

**CUM/80/32 – Persimmon Homes (Thames Valley) Ltd  
Removal of condition 10 and variation of condition 12 of planning permission  
CUM/80/26-X. Option A – to permit 31 dwellings to be built prior to off site works  
to public sewer being completed.  
Timbmet Ltd, Cumnor Hill, Oxford, OX2 9PH**

**1.0 The Proposal**

- 1.1 This application seeks permission to remove condition 10 (phasing restriction) and to vary condition 12 (off site drainage works to be undertaken before development commences) of outline permission CUM/80/26-X, a scheme permitted in February 2007 for residential development with associated access on the former Timbmet site. The application has been amended to include the proposed removal of condition 10.
- 1.2 The site, a 7.4 ha site on the south side of Cumnor Hill, is an allocated housing site as identified by Policy H3 of the adopted Local Plan. Reserved matters approval was granted in March 2008 for 192 dwellings on 4.8 hectares of the total site area, which achieves a density of 40 dwellings per hectare. 77 of the dwellings will be affordable units, equating to 40% affordable provision.
- 1.3 The site lies in an area which has known sewage overflow problems. As a result, condition 12 was imposed on the outline permission. In early 2008 Thames Water was conducting a Sewerage Capacity Study to identify the cause of the overflows. The study is now complete, but to date, the timescale for improvements to be made has not been published. Whilst the Sewerage Capacity Study was being carried out Thames Water would not allow any properties to connect to the foul sewer and the company does not guarantee connection since the Study has been completed. This position is currently being maintained.
- 1.4 To overcome this problem, the applicant has been in correspondence with Thames Water, and it has been agreed in principle between them that the same level of foul sewage can be discharged from the site to the public sewer as was discharged with the previous timber yard use. Thames Water has calculated this to equate to 31 dwellings.
- 1.5 In order to permit the 31 dwellings to connect to the foul sewerage system the applicant proposes to remove condition 10 and vary condition 12 to read as follows:
- “Prior to occupation of the 32<sup>nd</sup> dwelling, full details of measures to improve off site foul sewerage infrastructure (including a timetable for implementation of the improvement works) shall be submitted to and approved in writing by, the District Planning Authority.”*
- 1.6 The applicant contends that this would enable the first 31 units to be built based on current drainage discharge levels and assumes that Thames Water would have completed the off site works by the time the applicant looks to occupy and connect the 32<sup>nd</sup> dwelling to the public sewer system. A layout plan showing the location of the suggested 31 units is attached at **Appendix 1**.
- 1.7 The application comes to Committee because Cumnor Parish Council objects to the proposal and numerous letters of objection have been received.

**2.0 Planning History**

- 2.1 The majority of the planning history relates to Timbmet's use of the site. Outline planning permission was granted in February 2007 for residential redevelopment, with the number of dwellings permitted capped at 192 units.
- 2.2 In August 2007, a reserved matters application was submitted for the erection of 192 dwellings. The application was refused on 1 November 2007 under delegated authority. A revised scheme was permitted in March 2008. An appeal against non determination to change the use of land to the east of the site to a playing field with a locally equipped area of play (LEAP) and to provide an attenuation drainage pond was dismissed in August 2008.
- 2.3 The applicant has also recently submitted three other alternative options to vary condition 12:
- Option B: To permit 31 dwellings to be built (connecting to mains system) and provide on site foul sewage treatment works for a temporary period until off site works are completed.
- Option C: To permit 31 dwellings to be built (connecting to mains system) and provide permanent on site foul sewage treatment works for the remaining properties.
- Option D: To permit 31 dwellings to be built (connecting to mains system) and provide on site foul sewage treatment works for a temporary period until 31 December 2015 or until off site works are completed, whichever is the sooner.
- Options B and C were withdrawn on 10 September 2008. Option D is currently out to consultation and is yet to be determined.

### 3.0 **Planning Policies**

- 3.1 *Vale of White Horse Local Plan 2011*  
Policy H3 (sites for housing development in Botley / Cumnor Hill) allocates the application site for new housing development.
- 3.2 Policy GS5 states that development will only be permitted within existing settlements if it makes efficient use of land and does not result in harm to the site or its surroundings or a poor quality environment.
- 3.3 Policy DC8 states that development will only be permitted where necessary infrastructure and service requirements of future occupiers are provided or secured through a financial contribution.
- 3.4 Policy DC9 states that development will not be permitted if it would unacceptably harm the amenities of neighbouring properties or the wider environment.
- 3.5 Policy DC13 confirms that new development will not be permitted if a risk from flooding is identified unless an adequate assessment has been made, flood risk and storage capacity are acceptable and mitigation is adequate.
- 3.6 Following on from this, Policy DC14 states that development creating surface water run off will not be permitted unless the surface water management accords with

sustainable drainage principles and the system will effectively control and mitigate any adverse effects.

