

APPLICATION NO.	P19/V0023/FUL
SITE	Tilbury Fields Off Bushy Close Botley Oxford, OX2 9SH
PARISH	CUMNOR
PROPOSAL	Retrospective application to regularise public realm works in connection with applications P07/V0741/O and P13/V0817/RM, including changes to approved roads and footpaths, parking areas, hard and soft landscaping, boundaries, recycling storage facilities, vehicle access prevention to Tilbury Lane, and surface water drainage. (As amended by plans and information received 19 June 2019 and 5 August 2019)
WARD MEMBER(S)	Debby Hallett Emily Smith Alison Jenner Judy Roberts
APPLICANT OFFICER	Persimmon Homes Stuart Walker

RECOMMENDATION

Planning Permission

1 : Approved plans

2 : Landscaping implementation within next planting season

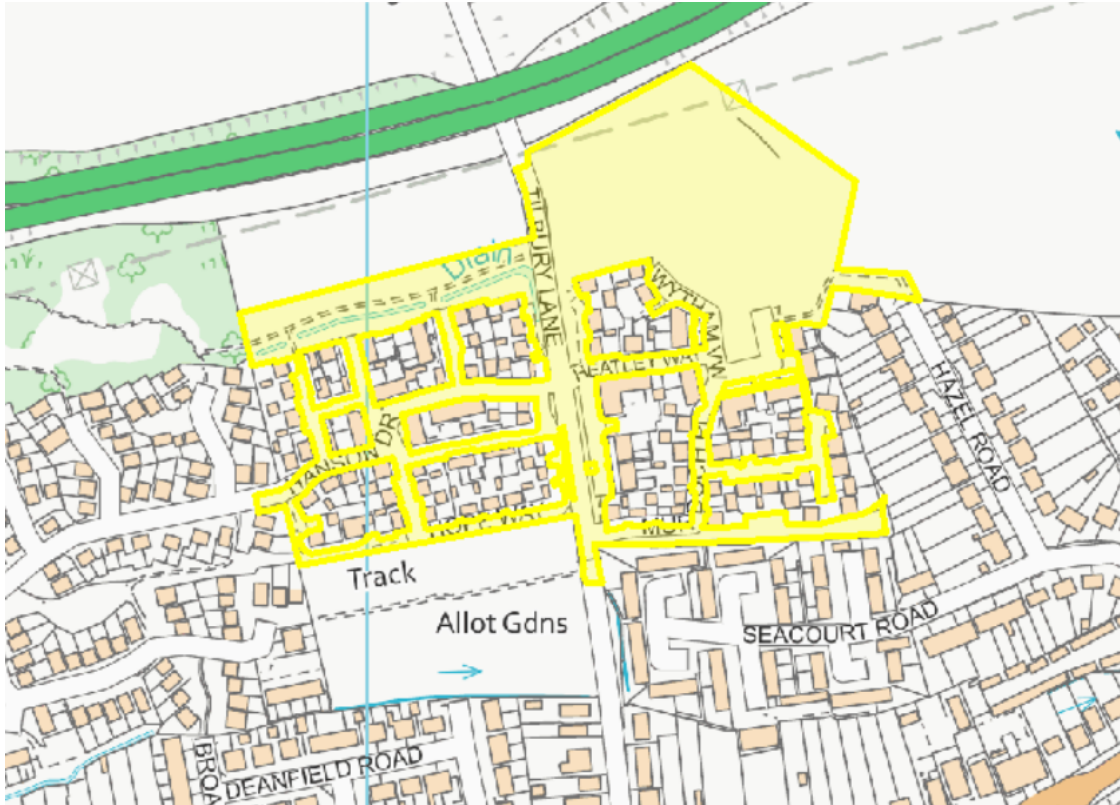
3 : Re-gritting of porous paving areas within 12 months

1.0 INTRODUCTION AND PROPOSAL

1.1 This application comes to committee at Councillor Debby Hallett's request.

1.2 The proposal seeks to regularise public realm works within the site that differ from the approved scheme. Planning permission was granted in outline for 150 dwellings in 2012 (P07/V0741/O) with Reserved Matters approval in 2013 (P13/V0817/RM). Following commencement of work on site, there have been numerous enforcement investigations relating to non-compliance with conditions and approved drawings and it became apparent that the approved scheme can no longer be fully implemented. Through negotiation by the enforcement team the applicant has therefore submitted this application for consideration, which if approved, would seek to resolve outstanding enforcement matters on this site.

