

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Tuesday, 19 January 2016  
commencing at 9:00 am**

**Present:**

Chair  
Vice Chair

Councillor J H Evetts  
Councillor R D East

**and Councillors:**

R E Allen, R A Bird, Mrs G F Blackwell, D M M Davies, M Dean, D T Foyle, Mrs M A Gore, Mrs J Greening, Mrs A Hollaway, Mrs E J MacTiernan, J R Mason, A S Reece, T A Spencer, Mrs P E Stokes, P D Surman, R J E Vines and P N Workman

**also present:**

Councillor G J Bocking

**PL.58 ANNOUNCEMENTS**

- 58.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 58.2 Members were reminded that the Council had resolved to introduce a Scheme of Public Speaking at Planning Committee for a 12 month period, starting with the new terms of the Council in May 2015, which had therefore commenced with the meeting on 9 June 2015. The Chairman gave a brief outline of the scheme and the procedure for Planning Committee meetings.

**PL.59 DECLARATIONS OF INTEREST**

- 59.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 59.2 The following declarations were made:

<b>Councillor</b>	<b>Application No./Item</b>	<b>Nature of Interest (where disclosed)</b>	<b>Declared Action in respect of Disclosure</b>
M Dean	15/00969/FUL Land at Kayte Lane.	Is a Borough Councillor for the area.	Would speak and vote.

Mrs A Hollaway	15/00969/FUL Land at Kayte Lane.	Is a Borough Councillor for the area.  Is a Member of Southam Parish Council but does not participate in planning matters.	Would speak and vote.
J R Mason	15/01284/FUL Jean's Piece, Cheltenham Road, Winchcombe.	Is a Member of Winchcombe Town Council but does not participate in planning matters.	Would speak and vote.
Mrs P E Stokes	15/01254/FUL 50 Grove Road, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.

59.3 There were no further declarations made on this occasion.

## **PL.60 MINUTES**

60.1 The Minutes of the meeting held on 22 December 2015, copies of which had been circulated, were approved as a correct record and signed by the Chairman.

## **PL.61 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL**

### **Schedule**

61.1 The Development Manager submitted a Schedule comprising planning applications and proposals with recommendations thereon. Copies of this had been circulated to Members as Appendix A to the Agenda for the meeting. The objections to, support for, and observations upon the various applications as referred to in Appendix 1 attached to these Minutes were presented to the Committee and duly taken into consideration by them prior to decisions being made on those applications.

### **14/01201/FUL – Todpool Cottage, The Leigh**

61.2 This application was for the demolition of three pre-fabricated concrete garages/lean-to and construction of a two storey detached dwelling house. The application had been deferred at the last Planning Committee meeting for a Committee Site Visit to assess the impact of the proposed development on the surrounding area. The Committee had visited the application site on Friday 15 January 2016.

61.3 The Development Manager indicated that the Parish Council had raised concern regarding the tone of the Officer report which had been presented at the last meeting and the problems which a refusal may cause for the emerging Neighbourhood Plan. He had tried to allay those fears at the last meeting and he reiterated that the consideration of individual planning applications was very far removed from the delivery of the development plan document which the Neighbourhood Plan group was working on. The point of the plan-led system was to ensure that an element of control could be exerted in order to prevent unregulated development; permitting this application could open the door to similar applications which would be difficult to resist. The local community clearly wanted some

additional development in the area and that was something which Officers would seek to support through the plan-led process. At the previous Committee meeting, the applicant had suggested that Officers would have been supported the dwelling had it been an ultra-modern design; however, the Development Manager was of the view that a more traditional approach would be the most appropriate solution for that particular location. The proposal represented an attempt at a modern design which fitted in with the traditional style of the area but, unfortunately, he did not feel that it had been particularly successful in combining the two genres. Whilst he recognised that the length of time it had taken for the application to reach this stage since it had originally been submitted was unacceptable, and that was something for which he could only apologise, he reminded Members that it was not a material planning consideration in terms of the determination of a planning application.

- 61.4 The Chair invited the applicant, Colin Withers, to address the Committee. Mr Withers indicated that, in the year since the application had been submitted, two reports had been completed by Officers; the first to permit and the current to refuse. Both reports had concluded that the Joint Core Strategy and local development plan programmes were at early stages and should carry limited weight with national guidelines in the National Planning Policy Framework being the driving direction. This was particularly relevant as the application should have been determined by April 2015. The current report, completed under instruction to refuse, set out two grounds for rejection. The first was on the basis that the Leigh, and this site in particular, was in an isolated countryside location; the second related to design, mass and the effect on the footpath. In contrast, the initial report to permit had concluded that “the application site has dwellings either side, is considered to be an appropriate infill development and cannot be considered to be within an isolated location as bus services are within walking distance”. It further stated that the proposal was a “suitable size, layout and design that would have an acceptable impact on the character and appearance of the surrounding area, including the Landscape Protection Zone”. This demonstrated the stark difference between the reports. The Parish Council Chair had highlighted that local residents wished to see controlled development within the area. School children walked safely along traffic-free lanes to catch buses to Gloucester and Tewkesbury and the village was ideally located close to employment and retail centres in Cheltenham, Gloucester and Tewkesbury. The village was well serviced and the application site was surrounded by 22 other houses, with more than 80 homes in the Leigh as a whole, which was certainly not an isolated location. The joy of the village was the mixture of houses and many of the local features had been reflected in the design of the proposal. By not having a square box, the height of the dwelling had been minimised and was over 1.5 metres lower than the adjacent property. He considered that more interesting and varied elevations had been produced when viewed from all angles and it should be borne in mind that the National Planning Policy Framework stated that “planning decisions should not attempt to impose architectural styles or particular tastes”. The footpath was rarely used but, as seen on the Committee Site Visit, it would be made wider than present, and would be far wider than the other end of the footpath which narrowly emerged between two properties. Paragraph 55 of the National Planning Policy Framework set out that “housing should be located where it will enhance or maintain the vitality of rural communities” and “where there are groups of smaller settlements, development in one village may support services in a village nearby”. He hoped that the Committee would agree with the National Planning Policy Framework, and the Parish Council, and support the village by approving the application.

