

TO EACH MEMBER OF THE  
PLANNING COMMITTEE

26 June 2017

Dear Councillor

**PLANNING COMMITTEE- TUESDAY 4 JULY 2017**

Further to the Agenda and papers for the above meeting, previously circulated, please find attached the following additional report:

<b>Agenda Item</b>	<b>Description</b>	
<b>5(a)</b>	<b>Schedule</b>	<b>1 - 93</b>
	To consider the accompanying Schedule of Planning Applications and proposals, marked Appendix "A".	

Should you have any queries regarding the above please contact Democratic Services on  
Tel: 01684 272021

Yours sincerely



**Lin O'Brien**  
**Head of Democratic Services**



**APPENDIX A**  
**Agenda Item No. 5A**

**TEWKESBURY BOROUGH COUNCIL**

Schedule of Planning Applications for the consideration of the **PLANNING COMMITTEE** at its meeting on 4 July 2017

	(NORTH)	(SOUTH)
General Development Applications Applications for Permission/Consent	(74 - 120)	(121 – 138)

**PLEASE NOTE:**

1. In addition to the written report given with recommendations, where applicable, schedule of consultation replies and representations received after the Report was prepared will be available at the Meeting and further oral reports may be made as appropriate during the Meeting which may result in a change to the Development Manager stated recommendations.
2. Background papers referred to in compiling this report are the Standard Conditions Booklet, the planning application documents, any third party representations and any responses from the consultees listed under each application number. The Schedule of third party representations received after the Report was printed, and any reported orally at the Meeting, will also constitute background papers and be open for inspection.

**CONTAINING PAGE NOS. ( 74 – 138 )**

## INDEX TO PLANNING SCHEDULE (RECOMMENDATIONS) 4th July 2017

Parish and Reference	Address	Recommendation	Item/page number
Badgeworth 16/01285/FUL <a href="#">Click Here To View</a>	Brookside Stables Cold Pool Lane Badgeworth Cheltenham	Permit	8/121
Gretton 17/00268/FUL <a href="#">Click Here To View</a>	Land To The Rear Of Laburnum Gretton Fields Gretton Cheltenham	Permit	4/101
Leigh 17/00240/OUT <a href="#">Click Here To View</a>	Land Adjacent To Stone Cottage Tewkesbury Road Coombe Hill Gloucester	Refuse	3/95
Northway 17/00501/TPO <a href="#">Click Here To View</a>	Land At Hardwick Bank Road Northway Tewkesbury	Consent	7/119
Southam 17/00368/FUL <a href="#">Click Here To View</a>	Bridle Croft Lye Lane Cleeve Hill Cheltenham	Permit	9/136
Stanton 16/01238/FUL <a href="#">Click Here To View</a>	Liberty Farm Stanway Road Stanton Broadway	Minded to Permit	6/112
Stoke Orchard And Tredington 17/00208/FUL <a href="#">Click Here To View</a>	Mill Farm Mill Lane Stoke Orchard Cheltenham	Refuse	2/88
Tewkesbury 16/01138/OUT <a href="#">Click Here To View</a>	The Mythe Mythe Road Tewkesbury Gloucestershire	Refuse	1/74
Tewkesbury 17/00460/FUL <a href="#">Click Here To View</a>	The Vineyards Gloucester Road Tewkesbury Gloucestershire	Permit	5/109

### **Codes for Application Types**

OUT	Outline Application
FUL	Full Application
APP	Application for Approval of Reserved Matters
LBC	Application for Listed Building Consent
ADV	Application for Advertisement Control
CAC	Application for Conservation Area Consent
LA3/LA4	Development by a Local Authority
TPO	Tree Preservation Order
TCA	Tree(s) in Conservation Area

### **National Planning Policy**

National Planning Policy Framework (NPPF)

Technical Guidance to the National Planning Policy Framework

Planning Policy for Traveller Sites

Planning Policy Statement 10: Planning for Sustainable Waste Management

Planning Policy Statement 11: Regional Spatial Strategies

Valid 03.10.2016

Residential development of up to 205 dwellings, public open space, vehicular and pedestrian access, and associated infrastructure. Detailed approval is sought for access arrangements from Mythe Road, with all other matters to be reserved.

Grid Ref 389158 233918  
Parish Tewkesbury  
Ward Twyning

Miller Homes Ltd  
2 Centro Place  
Pride Park  
Derby  
Derbyshire  
DE24 8RF

## RECOMMENDATION Refuse

### Policies and Constraints

#### NPPF

#### Planning Practice Guidance

JCS (Submission Version) - SP1, SP2, SD1, SD4, SD5, SD7, SD10, SD11, SD13, SD15, INF1-8  
Tewkesbury Borough Local Plan to 2011 - March 2006 - Policies GNL2, GNL8, GNL11, HOU1, HOU4, HOU13, TPT1, TPT3, TPT4, TPT5, EVT2, EVT3, EVT4, EVT5, EVT9, LND3, LND7, RCN1, RCN2, NCN5.  
SPG Affordable Housing

Flood and Water Management Supplementary Planning Document

Landscape Protection Zone

Flood Zone 2

Classified Highway (A38)

Within 50m of listed buildings (Mythe Court and Mythe Water Tower)

Public Right of Way (ZTE 7/1, 7/2, 3/2 and 5/1)

Oil & Gas Pipeline

Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)

The First Protocol, Article 1 (Protection of Property)

### Consultations and Representations

**Tewkesbury Town Council** - Strongly object on accessibility grounds and the impact on the local community. If approved we would like contributions to be made towards local facilities e.g schools, hospitals and also the provision of an hourly service on the 363 bus route, RTP1 and shelters in the vicinity using S.106 of the Town and Country Planning Act 1990.

**Urban Design Officer** - No objection subject to condition requiring compliance with design principles.

**Landscape Officer** - objects to the proposed development on grounds of landscape impact.

**Housing and Enabling Officer** - 40% affordable housing will be required with a 50/50 split of affordable rent and intermediate housing across a variety of house sizes.

**Gloucestershire County Council Highways** - No objection subject to conditions.

**Lead Local Flood Authority** - No objection subject to drainage conditions.

**County Archaeological Officer** - No further archaeological investigation or recording should be required in connection with this planning application.

**County Council 106 Officer** - There is currently some surplus capacity at the nearest Primary School. Secondary contributions will be required towards Tewkesbury Secondary School. Pre-school and library contributions will also be required.

**Wychavon District Council** - No Objections.

**Highways England** - No objection subject to condition.

**Environmental Health** - Recommend a number of conditions to help mitigate impact on noise and air quality and to promote sustainability.

**Severn Trent Water** - No objection subject to drainage condition.

**Natural England** - No Objection

**Fisher German** - A CLH Pipeline may be affected by the proposals. A works consent may be required.

21 letters of representation have been received. The comments raised are summarised below :-

- The Mythe is wrong for housing development
- Prominent greenfield site within Landscape Protection Zone
- Landscaping would not mitigate impacts
- Would block views
- Housing would dominate the skyline
- Site is area of beauty enhanced by the Malvern Hills
- Prominent green field site that can be enjoyed by everyone
- Development is on high ground
- Development of this magnitude will be a blot on the landscape
- Would not comply with saved policies LND3, LND4, LND7 which are consistent with NPPF
- Will scar beautiful valley leading to Bredon, already have housing on one side
- Site previously promoted for housing through the SHLAA 2009. Council's Land Availability Report Interim Update (2013-2014) considered and rejected the site SUB155.
- Site promoted for larger scheme than currently proposed but landscape sensitivity remains the same
- Out of scale and character
- No amenities nearby
- Stretch of A38 is sensitive with bends and crest & entrance to Tewkesbury Garden Centre
- Junction would be inadequate to serve 205 houses
- Neighbour previously turned down for new access to one house on safety grounds
- How can access be safe for 400-500 cars
- Often see cars waiting on Mythe Bridge at rush hour
- Already problems from new developments and congestion
- Do not agree with County Council Highways
- Current speed limit is not adhered to
- Public transport is inadequate no details of how this could be improved
- Increased frequency and stopping of busses would create a hazard
- Repositioned bus stop will mean cars coming over the brow of the hill will be met by stationary bus
- Will generate between 1,000 and 2,000 vehicle movements and further 1,000 from visitors trades utilities per day.
- Will require more traffic calming, traffic lights
- Traffic lights will be required to allow people to cross safely to access fields and banks adjoining River Severn.
- Will cause congestion at Ledbury Road, Bredon Road and High Street
- Not sustainable gradient would not sit and Tewkesbury would make cycling and walking undesirable
- Dangerous for school children getting to school and crossing road
- No street lighting from proposed access to water treatment plant
- Site is a long way from schools
- Site is isolated from Tewkesbury, in times of flood the Mythe was cut off in 2007
- Premature prior to adoption of JCS
- Existing drainage ditch liable to flood, drainage detail unconvincing
- Lowest part of Woodend, already struggle with wet fields
- Woodend Lane is like a river when it rains and water collects in garden and fields
- Absence of mains sewer
- LLFA concerns should be addressed before consideration by committee
- Will reduce ability of land to absorb water
- There will be run-off and increased risk of flooding
- Nearest connection is pumping station at King Johns Court
- New development will detract from open views from town
- If passed subsequent phases will be submitted previous proposals for larger numbers
- Cycle route, footpath and Avon Way run within or close to site. Applicant has not demonstrated that the impact of the development would be acceptable
- No amenities nearby
- Increased noise and air pollution would be severe during construction phase

**Planning Officers Comments:** Bob Ristic

## **1.0 Introduction**

1.1 The site is located at The Mythe approximately 1.9km north of Tewkesbury Town Centre. The site sits on an elevated spur of land, which lies between the river valleys of the Avon and Severn. The site extends to 21.79ha of predominantly agricultural land, interspersed with a small area of existing woodland, bounded by hedgerows. The land slopes down towards the River Avon to the east and the current access into the site is gained off the A38 Mythe Road, located to the west, via the existing farm track which runs through the southern part of the site. This access also serves Mythe farmhouse and Mythe Farm Business Centre (**See attached location plan**).

## **2.0 History**

2.1 Planning application no.15/01293/OUT for *Residential development of up to 250 dwellings, public open space, vehicular and pedestrian access, and associated infrastructure. Detailed approval is sought for access arrangements from Mythe Road, with all other matters to be reserved*, was withdrawn on 11th April 2016.

2.2 An Environmental Impact Assessment (EIA) Screening Opinion for the proposed 250 dwelling scheme was issued in October 2015 which concluded that the proposal did not constitute EIA development. Therefore, an Environmental Statement has not been submitted with this application.

2.3 The Mythe forms part of a larger area of land extending in total to 103.3ha which was originally promoted on behalf of the landowner for up to 1,000 dwellings, and subsequently a reduced scheme of 600 dwellings, through various stages of the Joint Core Strategy (JCS). The site has also been promoted through the Strategic Housing Land Availability Assessment (SHLAA) since 2009, although the site area and potential capacity has gradually reduced to 600 in the most recent SHLAA. A public consultation was undertaken for the 600 dwelling scheme in January 2012.

## **3.0 Current Application**

3.1 The proposal seeks outline planning permission for residential development of up to 205 dwellings, public open space, vehicular and pedestrian access and associated infrastructure. Detailed approval is sought for access arrangements from Mythe Road, with all other matters to be reserved for future consideration.

3.2 The application site measures approximately 21.8 hectares in area of which 6.9 hectares is for housing and approximately 12.1 hectares as open space and landscaping.

3.3 The application is supported by an Illustrative Masterplan which shows how a scheme of up to 205 dwellings could be accommodated of which up to 40% would be affordable. Vehicular access to the site would be off Mythe Road opposite Tewkesbury garden Centre. A footpath/cycleway link is also proposed to be provided onto Mythe Road as well as additional bus stop provision.

3.4 The proposed housing would be a mix of medium and low densities providing an overall average density of approximately 30 dwellings per hectare. The development would include a range of dwelling types and sizes and are anticipated to range from 1 bed to 5 bed properties. The exact mix of housing would be determined at Reserved Matters stage (**see illustrative layout plan**).

## **4.0 The Community Infrastructure Levy Regulations**

4.1 The Community Infrastructure Levy (CIL) Regulations allow local authorities to raise funds from developers undertaking new building projects in their area. Whilst Tewkesbury Borough Council has not yet developed a levy the regulations stipulate that, where planning applications are capable of being charged the levy, they must comply with the new tests set out in the CIL regulations. These new tests are as follows:

- (a) necessary to make the development acceptable in planning terms
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

4.2 As a result of these regulations, Local Authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly' related to the development'. As such, the Regulations restrict Local Authorities ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests, it is 'unlawful' for those obligations to be taken into account when determining an application. The need for planning obligations is set out in relevant sections of the report.

4.3 The CIL regulations also provide that as from 6 April 2015, no more contributions may be collected in respect of an infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy.

## **5.0 Principle of Development**

### The Development Plan

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. The development plan comprises the saved policies of the Tewkesbury Borough Local Plan to 2011 - March 2006.

### Tewkesbury Borough Local Plan to 2011 - March 2006

5.2 The application site lies outside any recognised settlement boundary as defined by the Tewkesbury Borough Local Plan to 2011 - March 2006. Consequently, the application is subject to policy HOU4 which states that new residential development will only be permitted where such dwellings are essential to the efficient operation of agriculture or forestry or the provision of affordable housing.

5.3 The application site is located within an area defined as a Landscape Protection Zone LPZ and is therefore subject to policy LND3 which gives special protection to the ecology and visual amenity of the river environment. Development which has a detrimental visual or ecological effect on the character off the river banks or associated landscape setting will not be permitted.

5.4 Other relevant local plan policies are set out in the appropriate sections of this report.

### Emerging Development Plan

5.5 The emerging development plan will comprise the Joint Core Strategy (JCS), Tewkesbury Borough Plan and any adopted neighbourhood plans. These are all currently at varying stages of development.

5.6 The Main Modifications Version of the Joint Core Strategy (MMJCS) is the latest version of the document and sets out the preferred strategy over the period of 2011-2031. This document, inter alia, sets out the preferred strategy to help meet the identified level of need across all three boroughs.

5.7 Policy SP2 of the MMJCS sets out the overall level of development and approach to its distribution. The policy states that to support their economic roles as the principal providers of jobs, services and housing, and in the interests of prompting sustainable transport, development will be focused at Gloucester and Cheltenham, including urban extensions to those settlements. Approximately 9,899 new homes are to be provided within Tewkesbury Borough - to be met through Strategic Allocations and through smaller scale development meeting local needs at Tewkesbury town in accordance with its role as a 'Market Town'. A certain quantum of housing is also to be provided at the 'Rural Service Centres' and 'service villages' identified in the MMJCS. The application site lies outside of a strategic allocation and rural service centre or service village.

5.8 Policy SD11 provides the guidance for residential development outside of sites allocated through the JCS, district plans and neighbourhood plans. It sets out that, on sites not allocated through a plan, housing development will only be permitted on previously developed land in the existing built up areas of cities, towns, service centres and service villages. Residential development on other sites will only be permitted where it is for affordable housing on a rural exception scheme, infilling within existing built up areas, brought forward through Community Right to Build Orders, or through specific exceptions defined in district or neighbourhood plans.



5.9 Paragraph 216 of the NPPF sets out that decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given)

#### Other Material Considerations

5.10 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The NPPF requires applications to be considered in the context of sustainable development and sets out that there are three dimensions to sustainable development: economic, social and environmental. In essence, the economic role should contribute to building a strong, responsive and competitive economy; the social role should support strong, vibrant and healthy communities; and the environmental role should contribute to protecting and enhancing the natural, built and historic environment. These roles should not be undertaken in isolation, because they are mutually dependant.

5.11 Paragraph 11 of the NPPF confirms that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 continues that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

5.12 The NPPF also sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay. The NPPF (paragraph 14) goes on to say that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted. In this case, as the Council can demonstrate a five year supply of deliverable housing sites, the development plan is not out of date.

#### 5-Year Housing Land Supply and the implications of the NPPF

5.13 The proposed development conflicts with Policy HOU4 of the Tewkesbury Borough Local Plan to 2011 (March 2006) in that the site lies outside any recognised settlement in a location where new housing is strictly controlled and it is not essential to the efficient operation of agriculture or forestry.

5.14 On 31st January the Council approved for consultation the latest draft of the JCS. In doing so the Council approved the Objectively Assessed Need (OAN) for Tewkesbury which stands at 9,899. It is considered that this figure is robust having been arrived at following detailed consideration through the Examination in Public process. Following from the OAN there is an annual requirement to meet Tewkesbury's needs of 495 dwellings.

5.15 Using this robust figure, taking into account current supply, including planning permissions granted, those which the Planning Committee have determined to grant subject to finalisation of s106 legal agreements and a windfall allowance, the Council can demonstrate a 5.3 year supply with a 20% buffer applied.

5.16 Officers consider that there is a strong argument that a 5% rather than 20% buffer should be applied given the strong delivery of housing in recent years and, in particular, the 5 years since the start of the plan period when measured against the above annual requirement. Over the period from 2011/12 - 2015/16, 2,496 dwellings have been completed compared to the JCS requirement of 2,475, giving a surplus of 21 dwellings. For the past three monitoring years the JCS annual requirement has been exceeded, with a surplus of 135 dwellings delivered in 2015-16.

5.17 In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise) the presumption in favour of sustainable development set out at paragraph 14 of the NPPF does not apply.

5.18 Whilst the Council is able to demonstrate a 5 year supply of deliverable housing sites, it is also of course a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough. However, The Mythe is not identified in the JCS as being in Service Village and the conflict with policy HOU4 weighs substantially against the development.

#### Conclusions on the principle of residential development

5.19 In view of the above it is clear that the proposal is directly in conflict with Policy HOU4 and this weighs heavily against the proposal.

### **6.0 Landscape and Visual Impact**

6.1 One of the core planning principles of the NPPF sets out that the planning system should recognise the intrinsic character and beauty of the countryside. Section 11 of the NPPF sets out that the planning system should contribute to and enhance the local environment by, amongst other things, protecting and enhancing valued landscapes. The site is located within the designated Landscape Protection Zone (LPZ) where local plan policy LND3 provides special protection to the ecology and visual amenity of the river environment. The LPZ seeks to protect, enhance and conserve the riparian landscape of the river valley which is considered to be a valued landscape and the non-prescriptive part of Policy LND3 is considered to be wholly consistent with the Framework as it supports the environmental objectives of the NPPF and therefore should be afforded significant weight. Furthermore, Policy SD7 in the JCS Submission Version states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being.

6.2 The Mythe has strong cultural, historic and aesthetic associations with Tewkesbury. In Old English The Mythe means "joining of two rivers". Here the name refers to the prominent house and surrounding land at the confluence of the Rivers Avon and Severn. The site is on a prominent hilltop partly characterised by garden and parkland trees associated with the grand villas, but partly open pasture enclosed by linear hedges and fences. The actual summit at the heart of the site is open pasture. The JCS Landscape Characterisation Assessment and Sensitivity Analysis includes the site and the area was assessed to have a high landscape sensitivity.

6.3 The application is supported with a Landscape and Visual Impact Assessment (LVIA) which considers the effects of the proposed development upon the landscape and visual resources of the site and surrounding area. The LVIA states that although landscape change would be evident as a loss of arable land, it will not conflict materially with the key characteristics of the surrounding landscape. The proposed development would read coherently with the existing settlement pattern and the wooded character on the bluff top. The most visually sensitive area of the - the eastern field - has been excluded from built development and the proposed mitigation planting, especially along the eastern edge, would help assimilation of the scheme into the landscape and ensure it would not appear as a material intrusion into the open landscape of the riparian corridor. The proposals would not appear to add a substantial block of new housing in a form markedly different to the predominant low density, wooded character of the bluff top, nor would they be perceived as spilling down the lower valley slopes to form a discernible, harmful, relationship with the riparian corridor.

6.4 The LVIA concludes that the impact of the proposed development would not have an unacceptably harmful effect on the local landscape character as experienced locally or more widely.

6.5 A number of meetings have been held with the applicants to discuss the proposed landscape impacts and further information has been received through the application process. Nevertheless it is considered that The Mythe is important to the landscape setting, historical development and context of Tewkesbury. The site is not subject to a statutory designation, however it is considered to be sensitive in landscape terms given its prominent and elevated position within the Landscape Protection Zone (LPZ).

6.6 The Council's Landscape Officer (LO) has assessed the submitted details and considers that concerns previously expressed have not been resolved. In terms of Views within the landscape that LO has advised that the elevated aspect makes the site visually prominent and with sensitivity to landscape change that would result in substantial harm.

6.7 The LO considers that amongst other concerns:

- The development would be visually prominent from numerous public vantage points including the Avon and Shakespeare's Way
- The proposals would adversely affect the landscape setting from the public right of way, at a close range along the eastern boundary of the site
- The siting of houses within a prominent part of the site that is characterised by open views across pastoral landscape in the vicinity of the Georgian Villas, would have landscape and visual impacts of the setting from Tewkesbury and along the public footpaths to the river Avon.
- Longer distance views from the east including from identified viewpoint 14 and from cycle route adjacent to the east of the river on the western edge of the development along Bredon Road

6.8 In terms of landscape character, the development would exert a strong urban influence on the rural landscape and it is considered that:

- The development does not respond to its rural context and the rural landscape context would not make the site appropriate for large scale and inappropriately designed residential development, given the elevated countryside location, close proximity to the river valley of the Avon and Severn, and part of the countryside setting to Tewkesbury.
- The proposed planning mitigation, particularly the planting within the eastern part of the site, which is on the side of the river valley, would itself have an unacceptable impact on the landscape character.
- The proposed SUDs features, regrading of the adjacent land and pathways within the river valley would be harmful to the LPZ and its function.
- External lighting of the scheme would also have a significant impact on the character of the area.

6.9 Whilst the site is not within a nationally designated landscape there remains some disagreement about the significance of the resulting harm. The proposed development would, in officer's opinion result in significant local landscape harm and this is exacerbated by the number of viewpoints which the development would be visible from. Furthermore the development would fail to respond to its rural landscape context and the delivery of an urban housing estate in this location, however well designed, would considerably change the rural character of the area. The proposal would result in substantial landscape harm which weighs substantially against the development in the planning balance.

## 7.0 Design and Layout

7.1 The NPPF sets out that the Government attaches great importance to the design of the built environment (paragraph 56). Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. At paragraph 57 the NPPF advises that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Similarly Policy SD5 of the MMJCS (2017) seeks to encourage good design and is consistent with the NPPF and so should be accorded considerable weight.

7.2 As previously advised all matters relating to design and layout are reserved for future consideration. The application has been supported with an indicative layout which illustrates how the site could be developed; a Design and Access Statement (DAS) and Parameter Plans detailing land use, access and circulation and maximum residential building heights.

7.3 The DAS sets out the design evolution of the scheme which has involved input from the Design Review Panel. The DAS sets out the Development Objectives which are:

- Delivery of up to 205 high quality new homes, in a mix of types and tenure dependent on the needs of the community and including affordable and starter homes;
- Creation of a truly landscape-led scheme that delivers an inter-connected and functional greenspace network to encourage healthy living and lifestyle;
- Create clear and well-designed links and connections between the existing community, new housing and areas of open space, ensuring, in particular, safe and direct routes to the town centre;
- Vehicular access to be taken from Mythe Road;
- Delivery of filtered development edges to the north and east to continue the pattern of glimpsed development from distance view points;
- Ensure the prominence of The Mythe and Uplands manor houses is retained within views from the south;

- Create a layout that integrates important visual connections - notably to Tewkesbury Abbey;
- Retain and enhance existing public footpath routes and create new links reflective of pedestrian desire lines;
- Lower development densities at the site's periphery to allow for greater levels of plot planting to create a verdant streetscene.

7.4 The Urban Design Officer has raised no objections to the design principles which have addressed concerns with regards to the previous withdrawn application and it is recommended that if permission is granted, a condition requiring the reserved matters to accord with the principles set out within the Design and Access Statement should be imposed.

7.5 It is considered that the illustrative masterplan and layout plan demonstrates that an acceptable standard of design could be achieved on the site for the development proposed subject to no other conflicts with policy.

## 8.0 Accessibility and Highway Safety

8.1 Section 4 of the NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. It states at paragraph 29 that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that "opportunities to maximise sustainable transport solutions will vary from urban to rural areas". Paragraph 32 states that planning decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure. Furthermore, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

8.2 The NPPF also requires safe and suitable access to all development sites for all people. Policy TPT1 of the Local Plan requires that appropriate access be provided for pedestrians, cyclists and vehicles, and that appropriate public transport services and infrastructure is available or can be made available. It further requires that traffic generated by and/or attracted to the development should not impair that safety or satisfactory operation of the highway network and requires satisfactory highway access to be provided. Similarly policies INF1 and INF2 of the JCS (Submission Version) seek to provide choice in modes of travel and to protect the safety and efficiency of the transport network.

8.3 The proposed access to the site would be via a single point of off Mythe Road opposite Tewkesbury Garden Centre. There would also be a new separate pedestrian access into the site off Mythe Road. Pedestrian and cycle routes would be created through the development, linking through the meadow park and into the Town Centre, and providing the opportunity to link onto National Cycle Route 47 along Mythe Road. A Public Right of Way extends through the site from north to south, which would be retained and incorporated into the design of the scheme.

8.4 A Transportation Assessment (TA) has been submitted in support of the application. The TA concludes that the proposed site is located in an accessible location within reasonable distance of amenities and facilities within Tewkesbury and to the local railway station. The main roads running through the location have walking/cycling provisions and access to bus services. The operation of key junctions within the local road network have been modelled which shows that there is adequate capacity to accommodate the additional traffic generation. The proposals include the creation of a new access junction with Mythe Road via a priority T-junction arrangement. New walking and cycling provision is proposed to tie in with existing provision 500m to the south of the site, to provide safer pedestrian permeability. Car parking and cycle parking provision would be provided in accordance with NPPF and car ownership values for the Twyning Ward. The TA concludes that overall, suitable access can be achieved and that the impact on the local roads would not be severe in accordance with NPPF paragraph 32.

8.5 In terms of accessibility and location there is a clear physical geographic separation between Tewkesbury town and the application site with the existing built edge of this side of the town ending at the course of the River Avon. Tewkesbury town has grown over the decades to the north-east, east, and south, around areas of high flood risk that are a prominent feature of the town. However, there has been little to no development in areas to the west and north-west across the River Avon. There is therefore a significant gap from the built edge of town nearest the application site until the village of Shuthonger, with only sporadic development occurring alongside the A38. The presence of the River Avon and its flood plain, as well as the significant rise in land levels just north of the town, has constrained development in this direction. These natural features present a distinct feeling of separation and this site would be fairly isolated in its location.

8.6 The application site would look to Tewkesbury for its service and transport options. However, as set out through the Planning Statement accompanying the application, the site is located 1.9km (1.2 miles) north of Tewkesbury town centre. Furthermore, the topography of the landscape is such that the route rises significantly from the town centre to the application site. This distance and topography must be taken into account when considering the pedestrian and cycle accessibility to the site. In terms of public transport, the A38, which runs past the site, is served by a number of bus routes which include the 363/373, which runs from Worcester to Tewkesbury, and the 351 from Twyning to Gloucester via Tewkesbury. However, services are fairly infrequent. Service 363 to Tewkesbury runs every 90 minutes or so, while service 351 runs once a day past the site. Taking these factors into account it is uncertain whether this site would be located where the need to travel would be minimised and use of sustainable modes maximised.

8.7 Highways England (HE) have advised that this application is for a lesser number of dwellings than previously assessed and confirm that there would be no significant impact on the operation and functionality of the strategic road network subject to a planning condition relating to the provision and approval of a construction traffic management plan.

8.8 County Highways (CH) have reviewed the application and have raised no objections, confirming that the cumulative impact of the development upon the highway network would not be severe and that safe and suitable access can be provided for all people in accordance with paragraph 32 of the NPPF.

8.9 In conclusion, while there would be no unacceptable adverse impact upon the highway network it is considered that the site is isolated from the town centre and the distance and topography would make pedestrian and cycle accessibility undesirable. Bus services are fairly infrequent and it is uncertain whether this site constitutes a location where the need to travel would be minimised and use of sustainable modes maximised. These are matters which weigh against the proposals.

## **9.0 Residential Amenity**

9.1 One of the core planning principles of the NPPF is to ensure a good standard of amenity for all existing and future occupants of land and buildings. This advice is reflected in Policy SD15 of the MMJCS which seeks to ensure that new development does not cause an unacceptable harm to local amenity including amenity of neighbouring occupants.

9.2 The nearest properties front onto Mythe Road and would back onto the site. The illustrative masterplan indicates a woodland buffer but layout details would in any case be dealt with at the reserved matters stage.

## **10.0 Noise/Air Quality**

10.1 The NPPF states at paragraph 120 that to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. In respect of air quality it advises that planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality management areas (AQAMA), and the cumulative impacts on air quality from individual sites in local areas.

10.2 Local Plan Policy EVT3 provides that new development should be sited away from sources of noise and planning permission should not be granted for development where noise would cause harm and could not be ameliorated. Policy SD15 of the MMJCS also seeks to protect health and improve environmental quality. These policies are considered to be consistent with the NPPF and are therefore afforded significant weight.

10.3 The Environmental Health Officer (EHO) has advised that an Air Quality Assessment has been submitted with the previous application. The assessment concludes that the proposed development would not lead to any breach in national objectives or to a failure to comply with the Habitats Regulations as required by national policy. However, traffic generated by the proposed development is predicted to have a significant impact at receptor locations within Tewkesbury Town Centre AQMA. Therefore, appropriate mitigation measures, as outlined in the report would need to be implemented, which should reduce the potential for impacts on air quality as a result of the proposed development. The EHO recommends that on the basis this application revises down the number of dwellings the effects of the development can be mitigated by conditions requiring the provision of 'ultra-low emission boilers' and electric vehicle charging points at each property so as to minimise the impacts of Nitrogen dioxide within the Tewkesbury Town Centre AQMA.

10.4 The submitted Noise Assessment considers that the dominant source of noise which would affect the residents of the development is from road traffic on Mythe Road. The results of the noise survey and assessment indicates that existing daytime noise levels closest to off-site noise sources are below the guideline values for outdoor living areas, set out in guidelines, therefore no mitigation is required. The implementation of the standard thermal insulating glazing should ensure that internal noise levels are met in living rooms and bedroom areas during the daytime and night-time across the development with the windows closed. Acoustic ventilation would need to be incorporated within living rooms and bedrooms located nearest to Mythe Road. The specific at property noise levels can be controlled by condition.

10.5 The activities carried out during the earthworks and construction phase of the proposed development would have the potential to generate short term increases in noise levels above the recommended noise limits, set in accordance with current guidance, at Mythe End House Care Home. The use of heavy plant associated with the earthworks and construction works also has the potential to give rise to ground borne vibration. To minimise the potential impact of construction works, mitigation measures would be put in place. These would include restrictions on working hours, the implementation of temporary screening where possible, and best working practices. However, the noise and vibration impacts of earthworks and construction phases are expected to be negligible, with the possibility of brief periods of slight to moderate impacts in the short term at local level. The impacts can be controlled by a condition requiring the submission and approval of a 'construction environmental management plan'.

