Addendum Report

Item 12

Planning Reference: P14/V2140/FUL. 40 Cumnor Hill, Oxford

Update

Three additional letters from local residents raising concerns on

- Size of the dwelling is too large
- Proposal is contrary to design guide
- Loss of light / privacy to neighbour
- Inadequate access
- Drainage
- Balconies - that if there are to be screens, they should at least be built into the architecture so that they cannot easily be taken down.

Oxford Badger Group – Objection. The group continue their opposition to plans to develop this site. Although the application is for one house, there is reference in the Badger report submitted by the developer to a second dwelling in the garden. Any building work on this site will impact on the badgers and the sett on the western boundary of the site. This sett has already suffered from interference, as Natural England granted a licence for temporary closure of two holes but did not enforce this and allowed work which was not licensed to take place directly above the sett. It is important that the remaining active sett and its occupants should not have to suffer any further interference such as noise and light pollution. It is surprising, therefore, that there are no conditions placed on the building work which can safeguard the welfare of the badgers, a mitigation strategy was suggested in the environmental report and we wonder why this has not been adopted.

There is no report from the Countryside Officer for this application, despite the fact that this sett is well recorded and the badger population is under serious threat on Cumnor Hill because of the continuing development of gardens. Concerns about the welfare of badgers on the site were cited by the Planning Inspector, when an appeal against the Vale’s decision was rejected, a few years ago. The Badger Group are concerned that granting this application will lead to further development of the site which would further compromise the badger sett. We see no safeguards in place to protect the badgers for any adverse effect of building work.

Countryside Officer – no objection: I would recommend that the Badger Mitigation Strategy contained in the Report by Windrush Ecology is made a condition of permission if granted - wording as follows:

Condition:
The development hereby permitted shall be implemented in accordance with the Badger Mitigation Strategy detailed in the Updated Badger Survey and Mitigation Strategy produced by Windrush Ecology (7th July 2014) submitted with the application in all respects. Any variation shall be agreed in writing by the Local Planning Authority before such change is made.
Architects Panel: The architects review panel had no negative comments on this scheme. We support the planning officer’s opinion that contemporary design is equally valid as traditional building. The space, landscape form accommodates the proposed dwelling well as is demonstrated by the street elevations.

Officers Response

The substance of the local residents’ objections has already been covered within the committee report.

The condition suggested by the countryside officer in relation to badgers is to be added to the list of suggested conditions.

Further Representations from 36 Cumnor Hill concerning the committee report

1. **Paragraph 2.2 “The position of the proposed dwelling sits predominantly over the footprint of the existing building.”**

In our letter to the planning officer on 1st November (published on the Vale website) we gave this information: We have measured the plans and found that 68m2 of the proposed dwelling sits on the footprint and 150m2 sits off the footprint of the original dwelling … That is a ratio of 30% of the proposed dwelling on the footprint of the original dwelling and 70% off the footprint. This cannot be described as predominantly over the footprint.

**Officers Response:** The plans show clearly the position of the new dwelling with the existing house overlaid. As a correction, and to be clear, the footprint of the new dwelling covers approximately half of the footprint of the existing dwelling.

2. **Paragraph 3.5 Drainage Engineer – no objection, subject to conditions**

From this statement, the Members will be unaware that until 23 February there was a holding objection on drainage. The drainage scheme submitted is for both plots and is not implementable for this portion of the site alone.

**HOLDING OBJECTION:** “Given the sensitivities regarding drainage on this site, an appropriate statement regarding the means of drainage (which may be contained within parts of the submitted Strategy doc) should be forwarded at this stage.” This has not been submitted. It is now proposed that this will be done after approval is given with no opportunity for those affected to comment. This is not reasonable on a site where drainage has been a refusal reason on every single previous application and the subject of an entire (dismissed) appeal. Please apprise the Members of the situation.

**Officers Response:** The proposed drainage strategy submitted is sufficient to show that a technical solution is feasible to drain the site. The drainage engineer has confirmed the holding objection was placed by Monson who were commenting, in place of him, on planning applications at the time because of increased workloads.
However, the drainage engineer has reviewed the drainage information submitted and the proposed drainage strategy submitted is sufficient to show that a technical solution is feasible with proposed connections to Thames Water’s public sewers. The drainage engineer therefore confirmed that the holding objection may be removed subject to an appropriate drainage condition being imposed should planning permission be granted. This approach is in line with para 203 of the NPPF where development can be made acceptable by the use of a condition.

The drainage condition will read as follows……Prior to the commencement of development, a detailed scheme for the sustainable drainage of the development (both surface water and foul sewage) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to the occupation of the new dwelling.