- 61.5 The Chair advised that the Officer recommendation was to refuse the application

and he sought a motion from the floor. It was proposed and seconded that the application be permitted. The proposer of the motion indicated that the Committee Site Visit had given Members an opportunity to assess the site and to verify the Parish Council's point about the very limited number of new houses which had been built in the village during the last two decades. He did not feel that it was true to say that people living on the site were entirely dependent on private transport as there were bus stops within walking distance that were used on a daily basis by school children. He was of the opinion that some development was needed in every village, provided that it was not unlawful, and there were no objections to justify a refusal in his view. Another Member proposed that the application be refused in accordance with the Officer recommendation, however, this motion was not seconded.

61.6 A Member indicated that he wholeheartedly agreed with the proposal to permit the application and felt that the Parish Council's views should be taken into account. He struggled to understand the suggested reasons for refusal and asked Officers to elaborate. In response, the Development Manager explained that the first suggested refusal reason related to the site's isolated location. This was taken to be in the context of day-to-day facilities which could not be accessed by any means other than the private car. Bus access direct to Tewkesbury and Gloucester was available from the A38 which could be reached on foot, however, the road network leading from the site was not lit and there were no footways along the narrow country lanes. If the application was permitted, the amount of pedestrians using the lanes was likely to increase and this was not a situation which Officers would like to encourage. He noted that the applicant had said that the Parish Council wished to see additional development in the village, and that was something which Officers fully understood and would look to support; however, this application represented uncontrolled development which could be replicated many times. Whilst it was unrealistic to expect that everyone in the Leigh would want to sub-divide their properties in the same way, permitting the application could lead to many other properties being built which was not necessarily what the local community wanted. In terms of design, the Development Manager reiterated that he did not think the proposal had been successful in merging modern with traditional features but that was a matter of judgement. If Members were minded to grant planning permission, he felt that conditions should be included in respect of materials, ground levels, boundary treatments and access/parking. In addition, a note would need to be included to ensure that the footpath was not damaged or blocked during construction, in accordance with the representations made by County Highways. A Member indicated that he would like to see a condition to ensure the protection of the footpath, however, he was advised that this would be unreasonable given that no works were specifically proposed to the footpath. Notwithstanding this, any disturbance which was caused would be covered by other highways legislation.

61.7 The proposer and seconder of the motion indicated that they would be happy to include the conditions and note suggested by the Development Manager and, upon being put to the vote, it was

**RESOLVED** That the application be **PERMITTED**, subject to conditions relating to materials, levels, boundary treatments and access/parking, and a note to ensure that the footpath was not blocked or damaged during construction.

- 61.8 This application was for the demolition of an existing two storey rear extension and the erection of a two storey rear and side extension and rear deck/terrace area; removal of bay window to front elevation of existing dwelling and installation of replacement windows in existing dwelling (revised scheme). The Committee had visited the application site on Friday 15 January 2016.
- 61.9 The Chair invited the applicant, Tricia Joyce, to address the Committee. She explained that she currently lived in Norfolk with her husband and they had bought Foxhollow three years earlier. The house had approximately six acres of land and was used by their daughter to keep horses. They were full time carers for their seven year old grandson and wished to create a home for him where he had space to play and where there was room for his mother, who suffered with her mental health, to stay when she visited. The existing property was in a poor state of repair, with an unsightly rear extension, and the only entrance was via a narrow path to the back of the building, less than one metre from next door. She pointed out that the Officer's report stated that the property only had two bedrooms when it fact had three, together with a living room, bathroom and kitchen. They were looking to adapt the property more in line with modern living and, because of the way the house sat in the land, it had been designed with the main living accommodation upstairs. It was still only intended to have three bedrooms but, besides the usual family bathroom, ensuite and separate cloakroom, a toilet and shower room had been included on the ground floor due to layout, and because horses were kept on site. The existing part of the house was in keeping with the adjoining property and the pink paint and out of keeping bay window had been removed. Rather than build a straight ugly block, they had designed the property to mimic something which had evolved over the years. They had removed the window, which completely overlooked the back of the neighbouring property, and had set the extension back to make it subservient to the existing house and, by doing so, had joined old and new. She argued that the proposal was not contrary to Policy HOU8 of the Tewkesbury Borough Local Plan, rather it was good design and not out of character within the local vernacular. There was already an established entrance to the property which led up the drive and between the front of the stables, and a very established Weeping Willow tree. By setting the extension back, it addressed the problem the Planning Officers had in relation to the streetscene. If the extension was to be brought forward, it would necessitate opening up the front in order to get to the front of the house, thereby making the whole property much more visible from the street. As it currently stood, during the spring and summer months particularly, the extension would only be visible momentarily when going up the hill, and not at all when going down the hill. There now seemed to be a concern regarding the deck terrace overlooking the neighbour's property, however, it had not previously been raised as an issue and it should be noted that no reference had been made to it in the past. There was no line of sight from the terrace to the back of the house and, as the ground sloped upwards, one could clearly see into the neighbouring back garden by simply standing further up their garden, as the neighbours could also do in relation to their property. In terms of size, she reiterated that the total amount of land was approximately six acres so they did not feel that a three bedroom house was unrealistic given that it would be occupied by a growing child and taking into account the paraphernalia involved with keeping horses.
- 61.10 The Chair indicated that the Officer recommendation was to refuse the application and he invited a motion from the floor. A Member proposed that the application be refused in accordance with the Officer recommendation; this motion was not seconded. Another Member proposed, and it was seconded, that the application be deferred in order for Officers to negotiate an amended scheme which changed the design of the front elevation to remove the gable element. The proposer of the motion felt that this was very much a two part application and she had no concerns regarding the rear extension, which she considered would actually improve the house, however, she did take issue with the front elevation, particularly the gable

feature which did not fit in with the streetscene. She felt that Officers would be able to work with the applicants to come up with an alternative design which would be more fitting. The seconder of the motion agreed that the house was an eyesore and should not be left in its current state, however, the proposed design was poor and he felt that something could be done to make it more acceptable in planning terms.

