree with the Council in this regard. The Inspector commented that a copy of the Oxford Heritage Asset Register (OHAR) had not been provided and in any event from what was seen on site, it was felt the historic significance related to the frontages on South Parade and not the rear where the appeal proposal is sited. While there are glimpsed views of the rear from the access, these are transient and not discordant or harmful in the Inspectors opinion.
11. The Inspector dismissed the appeal and the decision was issued on 21<sup>st</sup> May 2019.
12. With regard to the costs decision, the Inspector awarded costs against the Council. This was because an additional reason for refusal that related to the impact on highway safety had been introduced with the appeal scheme which had not been included on an earlier scheme that was also refused. There was no objection from the Highway Authority and the Inspector felt that the Council did not have due regard to the earlier decision and did not have a clear reasoning or evidence to support the reason for refusal. The Inspector concluded that this amounted to unreasonable behaviour and the appellant incurring additional expense addressing it.

### **3 David Nicholls Close - 18/00012/FUL – Allowed (Committee overturn)**

13. A planning application was submitted for a change of use from current annexe (Use Class C3) to 2 bed independent dwelling house, introduction of amenity space and relocation of kitchen from ground to first floor. Officers recommended approval of the scheme but following consideration at EAPC, the scheme was refused for the following reasons:
  - i) *The change of use of the annex into a separate self-contained dwelling would be unacceptable as a result of the poor quality of internal living accommodation provided. Specifically the deficiency of natural light would make the development unacceptable and the development is therefore*



*contrary to Policies CP1 and CP10 of the Oxford Local Plan 2001-2016 and Policy HP12 of the Sites and Housing Plan (2013).*

- ii) *The deficiency of outdoor amenity space for a two bedroom dwelling would be unacceptable having had regard to the amount of living accommodation in the dwelling and the scale of this building. The outdoor amenity space provided would also be contrary to the established suburban pattern of residential development in this area which is characterised by plots with larger gardens. The development is therefore contrary to Policies CP1, and CP10 of the Oxford Local Plan 2001-2016 and Policies HP9, HP10 and HP13 of the Sites and Housing Plan (2013)*
14. With regard to the first reason, the Inspector felt that there were ample window and door openings for what would be a small dwelling. The Inspector commented that the dwelling would have a dual aspect with limited views to the rear, but to the front more expansive views over the garden and beyond into the street. While this would be more limited within the sensory room on the ground floor, such rooms are often entirely windowless and therefore the Inspector felt that this would be acceptable. Together with the proposed light tunnels, the Inspector felt that this would create acceptable living conditions and natural light would be available. In terms of amenity space, while small, the Inspector commented that this would be 62 sq. metres which was bigger than the footprint of the building and thus accorded with policy HP13 of the Sites and Housing Plan. The Inspector therefore concluded that the proposals would not harm the amenity of future occupiers.
15. With regard to the second reason, the Inspector concluded that the small garden would be different to the established pattern within David Nicholls Close, which is lower density, however, it would be proportionate to the size of the dwelling and would not be discernible from the public domain. Furthermore given that the annexe already exists as a building, a change of status to a separate dwelling within the large plot associated with 3 David Nicholls Close would not be particularly harmful to the character and appearance of the street, nor that of the surrounding area.
16. The Inspector allowed the appeal and the decision was issued on 28<sup>th</sup> March 2019.

**18 Osler Road – 18/00850/FUL – Allowed (Committee overturn)**

17. A planning application was submitted for the demolition of the existing dwelling and the erection of a one and a half storey building to provide 2 x 2-bed dwellings (Use Class C3), provision of private amenity space and bin and cycle store. Officers recommended approval of the scheme but following consideration at EAPC, the scheme was refused for the following reasons:
- i) *Due to the scale, form, height, positioning and design of the proposal, it results in a cramped form of development, especially with regard to the artisan nature of nearby properties contrary to policies CP1 and CP8 of the Oxford Local Plan, CS18 of the Core Strategy, HP9 and HP10 of the Sites and Housing Plan and CIP1 of the Headington Neighbourhood Plan.*
  - ii) *Due to the height and proximity of the development to the principal elevation of 17 Stephen Road the proposal has a detrimental impact on the amenity of the occupiers of this dwelling in terms of overbearing impact and sense of enclosure contrary to policies CP10 of the Oxford Local Plan and HP14 of the Sites and Housing Plan.*

iii) *Due to the long narrow, pedestrian only access to the proposed development and the distance from the public highway, the access is not considered to be practicable to serve two dwellings or provide adequate access to emergency services contrary to policy CP10 of the Oxford Local Plan.*

18. In terms of the first reason, the Inspector did not share the Council and others concerns that the proposals would be cramped and overdeveloped. He commented that while the proposed building would be larger than the existing, it would retain adequate separation distance to 17 Stephen Road and 20a Osler Road and would have adequate space about it. Because of its coherent design, low profile and sympathetic layout, the Inspector argued that the new dwellings would respect rather than compete for attention from nearby buildings that are for the most part larger and far more visually dominant than the proposal. The backland position was felt to be acceptable given the dwelling already on site.
19. With regard to the second reason for refusal, while the Inspector commented that the proposed flank wall and roof in particular would be evident from the garden of No 17 Stephen Road and through the windows that directly face the site, he went onto argue that the boundary fence and vegetation would provide some screening. The Inspector also felt the new side elevation would be modest in width and the eaves height would be set at a relatively low level which taken together with the separation distance, would not harm the neighbours amenities.
20. In relation to the final reason for refusal, the Inspector gave weight to the comments, including no objection, from Oxfordshire Fire and Rescue Service (F&RS). F&RS had advised that a full fire suppression system should be installed, which the Inspector concluded could be covered by a condition. The Inspector also gave weight to the appellant's statement from an Approved Buildings Inspector that took the same approach. Therefore on the evidence available to the Inspector, he had no reason to disagree with it. The Inspector also commented that the footway leading into the site, although long and narrow would present little problem for most users even those carrying a bicycle between the road and the intended storage facilities. He therefore concluded that the application would have an adequate and suitable access.
21. The Inspector allowed the appeal and the decision was issued on 27<sup>th</sup> March 2019.

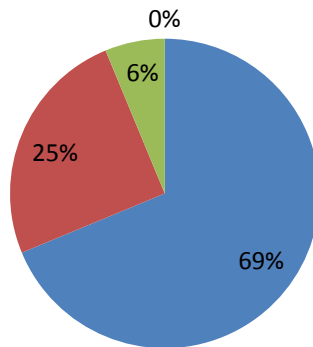
## **22. Conclusion**

Officers recommend that the members of the committees note the contents of the report and the attached appendices.

## Appeals Statistics Summary

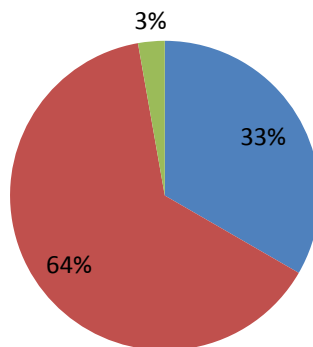
### Appeal Types Received between Dec. 18 - Sept. 19

■ Written Representatives (22) ■ Fast Track (8) ■ Hearing (2) ■ Inquiry (0)



### Appeal Decisions Received between Dec. 18 - Sept. 19

■ Allowed (12) ■ Dismissed (23) ■ Split (1)



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