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| To: | East and West Area Planning Committees |
| Date: | 5 and 11 December 2018 |
| Report of: | Acting Head of Planning Services |
| Title of report: | Appeals Summary December 2018 |

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

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| Appendices |
| Appendix 1 | Appeal Decision - 202 Cowley Road |
| Appendix 2 | Appeal Decision – 468 Cowley Road |
| Appendix 3 | Appeal Decision - 304 London Road |
| Appendix 4 | Appeal Decision – 67 Abingdon Road |

# Introduction and background

1. This report provides a summary of recent appeal decision and the key issues raised in the 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.

# 202 Cowley Road - 17/02765/FUL - Dismissed

A planning application was submitted to convert a 4 storey house into 3 x flats (2 x 1 bed and 1 x 2 bed flat) with a shared private amenity space to the rear. The application was refused for the following reasons:

1. *The proposed extension by virtue of its height, depth and proximity to the boundary with 200A Cowley Road would result in an overbearing form of development and would lead to an unacceptable loss of outlook and of sunlight/daylight to the basement flat. This would be detrimental to the residential amenity and living conditions of the current and future occupants of that property. The development is therefore contrary to policies CP10 of the Oxford Local Plan 2001-2016 and HP14 of the Sites and Housing Plan 2011-2026.*
2. *The proposals would fail to provide a quality and quantity of appropriate amenity space for all proposed dwellings. The proposed shared garden space would provide an inadequate amenity space for the number of occupiers proposed and would give rise to a poor relationship and layout on the plot to the detriment of the occupiers. The proposals are therefore contrary to Policies CP1 and CP10 of the Oxford Local Plan 2001-2016 and HP13 of the Sites and Housing Plan.*
3. *The proposed development would result in the net loss of a family dwelling as defined by the Sites and Housing Plan and is therefore contrary to policy CS23 of the Oxford Core Strategy and the policy guidance in the Balance of Dwelling Supplementary Planning Document.*
4. *It is considered that the design, form and layout of the extensions proposed would result in incoherent additions which do not relate to the original dwelling house or its surrounding and would result in a cramped form of development. The proposals would not represent high quality design and the development is contrary to policies CP1, CP6 and CP8 of the Adopted Oxford Local Plan 2001 to 2016, policy CS18 of the Oxford Core Strategy and policy HP9 of the Sites and Housing Plan 2026.*
5. *The covered secure cycle storage would not be accessible to users because of the narrow access to it from the street. As a result this would deprive the future occupiers to cycle storage provision. The screened refuse storage area would impede access to the side and rear of the house and would not be practical for future occupiers. As a result, the development fails to address the need to provide appropriate cycle and refuse storage and does not meet the requirements of Policy CP10 of the Oxford Local Plan 2001-2016 and Policy HP15 of the Sites and Housing Plan (2013).*

The appeal site had already been the subject of two previously dismissed appeals.

The Inspector agreed with the Council’s view that the extension would significantly harm the living conditions of the occupants of the adjacent property (200A Cowley Road) with regard to loss of light and outlook. In reaching this view, the Inspector did take into account that there was an extant permission for a prior approval extension that would have a height only 1m lower than the proposed development; they did not consider that this was a fallback position where they could afford much weight.

The Inspector did not consider that there was a deficiency in amenity space that would be provided as a result of the units all having to share the rear garden. The Inspector also considered that the loss of a family dwelling would not be relevant in this case as there would be sufficient space in the flats to provide space for a family dwelling.

The Inspector agreed with the Council’s refusal reason that the proposed development is not high quality design and that the failure to provide sufficient refuse and cycle storage meant that the proposals did not meet the requirements of Polices HP13 and HP15 of the Sites and Housing Plan (2013).

