

<b>APPLICATION NO.</b>	<a href="#">P21/V3456/FUL</a>
<b>SITE</b>	Site of 82 Cumnor Hill, Oxford, OX2 9HU
<b>PARISH</b>	CUMNOR
<b>PROPOSAL</b>	Variation of condition 2 (approved plans) in application P16/V0721/FUL. (Additional Drainage information received 05 April 2022) (Plan S73- 06A received 6 June 2022 substituted for plan P06 A, to reflect same number referencing for plans)
<b>WARD MEMBER(S)</b>	Redevelopment of the site to provide 8 no. 2-bed apartments along with external amenity space, car parking, cycle parking and refuse store Alison Jenner Judy Roberts
<b>APPLICANT OFFICER</b>	Lawrence Homes Sarah Green

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## **RECOMMENDATION**

### **Planning Permission subject to the following conditions:**

1. Approved plans
2. Access, driveways & turning areas prior to occupation
3. Cycle Parking in accordance with plan prior to occupation
4. Construction Traffic Management in accordance with details discharged under P16/V2381/DIS
5. Close existing access
6. Salt/grit bins provided prior to occupation
7. Drainage implemented in accordance with details prior to occupation
8. Landscaping Scheme implemented in accordance with plan
9. Materials in accordance with details discharged under P16/V2381/DIS
10. Implemented in accordance with conclusions of badger survey and method statement under P16/V0721/FUL
11. Slab Levels in accordance with plan
12. Revised Tree Protection details submitted prior to any further site works
13. Obscure glazing to north and south terraces and north window
14. Refuse and recycling provision prior to occupation

## **1.0 INTRODUCTION AND PROPOSAL**

- 1.1 This application has been called into committee at the request of Councillor Judy Roberts.

- 1.2 This application relates to 82 Cumnor Hill, an approximately 0.3 acre site located on the western side of Cumnor Hill, as shown on the location map below:



- 1.3 Planning permission was granted by planning committee on 8 June 2016 for the demolition of the existing dwelling and the erection of 8x 2 bedroom flats. The pre-commencement conditions attached to that permission were discharged in late 2016 and the existing dwelling was demolished soon after.
- 1.4 Section 56 (2) of the Town and Country Planning Act 1990 (as amended) (the Act) provides that development shall be taken to be begun on the earliest date on which any material operation “comprised in the development” begins to be carried out. ‘Material operations’ are listed at section 56 (4) of the Act as:
- any work of construction in the course of erection of a building;
  - any work of demolition of the building;
  - the digging of a trench which is to contain the foundations, or part of the foundations of any building;
  - the laying of any underground main pipe to the foundations or part of the foundations of a building, or to any such trench mentioned in para.(b).
  - any operation in the course of laying out or constructing a road or part of a road;
  - any change in the use of the land which constitutes material development.
- 1.5 Therefore, as the existing dwelling on the site was demolished within three years of the permission being granted the development has legally

commenced. Therefore the 2016 permission remains extant and a live permission and can continue to be built out at any time.

1.6 This current application before planning committee is seeking to vary condition 2 (listing the approved plans) of the 2016 permission to make amendments to the permitted scheme. These are listed in the covering letter to the application as:

- Alterations to the car parking layout to accommodate 4 no. additional car parking spaces, raising the number from 12 to 16 spaces.
- Relocation of the cycle shelter from the southern boundary to the eastern boundary.
- As a result of reconfiguring the car park, the building has been repositioned approximately 1200mm to the west and 600mm towards the northern boundary. The outline of the planning approved building footprint is shown in a red dashed line on the enclosed drawing L403/S73-02A and S73-07A.
- Alterations to the internal layout of the apartments including to the shared lobby and stair core.
- Alterations to the location, size and number of windows provided to the proposed internal layout.
- Increase in surrounding parapet wall height of 0.15metres at third floor level to suit raised window sill height.

1.7 Extracts of the plans for this application are **attached** at Appendix 1. Extracts of the plans for the 2016 permission are **attached** at Appendix 2. Additional drainage information has also been submitted during the application process and subject to formal consultation where appropriate (referred to consultation 2 in the table below).

