

15 October 2018

Committee	Planning
Date	Tuesday, 23 October 2018
Time of Meeting	10:00 am
Venue	Severn

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive apologies for absence and advise of any substitutions.

3. DECLARATIONS OF INTEREST

Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.



Item	Page(s)
4. MINUTES	1 - 20
To approve the Minutes of the meeting held on 25 September 2018.	
5. DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL	
(a) Schedule	
To consider the accompanying Schedule of Planning Applications and proposals, marked Appendix "A".	
6. DEVELOPMENT CONTROL - APPLICATIONS TO THE COUNTY COUNCIL	
To note the following decision of Gloucestershire County Council:	
Site/Development	Decision
18/00668/CM Wingmoor Farm East Stoke Road Bishops Cleeve	Application PERMITTED subject to conditions relating to commencement of development; definition of permission; details of materials; permitted development rights; hours of construction and restoration.
Removal of one effluent tank and one water tank and the erection of a food waste mixing tank at existing AD Plant site.	
7. CURRENT APPEALS AND APPEAL DECISIONS UPDATE	21 - 24
To consider current planning and enforcement appeals and Ministry of Housing, Communities and Local Government (MHCLG) appeal decisions.	

DATE OF NEXT MEETING
TUESDAY, 20 NOVEMBER 2018
COUNCILLORS CONSTITUTING COMMITTEE

Councillors: R E Allen, P W Awford, D M M Davies, R D East (Vice-Chair), J H Evetts (Chair), D T Foyle, M A Gore, J Greening, R M Hatton, A Hollaway, E J MacTiernan, J R Mason, A S Reece, T A Spencer, P E Stokes, P D Surman, H A E Turbyfield, R J E Vines and P N Workman

Substitution Arrangements

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

Recording of Meetings

In accordance with the Openness of Local Government Bodies Regulations 2014, please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chair will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Tuesday, 25 September 2018 commencing
at 10:00 am**

Present:

Chair
Vice Chair

Councillor J H Evetts
Councillor R D East

and Councillors:

R E Allen, P W Awford, R A Bird (Substitute for T A Spencer), D M M Davies, J E Day (Substitute for H A E Turbyfield), D T Foyle, M A Gore, J Greening, R M Hatton, A Hollaway, E J MacTiernan, J R Mason, A S Reece, P E Stokes, P D Surman, R J E Vines and P N Workman

PL.30 ANNOUNCEMENTS

- 30.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 30.2 Members were reminded that, at its meeting on 17 May 2016, the Council had confirmed the Scheme for Public Speaking at Planning Committee as a permanent arrangement. The Chair gave a brief outline of the scheme and the procedure for Planning Committee meetings.

PL.31 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

- 31.1 Apologies for absence were received from Councillors T A Spencer and H A E Turbyfield. Councillors R A Bird and J E Day would be acting as substitutes for the meeting.

PL.32 DECLARATIONS OF INTEREST

- 32.1 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.

32.2 The following declarations were made:

Councillor	Application No./Agenda Item	Nature of Interest (where disclosed)	Declared Action in respect of Disclosure
P W Awford	18/00710/FUL 2 Gordon Close, Highnam. 18/00073/FUL Walnut Farm, Tewkesbury Road, Norton.	Is a Gloucestershire County Councillor for the area.	Would speak and vote.
P W Awford	General Declaration.	Had received correspondence in relation to various applications but had not expressed an opinion.	Would speak and vote.
A S Reece	18/00025/APP Land Rear of Lidl UK, Evesham Road, Bishop's Cleeve.	Had spoken to the applicant on numerous occasions but had not expressed an opinion.	Would speak and vote.
R J E Vines	18/00334/FUL 1 Slate Mill Farm, Tewkesbury Road, Elmstone Hardwicke. 18/00568/FUL Oakland Farm Barns, Dog Lane, Witcombe.	Is a Gloucestershire County Councillor for the area.	Would speak and vote.
P N Workman	18/00588/FUL Riverside Café, The Gazebo, Back of Avon, Tewkesbury. 18/00589/LBC Riverside Café, The Gazebo, Back of Avon, Tewkesbury.	Is a Member of Tewkesbury Town Council but does not participate in planning matters.	Would speak and vote.

