

APPLICATION NO.	P19/V1326/FUL
SITE	4 Green Lane Botley Oxford, OX2 9SU
PARISH	CUMNOR
PROPOSAL	Removal of Condition 2 of P87/V1805/FUL - The accommodation hereby permitted shall not be occupied other than by persons aged 55 or over, the widow or widower of such persons or by such other persons who shall have first been approved of in writing by the local planning authority.
WARD MEMBER(S)	Erection of 6 x 2 bedroom old peoples' houses and new access. Alison Jenner Judy Roberts
APPLICANT	Miss Karen Owston
OFFICER	Susannah Mangion

1.0 **RECOMMENDATION**

1.1 It is recommended that planning permission is granted subject to the following conditions:

1.2 **Standard**

1. Commencement within three years
2. Approved plans

2.0 **INTRODUCTION AND PROPOSAL**

2.1 This application comes to committee at the request of the ward councillor, Judy Roberts due to concerns that it conflicts with the emerging Cumnor Neighbourhood Plan.

2.2 The application site area extends to 221 square metres and is located within an area of residential development within Botley comprising primarily semi-detached dwellings. 4 Green Lane comprises a 2-bedroom 1.5 storey, semi-detached dwelling at a cul-de-sac location. The dwelling benefits from a garage and off-road parking space, front and rear gardens. The front garden has been gravelled. The dwelling is one of six all built together. The site is not affected by any special designation.

2.3 A site location plan is included overleaf.



2.4 It is proposed to remove planning condition 2 of planning permission P87/V1805/FUL. The planning condition currently restricts occupation of the dwelling to persons aged 55 or over, the widow or widower of such persons or other persons who shall have first been approved of in writing by the local planning authority.

2.5 The original plans for the property, permitted in 1988, are **attached** as Appendix 1.

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

Full comments are available on the application pages on the council’s website, www.whitehorsedc.gov.uk.

3.1

<p>Cumnor Parish Council</p>	<p>Object – The Cumnor Big Survey (part of emerging Neighbourhood Plan) addressed current and future housing needs. Comments indicate there is a shortage of well-designed, suitable, smaller accommodation to facilitate down-sizing. This would reduce the opportunities for older</p>
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	residents to downsize and remain in the area.
Neighbour Approve (2)	<ul style="list-style-type: none"> • It prevents selling the property to the wider market. • Property had been empty for 2 years before moving in 2010 due to 55 year plus age restriction. • Happy for restriction to be removed.
Neighbour Object (4)	<ul style="list-style-type: none"> • Could have a negative effect on neighbourhood. • The attraction of the properties is that they are for 55 years plus. • Smaller properties should be available for older residents to allow larger properties to be freed up for families. • Home bought because it was built for over 55s and it is quiet and peaceful.

4.0 **RELEVANT PLANNING HISTORY**

4.1 [P87/V1805](#) – Approved (15/02/1988)

Erection of 6 x 2 bedroom old people’s houses and new access road

[P10/V1369/LDP](#) - Approved (01/09/2010)

Erection of a conservatory.

5.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

5.1 The proposed development is neither of a sufficient scale, nor within a location of sufficient environmental sensitivity, to require an EIA.

6.0 **MAIN ISSUES**

6.1 The main considerations are:

- The emerging Cumnor Neighbourhood Plan
- Assessment of the existing condition
- Highway safety, parking and access arrangements
- Impact on neighbour amenity
- Community Infrastructure Levy

6.2 **The Emerging Neighbourhood Plan**

Cumnor Parish Council are working on a neighbourhood plan but it remains at a relatively early stage. Currently, draft policies are being formulated prior to consultation with the community. Legally, therefore, the neighbourhood plan has no weight. However, Cumnor Parish Council and the local ward councillor are concerned that if the planning condition is removed, it will reduce the housing stock available for older residents who are hoping to downsize.

6.3 The stance is based on part of the neighbourhood plan survey work, the ‘Cumnor Parish Big Survey’ dated September 2016, in which 24% of

respondents expressed a wish to downsize in the foreseeable future. Out of these respondents, approximately half expressed a wish for properties up to 2-bedrooms in size.

6.4 Although this survey work is important for the neighbourhood plan, at this stage there is no indication as to how this finding will be incorporated into a policy, or how such a policy will operate. Consequently, based on the legal position, officers consider that this finding on downsizing should be given little weight at this time, until the neighbourhood plan is much further progressed.

6.5 **Assessment of the Existing Condition**

The existing planning condition states, 'The accommodation hereby permitted shall not be occupied other than by persons aged 55 and over, the widow or widower of such persons or by such other persons who shall have been first approved of in writing by the local planning authority.' The reason for the imposition of the condition is, 'The application has been considered on this basis.'

6.6 Members are aware that a planning condition has to meet six legal tests, which are:

- It is necessary for planning permission to be granted
- It is relevant to planning and, for example, does not duplicate controls applied in other legislation
- It relates to the development concerned
- It is enforceable
- It is precisely worded
- It is reasonable in all other respects

With this application officers have focussed attention on two of these tests, whether the condition is necessary and whether it is reasonable.