2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

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

<b>Cumnor Parish Council</b>	<p>Objection</p> <ul style="list-style-type: none"> <li>• Question if should be new application rather than amendment</li> <li>• Scale and mass not in keeping</li> <li>• Concern over access via private driveway from Breeches End</li> <li>• Badger method statement must be rigorously enforced</li> <li>• Not support neighbourhood plan policy DBC3</li> </ul> <p><i>Consultation 2</i></p> <p>Objection</p> <ul style="list-style-type: none"> <li>• Builds on original objection</li> </ul>
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	<ul style="list-style-type: none"> <li>• Proposal over dominates, over looks, causes loss of light to 84 Cumnor Hill</li> <li>• Should be sufficient space between buildings and boundaries</li> <li>• No information on ownership of driveway. Request condition to grant right of access for 84 Cumnor Hill</li> <li>• Badger method statement must be rigorously enforced</li> <li>• Does not conform with Cumnor Parish Neighbourhood Plan policy DBC3 Design in the low density areas. (paras 77, 82, 84)</li> <li>• Does not conform with policy RNE2 Flood Risk – see policy, map 15 and para 114</li> </ul>
<b>Neighbours (2)</b>	<p>Objection</p> <ul style="list-style-type: none"> <li>• Original planning consent has lapsed</li> <li>• Lack of plan showing impact on neighbouring property</li> <li>• Increase to parking not necessary</li> <li>• nothing to show tree protection</li> <li>• access is over neighbouring land, not wide enough, not constructed to become a road</li> <li>• loss of privacy</li> <li>• same objections as to P16/V0721/FUL</li> </ul>
<b>Countryside Officer (South and Vale)</b>	No objection
<b>Drainage - (South&amp;Vale)</b>	<p>More Information required - Drainage report not submitted</p> <p><i>Consultation 2</i> No objections</p>
<b>Forestry Officer (South and Vale)</b>	No objection subject to tree protection condition
<b>Highways Liaison Officer (Oxfordshire County Council)</b>	No objection subject to conditions

### 3.0 **RELEVANT PLANNING HISTORY**

#### 3.1 [P21/V1895/NM](#) - Withdrawn (10/08/2021)

Non material amendments to planning application P16/V0721/FUL-alterations to car-parking layout, relocation of cycle shelter and repositioning of building.

#### [P16/V2381/DIS](#) - Approved (02/12/2016)

Discharge of conditions 4 - cycle parking facilities, 5 - construction traffic management, 8 - drainage details, 9 - sustainable drainage scheme, 10 - landscaping scheme, 12 - samples, 15 - slab levels and 16 - tree protection on application ref. P16/V0721/FUL

#### [P16/V2523/DIS](#) - Approved (10/11/2016)

Discharge of condition 13 (Badger Licence) on application ref. P16/V0721/FUL

#### [P16/V0721/FUL](#) - Approved (06/07/2016)

Redevelopment of the site to provide 8 no. 2-bed apartments along with external amenity space, car parking, cycle parking and refuse store (Design and Access Statement, letter regarding badgers, additional drainage information, and amended drawings received on 7 June 2016)

### 4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 This proposal does not fall within one of the identified classes of development in Schedule 2 of the EIA regulations and is not in a sensitive area. A screening opinion under the Regulations is therefore not required.

### 5.0 **MAIN ISSUES**

5.1 The relevant planning considerations are the following:

- Principle
- Design and Character
- Residential Amenity
- Access and Parking
- Flood Risk and Drainage

#### 5.2 **Principle**

The 2016 permission is a live permission and can still be fully implemented. Therefore, the considerations for this application are the effect of the proposed changes compared to what has already been approved.

#### 5.3 **Design and Character**

The physical building in the application is the same size as that in the 2016 permission. It is proposed to move it back on the site by 1.2 metres and to the north by 0.6 metres. The footprint comparison is shown by the dashed red line on the plans. This allows the parking area at the front to be adjusted such that an additional four parking spaces can be included, an additional one along the northern side boundary and three along the side southern boundary with No84.

The cycle store which was along the southern side boundary is now repositioned to the front of the site.