- 1.3 The site is located to the north of Botley, between the existing built up area and the A420 to the north. The site was allocated for residential development in the Vale of White Horse Local Plan 2011. Vehicle access into the site is via Fogwell Road, with pedestrian links from Tilbury Lane and Hazel Road. A site location plan is below:



- 1.3 The application seeks to regularise changes made to the as built development in respect of highways, drainage, landscaping and the bin store for apartment block C. Since submission of the application, plans have been amended to correct errors in plans, reflect the as built state on site and to address technical officer comments regarding drainage, highways and landscaping matters. Extracts of the latest plans are **attached** at Appendix 1.

2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

- 2.1 A summary of the responses received is below. All comments can be viewed in full online at www.whitehorsedc.gov.uk.

<p>Cumnor Parish Council</p>	<p><i>Amended plans</i> No objection.</p> <p><i>Original plans</i> Objection - have concerns whether the works will be completed, as many problems exist.</p> <ul style="list-style-type: none"> The submitted plans fail to reflect the correct street lighting plan or accurately show the position of
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	<p>swales or tree planting as agreed in approved application P13/V0817/RM.</p> <ul style="list-style-type: none"> • Street lighting - many are not working and have been installed within the boundary of resident’s properties and not on the highway. • Swales - not constructed in accordance with approved application P13/V0817/RM. Some swales have not been constructed and existing swales have no warning signs, are very open and have constant standing water posing a risk to residents. • Trees - failure to plant trees as agreed in approved application P13/V0817/RM will be detrimental to the environmental quality of the development and remove the traffic calming measures in the square adjoining Hanson Drive. The landscape plans submitted do not show the location of the trees but they are shown on the drainage plans! Why is this? There are no details of the species or size of trees to be planted. This information along with details of planting areas and plants needs to be provided. • Noise Barrier - failure to install a scheme for acoustic insulation for dwellings that directly abuts the public open space and A420 in accordance with approved application P07/V0741/O. • Footpaths - between Wytham View and Hazel Road not constructed in accordance with approved application P13/V0817/RM. Currently sections are unlit and pass through a flower bed or parking area. • Tilbury Lane Gate - the proposal to install collapsible bollards would hopefully rectify an unsuccessful solution and Council would request that a condition on minimum repair time is given. • Spine Road - not completed as approved application P13/V0817/RM. Drainage Mechanism not functioning correctly.
<p>North Hinksey Parish Council</p>	<p><i>Amended plans</i> No objection - provided issues raised by Cumnor Parish Council are being addressed.</p> <p><i>Original plans</i> Objection - Application does not deliver what had been proposed in the original application and fails on grounds of amenity:</p> <ul style="list-style-type: none"> • Crime and community – as the street and path lighting remained inadequate. • Trees – there was a lack of planting as proposed in the original application. • Traffic generation, parking and safety – the originally planned traffic calming measures were not included,

	<p>and the roads remained at an unadoptable standard, contrary to the original application.</p>
<p>Residents</p>	<p><i>Amended plans</i> Five letters of objection have been received concerning:</p> <ul style="list-style-type: none"> • The installation of bollards on Hope Way. • Damaged paving outside plot 104 not being addressed in the amended plans. <p>One letter of comment has been received regarding tree positions outside plot 150.</p> <p><i>Original plans</i> 24 letters of objection have been received. These raise concern with the unfinished state of the site / defects in construction and the failure of the developer to rectify matters and the apparent lack of council enforcement.</p> <p>Specific concerns raised in relation to the application proposal are summarised as follows:</p> <ul style="list-style-type: none"> • No justifiable reason why the changes should be made or accepted. • Plans do not reflect correctly what has been built to date. • Errors between plans. • Drainage system is inappropriate. • Loss of trees compared to approved scheme. • Footpath routes do not link up to existing network.
<p>Councillor Judy Roberts</p>	<p><i>Amended plans</i> No further response received.</p> <p><i>Original plans</i> Objection.</p> <ul style="list-style-type: none"> • The drainage drawings all show the trees as originally landscaped as part of the drainage system. I am assuming that the trees play an integral part in the drainage scheme, but they cannot be placed in the hard landscape sections unless they are dug up. • The pinch point at the exit to the Hanson way square is on the left in some drawings as originally placed but has been built on the right side. • The altered pedestrian path from Hazel Road now has an exit into a car space and is not near any electrical supply and as such has no lighting. This makes this path unsafe. • There are still several lamp posts that are installed on private property and have not yet been moved so we are unable to judge whether they will meet the 90cm