- 61.11 On the basis of the comments made, a Member questioned whether a delegated permission would be more appropriate than a deferral. The Development Manager advised that he would be comfortable negotiating under delegated authority in this particular case, given the clear steer from Members. He confirmed that, if Members were minded to delegate authority to permit the application, if it was not possible to agree an amended scheme, the application would be brought back to the Committee. Based on this advice, the substantive motion was withdrawn and it was proposed and seconded that authority be delegated to the Development Manager to permit the application, subject to amending the design of the front elevation to remove the gable element. A Member indicated the site itself was in a terrible state and questioned whether it would be possible to include a condition to secure some form of landscaping. The Development Manager explained that the site was in a poor condition because the work had not yet been undertaken and he felt that the issue would resolve itself in terms of the streetscene once the development had been permitted without the need for a condition. Upon being put to the vote, it was

**RESOLVED** That authority be **DELEGATED** to the Development Manager to **PERMIT** the application, subject to amending the design of the front elevation to remove the gable element.

**15/01284/FUL – Jean’s Piece, Cheltenham Road, Winchcombe**

- 61.12 This application was for the erection of a single detached dwelling and associated works. The Committee had visited the application site on Friday 15 January 2016.
- 61.13 The Chair invited the applicant, Neil Bennett, to address the Committee. Mr Bennett advised that he had been a resident of Winchcombe Town for over 30 years and, some 15 years earlier, had been given the opportunity to purchase a piece of garden ground, with a garage, situated between existing residential development. It was a delightful spot by the River Isbourne where he spent happy, peaceful hours and regularly used the garage. The ability to buy the land came from a bequest from his Aunt Jean, after whom the land was named. The land had been purchased with the intention of building a family home and garden on the site. His eldest daughter was an architect, with considerable experience in sustainable development and passive house design, and she had designed the proposed house to rigorous standards for energy efficiency to reduce its ecological footprint and also to protect against the risk of flooding. He explained that the building was raised on piers above ground level and, as acknowledged by the Council’s Flood Risk Management Engineer, the design approach resulted in the proposed house being located in the lowest flood zone. There was no objection to the application from the Council’s Flood Risk Management Engineer and the Flood Risk Assessment accompanying the application had concluded that the design approach provided an improvement in terms of flood risk on site. Whilst he understood that the Council had concerns over the Flood Risk Sequential Test, and had highlighted that alternative sites could be developed instead, he did not have the means to purchase any other sites, particularly those significantly larger sites suggested. Some concern had been raised over potential intrusion into the landscape, but Jean’s Piece sat in a hollow, below the Cheltenham Road and adjacent fields, and was virtually invisible from the rights of way to the east, as shown in the landscape report. Neither the Town Council, nor the Council’s Conservation Officer had raised objection to the proposal. He went on to explain that the proposed dwelling would be between existing residential development and the emerging Winchcombe and Sudeley Neighbourhood Plan identified his site as within the built-up area of Winchcombe; residential development should, therefore, be acceptable on the site. For him, this

was a once in a lifetime opportunity to build a home in a lovely, peaceful setting which was already part of his family. He thanked Members for the chance to address them and respectfully beseeched them to approve his application.

- 61.14 The Chair indicated that the Officer recommendation was to refuse the application and he invited a motion from the floor. It was proposed and seconded that the application be permitted. The proposer of the motion explained that, whilst he could understand the reasons for the Officer recommendation to refuse the application, there were peculiar circumstances which he felt justified permission. He felt that it would be particularly beneficial to gain experience from a house which had been designed with flood protection measures installed; something which was not generally done in the UK but was more common in other countries. It would be very interesting to see the house being constructed and to continue to monitor it once built to see what impact it had on flooding in the area. He reiterated that Winchcombe Town Council, which was normally keen to prevent building in areas where there was a risk of flooding, had raised no objection and the Council's own Flood Risk Management Engineer could see merit in what was proposed. The dwelling would be lower than the road and it would fit well in the streetscene so he felt this was an opportunity which should not be missed. The Planning Officer advised that the key issue with the site was its location within Flood Zones 2 and 3. In terms of Government guidance, in order to direct development away from the areas at highest risk of flooding, the National Planning Policy Framework required Local Planning Authorities to carry out a sequential test when assessing applications for new development. It was necessary to demonstrate, via the sequential test, that there were no suitable sites which could be built upon within Flood Zones 1 and 2. The applicant had presented his personal circumstances as to why it was not feasible to consider other sites; however, the guidance did not limit the sequential test to sites within the applicant's ownership and, as there were alternative sites available, the proposal failed the sequential test. In terms of the previous appeal in respect of a single dwelling on the site, the Inspector had felt that the development represented a distinct character break between the more intense ribbon development along the main road and the more sporadic development stretching out onto Corndean Lane. On that basis, it was considered that the development would have a harmful impact on the landscape. If Members were minded to permit the development, she recommended the inclusion of conditions in respect of materials and architectural detailing; landscaping and tree protection; levels; access/parking; and flooding/drainage. The Development Manager clarified that the Flood Risk Management Engineer looked at the application in terms of technical design and whether the proposal would do what it intended to do in terms of flooding and drainage which, in this case, he felt that it would. Notwithstanding this, clearly the best way to protect a property from flooding was to build it outside of a flood risk area.
- 61.15 The seconder of the motion indicated that he was a local Member for the area and was well aware of the patterns of flooding around the proposed application site. He had never known that particular area to flood and could see no threat from flooding if the dwelling was permitted. A Member indicated that there seemed to be two main reasons for refusal, one in relation to the sequential test and the other in respect of landscape harm. He felt that the landscape harm would be minimal subject to appropriate mitigation conditions and the applicant had made the point that, whilst there may be other suitable sites available for the development, they were not within his possession. A Member drew attention to Page No. 652, Paragraph 4.25 of the Officer's report, which stated that there would be an attenuation pond on the site, however, this was not shown on the plans and it was not clear where that feature would be located. She felt that it was important to be pragmatic and, if there was no other viable land for the applicant to build the dwelling in Flood Zones 1 or 2, it should not be insisted that he go elsewhere. The Planning Officer advised that the location of the pond was not known, however, the Flood Risk Management Engineer

had raised no objection to the application subject to the imposition of a condition to secure a satisfactory Sustainable Drainage System (SuDS)/Drainage Management Plan. The SuDS scheme may include a pond but, if that was not possible, there were other mechanisms which could be used to ensure that the condition was satisfied.

