

<b>APPLICATION NO.</b>	<a href="#">P15/V2998/FUL</a>
<b>APPLICATION TYPE</b>	FULL APPLICATION
<b>REGISTERED</b>	18.12.2015
<b>PARISH</b>	CUMNOR
<b>WARD MEMBER(S)</b>	Dudley Hoddinott Judy Roberts
<b>APPLICANT</b>	Albright Dene Limited
<b>SITE</b>	40 Cumnor Hill Oxford, OX2 9HB
<b>PROPOSAL</b>	Demolition of existing house and erection of one 5 bed detached two-storey house with integral garage and forecourt parking. Provision of vehicular access to the land at the rear.
	(13 January 2016_ additional information received.) (1 March 2016_ amended plans and letter from agent received.)
<b>AMENDMENTS OFFICER</b>	Sarah Green

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## SUMMARY

- The application is referred to planning committee at the request of the chairman, councillor Robert Sharp
- The application is for a replacement dwelling. The proposal is an amended scheme following a previous refusal and dismissed appeal.
- The main issues are considered to be the design and appearance of the proposed dwelling, the impact on the character and appearance of the area, the impact on neighbours' amenities, and drainage.
- Officers consider this scheme is acceptable
- The application is recommended for approval

## 1.0 INTRODUCTION

This report deals with an application for planning permission. It is referred to the planning committee at the request of the chairman of committee, councillor Robert Sharp. A previous application for a replacement dwelling on this site was refused by planning committee and subsequently dismissed on appeal (ref P14/V2140/FUL)

- 1.1 The site is located on the north western side of Cumnor Hill. A location plan is **attached** at appendix 1. The existing house is a detached two storey property which faces the road and has two access points. The dwellings to either side are also detached houses, set within relatively large plots. The land levels fall from the front of the plots to the rear. There is also a fall in level that is roughly parallel to the line of Cumnor Hill from south-west to north-east.
- 1.2 There have been five applications submitted on the site between 2006 and 2012 for redevelopment proposals to increase the number of dwellings on the site. All have been refused or withdrawn.
- 1.3 In 2014 an application for a single replacement house was submitted and refused by planning committee. The two grounds of refusal were, firstly, the inappropriate contemporary design and scale of the proposal, and secondly, that the proposal was an unneighbourly form of development. The appeal against that refusal was dismissed

but only on the ground of it being an unneighbourly form of development. A copy of the appeal decision is **attached** at appendix 2.

2.0 **PROPOSAL**

- 2.1 This application seeks full planning permission for a single replacement five-bedroom dwelling within the red line application area. It also includes an attached garage and garden store. The applicant's agent considers the new scheme addresses the issues raised by the inspector in the dismissed appeal. Extracts of the plans are **attached** at appendix 3.
- 2.2 The proposed design of the house is contemporary, with the use of flat roofs. The floor levels of the dwelling are stepped so that the rear half of the dwelling is lower than the front half, to take account of the slope of the site. The building has been articulated with projections to the front and rear and the use of different materials which include rain screen cladding, brickwork, timber cladding, and also a 'living wall'. Sedum green roofs would be incorporated on the flat roofs.
- 2.3 The proposed dwelling will be sited further back into the plot and further south westwards on the plot than the existing dwelling. Its orientation relative to the road will also be slightly different to the existing dwelling. Although the plan form of the proposed house is deeper than that of the existing house, the rear wall at first floor level will be set in from the rear wall at ground floor level. Consequently, when compared to the existing main house elevations, the ground floor rear elevation will be set back further by between 4.8m and 5.8m, and the first floor rear elevation by between 3m and 5.2m. The flat roofed areas created by the first floor set-back will not be balconies – they will be covered in sedum and the adjacent bedrooms will have windows, not patio doors. Notwithstanding this, the flat roof area nearest to no.36 will include a 1.8m high obscure panel designed to obscure views of no.36 from the windows to bedroom 2. The rear of the garage/garden store element nearest to no 36 will extend 2.2m further back than the existing end wall of the conservatory
- 2.4 The overall height of the building at the front would be 0.74m lower than the ridge height of the existing dwelling. The back section, which would be stepped down in height from the front, would be 1.44m lower than the ridge of the existing house. The ground floor level would be the same as the existing dwelling at the front, and at the back it would be approximately 1 metre lower. Plans showing the relative heights of the building in relation to both neighbouring dwellings at the front and rear have been submitted.
- 2.5 The building would at its closest point be approximately 1.5m away from the side boundary with No 42 and, at the closest point of the garage, approximately 5.2m from the boundary with No 36.
- 2.6 An amended site survey with a corrected scale and an additional plan showing the proposed drainage have been submitted and have been available for public comment. The full application can be viewed on the council's website.