## **11.0 Affordable Housing**

11.1 Local Plan Policy HOU13 provides that the Council will seek to negotiate with developers to provide affordable housing. The strategic requirements for Affordable Housing identified in the Strategic Housing Market Assessment updated September 2015. Policy SD13 of the MMJCS specifies a requirement for 40% affordable housing to meet the future needs of the borough.

11.2 The applicant proposes that 40% of the proposed dwellings would be provided as affordable units and the Affordable Housing Statement informs the council that the applicant is committed to working with the Council to achieve an appropriate mix.

11.3 The Council's Strategic Housing & Enabling Officer recommends that the units would be 50:50 affordable rent to intermediate housing tenure split, considering the outcomes of the most recent Strategic Housing Market Assessment, in order to negotiate further. The proposed affordable housing is considered to be acceptable in principle and could be secured through a Section 106 Agreement.

## **12.0 Flood Risk and Drainage**

12.1 The NPPF states at paragraph 100 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

12.2 Policy EVT5 of the local plan and Policy INF3 of the MMJCS seek to prevent development that would be at risk of flooding. Policy EVT5 requires that certain developments within Flood Zone 1 be accompanied by a flood risk assessment and that development should not exacerbate or cause flooding problems. Furthermore, Policy EVT9 of the Local Plan requires that development proposals demonstrate provision for the attenuation and treatment of surface water run-off in accordance with sustainable drainage systems (SUDS) criteria.

12.3 The adopted Flood and Water Management Supplementary Planning Document has the following key objectives: to ensure that new development does not increase the risk of flooding either on a site or cumulatively elsewhere and to seek betterment, where possible.; to require the inclusion of Sustainable Drainage Systems (SuDS) within new developments, which mimic natural drainage as closely as possible (e.g. permeable paving, planted roofs, filter drains, swales and ponds) and provision for their long-term maintenance, in order to mitigate the risk of flooding; to ensure that development incorporates appropriate water management techniques that maintain existing hydrological conditions and avoid adverse effects upon the natural water cycle and to encourage on-site storage capacity for surface water attenuation for storm events up to the 1% probability event (1 in 100 years) including allowance for climate change.

12.4 The development site is located within Flood Zone 1 (FZ1) and the application has been supported by a Flood Risk Assessment (FRA) which concludes that the development would not cause any adverse impacts to the site or surrounding area in relation to flooding risk. The FRA demonstrates that the proposal would appropriately manage the flooding risk within the site through incorporating SUDS measures to manage surface water appropriately. The attenuation features would be located within FZ1, complying with Sequential Test procedures and recommendations.

12.5 Gloucestershire County Council as the Lead Local Flood Authority (LLFA) has considered the FRA and suggests that in order for the applicant to evidence that due consideration has been given to the SuDS hierarchy the relevant infiltration tests should be carried out. As this is an outline application the drainage strategy proposed is considered to be acceptable subject to appropriate drainage conditions attached to any planning permission granted.

12.6 In light of the above, it is considered that the site is at a low risk of flooding and would not increase the risk of flooding to third parties. An appropriate sustainable drainage strategy could be secured by a planning condition.

### **13.0 Open Space, Outdoor Recreation and Sports Facilities**

13.1 The NPPF sets out that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Furthermore, saved policy RCN1 of the Local Plan requires the provision of easily accessible outdoor playing space at a standard of 2.43ha per 1000 population.

13.2 In accordance with these policies, the proposal would generate a requirement for approximately 1.1ha of open space of which approximately 0.5ha should be playing pitches. The development includes 12.14ha open space including landscaping, a meadow parkland, and a village green. The eastern part of the site which slopes towards the River Avon is proposed for the parkland. The DAS explains that this would be a flexible and accessible area of public open space, and would include a children's play area constructed from natural materials of a recessive colour. It is proposed that the parkland area would also provide elevated views across the valley with views towards Tewkesbury Abbey and wider area and may also include some public art. The parkland would include an area of flower rich grassland which would be managed to enhance biodiversity within the site. The DAS states that the proposed village green would create a focal point within the development, maintaining views across the valley to Tewkesbury Abbey. It is proposed that the village green may also include public art. The development would include appropriate structural planting including native woodland and understorey plants.

13.3 The applicant proposes to provide contributions towards sports facilities and towards the long term management of the on-site POS but as yet no legal agreement to provide the required Public Open Space/Outdoor recreation and sports facilities has been agreed.

### **14.0 Community, Education and Library Provision**

14.1 The NPPF states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Plan Policy GNL11 and Policy INF5 of the MMJCS highlights that permission will not be provided for development unless the infrastructure and public services necessary to enable the development to take place are either available or can be provided. These policies are consistent with the NPPF.

14.2 Gloucestershire County Council has considered the impact upon, and necessary mitigation, for the provision of pre-school / early years, education and library services. In this respect the following contributions are recommended: Pre-school - £220,181; Primary - Nil; Secondary - £701,391 and Libraries - £40,180. There would also be a requirement for recycling facilities and dog fouling signs and associated bins.

14.3 The applicant proposes to provide contributions towards education and social infrastructure including health and library services but as yet no legal agreement to provide the required contributions has been agreed.

## **15.0 Archaeology and Cultural Heritage**

15.1 Section 66 of the Listed Buildings and Conservation Areas Act requires LPAs to pay special regard to the protection of the setting of heritage assets. The NPPF advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

15.2 The application has been supported with a Heritage Statement and an Archaeological Desk Based Assessment. The Heritage Statement indicates that the closest listed buildings to the site are the Grade II\* King John's Castle, three Grade II listed large houses; Uplands, The Mythe and Mythe Court and a Grade II listed water tower. However, all are screened from the site by vegetation and their location downslope from the site. King John's Castle is already compromised by its juxtaposition with Tewkesbury Garden Centre. The Heritage Statement has considered the significance of relevant heritage assets and their setting and concludes that no harm arises as a result of the development.

15.3 The Archaeological Desk Based Assessment, indicates that there are no designated heritage assets within the application area and there would be no impact upon any World Heritage Sites, Scheduled Monuments, Registered Battlefields and Parks and Gardens within the wider area. The results of archaeological investigations were negative in that no significant archaeological remains or finds were found within the area proposed for development.

15.4 The County Archaeological Officer (CAO) has recommended that no further archaeological investigation or recording should be required in connection with this planning application and the Conservation Officer has raised no concerns. It is therefore concluded that the proposals would not adversely affect the setting of nearby heritage assets.

## **16.0 Ecology and Nature Conservation**

16.1 The NPPF sets out, inter alia, that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by encouraging opportunities to incorporate biodiversity in and around developments. Furthermore, planning permission should be refused for development resulting in the loss of deterioration of irreplaceable habitats. Policy NCN5 of the local plan and Policy SD10 of the MMJCS seeks to protect and, wherever possible enhance biodiversity, including wildlife and habitats.

16.2 An Extended Phase 1 Survey and detailed surveys relating to wintering and breeding birds, bats, badgers, great crested newts and reptiles have been undertaken. The surveys confirm that the majority of the site comprises intensively cultivated arable land of negligible intrinsic value. However a number of more valuable habitats are located on the field boundaries, namely woodland, mature trees and hedgerows. There is also a pond in poor condition within one of the arable fields and two higher quality ponds adjacent to the site. In terms of protected species, the surveys confirmed the presence of populations of breeding birds, foraging/commuting bats, a partially active badger sett, a small breeding population of great crested newts within the pond on site, and a small population of grass snakes. Habitat loss has been minimised, and impacts, including those on associated protected species (principally birds, bats and great crested newts), are proposed to be offset by the creation of new woodland, pond and meadow flower grassland habitat designed to deliver a considerable net gain in valuable habitat within the site. Furthermore, retained habitats and species interests have been buffered from the development footprint and recommendations made for their protection during construction and management during operation, to ensure their long term viability.

16.3 Natural England is satisfied that the proposed development would not damage or destroy the interest features of the Upton Meadow and Summer Leasow Meadow SSSI and Severn Ham SSSI. It refers to its standing advice relating to protected species.



16.4 In light of the above, there is no evidence to suggest that there are any overriding ecological constraints to the development of the site for residential purposes. The proposals would deliver a net benefit for wildlife which could be secured through appropriate planning conditions.

#### **17.0 Loss of agricultural land**

17.1 The proposed development would lead to the permanent loss of agricultural land but the land appears to be of poor quality and is not classified as Best and Most Versatile (BMV) as defined in the NPPF.

#### **18.0 Overall Balancing Exercise**

18.1 The site is located outside any recognised settlement where new housing development conflicts with Policy HOU4 of the Local Plan. For this reason, the proposed development is contrary to the Development Plan which is up to date by virtue that the Council can demonstrate a five year supply of deliverable housing sites. The presumption is therefore that planning permission should be refused in this case, unless material planning circumstances indicate otherwise.

18.2 The NPPF sets out that there are three dimensions to sustainable development: economic, social and environmental. It makes clear these roles are mutually dependent and should not be taken in isolation.

18.3 In terms of the economic dimension, it is recognised that housing development contributes to economic growth both directly and indirectly. New employment would be created during construction and businesses connected with the construction industry would also benefit, some of which would likely be local suppliers and trades; all of which would boost the local economy. Residents of the development would also spend some of their income locally and these are benefits which weigh in favour of the proposal.

18.4 With regards to the social dimension, it is considered that the proposal would achieve a good mix of housing and would deliver much needed affordable housing. These are benefits which weigh in favour of the development, however this weight is tempered by the Councils ability to demonstrate a five year supply of deliverable housing sites. The additional increased patronage from the development would be beneficial to the ongoing support for the local services and facilities. In addition, it is considered that the proposed design would be of an acceptable design and would include provision of public open space. It must also be recognised that through a Section 106 Agreement, developer contributions would provide for education and library facilities, improved recreational facilities, open space and playing pitches, however these are to meet the needs of the proposed development.

18.5 In terms of accessibility, it is recognised that residents would be reliant upon the private car to access employment and other services due to its location outside any recognised settlement and this is a matter that weighs against the sustainability credentials of the proposal.

18.6 With regards to the environmental dimension, the proposed development would intrude into open agricultural land and would cause substantial harm to local landscape character. The development would be conspicuous in views from the south and east and in prolonged views from the Avon Way and River Avon itself on the approaches to the town. The effects at night would be particularly pronounced and the effects would be exacerbated by the fact that the development is physically separated from the town. The proposed development would have an urbanising effect where now there are unspoilt views of open countryside. This substantial harmful landscape impact weighs significantly against the application in the planning balance.

18.7 The proposed development would not be at an unacceptable risk of flooding and would not exacerbate flooding problems for third party property. The development would not have an unacceptable impact in terms of contamination of land or soil and would not raise any air quality issues subject to compliance with conditions. Any potential noise issues could be addressed by the imposition of appropriate conditions. In terms of ecology and nature conservation, it has been demonstrated that the development would not have a detrimental impact upon biodiversity. The development would also not result in the loss of agricultural land which comprises BMV farmland.

18.8 In weighing up the planning balance, it is not considered that material planning considerations exist that outweigh the conflict with the development plan. For completeness, it is further considered that the harms identified above significantly and demonstrably outweigh the benefits and as such the proposal is not considered to represent sustainable development in the context of the NPPF. Furthermore, as set out in the report, there are various Section 106 obligations which have not been agreed in principle and there is no signed Section 106 Agreement and as such these matters, at this stage, constitute reasons for refusal.

18.9 Overall therefore it is recommended that the application is refused.

## **RECOMMENDATION Refuse**

### **Reasons:**

- 1 The proposed development site lies outside any recognised settlement in a location where new housing is strictly controlled and it is not essential to the efficient operation of agriculture or forestry and the proposal conflicts with Policy HOU4 of the Tewkesbury Borough Local Plan to 2011 (March 2006) and emerging Policy SD11 of the Main Modifications Joint Core Strategy Submission (2017).
- 2 Whilst all matters relating to design, layout and landscaping are reserved for future consideration, the proposal would result in a conspicuous and severely harmful encroachment into open countryside. The development would be conspicuous in views from the south and east and in prolonged views from the Avon Way and River Avon itself on the approaches to the town. The effects at night would be particularly pronounced and the effects would be exacerbated by the fact that the development is physically separated from the town. The proposed development would therefore be contrary to the core principles of land-use planning set out at paragraph 17 of the NPPF, Section 4 (Promoting sustainable transport), section 11 (Conserving and enhancing the natural environment) of the NPPF, Policy LND3 of the Tewkesbury Borough Local Plan to 2011 - March 2006 and emerging policy SD7 of the Main Modifications Joint Core Strategy Submission (2017).
- 3 In the absence of an appropriate planning obligation, the application does not provide housing that would be available to households who cannot afford to rent or buy houses available on the existing housing market. As such the proposed development conflicts with Policy HOU13 of the Tewkesbury Borough Local Plan to 2011 - March 2006 and policies SD12 and SD13 of the Main Modifications Joint Core Strategy Submission (2017).
- 4 In the absence of an appropriate planning obligation, the application does not make adequate provision for on-site or off-site playing pitches with changing facilities and sports facilities to meet the needs of the proposed community. The application therefore conflicts with Policy RCN1 of the Tewkesbury Borough Local Plan to 2011 - March 2006 and section 8 of the NPPF (Promoting healthy communities) and policies INF5 and INF7 of the Main Modifications Joint Core Strategy Submission (2017).
- 5 In the absence of an appropriate planning obligation, the application does not make provision for the delivery of education and community infrastructure and library provision and therefore the proposed development is contrary to Policy GNL11 of the Tewkesbury Borough Local Plan to 2011 - March 2006 and section 8 of the NPPF (Promoting healthy communities) and policies INF5 and INF7 of the Main Modifications Joint Core Strategy Submission (2017).
- 6 The application does not make provision for improved local public transport and therefore conflicts with Policy TPT1 of the Tewkesbury Borough Local Plan to 2011 - March 2006, section 4 of the NPPF (Promoting sustainable transport) and policies INF1 and INF7 of the Main Modifications Joint Core Strategy Submission (2017).

### **Notes:**

- 1 In accordance with the requirements of the National Planning Policy Framework (2012) the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding. However, as a consequence of the clear conflict with relevant Development Plan Policies no direct negotiation during the consideration of the application has taken place.



 <p>THE ENVIRONMENTAL DEFENCE PARTNERSHIP</p>	<p>87/A</p>	<p>Miller Homes (West Midlands)</p>	<p>Application Boundary Plan</p>
<p>0121 654 1111</p>	<p>18</p>	<p>The Mythe, Tewkesbury</p>	



17/00208/FUL

Mill Farm, Mill Lane, Stoke Orchard

2

Valid 05.04.2017

Demolition of 2 no. existing storage sheds and stable and erection of a single dwelling.

Grid Ref 391778 227859  
Parish Stoke Orchard And  
Treddington  
Ward Oxenton Hill

Mr D Sherborne  
c/o Agent

## **RECOMMENDATION Refuse**

### **Policies and Constraints**

Tewkesbury Borough Local Plan to 2011 (March 2006) - HOU4, GRB1, TPT1, EVT5, EVT9, LND4 , LND7  
Proposed Main Modifications Version Joint Core Strategy (2017) - SD5, SD6, SD7, SD9, INF1, INF2, INF3, INF4  
National Planning Policy Framework (2012)  
Planning Practice Guidance (PPG)  
Planning (Listed Buildings and Conservation Area) Act 1990  
Flood and Water Management Supplementary Planning Document  
Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)  
The First Protocol, Article 1 (Protection of Property)  
Countryside and Rights of Way Act 2000  
Green Belt  
Public Right of Way

### **Consultations and Representations**

**Stoke Orchard & Treddington Parish Council** - Object. The site is within the designated Green Belt and outside the village envelope. There are unresolved highways issues and the area is prone to regular flooding from the River Swilgate.

**County Highways** - No comment. Standing advice criteria to be applied.

**Landscape Officer** - Not supported until outstanding issues are addressed.

**Local Residents** - No comments received

**Councillor Gore** has requested that the application be taken to Planning Committee to assess the impact of the proposed scheme on the landscape and any potential flooding issues

**Planning Officers Comments:** Catherine Ashby

### **1.0 Application site**

1.1 The application site is located off Mill Lane, Stoke Orchard. It is a narrow, wedge-shaped parcel of land that is laid to grass and occupied by a stable building and two timber sheds, which are sited at the western end of the site. Mature trees are sited along the north south and west boundaries. Mill Farmhouse is a Grade II Listed Building and is located approximately 65 metres to the west/south-west of the site. Public footpaths run adjacent to the south and west boundaries. The site is not within a recognised residential development boundary as defined in the Tewkesbury Borough Local Plan and is located in the Gloucestershire Green Belt.

## **2.0 Relevant Planning History**

2.1 A notification (under Part 3, Class M of Schedule 2 of the General Permitted Development Order 1995) (ref. 14/00501/COUPN) was received in May 2014 of the applicant's intention to use the larger of the two agricultural buildings for B1 purposes. No decision was required to be made by the Council on the matter.

2.2 Planning permission (ref: 15/00671/OUT) was refused for a single dwelling on 1st March 2016 on the grounds the development represented an inappropriate form of development in the Green Belt.

2.3 A Lawful Development Certificate (ref: 16/00997/CLE) was granted on 26th October 2016 in respect of the storage sheds, establishing that they have been used for the storage of domestic furniture in excess of ten years.

## **3.0 Current Application**

3.1 This is a full application for the demolition of the existing stable and storage buildings and the erection of 1 no. 2-bed new dwelling house. The dwelling would be sited towards the centre of the site.

3.2 The proposed dwelling is a modern single storey design; comprising an L-shaped form consisting of two single storey blocks with a maximum height of 3.5 metres. Each block has a shallow pitched roof that gives the appearance of a mono-pitch. The two blocks are linked by a small flat roofed element. It is proposed to clad the building (walls and roof) in timber.

3.3 The main private garden area is proposed to the western side of the dwelling, including a decked seating area. A significant proportion of the middle to eastern end of the site would be laid to hardstanding to facilitate access from the eastern end off Mill Lane and the manoeuvring /parking of vehicles adjacent to the new dwelling.

3.4 The existing buildings which are to be replaced are single storey with a cumulative footprint of circa 121 sqm. The proposed dwelling has a footprint of 119 sqm and the proposed hardstanding/access/parking area covers an area of approximately 236sqm.

## **4.0 Policy Context**

4.1 At the heart of the NPPF is a presumption in favour of sustainable development, of which there are three dimensions: economic, social and environmental. The NPPF does not change the statutory status of the development plan as the starting point for decision making but emphasises the desirability of local planning authorities having an up to date plan. According to paragraph 215 of the Annex 1 to the NPPF, due weight should be given to relevant policies in existing development plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the framework, the greater the weight that may be given).

4.2 Section 9 of the NPPF makes clear that the Government attaches great importance to Green Belts and states Local Planning Authorities should regard the construction of new dwellings as inappropriate development in the Green Belt. Such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 sets out that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

4.3 There are however exceptions to the construction of new buildings in the Green Belt. Paragraph 89 sets out that the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), would not be inappropriate development in the Green Belt provided the new building would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. This approach is reflected in Policy SD6 of the JCS PMM which accords with the NPPF.

## 5.0 Analysis

5.1 The main issues for consideration in the application are:

- Whether the principle of the development of a single dwelling in the countryside is appropriate in the context of the Council's five year housing land supply;
- Whether the proposal would be inappropriate development in the Green Belt having regard to the NPPF;
- The effect of the proposal on the character, appearance and landscape of the area;
- The impact of the proposal on flood risk;
- The effect of the proposal on the setting of a listed building; and
- Highways matters

### Principle of Development

5.2 On 31st January the Council approved for consultation the Proposed Main Modifications Version of the Joint Core Strategy (JCS MMV). In doing so the Council approved the Objectively Assessed Need (OAN) for Tewkesbury which stands at 9,899. It is considered that this figure is robust having been arrived at following detailed consideration through the Examination in Public process. Following from the OAN there is an annual requirement to meet Tewkesbury's needs of 495 dwellings. Using this robust figure, taking into account current supply, the Council can demonstrate 5.97 year supply with a 5% buffer applied and a 5.22 year supply with a 20% buffer applied. This equates to an oversupply of 502 and 134 dwellings respectively.

5.3 In light of the fact that the Council is able to demonstrate a five-year supply of deliverable housing sites, saved Policy HOU4 of the Tewkesbury Borough Local Plan should no longer be considered out of date pursuant to paragraph 49 of the NPPF. In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise), the presumption in favour of sustainable development set out at paragraph 14 of the NPPF does not apply.

5.4 Section 38(6) of the Town and Country Planning Act 1990 provides that the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. In this case the presumption is against the grant of permission given the conflict with policy HOU4 and, as such, permission should be refused unless material planning circumstances indicate otherwise.

5.5 The starting point for determination of this application is therefore the conflict with Policy HOU4, to which substantial weight should be applied. Whilst the Council is able to demonstrate a 5 year supply of deliverable housing sites, it is also of course a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough. Stoke Orchard is not identified in the JCS MMV as a Service Village and it does not benefit from a residential development boundary. The site lies within the open countryside and the conflict with policy HOU4 weighs substantially against the development. Given the fact that the proposal is for a single dwelling, the social, economic and housing supply benefits arising from the proposal are limited and are not considered to outweigh the conflict with the development plan.

### **Development in the Green Belt**

#### Inappropriate development

5.6 In this instance the proposal would involve the construction of a new building in the Green Belt to replace a small group of existing buildings. In view of the recent LDC determination which confirmed the use of the application site as a whole as a storage use for domestic furniture it falls to be considered as a previously developed site. The new building would not occupy the same physical footprint of the group of existing buildings, although there is some overlap, but its floor space would be slightly lower than their total. The area of hardstanding required for vehicular access, car parking and manoeuvring is in addition to the floor space of the proposed dwelling.

5.7 In the context of paragraph 89 the proposal for a single storey dwelling, with a floor space of 119 sqm, to replace the existing single storey buildings, with a floor space of 121 sqm, on a similar footprint, may be considered to fulfil the first part of the exception test set out in paragraph 89 of the NPPF. However, the proposal cannot be considered appropriate development unless it can be demonstrated that the development would not have a greater impact on the openness of the Green Belt and the purpose of including land within in than the existing development.

### Openness

5.8 With regard to openness, the proposed dwelling itself is relatively modest in scale and would reduce the built footprint of the existing buildings on the site. The proposed low-level design and use of timber cladding would also serve to reduce its visual impact. However, the access and car parking requirements of the new dwelling comprise a large area of hardstanding (approximately 236 sqm) that would occupy a significant proportion of the application site. This is quite a different arrangement from the informal access that currently serves the site, which is via the field gate across a grassed area. Indeed, no formal or informal access track was immediately apparent during the officer site visit.

5.9 In addition, the proposal would inevitably introduce domestic paraphernalia associated with the dwelling. Although permitted development rights relating to outbuildings could be removed, the addition of domestic items such as garden furniture and children's play equipment cannot be restricted.

5.10 It is also extremely likely that, due to the narrow shape of the site and the proximity of the dwelling and hard standings to the site boundaries, there would be a consequential impact on the trees surrounding the site to facilitate the proposed development (as considered in the following section of this report), both in terms of the construction impact of the development itself and in providing a suitable living environment for future occupiers. The effect of a reduction in tree cover would make the site more visually prominent in the surrounding area.

5.11 In this instance, although the footprint of the dwelling itself would be marginally smaller than the existing building group and the dwelling by design is relatively restrained, it is considered that the development proposal taken as a whole would be highly visible from the road and from the public footpaths running immediately adjacent to the south and west boundaries of the site. As a consequence the proposal would cause demonstrable harm to the openness of the Green Belt in this location over and above that of the existing buildings. It is considered that the proposed development does not meet the exception test to be applied to previously developed sites set out at paragraph 89 of the NPPF and is therefore considered inappropriate development in the Green Belt. Having regard to paragraph 89 of the NPPF this harm must be afforded substantial weight against the proposal.

### Design, character, appearance and landscape impact

5.12 Policy LND4 of the TBLP stipulates that in considering proposals regard will need to be given to protect the character and appearance of the rural landscape. Policy SD7 of the JCS MMV also seeks to protect landscape character and Policy SD5 sets out design requirements. Similarly Policy LND9 of the TBLP and Policy INF4 of the JCS MMV require new development to consider and contribute positively to green infrastructure.

5.13 Section 7 of the NPPF relates to requiring good design and specifies that the Government attaches great importance to the design of the built environment, and that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people. NPPG advises that permission should be refused for development of poor design that fails to take into account the opportunities for improving the character and quality of an area and the way that it functions. Furthermore, the NPPF (paragraph 17) specifies that planning should contribute to conserving and enhancing the natural environment.

5.14 In terms of character, the application site is set within open pastoral countryside. It benefits from a degree of visual enclosure from mature trees at its boundaries, which break up and filter views of the small group buildings on the site and also form an important part of the landscape context of the site.

5.15 As previously stated, the architectural approach to the new dwelling itself is not considered to be inappropriate in relation to the buildings that it replaces and its rural context. However, the site is narrow and physically constrained and the proposed dwelling, access and hardstandings would occupy a substantial footprint. The development encroaches into root protection areas and the proposed dwelling would be overcast by the existing trees.



5.16 Due to the constraints of the site the development would extend up to site boundaries and that has the potential to make the site appear over-developed. This is compounded by the inappropriate spatial margins around the site which place important boundary trees under pressure for removal/potential damage and provide limited opportunities to provide a well-designed landscape setting/ mitigation for the development. The proposal does not provide comprehensive landscaping proposals that address the site's location. It is considered that in its present form the development proposal would harm the existing character of the site and be visually intrusive to the rural landscape setting.

5.17 The landscape officer identifies a number of omissions required to fully assess the aforementioned matters including an Arboricultural Implications Statement and a Tree Protection Plan, a Landscape Visual Assessment, and proposals for mitigation and landscape enhancement. It is considered that the former and latter would be required prior to the determination of the application to ensure a landscape led approach to the development, which may necessitate amendments to the proposal. However, neither has been sought from the applicant given the fundamental objections to the proposal outlined above. It is considered that an LVA may be onerous in relation to the scale of the proposal within a non-designated landscape.

5.18 It should be noted that the applicant has in the later stages of the application offered to provide additional information in an attempt to address these matters. However, they consider the need for tree information onerous and instead suggest a condition to identify retained trees and protect them in the course of development. This approach is not considered acceptable.

5.19 It is considered that the impact on the landscape of the proposed dwelling, taking account of the development as a whole, would be materially harmful to the landscape character of the site and the wider landscape. The scale and layout of the development does not sit comfortably within the application site which would impact on boundary trees and views of the site. The proposal therefore fails to respond to the context of the site and would be harmful to its defining characteristics and the wider landscape setting contrary to the NPPF and Policies SD5, SD7 and INF4 of the JCS MMV and to Policy LND4 and LND8 of the TBLP.

#### Flood Risk

5.20 The site is located in Flood Zone 1. In the former application for a new dwelling on the site (15/00671/OUT) the EAs surface water flood map indicated that parts of Mill Lane are at high risk of flooding. The current maps do not however indicate the presence of that risk. There is therefore no requirement in the NPPF to provide a Flood Risk Assessment (FRA). It is noted that the Parish Council raise concerns in relation to flooding from the River Swilgate.

5.21 In the previous application the applicant was requested to provide a FRA to address the flood risk to the development and demonstrate safe access. No FRA was provided but the applicant submitted correspondence from Gloucestershire County Council (Highways) confirming that a road gully frame had recently been replaced to help alleviate a problem of surface water ponding on Mill Lane. It was argued by the applicant that the damaged gully was the cause of surface water flooding and since its replacement Mill Lane does not flood. Photos of the flood event (February 2016) were produced by the applicant showing no flooding, which were accepted. Given that this evidence was very recently submitted as part of the former application it is considered that it remains applicable to the current application.

5.22 Although the evidence is somewhat anecdotal in nature, there is some credibility in it given the confirmation e-mail from GCC in respect of the gully. It is also noted that the site itself is shown to be at a very low risk of surface water flooding and that a safe flood free pedestrian access exists to the village via the public footpath to the west of the site. On balance it can therefore be reasonably concluded that the proposal is not at an unacceptable risk from flooding and would not conflict with Policy EVT5 of the TBLP or the advice on Flood Risk in the NPPF.

#### Listed Building Setting

5.23 Nearby Mill Farmhouse is a Grade II Listed Building but is located over 80 metres away from the proposed dwelling. There are a number of mature trees along the neighbouring boundary and there is considered to be limited inter-visibility. Verbal consultation with the Conservation Officer raises no concerns over the impact of the proposed development on the setting of the Listed Building.

## Highways Matters

5.24 The County Highways Authority has assessed the application and refers the authority to their standing advice criteria in relation to the determination of the application.

5.25 The proposed access is via the gated entrance and informal access at the eastern end of the site adjacent to Mill Lane, which is a non-classified road. No visibility splays or other access arrangements have been included in the application. The applicant has not been invited to demonstrate how the proposal could achieve a satisfactory means of access according to the standing advice criteria in view of the fundamental objections to the proposal outlined above.

5.26 On the basis that the applicant has failed to demonstrate the proposed development could provide a safe vehicular access to the highway network to an appropriate standard, which would not adversely affect the safety or satisfactory operation of the highway network, the proposal conflicts with Policy TPT1 of the TBLP, Policy INF1 of the JCS MMV and the provisions of the NPPF.

### **6.0 Balancing Exercise and Summary**

6.1 As set out above the starting point for the determination of this application is the conflict with Policy HOU4, to which substantial weight should be applied. Whilst the Council is able to demonstrate a five year supply of deliverable housing sites, it is of course a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough.

6.2 Whilst the site is located within a reasonably accessible location of the settlement of Stoke Orchard, the provision of a single dwelling in this location would offer only very limited benefits in terms of contributing to the ongoing five-year supply of deliverable housing sites and the economy. Accordingly, these matters are not considered to outweigh the conflict with the development plan which must be given substantial weight in the determination of this application.

6.3 The NPPF indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Any harm to the Green Belt carries considerable weight. In this case it has been concluded the proposed replacement building and associated access/ parking arrangements on a previously developed site would have a greater impact on the openness of the Green Belt and the purpose of including land within in than the existing buildings. There would therefore be harm from inappropriateness in the Green Belt, as well as loss of openness. It is considered there are no very special circumstances or any other considerations that outweighs the harm.

6.4 Similarly it is considered that the proposed siting and layout of the dwelling and its associated access/parking arrangements do not represent good design as it fails to respond to the context of the site, and in particular does not demonstrate how adjacent trees would be protected and retained through the course of development or in the context of the future residential use. As a consequence it is considered that the proposed development represents overdevelopment that would have an adverse impact on the defining characteristics of the application site and the character and appearance of the wider landscape.

6.5 In the absence of information to demonstrate that safe vehicular access to the highway network can be provided in accordance with the Highway Authority's standing advice criteria it is considered that the proposal in its current form remains unacceptable.

6.6 For these reasons it is therefore recommended that **planning permission is refused.**

### **RECOMMENDATION Refuse**

#### **Reasons:**

- 1 The proposed development conflicts with Policy HOU4 of the Tewkesbury Borough Local Plan to 2011(March 2006) in that the site lies outside any recognised settlement boundary in a location where new housing is strictly controlled and it is not essential to the efficient operation of agriculture or forestry.