- 5.4 Due to the site being lower relative to Cumnor Hill and the frontage vegetation, the changes to the parking area will have limited visual impact from Cumnor Hill. The floor levels of the building will be the same as that already approved under the 2016 permission. Therefore, the impact of the building on the visual amenity will be no different save for the fact it will be 1.2m further away from Cumnor Hill. The parapet wall which will be around the third floor has been raised by 0.15m. This change is minor and would not change the overall appearance of the building.
- 5.5 Since the 2016 approval the Cumnor Neighbourhood Plan has been adopted and has the same weight as the local plan. The site lies within an identified Low-Density Area in the Neighbourhood Plan where policy DBC3 seeks proposals to reflect the small scale and fragmented building patterns including maintaining visual gaps between buildings. Cumnor Parish Council object to the proposals for failing this policy due to the scale and mass of the proposal and insufficient space between the building and boundaries. Officers acknowledge it is a large building, but it has previously been approved by application P16/V0721/FUL and importantly that previous permission has commenced. This is a fallback position which this application must be weighed against. The side of the building would be between 4 and 5.7 metres from the northern side boundary (due to the stepped nature of the elevation), and between 3.5 and 5.2 metres from the southern side boundary with No 84.
- 5.6 Officers consider that given the fallback position, the changes proposed would not result in harm to the visual amenity or the character of the area when compared to the 2016 permission.
- 5.7 **Residential Amenity**  
Policy DP23 seeks development proposals to demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses, including in terms of loss of privacy, daylight, dominance or visual intrusion. The 2016 permission was found to be acceptable in terms of its impact on neighbouring properties in respect of these matters.
- 5.8 This application moves the building 0.6 metres further away from No84. It is also pushing it 1.2 metres further back into the site, thereby reducing any potential oblique overlooking from the rear balconies to the end of No 84s garden compared to the approved scheme. The obscured glazed window on the second floor along the southern elevation has been removed compared to the approved scheme thereby removing any perceived feeling of being overlooked. The balcony around the top floor will still be enclosed by 1.8 metres high obscured glazed screening. The window on the third floor has been amended so that it is no longer a wraparound window to the front. As this window serves a bedroom having it obscured glazed is not appropriate. Given the 1.8m high obscured glazed screening around the terrace which will be in front of this window and the set back of the window, there would be no harmful overlooking from this window towards the neighbour. The relevant condition

can be amended to reflect this. The height of the building is not changing from that already approved. Overall officers consider that this application will have no greater impact on the neighbour over the 2016 permission; and it could offer a very slight improvement.

- 5.9 The proposal will still be over 16m from No80 at the closest point. Although the building is moving closer to this boundary it is not considered that the impacts would be materially different from the 2016 permission that it would result in adverse harm to the amenity of this neighbour. Again, the second floor window on the northern elevation has been removed in this scheme, thereby removing any perceived feeling of being overlooked. The balcony around the top floor will still be enclosed by 1.8 metres high obscured glazed screening. The third floor window on the side serves an en-suite and therefore is proposed to be obscured by the applicant. This neighbour has raised concerns over the increase in parking on the boundary. The parking area along this boundary was already approved. This application is making it slightly wider to accommodate an additional space. New shrubs will be added along the boundary on the application site side. The forestry officer has reviewed the scheme and has no objections subject to revised tree protection details to take account of the revised site layout being approved by condition.
- 5.10 The building will be closer to the western boundary it shares with the care home, however given the change in land levels and the vegetation screening in between it is considered that the proposal will not result in any greater impact than the approved scheme.
- 5.11 Overall, the changes are considered acceptable, and the proposal would comply with policy DP23.
- 5.12 **Access and Parking**  
The main change is the inclusion of four additional parking spaces, bringing the total to 16. This means each flat can have 2 spaces each. Space for 24 bicycles will be maintained on the site. The highway officer has reviewed the application and has no objections. The proposal would comply with policies CP33 and CP35.
- 5.13 Concerns have been raised about the shared access driveway and the access from Cumnor Hill. This part of the scheme is not changing from that already approved by the 2016 permission. The agent has confirmed the correct ownership certificate has been submitted. Rights of access are not planning considerations but a separate legal matter for the relevant parties involved. The appropriate construction of roads is also separate and covered under building regulations.
- 5.14 The refuse and recycling store location is unchanged from the 2016 permission. It would be accessed by bin crews from Cumnor Hill via the access path adjacent to it.