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

- 3.1 Below is a summary of the responses received the application. A full copy of all the comments made can be viewed online at [www.whitehorsedc.gov.uk](http://www.whitehorsedc.gov.uk).

Cumnor Parish Council	No objections but if planning permission is granted, request the following conditions be attached: 1. That further drainage tests are to be carried out and a specific
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	<p>drainage scheme submitted for the site.</p> <p>2. That a new badger survey is carried out as the survey submitted with the application is out of date. It is known that the badgers foraging patterns have changed and this should be investigated properly.</p> <p>3. That the proposed flat roofs cannot in the future be made into balconies.</p> <p><i>Amendment/additional information</i>          No strong views          Same comments as before          Requests that before planning application is determined a drainage scheme needs to be proven to be adequate for this site</p>
<p>Neighbour objection</p>	<p>20 letters of objection have been received. The concerns raised may be summarised as follows:</p> <ul style="list-style-type: none"> <li>• Depth of building not changed from previous refusal</li> <li>• Inspector made clear it is the depth and massing that causes problems</li> <li>• Depth has increased, increasing opportunity for overlooking</li> <li>• Space to boundary with no 42 does not accord with 2-5m in design guide.</li> <li>• Contravenes local plan policies and design guide</li> <li>• Design and scale of house are out of character with area</li> <li>• Made situation worse by extending building further into the site and moving it closer to no.42</li> <li>• Overdevelopment of the site</li> <li>• Unneighbourly – loss of privacy, overlooking, overshadowing</li> <li>• Balconies to ground floor give elevated views to rear</li> <li>• Cannot prevent people using flat roofs</li> <li>• Inappropriate to use conditions to restrict use of roof</li> <li>• Still intention to create balconies from flat roof</li> <li>• Privacy screens cannot remedy poor design</li> <li>• Removing railings not solve overlooking from position of windows in plot</li> <li>• Impact on affected side window of no.36 remains largely unaltered</li> <li>• Garage element deeper in plot than existing and restricts light and outlook</li> <li>• Done little to address reasons for refusal and Inspector decision</li> <li>• No up-to-date badger report</li> <li>• Impact on drainage/ no drainage scheme submitted</li> <li>• Similar appeal scheme on Hurst Rise Road dismissed on drainage grounds</li> <li>• In the previous scheme the county highways officer considered a retaining wall was necessary at front</li> <li>• Set precedent for other schemes</li> <li>• Should be refused for same reasons as before</li> <li>• Cumnor Hill cannot take any additional traffic. Should be a 30mph limit and not 40mph</li> <li>• Discrepancies in plans</li> </ul>

	<p><i>Amendment/additional information</i></p> <p>A further 8 letters received</p> <ul style="list-style-type: none"> <li>• Same reasons as before</li> <li>• Out of scale and context</li> <li>• Closeness to boundary</li> <li>• Drainage issues</li> <li>• Does not address objection</li> </ul>
Local Ward Councillor Dudley Hoddinott	<p>Objection</p> <ul style="list-style-type: none"> <li>• Latest design does not overcome objections</li> <li>• Out of character, overdominance on surrounding properties</li> <li>• Major components of design do not satisfy design guide</li> <li>• A flat roof cannot be justified here</li> <li>• So close to no 42 that the pollarded cypress hedge will have to be removed</li> <li>• Proposal is actually worse than previous design, as house made deeper to balance reduction in width</li> <li>• Rearward projection of bedrooms will increase opportunities for overlooking the rear garden of no 36</li> <li>• privacy screens only nominally effective</li> <li>• flooding and drainage issues</li> </ul>
Oxfordshire Badger Group	Object. Will be disturbance to badgers. Vehicular access to the land to the rear could lead to further development and compromise the sett further.
Drainage Engineer	No objection subject to condition
Countryside officer	No objection subject to condition
Highways Officer (OCC)	No objection subject to conditions
Forestry Officer	No objection

4.0 **RELEVANT PLANNING HISTORY**

4.1 [P14/V2140/FUL](#) - Refused (06/03/2015) - Dismissed on appeal (02/10/2015)  
Demolition of existing house and erection of one 5 bed detached two-storey house with integral garage and forecourt parking. Provision of vehicular access to land at rear.