- 2 The proposed development constitutes inappropriate development in, and would materially harm the openness of the Green Belt in conflict with the purposes of including land within it. The proposal therefore conflicts with Policy SD6 of the Proposed Main Modifications version of the Joint Core Strategy (2017) and the provisions of the National Planning Policy Framework (2012).
- 3 The proposed dwelling and associated access, parking and hardstanding areas would, by reason of its significant footprint relative to the size of the site, fail to respond to its context and the defining characteristics of the site, to the detriment of the rural character and appearance of the site and the wider landscape. The proposal is therefore contrary to Policy LND4 of the Tewkesbury Borough Local Plan to 2011 (March 2006), Policies SD5 and SD7 of the Main Modifications Version of the Joint Core Strategy (2017) and the provisions of the National Planning Policy Framework (2012).
- 4 The development proposal fails to adequately demonstrate how existing trees would be protected and retained as part of the development. The proposal is therefore contrary to Policy LND7 of the Tewkesbury Borough Local Plan to 2011 (March 2006), Policy INF4 of the Proposed Main Modifications version of the Joint Core Strategy (2017) and paragraph 17 of the National Planning Policy Framework (2012).
- 5 The development proposal fails to demonstrate that safe vehicular access to the highway network can be provided to an appropriate standard which would not adversely affect the safety or satisfactory operation of the highway network .The proposal is therefore contrary to Policy TPT1 of the Tewkesbury Borough Local Plan to 2011 (March 2006), Policy INF1 of the Main Modifications Version of the Joint Core Strategy (2017) and the provisions of the National Planning Policy Framework (2012).

Notes:

**1 Statement of Positive and Proactive Engagement**

In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner offering pre-application advice, detailed published guidance to assist the applicant and published to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding. However, as a consequence of the clear conflict with Development Plan Policy no direct negotiation during the consideration of the application has taken place.

17/80200/L1

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 Site Boundary

Revision	Description	Date	Check	Rev

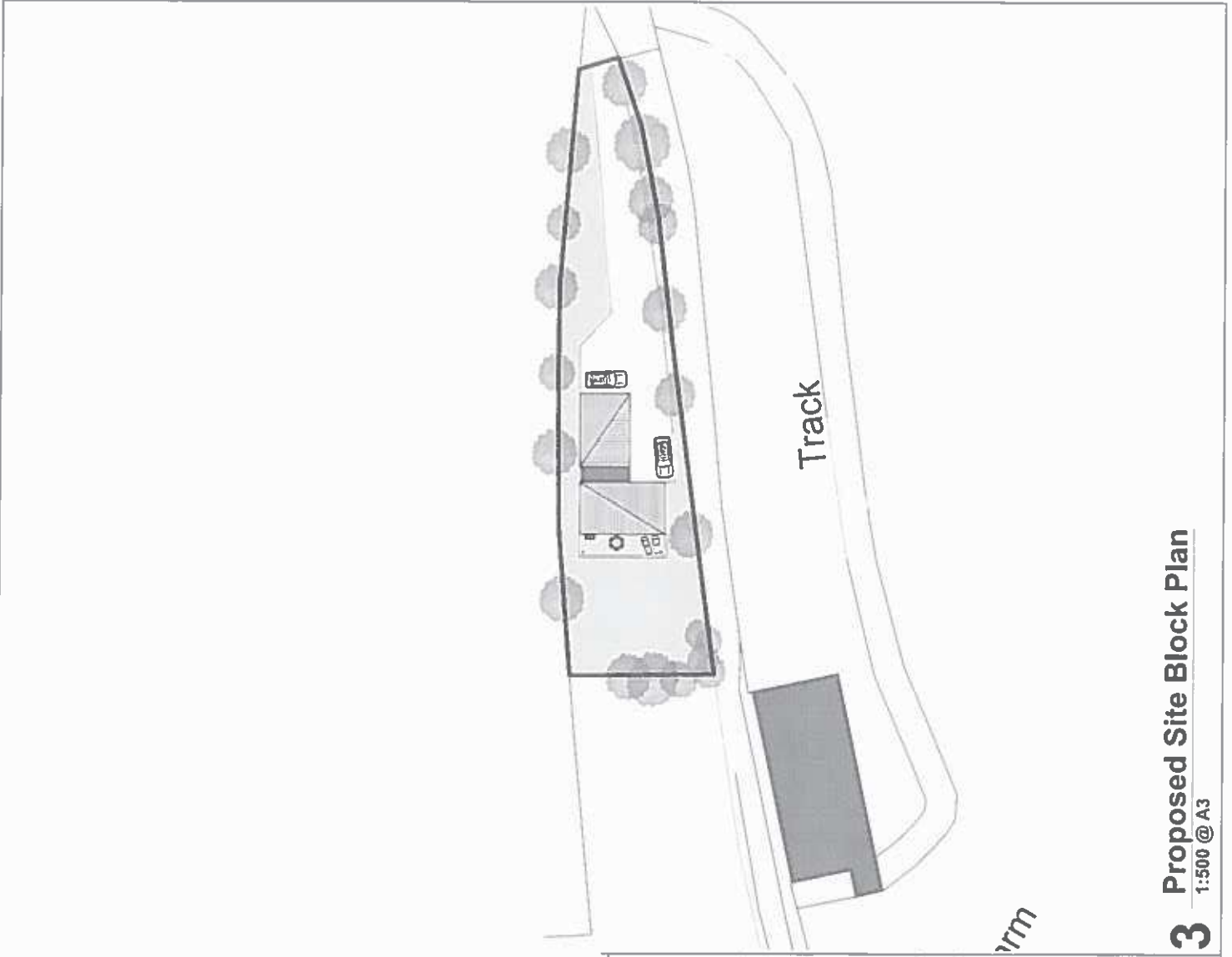


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Project: Mr. Sherborne  
 Date: October 2016  
 Drawing Number: 2478-P01.01  
 Scale: A3 Stated

Client: Mr. Sherborne  
 Project: Proposed New Dwelling, Mill Farm, Stoke Orchard GL52 7SG  
 Drawing Title: Site Location & Proposed Block Plan

Date	Drawn By	Checked By



**3 Proposed Site Block Plan**  
 1:500 @ A3



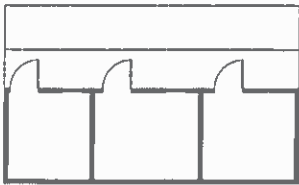
**2 Location Plan**  
 1:2500 @ A3

94/A

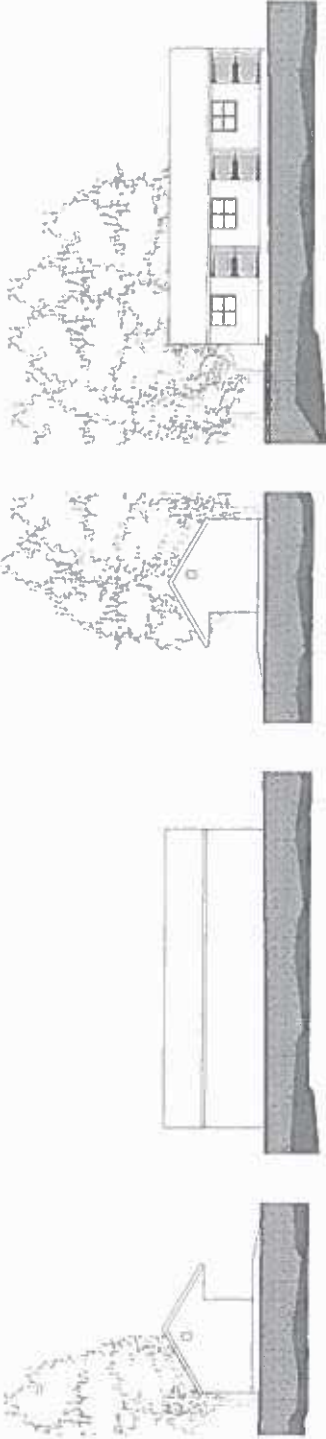
27

7/1/00208/FUL

### Stable Building



Ground Floor Plan - 1:100 @ A1 / 1:200 @ A3



Existing South Elevation - 1:100 @ A1 / 1:200 @ A3

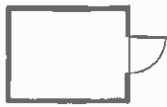
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Existing North Elevation - 1:100 @ A1 / 1:200 @ A3

Existing East Elevation - 1:100 @ A1 / 1:200 @ A3

### Storage Building 1

94/128



Ground Floor Plan - 1:100 @ A1 / 1:200 @ A3



Existing South Elevation - 1:100 @ A1 / 1:200 @ A3

Existing West Elevation - 1:100 @ A1 / 1:200 @ A3

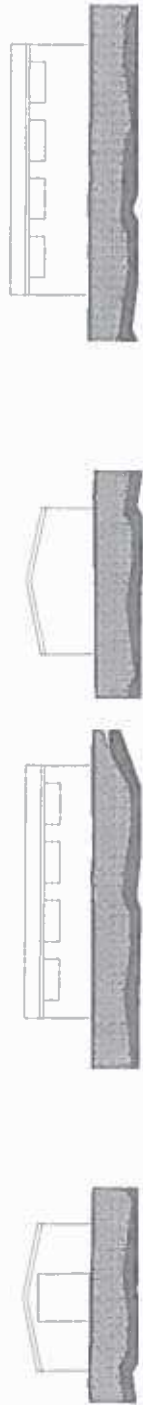
Existing North Elevation - 1:100 @ A1 / 1:200 @ A3

Existing East Elevation - 1:100 @ A1 / 1:200 @ A3

### Storage Building 2



Ground Floor Plan - 1:100 @ A1 / 1:200 @ A3



Existing South Elevation - 1:100 @ A1 / 1:200 @ A3

Existing West Elevation - 1:100 @ A1 / 1:200 @ A3

Existing North Elevation - 1:100 @ A1 / 1:200 @ A3

Existing East Elevation - 1:100 @ A1 / 1:200 @ A3

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Project Description: Date: Scale: Rev: No.



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Author: J. Smith  
Date: 15/02/2017  
Scale: 1:100 @ A1 / 1:200 @ A3

Client: Mr. Sherborne  
Project: Proposed New Dwelling, Mill Farm, Stoke Orchard, GL52 7SG

Drawing Title: Existing Stable & Storage Building 1&2 Plans and Elevations

Sheet: 1 of 1  
Date: 15/02/2017  
Drawing Number: 2418-103-01  
Project: Proposed New Dwelling, Mill Farm, Stoke Orchard, GL52 7SG

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Project:  
 Mr Sherborne  
 Proposed New Dwelling, Mill Farm, Stoke Orchard, GL52 7SG

Location:	Plot 1, 2 & 3	Client:	Mr Sherborne
Date:	14/02/17	Drawn by:	OMS
Scale:	1:200 (A1)	Checked by:	OMS
Sheet:	1 of 1	Project:	Proposed Ground Floor General Arrangement Plan



94/29

17/00208/FUL

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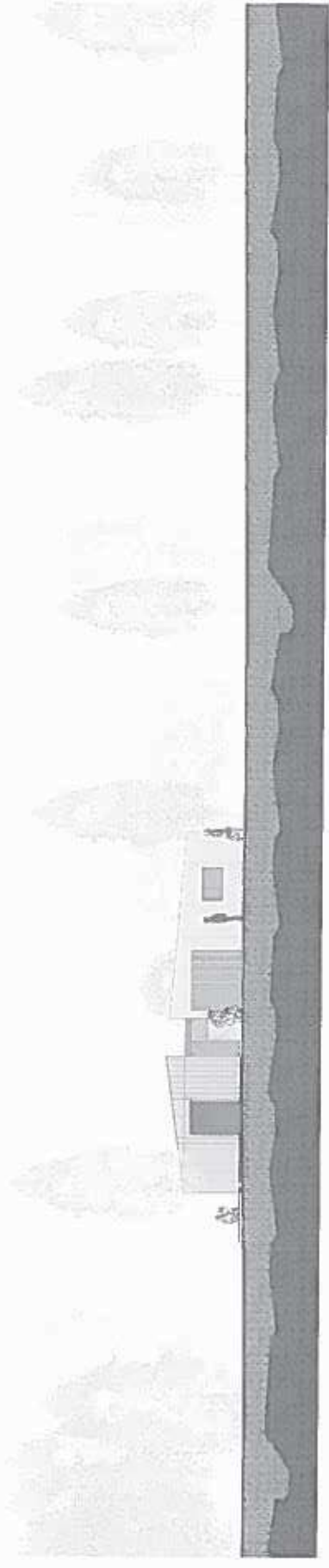
Architect  
 RRA Architects Ltd  
 Date  
 15 Feb 2017  
 Scale  
 1:50 @ A1 / 1:100 @ A3

Client  
 Mr Sherborne

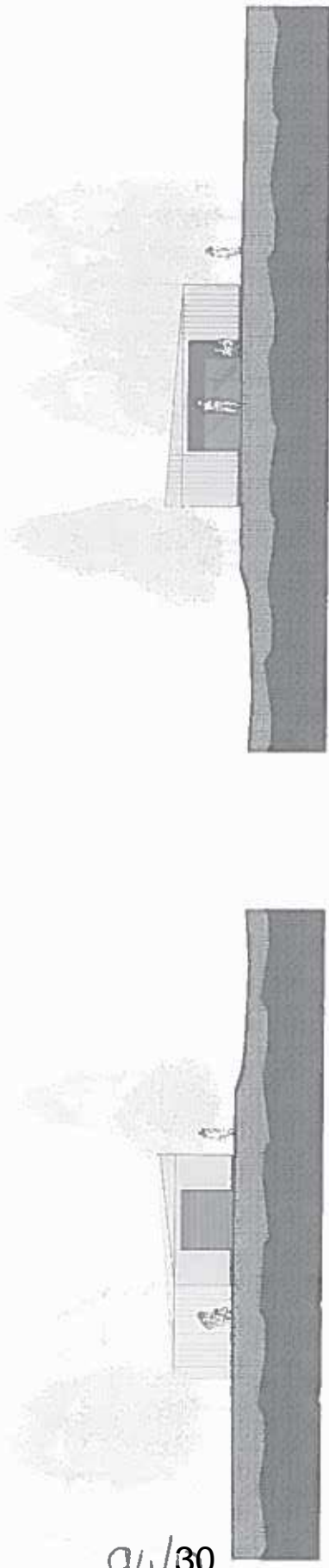
Project  
 Proposed New Dwelling, Mill Farm, Stoke Orchard, GL52 7SG

Drawing Title  
 Proposed Elevations

Sheet	Date	Drawn By
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Scale	Checked/Issue	Revision
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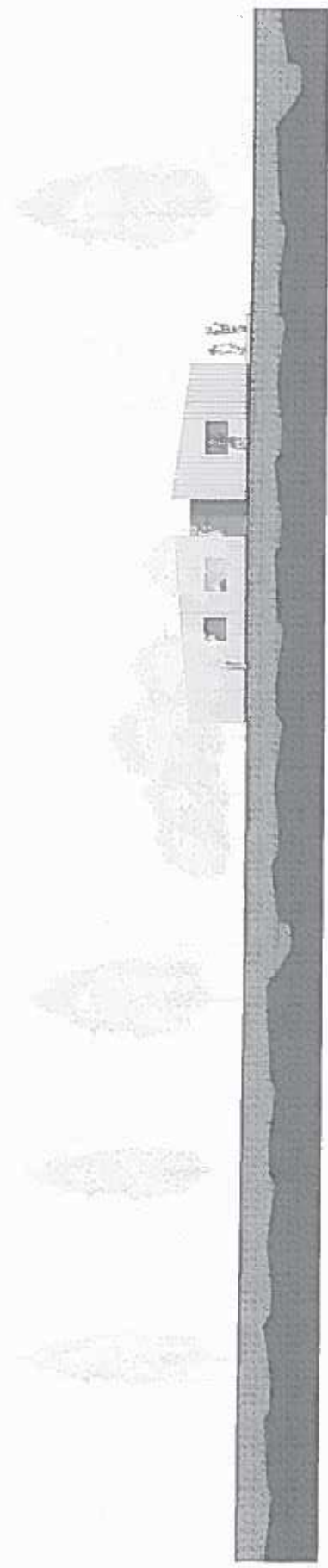
- Proposed South Elevation  
 - 1:50 @ A1 / 1:100 @ A3



- Proposed East Elevation  
 - 1:50 @ A1 / 1:100 @ A3

94/30

- Proposed West Elevation  
 - 1:50 @ A1 / 1:100 @ A3



- Proposed North Elevation  
 - 1:50 @ A1 / 1:100 @ A3

17/00240/OUT

Land Adjacent To Stone Cottage, Tewkesbury Road, Coombe Hill 3

Valid 12.05.2017

Outline application for the erection of a new detached dwelling and associated access (all matters reserved for future consideration). Change of use of part of adjoining land to residential curtilage for Stone Cottage.

Grid Ref 388645 226834

Parish Leigh

Ward Coombe Hill

Ms S Shopland

C/O Agent

## RECOMMENDATION Refuse

### Policies and Constraints

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Joint Core Strategy Main Modifications - SP2, SD7, SD10, SD15, INF1, INF2

Tewkesbury Borough Local Plan to 2011 - March 2006 - HOU4, TPT1, EVT2, EVT9, LND3, LND7, NCN5

Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)

The First Protocol, Article 1 (Protection of Property)

Landscape Protection Zone

### Consultations and Representations

**Leigh Parish Council** - No objection to the principle of a dwelling - 4 in favour/1 abstention. No further comment until full application is submitted showing details of size, materials and design.

**County Highways Officer** - No objection raised but provided comment regarding the appropriate levels of junction visibility for the proposed access, commensurate with the sign posted speed limit of this section of the highway.

**Natural England** - Statutory Nature Conservation Sites - No objection. Protected Species - No comment - Standing Advice.

**Landscape Officer** - Concerns regarding the positioning of the proposed new dwelling and its potential harmful impacts upon the character and appearance of the Landscape Protection Zone.

**Severn Trent** - No response received at time of report writing

**Local Residents** - 2 letters of support have been received from local residents. Their comments are summarised below;

- The proposal would have no negative effect on anyone or the landscape;
- This type of development has recently been supported by the Parish - small-scale, organic development, especially when not profit or developer-led and enabling residents to downsize and families to move back to the area.
- The development would allow a neighbour to remain in the area and her family to move back to the area;
- The site is hidden from the road
- The proposal reflects the pattern of small clusters of properties that are spread throughout the area.

**Committee determination requested by Councillor Waters in order to assess proposed size and scale**

**Planning Officers Comments:** Miss Lisa Dixon



## 1.0 Application Site

1.1 The application site forms part of parcel of amenity land, adjoining the residential curtilage of Stone Cottage (to the south and south-west). The proposed site area is stated to be approximately 0.1 hectares. The land falls within the ownership of the current owner of Stone Cottage, as does a large parcel of paddock/grazing land, located immediately to the north. Open fields stretch beyond the amenity land to the west/south-west. The detached residential property of 'Hill View' and the former St Stephen's Mission Church adjoin the site to the east/south-east. The A38 highway runs alongside the frontage of Stone Cottage and its neighbouring properties. **see attached location plan.**

1.2 The site is located within the existing rural settlement of Coombe Hill and lies outside of any defined residential boundary.

1.3 The site is relatively flat but occupies an elevated position, relative to the adjoining fields beyond its western boundary. The site wider parcel of land in which the proposal site sits is bounded by well-established tree and shrub planting.

1.4 The site lies within the Landscape Protection Zone, as designated within the Borough Local Plan.

## 2.0 Relevant Planning History

99/00636/FUL - Erection of two-storey extension to Stone Cottage - Permitted July 1999

13/00453/FUL - Change of use of agriculture land to land for exercising and grazing horses (for private use only) - Permitted July 2013 *land parcel adjoining the north/north-east of Stone Cottage*

16/01358/FUL - Proposed stables/store (for private use only) and associated access track constructed from Grass Grid System *land parcel adjoining the north/north-east of Stone Cottage* - Pending consideration.

Submitted SHLAA site (wider parcel in which the site sits) - Site Ref: LE1005/SUB326

## 3.0 Current Application

3.1 The application seeks outline permission for the erection of a 1no. detached dwelling. The application includes means of access from the A38, with all other matters reserved for future consideration. Although site and design has been reserved for future consideration, a revised illustrative layout plan and illustrative elevation drawing have been recently submitted on 12.05.2017, to accompany the proposal **see attached plans.**

3.2 The proposed indicative layout shows a linear building, set behind the existing St Stephen's Mission church. Proposed means of access from the A38 would be via the existing, established access serving Stone Cottage, with a new 4.2 metre wide private driveway being created through the curtilage of Stone Cottage to serve the proposed new dwelling at the rear. The proposed driveway would run alongside Stone Cottage and immediately adjacent to the northern side boundary of the adjacent dwellinghouse of Hill View. No boundary treatment or physical separation is shown between the proposed driveway and the existing property of Stone Cottage itself, within in indicative layout plan. The indicative layout also shows the creation of a new parking/turning area within the site. Furthermore, a portion of site is shown within the illustrative plan, to be enclosed by way of new landscaping/hedgerow planting, for use by Stone Cottage itself.

3.3 The illustrative elevation submitted on 12.05.2017 shows that the dwelling would be of rectangular, 'barn-type' design, utilising horizontal timber cladding and of one and a half storey construction.

## 4.0 Policy Context

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. The development plan comprises the saved policies of the Tewkesbury Borough Local Plan to 2011 - March 2006.

4.2 Other material policy considerations include National Planning Guidance contained within the National Planning Policy Framework (NPPF), and the emerging Cheltenham, Tewkesbury and Gloucester Joint Core Strategy. Paragraph 215 of the NPPF provides that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

4.3 The application site lies outside of a recognised settlement boundary as defined by the Tewkesbury Borough Local Plan to 2011 - March 2006. Consequently, the application is subject to policy HOU4 which states that new residential development will only be permitted where such dwellings are essential to the efficient operation of agriculture or forestry or the provision of affordable housing.

4.4 The Council is able to demonstrate a five-year supply of deliverable housing sites and saved policy HOU4 is considered up-to-date. In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise), the presumption in favour of sustainable development set out in paragraph 14 of the NPPF does not apply.

4.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case as reiterated in paragraph 12 of the NPPF, the presumption is against the grant of planning given the conflict with HOU4 and as such permission should be refused unless material circumstances indicate otherwise.

4.6 Framework Paragraph 109 sets out the requirement to protect and enhance valued landscapes. The advice regarding protecting landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being is reflected with Policy SD7 of the Main Modifications Version of the Joint Core Strategy (MMJCS).

4.7 Other relevant local plan policies are set out in the appropriate sections of this report.

## 5.0 Analysis

### Principle of Development

5.1 The application site lies outside of a recognised settlement boundary as defined by the Tewkesbury Borough Local Plan to 2011 - March 2006. Consequently, the application is subject to policy HOU4 which states that new residential development will only be permitted where such dwellings are essential to the efficient operation of agriculture or forestry or the provision of affordable housing. The presumption is against the grant of planning permission given the conflict with policy HOU4 and as such permission should be refused unless material circumstances indicate otherwise.

5.2 Coombe Hill is a named Service Village in the Main Modifications Version of the Joint Core Strategy and emerging Policy SP2 of the JCS states that Service Villages will accommodate lower levels of development, proportional to their size and function, and also reflecting their proximity to Cheltenham and Gloucester. New development is to be allocated through the Tewkesbury Borough Plan and Neighbourhood Plans.

5.3 The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

5.4 The Framework also recognises the need to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development (paragraph 28) and also that opportunities to maximise sustainable transport solutions will vary from urban to rural areas and that there is a need to balance this against other objectives set out in the Framework - particularly in rural areas. Although it is accepted that the new residents would to a large extent be reliant on the car, this would be in common with all the Service Villages and recent appeal decisions in Alderton and Twynning have made it clear that neither national nor local planning policy regards this as sufficient reason in itself to prevent any further residential development in such communities. Rather, it is one of the many considerations that need to be taken into account when assessing specific proposals.

5.5 This application must be considered on its own merits and whilst the proposal does lie within a named Service Village within the MMJCS, this must be weighed in the planning balance alongside other relevant planning matters.

5.6 As mentioned above, it is recognised that there would be a clear conflict with policy HOU4 of the Local Plan to which substantial weight should be applied and there is a presumption against of planning permission being granted. Coombe Hill is identified in the JCS as a suitable for location for some limited residential development, and this fact alongside other material considerations are to be taken into account in the decision making process and the overall balancing exercises.

#### Landscape impact

5.7 The site is located wholly within the Landscape Protection Zone and a public footpath runs to the west of the site, continuing on through The Wharf, Coombe Hill to the north.

5.8 The current outline application does not include a Landscape Appraisal. However, it does include a Supporting Statement from the agent which seeks to provide landscape justification for the proposal in the light of the Council's recent Landscape and Visual Sensitivity Study work, undertaken as part of the evidence base for the emerging Borough Plan. The Council's Landscape and Visual Sensitivity Study (LVS) assesses the site as being part of a wider parcel (parcel Coo - 02), of "High Sensitivity" landscape value. However, the agent has argued the Study's irrelevance in this instance as the purpose of the Study is to assist in identifying land large enough and suitable to accommodate major housing developments.

5.9 It is noted that the LVS Study advises that "an area identified as having a high sensitivity might in some circumstances have the capacity to absorb some sympathetic development". However, each case would be required to be assessed on its merits and not all small-scale development would be appropriate in landscape terms within Coombe Hill settlement, solely on the basis of its role as a Service Village. It is also of note that Coombe Hill settlement has an indicative requirement of 20 dwellings, based on the disaggregated JCSMM requirement for the Service Villages, of which 2 dwellings have already been committed within the village. This indicative requirement for 18 additional dwellings would not necessarily be expected to be met all on one site. As such, the 'major' development referenced by the agent as forming the focus for the LVS work is not considered to be an accurate assessment of the overall purpose of the study.

5.10 The Council's Landscape Officer (LO) has been consulted and has commented that the field in which the proposed dwelling is sited forms an important part of the surrounding countryside setting and provides a buffer zone and a strong boundary with the surrounding countryside of the Landscape Protection Zone. The existing properties that run parallel to the A38 immediately south of the application site, are set on slightly elevated terrain, with topography gradually falling further to the north.

5.11 Furthermore, the applicant's 'Coombe Hill Wider Context Plan' shows six examples of a clustered form of development and the information provided does not fully appraise the pattern of settlement and the landscape context of each of these sites. The existing settlement pattern in the immediate vicinity of the application site, takes a linear layout along the A38, as opposed to a clustered form of development. From the public footpath as it leaves the village via The Wharf, the intervening established boundary vegetation to the west, makes the application site visually separated from the existing cluster of houses at The Wharf Coombe Hill, that form part of the village and also have a strong landscape context.

5.12 The LO further notes that the field to the north of Stone Cottage, in which the proposed dwelling is located, forms a strong edge to open countryside and permitting development in this location. In landscape terms, the current proposal although small in scale, would potentially erode this strong boundary with open countryside that forms part of the landscape setting to the Landscape Protection Zone.

5.13 The LO also noted that the information provided does not provide a landscape and visual impact assessment of the development proposal and take account of seasonal changes that may affect the indivisibility of the site from across the wider countryside. This would be required as the site is within a sensitive location and this wider area was included as sensitive within the TBC Landscape Characterisation Assessment and Sensitivity Analysis.

5.14 On the basis of the above, the LO has raised concerns with regards to the indicative layout and positioning of the proposed new dwelling and its potential harmful impacts upon the character and appearance of the Landscape Protection Zone.

## **Design and layout and impact upon the existing settlement**

5.15 The proposed position of the dwelling has been indicated within an indicative layout plan. The layout plan shows a rectangular dwelling of 8.5 metres in length, sited behind the existing St Stephen's Mission Church building. The indicative elevation plan denotes a dwelling of 'barn type' design with half-hip roof and timber clad elevations.

5.16 The proposed dwellinghouse is shown to be of relatively simple architectural approach. Its positioning, associated driveway/turning area and associated curtilage would be located to the rear of existing development within the immediate vicinity, within an area of adjoining land, outside of the established residential curtilage of Stone Cottage.

5.17 Whilst the proposed dwelling may not be considered inappropriate in its architectural approach, it is considered that its positioning to the rear of existing residential development would fail to respect the linear morphology of the section of Coombe Hill.

5.18 The agent has asserted that the land in question forms part of the established residential curtilage of Stone Cottage and as such, there would be no change of use inferred by the section of land given over to the existing dwellinghouse as private rear amenity space/garden area. However, the land in question forms part of a wider parcel known as 'Land adjoining Stone Cottage' and has a separate title deed from the dwellinghouse itself. Therefore, officers remain of the view the formal change of use of the land would also require the assessment as part of the current outline proposal. The applicant would have the opportunity to submit a certificate of lawfulness in respect of the land should they feel able to demonstrate its use as residential garden for a continuous period of ten years or more.

5.19 In conclusion, it is considered that the development, including the formal domestication of land in association with Stone Cottage, would be harmful to the linear morphology of the existing linear row which characterises this section of Coombe Hill settlement. This is considered to weigh against the proposal within the planning balance.

### Residential Amenity

5.20 The nearest dwellings to the proposal are the existing detached dwelling of Stone Cottage itself and 'Hill View' which lies to the immediate south of Stone Cottage.

5.21 The proposed driveway to serve the new dwelling would 'weave' between the two properties, being sited less than 1 metre from the gable of Stone Cottage, at its closest point. The new dwelling would be sited some 21.5 metres from Stone Cottage and 29 metres from Hill View at its closest point.

5.22 Due to the relative distance and positioning of the proposal, relative to existing properties within the immediate vicinity, it is considered that the proposal would not give rise to an unacceptable impact on the residential amenity of any other existing residents by reason of overlooking, overdominating or overbearing impact. Moreover, the indicative layout plan proposes subdivision of the site in order to provide separate, additional rear garden space for Stone Cottage itself. It is considered that this could be adequately achieved within the plot in order to provide an appropriate level of private amenity space for both the proposed and existing dwelling.

5.23 Whilst it is considered that the proximity of the proposed driveway to Stone Cottage may give rise to an element of noise/disturbance not currently experienced by its occupiers, it is not considered that this would be so severe in planning terms so as to warrant refusal of the application on residential amenity grounds.

### Highway Safety

5.24 Policy TPT1 of the Local Plan highlights that development will be permitted where provision is made for safe and convenient access and where there is an appropriate level of public transport service and infrastructure available. Paragraph 32 of the NPPF also requires safe and suitable access to be achieved but states that development should only be prevented or refused on transport grounds where the cumulative impacts of the development are severe. The County Highways Officer has been consulted on the application and has advised that the Planning Authority should refer to their Standing Advice.

5.25 It is proposed that the site will be served from the existing vehicular access off the A38 access is included for consideration within the current outline proposal. The County Highways Officer (CHO) has advised that as the highway fronting the proposed development site is subject to the sign posted 40mph speed limit, requirements deemed to satisfy visibility standards require emerging visibility splays of 120m along the nearside carriageway in both directions (left and right) at a 2.4m emergence setback, however the speed limit to the south west(Right) of the proposed access is subject to a 50mph speed limit, therefore the required visibility will need to be displayed on annotated plans north east of proposed access (Left) "X" 2.4m and "Y" distance 120m, and south west (Right) of proposed access "X" 2.4m and "Y" distance 160m. Although, access is to be assessed within the current outline application, the required visibility splays in both directions have not been demonstrated by way plan. If the required splays cannot be achieved, the CHO has advised that a speed survey could be undertaken to provide evidence of vehicles travelling at slower speeds. This may help reduce the visibility required for the proposed access. The applicant has been requested to address this issue by way of annotated plans and an update will be provided at Planning Committee.