61.16 Upon being taken to the vote, it was

**RESOLVED** That the application be **PERMITTED** subject to conditions relation to materials and architectural detailing; landscaping and tree protection; levels; access/parking; and flooding/drainage.

**15/01155/FUL – Stoke Orchard Garage, Stoke Road, Stoke Orchard**

61.17 This application was for residential development consisting of six dwellings, including associated access and landscaping, following demolition of existing garage buildings and residential dwelling known as 'Burning Bush'. The Committee had visited the application site on Friday 15 January 2016.

61.18 The Planning Officer advised that the Additional Representations Sheet, attached at Appendix 1, contained a lot of information in relation to the concern raised by the Parish Council regarding the existing drainage problems, particularly on the road. It was hoped that the proposed development could look to resolve those issues closest to the site and the Parish Council had identified the work which would need to be done to improve the situation, including work to the highway. The proposals included laying a pipe which was on adjoining land that was outside of the application site and not within the applicant's ownership. A condition was recommended for inclusion in the planning permission requiring drainage details to be submitted and approved by the Local Planning Authority; however, the Parish Council was concerned that the condition would not ensure implementation of the scheme which it had identified to resolve the drainage problems. The Planning Officer had spoken to the Parish Council and explained that it was not possible to require work to be carried out on land which was outside of the applicant's control, however, the proposed condition would ensure that suitable drainage for the development was agreed which it was anticipated would also resolve the existing drainage problems. The condition was set out on the Additional Representations Sheet and this had now been agreed with the Parish Council which appreciated the problems that would be caused if a condition was included which could not be enforced. In response to a query, she clarified that the Parish Council had discussed its suggested scheme with the landowner along whose field boundary the pipe would be laid and he was in full agreement, provided that the work was carried out at a time suitable to conditions and his use of the field. It may be that the scheme could still be brought forward but it was not possible to secure that via a planning condition; the planning permission could only require the applicant to do work which he was able to do and it would be unreasonable and unenforceable to expect the applicant to implement the scheme identified by the Parish Council given that some of the land was outside of his ownership.

61.19 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to delegate authority to the Development Manager to permit the application, subject to the completion of a Section 106 Agreement towards affordable housing and appropriate conditions. It was proposed and seconded that authority be delegated to the Development Manager to permit the application in accordance with the Officer recommendation, subject to the completion of a Section 106 Agreement towards affordable housing and the conditions set out in the Officer report and on the Additional Representations Sheet. Upon being taken to the vote, it was

**RESOLVED** That authority be **DELEGATED** to the Development Manager to



**PERMIT** the application, subject to the completion of a Section 106 Agreement towards affordable housing and the conditions set out in the Officer report and on the Additional Representations Sheet.

**15/00969/FUL – Land at Kayte Lane**

- 61.20 This was a retrospective planning application for change of use of land to include stationing of caravans for residential occupation by gypsy/traveller family with associated hardstanding; amendments to access; fencing; entrance gate; package treatment plant; and utility block. The Committee had visited the application site on Friday 15 January 2016.
- 61.21 The Chair invited Councillor Kevin Wilcox, Chair of Southam Parish Council, to address the Committee. Councillor Wilcox indicated that Southam Parish Council had a responsibility for the protection of both the Cotswold Area of Outstanding Natural Beauty to east of the village and the Cheltenham Green Belt to the west. Southam Parish Council argued the case to stop new development in those areas, keeping them as open countryside. The green space was an asset for the enjoyment of the inhabitants of both Cheltenham and Tewkesbury and keeping the landscape clear gave open views of Cleeve Hill and the Cotswold escarpment for all. With regard to the application for planning permission on land off Kayte Lane, the Parish Council had advised that it had received a number of representations regarding the alleged illegal use of the land and creation of the access and driveway. It was understood that the safety of the bridge and road may have been compromised during the site excavations. It was the Parish Council's view that the application should be refused due to the close proximity of the site to the junction with Southam Lane. Traffic speeds of up to 70mph had been recorded on Southam Lane and the junction with Kayte Lane was on a blind corner. The building was too high and large for the plot and the Parish Council requested that the Committee refused permission.
- 61.22 The Chair advised that the Officer recommendation was to refuse the application and he sought a motion from the floor. It was proposed and seconded that the application be refused in accordance with the Officer recommendation and, upon being taken to the vote, it was
- RESOLVED** That the application be **REFUSED** in accordance with the Officer recommendation.

**15/01149/OUT – Land at Tewkesbury Road, Twigworth**

- 61.23 This application was for a mixed used development comprising demolition of existing buildings; up to 725 dwellings and a local centre of 0.33 hectares (A1, A2, A3, A4, A5, D1 and D2 uses); primary school; open space; landscaping; parking; supporting infrastructure and utilities; and the creation of a new vehicular access from the A38 Tewkesbury Road.
- 61.24 The Development Manager advised that an amended response had been received from the Lead Local Flood Authority indicating that it raised no objection to the application, subject to the inclusion of conditions. A further letter of objection had been received from a local resident which repeated many of the comments set out in the Officer report. The Environmental Health Officer response had now also been received and no objections were raised in terms of noise and contaminated land which could not be adequately dealt with by way of condition, however, it was considered that the assumptions in the Environmental Statement in respect of air quality were ambitious. The Environmental Statement assumed that the use of cars and other vehicles would diminish over the next five years; if that did not happen, the overall impact on air quality would be significant, particularly in the Air Quality Management Area within Gloucester. Gloucester City Council had been informally consulted and agreed with the Environmental Health Officer that the issues could be

addressed by a Section 106 Agreement condition around the monitoring of air quality; however, there was no such provision in the proposal at present.

