



Appeal Decision

Site visit made on 8 July 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 August 2025

Appeal Ref: APP/V3120/W/25/3364345

96 Cumnor Hill, Oxford, Oxfordshire OX2 9HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Charles Barnaby against the decision of Vale of White Horse District Council.
 - The application Ref is P24/V2480/FUL.
 - The development proposed is subdivision of land to rear and erection of 4 bedroom 2 storey dwelling and detached garage, use of new access to Cumnor Hill allowed by application P23/V1945/HH and the provision of fire appliance turning space, associated landscaping and bin store.
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Decision

1. The appeal is allowed and planning permission is granted for subdivision of land to rear and erection of 4 bedroom 2 storey dwelling and detached garage, use of new access to Cumnor Hill allowed by application P23/V1945/HH and the provision of fire appliance turning space, associated landscaping and bin store at 96 Cumnor Hill, Oxford, Oxfordshire OX2 9HY in accordance with the terms of the application, Ref P24/V2480/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have used the description of development contained within the Decision Notice as well as the appeal form for clarity.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. Policy DBC1 of the Cumnor Parish Neighbourhood Plan 2021-2031 (the CNP) outlines that development proposals should maintain the strong character formed by common plot shapes, sizes, orientation and building to plot ratios by avoiding backland development that would undermine the character of the surrounding area.
5. The appeal site is currently part of the rear garden of 96 Cumnor Hill (No 96) and the parties agree that the appeal scheme would therefore result in backland development. Due to the topography of the site it would be located on a lower ground level than No 96 and therefore its placement and orientation within the plot would not be overly dominant to the extent it would result in unacceptable harm to the character and appearance of the surrounding area.

6. In the interpretation text of Policy DBC1 of the CNP it states amongst other things that backland development is not considered to be sustainable development and that there is no precedent for backland development which would undermine the strong plot characteristics. However, the supporting text does not have the force of a policy. Whilst the Policy text of DBC1 references the avoidance of backland development, it does not to my mind, prevent backland development irrespective of site context.
7. There are examples of backland development in the immediate locality of the appeal site. Some of which have relatively small plot sizes. Whilst I acknowledge that some of the backland development in the surrounding area was granted permission under a different policy context, they still remain part of the context of the appeal site given that they are relatively nearby to the appeal site.
8. Consequently, given the location of a number of dwellings on Hid's Copse Road which are set back considerably from the road as well as other development on Cumnor Hill, the surrounding area is not characterised by a uniform building line. Therefore, considering the text of Policy DBC1 of the CNP and due to the proposed relatively large plot size, topography of the appeal site and its specific site context, the introduction of a dwelling at the rear of No 96 would not, in my judgement, result in unacceptable harm to the character and appearance of the surrounding area.
9. Moreover, the proposed scale and massing of the development would be relatively sympathetic in terms of building to plot ratio and the overall plot size, especially when viewed in context with several other plot sizes of nearby dwellings on Cumnor Hill. Policy DBC1 outlines that development proposals should take into account maintaining the common one and two storey character of the area. The proposed development would be two storey in character and therefore would maintain the general character and appearance of the surrounding area.
10. Therefore, given all of the above, the proposed development would not, in my judgement, harm the low-density area it is sited in as outlined in Policy DBC3 and the Policies Map contained within the CNP.
11. I do not have the full circumstances of an appeal decision at 16 Cumnor Hill and therefore cannot be certain that it is wholly comparable to the appeal scheme before me. Nevertheless, each case is determined on its own merit and given the specific site context on Cumnor Hill and Hid's Copse Road, it does not lead me to a different conclusion.
12. Additionally, interested parties have indicated concern regarding the design of the appeal scheme and have highlighted an approved permission for a dwelling on land adjacent to 5 Hid's Copse Road which includes a low roof design. However, there are varied designs of dwellings in the surrounding area and the Council consider, as do I, that the proposed design including its scale and massing would not result in harm to the character and appearance of the surrounding area.
13. Furthermore, interested parties have referred to the appeal site being located within the Area of Special Local Character known as Lower Cumnor Hill/Third Acre Rise Area outlined in Policy DBC5 of the CNP. Based on the evidence before me in the CNP, the appeal site is located outside of this area of special character. Nevertheless, I have identified above that the proposed development would not result in unacceptable harm regarding density of built form.

14. Given all of the above, the appeal scheme would not result in harmful backland development that would undermine the character of the surrounding area. Thus, in conclusion, it would comply with Policies DBC1 and DBC3 of the CNP and Core Policy 37 of the Vale of White Horse Local Plan 2031 Part One insofar as they seek to ensue developments are of a high-quality design and respond positively to their surrounding context including low-density areas.