5.26 With regards to parking provision, the indicative site layout demonstrates that there is more than adequate room within the site to accommodate off-road parking for at least two vehicles which is considered sufficient for proposed dwelling. However, it is not clear whether adequate off-road parking provision can be maintained for Stone Cottage itself, once any required alterations to the access to/from the A38 have been incorporated in order achieve the required visibility splays.

5.27 In light of the above, it is considered that additional information is required in respect of highways/access in order to demonstrate that the proposal would be adequately served by appropriate visibility splays.

## 6.0 Conclusions and Planning Balance

6.1 As set out above the starting point for determination of this application is the conflict with Policy HOU4, to which substantial weight should be applied. Whilst the Council is able to demonstrate a 5 year supply of deliverable housing sites, it is also of course a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough.

6.2 The site is located in a reasonably accessible location within a named Service Village in the emerging JCS with access to local services and facilities and which is therefore suitable in principle for some limited residential development proportionate to its size and function. The application would contribute, albeit in a very limited way, to the housing supply in the Borough and these are matters that weigh in favour of the proposal.

6.3 It is considered that the proposed siting of the new dwelling, to the rear of existing residential development, would fail to reflect the linear morphology of Coombe Hill settlement in this area. Furthermore, the proposal would erode the strong boundary with open countryside that forms part of the landscape setting to the Landscape Protection Zone. It is considered that the very limited contribution that the development would make towards housing supply would not be sufficient to outweigh the encroachment and landscape harm, and the clear conflict with policy HOU4 when weighed in the planning balance.

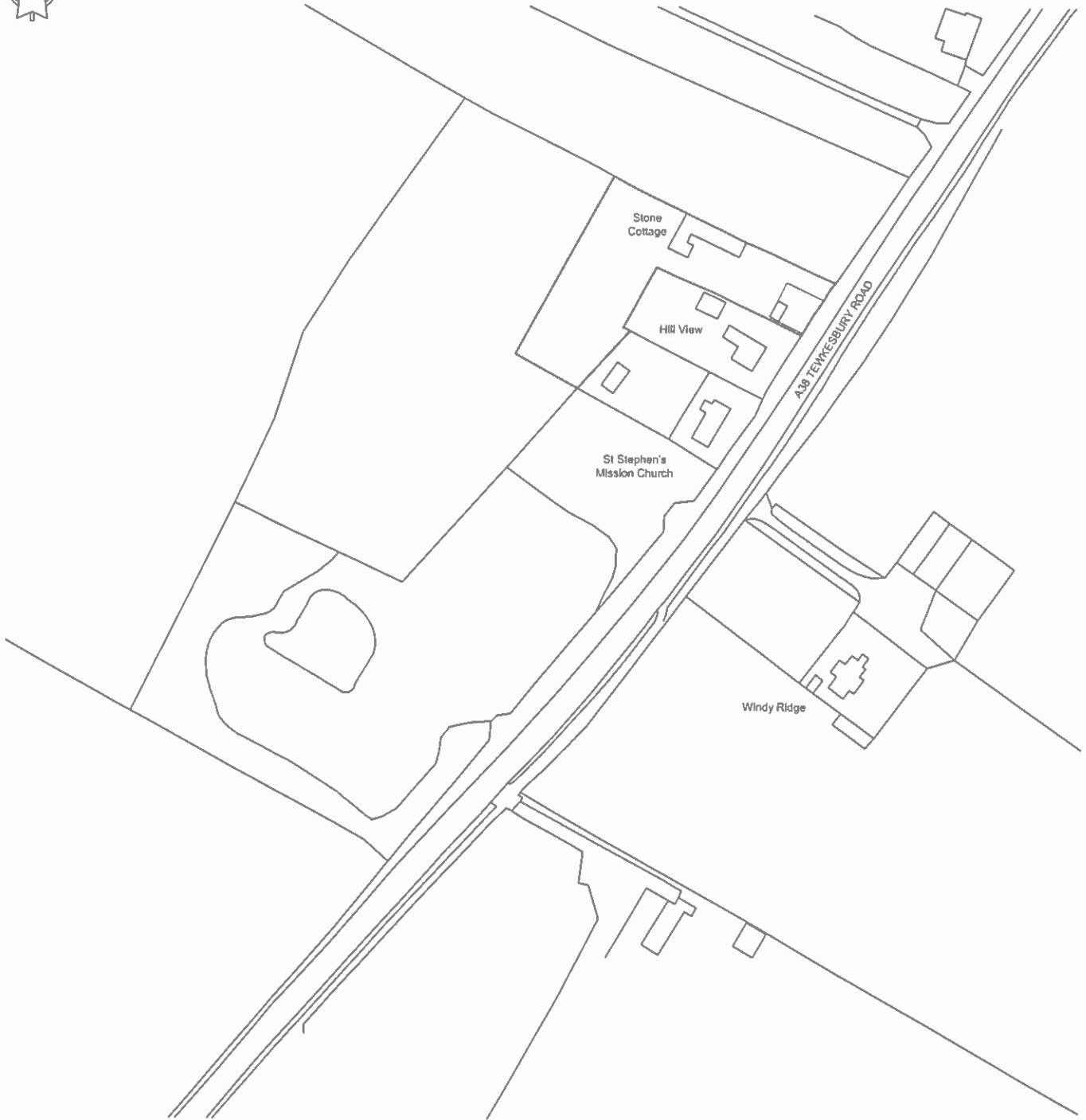
6.4 The proposal is therefore recommended for **Refusal** accordingly.

## RECOMMENDATION Refuse


### Reasons:

- 1 The proposed development conflicts with Policy HOU4 of the Tewkesbury Borough Local Plan to 2011 - March 2006 in that the site lies outside the defined residential development boundary of the settlement in a location where new housing is strictly controlled.
- 2 The proposed development, by reason of its siting, would result in unacceptable harm and encroachment to the setting of the Landscape Protection Zone and would fail to respect the existing linear character and morphology of this part of the settlement. As such the proposed development is contrary to advice set out in the National Planning Policy Framework, emerging policy SD7 of the Proposed Main Modifications version of the Joint Core Strategy and Policy LND3 of the Tewkesbury Borough Local Plan to 2011 - March 2006.

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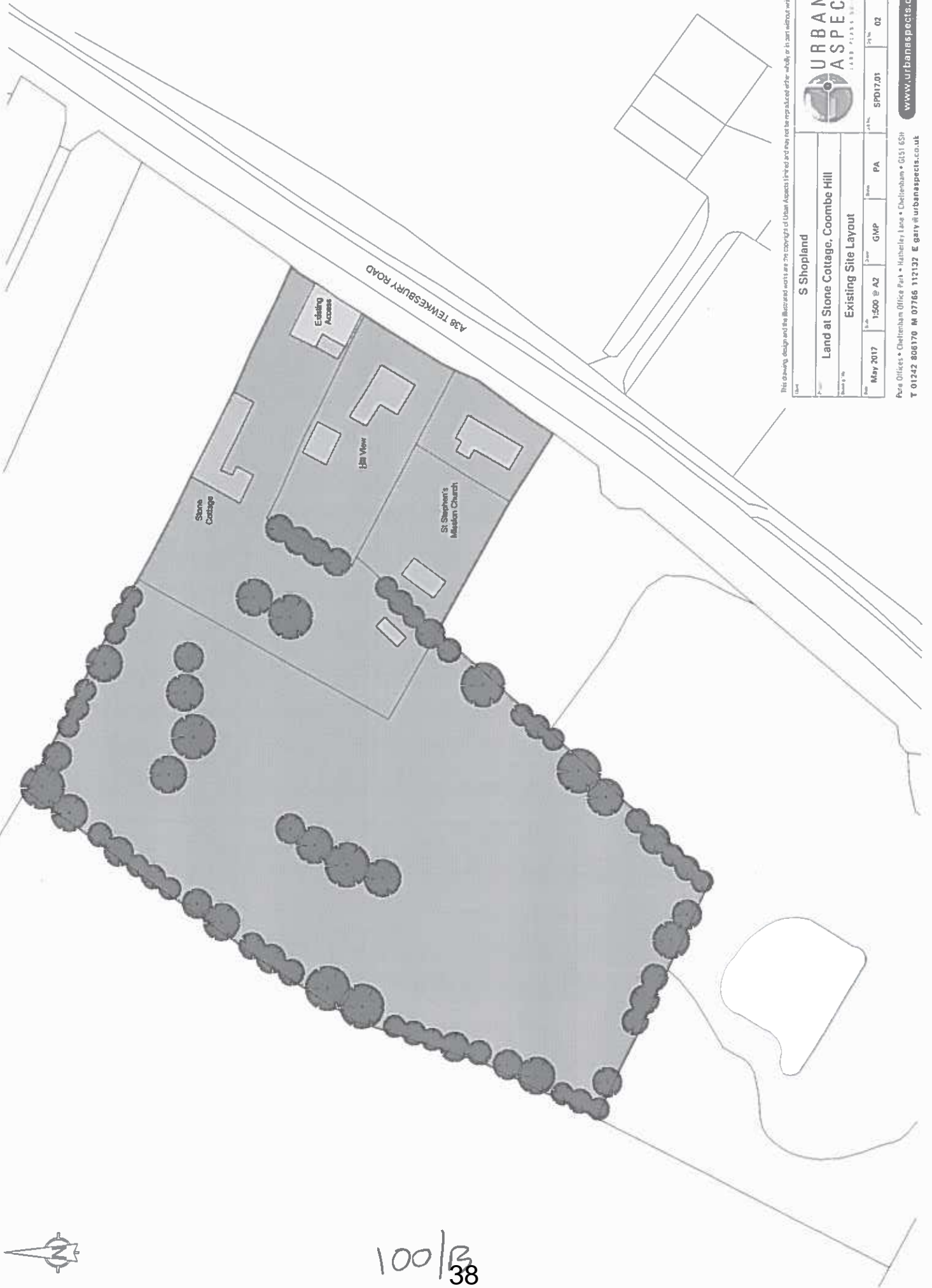
Client		S Shopland			 <b>URBAN ASPECTS</b> LAND PLANNING DESIGN		
Project		Land at Stone Cottage, Coombe Hill					
Drawing Title		Location Plan					
Date	Scale	Drawn	Checked	Issue No.	Drawn No.	Rev.	
May 2017	1:1250 @ A3	GMP	PA	SPD17.01	01		

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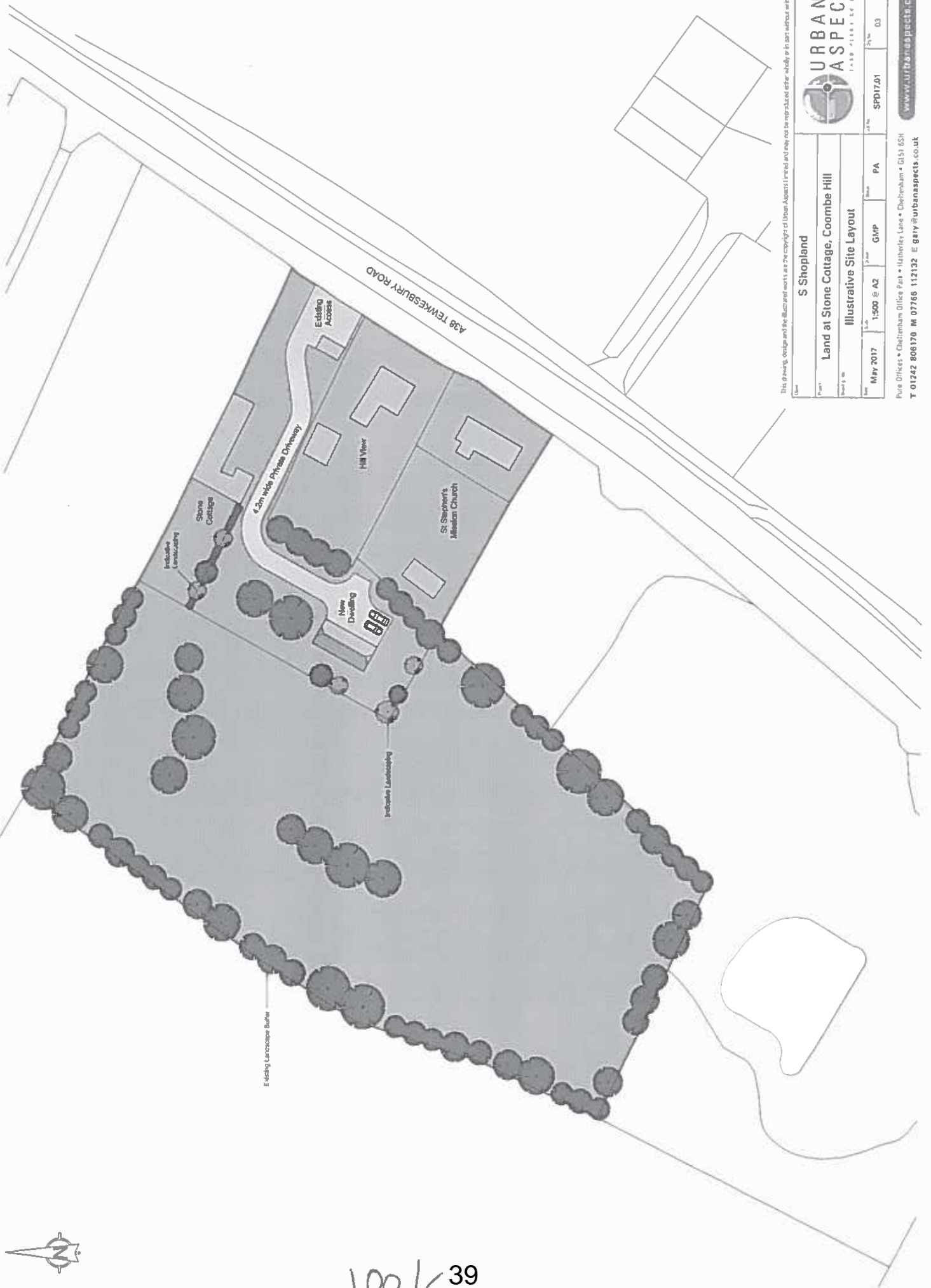
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 <b>URBAN ASPECTS</b> <small>LAND • PLANNING • ARCHITECTURE</small>		A3 No. SPD17.01 Date: 02
<b>S Shopland</b> <b>Land at Stone Cottage, Coombe Hill</b> <b>Existing Site Layout</b>		
Date: May 2017 Scale: 1:500 @ A2 Author: GMP Review: PA		


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 <b>URBAN ASPECTS</b> LANDSCAPE ARCHITECTS	
<b>S Shopland</b> <b>Land at Stone Cottage, Coombe Hill</b> <b>Illustrative Site Layout</b>	
Date	Scale
May 2017	1:500 @ A2
Author	Client
GMP	PA
SPD17.01	03

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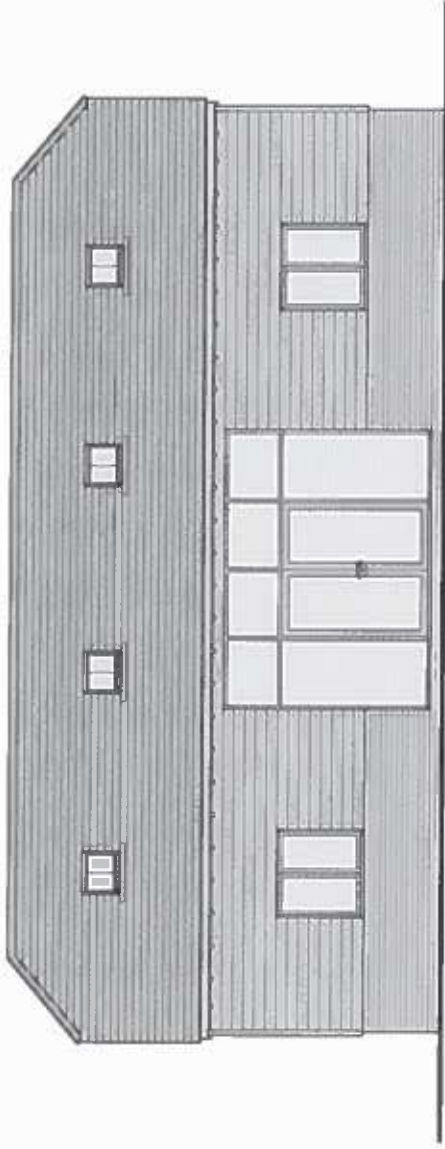
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Client		<b>S Shopland</b>		 <b>URBAN ASPECTS</b> <small>LANDSCAPE ARCHITECTURE</small>	
Project		Land at Stone Cottage, Coombe Hill		Sub No.	SPD17.01
Drawing Title		Illustrative Elevation		Dwg No.	04
Date	Scale	Drawn	Status	Rev.	
May 2017	1:100 @ A4	GMP	Sketch	-	

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Valid 24.03.2017

Demolition of commercial car repairs garage buildings (class B2 use) and erection of two single dwellings with associated garages, parking and access.

Grid Ref 400237 231678

Parish Gretton

Ward Winchcombe

Mr D Ross-Lee  
c/o Agent

## RECOMMENDATION Permit

### Policies and Constraints

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Proposed Main Modification Version Joint Core Strategy- SD7, SD11, SD15, INF1, INF2,

Tewkesbury Borough Local Plan to 2011 - March 2006 - HOU4, TPT1, EVT3, EVT9, LND4, LND2

Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)

The First Protocol, Article 1 (Protection of Property)

### Consultations and Representations

**Gretton Parish Council** - Object. This is backfill development, in an area consisting only of ribbon development, therefore expanding the settlement width. It would set a dangerous precedent if permission were granted as more applications would be likely to follow for 'back-garden' developments.

**County Highways Authority** - No objections subject to conditions.

**Environmental Health Officer** - No objections subject to a condition.

**Local Residents** - One letter of representation has been received. The comments raised are summarised below:

- Application should be decided in accordance with policy
- Site is outside of development boundary
- Housing policies are not out of date if there is a 5 year supply
- Development is within the Special Landscape Area (SLA)
- Removal of building is positive
- Cotswold vernacular (of dwellings) appropriate
- Proposal not comparable to other housing sites
- Dwellings would be higher than existing building
- Development will be visible in the wider area - existing hedges would not obscure the buildings
- Proposed development is not in line with other houses
- Properties should be restricted in number and also height
- No direct knowledge of business operation but understand it was repair of cars for friends
- Garage not run as a business
- No evidence presented in terms of level or type of use or noise
- No evidence that redevelopment will reduce possible noise
- Conditions on planning permission restrict the nature of the use ie only portable hand tools, no spraying no intrusive lighting
- TRICS data cannot be accurately related to the garage use.
- Discrepancy between applicant's figures and County Highways
- Change in trip levels would be negligible
- Marchants Coaches operate 2 services from Gretton to Cheltenham
- New residents would have to travel 1.05 miles to access these services
- Marchants 606 operates from near the site (outside Gilders Transport)
- Last return service from Cheltenham would be 14:43 hrs - not suitable for a 9-5 working day
- Services have previously been reduced
- May be a case that a business use at the site is more sustainable
- Residents are unlikely to gain access to Gretton School given recent permitted housing schemes in the village
- Places are likely to be constrained at Winchcombe school
- Gretton Fields has a high percentage of 3-5 bed houses

- A number of properties have struggled to sell - proposal may not be the correct size/type for the area
- Need for affordable homes may have been met at Church Row Gretton
- Bungalows may be more appropriate
- Number of properties suffered surface water flooding in 2007
- Not comparable to allowed appeal at Church row Gretton
- Gretton Fields is characterised by ribbon development not back land development

**Planning Officers Comments: Bob Ristic**

## **1.0 Application Site**

1.1 The application site is located on the eastern side of Gretton Fields, at cluster of dwellings and commercial uses located approximately 1 mile to the north of Gretton and 1.2 miles to the south of Alderton. **See Location Plan**

1.2 The site comprises a detached, two storey dwelling fronting the road. The property is accessed via a driveway which runs along the northern boundary of the site and serves a domestic double garage which serves Laburnum, as well as a large shed/store and commercial garage/industrial building located at the eastern end of the drive.

1.3 The application specifically relates to the repair garage/industrial unit and an adjoining shed/store building at the eastern part of the site as well as a paddock area to the south of these buildings and extends along the rear boundaries to Chalumeau and Amberley and up to the boundary with Gilders haulage yard to the south.

1.4 The application site lies outside of a recognised settlement boundary as defined by the Tewkesbury Borough Local Plan to 2011 - March 2006. The nearest settlement to the application site is Gretton, which to the south and Alderton, which is identified as a Service Village in the Main Modification Version Joint Core Strategy (MMVJCS), located to the north of the site.

1.5 The site is also located within a Special Landscape Area as identified on the proposals map to the Tewkesbury Borough Local Plan to 2011.

## **2.0 Relevant Planning History**

- 2.1 04/00676/FUL - Change of use from agricultural to children's play area associated with adjacent dwelling known as Amberley - Refused 10.08.2004  
 98/00002/FUL - Use of building for servicing and minor repairs to motor cars - Permitted 26.05.98  
 77/00482/FUL - Erection of a double private car garage - Permitted 19.12.1977  
 T.530/E - Change of use from agricultural to light engineering - Refused 23.09.1975  
 T.530/D - Outline application for erection of one house. Construction of new pedestrian and vehicular access - Permitted 20.08.1973.  
 T.530/C - Outline application for erection of two detached dwellings with garages. Construction of new vehicular accesses. Alterations to existing access to a highway - Permitted 21.02.1973  
 T.530/B - Outline application for erection of three detached houses with garages. Existing cottage to be demolished. Construction of new vehicular accesses. Refused 20.12.1972  
 T.530/A - A piggery with cleansing alleys at side - Permitted 20.11.1968

## **3.0 Current Application**

3.1 The application seeks full permission to redevelop the eastern part of the site which presently comprises a vacant car repair workshop and shed/store building with a pair of detached, 4 bedroom dwellings. Each of the properties would have detached double garages and a further area of hardstanding in front and private gardens to the rear (south). **(See proposed site layout plan)** .

3.2 The proposed dwellings would have a traditional pitched roof design with gable features and reduced height eaves. The overall height would be 7.5 metres to the ridge and the submitted drawings indicate that the properties would be constructed of local stone and roofed in fibrecement slate **(see proposed plans & elevations)**.

3.3 The development would be accessed from the existing drive which would be extended to provide access and turning areas. The properties would be laid out in a tandem arrangement and would front onto the drive.

## 4.0 Policy Context

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. The development plan comprises the saved policies of the Tewkesbury Borough Local Plan to 2011 - March 2006.

4.2 Other material policy considerations include National Planning Guidance contained within the National Planning Policy Framework (NPPF), and the MMVJCS. Paragraph 215 of the NPPF provides that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

4.3 The application site lies outside of a recognised settlement boundary as defined by the Tewkesbury Borough Local Plan to 2011 - March 2006. Consequently, the application is subject to Policy HOU4 which states that new residential development will only be permitted where such dwellings are essential to the efficient operation of agriculture or forestry or the provision of affordable housing.

4.4 The Council is presently able to demonstrate a five-year supply of deliverable housing sites and saved policy HOU4 is considered up-to-date. In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise), the presumption in favour of sustainable development set out in paragraph 14 of the NPPF does not apply.

4.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case as reiterated in paragraph 12 of the NPPF, the presumption is against the grant of planning given the conflict with HOU4 and as such permission should be refused unless material circumstances indicate otherwise.

4.6 Other relevant local plan policies are set out in the appropriate sections of this report.

## 5.0 Analysis

5.1 The main planning issues to be considered in the determination of this application are the principle of residential development, landscape impact, design and siting, residential amenity, access and highway safety.

### Principle of Development

5.2 The application site lies outside of a recognised settlement boundary as defined by the Tewkesbury Borough Local Plan to 2011 - March 2006. Consequently, the application is subject to Policy HOU4 which states that new residential development will only be permitted where such dwellings are essential to the efficient operation of agriculture or forestry or the provision of affordable housing. The presumption is therefore against the grant of planning permission given the conflict with policy HOU4 and as such permission should be refused unless material circumstances indicate otherwise.

5.3 The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

5.4 The application site is located among a cluster of existing residential and commercial buildings and is not considered to be an 'isolated' site. Nearby villages provide a range of services and facilities including schools, a village hall and public houses. Given the proximity of the site to Alderton and Gretton, the development has the potential to support services in these villages as acknowledged by paragraph 55 of the NPPF. Nevertheless these settlements are not easily and safely accessible via foot or cycle.

5.5 The site constitutes previously developed land and contains a large garage workshop building and smaller shed/store building. The NPPF encourages the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value (Core Principle - paragraph 17). The previously developed nature of the land and opportunity to make significant visual and environmental improvement is a matter that weighs in favour of this application.

5.6 Furthermore the existing buildings, although presently unoccupied, comprise a non-conforming use in relation to nearby residential properties. The fact that the building could be brought back into a general industrial use, with associated commercial activity and vehicular movements is a material consideration and a fall-back position which needs to be balanced against the impacts of the proposed development.

5.7 There is a clear conflict with Policy HOU4 however it is noted that the proposal involves the provision of small scale residential development on an existing brownfield site and removal of a non-conforming use weighs in favour of the proposal.

#### Landscape Impact

5.8 Local Plan Policy LND2 requires that special attention is to be afforded to the protection and enhancement of the landscape character of the special landscape area and that proposals should not adversely affect the quality of the natural and built environment.

5.9 The application site is flat and relatively contained within a cluster of residential and commercial buildings and existing tree and shrub planting afford a further degree of screening. As the proposed development would be viewed in the context of these existing buildings and uses, the proposal would not appear unduly prominent or isolated and would not therefore have a significantly harmful impact on the character and appearance of the countryside when viewed from the wider area.

5.10 Although the site falls outside of an identified settlement boundary, it should be noted that the site comprises previously developed land and is presently occupied by two substantial commercial buildings with a combined footprint of approximately 357 square metres.

5.11 The proposal would result in reduction in the developed ground floor area at the site, from approximately 357 square metres for the two buildings to be removed to approximately 280 square metres for the proposed dwellings and garages. Furthermore, the removal of the existing repair garage and siting of the dwellings southwards behind Laburnum would allow for views to be opened up through the suite when viewed from the highway which, along with the reduction in built form would contribute to the openness of the area.

5.12 The applicant has proposed additional locally native tree planting within the site which is considered an environmental benefit however this is given limited weight given that it could not be secured in perpetuity. The proposed 1.8 metre timber fence to the eastern boundary of the garden to plot 2 is not considered appropriate however and, if permission is granted, this should be substituted with tree and shrub planting in order to create a softer demarcation of this boundary which faces an adjoining stable, paddock and open countryside beyond. This could be achieved by an appropriately worded planning condition.

#### Design, layout and visual impact

5.13 The NPPF sets out that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Similarly, policy SD5 of the MMVJCS seeks to encourage good design and is consistent with the NPPF and should be afforded considerable weight.

5.14 While the prevailing character is of properties fronting the street, it is noted that there are a number of commercial, domestic and stable buildings to the rear of these frontage properties as well as extensive cultivated rear gardens. Further, as set out above, there is a non-conforming use with industrial buildings and it is considered that the proposal would, on balance, result in a net benefit in visual terms as set out above.

5.15 The proposed dwellings would have a traditional cottage appearance and would be constructed of natural stone and slate roof tiles. It is considered that this design approach would be appropriate and harmonious with the character of the area which comprises a variety of house styles and ages, including two relatively recent dwellings at land adjoining Dunit.

5.16 The dwellings would be of a restrained scale with an overall height of 7.5 metres to the ridge. The upper floor rooms would have vaulted ceilings as a result of the lower eaves line which bisects the gable features and half eaves dormer windows. As well as minimising the visual impacts and scale of the proposed properties this design also reflects a traditional cottage form which is considered an appropriate design response to the site's location. The submitted drawings also illustrate the potential to provide additional tree planting which could help screen the development and increase biodiversity. The precise details can be controlled by a suitably worded condition.

5.17 Overall it is considered that the design approach is an appropriate response to the context of the site and it is considered the dwellings are of an appropriate high quality design and appropriate layout.

#### Residential Amenity

5.18 Paragraph 17 of the NPPF sets out 'Core Principles', one of which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

5.19 The proposed dwellings would be set over 45 metres from the rear elevation of Laburnum and adjoining frontage dwellings. Considering this significant separation the proposal would have no adverse impacts upon the living conditions of the occupiers of adjoining dwellings in terms of loss of light, overshadowing or overlooking.

5.20 The proposed dwellings would have a north - south orientation and would front towards the access drive and the lower part of the garden to Foxleigh, which appears to be used informally for the keeping of poultry and general gardening. The boundary is screened with a variety of fencing, trees and shrubs. Considering the separation, screening and informal use of this part of the garden, there would be no adverse impacts to the living conditions of the occupier of this property. Furthermore, the loss of the non-conforming industrial use would have a beneficial impact on the amenity of local residents.

5.21 Overall it is considered that the proposed development would have a satisfactory relationship with adjoining development and would not adversely impact the residential amenities of adjoining occupiers and would provide good levels of amenity for future occupiers.

#### Highway Matters

5.22 The NPPF recognises the need to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development (Paragraph 28) and also that opportunities to maximise sustainable transport solutions will vary from urban to rural areas and that there is a need to balance this against other objectives set out in the Framework - particularly in rural areas.

5.23 Policy TPT1 of the Local Plan highlights that development will be permitted where provision is made for safe and convenient access and where an appropriate level of public transport service available. Paragraph 32 of the NPPF also requires safe and suitable access to be achieved but states that development should only be refused on transport grounds where the cumulative impacts of the development are severe.

5.24 The application has been reviewed by the county council highways officer who has acknowledged that the existing building at the site benefits from a Class B2 planning consent. Although presently unoccupied the site could nevertheless be brought back into a commercial use and represents a valid fall back which needs to be considered in the planning balance.

5.25 The highways officer has assessed the potential trip generation of the existing use against the industry standard TRIC'S (Trip Rate Information Computer Systems) for a Class B2 car repair garage. It is advised that such a use could generate approximately 51 daily two-way trips (or 56 two-way trips when considering the existing dwelling at Laburnum). The proposed two dwellings in contrast would generate approximately 10 two-way trips (or 15 trips when including Laburnum) according to the TRIC'S data. Accordingly it is considered that the proposed development of two dwellings would result in significantly fewer journeys from the site than the existing established use and would therefore not have an adverse impact upon the highway network in accordance with paragraph 32 of the NPPF.

5.26 The existing site access provides adequate visibility onto the highway and the proposed layout would provide for adequate offsite parking provision (4 spaces per dwelling) as well as adequate turning and manoeuvring space.

5.27 In light of the above it is considered that the proposed development would not have an unacceptable impact upon highway safety subject to compliance with conditions recommended by the County Highways Officer.

5.28 While the development is likely to rely on car borne transport is noted that there is a bus service outside of the adjoining Gilders Transport site (Marchants 606) which provides a limited service to Cheltenham and Winchcombe as well as regular services (W1 & W2 which operate from Gretton). Furthermore the site is within cycling distance of Gretton and Alderton, however this is not necessarily an attractive proposition given the nature of the local highway network, particularly during the winter months.