- 61.25 In terms of the policy position in respect of major housing applications, whilst the Council was unable to demonstrate a five year supply of deliverable housing sites, and Policy HOU4 of the Local Plan was subsequently out of date, the site was located in the Green Belt. On that basis, the presumption in favour of sustainable development set out within the National Planning Policy Framework did not apply in this case and the application must therefore be considered on its merits in context of the presumption against inappropriate development in the Green Belt. The National Planning Policy Framework set out that inappropriate development was, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local authorities should ensure that substantial weight was given to any harm to the Green Belt by reason of inappropriateness. Very special circumstances would not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, was clearly outweighed by other considerations. The applicant's case was set out in the Officer report and suggested that very special circumstances did exist in terms of the benefits to the Council's housing land supply situation and the provision of market and affordable housing, as well as the economic benefits during the construction phase and beyond. Members were reminded of the preliminary findings of the Joint Core Strategy Inspector. Whilst the site had been discussed and put forward as an omission site in the Joint Core Strategy process, it was for the plan-led process to decide whether exceptional circumstances existed to release land from the Green Belt for housing. In this particular case, Officers did not consider that the argument in favour of the development amounted to the very special circumstances required to outweigh Green Belt harm, and the other harm identified in the report. It was noted that there were a number of concerns from the local community and beyond regarding flood risk and drainage, however, all of the built development would be within Flood Zone 1 which complied with local and national guidance. The Environment Agency, Lead Local Flood Authority and the Council's Flood Risk Management Engineer all accepted the considerations of the Flood Risk Assessment submitted with the application and raised no objections subject to the inclusion of a condition requiring the submission of a flood risk scheme which included sustainable drainage. Notwithstanding this, the application was recommended for refusal for the reasons set out in the report, and the additional reason in relation to air quality.
- 61.26 The Chair invited Councillor Rick Minter, a representative from Down Hatherley Parish Council, to address the Committee. Councillor Minter indicated that, as well as the Chair of Twigworth Parish Council, the Chairs of Norton and Down Hatherley Parish Councils were also present at the meeting as an indication of the wider concerns in relation to the application. The application was scaled at 725 dwellings, however, the actual map of proposals highlighted additional neighbouring areas in the Twigworth and Down Hatherley Green Belt totalling a further 1152 dwellings. This might show the applicant's true intentions and suggested that all the issues of flood risk, traffic generation and scale of impact on the Green Belt and swallowing of Twigworth could be even more severe than stated in the Officer report. He highlighted that the grand total of 1877 houses was nearly 10 times the scale of Twigworth; even 725 dwellings would be almost four times the current scale of Twigworth. He went on to advise that a Neighbourhood Development Plan for Twigworth, Down Hatherley and Norton had been being formulated for almost three years and the final drafts were now being discussed with Tewkesbury Borough Council Planning Officers. The Neighbourhood Development Plan's vision was to enhance the valued rural character of the area and to guide the development of up to 39 dwellings for Twigworth and around 15 dwellings for Norton. The Neighbourhood Development Plan tried to plan sensitively and responsibly, at a community scale, and a large swathe of suburban development in the Green Belt

was completely at odds with its vision. The scale of development would disperse traffic through adjacent narrow rural roads where horse riders, cyclists and pedestrians already had to share space with motor vehicles. The traffic would create even longer backlogs along the A38 to the Longford roundabout and would add to the problems of 'rat-running' through Sandhurst, Norton and beyond. With this proposed development, the A38 and the area's narrow rural roads would become unviable for long periods of the day and there would be severe dangers to horse riders, cyclists and pedestrians using the surrounding rural roads. The advice provided to Tewkesbury Borough Council on flood risk in relation to the application, especially from the Environment Agency, did not accord with the professional advice from hydrologists deployed by the Neighbourhood Development Plan steering group which had concluded that there was severe flood risk from the application and the apparent complacency on the proposed mitigation measures, as suggested in the Committee report, could not be supported. One example of the mismatch in views on flood risk could be seen on the applicant's map which showed a number of houses very close to the site as having the least possible flood risk, yet those houses had been flooded in 2007, forcing long term evacuation. Tewkesbury Borough Council Officers had proposed a meeting between the Neighbourhood Development Plan steering group, the Environment Agency and Gloucestershire County Council to discuss flood protection policies proposed in the forthcoming Neighbourhood Development Plan; that clearly needed to happen and the group was actively seeking a meeting.

- 61.27 The Chair indicated that the Officer recommendation was to refuse the application and he sought a motion from the floor. It was proposed and seconded that the application be refused in accordance with the Officer recommendation. In response to a query regarding the positive nature of some of the consultee responses, the Development Manager reiterated that, due to the nature of the application there would be some statutory consultees who looked specifically at the technical issues and found no objections, for example, the responses around flood risk and drainage received from the Environment Agency, Severn Trent Water and the Council's Flood Risk Management Engineer. However, there were numerous other objections to the application, both technical and 'in principle', and Officers were confident with the recommendation put forward. A Member went on to express the view that this was a 'no brainer'. The Green Belt was being reviewed through the plan-led process and if it was decided that certain omission sites should be brought forward, that would be the time to do it. Upon being put to the vote, it was

**RESOLVED** That the application be **REFUSED** in accordance with the Officer recommendation.

**15/01254/FUL – 50 Grove Road, Churchdown**

- 61.28 This application was for the erection of a two storey dwelling, attached to the side elevation of existing dwelling, and erection of porch and single storey rear extension to existing dwelling (revised scheme). The Committee had visited the application site on Friday 15 January 2016.
- 61.29 The Chair advised that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed that the application be refused on the basis that it would represent overdevelopment, however, this motion was not seconded. It was subsequently proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

**RESOLVED** That the application be **PERMITTED** in accordance with the Officer recommendation.

**PL.62 CURRENT APPEALS AND APPEAL DECISIONS UPDATE**

62.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Pages No. 30-33. Members were asked to consider the current planning and enforcement appeals received and the Communities and Local Government (CLG) appeal decisions issued.