[P12/V1269/O](#) - Refused (13/12/2012) - Dismissed on appeal (03/09/2013)  
Demolition of existing house and garage. Erection of four detached houses with garaging and parking, new access drive and associated external works etc. As amended by additional drainage information & acknowledgement letter from agent/applicant dated 25/10/2012.

[P11/V2443/O](#) - Refused (01/12/2011)  
Outline application for demolition of existing house and garage. Erection of four detached dwellings with garaging and parking. Creation of new access and associated external works. (Re-submission of application number 08/01764/OUT)

[P08/V1764/O](#) - Refused (16/02/2009) - Dismissed on appeal (11/01/2010)  
Demolition of existing house and garage. Erection of four detached dwellings with garaging and parking. Creation of new access and associated external works.

[P08/V0109](#) - Withdrawn (25/02/2008)

Demolition of existing house and garage. Erection of 2no two storey buildings comprising 4no one bedroom and 2no two bedroom flats. Erection of 6no three bedroom houses with associated off-street parking, garaging and landscaping. (Re-submission)

[P06/V1599](#) - Refused (29/01/2007) - Refused on appeal (11/02/2008)

Demolition of existing house and garage. Erection of a two storey replacement building comprising of 5 no. 1 bedroom flats. Erection of 6 no. 3 bedroom houses and erection of a coachhouse with associated off-street car parking and landscaping.

[P85/V2249](#) - Approved (17/05/1985)

Single storey kitchen extension. 40 Cumnor Hill, Oxford. BR No. 953/85

[P72/V0548](#) - Refused (17/10/1972)

Two detached houses. 40 Cumnor Hill, Oxford

## 5.0 **POLICY & GUIDANCE**

### 5.1 **Vale of White Horse District Council Local Plan 2011**

The development plan for this area comprises the adopted Vale of White Horse Local Plan 2011. The following local plan policies relevant to this application were 'saved' by direction on 1 July 2009. Paragraph 215 of the NPPF sets out due weight should be given to relevant saved policies in existing plans according to their degree of consistency with the Framework. The following polices are fully consistent with the NPPF.

DC1 - Design

DC5 - Access

DC6 - Landscaping

DC7 - Waste Collection and Recycling

DC9 - The Impact of Development on Neighbouring Uses

The following local plan policies are not fully consistent with the NPPF. Therefore due weight must be given to the NPPF instead.

H10 - Development in the Five Main Settlements – inconsistent to the extent that there is no five-year supply of housing land

DC13 – Flood risk and water run-off

DC14 – Flood risk and water run-off

### 5.2 **Emerging Local Plan 2031 – Part 1**

The draft local plan part 1 is not currently adopted policy. Paragraph 216 of the NPPF allows for weight to be given to relevant policies in emerging plans, unless other material considerations indicate otherwise, and only subject to the stage of preparation of the plan, the extent of unresolved objections and the degree of consistency of the relevant emerging policies with the NPPF. At present it is officers' opinion that the emerging Local Plan housing policies carry limited weight for decision making. The relevant policies are as follows:-

Core Policy 1	Presumption in favour of sustainable development
Core Policy 3	Settlement hierarchy
Core Policy 4	Meeting our housing needs
Core Policy 7	Providing supporting infrastructure and services
Core Policy 33	Promoting sustainable transport and accessibility
Core Policy 35	Promoting public transport, cycling and walking
Core Policy 37	Design and local distinctiveness
Core Policy 40	Sustainable Design and Construction

Core Policy 42	Flood risk
Core Policy 43	Natural resources
Core Policy 44	Landscape
Core Policy 46	Conservation and improvement of biodiversity

### 5.3 **Supplementary Planning Guidance**

- Design Guide – March 2015

The following sections of the design guide are particularly relevant to this application:-

- Section 5 – Building design – includes scale, massing, form, design, boundary treatments, amenity, privacy
- Section 6 – Rural and lower density areas – includes setting, landscape, scale, massing, form, design, boundary treatments
- Section 10 – Household extension – includes impacts on neighbours

### 5.4 **National Planning Policy Framework (NPPF) – March 2012**

Paragraph 17 of the NPPF sets out the core planning principles, which include always to seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Paragraphs 56 to 66 of the NPPF are concerned with design and that the government attaches great weight to design. Planning policies and decisions should not attempt to impose architectural styles and they should not stifle innovation, originality, or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

Paragraph 117 encourages the minimisation of impacts on biodiversity and paragraph 118 requires local planning authorities to aim to conserve and enhance biodiversity when determining applications.