	<p>pedestrian path standard until they have been placed in the pathways. There are also some lamps that have never worked even though the lamp posts are installed.</p> <ul style="list-style-type: none"> • All these material planning objections are to ensure the safety of the residents and should therefore be actioned.
<p>Councillor Debby Hallett</p>	<p><i>Amended plans</i> No further response received.</p> <p><i>Original plans</i> Committee should hear and see all the evidence and take the decision on this application.</p> <ul style="list-style-type: none"> • The new landscaping plan has no trees. The original plan made this a lovely tree-shaded development. • Bollards installed in the main square are in the wrong place. • Traffic flows for the middle square need to be as in the original plans for safety of children in the play area • A bollard was supposed to be placed to keep cars off the cycle and pedestrian path. • Roads are currently not satisfactory. Potholes, bollards not as they were planned, joints clogged with clay from construction / unsatisfactory drainage. Unadopted roads mean the residents are expected to maintain them, but unfair if they aren't built to a good standard at the start. I think the roads should be built to highways standards and then adopted. • Street lights have been incorrectly installed within the curtilage of individual properties; this makes it appear that the applicants are intending to avoid responsibility for them. • The ditch behind the Seacourt Rd dwellings needs something to mitigate the smell and make it less attractive or accessible to children who want to play there.
<p>Oxfordshire County Council</p>	<p><i>Amended Plans</i> Transport</p> <ul style="list-style-type: none"> • No objection. <p>Lead Local Flood Authority</p> <ul style="list-style-type: none"> • No comment. <p><i>Original Plans</i> Transport</p>

	<ul style="list-style-type: none"> No objection in principle to the proposed amendments associated with the original reserved matters planning permission (Ref. P13/V0817/RM) However, it is noted that the alignment and layout of the spine road adjacent to Tilbury Lane does not match that shown on the submitted As Built Hard Land Scaping, drawing - No. JSL2050_202 and the Site Plan, drawing No. PHL-101-001(reflecting the As Built details. As a result, these drawings are required to be amended accordingly.
<p>Drainage Engineer</p>	<p><i>Amended Plans</i> No objection.</p> <ul style="list-style-type: none"> Subject to condition requiring re-gritting of porous paved areas within 12 months. <p><i>Original Plans</i> No objection.</p> <ul style="list-style-type: none"> However as remedial works are indicated to be ongoing to sustainable drainage systems, we would request the submission of a suitable validation report.
<p>Countryside Officer</p>	<p><i>Amended plans</i> No comments.</p> <p><i>Original plans</i> No objection.</p>
<p>Landscape Officer</p>	<p><i>Amended plans 2</i> No objection</p> <ul style="list-style-type: none"> Subject to remedial work identified in establishment survey being undertaken within next planning season (to be secured by condition). <p><i>Amended plans 1</i> Holding objection.</p> <ul style="list-style-type: none"> Visiting the site there are trees and planting which have died and some which haven't yet been implemented. An establishment survey for the whole site and an associated replacement planting and maintenance schedule to cover the issues on the site is required. This also needs to cover the meadow grassland establishment. The sites Landscape Management Plan should be followed. There are areas where weed control is poor. Noted problems with being able to implement some areas of planting and issues with hard features such as steps and bollards. These issues should be

	<p>clarified so that an implementable Proposed Planting Scheme is produced.</p> <p><i>Original plans</i> Holding objection.</p> <ul style="list-style-type: none"> • Revisions required (as marked up on plans).
Tree Officer	<p><i>Amended plans</i> No objection.</p> <p><i>Original plans</i> Holding objection.</p> <ul style="list-style-type: none"> • I will discuss the tree species selection with the landscape officer and add any arboricultural comments to her response.
National Grid	<p>No objection.</p> <ul style="list-style-type: none"> • Draw attention to overhead power line in vicinity of the site.
Environmental Protection Team	<p><i>Amended Plans</i> No observations to make.</p> <p><i>Original plans</i> No objection.</p>
Waste Management Team	<p><i>Amended Plans</i> No new comments.</p> <p><i>Original plans</i> No objection.</p> <ul style="list-style-type: none"> • The changes to the bin store at block C are suitable.

