

APPLICATION NO.	<u>P20/V3322/FUL</u>
SITE	Land at Hids Copse, Cumnor Hill, Oxford, OX2 9JJ
PARISH	CUMNOR
PROPOSAL	Erection of single detached 'Tree House' dwelling
WARD MEMBER(S)	Alison Jenner Judy Roberts
APPLICANT	Ms Emma Avraamides
OFFICER	Hannah Wiseman

RECOMMENDATION

Refusal of Planning Permission

1. That the proposed development would be detrimental to the visual amenities of the locality and would lead to a progressive detraction from the character of the area due to potential damage from construction and the likely pressure on the protected trees, for removal and lopping due to overshadowing, public safety and debris following any residential occupation on this site. It is considered that this would cause substantial harm to the character and appearance of the area and wider landscape, contrary to policies CP37 and CP44 of Vale of White Horse Local Plan 2031 part 1 and relevant paragraphs of the NPPF.
2. The proposal has failed to sufficiently demonstrate that the priority habitat can be protected and that any biodiversity impacts as a result of the development can be sufficiently mitigated against or offset. As such the proposal is considered contrary to policy CP46 of the Local Plan 2031 Part 1 and paragraphs 170 and 175a of the NPPF.

1.0 INTRODUCTION AND PROPOSAL

1.1 This application comes to committee at the request of the local ward councillor, Alison Jenner.

- 1.2 The application site slopes down from south to north/north west and consists of a dell or glade of mature and semi mature trees protected as a group under Tree Preservation Order (Cumnor) No.12.1999 and is currently undeveloped. The trees include oak and field maple, and the area is surrounded by a hedgerow. There is housing to all sides of the site, situated in generous plots. Hids Copse is a private, 'no through' road, which terminates at this site.
- 1.3 The application is seeking planning permission for the erection of an individually designed 'floating' tree house in timber and glass. Access would be from Hids Copse, utilising the existing access to the site.

- 1.4 A site location plan is below. The application plans are attached in **Appendix 1** and a previous appeal decision in **Appendix 2**.



2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

2.1 The full versions of the representations received can be viewed on the planning application pages of the council's website, www.whitehorsedc.gov.uk

Cumnor Parish Council	Supports the application
Neighbours	<p>11 nearby households have raised objections to the proposal. The grounds for objection can be summarised as follows:</p> <ul style="list-style-type: none"> • Harm to woodland • Harm to habitat • Highway safety – close to blind bend • Surface and foul water drainage problems • Risk to privacy • Constructing will be difficult without impeding on trees/root networks • Road unsuited to increased traffic • Pressure on the trees for future clearance • Can't risk the loss of the protected trees • Additional strain on utilities • Would increase water run off • The woodland character would be destroyed
Countryside Officer	Objects- The application site is situated within a priority habitat and there are no mitigations proposed to account for the loss and pressure on this habitat.
Drainage	No objection – Subject to Surface Water and Foul Water condition
Forestry Team	Objects- The tree are protecting by a group TPO and have a significant contribution. Whilst no trees are proposed to be removed- the residential use of the site will lead to pressure on the trees for lopping or removal.
Vale - Highways Liaison Officer	No objections- subject to conditions requiring further information.

3.0 RELEVANT PLANNING HISTORY

3.1 [P17/V1874/PEM](#) - Advice provided (03/11/2017)

Erection of 3/4 bedroom dwelling with associated parking.

SITE MEETING

[P12/V2518/FUL](#) - Refused (24/01/2013) - Appeal dismissed (28/01/2014)

Erection of a four bedroom house and double garage.

[P08/V0369](#) - Other Outcome (09/04/2008)

Erection of a single dwelling with integral garage.

4.0 ENVIRONMENTAL IMPACT ASSESSMENT

4.1 The proposal is under the threshold to be considered EIA development.

5.0 MAIN ISSUES

5.1 Principle

Botley is classed a service centre for the purposes of the settlement hierarchy as set out in policies CP3 and CP4 of the Local Plan part 1. As such it has good access to transport links and services and is one of the more sustainable locations for new development. The principle of a new dwelling in this location is therefore considered acceptable in terms of the locational policies of the Local Plan part 1; however, the application must be considered against the Plan as a whole and this will be further considered below.