Paragraphs 196 sets out planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise and 197 sets out in assessing and determining development proposals local planning authorities should apply the presumption in favour of sustainable development.

Paragraph 203 sets out local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

### 5.5 **National Planning Practice Guidance 2014 (NPPG)**

This contains further advice on design and the use of conditions.

### 5.6 **Neighbourhood Plan**

To date no application has been received for a neighbourhood planning designation area covering this site.

### 5.7 **Environmental Impact**

This proposal does not exceed 150 dwellings and the site area is under 5ha. Consequently the proposal is beneath the thresholds set in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015 and this proposal is not EIA development and there is no requirement under the Regulations to provide a screening opinion.

5.8 **Other Relevant Legislation**

- Planning (Listed Buildings and Conservation Areas Act) 1990
- Community & Infrastructure Levy Legislation Human Rights Act 1998
- Equality Act 2010
- Section 17 of the Crime and Disorder Act 1998
- Natural Environment and Rural Communities (NERC) Act 2006
- The Conservation of Habitats and Species Regulations 2010
- Localism Act (including New Homes Bonus)

Human Rights Act

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equalities

In determining this planning application the Council has regard to its equalities obligations including its obligations under section 149 of the Equality Act 2010.

6.0 **PLANNING CONSIDERATIONS**

6.1 The relevant planning considerations in the determination of this application are:

- Principle of development
- Design and layout
- Residential amenity
- Flood Risk and Surface/Foul Drainage
- Traffic, Parking and Highway Safety
- Ecology and Biodiversity
- Other

6.2 **The Principle of Development**

This proposal is for a replacement dwelling. It would not result in an increase in the number of dwellings on the site. The principle of allowing a replacement dwelling is acceptable.

6.3 **Design and Layout**

The NPPF at paragraph 56 sets out that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Paragraph 59 sets out that “design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.”

6.4 Paragraph 60 continues “Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.”

6.5 A number of local plan policies seek to ensure high quality developments, in particular policies DC1 and DC6. In March 2015 the council adopted its new design guide.

6.6 The overall design concept of this proposal is essentially the same as the previous proposal. The design differences can summarised as follows:-

- The width of the first floor is now 14.4m at its widest point, instead of 15.1m in the previous scheme

- The master bedroom is has increased by 1m in depth but is approximately 0.5m narrower than in the previous scheme
- The balconies have been removed from the first floors
- The width of the ground floor is now 18.5m instead of 17.9m in the previous scheme
- The ground floor dining room has been increased in depth by 0.3m
- The staircase from the ground floor balcony and the balcony from the dining room are 0.5m further away from no.36.
- The building is approx. 0.5m nearer to the boundary with No 42.
- The articulation of the side elevation nearest no 42 is slightly different
- The privacy screen around the staircase to the garden from the ground floor balcony nearest to no.36 has been extended around the landing area.
- The removal of balconies at first floor

- 6.7 In paragraph 8 of his decision letter the appeal inspector states that the design guide recognises Cumnor Hill as having a distinctive low density and well landscaped character, and includes a number of contemporary buildings. He acknowledges that Cumnor Hill is an established residential suburb with large dwellings in spacious plots, and mature trees and hedges along the highway and between gardens. He notes that extensive landscaping of the road is a significant characteristic which gives the area a verdant quality. He also notes that the design guide recognises that a broad spectrum of materials have been used in the area and he saw other contemporary buildings on Cumnor Hill that sit happily within their respective plots and situations, and added visual richness to the area.
- 6.8 He goes on to say (paragraph 10) *“With the exception of a relatively small two storey frontal projection the bulk of the proposed development would be sited behind the frontage of the existing dwelling. Whilst the proposed flat roof would exceed the eaves height of the neighbouring properties, the overall height of the proposal would be lower than the existing dwelling and the massing effect of the higher eaves and flat roof would be reduced by the use of contrasting materials and by the introduction of projecting and recessed forms with overhangs and ledges. I am satisfied that with suitably sympathetic materials as could be controlled by condition that the geometric forms of the proposal would not jar unacceptably with the modest and traditional designs of the neighbouring dwellings.”*
- 6.9 In paragraph 12 he states *“The National Planning Policy Framework (the Framework) at paragraph 60 expressly states that innovation, originality or initiative should not be stifled by planning policies and decisions, and there is nothing within the Design Guide or the policies of the adopted Vale of White Horse Local Plan 2011 (the Local Plan) to suggest that such an approach would be unsatisfactory. In this regard a contemporary response to a replacement dwelling at the site is appropriate, notwithstanding that the many interested parties in the appeal point to the desirability of maintaining the traditional building forms of the lower part of Cumnor Hill.”*
- 6.10 Some objectors consider that the design is out of keeping with the area and that it has been materially worsened by the increased depth of the proposed dwelling relative to that considered at appeal. Officers consider the general position of the proposed dwelling on the road frontage and its overall height and eaves height are not that dissimilar to the appeal proposal. In light of the Inspector’s conclusions, officers consider that the design of the proposed dwelling is acceptable.
- 6.11 In relation to the separation distances between the proposed dwelling and no.42, the design guide at principle DG81 sets out *“side boundary separations of at least 2 to 5*