3.0 RELEVANT PLANNING HISTORY

3.1 [VE15/234](#) - ()

Landscaping/footpath not built in accordance with approved plan outside plot 56 (P13/V0817/RM)

[VE17/630](#) - ()

Breach of condition 5 and 6 of P13/V0817/RM street lighting not operational and estate road and paths are dangerous (not safe or serviceable)

[VE17/477](#) - ()

Breach of condition 6 of P07/V0741/O.

[VE17/388](#) - (18/07/2017)

Breach of condition 6 of P07/V0741/O (gate broken and not being maintained in accordance with approved scheme)

[VE16/182](#) - (13/04/2017)

Block C refuse bin shed not built in accordance with the approved plans (P14/V0129/DIS).

[VE16/562](#) - (13/04/2017)

Breach of condition 5 of P07/V0741/O - Lighting not operational.

[VE17/78](#) - (07/03/2017)

Breach of condition 6 of P07/V0741/O (gate broken and not being maintained in accordance with approved scheme).

[VE16/626](#) - (07/03/2017)

Breach of condition 15 (no wheel washing facility) P07/V0741/O.

[VE16/654](#) - (17/01/2017)

Breach of condition 6 of P07/V0741/O (gate not being maintained in accordance with approved scheme).

[VE15/515](#) - (06/01/2017)

Breach of condition 13 of P07/V0741/O (condition only partially discharged).

[VE16/530](#) - (29/11/2016)

Breach of condition 6 of P07/V0741/O (gate broken and not being maintained in accordance with approved scheme).

[VE15/555](#) - (08/09/2016)

Breach of condition 5 of P07/V0741/O (Houses occupied without footpath/cycle link being created)

[VE16/417](#) - (05/09/2016)

Breach of condition 6 of P07/V0741/O (gate not being maintained).

[VE16/440](#) - (05/09/2016)

Drainage at Tilbury Fields not built in accordance with the approved plans.

[P16/V0509/DIS](#) - Approved (18/03/2016)

Discharge of condition 3 on application ref. P13/V0817/RM

[P15/V2992/DIS](#) - Approved (03/02/2016)

Discharge of condition 6 on application ref. P07/V0741/O

[VE15/270](#) - (17/07/2015)

Breach of condition 15 of P07/V0741/O - (CTMP - Construction traffic using Tilbury Lane).

[VE14/220](#) - (22/06/2015)

Breach of condition 6 of P07/V0741/O (No gate).

[VE15/71](#) - (13/04/2015)

Drainage systems not built in accordance with the approved plans for P07/V0741/O and P13/V1815/DIS.

[VE14/259](#) - (23/03/2015)

Breach on condition 15 on P07/V0741/O

[P14/V2807/DIS](#) - Approved (09/03/2015)

Discharge of condition 6 (prevention of vehicular access) on application ref. P07/V0741/O.

[VE14/194](#) - (22/12/2014)

Breach of condition 4 of planning permission P07/V0741/O - pre-occupation condition.

[VE14/235](#) - (21/11/2014)

Breach of condition 15 of P07/V0741/O (CMS, Wheel Washing).

[VE14/048](#) - (11/08/2014)

Alleged non-compliance of CMS.

[P14/V1362/DIS](#) - Approved (01/08/2014)

Erection of 150 dwellings and related works pursuant to outline permission ref P07/V0741/O P13/V0817/RM Conditions(s) 11

[VE14/124](#) - (31/07/2014)

Breach of condition on P13/V0817/RM (implementation before occupation).

[P13/V2378/DIS](#) - Approved (16/06/2014)

Discharge conditions 5, 6, 8, and 18 of planning permission P07/V0741/O.