#### Other Matters

5.29 The Parish Council has objected to the proposal on the grounds that the scheme constitutes back land development which would extend the width of settlement and set a precedent for back-land development.

5.30 It should be noted that the site at present comprises two large buildings which are themselves set in a back land location. The proposed development would replace these buildings and would not extend any deeper into the plot than the existing development. As a result of these specific circumstances it is not considered that this would set a precedent and any other applications will need to be considered on their own merits.

5.31 As the application proposes the redevelopment of an existing industrial site with residential development the council's environmental health consultant has recommended a condition requiring any contamination found on site to be remediated and this is considered to be reasonable.

5.32 Concerns have been raised with regards to past flooding in the area. It is noted that the site lies within Flood Zone 1 (Low Probability of flooding) where residential development is considered acceptable in flood risk terms. It is considered that the drainage to serve the development can be controlled by a suitably worded drainage condition.

#### **6.0 Conclusions**

6.1 The starting point for determination of this application is the conflict with policy HOU4, to which substantial weight should be applied. Whilst the Council is able to demonstrate a 5 year supply of deliverable housing sites, it should be noted that this is a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough.

6.2 While it is accepted that there is a conflict with policy this needs to be weighed against the fact that the site is located to the rear of an existing cluster of dwellings at Gretton Fields and in a reasonably accessible location in proximity to Gretton and Alderton which is a named Service Village in the emerging MMVJCS. These villages provide a number of local services and facilities. The application has the potential to support the services within these villages and contribute albeit in a very limited way to the housing supply in the Borough. These factors together attract limited weight in favour of development.

6.3 More significantly, the proposal would result in the removal of an existing non-conforming use in the form of a substantial and unsightly industrial building and shed. While the proposed dwellings would be higher than the buildings they replace the proposal would result in a reduction in the overall developed floor area and would result in a significant improvement in the appearance of the area. The separate building and offset siting would open up views through the site along the access drive and would contribute to the improved openness and appearance to the Special Landscape Area.

6.4 It is noted that if the existing building were to be brought back into use it would have potential to generate a significant number of vehicular trips to the site. The proposed use of the site for two dwellings is likely to result in a reduce number of vehicular journeys to and from the site and would be an amenity and sustainability benefit. The proximity of a bus stop outside Gilders transport to the south of the site also allows for access to alternative modes of transport though it is acknowledged that services are more limited to those available from Gretton.

6.5 It is considered that, on balance, the benefits of the application as set out above, and in particular the removal of the business use, would outweigh the conflict with the development plan in respect of policy HOU4. It is considered that the proposal would represent an acceptable development in the context of the NPPF and this application is therefore recommended for **permission**.

## RECOMMENDATION Permit

### Conditions:

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2 The development hereby permitted shall be carried out in accordance with the following approved drawing nos. DRL17.01 03, 05, 06, 07, 08 and 09 received by the Local planning Authority on 8th March 2017 and any other conditions attached to this permission.
- 3 Prior to built development commencing, details for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority. The details submitted shall include proposals for the disposal of surface water in accordance with the principles of Sustainable Urban Drainage Systems (SUDS) and shall be implemented prior to the first occupation of the dwellings hereby permitted and shall be maintained thereafter for the life of the development.
- 4 Notwithstanding the submitted details and prior to built development commencing details, or where appropriate samples, of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 5 Prior to built development commencing details of existing and proposed levels with reference to a fixed datum point, to include details of finished floor and ground levels, shall be submitted to and approved by the Local Planning Authority. All development shall be carried out in accordance with the approved details.
- 6 Prior to above ground development a scheme for the hard and soft landscaping including details of means of enclosure and boundary treatments for the development shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include scaled drawings and a written specification clearly describing the species, sizes, densities and planting numbers. The landscaping scheme shall be implemented in accordance with the approved details no later than the first planting season following the occupation of the buildings, or the completion of the development, whichever is sooner. If at any time within a period of 5 years of the completion of the development the approved trees or plants die, are removed or become seriously damaged or diseased, they shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 7 During the construction phase, no external construction works, deliveries, external running of plant and equipment or internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday. There shall be no such working on Sundays, Public or Bank Holidays without the prior written permission of the Local Planning Authority.
- 8 In the event that contamination is found at any time when carrying out the approved development a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The site shall be remediated in accordance with the approved measures before development continues.
- 9 Prior to the occupation of the development hereby permitted, the vehicular access shall be laid out and constructed in accordance with approved drawing no.DRL17.01.03, with any gates situated at least 5.0metres back from the carriageway edge of the public road and hung so as not to open outwards towards the public highway, with the area of driveway within at least 5.0metres of the carriageway edge of the public road surfaced in bound material, and shall be maintained thereafter.



- 10 The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4 metres back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 120 metres distant in both directions (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05 metres and 2.0 metres at the X point and between 0.26 metres and 2.0 metres at the Y point above the adjacent carriageway level.
- 11 The buildings hereby permitted shall not be occupied until the vehicular parking and turning facilities have been provided in accordance with approved drawing no. DRL17.01.03. and those facilities shall be maintained available for those purposes thereafter.

Reasons:

- 1 To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 3 To ensure satisfactory drainage arrangements are provided and to minimise the risk of flooding in accordance with in accordance policy EVT9 of the Tewkesbury Borough Local Plan to 2011.
- 4 To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with the NPPF.
- 5 To ensure a satisfactory appearance to the development and in accordance with the NPPF.
- 6 In the interests of amenity and to ensure a satisfactory standard of landscaping to the development in accordance with the NPPF.
- 7 To ensure that the proposed construction work does not cause undue nuisance and disturbance to the occupiers of neighbouring properties and in accordance with the NPPF.
- 8 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with the NPPF.
- 9 To reduce potential highway impact by ensuring that a safe and secure access is laid out and constructed that minimises the conflict between traffic and cyclists and pedestrians in accordance with paragraph 35 of the National Planning Policy Framework.
- 10 To reduce potential highway impact by ensuring that adequate visibility is provided and maintained and to ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided in accordance with the National Planning Policy Framework.
- 11 To ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided in accordance with the National Planning Policy Framework.

Notes:

- 1 In accordance with the requirements of the NPPF the Local Planning Authority has worked with the applicant in a positive and proactive manner in order to secure sustainable development which will improve the economic, social and environmental conditions of the area by negotiating to improve the design of the development and resolving potential amenity conflicts with adjoining Occupiers.
- 2 For the avoidance of doubt and in the interests of proper planning.

17/00268/FUL



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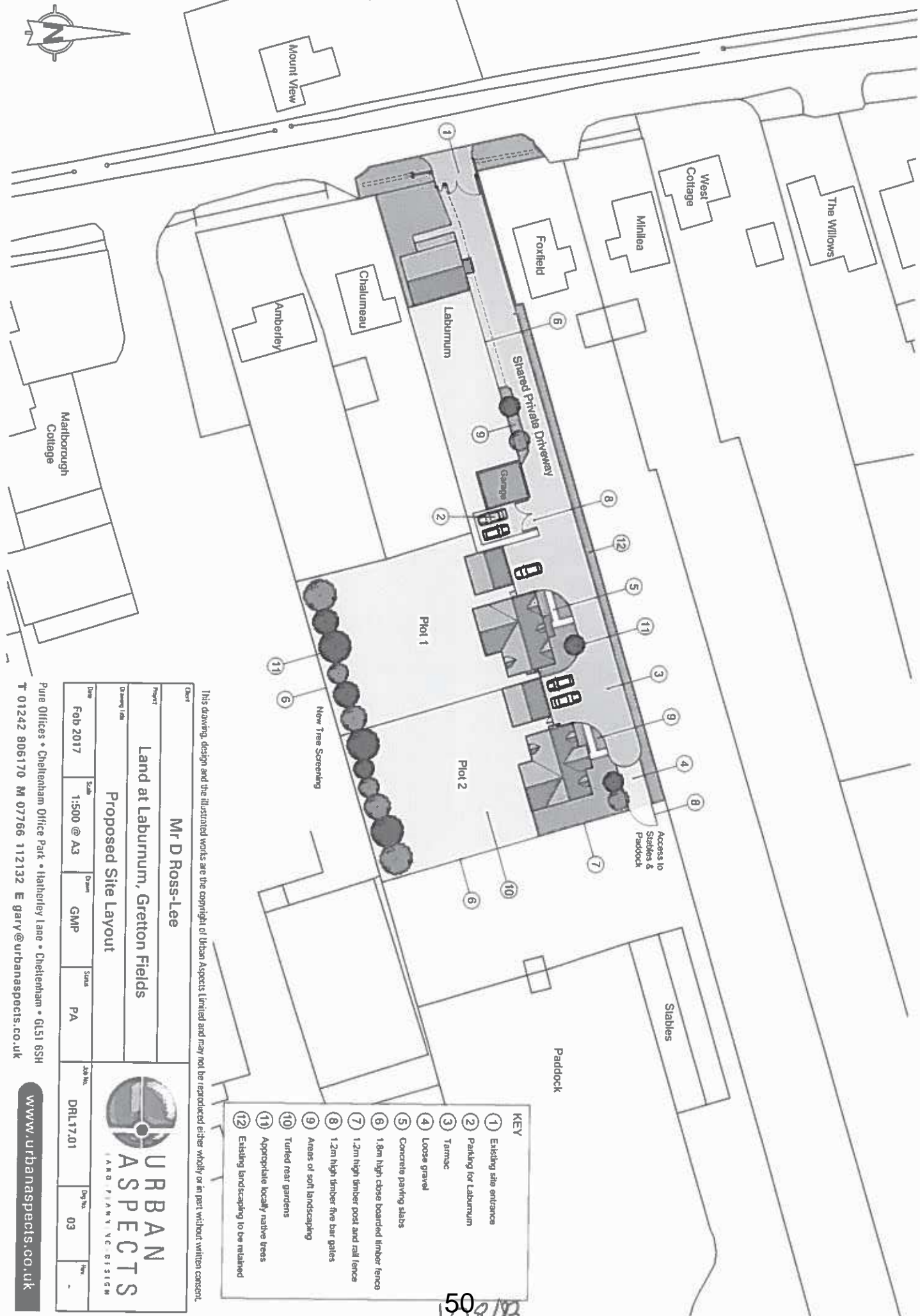
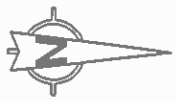
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Project		Land at Laburnum, Gretton Fields					
Drawing Title		Location Plan					
Date	Scale	Drawn	Checked	Job No.	Proj No.	Rev.	
Feb 2017	1:100 @ A3	GMP	PA	DRL17.01	01	-	

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49  
108/A


7/F/80200/L1



**KEY**

- 1 Existing site entrance
- 2 Parking for Laburnum
- 3 Tarmac
- 4 Loose gravel
- 5 Concrete parking slabs
- 6 1.8m high close boarded timber fence
- 7 1.2m high timber post and rail fence
- 8 1.2m high timber five bar gates
- 9 Areas of soft landscaping
- 10 Turfed rear gardens
- 11 Appropriate locally native trees
- 12 Existing landscaping to be retained

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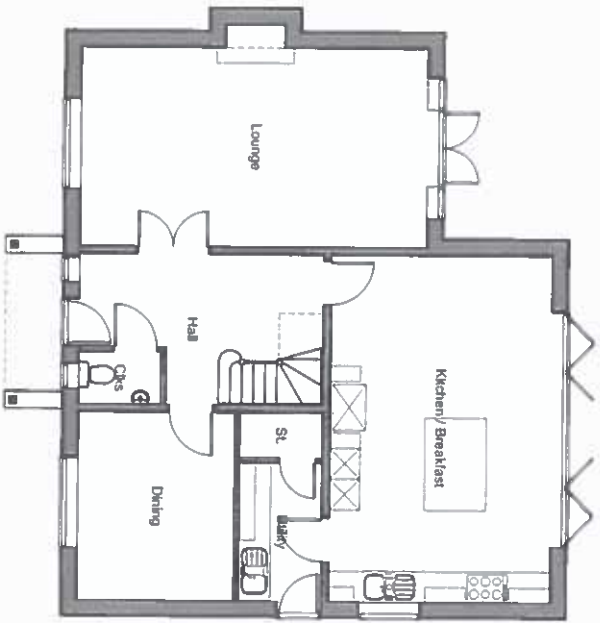
<b>Mr D Ross-Lee</b>					
<b>Land at Laburnum, Gretton Fields</b>					
<b>Proposed Site Layout</b>					
Client	Project	Scale	Drawn	Status	Job No.
Feb 2017	1:500 @ A3	GMP	PA	DRL17.01	03
 <b>URBAN ASPECTS</b> <small>LAND PLANNING &amp; DESIGN</small>					

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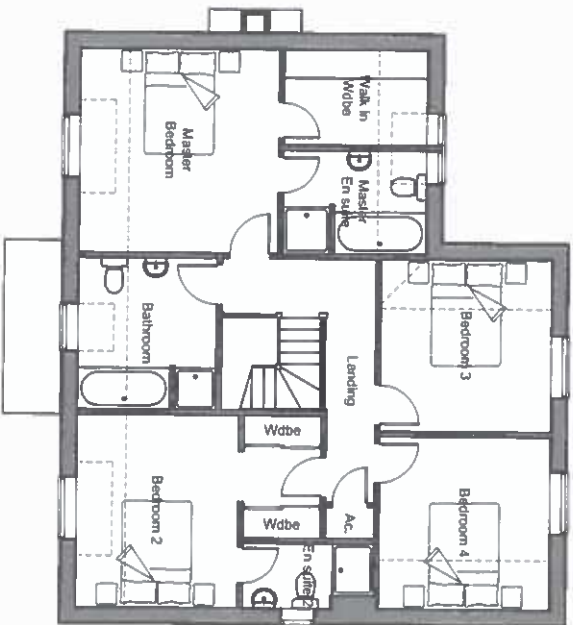
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108/13

17/00268/FUL



Ground Floor



First Floor

7/8/21

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<b>Mr D Ross-Lee</b>				
<b>Land at Laburnum, Gretton Fields</b>				
<b>Plot 1 - Floor Plans</b>				
Date	Scale	Drawn	Checked	
Feb 2017	1:100 @ A3	GMP	PA	
DRL17.01			05	

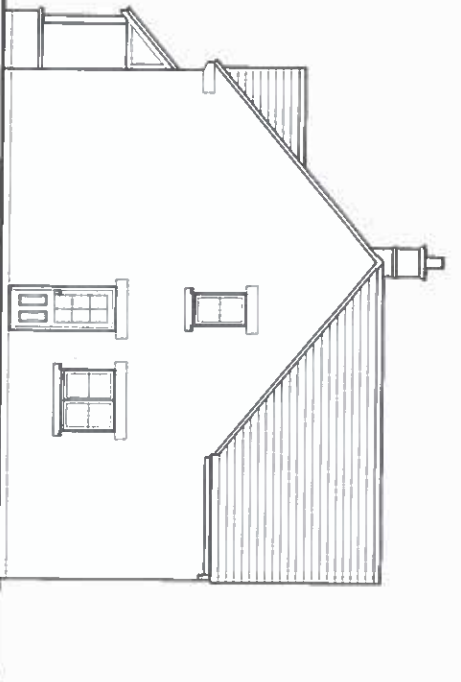
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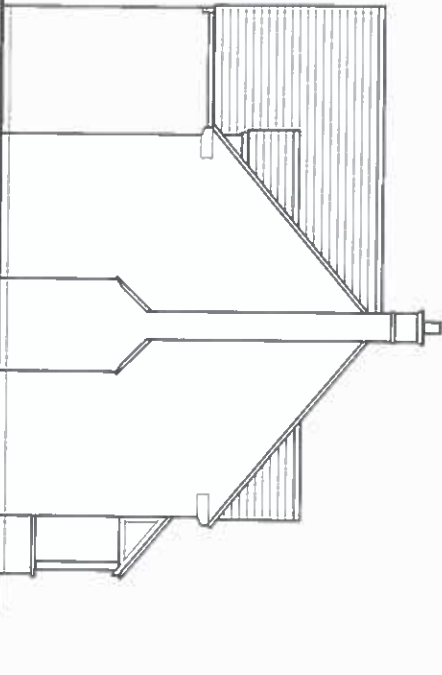
Front Elevation



Side Elevation



Rear Elevation



Side Elevation

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Client		Mr D Ross-Lee		Job No.		DRL17.01		Date		06	
Project		Land at Laburnum, Gretton Fields		Scale		PA		Drawn By		-	
Drawing Title		Plot 1 - Elevations		Status		GMP		Date		-	
Date		Feb 2017		Scale		1:100 @ A3		Drawn By		GMP	



Material Schedule	
Roof	Marley Eternit slates
Walls	Coursed local stone
Windows	Evolution Stormproof / PVCu Casement
Doors	Slated timber / PVCu
Sills	Projecting weathered stone
Heads	Flat stone knicks

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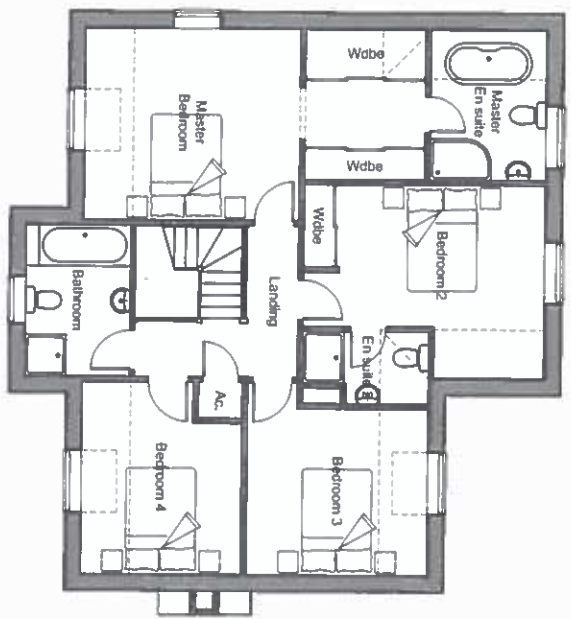
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152/D

17/00268/FUL



Ground Floor



First Floor

153/E

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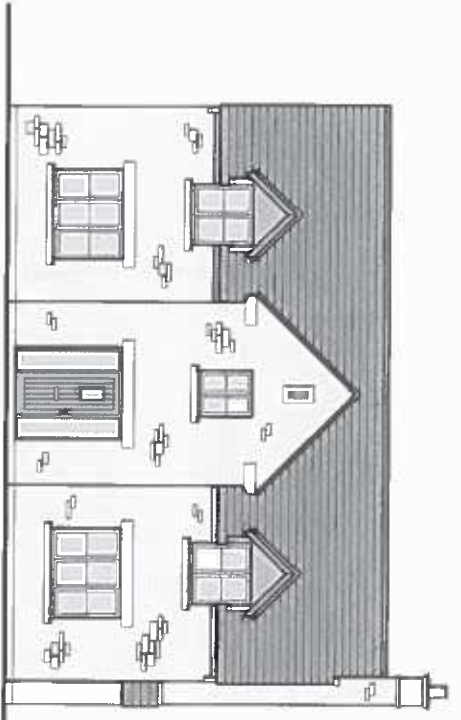
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Project		Land at Laburnum, Gretton Fields		
Drawing Title		Plot 2 - Floor Plans		
Date	Scale	Drawn	Check	Appr
Feb 2017	1:100 @ A3	GMP	PA	
Drawing No.		DRL17.01		Rev
				07



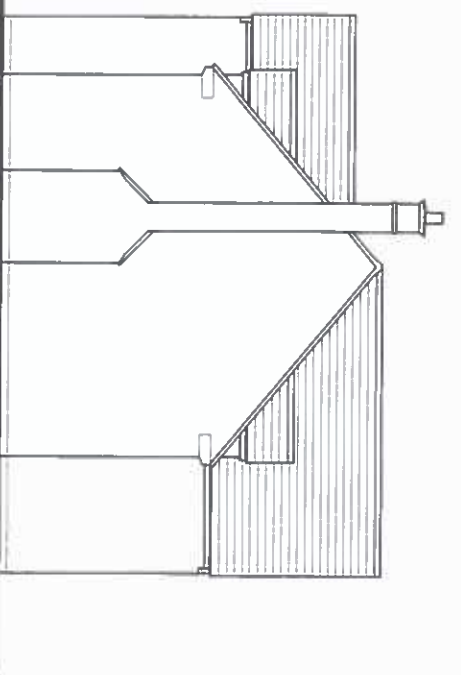
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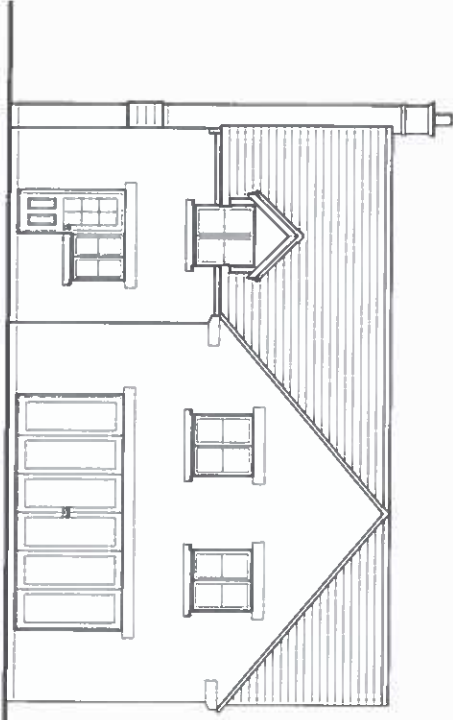
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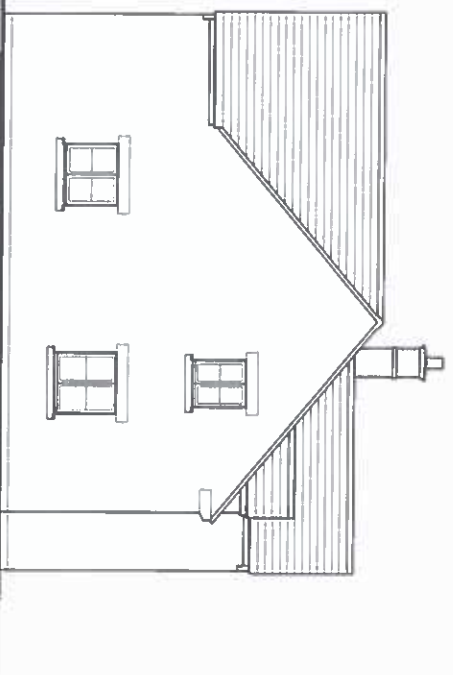
Front Elevation



Side Elevation



Rear Elevation



Side Elevation

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Material Schedule	
Roof	Marley Eternit slates
Walls	Coursed local stone
Windows	Evolution Stormproof PVCu Casement
Doors	Stained timber / PVCu
Slits	Projecting weathered stone
Heads	Flat stone lintels

Client		Mr D Ross-Lee		Date		Feb 2017	
Project		Land at Laburnum, Gretton Fields		Scale		1:100 @ A3	
Drawing No.		Plot 2 - Elevations		Disc		GMP	
Date		Feb 2017		Scale		PA	
Drawing No.		DRL17.01		Date		08	



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158/f

Valid 27.04.2017  
 Grid Ref 388978 232188  
 Parish Tewkesbury  
 Ward Tewkesbury Priors Park

Installation of new play area replacing the current equipment

Tewkesbury Borough Council  
 Council Offices  
 Gloucester Road  
 Tewkesbury  
 Gloucestershire  
 GL20 5TT

## RECOMMENDATION Permit

### Policies and Constraints

National Planning Policy Framework (NPPF)  
 Planning Practice Guidance (PPG)  
 Planning (Listed Buildings and Conservation Areas) Act 1990  
 Proposed Main Modification Version Joint Core Strategy- INF4, SD9  
 Tewkesbury Borough Local Plan to 2011 - March 2006 - TOR1, LND5, RCN2, EVT5,  
 Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)  
 The First Protocol, Article 1 (Protection of Property)

### Consultations and Representations

**Tewkesbury Town Council** - Strongly Support (the proposal)  
**Gloucestershire County Council Archaeologist** - No objection.  
**Borough Conservation Office** - No comments.  
**Planning Officers Comments:** Bob Ristic

### 1.0 Application Site

1.1 The application site is located to the eastern side of The Vineyards public playing field and relates to an existing children's play area which is accessed from the southern end of Gander Lane. **See Location Plan.** The play area includes a variety of equipment and structures which are enclosed by a timber post and rail fence

1.2 The proposals map to the Tewkesbury Borough Local Plan to 2011 identifies the site as being within the Tewkesbury Conservation Area, an 'important open space' and within flood zones 2 and 3.

1.3 The application is brought before members as the application has been submitted by the council.

### 2.0 Relevant Planning History

2.1 There are no recent planning applications at the site, relevant to the consideration of this proposal.

### 3.0 Current Application

3.1 This application seeks planning permission to install new play area to replace the existing children's play area at the site.

3.2 The proposal would involve the installation of various pieces of play equipment and climbing structures which would be separated into 2 'zones', one suitable for 'toddlers' where the structures would have a maximum height of 2.96 metres and a further area to the south for use by older children which would have a maximum structure height of 3.43 metres.

3.3 The proposal would also entail the laying of replacement rubber safety surfacing under the equipment and the installation of a 1.2 metre high galvanized metal bowtop fence with separate access gates for the public and for service vehicles.



## 4.0 Policy Context

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. The development plan comprises the saved policies of the Tewkesbury Borough Local Plan to 2011 - March 2006.

4.2 Other material policy considerations include National Planning Guidance contained within the National Planning Policy Framework (NPPF), and the MMVJCS. Paragraph 215 of the NPPF provides that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

4.3 The relevant local plan policies are set out in the appropriate sections of this report.

## 5.0 Analysis

### Principle of Development

5.1 The application proposes the replacement and upgrading of the existing children's play area which is in a deteriorating condition within this town centre site.

5.2 The importance of providing facilities for recreation is set out within at Paragraph 73 of the NPPF which advises that *inter alia Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision....*

5.3 Local Plan Policy RCN2 sets out that *'Support will be given to the provision of open air recreational facilities, both formal and informal, throughout the plan area. Any new buildings or structures must be strictly ancillary, and must not have any adverse impact on the quality of the environment....* The proposed development is considered to be of an appropriate design and scale which will result in a significant improvement to the play area and the principle of the development is considered to be acceptable.

### Historic Environment

5.4 The application site is located within Tewkesbury Conservation Area and in proximity to the Abbey which is a Grade I heritage asset and the former site of Holm Castle which is a Scheduled Monument.

5.5 While the proposal would result in some change to the character and appearance of the area, Paragraph 134 of the NPPF advises that *'Where a proposal will lead to less than substantial harm to the significance of a designated asset, this should be weighed against the public benefits of the proposal, including securing its optimum viable use'.*

5.6 Additionally, paragraph 137 states that *'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably'.*

5.7 It is considered that the impact of the proposed development would not have an adverse impact on the setting of heritage assets. Furthermore, the play area is discretely located to the eastern side of the playing field and would not adversely impact the character of the wider area.

### Flood Risk

5.8 The play area is located within Flood zones 2 & 3. Planning Policy Guidance identifies amenity open space and outdoor sports and recreation uses as being 'water compatible' and therefore appropriate within areas at risk of flooding. Furthermore, Local Plan Policy EVT5 supports development within flood zones subject to the outlined criteria being met.

5.9 The proposed development would be located on the same site as the existing play area and within a larger playing field and the proposal would be at the same risk of flooding as the existing play area. Considering the nature of the use and minimal footprint of the proposed equipment there would be no unacceptable increase in flood risk.

## 6.0 Conclusions

6.1 The proposal would result in the redevelopment of an important and popular town centre recreation facility with modern high quality play equipment which would have an acceptable appearance, would preserve the setting of the conservation area and nearby heritage assets and would not exacerbate the risk of flooding. The proposal would therefore accord with the provisions of the NPPF and Policies RCN2, LND5, EVT5 of the Local Plan and is accordingly recommended for **Permission**.

### RECOMMENDATION Permit

#### Conditions:

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2 The development hereby permitted shall be carried out in accordance with approved drawing pack *The Vineyards - Revision 2* received by the local planning authority on 27th April 2017 and any other conditions attached to this permission.

#### Reasons:

- 1 To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that the development is carried out in accordance with the approved plans and details in accordance with policies contained within the Tewkesbury Borough Local Plan to 2011 (March 2006).

#### Notes:

- 1 In accordance with the requirements of the National Planning Policy Framework (2012) the Local Planning Authority has sought to determine the application in a positive and proactive manner offering pre-application advice, detailed published guidance to assist the applicant and published to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

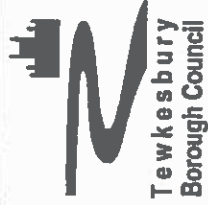
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Council Offices  
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Glos  
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Tewkesbury Borough Council

Tel: 01684 295010

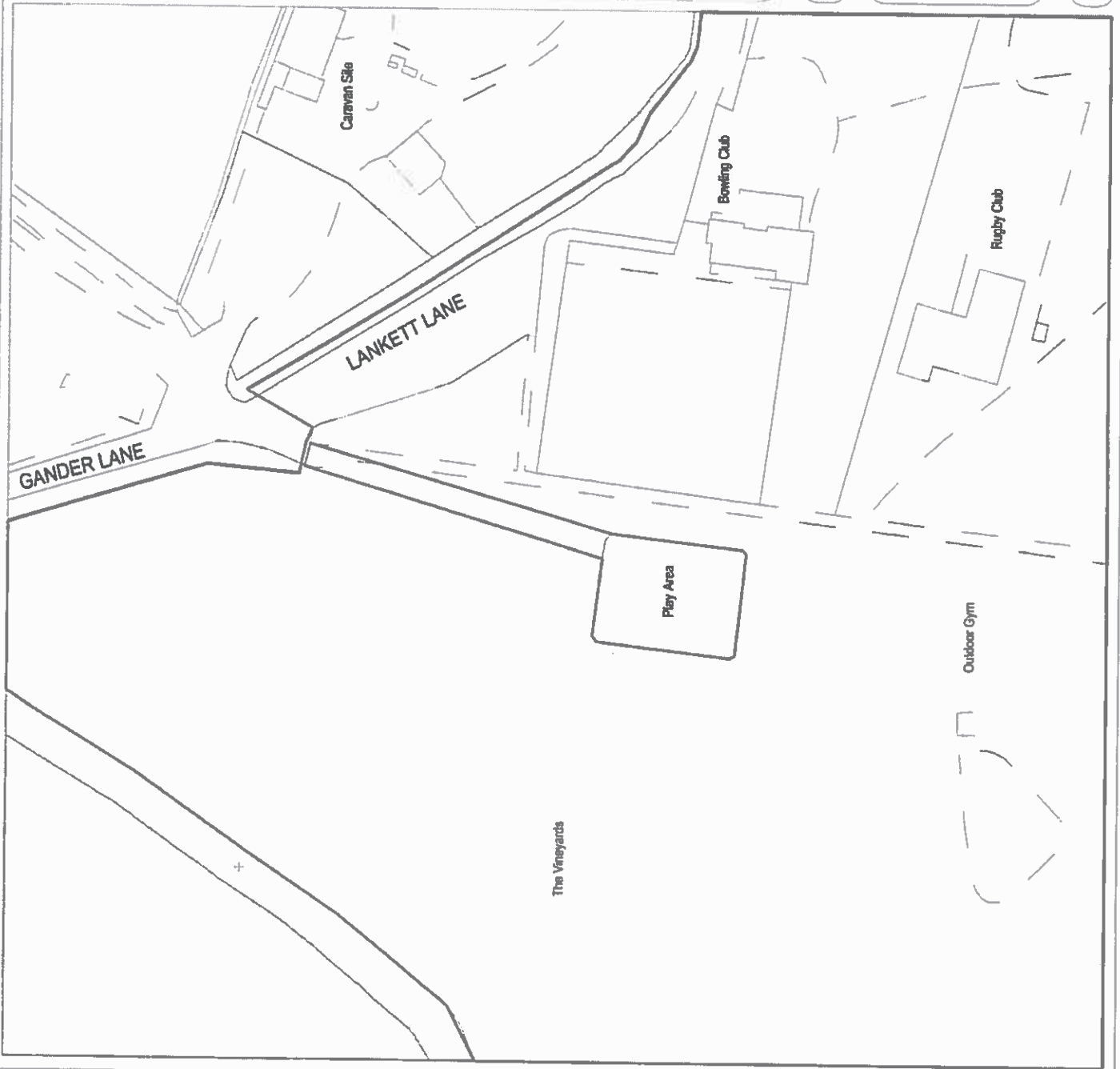
DATE April 2017

DRAWN BY AJC

SCALE 1:2500

DRWG. No.