5.15 **Flood Risk and Drainage**

Policy CP42 of the local plan seeks to ensure that developments do not increase the risk of flooding elsewhere and effectively manage the sources of flood risk. Policy RNE2 of the neighbourhood plan requires developments to take account of flood risk and should provide required mitigation to ensure there is no unacceptable increase in surface water discharge off site.

5.16 The site lies close to an area of potential groundwater flooding identified in the neighbourhood plan. The supporting text to the policy says areas where groundwater surface flooding exists or in other areas considered at potentially high risk, a number of actions are recommended and should be considered in the design and access statement for major development or other accompanying technical report. The drainage officer has reviewed this proposal, which is a minor application. Additional drainage information, including the drainage design and calculations which the drainage officer requested, has been submitted and the officer is satisfied with the level of details provided.

5.17 Similar details have already been discharged under conditions on the 2016 permission and can be implemented. No further information is therefore considered required or justified in this respect. The proposal has been designed to take account of flood risk. In this regard it complies with policy RNE2 and policy CP42.

5.18 **Other technical matters**

*Trees*

The forestry officer has reviewed the proposal and has no objection subject to a revised tree protection details to reflect the revised site layout being approved under conditions.

5.19 *Ecology*

In terms of ecology, the countryside officer has reviewed the proposal and considered the changes would not have a materially greater ecological impact than the 2016 scheme. He has no objection to the changes. The 2016 scheme was accompanied by a badger survey and method statement to address the matter of part of a badger sett on the site. The details and mitigation submitted were considered acceptable and as such a condition imposed to ensure the development complies with these. This will still be the case for this application.

5.20 **Conditions**

The 2016 permission was permitted subject to a number of conditions, some of which have been discharged. As this is a variation of condition application, the same conditions should be imposed again. Where relevant they have been updated to reflect details already agreed or discharged and to ensure they relate to the revised layout and changes in this scheme.

5.21 **CIL**

The Community Infrastructure Levy (CIL) is a levy charged on new development in the Vale. The money raised will be used to fund infrastructure to support growth in the district. Residential development is subject to the levy.



The 2016 permission was before CIL was adopted. As the floorspace is not altering under this variation, there is no CIL payable.

## 6.0 CONCLUSION

- 6.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The main other material consideration in this case is the fallback of the live 2016 permission which can be fully implemented on site.
- 6.2 The changes proposed to the scheme are considered to not materially alter the impact of the development on the visual amenity of the area, when compared to the 2016 permission. There would be a very slight improvement with the removal of the second floor side windows which will remove the perception of overlooking from neighbours and the additional parking spaces is generally seen as a benefit. Whilst it is accepted the building is large and may not necessarily follow the neighbourhood plan design policies, in this particular case there is a fallback position of the same size building which can continue to be built out on site. On this basis, and given no additional harm would be caused, officers recommend that the application is granted permission.

The following planning policies have been taken into account:

### **Vale of White Horse Local Plan 2031 Part 1 (LPP1) Policies:**

- CP01 - Presumption in Favour of Sustainable Development
- CP03 - Settlement Hierarchy
- CP04 - Meeting Our Housing Needs
- CP33 - Promoting Sustainable Transport and Accessibility
- CP35 - Promoting Public Transport, Cycling and Walking
- CP37 - Design and Local Distinctiveness
- CP42 - Flood Risk
- CP44 - Landscape
- CP46 - Conservation and Improvement of Biodiversity

A Regulation 10A review (five-year review) for Local Plan Part 1 (LPP1) has been completed. The review shows that five years on, LPP1 (together with LPP2) continues to provide a suitable framework for development in the Vale of White Horse that is in overall conformity with government policy.

### **Vale of White Horse Local Plan 2031 Part 2 (LPP2) Policies:**

- DP02 - Space Standards
- DP16 - Access
- DP23 - Impact of Development on Amenity
- DP28 - Waste Collection and Recycling

### **Cumnor Parish Neighbourhood Development Plan 2021-2031 Policies:**

- Policy DBC1: General Design Principles in the Parish
- Policy DBC3: Design in the Low-Density Areas
- Policy RNE2: Flood Risk

## **Vale of White Horse Design Guide 2015**

### **National Planning Policy Framework and Planning Practice Guidance**

#### **Other Relevant Legislation**

Human Rights Act 1998

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.

Equality Act 2010

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

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