*metres (depending on location) should be retained at all levels*". It also sets out at principle DG78 that visual gaps that reflect the general character of the immediate area should be retained between buildings on adjacent plots.

- 6.12 In relation to the appeal proposal the Inspector acknowledges in paragraph 11 of his decision that the appeal proposal would reduce the gap between the dwelling and no.42 but states "*.. there is nothing within the prevailing pattern of development to indicate that this would cause harm to the character and appearance of the area, and in this context a satisfactory separation distance would be maintained.*"
- 6.13 In the current application the gap to no 42 is reduced when compared to the appeal scheme by moving the proposed dwelling 0.5m closer to the side boundary. The proposed dwelling is not orientated parallel with the side boundary with no.42, but such that the front of main side elevation of the dwelling would be closer than the rear. The side elevation is also not straight but steps out and in along the boundary. This means the central part of the dwelling will be closer to the boundary than the front or rear of the dwelling. At its closest point the dwelling would be 1.6m from the boundary. The dwelling would be a minimum of 3.8m from the side elevation of no.42 at the closest point between the two properties.
- 6.14 The proposal would depart from the recommended separation distance to the boundary as set out in DG81. However in light of the inspector's comments in connection with the appeal scheme, and the relatively small difference of 0.5m when compared to the appeal scheme, officers consider that the satisfactory separation distance noted by the inspector would be retained.
- 6.15 Reference has been made by objectors to the dismissed appeal for the replacement dwelling at 14 Arnolds Way and the erection of four new dwellings behind it (ref P14/V2727/FUL), where the inspector attached considerable weight to DG 81 in refusing the proposal. In that case all four dwellings proposed at the rear were similar in scale and mass and relatively close together, with all of the separation distances lying between 2.5m and 3.5m. The inspector considered this led to a "tightly grouped" appearance. This is materially different to the current application, which is for one dwelling and where the separation distances to the boundary from the dwelling vary from 1.5m to the boundary with no.42 to 5.2m to the boundary with no.36.
- 6.16 **Residential Amenity**  
Adopted local plan policy DC9 seeks to prevent development that would result in a loss of privacy, daylight or sunlight for neighbouring properties or that would cause dominance or visual intrusion for neighbouring properties and the wider environment. Section 5 of the design guide is particularly relevant as are parts of the householder section which pertain to neighbour impact.
- 6.17 Overlooking  
As set out in section 2 the proposed dwelling would be set back into the plot further than the existing dwelling, and hence its rear windows will be further back than currently. In paragraphs 2 and 3 of his decision the appeal inspector concluded that the greater rearwards projection would facilitate oblique views over the private garden area and patio of no.36 that do not exist at present. Officers accept oblique views would be facilitated. However the design guide cautions against new development giving rise to unacceptable levels of overlooking and the resulting loss of privacy this can cause. Therefore the assessment is whether the oblique views that will be afforded would give rise to an unacceptable level of overlooking or not.
- 6.18 *Ground floor.*

The ground floor of this proposal is in the same position as the appeal proposal. The difference is the balcony off the dining room has been moved 0.5m further away from no.36 and the privacy screen to the staircase has been extended around the landing area and the whole staircase also moved 0.5m further away. An additional plan has also been submitted with this application to show the rear elevation in relation to the rear elevations of the neighbouring properties. This shows that the ground floor and its balcony will be at the same height as the level of the patio to the rear of no.36. Any oblique overlooking that may potentially occur is likely to be comparable to any oblique overlooking that may potentially occur from the rear patios of no.36, given they will be across the same boundary. It is not unreasonable in residential environments for there to be a level of mutual oblique overlooking between gardens. What is not acceptable is if one property is significantly disadvantaged by the other. Officers consider that this would not be the case here.