PLAY AREA  
The Vineyards  
Tewkesbury



111/A  
58

16/01238/FUL

Liberty Farm, Stanway Road, Stanton

6

Valid 09.12.2016

Continued use of agricultural building as a temporary rural workers dwelling and siting of polytunnel (Renewal of application ref: 12/00319/FUL) and installation of a septic tank

Grid Ref 406132 233991

Parish Stanton

Ward Isbourne

Mr William Hance

Liberty Farm

Stanway Road

Stanton

## RECOMMENDATION **Minded to Permit**

### Policies and Constraints

National Planning Policy Framework

Planning Practice Guidance

Tewkesbury Local Plan (March 2006) - HOU4, TPT1, AGR2, AGR4, AGR6, AGR7

Proposed Main Modifications Joint Core Strategy (2017) - SD7, SD8, SD11, INF1

Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)

The First Protocol, Article 1 (Protection of Property)

Area of Outstanding Natural Beauty

### Consultations and Representations

**Parish Council** - Strongly object. The applicant has not demonstrated any viable agricultural activity since the initial temporary planning permission granted on 23 October 2013 and the stated reason for this is financial restraint. The Parish do not consider this a justified reason, particularly at the level of activity originally proposed. The pig farming activity did commence in 2016 and is having, and is likely to continue to have, a serious environmental impact on the surrounding area and the village of Stanton, which is a Conservation Area in the AONB.

**County Highways** - No objection

**Environmental Health** - No adverse comments to make

**Landscape Officer** - No objection

**Local Residents** - 4 objections have been received (summarised)

- Authorities should not grant successive temporary permissions
- The viability was always doubtful and viability has not been demonstrated over the last 3 years
- The applicant has not complied with enforcement requirement to reduce the height of the barn
- The submission has inaccuracies and does not accurately show the landholding.
- The farming enterprise is having environmental consequences in terms of ground damage, slurry run off, noise and smell particularly for adjoin properties.

**Planning Officers Comments:** Paul Instone

**The applicant has submitted an appeal against the non-determination of this application but the Committee's determination is sought to progress the appeal/application**

### 1.0 Application Site

1.1 Liberty Farm (previously known as Warren Farm) is an agricultural holding of pasture/arable land located on the south side of the Stanton Road, to the west of the village of Stanton. The application relates to a former barn which is centrally located on the farm. The former barn is a permanent building and is currently being used as temporary residential dwelling. The land is situated within the Cotswolds Area of Outstanding Natural Beauty (AONB).

### 2.0 History

2.1 The site has an extensive planning and enforcement history relating to an agricultural building on the site.

2.2 An agricultural Determination application processed in January 2001 - No prior approval required (Ref: 01/10410/1476/AGR)

2.3 Planning permission refused for the retention of agricultural building to include 3 additional bays in April 2007 (Ref: 06/01142/FUL).

2.4 Following this refusal a further revised application for the erection of an agricultural building was refused planning permission in 2008 (Ref: 07/01385/FUL). An Enforcement Notice was served in October 2008 requiring the removal of the agricultural building. An appeal against the refusal of planning permission and the Enforcement Notice was allowed in December 2009, subject to a number of conditions, one of which requires that the height of the steel frame should not exceed 9.66m (Condition 2)

2.5 An application for the removal or variation of Condition 2 attached to 07/01385/FUL was refused planning permission in 2011 (Ref: 11/00450/FUL). As condition 2 was not complied with the Council pursued enforcement action by means of a breach of condition notice.

2.6 In October 2012 planning permission was refused for the retention of alterations and conversion of an agricultural building to a temporary agricultural dwelling & siting of a polytunnel (Ref: 12/00319/FUL). There were two reasons for refusal

- The proposed development conflicts with Policy AGR2 of the Tewkesbury Borough Local Plan to 2011 - March 2006 and the NPPF in that insufficient evidence has been submitted to justify the need for a dwelling on site to satisfy the essential needs of the proposed farming enterprise.
- The proposed development conflicts with Policies S4, H6 and T1 of the Gloucestershire Structure Plan Second Review and Policies HOU4 and TPT1 of the Tewkesbury Borough Local Plan to 2011 - March 2006 in that the site lies in the open countryside, outside any recognised settlement in a location where new housing is strictly controlled and it is not essential to the efficient operation of agriculture or forestry.

2.7 In October 2013 an appeal (ref: APP/G1630/A/13/2195695) was allowed and planning permission was granted for conversion of an agricultural building to a temporary agricultural dwelling and siting of a polytunnel at Liberty Farm, Stanton, in accordance with the terms of the application, Ref 12/00319/FUL, dated 21 March 2012, subject to the following conditions:

- 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in a rural enterprise, or a widow or widower of such a person, and to any resident dependants.
- 2) The use hereby permitted shall be discontinued and the associated internal and external works removed on or before 30 October 2016 in accordance with a scheme of work submitted to and approved in writing by the local planning authority.
- 3) The polytunnel hereby permitted shall be removed on or before 30 October 2016.

### **3.0 Current Application**

3.1 The current application seeks the renewal of application ref: 12/00319/FUL for the continued use an agricultural building as a temporary rural workers dwelling and the siting of a polytunnel on land to the west of the building. The supporting information submitted with the planning application states that a temporary workers dwelling is required for a further 3 years.

### **4.0 Policy Context National and Local Planning Policy**

4.1 At the heart of the NPPF is a presumption in favour of sustainable development, of which there are three dimensions: economic, social and environmental. The NPPF does not change the statutory status of the development plan as the starting point for decision making but emphasises the desirability of local planning authorities having an up-to-date plan. According to paragraph 215 of Annex 1 of the NPPF, due weight should be given to relevant policies in existing development plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the framework, the greater the weight that may be given).

4.2 Paragraph 14 of the NPPF indicates that sustainable development should be approved without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or where specific policies within the Framework indicate that development should be restricted.

4.3 Paragraph 55 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances which include, inter alia, the essential need for a rural worker to live permanently at or near their place of work in the countryside.

4.4 Paragraph 115 of the NPPF advises that 'great weight' should be given to conserving the landscape and scenic beauty of AONB's. The advice regarding conservation and enhancement of the beauty of the AONB landscape is reflected with Policy SD8 of the MMVJCS.

4.5 Planning Practice Guidance provides guidance on temporary consents and advises that circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. The Guidance states that it will rarely be justifiable to grant a second temporary permission - further permissions should normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning of planning permission should be granted permanently.

4.6 Policy HOU4 of the Local Plan seek to promote sustainable development. Policy HOU4 advises, inter alia, that residential development outside of a residential development boundary will only be permitted where essential to the efficient operation of agriculture or forestry or the provision of affordable housing in accordance with Policy HOU14.

4.7 Policy AGR2 of the Local Plan states that applications for permanent agricultural and forestry dwellings in the open countryside will only be permitted where the applicant can demonstrate that there is a long term agricultural need for the dwelling. The siting of the accommodation should where possible enhance the environment in its location, scale and design and should be sited close to existing buildings. It must be proven that there is no suitable alternative accommodation elsewhere and that there is a need for 24 hour attendance or supervision. The scale of the dwelling should be related to the size and function of the farm unit.

4.8 Policy AGR5 of the Local Plan permits the erection of new agricultural buildings, providing, inter alia, that the proposed development is well sited in relation to existing buildings and sympathetically designed in terms of height, mass, materials, colour and landscaping.

4.9 Policy AGR6 relates to the re-use and adaption of rural buildings and states that where the proposal is for a dwelling essential to the efficient operation of agriculture or forestry, the conversion to residential use will be acceptable in principle. Policy AGR7 advises that the essential scale, form, type and materials and the original structure should be retained as much as possible.

4.10 Policy TPT1 of the Local Plan seeks to reduce the need to travel by car and promote alternative modes of transport.

## **5.0 Analysis**

5.1 The main issues in this case are whether the development is sustainable, whether there is sufficient information to demonstrate an essential need for the applicant to live at or near their place of work and landscape impact.

### Sustainability

5.2 As the site lies in open countryside, outside any settlement, there is a strong presumption against new residential development. The NPPF makes clear at paragraph 55 that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.

5.3 This advice is reflected in local plan policies, and the strategy for rural areas is that development should be confined to settlements with access to community facilities and services and that are well served by public transport services.

5.4 This site lies in open countryside, outside any recognised settlement. Policy HOU4 of the Local Plan sets out that outside the residential development boundaries, new residential development will only be permitted where such dwellings are essential to the efficient operation of agriculture or forestry, involve the acceptable conversion of an existing building, or the provision of affordable housing in accordance with Policy HOU14. As this policy is consistent with the advice in the NPPF (see 5.2 above) it should be given full weight.

5.5 In this case it is necessary therefore to consider whether the continued use of the temporary dwelling is essential to the efficient operation of agriculture or forestry. Although the barn is a permanent building, its proposed residential use is temporary. The works are reversible in the event that the continued use of the barn as a dwelling is not permitted in the future. It is therefore reasonable to assess the proposal as one for a temporary, rather than a permanent dwelling.

#### Need for temporary dwelling

5.6 The NPPF advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside or where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting (paragraph 55).

5.7 Due weight should be given to the relevant saved policies of the Tewkesbury Borough Local Plan according to their degree of consistency with the Framework. Policy AGR2 restricts new permanent agricultural workers' dwellings unless a number of criteria are satisfied, including demonstrating that there is a long term agricultural or forestry need for the dwelling. It also states that temporary accommodation should be sited close to existing buildings and that justified mobile homes or caravans will be permitted for a temporary period. Its Reasoned Justification indicates that buildings on farm holdings may be suitable for conversion to residential use.

5.8 Policy AGR2 and its Reasoned Justification are derived from the advice in the superseded PPG7. This guidance was replaced by the also superseded PPS7 which in its Annex A set out tests for agricultural workers' dwellings which are well established and widely understood. No guidance on this matter is provided in the NPPF. Nonetheless, it remains open to decision makers to include in their assessment the tests set out in Annex A, even though PPS7 has been replaced. The applicant's Planning Appraisal refers to these tests and in the absence of any alternative guidance, Annex A is a material consideration in this application, albeit this is not on the basis that it is Government policy. This was the view of the Inspector in the previous appeal on this site and it is not considered that there has been a material change in circumstances in the policy framework in respect to agricultural workers dwellings.

5.9 The NPPF has replaced PPS7 which provided guidance on the need for new agricultural dwellings. Whilst the test under paragraph 55 of the NPPF is different from that under Annex A of PPS7, in that it simply requires a judgement of whether the proposed agricultural enterprise has an essential need for a rural worker to live there or not. It is considered that the sustainability thread running through the NPPF indicates that the functional and financial sustainability are still key aspects.

#### The Enterprise

5.10 The applicant's business plan is broadly the same as the business plan which was submitted in 2012 and formed part of the appeal in 2013. The business plan has been rolled forward to take account of the actual costs incurred and up to date figures for standard data from the current edition of the John Nix Farm Management Pocketbook, 46th Edition have been included.

5.11 The intention still remains to create an outdoor herd of 30 sows by year three, with all progeny marked and sold as finished pork products direct to public outlets. The plan is also to rear turkeys for Christmas from day olds. The intention is start off with 100 turkeys moving onto 300 by year three.

5.12 It is also noted that the applicant receives an income through managing the grassland and wild flowers in two local solar farms.

5.13 The application states that as a direct result of delays and costs of planning appeals, together with the costs related to altering the steel frame of the partially constructed agricultural building, the applicant's ability to fund the new agricultural enterprise were seriously undermined. The applicant was therefore unable to implement the business plan until early in 2016 - almost at the end of the previous three year temporary consent.

5.14 The applicant has recently procured pig arcs (including farrowing arcs), water troughs, feeders and fencing etc from farm sales. It is understood that the applicant has 6 Yorkshire White Sows and a Yorkshire White boar on site. In October 2016 three pigs farrowed with 27 surviving piglets now approaching finishing weight i.e. ready to go to slaughter. In March 2017 at the time of a site visit by an Agricultural Appraiser commissioned by Tewkesbury Council five of the sows were back 'in pig'.

#### Evidence of Intention and Ability

5.15 The Council has no concerns about the applicant's practical ability to run a livestock enterprise.

5.16 The Council's Agricultural Advisor has raised some concerns about the soil type being clay based and slowly permeable which is a limiting factor for outdoor pigs, and the Advisor considered that the case has not been made that 30 sows plus progeny can be sustainable on this land. The Council's Advisor considers that recent evidence shows that the land even when lightly stocked with pigs indicates severe poaching and potential soil damage despite at the time there not have been any recent consistent rainfall.

5.17 The soil condition was considered by the Inspector in the last appeal and the Inspector considered that there appeared to be sufficient suitable and available land to accommodate the pigs in the event that part of the site is considered to have an unsuitable soil structure.

5.18 Despite some recent indication of potential soil damage it is not considered that there is a material change in circumstances to depart from the Inspector's view and that the number of pigs proposed could be kept on site if properly managed.

#### Functional Need

5.19 The level of functional need depends on the scale of the enterprise that is going to be carried out on site. The need arises from the care and management of sows at farrowing, the rearing of piglets to weaning, the receipt of deliveries and security purposes. Accepting that the number of pigs proposed can be kept on site, then it is considered that the functional need remains the same as considered by the Inspector at the appeal; and it is therefore considered that the same functional needs persists.

#### Financial Soundness

5.20 A Planning Appraisal has been submitted in support of the application which has been reviewed by the Council's Agricultural Advisor. The main income stream and viability is heavily reliant on being able to sell the majority of the pork progeny direct. The budget indicates that with 30 sows there will be sold 440 finished pigs in this way. This equates to over 8 pigs per week sold as pork products.

5.21 This matter was considered in the 2013 appeal when concerns were raised by the Council that there was no detailed feasibility study or marketing plan i.e. evidence as to exactly where the pork would be sold and how. Some letters expressing interest from local hostelrys were provided for the last appeal but nothing further.

5.22 In the 2013 appeal the Inspector considered that contracts could not reasonably be expected in advance of the enterprise being commenced. Developing the business on from 2013 to at least a point of having established some sales and outlets would normally have been expected. In response to the lack of sales strategy, the applicant's agent contends that the business has only just started and it will be some time before they will be able to provide further details.

5.23 It is understood that the business is in infancy, notwithstanding the fact that the permission for the temporary permission has been in place for approximately 3 years. It is considered that it is not unreasonable for the marketing strategy to evolve alongside the business and the lack of a marketing strategy at this time is not considered to undermine the long term financial soundness of the business.

5.24 On this basis, despite the lack of progress it is considered that there is no change in circumstances to alter the Inspector's view that the business would be viable and planned on a sound financial basis.

#### Other Dwellings

5.25 If it is established that there is a functional need for a worker to be based on site for a further temporary period, then other than the present dwelling created within the agricultural building, there does not appear to be a suitable dwelling readily available.



### Conclusion Essential Need Appraisal

5.26 In allowing the appeal, the Inspector considered that the temporary consent would allow for the business to be developed and outlets for pork products to be found. The Inspector considered that the long-term success and viability of the proposals could be fully assessed at the end of the three year period. This has now lapsed.

5.27 The business has not been operational for three years and the local planning authority is unable to make an assessment based on the performance of the business over the intervening period.

5.28 The primary reason put forward by the applicant for a requirement for a further temporary consent is financial difficulty and that the business plan has not been sufficiently developed to justify a permanent dwelling. The applicant cites that costs arose from the previous appeal in 2013 as well as costs associated with modifying the framework of the agricultural barn.

5.29 The source of some of the applicant's financial difficulty, insofar as the Inspector identified an essential need for a house for rural workers, relates to a direct overhead of the business. However, it is to be expected that any business plan would allow for some unknown costs and no detailed justification has been provided for an almost 3 year delay in the implementation of the business plan.

5.30 However, it is the case that the business has commenced and pigs are currently on-site and there is evidence of investments being made in the business. A business plan has been submitted by the applicant to provide a measurable assessment of the viability of the business moving forward.

5.31 Having regard to the personal circumstances of the applicant, it is considered that a further temporary consent should be granted for a period of 3 years from the date of the applicant's Planning Appraisal to run to October 2019. This equates to 2 years and 4 months from the date of the 4th July Planning Committee.

### Polytunnel and Landscape Impact

5.32 The polytunnel would be located to the rear of the existing barn when viewed from the Cotswold Way and largely concealed by the under construction barn when viewed from the road. It is considered it would not appear incongruous in its setting, and it is considered that that the polytunnel would not harm the intrinsic character of the AONB and that the proposal complies with Local Plan Policy AGR5.

5.33 In addition as the agricultural dwelling is for the changes of use of an existing buildings it is not considered to harm the character of the AONB.

## **6.0 Conclusion**

6.1 Taking account all of the above, the proposal is considered to be acceptable and in accordance with the relevant policies and it is therefore recommended that a temporary planning permission is granted subject to conditions until October 2019.

### **RECOMMENDATION Minded to Permit**

#### Conditions:

- 1 The use hereby permitted shall be discontinued and the associated internal and external works removed on or before 30 October 2019 in accordance with a scheme of work submitted to and approved in writing by the local planning authority
- 2 The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in a rural enterprise, or a widow or widower of such a person, and to any resident dependents.
- 3 The polytunnel hereby permitted shall be removed on or before 30 October 2019

Reasons:

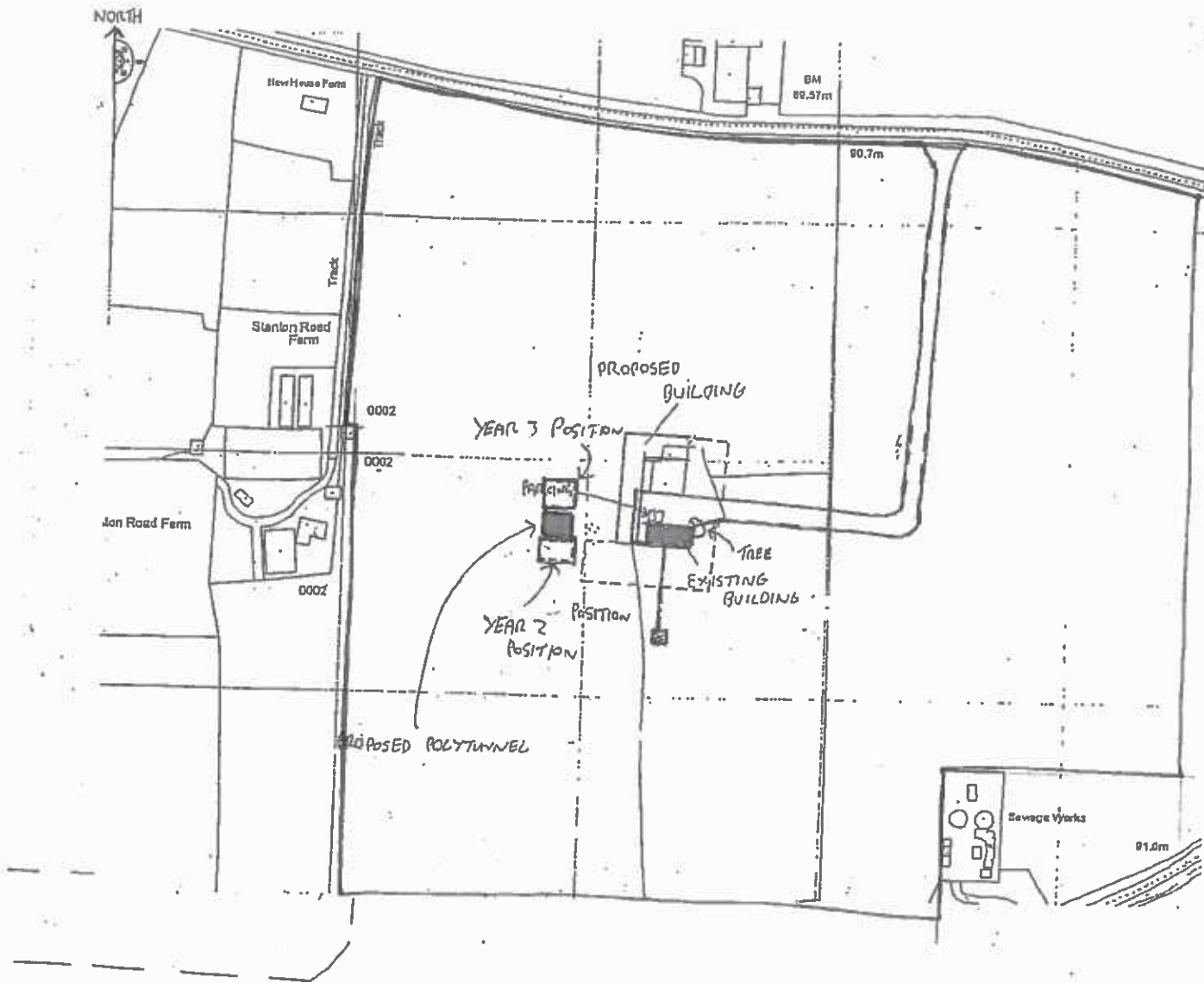
- 1 It is not considered appropriate to grant a permanent permission for an agricultural dwelling in this location unless the applicant can demonstrate that there is a long term agricultural need for the dwelling in accordance with the NPPF and Policy AGR2 of the Tewkesbury Local Plan to 2011
- 2 The site lies in area where permission for development unrelated to the essential needs of agriculture would be contrary to the NPPF and policies AGR2 and HOU4 of the Tewkesbury Local Plan to 2011
- 3 To protect the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty in accordance with the NPPF

Note:

1 **Statement of Positive and Proactive Engagement**

In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner offering pre-application advice, detailed published guidance to assist the applicant and published to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

16/01238/FUL



REVISION G, FEBRUARY 2017  
 REVISION F, OCTOBER 2016.

REVISION E, JULY 2012: GENERAL AMENDMENTS

REVISION D, JULY 2012: GENERAL AMENDMENTS

REVISION C, MAY 2012: PARKING MOVED + TREE SHOWN

REVISION B, APRIL 2012: GENERAL AMENDMENTS

REVISION A, MARCH 2012: PARKING SPACES, NORTH POINTS + POLYTUNNELS ADDED.

**Willis & Co.**

Chartered Town Planners

30 The Causeway, Chippenham, Wiltshire, SN15 3DB.

Telephone; 01249 444975 Facsimile; 01249 655556

Email; willisplan@aol.com

Client; Mr W. Hance.

Title; Liberty Farm, Stanton, Tewkesbury, Glos.  
 Location plan & block plan as proposed.

Scale; 1:2500 & 1:500

Date; November 2011

Drawing no; 1954/10/g

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118/A 66

17/00501/TPO

Land At, Hardwick Bank Road, Northway

7

Valid 10.05.2017

TPO 235 (G1) 1 x Black Poplar. Proposed crown reduction as tree overhanging the neighbours property and there is signs of root growth at the base of the building.

Grid Ref 392422 234258

Parish Northway

Ward Northway

Tewkesbury Borough Council  
Council Offices  
Gloucester Road  
Tewkesbury  
Gloucestershire  
GL20 5TT

## **RECOMMENDATION Consent**

### **Policies and Constraints**

National Planning Policy Framework  
Planning Practice Guidance  
Joint Core Strategy main modifications  
Tewkesbury Borough Local Plan to 2011 - March 2006  
OPDM Circular 06/2005 (Paragraph 91)  
Tree Preservation Orders: A Guide to the Law and Good Practice  
Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)  
The First Protocol, Article 1 (Protection of Property)

### **Consultations and Representations**

Parish Council - no responses received.  
Local residents - no responses received.

**Planning Officers Comments:** Mrs Gaynor Baldwin

### **1.0 Application site**

1.1 This application relates to a Black Poplar which is one three protected trees that forms part of the Group-G1 TPO 235 that are located on public open space next to 1 Merrett Close, Northway (site plan attached).

### **2.0 Recent / Relevant History**

2.1 None recent.

### **3.0 Current Application**

3.1 This application seeks consent to carry out a crown reduction as the tree is overhanging the 1 Merrett Close property. A committee determination is required as 'Tewkesbury Borough Council' are the applicants.

### **4.0 Policy Context**

4.1 Section 198 of the Town and County Planning Act 1990 provides Local Planning Authorities with the powers for the making of Tree Preservation Orders, where it is expedient in the interests of amenity to protect trees. Such powers prohibit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the local planning authority. This advice is reiterated in the Town and County Planning (Trees Preservation) (England) Regulations 2012.

- 4.2 Government guidance set out in 'Tree Preservation Orders - a Guide to the law and Good Practice' sets out that, in considering applications for works to TPO trees, local planning authorities should:-
- assess the amenity value of the tree and the likely impact of the proposal on the amenity of the area;
  - in light of that assessment to consider whether or not the proposal is justified, having regard to the reason put forward in support of it;
  - whether any loss or damage is likely to arise if consent is refused or granted subject to conditions; and
  - whether replacement planting is necessary or practical.

## 5.0 Analysis

5.1 The Black Poplar tree is protected under Tree Preservation Order No.235-G1. A visual tree inspection has been carried out and it is considered that the proposed works are necessary and appropriate.

5.2 No objections have been received from the Parish Council nor from local residents.

## 6.0 Conclusion

6.1 Overall, the proposed works are considered to be suitable / appropriate. Consent is therefore recommended subject to the specified conditions.

### RECOMMENDATION Consent

#### Conditions:

- 1 The works hereby permitted shall be restricted to the carrying out of a 20% crown reduction of the tree and to raise the canopy to approximately 5m only. The tree shall be thinned and balanced on all sides. The works hereby granted shall be completed within two years of the date of this notice.
- 2 All arboricultural work shall comply with BS 3998:2010 British Standard: Recommendation for Tree Work.

#### Reasons:

- 1 To comply with the requirements of the Town and Country Planning Act 1990
- 2 To protect the health of the tree and to ensure that the works are carried out in such a manner to maintain the amenity value of the tree.



#### Notes:

- 1 If at any time nesting birds are observed on site then certain works which might affect them should cease and advice sought from a suitably qualified ecological consultant or Natural England. This is to comply with the Wildlife & Countryside Act 1981 (as amended) and avoid possible prosecution. You are additionally advised that tree or shrub removal works should not take place between 1st March and 31st August inclusive unless a survey to assess nesting bird activity during this period is undertaken. If it is decided on the basis of such a survey to carry out tree or shrub removal works then they should be supervised and controlled by a suitably qualified ecological consultant. This advice note should be passed on to any persons/contractors carrying out the development.
- 2 The Wildlife and Countryside Act 1981 (as amended) makes it an offence to kill, injure or take any wild bird, and to intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built. It is also an offence to take or destroy any wild bird eggs. In addition the Act states that it is an offence to intentionally or recklessly disturb any wild bird listed in Schedule 1 while it is nest building, or at (or near) a nest containing eggs or young, or disturb the dependent young of such a bird. This advice note should be passed on to any persons/contractors carrying out the development.

17/00501/TPO



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<b>Tree Preservation Order</b> TPO 235	
Marretts Factory, Northway	
Scale: 1:1250  North	Development Services Chris Shaw Director 

Date: 20 May 2002  
 SLA: LA 079723  
 Scale 1:1250

120/A 69

*Shaw*

7920

Valid 30.01.2017

Change of use of land to allow for permanent use as a residential Gypsy site for 7 No. Mobile homes and 5 No. Touring caravans and associated works.

Grid Ref 390874 219887

Parish Badgeworth

Ward Badgeworth

S Smith  
C/O Agent

## RECOMMENDATION Permit

### Policies and Constraints

National Planning Policy Framework (NPPF)

Planning Policy for Traveller Sites - August 2015 (PPTS)

Planning Practice Guidance

Tewkesbury Borough Local Plan to 2011 - March 2006 HOU4, LND4, TPT1, NCN5, EVT3 and EVT9

Proposed Main Modifications Joint Core Strategy -

Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)

Article 3 of the UN Convention on the Rights of the Child

Equality Act 2010 - Public Sector Equality Duty

Green Belt

### Consultations and Representations

**Parish Council** - Object to the application for the following reasons:

- The application site is within the Green Belt and is remotely located along a narrow rural lane. Cold Pool Lane is a winding road and it is not served by footways, street lighting or public transport. Services such as schools, shops and doctors' surgery are some distance away requiring the use of private vehicles. The site is in open countryside and well outside the Badgeworth Village settlement area.
- There is a substantial planning history relating to this site covering enforcement action, several planning applications, as well as planning appeals to the Planning Inspectorate. All have concluded that the site was not acceptable for permanent use as a gypsy site for the reasons that it would be inappropriate development and would have a severe and harmful impact on the Green Belt and rural landscape that could not be mitigated.
- Therefore only temporary planning approvals have always been granted in order to (a) allow time for the planning authority to identify sufficient sites within the Borough area for gypsies and travellers and (b) meet the specific human rights of the applicant and her family.
- Previous application for an extension to the site was refused on the grounds that the extension of the site had an unacceptable impact on the openness of the Green Belt and rural landscape. The same applies now.
- JCS is at an advanced stage and the Inspectors Interim Findings concluded that there is a five-year supply for pitches and plots and that the Gypsy and Traveller needs can be met throughout the plan without the use of Green Belt sites.
- A recent retrospective planning application (16/00034/FUL) for traveller site on Cold Pool Lane was refused at Planning Committee.
- In the light of the comments made above, the Parish Council recommends that this application be refused and that:
  - a) neither permanent or temporary planning approval should be agreed; and
  - b) the proposal to extend the site as mentioned in paragraph 6 above should also be refused.
  - c) The Council considers that the Planning Committee is now in a position to determine that this site should no longer be used for gypsy/traveller caravans/mobile homes.