[VE13/197](#) - (26/02/2014)

Breach of condition 15 of P07/V0741/O.

[P14/V0129/DIS](#) - Approved (17/02/2014)

Discharge condition 10 of planning permission P13/V0817/RM

[P13/V2756/DIS](#) - Approved (24/01/2014)

Discharge of condition 15 on P07/V0741/O

[P13/V2457/DIS](#) - Approved (17/01/2014)

Discharge condition 3 of planning permission P13/V0817/RM.

[P13/V1026/DIS](#) - Approved (05/11/2013)

Discharge conditions of planning permission P07/V0741/O Conditions 11- ecology and 13- landscape management plan

[P13/V1815/DIS](#) - Approved (01/11/2013)

Discharge condition 12 of planning permission P07/V0741/O.

[P13/V0817/RM](#) - Approved (01/11/2013)

Erection of 150 dwellings and related works pursuant to outline permission ref P07/V0741/O

[P13/V1517/DIS](#) - Approved (29/08/2013)

Discharge of conditions 9 & 10 of planning permission P07/V0741/O.

[P07/V0741/O](#) - Approved (28/06/2012)

Outline application for Residential Development comprising 150 dwellings, including affordable housing, associated access, parking and private amenity spaces.

3.2 **Pre-application History**

None.

3.3 **Screening Opinion requests**

None.

4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 The proposal is not EIA development.

5.0 **MAIN ISSUES**

5.1 The main issues in this case are:

1. The principle of retrospective applications
2. Highways
 - Access
 - Traffic calming
3. Drainage
4. Landscaping
5. Open space
6. Block C changes

5.2 **The principle of retrospective applications**

The council's adopted enforcement statement is clear that the role of the planning enforcement team is to remedy planning harm through negotiation or a retrospective planning application and that people who breach planning law are given the opportunity to remedy any breach identified.

5.3 In some cases, the most appropriate way to rectify a breach of planning control is to invite a retrospective planning application for the development that has occurred. This approach is taken where it is considered there is a reasonable likelihood that an application will be successful, in line with local and national planning policies or where a development may be acceptable by way of the imposition of conditions. Such applications allow all interested parties to comment on the development and for the local planning authority to consider the planning merits as if it were a proposed development.

5.4 This application seeks to regularise changes made to the as built development in respect of highways, drainage, landscaping and the bin store for apartment block C. The changes are discussed in more detail below.

5.5 **Highways**

The key changes to the approved scheme relate to the spine road, to correct conflicts between highways, drainage and landscaping plans, and to Tilbury Lane, to provide a long-term solution to the problem of damage to the gate that restricts vehicular access.

5.6 *Access*

The proposed access connection points from the public highway were approved under the outline application and remain as approved. In terms of changes in this application, the proposal seeks to resolve the ongoing problem of damage to the access gate on Tilbury Lane. The gate has now been replaced with bollards to prevent vehicle access, but still allow pedestrian and cycle use, which is acceptable. Bollards (previously approved under the original scheme) have also been installed at Hope Way.

5.7 *Traffic calming*

Concern has been raised that the approved traffic calming measures were not implemented correctly within the site. Further work has since taken place on site and plans have been corrected to reflect the as built works. These have been assessed by the Highway Authority and are considered satisfactory.

5.8 Overall, the changes proposed are acceptable and the Highway Authority raises no objection.

5.9 **Drainage**

The applicant has confirmed foul drainage has been constructed as agreed. However, through investigative testing in 2018, it has been established that surface water drainage does not accord with the approved details. Remedial work has been required, including the lifting and relaying of block paving and correcting pipe run errors. Additional gullies have also been installed outside plots 103 – 105 to alleviate flooding in this part of the site. Updated surface water drainage plans to reflect the changes have therefore been submitted for consideration in this application.

5.10 Since the submission of the application, in January 2019, the drainage engineer has requested a verification report to ensure the as-built system is working satisfactorily. A validation report was submitted in October 2019. Whilst it confirms the constructed system is working, the report does not cover the whole system; it only covers surface water drainage within the private roads agreement. An additional report was received in December 2019. This has subsequently confirmed the system as built is satisfactory. Both reports have been assessed by the drainage engineer who confirms he has no further objections to the as built surface water scheme, subject to the re-gritting of porous paving areas. This can be secured by condition. On this basis, officers consider the revised drainage system is acceptable and complies with policy CP42 and can be approved as an alternative to that previously approved.