- 6.19 The end of the balcony nearest no.36 would be 8.4m from the neighbours' property. A 1.8m high privacy has been included that wraps around the end of the balcony and the landing of the staircase. This would prevent any direct overlooking to the side elevation of no.36 should a person be standing at the end.
- 6.20 The inspector states the potential for overlooking would be exacerbated by the provision of four balconies with extended amenity spaces. He refers to balconies facilitating external living at the upper floors where only windows exist at present. It is not clear if he considered the ground floor to be an upper floor. A patio already exists at ground floor to facilitate external living to the property. Your officers consider that in light of the information available and based on the above assessment, any potential oblique views that may occur from the ground floor windows and balconies would be of an acceptable level and would not harm the privacy of the occupiers of no.36.
- 6.21 The ground floor level would be below that of the ground floor of no.42 and there is a substantial existing hedge at this point. The proposed dwelling is also sited further back in the plot than no.42. Therefore officers consider it would not result in a harmful level of overlooking to the rear of no.42.
- 6.22 *First floor*  
This proposal does not include balconies to the first floor. The roofs above the ground floor below would be sedum green roofs instead. Therefore any potential overlooking that could occur would be from the windows only. The side elevation of the first floor has been moved 1.2m further away from the No36 such that it is over 12m away. It has also included the addition of a privacy screen along the edge of the flat roof from bedroom 2 to limit the potential oblique views further.
- 6.23 The depth of the master bedroom near to the boundary with no.42 has been increased by 1m but is slightly narrower. Officers consider any views obtainable from this window towards the rear of no.36 will be so oblique as not to cause harm.
- 6.24 The objections from local residents refer to the inspector's concern with the windows in the appeal proposal facilitating additional oblique views over the garden and patio of no.36 and that the balconies exacerbated the potential for overlooking.
- 6.25 As stated above the rear windows on the proposed dwelling will be further back in the plot than those on the existing dwelling, although they will not lie beyond the rear elevation of no.36. The roof plan shown on the block plan (dwg no P300) clearly shows the extent of the proposed first floor, its relationship to the neighbours as well as the footprint of the existing dwelling at no.40.

- 6.26 As with the ground floor, officers accept there will be a potential for oblique views across to the garden of no.36. In terms of the upper floor it is clear that, as identified by the inspector, these include views that do not exist at present. The inspector considered that the potential for overlooking would be “exacerbated” by the proposed balconies. The occupants of no.36 argue that the inspector’s wording should be interpreted to mean that the creation of the oblique views in themselves was harmful and that the balconies only made the harm worse. Officers have given careful consideration to this argument.
- 6.27 The difficulty that officers have with the neighbours’ interpretation is that the relationship of the proposed house to no.36 is one that can be reasonably expected to exist in any residential area where houses lie adjacent to each other and where rear facing windows present the potential for oblique views across neighbours’ gardens. If the neighbours’ interpretation were to be accepted, then a significant proportion of the many applications that are made for two storey rear extensions to houses across the district, and which have the same effect of moving the position of the first floor rear windows further down the garden, so allowing for new oblique views of neighbours’ gardens, would have to be refused. Officers consider that this stance would frustrate a significant number of home owners and would be wholly unreasonable. Moreover, in residential areas containing detached houses in reasonably sized plots, such as Cumnor Hill, permitted development rights allow the construction of two storey rear extensions of up to three metres in depth without planning permission. If the potential for worsening oblique views is an overriding concern then it is difficult to understand why the government has chosen to sanction this category of permitted development.
- 6.28 For these reasons officers consider it is unreasonable to say that the worsening of oblique views in a residential area is, in itself, harmful, and do not agree with the neighbours’ interpretation of the inspector’s comments. Therefore it is considered reasonable to interpret the inspector’s comments as meaning it was the exacerbating effect of the balconies that made the additional overlooking unacceptable. As these have been removed from the current scheme, it is considered the proposal will not cause harmful overlooking of the neighbours at no.36.
- 6.29 With regards to no.42, the first floor windows are deeper in the plot than No 42 and any oblique views that may be possible would be through the existing part of the hedge that is being retained. This is not considered to be harmful to the amenity of the occupiers of no.42.
- 6.30 Objections have been raised to the suggested use of conditions to prevent the use of the proposed flat roofs as balconies and to retain the proposed privacy screens. Such conditions are considered to meet the six tests and are therefore appropriate. In particular they are considered to be necessary to make the proposal acceptable in planning terms and they are considered to be enforceable.
- 6.31 Potential Overbearing Effect  
Design guide principle DG104 states that “a minimum distance of 12m is recommended between habitable windows and flank walls.” In his decision letter (paragraphs 14 – 16) the inspector considered the effect of the appeal proposal on the bedroom window in the flank wall of no.36 to be unacceptable. In the appeal proposal the side of the garage was approximately 8.1m from the flank wall of no.36 and the first floor side elevation was approximately 11.3m away from the bedroom window. The Inspector refers to a high flank wall being 10m away from this side window which would breach the design guide advice. He states that the additional projection and height involved would result in an overbearing effect and reduce the outlook available from the window. Officers have reconsidered this issue in light of the current plans.