1. The Inspector dismissed the appeal and the decision was issued on 19th October 2018.

**468 Cowley Road – 17/02716/FUL – Dismissed**

1. A planning application was submitted for a change of use of a dwellinghouse (Use Class C3) to a House in Multiple Occupation (Use Class C4). The application was retrospective. The Council refused the application for the following reasons:
2. *The proportion of buildings used in full or part as a House in Multiple Occupation HMO within 100 metres of street length either side of the application site exceeds 20% and therefore the proposal will not deliver a balanced mix of housing to the detriment of the objective of creating sustainable communities. The development proposed is therefore contrary to policy HP7 of the Sites and Housing Plan 2011 - 2026 and policy CS23 of the Oxford Core Strategy and the City Council finds no basis for making an exception to this policy based on other site- specific considerations.*
3. *The car parking spaces would not be easily accessible and a vehicle would not be able to safely enter and leave the site. For this reason and because of the location of the proposed car parking spaces, the pressure for parking in the immediate local area and the likelihood that an increased number of adult occupants would lead to an inco98reased number of cars associated with the site compared with use as a single family dwelling, the proposal would be detrimental to highway safety and contrary to Policies CP1 of the Oxford Local Plan 2001 - 2016 and HP16 of the Sites and Housing Plan.*
4. The Inspector agreed with the Council’s assessment relating to the concentration of HMOs being unacceptable (as there were marginally more than 20% of properties in use as HMOs within 100m of the site).
5. The second refusal reason related to car parking. The existing site was partially constrained by the presence of a tree that would preclude parking for more than one vehicle on the site. As the proposed HMO would be for five bedrooms it would be deficient in parking and the Inspector agreed that it would not be acceptable as it would lead to an increase in on-street car parking.
6. The Inspector dismissed the appeal and the decision was issued on 12th November 2018.

**304 London Road - 18/00266/FUL - Dismissed**

1. A planning application was submitted for a change of use of a dwellinghouse (Use Class C3) to a House in Multiple Occupation (Use Class C4). The Council refused the application for the following reasons.

*The proposal would result in an overconcentration of Houses in Multiple Occupation (HMOs) within 100 metres of street length either side of the property leading to an unbalanced community contrary to the aims of policy HP7 of the Sites and Housing Plan.*

1. There was some dispute between the appellant and the Council about the calculation of the concentration of HMOs. The Inspector agreed with the Council’s approach that took in all the buildings within the vicinity of the site. The Inspector considered that the buildings identified in the Council’s assessment were close to the application site and therefore influenced the character of the area; an overconcentration of HMOs is the reasoning behind Policy HP7 and the Council’s assessment of the harm was therefore correct.
2. The Inspector dismissed the appeal and the decision was issued on 12th November 2018.

**67 Abingdon Road – 18/00684/H42 - Dismissed**

1. A prior approval application (made under Part 1, Class A of the GPDO) was refused by the Council. The application sought prior approval for a larger householder extension with a depth of 6m and a width of 3.2m and a height to the eaves of 2.85m. The Council’s decision was the development would not constitute permitted development and the following reason was given:

*The proposed extension extends from the rear and side wall of the original dwellinghouse. The proposed development would therefore constitute a side extension as well as a rear extension.*

1. It is important to note that this type of application needs to be considered permitted development (within the restrictions set out in Part 1, Class A of the GPDO) and if it meets those requirements then it must also either not be the subject of any objection from an adjoining neighbour (then prior approval is not required) or if an objection from a neighbour is received then it must be assessed as not having a detrimental impact on amenity (prior approval required and approved). In this case, the development was not considered to be permitted development so regardless of whether or not an objection was received the Council considered that the development could not proceed. The appeal was submitted to challenge this assertion.
2. The Inspector does not appear to conclude whether or not he agrees with the Council’s reason for refusal that the development would extend beyond a side wall of the original house (and because the development would be more than half of the width of the existing house would therefore require planning permission). However, the Inspector did agree that planning permission was required because the development had already commenced. It is a requirement of the prior approval regime for larger householder extensions that the prior approval of the Council is sought before the commencement of development. As a result, the appeal was dismissed as planning permission is required.
3. The Inspector dismissed the appeal and the decision was issued on 12th November 2018.
4. **Conclusion**

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

**Appeals Statistics Summary**

**November 2017 to November 2018 (44 appeals)**

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