62.2 It was

**RESOLVED** That the current appeals and appeal decisions update be **NOTED**.

**PL.63 ADVANCED SITE VISITS BRIEFING**

63.1 Attention was drawn to the Advanced Site Visits Briefing, circulated at Pages No. 34-35, which set out those applications that had been identified as ones which would be subject to a Committee Site Visit on the Friday prior to the Planning Committee meeting at which they would be considered. Members were asked to note the applications in the briefing.

63.2 It was

**RESOLVED** That the Advanced Site Visits Briefing be **NOTED**.

The meeting closed at 10:20 am

## Appendix 1

**SCHEDULE OF PLANNING APPLICATIONS**  
**ADDITIONAL REPRESENTATIONS**

Date: 19 January 2016

The following is a list of the additional representations received since the schedule of applications was prepared and includes background papers received up to and including the Monday before the Meeting.

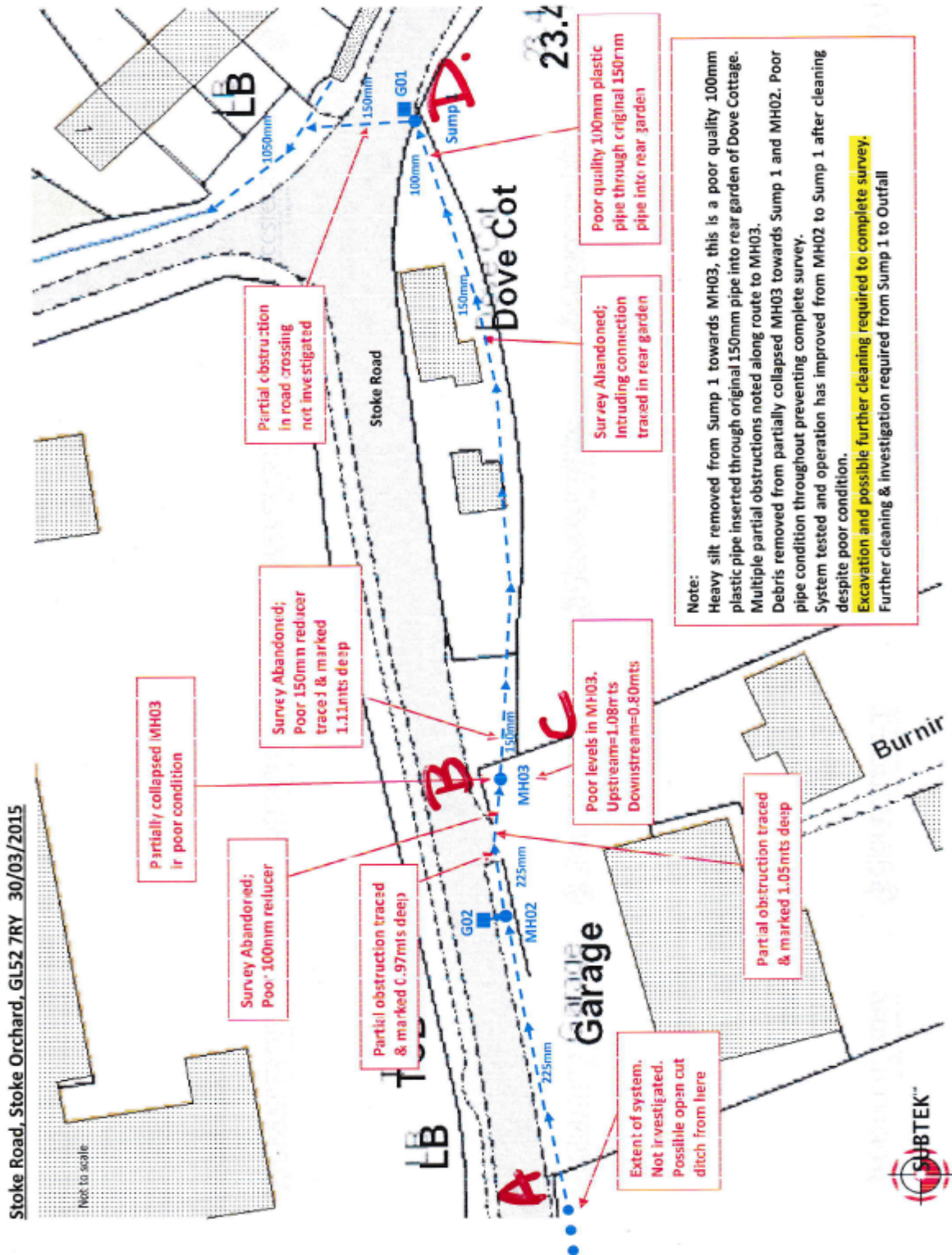
A general indication of the content is given but it may be necessary to elaborate at the Meeting.

Page No	Item No	
642	2	<p><b>15/01281/FUL</b></p> <p><b>Foxhollow, The Stream, Ashleworth, Gloucester, Gloucestershire, GL19 4JH</b></p> <p><b>Representations</b></p> <p>The Committee report advised that one letter of representation had been received, which was from occupiers of The Mount, The Stream. This letter of representation raised concern regarding drainage, which was detailed within the Committee report. Occupiers of The Mount have since provided supplementary comments on this application, as follows:</p> <p>"This domestic waste disposal system [use of the septic tank located at the neighbouring property, The Mount] has been used by the applicants for a considerable time, during their regular and frequent visits to the property, where for the duration of those visits they occupy a mobile home which was put on site in August 2014. A drain pipe has been installed underground connecting the mobile home to the shared septic tank at The Mount and comes to the surface near the boundary with The Mount before discharging into the existing system via a drain located at Foxhollow about 1 metre from that boundary. The cover has been removed from this drain at Foxhollow and replaced by an upturned plastic bucket, creating what appears to be an open sewer. The emergence of this drainage pipe from underground and the upturned bucket may be seen in the photograph at figure 11 among the photographs included in the application of the existing buildings and site".</p> <p>Matters regarding the disposal of surface water from the site and the drainage of domestic waste were covered under Paragraph 5.13 of the Committee report, and remain relevant.</p> <p>The mobile home referred to in the letter of representation does not form part of this planning application and is not included within the proposed plans.</p> <p><b>Ashleworth Parish Council</b> has provided no comments on this application to date.</p> <p><b>Recommendations</b></p> <p>It is recommended that planning permission is refused for the reasons given within the Committee report.</p>