**County Highways** - No objection.

**Environmental Health** - No objection

**Local Residents** - None received.

## **Planning Officers Comments: Mr John Hinett**

### **1.0 Introduction**

1.1 The application site relates to Brookside Stables, a temporary gypsy site on the western side of Cold Pool Lane, Badgeworth. The site is within the Green Belt. The site consists of a former brick built stable block, which is now used as a day room, hardstandings, mobile homes and touring caravans, and ancillary structures and equipment (**See location plan attached**).

1.2 There is a brick wall to the roadside (east) with piers at the entrance to the site. The rest of this boundary is defined by native hedgerow. Other boundaries generally consist of hedgerows. A public footpath approaches to the east across fields on the opposite side of Cold Pool Lane.

### **2.0 Planning History**

2.1 There is substantial planning history relating to this site, the most relevant of which is summarised below:

2.2 Planning was granted on appeal in 2008 for the change of use of the land for gypsy occupation of 4 no. mobile homes and 4 no. touring caravans and ancillary use of stable block (07/00530/FUL). The Planning Inspector allowed a temporary 5 year personal permission for the site occupants only, and for no more than 8 caravans on the site. The temporary permission was allowed on the basis that the site was unsuitable for a permanent permission as a result of its Green Belt location, but a temporary permission was required to provide time to address the lack of alternative sites within the Borough, and due to the personal circumstances of the site occupiers. This temporary permission expired on the 11th November 2013.

2.3 In 2012, a retrospective planning application was submitted which sought temporary permission to retain an extension to the site until November 2013 to fit in with the temporary permission allowed by the Planning Inspectorate (12/00231/FUL). Permission was refused in November 2012 primarily on the grounds that the development would have had a significantly greater detrimental impact on the openness of the Green Belt and the open countryside than that allowed on a temporary basis by the Planning Inspector. This level of harm was considered to outweigh the benefits of allowing the additional occupants on this land.

2.4 Application (ref:13/00092/FUL) for the variation of conditions 1, 2, 3 and 4 of planning permission 07/00530/FUL to allow the applicants daughters and their family to live on the site on a temporary basis until the 11th November 2013, and the provision of 4 additional caravans (2 pitches) was approved in April 2013.

2.5 Application (ref:13/00992/FUL) for the variation of Conditions 1 and 2 of planning permission ref: 13/00092/FUL to allow permanent occupation of the site for gypsy occupation was received on the 30th September 2013. The proposal for the permanent permission was not accepted. However, the temporary permission was extended to allow for the continued use of the land as a 6 No. pitch Gypsy site until 12th November 2016.

2.6 Both the above temporary permissions have now expired. The continued occupation of the site is therefore unauthorised and in breach of planning control.

### **3.0 Current Application**

3.1 The current proposal is a Full application that seeks permanent permission for the permanent use of the site by the applicant and her extended family. The site in its current form comprises 6 pitches (each with a mobile home and touring caravan) and a shared dayroom and toilet block (see layout 13/00992/FUL). The conditions attached to that planning permission explicitly set out who is entitled to occupy the site and the number of caravans that are allowed to be stationed on the land. The current application proposes to exchange one of the existing touring caravans for an additional mobile home effectively creating 7 pitches. The applicant makes the case that in order to accommodate this and to meet site licence regulations it is proposed to extend the existing site by approximately 969 m2. The submitted landscape plans show the applicants preferred layout (**see proposed layout**).



## 4.0 Planning Policy Context

### Tewkesbury Borough Local Plan to 2011 - March 2006

4.1 Policy HOU4 seeks to restrict residential development in the open countryside except where it is essential for the efficient operation of agriculture or forestry, involves the acceptable conversion of existing buildings, or is for affordable housing in line with the Council's 'exceptions' policy. In light of the fact that the Council is able to demonstrate a five-year supply of deliverable housing sites, Policy HOU4 is considered up-to-date in the context of the NPPF.

4.2 Policy GRB1 provides that in the Green Belt, planning permission will not be granted for development other than, inter alia, the construction of new buildings where those buildings are necessary for the efficient use of agriculture or forestry.

4.3 Local Plan Policy LND4 recognises that the countryside of the Borough is worthy of protection for its own sake and provides that in considering proposals for development in rural areas, regard will be given to the need to protect the character and appearance of the rural landscape. This policy is considered to be consistent with the NPPF in that it aims to protect the rural landscape. This policy should therefore be afforded significant weight.

4.4 Policy TPT1 of the Local Plan highlights that development will only be permitted where provision is made for safe and convenient access and where there is an appropriate level of public transport service and infrastructure available. The resulting development should also not adversely affect the traffic generation, safety and satisfactory operation of the highway network. This policy is considered to be consistent with the NPPF in that it seeks to prevent new isolated residential uses in remote locations and to ensure safe and suitable access. This policy should therefore be afforded significant weight.

### The NPPF and Planning Policy for Traveller Sites - August 2015

#### NPPF

4.5 The National Planning Policy Framework (NPPF) came into force on the 27th March 2012 and largely carries forward previous planning policies and protection, in a significantly more streamlined and accessible form. It introduces a presumption in favour of sustainable development, of which there are three dimensions: economic, social and environmental.

4.6 One of the 'Core Planning Principles' of the NPPF is recognising the "intrinsic character and beauty of the countryside". Section 11 seeks to conserve and enhance the natural and local environment by protecting and enhancing valued landscapes.

4.7 Section 9 sets out that the Government attaches great importance to Green Belts. Paragraph 87 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (paragraph 88).

4.8 Paragraph 55 sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.

4.9 With regard to highways safety paragraph 32 of the NPPF states that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

## PPTS

4.10 Current national policy on planning for traveller sites is contained in Planning Policy for Traveller Sites (August 2015)

4.11 The PPTS states that the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community. For the purposes of planning policy the PPTS defines "gypsies and travellers" as: *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"*.

4.12 Policy E: Traveller sites in Green Belt (paragraph 16) states that:

- Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances".

4.13 Paragraph 17 states that Green Belt boundaries should be altered only in exceptional circumstances and should only be done through the plan making process and not in response to a planning application.

4.14 Paragraph 23 also highlights that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF, including landscape protection and highway safety considerations.

4.15 Paragraph 24 of the PPTS explains that local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- the existing level of local provision and need for sites
- the availability (or lack) of alternative accommodation for the applicants
- other personal circumstances of the applicant
- that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- that they should determine applications for sites from any travellers and not just those with local connections.

4.16 Paragraph 25 of the PPTS states that local planning authorities should very strictly limit new traveller sites in open countryside that are away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

4.17 Paragraph 26 provides that when considering applications, local planning authorities should attach weight to the following matters:

- effective use of previously developed (brownfield), untidy or derelict land;
- sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children; and
- not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community

4.18 Paragraph 27 of the PPTS sets out that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable traveller sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permissions except where the land is in the Green Belt, protected under the Birds and Habitats Directives and/or designated as a Site of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).

4.19 On the 31st August 2015 the Government issued a planning policy statement relating to all development. The statement provides that (i) the fact that development has already been carried out without planning permission and intentionally (ie not as a result of a mistake) is itself a material consideration suggesting that retrospective planning permission should be refused and (ii) the Government is particularly concerned about the harm caused intentional unauthorised development in the Green Belt.

#### Proposed Main Modifications Joint Core Strategy (JCS)

4.20 The emerging development plan for the area consists of the Joint Core Strategy, Tewkesbury Borough Plan and a number of emerging neighbourhood plans. The Main Modifications JCS (MMJCS) is the most advanced of these documents and when adopted will constitute the spatial vision for the JCS up to 2031. The Public Consultation period for the MMJCS ended on the 10th April 2017 with Hearings scheduled for late June/July.

4.21 Policy SD14 of the JCS sets out a criteria based policy for dealing with proposals for gypsies, travellers and travelling showpeople who meet the 2015 who meet the definition of Travellers for planning purposes. The policy requires that: sites do not have an unacceptable impact on the character and appearance of the landscape, amenity of neighbouring properties and that proposals are sensitively designed; safe and satisfactory access; adequate utilities/services can be provided; and that no significant environmental barriers exist. The needs of those members of the community no longer meeting the definition in planning terms will be provided for under policy SD12.

4.22 The Tewkesbury Borough Plan (2011-2031) will sit beneath the JCS. The draft Site Option and Policies document is currently being consulted upon and as such is at a much earlier stage of development than the JCS and thus can only be given very limited weight at this stage. The Plan requires that Planning applications relating to Gypsies, Travellers and Travelling Showpeople will be determined in accordance with the NPPF, Planning Policy for Traveller Sites and JCS Policies SA and SD14.

4.23 Policy GTTS1 Gypsy, Traveller and Travelling Showpeople Sites states that there are a number of existing sites identified on the Proposals map for Gypsies, Travellers and Travelling Showpeople sites. The occupation of these sites shall be restricted to this part of our community. The implementation of high quality landscaping schemes for the sites and highway improvements will be required. No commercial uses will be permitted on Gypsy and Traveller sites.

### **5.0 The Applicant's Case**

5.1 In summary, the applicant makes the case that successive temporary permissions have been granted, and extended on this site due to the lack of alternative sites in Tewkesbury Borough. It is argued that as there are still no suitable alternatives available and there is still significant unmet need in the area, in view of the personal circumstances of the applicant and her family it is argued that these considerations amount to very special circumstances that clearly outweigh any harm to the Green Belt. Furthermore, the applicant considers that, with the exception of its Green Belt location, the proposal site is consistent with national policy. In addition, this application is materially different from the previous proposals in that it includes a detailed visual impact assessment and related landscaping proposals, which the applicant considers addresses the concerns of previous Inspectors and case officers and significantly reduces the harm to the Green Belt.

5.2 The applicant argues that the factors to amount to VSC in summary are as follows:

- Consistency with the development plan;
- The need for Sites in the Borough and the lack of a 5 year supply;
- Lack of alternative sites;
- Personal Circumstances;
- Best Interests of the Child,;
- Public Sector Equalities Duty;
- Human Rights.

It is therefore requested that the site is granted permanent permission to allow the applicant and her family a secure and stable base.

## 6.0 Analysis

6.1 The site lies within the Green Belt and the use of the site to accommodate travellers represents inappropriate development within the Green Belt. There has also been an Appeal Decision and several planning decisions (including one for an extension to the site) which have determined that a permanent permission on the site was not acceptable. The main consideration in terms of the current application is therefore whether there are any material changes in circumstance that amounts to the very special circumstances that are required to clearly outweigh the harm by reason of inappropriateness, and any other harm.

6.2 Other key issues include the consideration of the impact of the development on the rural landscape, the accessibility of the site and highway safety matters.

The main issues are -

- effect of the development on openness and purposes of Green Belt.
- effect on the character and appearance of the area
- highway safety
- suitability of the site's rural location
- housing policy
- noise and residential amenity
- drainage and hydrology
- gypsy status of applicant and his family
- the unmet need for gypsy and traveller sites
- personal circumstances of the adults on the site
- the best interests of the applicant's children/grandchild
- Article 8
- public sector equality duty

### Effect on openness

6.3 It is the applicant's case that whilst there is some harm through the loss of openness, this is significantly tempered by the previously developed nature of the site and the detailed landscape proposals.

6.4 The issue of openness was considered by the Inspector in the determination of the 2008 Appeal. In this case the Inspector concluded that development had resulted in some loss of openness and also that it had a significant adverse impact on the visual amenities and purposes of designation.

6.5 Although the applicant argues that the site is previously developed, as a matter of fact, it only ever benefitted from temporary planning permission (that has now expired). The PPTS makes clear at paragraph 27 (footnote 9) that there is no presumption that a temporary permission should be granted permanently and it is a condition of the temporary consents that at the end of the temporary permission, all materials and equipment brought on to the premises in connection with the use, including the day room on the site, shall be removed and the land restored to its former condition. The site does not therefore comprise previously developed land.

6.6 It is also the case that the proposal includes an extension to the area which would further impact on the openness of the Green Belt and its visual amenities. It would take time for the landscaping (in respect of this extension) to become established and, in any event, it is commonly accepted that the openness of the Green Belt has a spatial aspect as well as visual aspect and that the absence of visual intrusion does not in itself mean that there is no impact on openness of the Green Belt. The day room and caravans all impact spatially on openness and the presence of vehicle also have an impact, contrary to Green Belt Policy.

### Green Belt's role in assisting in safeguarding the countryside from encroachment

6.7 One of the purposes of the Green Belt defined in the NPPF is to safeguard the countryside from encroachment. It is considered that the large dayroom, static mobile homes, large areas hardstanding and associated residential paraphernalia erodes the countryside in this location. Whilst it could be argued that this erosion is relatively minor in the context of the surrounding area, it is also a widely established concept that when considered together with other minor development, the overall cumulative encroachment would run contrary to one of the fundamental purposes.

## Conclusion on Green Belt

6.8 There would be harm to the openness of the Green Belt and conflict with one of the fundamental purposes. Taken together with the harm inherent in inappropriateness it is concluded that the weight given to harm to the Green Belt in its totality by granting a permanent permission would be substantial.

## Other Harms

### **7.0 Effect on the character and appearance of the area**

7.1 Policy LND4 seeks to protect the character and appearance of the rural landscape. The reasoned justification expands stating that the countryside of the Borough is worthy of protection for its own sake and that in order to safeguard the existing environmental quality of the Borough development proposals affecting these rural areas should be designed to harmonise with their character or, if they are unacceptably intrusive, be refused. This reflects one of the 'Core Principles' of the NPPF, which is to recognise the intrinsic character and beauty of the countryside.

7.2 The Inspector in the determination of the 2008 Appeal concluded that the site formed "*an incongruous and alien feature in the landscape*". Although the Inspector noted that some coniferous species had been planted along the boundaries, he considered that they were an incongruous form of non-native planting that was in itself out-of-keeping with the area. Whilst additional planting could be introduced, it would take years to effectively screen the site and would itself draw attention to the presence of the development.

7.3 The current application is supported by a 'Site Layout and Landscape Design Statement (LDS)' which proposes to bolster existing boundary hedging with new native understorey planting and also within the site to fragment the massing of mobile homes and caravans to further reduce the visual impact. New native species plantations are proposed with the existing paddock area to the north eastern end of the site which are designed to complement the existing natural and irregular adjacent hedgerows and reduce visual impact on views to the site. The approach proposed would be over a 10-12 year period.

7.4 The Council's Landscape Officer (LO) notes that the site is on an area of higher topography and there are roadside gaps within the hedge that allow long distance views of the site. It is noted also that there are long distance views of the existing day room and of some of the units within the northern part of the site. It is commented that since the Inspector's decision in 2008, the planting around the site has matured and now largely well screens the site. The LO concludes that subject to the additional mitigation planting, in the longer-term the site would not be out of character within the surrounding countryside.

7.5 Being mindful of the Inspector's conclusions from 2008 it is clear that the landscaping has now become established and includes non-coniferous, native species that look less conspicuous in the rural setting. The proposed additional planting could, in the long term, help to further mitigate the impact of the site and proposed extension. The impact could therefore be considered to be less harmful than that concluded in the 2008 appeal. However, it is never possible to entirely screen a site from view, particularly during the winter months and neither is it ever possible to retain landscape screening in perpetuity. Views through the main gateway would always remain. It is therefore concluded on this issue that there would be some landscape harm that attracts limited weight in the determination of the application.

### **8.0 Green Belt protection and intentional unauthorised development**

8.1 In 2015 the Government introduced a new planning policy making intentional unauthorised development a material consideration that must be weighed in the determination of planning applications and appeals. The Government is particularly concerned about unauthorised development in the Green Belt.

8.2 It is apparent that the part of the site proposed as an extension has been implemented and is currently being used for the stationing of an assortment of vehicles and trailers. This constitutes a material change of use of the land which is 'development' requiring planning permission. As the development has been carried intentionally it conflicts with the above Policy and therefore weighs against the proposal. However, this unauthorised development could be easily reversed and therefore only limited harm is attributable.

## **9.0 Highway safety**

9.1 The NPPF sets out at paragraph 32 that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Decisions should take account of, amongst other matters, whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; and
- safe and suitable access to the site can be achieved for all people.

9.2 Policy TPT1 of the Local Plan highlights that development will be permitted where provision is made for safe and convenient access and where there is an appropriate level of public transport service and infrastructure available. The resulting development should also not adversely affect the traffic generation, safety and satisfactory operation of the highway network.

9.3 Policy INF1 of the PMM JCS states that developers should aim to provide safe and accessible connections to the transport network to enable travel choice for residents and commuters. All proposals must ensure that:

- the development provides safe vehicular access to the highway network;
- any increased level of car use derived from the development does not result in severe increases in congestion on the network. Severe increase in congestion in this context relates to highway junctions no longer operating within their design capacity;
- any severe increase in congestion likely to arise from development must be mitigated to ensure highway junctions operate within their design capacity; and
- connections should be provided where appropriate to existing walking, cycling and passenger transport networks and should be designed to enable and encourage maximum potential use.

9.4 The site would continue to be served via the existing access point off Cold Pool Lane. In considering the previous appeal decision, the Planning Inspector did not raise any substantive concerns in relation to the use of the access.

9.5 The County Highways Authority raised no objections to the previous planning applications and similarly have no objection to the current proposal on the proviso that there would not be a material increase in the type or number of vehicle movements from the site compared to the existing site. The change from temporary to permanent permission should it be granted would also not have an adverse effect on highway safety over the existing situation.

9.6 There are therefore not considered to be any concerns in this regard therefore.

## **10.0 Suitability of the site's rural location**

10.1 PPTS is explicit that issues of sustainability should not be considered narrowly solely in terms of transport mode and distances from services. Paragraphs 32 and 35 of the NPPF refer to development that generates significant movement.

10.2 At paragraph 25 the PPTS states that Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

10.3 The site is remotely located along a narrow rural lane. Cold Pool Lane is a winding road and it is not well served by footways, streetlighting or public transport facilities. It is therefore likely that the additional occupiers of the site would be reliant on the use of the private car to reach the majority of community facilities and other services. The fairly remote location of the site is therefore considered to be a disadvantage to the application, and is contrary to Policy TPT1 of the Development Plan in this regard. This disadvantage must be balanced against other material considerations that weigh in favour of the proposal.

10.4 It is not however considered that the proposal dominates the local community.

## **11.0 Housing policy**

11.1 The site is located in the open countryside outside any recognised residential development and as such conflicts with Policy HOU4 of the Local Plan. Although the Council is able to demonstrate a five-year supply of deliverable housing sites, paragraph 27 of the PPTS sets out that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable traveller sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permissions.

## **12.0 Noise and residential amenity**

12.1 The NPPF states that local planning authorities should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and should consider whether such impacts can be mitigated through design or through the use of planning conditions. This advice is echoed in Policy EVT3 of the Local Plan.

12.2 The site is within a secluded rural location and there are no other properties outside the site that would be adversely affected by this development in terms of overlooking, loss of light or overbearing impacts. As such, the development does not have any adverse impact on the residential amenity of local residents.

## **13.0 Drainage and hydrology**

13.1 Policy EVT9 requires that development proposals demonstrate provision for the attenuation and treatment of surface water run-off in accordance with sustainable urban drainage systems (SUDS) criteria.

13.2 The site is located in Flood Zone 1 (low risk) as defined by the Environment Agency's most up-to-date flood maps, where such development is considered acceptable in principle in accordance with Policy EVT9 of the Local Plan. There are no known surface water issues affecting the site and it is therefore not considered that the site is at undue risk of flooding.

13.3 The existing site is served by a septic tank and it is not considered that the addition of a further pitch would have any unacceptable impact in terms of capacity.

## **14.0 Gypsy status of applicant and her family**

14.1 The definition of gypsies and travellers for the purposes of planning is set out in the PPTS and repeated above (paragraph 4.11). The applicants' supporting statement argues that all those living on the site travel to fairs when their health / education circumstances allows. Furthermore, that everybody aims to attend all the fairs, where they trade horses and dogs, as well as engaging in more general buying and selling. They also pick up work around the local area.

14.2 The Council accepts the applicants meet the definition and are Gypsies for the purposes of determining the application

## **15.0 The need for gypsy and traveller sites**

15.1 The application refers to a shortage of traveller and gypsy pitches/sites in the Gloucestershire area, and explains that this application is submitted in order to meet some of that shortfall. The document specifically refers to a need identified within the Gloucestershire Gypsy and Traveller Availability Assessment (GTAA) for additional pitches.

15.2 Paragraph 9 of the PPTS relates to 'plan-making' and requires local planning authorities to assess the need, and plan over a reasonable timescale for an appropriate supply of suitable traveller sites to address under-provision. The policy sets out that supply should comprise specific, deliverable sites for the first five years and developable sites or broad locations for later years. With respect to 'decision-taking' on specific applications, Paragraph 22 cites the existing level of provision among relevant matters for consideration in the determination process.

15.3 Paragraph 10 of the PPTS relates to 'plan-making' and requires local planning authorities to assess the need, and plan over a reasonable timescale for an appropriate supply of suitable traveller sites to address under-provision. The policy sets out that supply should comprise specific, deliverable sites for the first five years and developable sites or broad locations for later years. With respect to 'decision-taking' on specific applications, Paragraph 24 cites the existing level of provision among relevant matters for consideration in the determination process.

15.4 The Council's most current evidence for the provision of gypsy accommodation is the Gloucestershire (Cheltenham, Cotswold, Forest of Dean, Gloucester, Stroud and Tewkesbury) Gypsy and Traveller Accommodation Assessment (OPS Final Report March 2017). The assessment was based upon the new definition in the PPTS (August 2015) of Gypsies, Travellers and Travelling Showpeople for planning purposes (which compared to the previous PPTS (March 2012) no longer includes those who have ceased to travel permanently). The identified need in assessment for Tewkesbury Borough is:

-	Those who meet Planning Definition	-	5
-	Unknowns	-	0-48
-	Those who do not meet the Planning Definition	-	25

15.5 Whilst the identified need of 5 pitches (for those respondents who identified themselves as gypsies meeting the new definition) is low, it is the case that MMJCS will be subject to further hearings and an objection has been made to the JCS Inspector on the basis of the approach to assessing needs based on the new definition. Furthermore, there remains uncertainty over the status (for planning purposes) of the 'unknowns', which could add anywhere between 0-48 to the identified confirmed need of 5 pitches.

15.6 Whilst the Council has in recent months been proactive in supporting permanent Traveller sites in suitable locations, in view of the uncertainties in terms of the overall need, the fact that the JCS is unlikely to be adopted until the end of 2017 with the Borough Plan sometime after this, a precautionary position should be adopted and at this time it cannot be demonstrated that the Council has a 5 year supply of deliverable gypsy sites.

15.7 Notwithstanding the above, the PPTS states at paragraph 27 that the lack of an up-to-date 5 year supply of deliverable sites is a significant material consideration when considering applications for the grant of temporary planning permission. The up-dated PPTS (2015) makes clear however this does not apply to sites within the Green Belt.

#### **16.0 Personal circumstances of the adults on the site**

16.1 In allowing a temporary permission for the previous applications, the Council accepted that there were health and educational benefits to the family members being located on this site together. Furthermore, that the difficulties with finding alternative sites were noted and that it would not be desirable for family members to be forced on to road side encampments. These factors were therefore afforded weight in the planning balance.

16.2 The Applicant has provided an up-dated statement on the personal circumstances of the occupiers of the site. In summary, the statement makes the case that as with the previous application, many of the site occupants have specific and serious health conditions that necessitate regular and easy access to health care services. Furthermore, several of these conditions necessitate the security, stability and sanitation facilities that can only be ensured by living at a settled base. Since the previous application 3 additional children have been born, and the health condition of several of the occupants has become significantly worse. It is argued that the lack of certainty over the future occupation of the site in the long-term is adding to the poor health of the occupiers. It is the applicant's opinion, that the health and educational needs of the occupants would be prejudiced if the application was refused or another temporary permission is granted.

16.3 The County Council's Principal Traveller Services Officer has confirmed that there are no vacancies on Gloucestershire County Council sites and that there is a waiting list for pitches. Whilst it is possible that the Council could provide bricks and mortar accommodation for the occupiers, it is accepted that this is not acceptable form of accommodation for members of the travelling community. The consequences of a refusal of this application would be that the applicant and the family may have to resort a road side existence - at least in the short-term - which would undoubtedly result in greater hardship than being permitted to remain on the site.



## 17.0 Best interests of applicant's children/grandchild

17.1 Under the UN Convention on the Rights of the Child (UNCRC), the best interests of any children affected by a decision are a primary consideration. Case law confirms that this means that, in any decision, no other consideration may be treated as *inherently* more weighty.

17.2 *Stevens v Secretary of State* [2013] EWHC 792 concerns the implications of Article 3 of the UNCRC in planning decisions. Hickinbottom J said at paragraph 69 -

'From these authorities, in respect of the approach of a planning decision-maker, the following propositions can be derived.

- i. Given the scope of planning decisions and the nature of the right to respect for family and private life, planning decision-making will often engage article 8. In those circumstances, relevant article 8 rights will be a material consideration which the decision-maker must take into account.
- ii. Where the article 8 rights are those of children, they must be seen in the context of article 3 of the UNCRC, which requires a child's best interests to be a primary consideration.
- iii. This requires the decision-maker, first, to identify what the child's best interests are. In a planning context, they are likely to be consistent with those of his parent or other carer who is involved in the planning decision-making process; and, unless circumstances indicate to the contrary, the decision-maker can assume that that carer will properly represent the child's best interests, and properly represent and evidence the potential adverse impact of any decision upon that child's best interests.
- iv. Once identified, although a primary consideration, the best interests of the child are not determinative of the planning issue. Nor does respect for the best interests of a relevant child mean that the planning exercise necessarily involves merely assessing whether the public interest in ensuring planning controls is maintained outweighs the best interests of the child. Most planning cases will have too many competing rights and interests, and will be too factually complex, to allow such an exercise.
- v. However, no other consideration must be regarded as more important or given greater weight than the best interests of any child, merely by virtue of its inherent nature apart from the context of the individual case. Further, the best interests of any child must be kept at the forefront of the decision-maker's mind as he examines all material considerations and performs the exercise of planning judgment on the basis of them; and, when considering any decision he might make (and, of course, the eventual decision he does make), he needs to assess whether the adverse impact of such a decision on the interests of the child is proportionate.
- vi. Whether the decision-maker has properly performed this exercise is a question of substance, not form. However, if an inspector on an appeal sets out his reasoning with regard to any child's interests in play, even briefly, that will be helpful not only to those involved in the application but also to the court in any later challenge, in understanding how the decision-maker reached the decision that the adverse impact to the interests of the child to which the decision gives rise is proportionate. It will be particularly helpful if the reasoning shows that the inspector has brought his mind to bear upon the adverse impact of the decision he has reached on the best interests of the child, and has concluded that that impact is in all the circumstances proportionate ...'

Dealing with ascertaining what the best interests of the children require, he said at paragraph 58 -  
'... I respectfully disagree with the comments of His Honour Judge Thornton QC sitting as Deputy High Court Judge in the context of planning enforcement proceedings in *Sedgemoor District Council v Hughes* [2012] EWHC 1997 (QB) at [32], that a planning decision-maker or the court will routinely be required to produce social enquiry or welfare reports on all children whose interests are or may be adversely impacted by any planning decision or even any planning enforcement decision.

Dealing with the ascribing of weight to the best interests of the children he said at paragraph 63 -  
'The "weight" of a consideration is merely a reference to the importance attached to it. Although I do not wish to become embroiled in concepts of deep physics or philosophy, in my respectful view, confusion has arisen because "weight" in the context of the exercise required by section 70 (of taking into account, when making an relevant planning decision, all material considerations) has been used in two different ways: the inherent weight or importance of a factor at a policy level before consideration of the individual circumstances, and the weight or importance of a factor, relative to other factors, after that examination. That distinction is effectively identified by Lord Wilson in HH at [155], when he says, of the UNCRC article 3 imperative:

*"The rights of children under article 8 must be examined through the prism of article 3(1)... Thus, in the present inquiry, article 8 affords to the best interests of the three children a substantial weight which, following examination, other factors may earn and even exceed but with which, under the law of the article, they do not start."*

In other words, before any consideration of the individual circumstances of the child or any other material considerations, the best interests of any child can be said to have "a substantial weight" in the sense of an importance that no other consideration exceeds; but that evaluation may alter once the individual circumstances of those interests and other factors are considered and assessed. Therefore, whilst it might be said at a policy level that a particular factor should be given a particular "weight" (e.g. "moderate" or "substantial"), where it is the very function of a decision-maker to attach weight to considerations which are material to the decision he is required to make, as he proceeds with his examination of the circumstances of an individual case, he must adjust the relative weighting to that which, in his judgment, the circumstances of the case require. On examination of all the material factors, the importance of one consideration may reduce (or, of course, increase), compared with others. There is no reason why any such change cannot properly be reflected in the designation given to the weight of those factors: it is not sensible to require a decision-maker to stick formulaically with the designation he is required to start with. The matter is one of substance, not form. That applies equally to weight or importance that policy documents such as PPG2 require to be afforded to particular planning public policy factors, and to the weight or importance that article 3 of the UNCRC requires as a matter of policy to be given to the best interests of a child.'

17.3 A Statement on the personal circumstances of the occupiers of the site has been provided. It would clearly be in the best interests of all the children to reside in secure, suitable and lawful accommodation. This would allow proper access to education and medical services and would avoid the hazards of unlawful encampments. It appears that some of the children have particular need for access to medical services. The educational needs of the children attending local schools would also be best served by secure lawful accommodation in the local area.

17.4 However, being forced to vacate the site with no alternative accommodation to go to would not be in the best interests of the children. As matters presently stand there is no such accommodation for the children to go to.

## **18.0 Article 8**

18.1 Refusal of the application would undoubtedly result in the interference with the home and private life of the occupants of the site. As the Council is unable to identify alternative sites for the site occupiers, it is quite possible that the effect would be to render the families homeless. However Article 8 is not an absolute right and it is necessary to consider whether, given the harm caused by the development, the interference occasioned by the refusal of planning permission would be justified within the terms of A8(2) and proportionate. This is addressed below.

## **19.0 Equality Act 2010: Public Sector Equalities Duty**

19.1 Section 149 of the Public Sector Equalities Duty (PSED) requires that in the exercise of their functions, those subject to the equality duty must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. The Council accepts that the applicants are Romany Gypsies and therefore a 'protected characteristic' for the purposes of the PSED.

19.2 The applicants argue that there would be an impact on the families if the application is refused and that the greatest impacts would be felt by those with specific medical conditions and the children who would benefit from access to education associated with having a settled base.

19.3 The Council has had due regard to its duties under Section 149 of the PSED which, as with the consideration with respect to Article 8 (above), must be balanced against the harm caused by the development. This is similarly addressed below.

## 20.0 Overall balance - permanent planning permission

20.1 As required by paragraph 88 of the NPPF and paragraphs 16 and 17 of the PPTS substantial weight must be given to all the harms caused to the Green Belt (harm because the development is inappropriate development, harm caused to openness and conflict with one of its fundamental purposes and harm caused because the development was carried out intentionally). The 'other harm' within paragraph 88 also includes harm to the character of the countryside, and the unsustainable location of the site. It is also material that this degree of harm was confirmed by the previous Planning Inspector in 2008, which was why it was only considered appropriate to grant a temporary permission.

20.2 The unmet need for traveller sites in the Borough and hardship that the refusal of planning permission would cause to the occupiers of the site weigh in favour of the proposal, although the Government advises that unmet need and personal circumstances are unlikely to constitute very special circumstances.