5.2 Design and Impact on Trees

Policy CP37 of the LPP1 states that proposals for new development will be required to be of a high-quality design that responds positively to the site and its surroundings. Policy CP44 states that measures should be sought to integrate development into the landscape character of the area and that development should preserve and promote local distinctiveness and diversity. It makes clear that landscape features of the area (including trees) will be protected from harmful development.

5.3 Officers consider the main issue to be the likely impact of the proposal on the existing trees on the site.

5.4 The Previous Appeal

There have been previous planning applications on this site; most notable is application ref. P12/V2518/FUL which was for a two storey 4 bed house with a detached garage. That scheme involved the removal of several of the trees on site and occupied the eastern portion of the site, with a contemporary flat roof design with balconies and glazing. Due to the impact on the trees the proposed was considered to result in an unacceptable harm to the character of the area and was refused

5.5 An appeal was lodged under ref. APP/V3120/A/13/2199574. (**Appendix 2**) The appeal was dismissed. The Planning Inspector considered that the trees '*.....collectively they combine to give the copse the character and appearance of a piece of semi-natural woodland which adds diversity to the leafy but suburban landscape of Hids Copse Road as a whole. The loss of trees would inevitably adversely affect the semi-natural appearance of the copse and reduce its positive impact in the local landscape.*'

5.6 The Inspector agreed that the special character of the copse would be at risk from pressures on the site once a residential use commenced. Despite any assurances from the prospective owners, there would likely be inevitable pressures on the trees, over time, from debris falling, loss of sunlight, loss of

heat, damage risk and as such there would be pressure for lopping or removal of further trees that was already proposal, resulting in harm to the character and appearance of the area.

- 5.7 The Inspector confirmed; '*Whilst the group of trees on the appeal site are not prominent in the wider landscape, they contribute positively to the character and appearance of the locality. The proposed development would result in the appeal site having a suburban character and appearance, and in this respect it would be in keeping with other dwellings on Hids Copse Road. However, it would result in the loss of a small piece of woodland with a distinctive character and appearance which adds significant diversity of character and visual interest to the local area..*'
- 5.8 **The Current Proposal**
The applicants argue that the new proposal has been specifically designed to overcome the objections of the Inspector. There is no proposal to remove any trees. The proposed dwelling is laid out around 3 main 'cores' to the building in elliptical shapes, set on stilts, with flat, 'green' roofs. The site slopes away south east to north west, the floor level remains the same with level access at the eastern elevation and the western elevation 'floating' on stilts with steps down to the garden area. The elevations will feature extended glazing and timber clad walls, external walkways will extend around the dwelling and allow the occupiers to access the woodland floor. Although the design approach is unusual, officers have no objections to the design of the building itself.
- 5.9 The proposal is supported by an Internal Daylight Adequacy and Overshadowing Assessment using BRE methodology. This concludes that adequate daylight will be received in the dwelling and that 53 % of the garden will receive at least 2 hours of sunshine on 21 March. The assessment has taken account of the shading impact of the trees in full leaf.
- 5.10 An Arboricultural Impact Assessment has also been submitted. This acknowledges that the works proposed to improve the access and parking arrangements are within the root protection areas of several large trees and proposes that protection mats will be used, together with fencing, to protect trees. The proposed dwelling will have heli-piles secured by hand-held equipment and services installed by "moling", or if this is not possible, then in accordance with standards.
- 5.11 **The Concerns of Officers**
Notwithstanding the submitted detail, the Forestry Officer objects to the application. Officers consider the development will result in loss of trees over time and harm to the area. The concerns are as follows.
- 5.12 The reasonable expectations of occupants of a property in this location
Hids Copse is a leafy, lower density housing area off Cumnor Hill. The reasonable expectation of a resident here is of a relatively high level of amenity. Applications have to be assessed against the expectations not only of current residents, but of future ones over time.