3. **Paragraph 5.5 Residential Design Guide (SPD adopted 2009)**

Section 4.5 Development in Low Density Areas, is listed but two equally relevant sections are missing: Section 4.3 Replacement Dwellings. We referred to this advice extensively in our letters, as did very many other objectors: The size of the replacement dwelling should be appropriate to the size of the site, and should carefully take into account its impact on the character of the area and the amenities of neighbouring properties. Excessive increases in size can result in a site appearing “overdeveloped”, which could potentially harm the character of the area. Section 3.8 How to Protect Neighbouring properties (pp. 97-100) should also be included – and again we - and many objectors - drew the officer’s attention to this:

- Balconies … must be positioned to ensure they do not cause overlooking of neighbouring properties.
- Buildings close to the boundary of neighbouring properties can increase overshadowing or loss of daylight to neighbouring properties …Habitable room windows should normally be at least 12 metres away from the flank wall of the neighbouring property.
- Potential loss of sunlight to neighbouring properties should be considered
- Orientate buildings so that habitable rooms and sitting out areas do not face noise sources… a recessed balcony provides protection from noise.

Clearly this proposal has not been assessed against any of these points in the RDG. Please ensure that the Members are made aware of this very relevant guidance as soon as possible.

**Officers Response:** Officers consider the size of the new dwelling is appropriate to the size of the site and fits comfortably within the street as required by Section 4.3. The replacement building is on the footprint of the original building and has an appropriate relationship with the street. The impact on neighbour amenity has been covered in the original report. Further commentary on potential loss of sunlight is set out below at point 9. Commentary on sunlight, overshadowing and noise is set out below at point 7. The balconies do not cause overlooking of neighbouring properties.

4. **Paragraph 5.6 “Poets Corner … is highlighted as an example of a contemporary building with the appropriate scale.”**
The Poet’s Corner case study in the RDG is a case study showing how to achieve high density development in a low density area, which is not relevant in an application for a replacement dwelling. Please correct.

**Officers Response**: Officers consider Poets corner is a good example of high quality stand-alone contemporary design and drew reference to it as evidence of modern architecture in the area. Therefore, this consideration should be seen in the context stated and not as suggested.

5. **Paragraph 6.3** “Whilst the new dwelling will be larger than the existing, officers consider that it has the scale of a large detached house.”

The new dwelling has a footprint 218m². This is 85m² - or 65% - larger than the existing dwelling of 133m². The increase in floorspace is 177m² or 86%. (See letter of 23 October and email of 01 February. Twenty-five of the thirty-seven objectors specifically mention the excessive increase in size.) CABE list the median floorspace (GIA) of a five-bedroom detached house at 158.65m² – the proposed floorspace here is 382m². Members cannot judge whether this is an excessive increase in size (RDG p. 127) without this data. In strictly factual terms a 177m² increase in floorspace in order to achieve one additional bedroom on a site is “excessive” – especially when set against the CABE data. Please make members aware of the size of the proposed dwelling and the increase in size involved.

**Officers Response**: The proposed building is larger than the existing. Whilst expressing the size as a percentage can be useful this should not be used as a key determinant as to whether a development is acceptable. Such an approach would be crude.

To ensure that the assessment is robust consideration should be focussed on the key issues such as size of plot, character, context, relationship with neighbouring properties, separation distances, set back from road, built form, building width, articulation, height and so on.

The increase in size can be reasonably assessed by comparing the existing with the proposed plans. Officers consider, the material issues of character and amenity are adequately addressed. To further support the considerations, the existing building is set back 11.5m from the road, with the new dwelling set slightly further back at 14.5m. The new dwelling is 17.8m wide compared to the existing width of 18m. The separation distance of 2.8m between the front corners of the existing dwelling and no 36 Cumnor Hill is increased to 7.2m with the two storey part approximately at a distance of 10.2m. The new dwelling is also no higher than the existing building and is well articulated with the garage set back and a front projection.

6. **Paragraph 6.3** “Sitting over much of the footprint of the existing building…”

See our comment on 2.2 above. This inaccuracy is repeated here. Please correct.

**Officers Response**: See comment at point 1 above.
7. Paragraph 6.7 (i) “The principal flank wall of the replacement dwelling has been sited approximately one metre further away from this property than the same wall of the existing dwelling.”

The key FACT here is that this wall is only 11.2 metres away from the neighbouring primary bedroom window when the RDG Section 3.8 (see above) clearly states: “Habitable room windows should normally be at least 12 metres away from the flank wall of the neighbouring property.” Please ensure Members are made aware of these facts.

That the flank wall is 1 m further away than a wall which didn’t obstruct any primary or secondary windows is irrelevant. This wall is at least 1 metre closer to the neighbouring building than your guidance recommends. This information is in our letter of 23rd October 2014 and must be available to Members.

Officers Response: The design guide states that buildings close to the boundary of neighbouring properties can increase overshadowing or loss of daylight to neighbouring properties, where normally a 12m rule is applied. The orientation of the new dwelling is the same as existing dwelling. The new dwelling is also not higher than the existing and the upper floor of the new building is set further away as stated in the original report. Officers consider on balance the distance of 11.4m from the bedroom window to be acceptable given the existing circumstances. Officers are also of the view that the proposed development would not be visually bearing to the outlook of the window given that it is a first floor window with oblique views to the proposed works. In terms of the daylight and sunlight it would meet the 25-degree requirements of the BRE guidance.