20.3 The refusal of planning permission would not be in the best interests of the children as there is no lawful and secure alternative accommodation that the family would move to. In the circumstances of this case this is a consideration of some weight. However officers consider that the relative weight of this consideration, combined with the other factors which favour the grant of planning permission, is not such as to clearly outweigh the harm caused by this development (properly understood in the light of current Government policy). It follows that very special circumstances have not been shown.

20.4 Officers accept that refusal of the application would constitute an interference with the home and private life of the Applicant and his family, but consider that that interference is proportionate and justified given the importance of maintaining the open character of the Green Belt and the economic well-being of the country (which includes protection of the environment and the proper application of national planning policy). Similarly, it is considered that none of the aims of section 149 of the Public Sector Equalities Duty would be furthered by granting planning permission for development that is unacceptable in planning terms and would not advance equality of opportunity and would fail to foster good relations between the occupiers of the application site and the settled community

20.5 It is considered that the planning objections to the unauthorised development are serious ones that cannot be overcome by the granting of planning permission subject to conditions.

### Overall balance - temporary planning permission

20.6 Case law has established that the nature of the planning balancing exercise can be altered in the consideration of temporary permissions. It is the case that a temporary gypsy site in the Green Belt is inappropriate development. The absence of a 5 year supply of deliverable sites is a material consideration in favour of the grant of temporary planning permission in the Green Belt, albeit not a 'significant' material consideration.

20.7 It is the case that temporary permission has been granted for use of the land as a Traveller site previously. Furthermore, that since the original permission the landscape surrounding the site has matured and provides screening for the site. Furthermore, the occupiers have had more children and their educational and welfare needs remain unchanged, or in some cases, health conditions have worsened. All these matters weigh in favour of granting a further temporary permission.

20.8 However, it is also the case that the application proposes an extension to the north-east of the site that would have a further significant impact on the openness and visual amenity of the Green Belt and to the rural character and appearance of the landscape. This further encroachment would adversely impact upon one of the main purposes for allocating land within the Green Belt; safeguarding the countryside from encroachment.

20.9 It is also material that in refusing the retrospective planning application in 2012 for the unauthorised extension to the gypsy site, it was considered that the level of harm caused to the openness of the Green Belt and rural landscape as a result of that extension was such that it outweighed the benefits of permitted the development on even a temporary basis. In taking that view it was considered that there was likely to be enough room within the lawful remit of the site to accommodate these additional family members for a temporary period, which would have had a significantly lesser impact on the openness of the Green Belt. Whilst 4 additional children have been born since that time, all residents occupy the un-extended site and could continue to do so.

20.10 Although it has been a number of years since original temporary permission was granted, and that temporary permission has also been renewed, the JCS is now at a very advanced stage, with work towards providing traveller sites through the Borough Plan continuing. The Council has also been proactive in permitting applications for traveller sites in appropriate locations. There is, therefore, a very real prospect that traveller sites will come forward in the medium term. The grant of a further temporary permission would be consistent with the Council's responsibility to plan positively for such sites and would give the occupiers a further period of stability. Over the period of a temporary permission other considerations would clearly outweigh the harm from the development, and very special circumstances exist which justify the proposal.

## 21.0 Conclusion

21.1 In conclusion, it is considered that the level of identified harms to the Green Belt; the rural landscape; and sustainable transport aims by granting a permanent permission for the site (including the proposed extension) would outweigh the benefits associated with meeting some of the need for additional gypsy and travellers in the Borough, as well as meeting the personal and family needs of the site occupiers. It is considered that the level of harm to the Green Belt and rural landscape associated with the proposed extension to the site is such that it would outweigh the benefits of permitting the proposed development even on a temporary basis. However, allowing the continued use of the site without the proposed extension on a further temporary basis would meet the identified need in the short-term, without causing permanent environmental harm to the Borough.

21.2 Accordingly it is recommended that conditions 1 and 2 of planning permission ref: 13/00992/FUL be varied to allow a further 3 year temporary occupation of the site by the applicant and her extended family. It is considered necessary to carry forward planning conditions specifying exactly who is entitled to occupy the site; that there shall be no more than 12 caravans; and that the land shall be returned to its original condition once it ceases to be occupied.

## RECOMMENDATION Permit

### Conditions:

- 1 The use hereby permitted shall be carried on only by Mrs Sallyann Smith, her husband and children; Denny Smith, his wife and children; Rocky Smith and wife; Natalie Maguire, her husband and children; Jodie Maloney, her husband and children; and Marion Richards, husband and children, and shall be for a limited period up to the 4th July 2020 or the period during which the premises are occupied by them, whichever is shorter.

Reason: The development is permitted in order to meet the specific personal needs of the persons listed in this condition. The site is not acceptable for permanent use as a gypsy site for the reason that it would have a severe and harmful impact on the Green Belt and rural landscape that could not be mitigated. The condition is therefore necessary to ensure that this development only meets a demonstrated temporary need.

- 2 When the premises cease to be occupied by the persons described in Condition 1 or by the 4th July 2020, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use, including the day room on the site, shall be removed and the land restored to its former condition.

Reason: The development is permitted in order to meet the specific personal needs of the persons listed in this condition. The site is not acceptable for permanent use as a gypsy site for the reason that it would have a severe and harmful impact on the Green Belt and rural landscape that could not be mitigated. The condition is therefore necessary to ensure that this development only meets a demonstrated temporary need.

- 3 No more than 12 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravans Sites Act 1968 (of which no more than 6 shall be a static caravan or mobile home) shall be stationed on the site at any one time.

Reason: To limit the impact on the openness of the Green Belt and the rural character and appearance of the area.

- 4 The caravans shall be sited in accordance with plan No. 1308/01 as received by the Local Planning Authority on the 26th September 2013 and approved with planning application 13/00992/FUL.

Reason: To limit the impact on the openness of the Green Belt and the rural character and appearance of the area.

- 5 The day room on the site shall be used solely for purposes ancillary to the residential occupancy of the caravans on the site.

Reason: To prevent independent occupation of the building in light of the inappropriateness of the site for unrestricted residential development.

- 6 There shall be no means of external lighting on the site other than in accordance with the details that shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To minimise light pollution and to limit the impact on the openness of the Green Belt and rural landscape.

Reasons:

Note:

- 1 **Statement of Positive and Proactive Engagement**

In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner offering pre-application advice, detailed published guidance to assist the applicant and published on the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

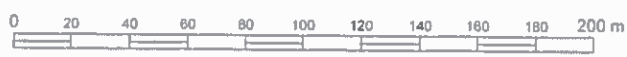
16/01285/FUL



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Licence Number: 100055510

Scale 1:2500 @ A4



**SITE LOCATION PLAN**  
Drawing No.: SAS16-SLP  
Loc.: X: 390909 Y: 219931

135/A85

17/00368/FUL

Bridle Croft, Lye Lane, Cleeve Hill

9

Valid 03.04.2017  
Grid Ref 398076 226418  
Parish Southam  
Ward Cleeve Hill

Change of Use of Workshop to Holiday Let

Mr & Mrs Neil & Polly Fothergill  
Bridle Croft  
Lye Lane  
Cleeve Hill

## RECOMMENDATION Permit

### Policies and Constraints

National Planning Policy Framework (2012)  
Planning Practice Guidance  
JCS Proposed Main Modifications  
Tewkesbury Borough Local Plan to 2011 (March 2006) - Policies TOR2, TPT1  
Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)  
The First Protocol, Article 1 (Protection of Property)  
AONB  
Public Right of Way

### Consultations and Representations

#### Parish Council - Objects.

There is no capacity for further dwellings on Lye Lane and any further development would be detrimental to the character of the surroundings. This would set a precedent. Garaging should be kept on site for the purpose of storing vehicles to reduce the necessity of parking on the lane.

**Local residents** - six letters of objection have been received from local residents. The reasons for objection are summarised as follows;

- Lye Lane is a long, steep single track and was not designed for an increase in traffic. There is no available footpath for pedestrians.
- Any increase in traffic would have a direct impact on Springstones because its access / exit is via a concealed drive.
- A precedent could be set.
- Harmful to the AONB.
- Devaluation of neighbouring dwellings.
- May diminish the safety and security of the neighbourhood.
- Not happy with regards to the planning history at this site.
- One of the conditions of the 2015 permission was that the development shall be used in conjunction with and as ancillary to the residential enjoyment of the adjoining property known as Bridle Croft. The reason for this is applicable to this application for a holiday let.
- This could turn into a separate dwelling in the future which would lead to a marked increase in traffic and people calling.
- All of the plots of land adjoining the private part of Lye Lane are bound by the same restrictive covenant which prevents any property being used as a business. A change of use to a holiday let would contravene that covenant.

**Tourism Officer** - This is a viable location for a holiday let. It has close proximity to both Cheltenham and Winchcombe which makes it a good location for holiday accommodation. Occupancy rates for such accommodation are fairly high in this area too.

**Gloucestershire County Council Highways Officer** - No highway objections subject to the specified condition being attached to the permission.

**Planning Officers Comments:** Mrs Sarah Barnes

## 1.0 Application Site

1.1 The application relates to Bridle Croft a detached dwelling located along Lye Lane in Cleeve Hill (site location plan attached).

## 2.0 Relevant Planning History

2.1 Planning permission was granted in 2012 (12/00431/FUL) for the demolition of the existing workshop/garage and the construction of a new garage and workshop.

2.2 In 2015 (15/00003/MINOR) a minor amendment was granted to remove the garage element and also to make a minor adjustment to the position of the structure to reflect the layout of the foundations as installed.

2.3 Later in 2015 (15/00521/FUL) permission was granted for the workshop as built including an additional velux window and a first floor.

## 3.0 Current Application

3.1 The application proposes to convert the existing detached two storey workshop building to holiday let accommodation. It would comprise of a kitchen and a lounge / diner at ground floor level and two bedrooms and a bathroom at first floor level (plans attached).

## 4.0 Analysis

### Principle of Development:

4.1 Policy TOR2 of the Local Plan advises that development of self-catering accommodation will be permitted if it results in renovation and improved use of existing buildings.

4.2 Policy TOR2 goes on to advise that 'whilst new development will not normally be accepted in open countryside, it is recognised that some types of tourist accommodation are well suited to conversions.' The Tewkesbury Tourism Officer has been consulted and considers that this is a viable location for a holiday let given its close proximity to Cheltenham and Winchcombe. Occupancy rates for such accommodation are also fairly high in this area. There would be no external changes to the existing building and only a few internal alterations, so there would not be an adverse impact on the character and appearance of the building itself nor the surrounding AONB. As such, it is considered that the proposed conversion of the building to a holiday let would be acceptable in principle.

### Impact on Residential Amenity:

4.3 No extensions or external alterations are proposed to the building. It is therefore considered that the proposal would have no significant adverse effect on adjoining occupiers in terms of overshadowing, overbearing impact or loss of privacy, nor would it cause visual harm to the locality, including when viewed from nearby PROW.

### Impact on Highways:

4.4 Concerns have been raised about the increase in traffic along Lye Lane which is a very steep, narrow Lane. The Gloucestershire County Highways Officer has been consulted and has raised no highway objections subject to the specified condition being attached to the permission (ensuring that the holiday let is not occupied as a separate residence). Given that Lye Lane serves 8 dwellings and would generate 40 two way daily trips the addition of a holiday let would generate an additional 2-4 trips to the site. These vehicular trips are not a large increase to the highway network and are limited due to the number of months the holiday let would be occupied in a year. In conclusion, there is unlikely to be a significant increase in vehicular trips to the site that would increase the impact on the highway safety on the local road network. The holiday let would also have access to 3 car parking spaces off road (these spaces are separate from those serving the main house).

### Other issues

4.5 With regards to the concerns raised in relation to the restrictive covenants at the site, this is a legal issue. Similarly, the possible devaluation of neighbouring dwellings is not a planning issue.



4.6 Local residents have also raised concerns about the precedent that may be set. Each application is however assessed on its own merits.

4.7 With regards to the Parish Councils and neighbours concerns in relation to the future use as a separate dwelling, a condition would be attached to the permission to ensure that it's occupied as a holiday let only and is not occupied by any individual family or group for more than 2 months in any one period of a 12 month period. If the owners did in the future wish to turn this into a separate dwelling then it would be subject to a new planning application.

## 5.0 Conclusion

5.1 Taking into account all of the above, the proposal is considered to be acceptable and in accordance with the NPPF and other relevant policies, and it is therefore recommended that **(planning permission is granted)** subject to conditions.

### RECOMMENDATION Permit

Conditions:

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2 The proposed holiday unit shall only be occupied as a holiday unit and shall not be occupied by any individual family or group for more than 2 months in any one period of a 12 month period.
- 3 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

Site plan, block plan, existing elevations and proposed elevations (Z18 BRI 19A, Z18 BRI 20A and Z18 BRI 21A) received by the Council on 30th March 2017.

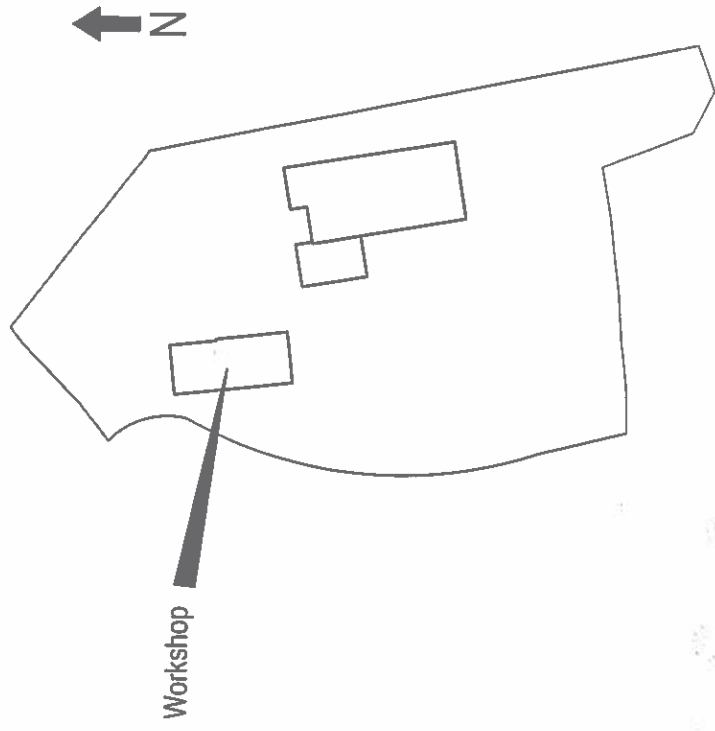
Reasons:

- 1 To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
- 2 The site is not appropriate for general residential use by reason of its location within the open countryside in accordance with Policy HOU4 and TPT1 of the Tewkesbury Borough Local Plan.
- 3 To define the terms and extent of the permission.

17/00368/fcd



Location Plan Scale 1:1250 at A3



Block Plan Scale 1:500 at A3  
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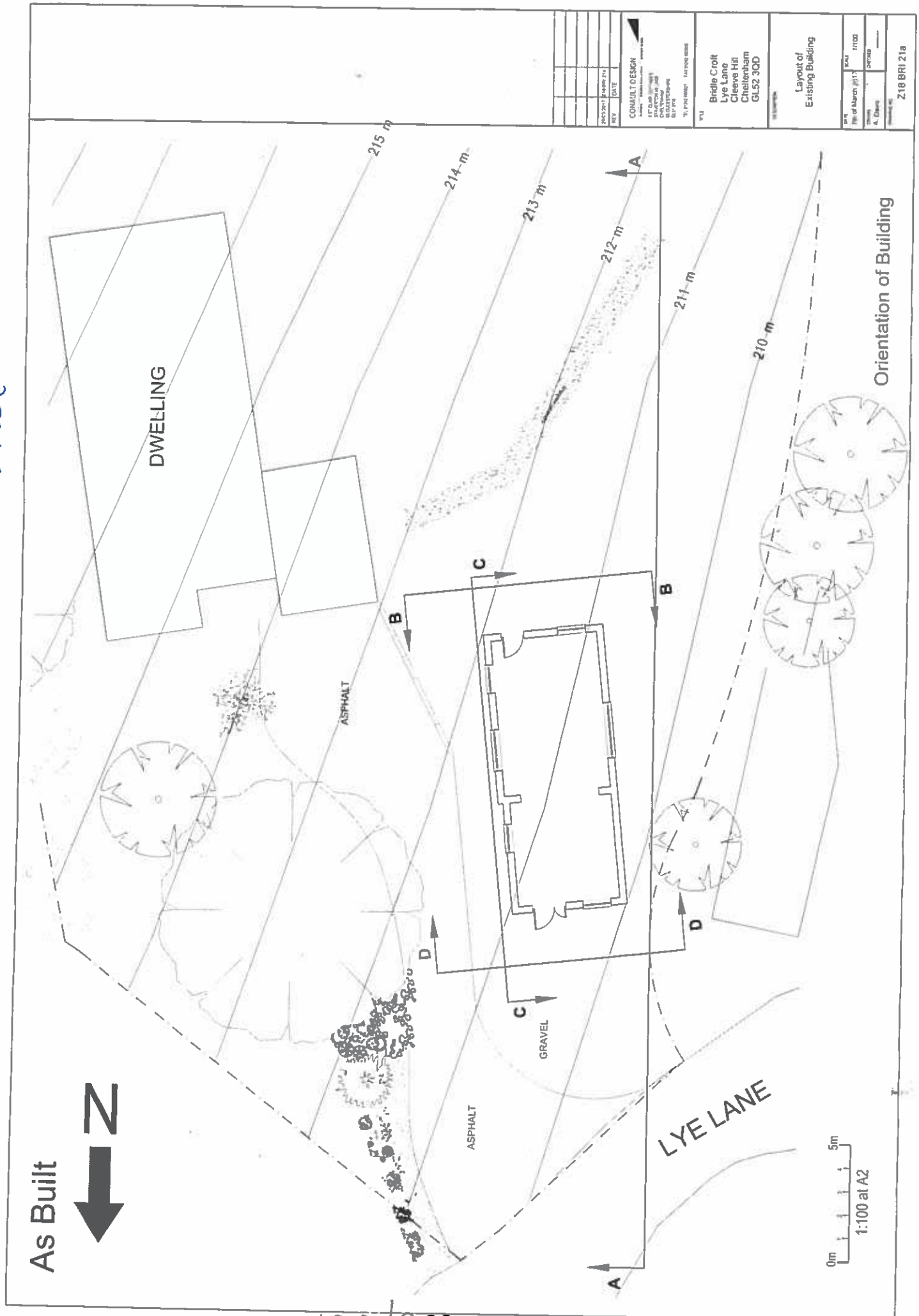
**CONAULT DESIGN**  
PLANNING | BUILDING REGULATIONS | INTERIOR DESIGN

6 ST CLAIR COTTAGES  
STAVERTON VILLAGE  
CHELTENHAM  
GLOUCESTERSHIRE  
GL51 0TW

TEL: 01242 680827 FAX: 01242 680806

138/A  
89

17/00368/fal



PROJECT NAME		DATE	
DRAWING NUMBER		DATE	
DRAWING TITLE		DATE	
DRAWING SCALE		DATE	
DRAWING AUTHOR		DATE	
DRAWING CHECKER		DATE	
DRAWING APPROVER		DATE	

**CONSULT DESIGN**  
 1st Floor 1st Floor  
 1st Floor 1st Floor  
 1st Floor 1st Floor  
 1st Floor 1st Floor  
 1st Floor 1st Floor  
 1st Floor 1st Floor  
 1st Floor 1st Floor

Bridle Croft  
 Lye Lane  
 Cleve Hill  
 Cheltenham  
 GL52 3DD

Layout of  
 Existing Building

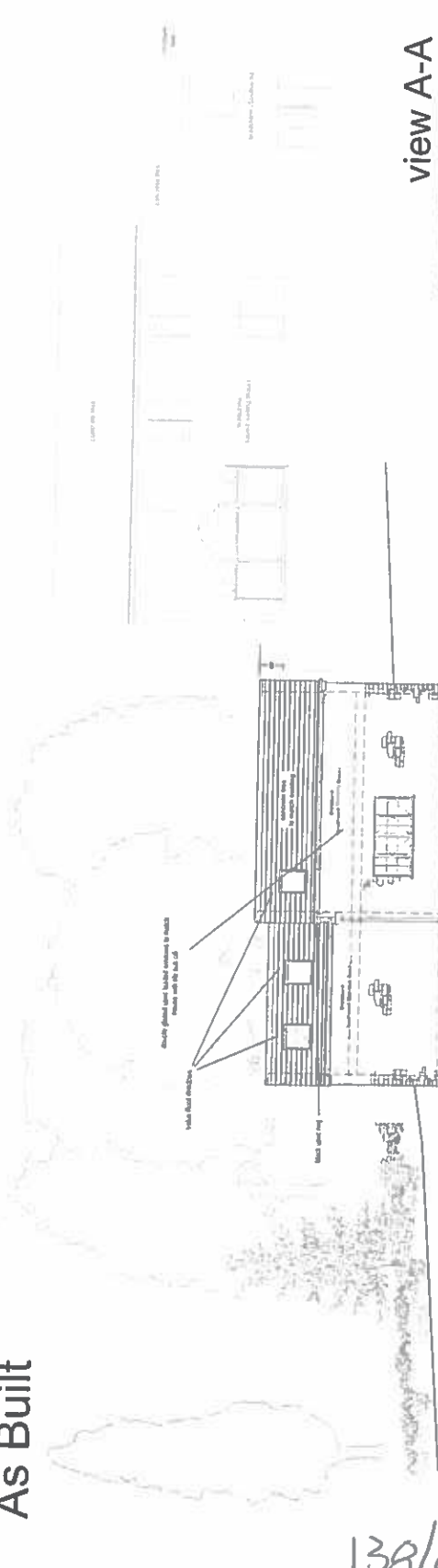
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 Date of March 2013  
 A. Eades  
 2.18 BRI 21a

138/B 90

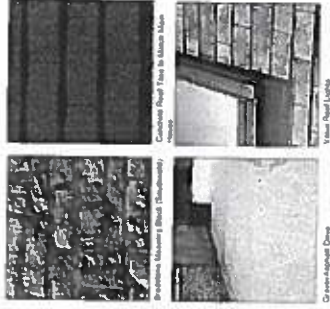
17/00368/fal

# Bridle Croft, Lye Lane, Cleeve Hill, Cheltenham, GL52 3QD.

As Built



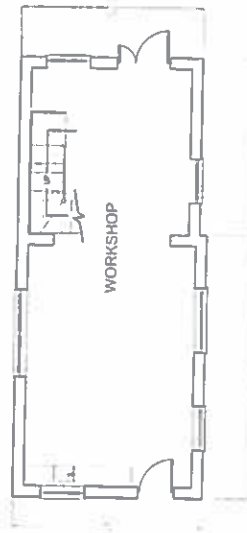
view A-A



view B-B

view C-C

view D-D



ground floor plan



first floor plan

NO	SCALE	DATE
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002	1:100	17th March 2017
003	1:100	17th March 2017
004	1:100	17th March 2017
005	1:100	17th March 2017
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019	1:100	17th March 2017
020	1:100	17th March 2017

**CONHAULT DESIGN**  
111 CROWN COURT  
44 HENRIETTA ROAD  
CHELTENHAM  
GL52 3QD

TO: PROJECT NO: 1700368

**PROJECT**  
Bridle Croft  
Lye Lane  
Cleeve Hill  
Cheltenham  
GL52 3QD

**DESCRIPTION**  
Workshop  
As Existing

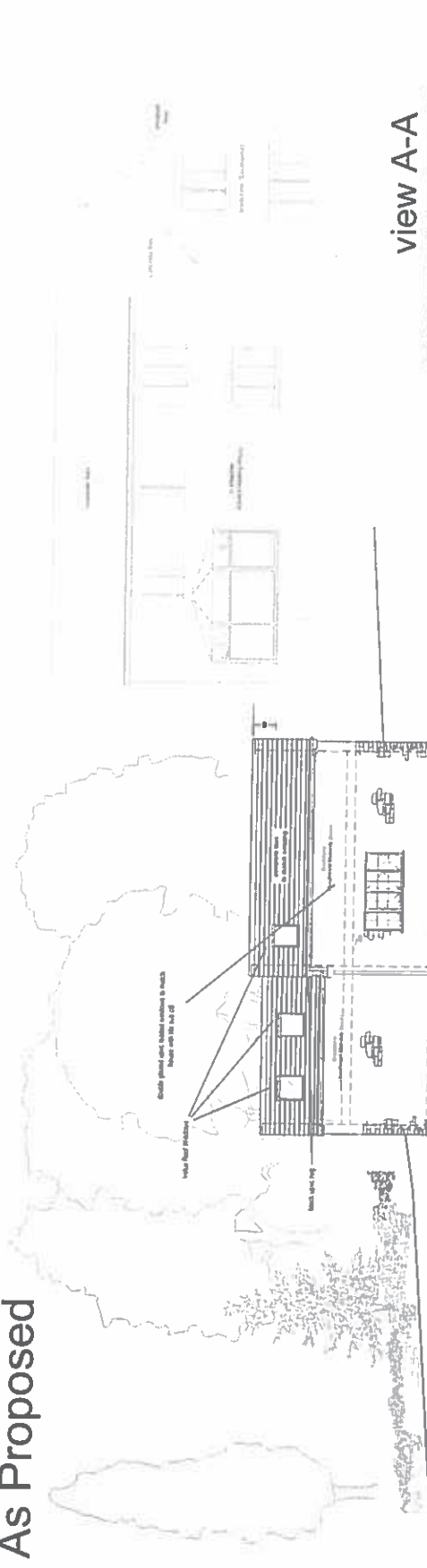
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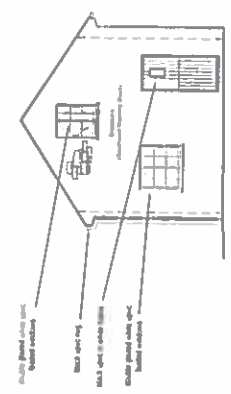
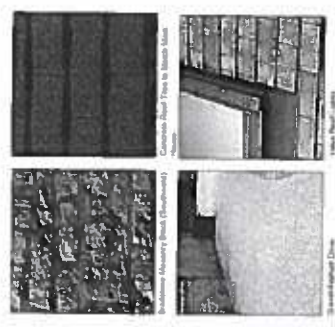
17/00368/Fuel

# Bridle Croft, Lye Lane, Cleeve Hill, Cheltenham, GL52 3QD.

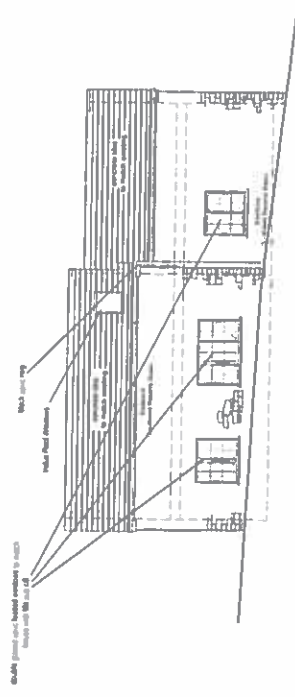
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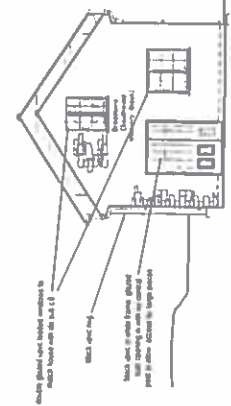
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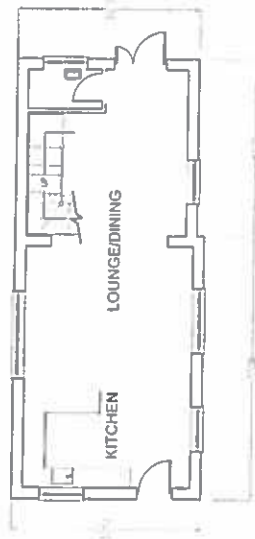
view B-B



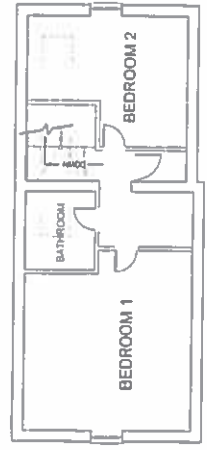
view C-C



view D-D



ground floor plan



first floor plan



138/92

DATE	17/03/2017
REV	DATE
<b>CONAULT DESIGN</b> 17, THE BARN, LYE LANE, CHELTENHAM, GLOS, GL52 3QD 01242 850000 01242 850001 01242 850002	
TEL: <b>Bridle Croft</b> <b>Lye Lane</b> <b>Cleeve Hill</b> <b>Cheltenham</b> <b>GL52 3QD</b>	
Proposed Layout As Holiday Let	
DATE	17/03
BY	A. Davis
PROJECT NO.	218 BRN/ 203

## BOROUGH COUNCILLORS FOR THE RESPECTIVE WARDS 2015-2019

Ward	Parishes or Wards of	Councillors	Ward	Parishes or Wards of	Councillors
Ashchurch with Walton Cardiff	Ashchurch Rural Wheatpieces	B C J Hesketh Mrs H C McLain	Hucclecote	Hucclecote	Mrs G F Blackwell
			Innsworth with Down Hatherley	Down Hatherley Innsworth	G J Bocking
Badgeworth	Badgeworth Boddington Great Witcombe Staverton	R J E Vines	Isbourne	Buckland Dumbleton Snowhill Stanton Teddington Toddington	J H Evetts
Brockworth	Glebe Ward Horsbere Ward Moorfield Ward Westfield Ward	R Furolo Mrs R M Hatton H A E Turbyfield	Northway	Northway	Mrs P A Godwin Mrs E J MacTiernan
Churchdown Brookfield	Brookfield Ward	R Bishop D T Foyle	Oxenton Hill	Gotherington Oxenton Stoke Orchard and Tredington	Mrs M A Gore
Churchdown St John's	St John's Ward	Mrs K J Berry A J Evans Mrs P E Stokes	Shurdington	Shurdington	P D Surman
Cleeve Grange	Cleeve Grange	Mrs S E Hillier- Richardson	Tewkesbury Newtown	Tewkesbury Newtown	V D Smith
Cleeve Hill	Prescott Southam Woodmancote	M Dean Mrs A Hollaway	Tewkesbury Prior's Park	Tewkesbury (Prior's Park) Ward	K J Cromwell Mrs J Greening
Cleeve St Michael's	Cleeve St Michael's	R D East A S Reece	Tewkesbury Town with Mitton	Tewkesbury Town with Mitton Ward	M G Szymiak P N Workman
Cleeve West	Cleeve West	R A Bird R E Garnham			
Coombe Hill	Deerhurst Elmstone Hardwicke Leigh Longford Norton Sandhurst Twigworth Uckington	D J Waters M J Williams	Twyning	Tewkesbury (Mythe Ward) Twyning	T A Spencer
Highnam with Haw Bridge	Ashleworth Chaceley Forthampton Hasfield Highnam Maisemore Minsterworth Tirley	P W Awford D M M Davies	Winchcombe	Alderton Gretton Hawling Stanway Sudeley Winchcombe	R E Allen Mrs J E Day J R Mason

11 May 2015

Please destroy previous lists.