*Oxfordshire Structure Plan 2016*

- 3.7 Policy G2 states that all development should be of a scale appropriate to the site and its surroundings and not harm the character or amenities of the area.
- 3.8 Policy G3 states that development will not be permitted unless necessary infrastructure, services and environmental improvements are available or will be provided.
- 3.9 Policy EN9 states that development at high risk from flooding will not be permitted. Flood Risk Assessments will be required and proposals should aim to improve conditions locally and not worsen flood risk elsewhere. New development should not lead to increased run off, and sustainable drainage systems will be required as part of development proposals.
- 3.10 Policy EN10 states that development will only be permitted where adequate water resources and waste water infrastructure already exists or can readily be provided without risk to quality, or the environment.

*Government Guidance*

- 3.11 The following Planning Policy Statements are also relevant: PPS1 “Delivering Sustainable Development”; PPS3, “Housing”; PPS9 “Biodiversity and Geological Conservation”; PPS23 “Planning and Pollution Control”, PPS25 “Development and Flood Risk”.

4.0 **Consultations**

- 4.1 Cumnor Parish Council has objected to the application and their comments are attached at **Appendix 2**.
- 4.2 Thames Water – “With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason: to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
- 4.3 Thames Water agrees to a maximum of 31 no properties connecting foul drainage to public sewer. No further properties should be permitted to connect until off site sewer improvements are carried out by Thames Water. At the present time no clear indication can be given when funding will be available to carry out these improvements which at the earliest could be funded during AMP5 (2010 - 2015) subject to the level of the final determination by OFWAT for flooding and growth.”
- 4.4 Environment Agency – “We have no objections to the proposal.”

- 4.5 Drainage Engineer – “No objections to proposal. Condition 11 still to apply”.
- 4.6 Natural England – “It is Natural England’s advice that the application site adjoins Hurst Hill Site of Special Scientific Interest (SSSI). We would wish to ensure that any sewerage facilities necessary to service the proposed phase 2 development of a further 161 dwellings would not adversely impact on the SSSI.
- 4.7 We consider that any variation of the existing condition 12 should make it clear that no further development beyond phase 1, the 31 dwellings for which mains sewerage has been allocated, should take place until full details of measures to improve off-site foul sewerage infrastructure (including a timetable for the implementation of the improvement works) have been submitted to and approved in writing by the District Planning Authority. The wording of the proposed variation “Prior to occupation of the 32<sup>nd</sup> dwelling” suggests that the further development may continue, as long as the houses are not occupied, whilst the improvement of the off-site sewerage system is still in question. Natural England would be likely to object to the provision of on-site sewerage facilities, should off-site sewerage improvements prove to be unachievable, due to the potentially adverse impacts on the SSSI; please see our responses to the related applications CUM/80/33 and CUM/80/34.”
- 4.8 16 letters of objection have been received, which are summarised as follows:
- Whilst the existing foul water drainage remains inadequate, development should not be commenced.
  - No new dwelling should be built until the off site sewage works have been completed.
  - There is no sound reason to vary condition 12. To approve 31 dwellings will nullify the requirements of the condition, and should be resisted.
  - The applicant could have appealed the condition, but chose not to, and thus should accept its requirements.
  - Condition 10 requires the site to be developed fully and not piecemeal. By allowing 31 dwellings, a phasing situation will occur in contravention of this condition. Until Thames Water undertakes improvement works, this will leave an unsightly building site for potentially years to come.
  - Developing the site in phases will prolong the disruption to local residents to the detriment of residential amenity. Condition 10 should therefore remain.
  - The suggested wording by the applicant is not robust enough, and will enable them to build all of the houses without the upgrade works being carried out.
  - Since Timbmet has ceased operating from the site, other new dwellings in the vicinity have been built replacing their discharge to the network. Therefore, there should be no like for like ‘trade’ for discharge. Otherwise this will only add to the drainage problem.
  - If this option is accepted, then the 31 dwellings should be affordable units.

## 5.0 **Officer Comments**

- 5.1 The main issue to consider in this case is whether this proposal to vary condition 12 of CUM/80/26-X and remove condition 10 is acceptable in terms of its impact on the local foul sewerage infrastructure.