6.7 Usually, a condition restricting the age of occupancy is applied because the development is deficient in one or more planning standards. For example, in sheltered housing schemes, it is typical for the amount of parking and amenity space to be significantly below the normal standards for the number of units provided. The rationale is that, due to their age, persons occupying sheltered housing are less likely to have a car and less likely to be physically able to manage, or to benefit from, a garden. As the parking ratio and amenity standard would not be acceptable for normal housing, a condition restricting the age of occupants is applied. This condition meets the tests as follows:

- It is necessary because the development would not be acceptable without it
- It is reasonable given the reasonable expectations of the behaviour of occupiers of sheltered housing

6.8 Officers have assessed the site, 4 Green Lane, in this light. The dwelling has two bedrooms. A two bedroom dwelling requires up to 2 parking spaces to meet normal standards, and the property has space for 2 parking spaces, one on the

drive and one either in the garage or on the gravelled front garden. The property requires 50sq.m. of private garden to meet the design guide standards for amenity space. In fact the property has 88.5sq.m of private garden space, significantly more than the standard for a normal dwelling.

- 6.9 From this assessment, officers conclude that the condition is neither necessary nor reasonable. Parking and garden space both meet standards for a normal, unrestricted two-bedroom dwelling. The condition therefore fails these legal tests.
- 6.10 Upon reviewing the planning history, it is evident that the age restriction was proposed by the applicant at the time, and the application was assessed on this basis. The restriction was not imposed by the council in exchange for an acknowledged shortfall on standards.
- 6.11 Further to this issue, officers have also considered whether it is reasonable to restrict the age of occupancy given the nature of the accommodation. The dwelling was built in the late-1980's. In the early 1990's, the Lifetime Homes standard was introduced, which marked a significant change in the provision of housing that is realistically designed to cater for the needs of elderly persons as they grow older, and so allow them to remain in their own home for much longer. The standard has now been incorporated into Part M of Building Regulations.
- 6.12 Ageing is often associated with declining mobility and the Lifetime Homes standard catered for this by, for example, specifying features to enable access for wheelchairs (like wider doorways and space for wheelchair turning), for ease of bathing (level access showers and large open bathrooms), and for ease of attaching mobility aids (like strengthened internal walls to take grab rails).
- 6.13 None of the Lifetime Homes features are found in no.4 Green Lane. It has normal-width door ways, insufficient spaces to turn a wheelchair, and a very small bathroom. Consequently, in terms of how housing for the elderly is now viewed, it is not a dwelling that is suitable for long-term residence for elderly persons, one that will adapt to their likely needs as they grow older.
- 6.14 The failure of the dwelling to meet current standards for elderly persons' accommodation adds further to the argument that it is not reasonable to argue the property should be restricted to the elderly
- 6.15 **Highway safety, parking and access arrangements**
There are not proposed to be any alterations to the existing parking and access arrangements. As stated above, the property benefits from a garage and one/two off-road parking space which is regarded as sufficient for a two-bedroom property.
- 6.16 **Impact on neighbour amenity**
Policy DC9 restricts development if it would unacceptably harm the amenities of neighbouring properties and the wider environment in terms of a number of criteria including:

- i) Loss of privacy, daylight or sunlight
- ii) Dominance or visual intrusion
- iii) Noise or vibration

6.17 The removal of the planning condition will not give rise to any physical alteration to the dwelling and therefore there is no visual impact. It is not considered removal of the condition would give rise to any unacceptable noise impacts due to allowing occupation of the dwelling by other age groups.

6.18 **Community Infrastructure Levy**

There is no new residential floorspace created and so the development is not liable for CIL.

7.0 **CONCLUSION**

7.1 The Cumnor Neighbourhood Plan is at a very early stage and so, following the legal position on the weight that can be given to the neighbourhood plan, the survey data referred to in the Cumnor Parish Big Survey should be given little weight at this time. Officers' assessment of the condition finds that it fails to meet two legal tests, that of being necessary and of being reasonable. The dwelling meets parking and amenity standards for an un-restricted dwelling, while it has not been designed to more recent standards to accommodate ageing residents, and so allow them to live longer in their own home. The proposal will not give rise to harm to the amenity of neighbouring residents. Officers consider there is no planning justification to require the dwelling to be age-restricted. Therefore, when taking into account all relevant policies and material planning considerations, the removal of the condition is considered to be acceptable subject to planning conditions, and considered to accord with the aims of the development plan and relevant policies of the National Planning Policy Framework.

8.0 The following planning policies have been taken into account:

Vale of White Horse Local Plan 2011 saved policies

DC5 - Access

DC9 - The Impact of Development on Neighbouring Uses

Vale of White Horse Local Plan 2031 Part 1 policies

CP01 - Presumption in Favour of Sustainable Development

CP03 - Settlement Hierarchy

CP04 - Meeting Our Housing Needs

CP08 - Spatial Strategy for Abingdon-on-Thames and Oxford Fringe Sub-Area

CP37 - Design and Local Distinctiveness

Emerging Vale of White Horse Local Plan 2031 Part 2 policies

A publication draft of the Vale of White Horse Local Plan 2031 Part 2 has been subject to public consultation and Examination and the Inspector's final report (received 25 June 2019) has found the plan sound. Its policies therefore carry

significant weight in decision making and the following policies are material to the consideration of this application:

DP16 - Access

Neighbourhood Plan

The Cumnor Neighbourhood plan is underway and the neighbourhood area was designated on 12 January 2017. The Parish Council has started the process of gathering evidence and engaging with the local community.

Vale of White Horse Design Guide (March 2015)

National Planning Policy Framework, 2019

Planning Practice Guidance

Equality Act 2010

The application has been assessed against section 149 of the Equality Act. It is considered that no recognised group will suffer discrimination as a result of the proposal.

Human Rights Act, 1998

The application has been assessed against Articles 1 and 8. The impact on individuals has been balanced against the public interest and the officer recommendation is considered to be proportionate.

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