8. Paragraph 6.7 (ii) “The new flank wall is approximately eight metres wide as compared to the existing flank wall which is approximately seven metres wide and it lies approximately three metres further back on the site”

The inclusion of this measurement comparison here carries the clear implication to the committee that the increase in size of this building is insignificant. This is not true – see 6.3 above – and is very misleading. Please correct

– The planning officer does not make clear that this is the reason that the wall obstructs the outlook from the side-facing windows.

Officers Response: Officers do not consider the new dwelling would harmfully obstruct the outlook from the neighbour’s side facing windows for the reasons given in response to point 7 above.

9. Paragraph 6.7 (iii) “Comparing the relative impact, officers consider the effect upon the light and outlook from No. 36 will not be so different that harm will occur.”

Loss of sunlight has not been considered: (RGD p. 99) this is important since this is our only south-facing wall and the sunlight is receives is important to the energy efficiency of the building as well as to natural light. (See winter sun path analysis attached to assist with this.) There should be some balanced analysis of the loss of
light, privacy, outlook and access to sunlight at no. 36. The planning gain here is only one bedroom - and four unnecessary balconies.

**Officers Response:** Officers have considered the sunlight diagram provided by the neighbour and it does not appear to conform to the 25 degree approach laid out in the Building Research Establishment (BRE) document ‘Site Layout Planning for Daylight and Sunlight’. This guidance states a window is unlikely to be affected if there is no obstruction above 25 degrees in a horizontal plane. A line drawn at 25 degrees from the bedroom window clears the main roof of the proposed building. The only element caught is the chimney but officers consider this is a relatively minor element and would not cause undue loss of light to the extent to warrant refusal of the application.

10. Paragraph 6.8 “Concern has been expressed over the inclusion of balconies and external terraces and the potential to overlook neighbours leading to a loss of privacy”.

The Planning officer himself expressed concern over this issue in pre-application advice. He does not explain why he has overcome his concerns.

The relevant advice in the RDG has not been considered here: pp 98, 99 100. The RDG does not advise privacy screens to solve overlooking. It recommends recessing balconies because this can inhibit noise as well. The advice from the RDG has been ignored, and the future problems of enforcement have not been addressed:  • Privacy screens are not permanent structures  • Enforcing their retention is problematic and costly to the Vale (see letter from occupant of 3 Arnold’s Way on the website)  • Why would the Vale expose itself to this risk and expense, when it can simply enforce its design guide advice?  • Why are four balconies necessary for a single dwelling with a reasonable-sized garden? In planning terms they are superfluous amenity space with an enforcement time-bomb built in.

**Officers Response:** There were two pre-application enquiries. The initial advice given in May 2014 raised concern on impact on neighbour amenity. A further pre-application enquiry submitted in August made changes to the design of the building and officer’ advice on 11 September 2014 confirmed the changes proposed to the replacement dwelling to the front of the site following the earlier scheme in April were acceptable and a scheme based on this would be likely to receive support.

Officers consider the original report addresses the impact on neighbouring amenity in relation to advice on pages 98, 99 and 100 of the design guide. Private amenity space for the new dwelling is conveniently located and has been designed to ensure privacy is maintained. Officers consider the balconies are positioned to ensure they do not cause overlooking of neighbouring properties and there is no direct overlooking of private amenity space by habitable rooms in neighbouring properties and any noise arising from the new property would not be materially different to that which is exists at present. Officers also consider the screens can be retained in perpetuity and the suggested condition is enforceable.

In determining planning applications, a balance has to be sought between the reasonable expectations of land owners to develop their property and the effect of
that development on the neighbour. Officers consider the impact on the neighbour arising from this proposal is acceptable in planning terms.

11. **Paragraph 6.9 Highway Safety** Adequate visibility can also be achieved at the revised access to ensure pedestrian and highway safety, and gradients / turning arrangements within the site are acceptable.

The County Engineer’s email of 25th November states: The current application does not include details such as gradient, which would be looked for and considered if and when the necessary further application is made to develop to the rear of the site. Please correct.

**Officers Response:** The county engineer has raised no objection to the application subject to conditions.

12. **Paragraph 6.10 Drainage** The site is considered large enough to deal with surface water without causing surface water runoff to the highway or onto neighbouring properties

See 3.5 above. We don’t know this because there is no site-specific drainage scheme for this application. Please correct.

**Officers Response:** The drainage engineer has raised no objection, subject to a condition set out under point 2 above.

13. **Paragraph 6.3 …** The southwest end wall will be set approximately two metres from the boundary and the northeast garage wall approximately five metres from the boundary. These gaps meet the recommendations contained in the design guide.

The planning officers seem to have overlooked that the garage wall sits alongside the drive, which is not part of the plot for the purposes of this application. (The drive is part of the backland plot.) Therefore the garage wall lies one metre from the boundary.

**Officers Response:** Officers still consider the proposal, when viewed from the street, will retain the suggested gaps in the design guide. The guide states that visual gaps that reflect the general character of the immediate area should be retained between buildings on adjacent plots and the proposal is considered to do this. The character of the area is described in the original report and officers consider the scheme respects this.