- 5.13 It has been demonstrated that the rooms of the dwelling and half of the garden will have at least minimum levels of light. These minimum standards would apply equally to higher density housing estates. The trees will also deposit leaves and other material at various times, for example onto parked cars. Officers are concerned that, whilst the applicants may be prepared to accept these standards of amenity, particularly those in the garden, and disturbance from tree deposition, future occupiers of the site will not, due to entirely reasonable expectations of the level of amenity expected in this area. This will bring irresistible pressure to remove trees, because the request will be reasonably based - to improve levels of amenity to the reasonable expectation of a resident.
- 5.14 By way of comparison, officers consider the proposal is akin to one that has no car parking provision on the basis that the applicant does not own a car and never will. Whilst this may be true for the applicant, the planning system has to give consideration to the reasonable expectation of future residents, which dictates that car parking should be provided to future proof the development appropriately. If car parking cannot be provided at the outset, then the application should be refused.
- 5.15 Direct effect of the trees on amenity
Although the application deals with the effect of the trees on light, it does not address the aspect of the effect of high wind on the amenity of future occupants. Scientists expect climate change to bring more extreme weather that are longer and more often, including stronger and longer lasting storms. Officers are concerned that the effect of a long, powerful storm on the trees and then on the occupants of this house, will lead to understandable anxiety, and a reasonable request to remove trees to reduce it.
- 5.16 The Construction Process
Although the submitted information deals with measures to reduce the impact of construction, officers struggle to find it credible than an entire dwelling can be built amongst the close grouping of trees and for there not to be some damage to the trees as a result, which could easily threaten their longevity. Based on experiences of other construction sites, officers are well aware that the complexity of the construction process, the likelihood of meeting unexpected issues, and the sheer number of persons involved. means that unintended consequences often arise even with the best of intentions. Hids Copse is a constrained road that brings challenges in terms of the matters such as parking for construction traffic and for construction deliveries. The nature of the site makes the potential effect of unintended damage significant due to the damage to trees or their roots that could easily bring about the unintended, but nevertheless evident, premature decline of trees on the site.
- 5.17 The applicant has noted a case decided in Wallingford in South Oxfordshire District, where similar construction techniques were proposed to those in this case, and were found acceptable. The Forestry Officer has reviewed the additional information and responded as follows:

'I have considered the additional supporting information and still maintain my previous comments objecting to the proposal. The case that the agent makes reference to in Wallingford is very different. The trees that required removing in that case, were of a poor quality and the relationship between the retained trees and the proposed dwelling will not lead to many of the significant pressures on trees that will result from this proposal.'

5.18 **Conclusion**

Officers consider that the proposal is likely to lead to unintended damage to existing trees, leading to their premature decline, and to pressure from residents to remove trees due to anxiety from storms and the entirely reasonable expectations for levels of amenity in this locality. For this reason, officers consider the impact of the proposal on the area and on trees to be harmful and contrary to policies CP37 and CP44 of LPP1.

5.19 **Residential Amenity**

Policy DP2 of LPP2 relates to space standards to ensure that sufficient space (including internal storage) is provided for future occupants. The dwelling as shown will comply with these standards. The property will also have private external amenity space and parking.

Policy DP23 of LPP2 relates to impact of development on amenity and states that proposals for new development should;

'...demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses when considering both individual and cumulative impacts in relation to the following factors:

- i. loss of privacy, daylight or sunlight
- ii. dominance or visual intrusion
- iii. noise or vibration
- iv. dust, heat, odour, gases or other emissions
- v. pollution, contamination or the use of / or storage of hazardous substances; and
- vi. external lighting.'

5.20 Due to the generous gardens surrounding the properties and the distances between habitable windows on neighbouring properties it is not considered there would be any harmful impacts on neighbouring amenities in terms of loss of privacy or daylight or outlook.

5.21 **Flood Risk and drainage**

Policy CP42 of LPP1 relates to flood risk and seeks to ensure that new development does not increase or exacerbate flooding in an area. During the course of the application revised details were provided to our drainage engineers who have revised an initial holding objection, to one of no objection, subject to pre commencement conditions regarding further details for both the surface and foul water drainage strategies. As such there is no objection to the proposal on the grounds of flood risk.