### *Condition 12*

- 5.2 Condition 12 says “Prior to the commencement of development, full details of measures to improve off-site foul sewerage infrastructure (including a timetable for the implementation of the improvement works) shall be submitted to and approved in writing by the District Planning Authority. No new dwelling shall be occupied until all of the approved off-site foul sewerage improvement works have been completed.”
- 5.3 The reason for this condition is to ensure necessary off-site foul sewerage works are carried out in the interest of public health.
- 5.4 It is clear that Thames Water has no objection to the connection of 31 dwellings to the existing foul sewerage system. Your Officers agree that enabling the established level of sewage discharge from the site to continue is reasonable, and such a variation would enable work to start on this allocated housing site. Therefore, the principle of varying condition 12 in such a limited manner is acceptable.
- 5.5 However, the applicant’s proposed wording (as outlined in paragraph 1.5 above) does not secure the requirements of the original condition 12, and could easily lead to the whole site being built out prior to the drainage situation being resolved. This is very likely lead to significant pressure for the Council to release the remaining 161 units, which in turn would exacerbate the drainage problem to the detriment of the locality. In the light of this Officers consider the following wording would be an acceptable alternative:
- 5.6 With the exception of 31 dwellings identified on drawing PL061101 / SL02, dated 09/08 (marked with a dashed blue line), the construction of no dwelling shall be commenced until full details of measures to improve off-site foul sewerage infrastructure (including a timetable for the implementation of the improvement works) have been submitted to and approved in writing by the District Planning Authority. No new dwelling (161 units marked with a dashed green line) on drawing PL061101 / SL02, dated 09/08 shall be occupied until all of the approved off-site foul sewerage improvement works have been completed.
- 5.7 The above wording would secure the requirements of condition 12, and would also identify, with reference to the submitted plan, the 31 units that can be built and connected to the public sewer. This would provide a clear and unambiguous clarification of those properties exempted from the requirements of the condition and will allay any confusion that may arise when building work commences on site.

#### *Condition 10*

- 5.8 Condition 10 says “The whole of the site shall be developed comprehensively, in accordance with a programme which shall first have been submitted to and approved in writing by the District Planning Authority.” The reason for this condition was “To minimise any disruption and disturbance to existing neighbouring properties and new dwellings”.
- 5.9 By permitting any variation to condition 12 in the manner proposed, there is the possibility that a phasing situation may occur, contrary to condition 10, especially if the off site works are not completed prior to work commencing on the 32<sup>nd</sup> dwelling.
- 5.10 The applicants contend that they could develop the site as they propose within the requirements of condition 10, if their proposed wording for condition 12 is agreed. However, for the reasons given above, your Officers do not consider that wording to

be acceptable. Therefore, the applicant has agreed to amend the application to include a relaxation of condition 10 in order to avoid any breach of planning control.

- 5.11 The condition was imposed at a time when there was a possibility that Timbmet was seeking to remain on site and that the whole site, therefore, would be developed in 2 phases. Clearly, Timbmet has now vacated the site and the industrial use has ceased. Therefore, the original intention of the condition is no longer relevant. However, it was imposed for the reason of protecting residential amenity from prolonged disruption and disturbance from the development itself and from Timbmet remaining in a more concentrated form on the site.
- 5.12 In this respect, local residents have raised concerns that prolonged building works could cause undue harm to their amenity, and consequently, they wish to see the site developed in one go. Similarly, the applicants are clearly keen to continue building out the whole site, given their suggested revised wording for condition 12.
- 5.13 Whilst residents' concerns and developer aspirations are acknowledged by Officers, it is very unlikely that the phasing of 31 units and the remaining 161 units would cause so much harm to local residents to warrant refusal of this application. The suggested wording of condition 12 is quite clear in allowing further works to continue once foul drainage details have been submitted and approved. Should these details not be submitted, and / or approved, development on the site would be suspended. Consequently, Officers consider the removal of condition 10 to be acceptable.

#### *Affordable Housing*

- 5.14 The level of affordable housing provision for this site has been agreed through the S106 Agreement dated 19 January 2007 and provides 77 units (i.e. a 40% provision). Under this agreement, there is a caveat that no more than 50% of the general market housing (i.e. 57 units) shall be occupied until all of the affordable housing has been completed.
- 5.15 It has been suggested by several interested parties that if 31 units are allowed, 40% should be affordable in accordance with adopted housing policy. Your Officers, however, consider such a requirement would be unreasonable. This is because there is no requirement for the developer to build on a pro rata basis at present. Furthermore, Housing Associations prefer to take ownership / control of dwellings on a site wholesale in order to keep legal and associated costs down. In the event that there is a significant delay in the building of the remainder of the site, it is likely that the transfer of units on a piecemeal basis will increase these legal and associated costs for all concerned. It is not considered either reasonable or necessary to require the affordable housing to be provided in advance of the provision in the existing S106 Agreement.
- 5.16 Given the state of the current housing market, such a restriction would thus place an over onerous burden on the developer and housing association, unacceptably so.

#### 6.0 **Recommendation**

- 6.1 *It is recommended that planning permission to remove condition 10 and vary condition 12 be granted subject to the following condition:*

1. *With the exception of 31 dwellings identified on drawing PL061101 / SL02, dated 09/08 (marked with a dashed blue line), the construction of no dwelling shall be commenced until full details of measures to improve off-site foul sewerage infrastructure (including a timetable for the implementation of the improvement works) have been submitted to and approved in writing by the District Planning Authority. No new dwelling (161 units marked with a dashed green line) on drawing PL061101 / SL02, dated 09/08 shall be occupied until all of the approved off-site foul sewerage improvement works have been completed.*