648	3	<p><b>15/01284/FUL</b></p> <p><b>Jean's Piece, Cheltenham Road, Winchcombe, Cheltenham, Gloucestershire</b></p> <p>Officer comments - The reference in Paragraph 4.38 refers to an objection letter sent on the previously withdrawn scheme. No further letter of objection has been submitted in relation to this identical application.</p>
656	4	<p><b>15/01155/FUL</b></p> <p><b>Stoke Orchard Garage, Stoke Road, Stoke Orchard, Cheltenham, Gloucestershire, GL52 7RY</b></p> <p><b>Consultations and Representations</b></p> <p><b>Parish Council</b> - The Parish has highlighted issues with an existing collapsed drain system which has caused ongoing problems, both to the residents and to traffic through the village. A plan has been submitted (<b>see attached</b>) which shows new drainage works including the laying of a new drain. Following discussions with County Highways, it had been agreed to add extra gullies and carry out other works including outfalling into the existing pipework and upgrading the cross road culvert to ensure efficiency and improvement. The Parish Council has also spoken with the landowner along whose field boundary the pipe C - D will be laid and he is in full agreement as long as the work is carried out at a time suitable to conditions and his use of the field. The applicant has agreed to install the section B - C - D within six months of the planning permission being granted so that drainage improvements may be achieved as soon as possible. Subject to an appropriate drainage condition to ensure these works are carried out, the Parish Council would withdraw its objection to the application - the main objection being based upon the drainage issue.</p> <p><b>Officer comments</b> - The following drainage condition is recommended:</p> <p>10. Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved by the Local Planning Authority and the scheme shall subsequently be implemented in accordance with the approved details before the development is occupied.</p> <p>Reason: To ensure adequate disposal of foul and surface water drainage and to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policies EVT5 and EVT7 of the Tewkesbury Borough Local Plan to 2011 - March 2006.</p> <p>Members should note that, in order to meet the tests for the use of conditions as set out in the National Planning Policy Framework, conditions are required, inter alia, to be necessary, relevant to the development to be permitted and enforceable. In this respect, some of the works (pipeline section C - D) would be on land outside the application site and outside the applicant's ownership/control. As such it would not be reasonable nor enforceable to require these works to be undertaken but the condition suggested above would ensure that drainage on the application site and adjoining highway would be improved which should resolve the existing flooding problems.</p> <p><b>Further comments from Parish Council</b> - the suggested condition is of no practical use without the installation of the whole system as there will be no available outfall for that pipe covered by the suggested Condition of the Planning Office.</p>

		<p><b>Officer comments</b> - Whilst the concerns of the Parish Council are noted, the suggested condition would ensure that adequate drainage would be provided to serve this development. The Authority can only impose conditions that meet the tests in the National Planning Policy Framework and as such cannot require drainage works to be carried out on land in separate ownership.</p>
663	5	<p><b>15/00969/FUL</b></p> <p><b>Land At, Kayte Lane</b></p> <p><b>Additional Note:</b></p> <p>1. Statement of Positive and Proactive Engagement</p> <p>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.</p> <p><b><i>A copy of the injunction is attached.</i></b></p>

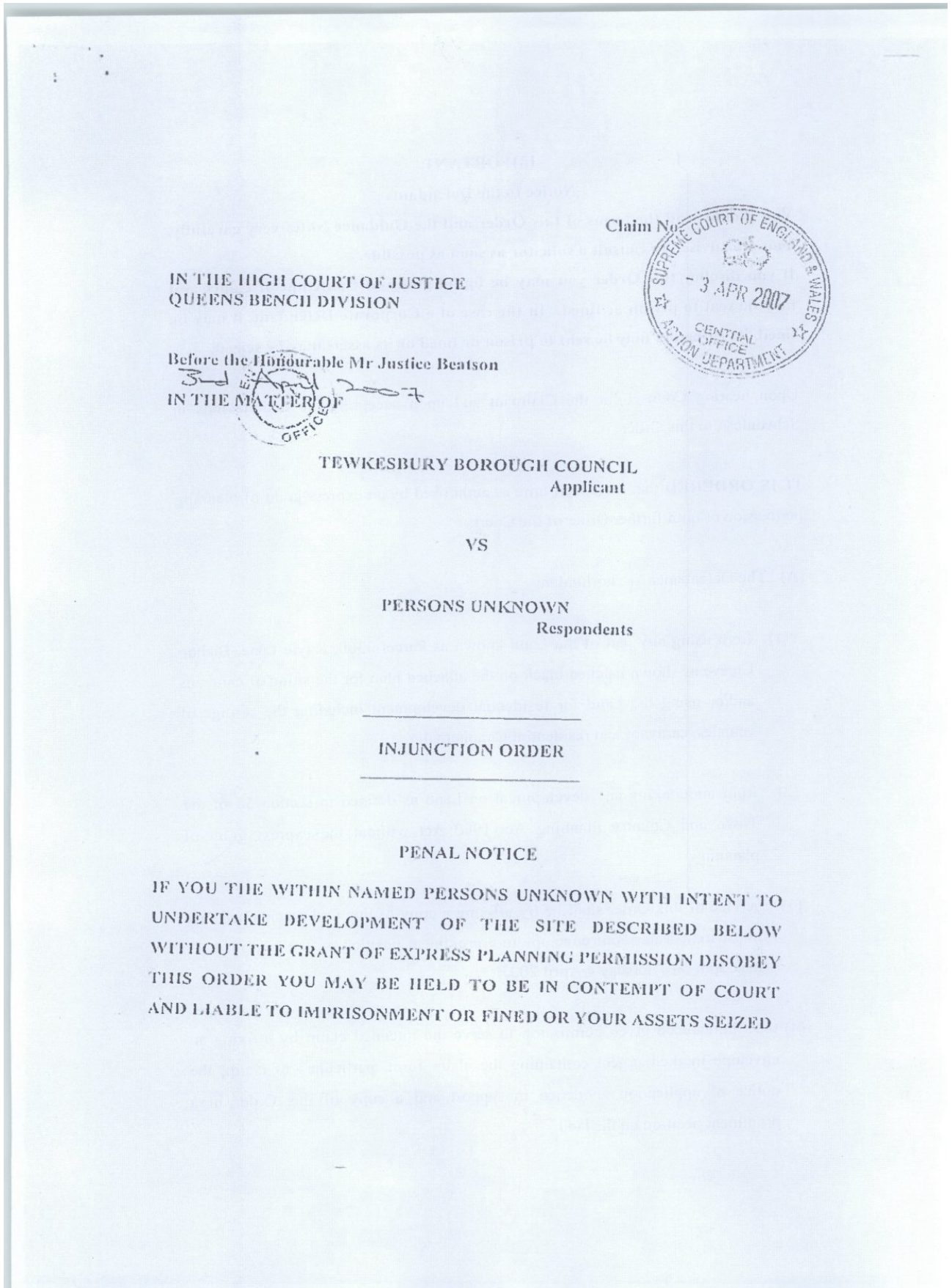
Item No. 4 – 15/01155/FUL, Stoke Orchard Garage, Stoke Road, Stoke Orchard