- 6.32 It is the north-east flank wall of the proposed house that will face the flank wall of no.36 and the bedroom window. When compared to the appeal scheme this flank wall has been moved further away from the bedroom window. It would now be approximately 12.19m from this window. It would therefore meet the guidance set out in the design guide. Consequently officers are satisfied that this wall would not cause an overbearing effect on the window.
- 6.33 The distance from no.36 to the proposed ground floor garage flank wall is the same as in the previous scheme, at 8.11m. However it is important in this case to take account of the height and roof form of the garage. The plans show that the garage roof would be approximately in line with the mid-point of the bedroom window, with the roof over the garden store behind stepped down lower. Officers consider that, although the proposed garage will be further back in the plot than the existing garage, it will be further away from the window and will be flat roofed. Overall, therefore, officers consider the proposed ground floor elevation will not cause a harmful loss of light to, or an overbearing effect on, the bedroom window.
- 6.34 The ground floor of No 36 has a secondary window to the living room and an obscured glazed window to the kitchen which is open plan and has further windows on the rear elevation. The door to the kitchen is also on this side. The appeal inspector did not identify any harm arising to these particular windows from the appeal scheme. Taking the changes between the appeal scheme and the current proposal into account officers are satisfied that no harm will arise to these windows from the current proposal.
- 6.35 With regards to the impact on no.42 it should be noted that there are no windows in the side wall of no.42, and that the dwelling at no.42 is in an elevated position relative to the application site due to the local slope. Officers consider that the current proposal, although slightly closer to this neighbour than the appeal proposal, would not cause an overbearing effect on this property.
- 6.36 **Flood Risk and Surface/Foul Drainage**  
The NPPF provides that development should not increase flood risk elsewhere and should be appropriately flood resilient and resistant (paragraph 103). It states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution (Paragraph 109).
- 6.37 A number of objections have been raised concerning drainage from the site and the absence of a fully detailed drainage scheme for the proposal. The council's drainage engineer has carefully assessed the proposal on the information submitted and in light of current planning guidance.
- 6.38 Foul water  
Cumnor Hill has two separate sewers, one for foul water and one for surface water. Both are adopted by Thames Water. It is confirmed within the information that the foul water will be disposed to the foul sewer. The existing dwelling is connected to this system so this is not an issue.
- 6.39 Surface water  
A number of ground and site investigation reports have been submitted as part of previous planning applications on this site. As part of the 2012 application and subsequent appeal for 4 houses on the site, drainage assessments were carried out by the occupiers of No 36 and by the council. A sustainable drainage strategy which

included an underground attenuation system with a restricted outfall was proposed for the 4 dwellings, and was accepted by the inspector for that appeal. It concluded there was sufficient information to demonstrate that surface water would be effectively managed on site and not present an increased flood risk to downstream properties. He was satisfied that the concerns on this matter expressed by a previous inspector in 2009 no longer applied.