32.3 There were no further declarations made on this occasion.

PL.33 MINUTES

33.1 The Minutes of the meeting held on 30 August 2018, copies of which had been

circulated, were approved as a correct record and signed by the Chair.

PL.34 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL

Schedule

34.1 The Technical Planning 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 Members prior to decisions being made on those applications.

18/00588/FUL – Riverside Café, The Gazebo, Back of Avon, Tewkesbury

34.2 This application was for change of use of gazebo to café (A3 use); associated external alterations and a terraced seating area; and, reinstatement of a bank side mooring adjacent to the gazebo.

34.3 The Chair indicated 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 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.

18/00589/LBC – Riverside Café, The Gazebo, Back of Avon, Tewkesbury

34.4 This was a listed building consent application for internal and external alterations to Grade II Listed gazebo associated with change of use to a café (A3 use).

34.5 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to grant consent and he sought a motion from the floor. It was proposed and seconded that the application be granted consent in accordance with the Officer recommendation and, upon being put to the vote, it was

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

18/00312/FUL- Pussy Willows Cattery, Stoke Road, Stoke Orchard

34.6 This application was for the proposed removal of existing residential log cabin and mobile home on the site and erection of a detached dwelling for occupation in connection with the existing cattery enterprise and associated site works.

34.7 The Chair invited the applicant to address the Committee. The applicant explained that the proposal would ensure the continued safe running of the cattery as someone needed to be on-site at all times; no person could possibly be there for 24 hours a day so the responsibility needed to be shared. It was necessary to be on the site for security and for the care of the cats which could need medication administered throughout the night. She explained that the dwelling would simply replace the existing log cabin and caravan, which had reached the end of their lives, and confirmed that it had been designed to fit the location and the character of the environment. She advised that the dwelling would not be seen from outside of the property, it would not be an eyesore or block any light, and therefore would have no adverse impact on anyone's quality of life. The applicant went on to refer to her personal circumstances and how the application would help to have a positive impact in that regard.

34.8 The Chair indicated that the Officer recommendation was to delegate authority to the Technical Planning Manager to permit the application, subject to the completion of a Section 106 Agreement to secure the removal of the existing log cabin and mobile home from the site prior to first occupation of the new dwelling and to secure the revised plans in respect of the reduced footprint dwelling via appropriate planning condition, and he invited a motion from the floor. It was proposed and seconded that authority be delegated to the Technical Planning Manager to permit the application in accordance with the Officer recommendation. The proposer of the motion thanked Officers for working with the applicant to come up with an acceptable scheme within the Green Belt. Upon being taken to the vote, it was

RESOLVED That authority be **DELEGATED** to the Technical Planning Manager to **PERMIT** the application, subject to the completion of a Section 106 Agreement to secure the removal of the existing log cabin and mobile home from the site prior to first occupation of the new dwelling and to secure the revised plans in respect of the reduced footprint dwelling via appropriate planning condition.

18/00334/FUL – 1 Slate Mill Farm, Tewkesbury Road, Elmstone Hardwicke

34.9 This application was for a proposed residential annex to provide additional living accommodation. The Planning Committee had visited the application site on Friday 21 September 2018.

34.10 The Chair invited the applicant's agent to address the Committee. The applicant's agent explained that the proposal was for ancillary accommodation to an existing dwelling. The accommodation would be tied to the main house by means of condition which was a legitimate and well-established means of providing ancillary accommodation. He confirmed that the annex would be sited in place of an existing domestic outbuilding and was required to meet the needs of the applicant; he went on to refer to the applicant's personal circumstances and how the current family home did not meet their needs. The Officer's report accepted that the applicant's personal circumstances were relevant planning considerations in this instance and he was pleased to note that significant weight had been attributed to these needs and that it was accepted this was best provided at the family home. The issue appeared to be that Officers did not consider the location of the annex to be within the garden and instead considered the land to be agricultural - this appeared to be on the basis that the building was on the southern side of a brick wall. The applicant's agent indicated that the pertinent question should be what the land was used for; those who had attended the Planning Committee Site Visit would have seen that the land and existing building were domestic in nature and clearly not agricultural. He advised that he had provided historic photographs, taken 13 years earlier, showing this land clearly within domestic/garden use. There had been some comments about the detached nature of the annex, and the amount of floor space, and he advised that the annex was detached because the main house was within a higher risk flood zone. The annex was around 50% of the floor area of the main house, which would be deemed proportionate in Green Belt terms if assessed as an extension, and was necessary to meet the needs of the applicant. He hoped that Members would feel able to support the application and asked them to question whether the harmful impact was significant enough to outweigh the very special circumstances that had been outlined.