Item No. 5 – 15/00969/FUL, Land at Kayte Lane

Page 1 of Injunction



Claim No.

IN THE HIGH COURT OF JUSTICE  
QUEENS BENCH DIVISION

Before the Honourable Mr Justice Beatson

IN THE MATTER OF

TEWKESBURY BOROUGH COUNCIL  
Applicant

VS

PERSONS UNKNOWN  
Respondents

INJUNCTION ORDER

PENAL NOTICE

IF YOU THE WITHIN NAMED PERSONS UNKNOWN WITH INTENT TO  
UNDERTAKE DEVELOPMENT OF THE SITE DESCRIBED BELOW  
WITHOUT THE GRANT OF EXPRESS PLANNING PERMISSION DISOBEY  
THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT  
AND LIABLE TO IMPRISONMENT OR FINED OR YOUR ASSETS SEIZED

**Item No. 5 – 15/00969/FUL, Land at Kayte Lane  
Page 2 of Injunction**

**IMPORTANT**

**Notice to the Defendants**

You should read the terms of this Order and the Guidance Notes very carefully.  
You are advised to consult a solicitor as soon as possible.

If you disobey this Order you may be found guilty of Contempt of Court and may be sent to prison or fined. In the case of a Corporate Defendant, it may be fined, its Directors may be sent to prison or fined or its assets may be seized.

Upon hearing Counsel for the Claimant and upon accepting the undertakings in Schedule A to this Order

**IT IS ORDERED** that until such time as authorised by an express grant of planning permission or until further Order of the Court:

(A) The Defendants Are Forbidden:

- (1) from using any part of the Land known as Parcel 3300, Kayle Lane, Bishop Cleeve as shown hatched black on the attached plan for the siting of caravans and/or using the Land for residential development including the storage of vehicles, caravans and residential paraphernalia
- (2) from undertaking any development on Land as defined in section 55 of the Town and Country Planning Act 1990 Act without the express grant of planning
- (3) service of this Order shall be by affixing a copy of this Order contained in a transparent waterproof envelope in a prominent position on the land no later than 5pm on Thursday 4 April 2007.
- (4) the Claimant be given permission to serve the intended claim by affixing an envelope marked urgent containing the claim form, particulars of claim, the notice of application, evidence in support and a copy of this Order in a prominent position on the land.

**Item No. 5 – 15/00969/FUL, Land at Kayte Lane**  
**Page 3 of Injunction**

- (B) The Defendants may each of them (or anyone notified of this Order) apply to the Court at any time to vary or discharge this Order (or so much as it affects that person), but anyone wishing to do so must first inform the Claimant's legal representatives

**GUIDANCE NOTES**

**Effect of this Order**

- (1) A Defendant who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.
- (2) A Defendant which is a corporation and which is ordered not to do something must not do it itself or by its directors, officers, employees or agents or in any other way.

**Parties other than the Claimant and Defendants**

**1. Effect of this Order:-**

It is a Contempt of Court for any person notified of this Order knowingly to assist in or permit a breach of this Order. Any person doing so may be sent to prison, fined or have his assets seized.

**INTERPRETATION OF THIS ORDER**

- (1) In this Order, where there is more than one Defendant (unless otherwise stated) references to "the Defendants" means each or all of them.
- (2) A requirement to serve on "the Defendants" means on each of them. However, the Order is effective against any Defendant on whom it is served.
- (3) An Order requiring "the Defendants" to do or not to do anything applies to all Defendants.

**Item No. 5 – 15/00969/FUL, Land at Kayte Lane  
Page 4 of Injunction**

**Communications with the Court**

All communications to the Court about this Order should be sent to Room WG08, Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6010). The offices are open between 10 am and 4.30 pm Monday to Friday.

**Schedule A**

**Undertakings given to the Court by the Applicant**

- (1) Anyone notified of this Order will be given a copy of it by the Applicant's legal representatives.
  
- (2) To issue and serve copies of the claim form, witness statement of Andrew David Winstone and the application notice by 5pm on Thursday 5 April 2007.

**Name and Address of Claimant's Legal Representatives**

The Claimant's Legal Representatives are:-

Sharpe Pritchard, Elizabeth House, Fulwood Place, London, WC1V 6HG, London  
Agents for the Claimant, Tewkesbury Borough Council.

Tel: 020 7405 4600

Item No. 5 – 15/00969/FUL, Land at Kayte Lane  
Page 5 of Injunction