- 6.40 This current proposal is for a single replacement dwelling only. A plan has been submitted to show that the drainage from the replacement dwelling will be collected in a storage tank and then pumped into the surface water sewer in Cumnor Hill at an attenuated rate.
- 6.41 The proposed dwelling is larger in footprint than the existing dwelling, however adjacent to the existing dwelling, to both front and rear, are areas of impermeable surface. The council's drainage engineer is satisfied that, given the size of the site and previous drainage information, which demonstrated that 4 dwellings could be appropriately drained, a single replacement dwelling can be adequately drained.
- 6.42 The submitted drainage plan outlines the proposed drainage strategy for the development. The drainage engineer has reviewed this. Detailed information or calculations to quantify the design in terms of storage volume or discharge rates has not been submitted. However Thames Water has raised no objection with regards to the capacity of the surface water sewer. Capacity therefore exists within the existing infrastructure to cater for the surface water drainage of the proposal and it should not result in increased flood risk elsewhere. The submitted information shows that a technical solution exists for the site, which complies with the requirements in the NPPF.
- 6.43 Full details of the drainage scheme, including the required storage and discharge rates will need to be agreed with the drainage engineer and Thames Water. This can be controlled by a pre-commencement condition. Given that a technical solution is possible it is considered reasonable to request such information by pre-commencement condition rather than before the determination of the application.
- 6.44 **Traffic, Parking and Highway Safety**  
Adopted local plan policy DC5 requires safe access for developments and that the road network can accommodate the traffic arising from the development safely.
- 6.45 The access and parking arrangements have not changed from the appeal proposal which were considered acceptable, and no grounds for refusal were raised.
- 6.46 The proposal includes relocating the north-east access slightly to the south west. It provides vision splays of 2.4m x 120m which the highway officer considers is acceptable for the road. Although he has advised that consideration should be given to improving the gradient within the site he has not raised an objection to the proposal with the existing gradient remaining. An informative to this effect can be added. The part of the existing access that will no longer be used should also be stopped up, which can be ensured by condition. Although he has recommended that a construction traffic management plan is required, officers consider this is unreasonable given the relatively small scale of development.
- 6.47 Sufficient parking provision will be provided on the site and within the garage. A condition can ensure that the garage accommodation is retained for such use and not converted to residential accommodation.
- 6.48 **Ecology and Biodiversity**

Paragraph 117 of the NPPF refers to the preservation, restoration and re-creation of priority habitats, whilst Paragraph 118 sets out the basis for determination of planning applications. Paragraph 118 states that “...if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused...”

6.49 Concerns have been raised as to the impact of the development on badger setts in the area. There is a badger sett behind no.42 on the boundary with no.44.

6.50 The countryside officer has re-visited the site to assess the status of the badger sett. It is still active with little change from when he last visited. The sett is outside the red line of the application site and is 35m away from the closest point of the proposed dwelling. A relatively minor loss of foraging habitat would result, as a result of siting the building further back into the site. The vast majority of the area used for foraging would be retained either within the newly defined garden within the red edged line, or within the retained garden shown within the blue edged line. The countryside officer has no objection and recommends a condition to ensure that the land to the rear within the blue edge line is fenced off and protected and is not used for the storage of materials, plant, or other material during the development.

6.51 **Other Issues**

Concerns have been raised that there are discrepancies in the plans between this application and the previous application, specifically in relation to the side elevation of the proposal and the street elevation. Officers have checked the measurements on the plans and sought clarification from the agent. It has been confirmed that the current application plans are the correct plans.

6.52 A number of the objections refer to potential future development on the plot and the conversion of the proposal to flats, and it also setting precedent for other development in Cumnor Hill. Members are aware that the merits of each particular application should be assessed rather than possible alternatives.

6.53 The issue of loss of solar thermal gain through the wall of the neighbouring property No36 and the impact on energy bills has been raised as an objection. Members are aware that these private interests are not considered to be material planning considerations.

7.0 **CONCLUSION**

7.1 In light of the inspector’s decision on the previous similar application, the contemporary design is considered to be acceptable. Officers consider that, given the variation in character along the road, the position of the proposed dwelling in relation to the neighbouring properties is acceptable.

7.2 In terms of the impact on neighbours’ properties this application has amendments when compared to the previous scheme. Although oblique views will potentially be afforded over the neighbours’ garden, officers consider that they will not result in a harmful level of overlooking. The proposed first floor flank wall has been moved further away from no.36 to the extent that it would not be overbearing to the neighbours.

7.3 There are no outstanding objections from the technical consultees. The application is therefore recommended for approval.

8.0 **RECOMMENDATION**

**To grant planning permission, subject to the following conditions:**

1. Commencement of development - three years.
2. Approved plans.
3. Prior to commencement details of materials, including finished colour to be submitted for approval.
4. Constructed in accordance with level details on approved plans.
5. New access, parking and turning in accordance with plan.
6. Prior to commencement construction traffic management plan to be submitted for approval.
7. Prior to occupation existing access shall be closed up.
8. Garage accommodation to be retained for parking.
9. Flats roofs shall at no time not be used as external living areas.
10. Prior to occupation privacy screens erected in accordance with approved plan and retained.
11. Prior to commencement fully detailed sustainable drainage scheme submitted and approved.
12. No works including demolition until protected area for badgers erected and retained during all construction.

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