- 34.11 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 permitted as the applicant's personal circumstances, which were a relevant planning consideration in this instance, represented very special circumstances which outweighed the harm that would be caused to the Green Belt. With regard to access, a Member indicated that his concerns regarding access had largely been answered by the information included on the Additional Representations Sheet, attached at Appendix 1, and he expressed the view that ramps would be needed given that the floor level of the proposed annex would be higher than the main house. The Technical Planning Manager confirmed that no ramp was shown on the plans; however, he believed that a ramp would be classed as permitted development - should the application be permitted – given that it would then be located within the existing residential curtilage. Whilst it would be preferable for the ramp to be included in the plans, as it was part and parcel of the application, there was a solution to address the fact that it was not.
- 34.12 A Member noted that the applicant's agent had referenced historic photographs of the site showing that the land was within domestic use and he questioned whether these had been provided. The Planning Officer advised that he was unaware of the photographs and explained that the applicant had been invited to submit a certificate of lawfulness application to demonstrate that the land had been used as a garden area associated with the dwelling house but that had not been forthcoming. The Chair confirmed that it was not possible to take the photographs into consideration if they had not been provided to Officers. The Member subsequently proposed, and it was duly seconded, that the application be deferred in order to allow the applicant to provide the photographs to Officers. In response to a query, the Legal Adviser confirmed that a deferral was a procedural motion and therefore would be taken before a substantive one. A Member sought clarification as to the advantage of a deferral and the Technical Planning Manager explained that it could affect the Officer recommendation if the land could be shown to be within residential curtilage as the proposal would be assessed in a different way. As the agent had set out, if the annex was less than 50% of the original dwelling house, it could be considered to be appropriate development in the Green Belt as it would not be a disproportionate addition. Had the applicant submitted a certificate of lawfulness, Members could have taken this on face value. He clarified that, even with this information the Officer recommendation may not change; however, the application would be assessed in a different way. The Member queried whether the view of the proposer of the motion to permit the application had changed given this advice. The proposer of the motion to permit the application expressed the view that, whilst the photographs may help to support the application, it would not change the situation. There was no legal definition of domestic curtilage and the land in question had appeared to be part of the domestic curtilage when the Committee had visited the site. Upon being put to the vote, the motion to defer the application was lost.
- 34.13 The Planning Officer went on to advise that, should the application be permitted, he recommended the inclusion of conditions in relation to the commencement of the development; plans; materials; details of flood resilience measures to be used in the construction of the building; levels and details of the retaining structure; and drainage details. A Member expressed the view that the flood resilience measures needed to be carefully examined given the proximity to the River Chelt; whilst it was well-bunded, he had concerns about future development and water flowing past the site. The proposer and seconder of the motion to permit the application confirmed they were happy with the conditions outlined and, upon being taken to the vote, it was

RESOLVED That the application be **PERMITTED** as the applicant's personal circumstances - which were a relevant planning consideration in this instance - represented very special circumstances which outweighed the harm that would be caused to the Green Belt, subject to conditions in relation to the commencement of the development; plans; materials; details of flood resilience measures to be used in the construction of the building; levels and details of the retaining structure; and drainage details