Other Matters

15. Cumnor Parish Council have referred to an appeal decision at Gateways, Harcourt Hill. I do not have the full circumstances of the appeal decision and therefore cannot be certain that it is wholly comparable to the appeal scheme before me. Each case is determined on its own merit, nevertheless, the appeal decision at Harcourt Hill was assessed under a different policy context and given the site-specific context of the appeal before me, it does not lead me to a different conclusion.
16. Regarding living conditions of the occupants of neighbouring dwellings, the typography of the site would result in the appeal scheme being sited at a lower level than No 96. Additionally, the appeal scheme would be set back an adequate distance from the boundary of the appeal site. Consequently, given the distance of the appeal scheme from adjacent dwellings, there is limited substantive evidence before me to adequately demonstrate that the proposed development including the balconies would result in unacceptable harm to the living conditions of neighbouring residents including their privacy.
17. Interested parties have raised concerns regarding the previous applications on the appeal site, the possibility of further applications and the use of the proposed office space for commercial use and consequently an increase in traffic. Each case is determined on its own merits and I have determined the appeal on the evidence before me.
18. Additionally, the Highways Authority has not indicated concerns regarding highway safety. Additionally, the Council has not raised noise and disturbance or drainage and flooding as putative reasons for refusal. There is limited evidence before me to adequately demonstrate that the appeal scheme would result in unacceptable harm to any of these matters. Notably, regarding drainage and flooding, the Council's drainage engineer has not indicated concern given the submitted surface water drainage assessment. I find no reason to disagree.
19. Concerning biodiversity net gain and protected species, the Council's ecologist has not indicated concern regarding biodiversity net gain and protected species regarding the proposed development. Based on the evidence before me and given the findings, recommendations and conclusions of the Preliminary Ecological Appraisal dated January 2025, I find no reason to disagree.
20. Reference to covenants and matters regarding ownership have been highlighted as concerns by interested parties. However, I am satisfied that any problems regarding these issues could be dealt with under legislation dealing with private legal rights and land ownership.
21. Foul water drainage is not a significant material planning consideration in this case and has not been raised as a concern by the Council.

Conditions

22. The Council has provided a list of suggested conditions. I have amended the wording of suggested conditions for clarity and to ensure accordance with the tests set out in paragraph 57 of the Framework.
23. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2).
24. I have imposed a condition regarding the submission of an Arboricultural Method Statement and accompanying tree protection plan to protect hedgerows and trees as well as prevent the erosion of visual amenity (3).
25. A condition requiring the submission of a landscape scheme and its maintenance is necessary to prevent the erosion of the areas character (4). It is for the same reason that I have imposed a condition requiring the submission of samples regarding external materials (5).
26. I have attached a condition requiring the vehicular access, parking area/spaces and turning space to be provided prior to occupation in the interests of highway safety (6). Additionally, it is necessary to impose a condition requiring the appeal scheme to be built in accordance with the submitted Sustainable Drainage Assessment to minimise the risk of flooding (7).
27. Finally, to prevent harm to ecology matters I have attached a condition requiring the appeal scheme be implemented in accordance with the recommendations of Section 6 of the submitted Preliminary Ecological Appraisal (8).
28. It is necessary for condition 3 to take the form of a 'pre-commencement' condition to have its intended effect.

Conclusion

29. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. For the reasons given above the appeal should be allowed.

B Astley-Serougi

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LS009 PA-01 Rev PL1 (Location Plan), LS009 PA-02 Rev PL2 (Existing and Proposed Block Plans), LS009 PA-03 Rev PL2 (Proposed Site and Floor Plans) and LS009 PA-04 Rev PL2 (Proposed Elevations and Site Section).
- 3) Prior to the commencement of any site works or operations, including demolition and site clearance relating to the development hereby permitted, an Arboricultural Method Statement and accompanying Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement must include the following:
 - i) A specification of any pruning or tree surgery works to any trees to be retained, to prevent accidental damage by construction or demolition activities;
 - ii) The specification and location of temporary tree protective fencing and any ground protection required to protect all retained trees in accordance with the current edition of BS 5837 "Trees in relation to design, demolition and construction", and details of the timing and duration of its erection;
 - iii) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage;
 - iv) The means of demolition of any existing site structures, and of the reinstatement of the area currently occupied thereby;
 - v) The route and method of installation of drainage or any underground services in the vicinity of retained trees; Consideration will be made to avoid siting of utilities and service runs within the Root Protection Area (RPA) of all trees to be retained. Only where it can be demonstrated that there is no alternative location for the laying of utilities, will encroachment into the RPA be considered. Methodology for any installation works within the RPA will be provided and must be in compliance with the current edition of NJUG 'Guidelines for the planning and installation and maintenance of utility apparatus in proximity to trees'.
 - vi) The details and method of construction of any other structures such as boundary walls in the RPA of retained trees and how these relate to existing ground levels;
 - vii) The details of materials and method of construction of any roadway, driveway, parking, pathway or other surfacing within the RPA, which is to be of a 'No Dig' construction method, in accordance with the principles with in Arboricultural Association Guidance Note 12 "The use of cellular confinement systems near trees" and in accordance with

current industry best practice; and is appropriate for the type of roadway required in relation to its usage.

- viii) Provision for the supervision of ANY works within the RPA of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.

Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

- 4) No development above ground level shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development, any earth moving operations and finished levels/contours and an implementation programme.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 5) No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 6) Prior to the first occupation of the development hereby permitted the new vehicular access, parking area/spaces and turning space shall be constructed in accordance with the details shown on approved drawing number LS009- PA-02 PL2. The parking and turning areas shall be constructed to prevent surface water discharging onto the highway. The parking and turning areas shall be retained thereafter.
- 7) Prior to the first occupation of the development hereby permitted the surface water drainage scheme shall be implemented in accordance with the Sustainable Drainage Assessment report by Flume Consulting Engineers dated February 2025 and shall be retained thereafter.
- 8) The development hereby permitted shall be implemented in accordance with the recommendations of Section 6 of the Preliminary Ecological Appraisal by Simecology Ltd. dated January 2025 ref PEARP-20250118-V00-CumnorHill submitted with the application in all respects.

=====End of Schedule=====