5.22 Traffic, parking and highway safety

The County Councils Highways Liaison officer has commented on the proposal and notes that in terms of its location it is relatively sustainable with good access to facilities and public transport links. He also notes that the parking area as shown and access does not appear practical and may require swept path drawings to show manoeuvring and egress in forward gear is safe and practical. The result of this may impact on the trees further, depending on how this can be reconfigured. The Highways Officer considers these matters can be addressed by pre commencement conditions and as such raises no objection to the proposal on the grounds of highway safety. Consequently, the proposal complies with policy CP35 of LPP1 and policy DP16 of LPP2.

5.23 Biodiversity

Policy CP46 of the LPP1 relates to biodiversity and states that new development should protect or enhance species and habitats. It also states that:

'Development which is likely to result in the loss, deterioration or harm to habitats or species of importance to biodiversity or of importance for geological conservation interests, either directly or indirectly, will not be permitted unless:

- i. the need for, and benefits of, the development in the proposed location outweighs the adverse effect on the relevant biodiversity interest;
- ii. it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the biodiversity interests;
- iii. measures can be provided (and are secured through planning conditions or legal agreements), that would avoid, mitigate against or, as a last resort, compensate for, the adverse effects likely to result from development'

This is mirrored in paragraphs 170 and 175a of the NPPF.

5.24 The proposal is considered to be situated within deciduous woodland and is therefore considered as a habitat of 'principle importance' for the conservation of biodiversity under section 41 of the NERC Act 2006 and page 70 of the NPPF 2019, as such the above policy would apply to the proposed development here.

5.25 Allowing a dwelling in an area of priority habitat will lead to increased intensification and urbanisation of an area which has previously been uninhabited. This will result in loss of habitat, increased disturbance and light pollution all of which are harmful to the biodiversity of the site, both flora and fauna. The proposal therefore has not demonstrated that it meets the criteria of CP46 i) and ii) and no mitigation has been put forward to offset the development in accordance with criterion iii).

5.26 Taking into account the above matters, the proposal is not considered to comply with policy CP46 of the LPP1.

5.27 CIL

The proposal relates to the construction of new residential floorspace and therefore would be CIL liable at a rate (index linked) for Zone 1 per m² of new floorspace if it were approved. The relevant liability notice would be sent out at the time of the decision.

6.0 CONCLUSION

- 6.1 The proposal is in a relatively sustainable location for development. However, the site is heavily constrained by the protected trees on site and the priority habitat that woodland area is considered to provide. Regardless of the methods proposed to carry out the works, officers consider that allowing a residential use on this site is likely to result in unintended damage to trees on the site, hastening a decline, and would inevitably result in future pressures on the trees for requests to remove. Although the applicants as may be content with the proposal as it is, the application must be assessed on its merits, as proposed, in light of the reasonable expectations of future residents.

The application has not been demonstrated to sufficiently take account of the risk to biodiversity and the priority habitat in accordance with CP46 and no mitigation has been put forward. For these reasons the application is considered to be contrary to policies CP37, CP44 and CP46 of the Local Plan 2031 and the relevant paragraphs of the NPPF, as set out at the header of the report.

The following planning policies have been taken into account in reaching this decision:

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
- CP35 - Promoting Public Transport, Cycling and Walking
- CP37 - Design and Local Distinctiveness
- CP44 - Landscape
- CP46 – Biodiversity

Vale of White Horse Local Plan 2031 Part 2 policies:

- DP02 - Space Standards
- DP16 - Access

DP23 - Impact of Development on Amenity

DP24 - Effect of Neighbouring or Previous Uses on New Developments

Cumnor Draft Neighbourhood Plan:

Following the independent examination of the Cumnor Neighbourhood Plan, the district council has decided that the plan should proceed to referendum.

The referendum on the Cumnor Neighbourhood Plan is due to take place on Thursday 6 May. Only limited weight can therefore be given to the draft policies at this stage.

Relevant policies are;

Policy DBC1: General Design Principles in the Parish

Policy DBC3: Low Density areas

Policy RNE1: Green Infrastructure

Policy RNE2: Flood Risk

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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