5.11 **Landscaping**

The proposal seeks to regularise numerous changes to the hard and soft landscaping, including changes to parking bays around the LEAP and amendments to footpath routes around the site.

5.12 Concern has been raised over the loss of trees compared to the approved landscaping scheme. The changes provide 183 trees across the site which is 63 less than originally proposed. 38 of those omitted were to be planted in the rear gardens of individual plots which are now privately owned. Other trees omitted are either in front garden locations (also privately owned) or in spaces within the street that are too small to accommodate a tree (due to boundary walls and buildings). Trees in the public open space to the north remain unchanged save the repositioning of four trees.

5.13 Notwithstanding the reduction in the number of trees across the site, officers consider the hard and soft landscaping remains, on balance, acceptable. A high number of trees are retained within public landscape areas which provide the most benefit to the context of the development. The remedial work identified in establishment survey is currently underway and can be secured by condition to ensure it is completed. The alternative landscaping to that approved does not materially diminish the character and appearance of the development. Had it been proposed at the Reserved Matters stage it is likely it would have been approved. The proposal therefore complies with policy CP44.

5.14 **Open Space**

Under the terms of the original S106 legal agreement, there is an obligation to transfer ownership of some of the public open space to the council. The area to be transferred is continuing to be negotiated but it does not affect the determination of this application.

5.15 **Block C Changes**

This application seeks to regularise changes to the approved bin store serving block C, which was built larger than approved to accommodate bins and allow manoeuvrability. The waste management team has assessed the as built facility and raise no objection. Officers consider its design is acceptable.

6.0 **CONCLUSION**

6.1 This application has been assessed against the development plan, the National Planning Policy Framework (NPPF) and all other material planning considerations. In considering the application, due regard has been given to the representations received from statutory and other consultees. These have been taken in to account in assessing the overall scheme.

6.2 The proposed development is acceptable. The design of all the external elements are considered overall to make a positive contribution to the development.

6.3 Subject to the recommended conditions, the application amounts to sustainable development and should be approved.

The following planning policies have been taken into account:

Vale of White Horse Plan 2031 Part 1

- CP01 - Presumption in Favour of Sustainable Development
- CP03 - Settlement Hierarchy
- CP04 - Meeting Our Housing Needs
- CP07 - Providing Supporting Infrastructure and Services
- CP08 - Spatial Strategy for Abingdon-on-Thames and Oxford Fringe Sub-Area
- CP33 - Promoting Sustainable Transport and Accessibility
- CP35 - Promoting Public Transport, Cycling and Walking
- CP37 - Design and Local Distinctiveness
- CP38 - Design Strategies for Strategic and Major Development Sites
- CP42 - Flood Risk
- CP43 - Natural Resources
- CP44 - Landscape
- CP45 - Green Infrastructure
- CP46 - Conservation and Improvement of Biodiversity

Vale of White Horse Plan 2031 Part 2

- CP04A - Meeting our Housing Needs
- DP16 - Access
- DP23 - Impact of Development on Amenity
- DP24 - Effect of Neighbouring or Previous Uses on New Developments
- DP28 - Waste Collection and Recycling
- DP30 - Watercourses
- DP33 - Open Space

Neighbourhood Plans

Cumnor Parish Council is working on a plan and the area was designated on 12 January 2017, but to date no plan has been published. Accordingly, no weight can be given to this plan.

North Hinksey Parish Council's neighbourhood plan has been through examination, but modifications are required. These are currently being considered by the parish council. Accordingly, limited weight can be given to the plan at this stage.

Supplementary Planning Documents

- Vale of White Horse Design Guide – 2015

National Planning Policy Framework (NPPF) – June 2019

National Planning Practice Guidance (PPG)

Other Relevant Legislation

- Planning (Listed Buildings and Conservation Areas Act) 1990
- Community & Infrastructure Levy Legislation
- Human Rights Act 1998
- Section 149 of the Equality Act 2010
- Section 17 of the Crime and Disorder Act 1998

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