18/00568/FUL – Oakland Farm Barns, Dog Lane, Witcombe

- 34.14 This application was for the demolition of existing barn and pig pens and replacement with a single dwelling. The Planning Committee had visited the application site on Friday 21 September 2018.
- 34.15 The Technical Planning Manager explained that the site lay outside of any residential development boundary and was within the Green Belt. Development of this nature was inappropriate in the Green Belt and the development was, by definition, harmful to the Green Belt. As Members were aware, Green Belt boundaries should only be changed through the plan-making process - this had recently been done through the Joint Core Strategy and there would be further opportunities through the Tewkesbury Borough Plan process, although this was not an area that had been identified to meet local needs through the Plan. The National Planning Policy Framework stated that, when considering any planning application, local planning authorities should ensure that substantial weight was given to any harm in the Green Belt. Very special circumstances were required to justify inappropriate development in the Green Belt and those 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. He clarified that the applicant had not put forward a very special circumstances case. On that basis, the application conflicted with the recently updated National Planning Policy Framework and the Joint Core Strategy Green Belt policies. Furthermore, there was a clear conflict with Policy SD10 of the Joint Core Strategy given the location of the site which did not meet any of the exceptions in that policy. There would also be an impact on the character of this part of the Area of Outstanding Natural Beauty, as set out in the Officer report. Members would note from the Additional Representations Sheet that the County Highways Officer still had concerns as it had not been demonstrated that adequate visibility could be achieved to ensure a safe access. He explained that there would be some minor social and economic benefits arising from the proposal but these would be limited by the nature of the development and as the Council could demonstrate a five year supply of deliverable housing sites. Those benefits must be weighed against the harms, primarily to the Green Belt which must be given considerable weight. Whilst the proposal was smaller than the previously refused scheme, the conclusions of the Inspector in dismissing the subsequent appeal in 2007 were relevant now, potentially even more so given the strong support for Green Belt restraint in both the 2012 and 2018 versions of the National Planning Policy Framework. For all these reasons, the application was recommended for refusal.
- 34.16 The Chair invited the applicant to address the Committee. The applicant advised that the application had been prepared with assistance from specialists in architecture, ecology and landscape in order to design a new home which enhanced the character of the area. The proposal sought to remove the existing derelict buildings and replace them with a single storey dwelling with a smaller footprint and enhanced landscaping. The development would result in a use sympathetic to the surrounding area and a 25% reduction in floor area; there would also be a significant reduction in hardstanding of more than 80%, with increased

landscaping which would be more appropriate to the site's Green Belt location. The ecology survey submitted with the application confirmed that there were no statutory, or non-statutory, designated sites within, or directly linked to, the development site and there would be no adverse effects as a result of the proposals. The Landscape and Visual Impact Assessment concluded that the proposal did not conflict with the Green Belt, or policies to protect the Cotswold Area of Outstanding Natural Beauty, as it did not increase the volume of built form or change the permanence of the openness of the Green Belt. The proposal would provide improvements to the landscape without any harm to the local visual amenity and would be entirely in keeping with the landscape character. He advised that all technical matters had been addressed and the County Highways Authority had confirmed that it had no objection to the proposal. There had been no other objections to the proposal and 13 letters had been written in support highlighting that the proposal would be an improvement to what was currently on the site; would improve the Area of Outstanding Natural Beauty; there would be no negative ecological or visual impact as a result of the development; and the proposal would be a visual improvement and would enhance the surrounding area. The applicant went on to indicate that the proposal was an appropriate form of development in the Green Belt and would improve its openness and visual amenity as a result of the reduction in built form. The incorporation of landscape-led design and a smaller physical size and mass of buildings would mean that the openness of the Green Belt would be reinstated and the site could provide a more appropriate transition between the settlement and wider area. Given the clear benefits of the proposal, and the level of local support, he hoped that Members would be able to grant permission.

- 34.17 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 permitted on the basis that it would improve the openness of the Green Belt and enhance the Area of Outstanding Natural Beauty. The proposer of the motion indicated that the Technical Planning Manager had advised that applications to change the Green Belt boundary should be done via the local plan process but this was not what was being asked here. The Committee would recognise that vast swathes of the Green Belt had already been developed and he considered that the Inspector's findings in terms of the previous appeal had little relevance now; at the time, the Inspector had been very concerned about a two storey building being significantly higher than the one it would replace whereas this application proposed a single storey dwelling on a smaller footprint than the existing barn. The Inspector had also been concerned that the application site was not within the footprint of the barn, and would be further forward out of the cleft of the hillside, and this was addressed in the current proposal. On balance, the Inspector had felt that the increased height and prominence would outweigh the benefits of the reduced footprint – these reasons did not necessarily apply today. Local planning authorities were duty bound to protect and enhance Areas of Outstanding Natural Beauty; the existing barn and pig pens were dilapidated and the proposal for a new dwelling would have significant benefits for the area. He referred to a development of 49 houses at nearby Bentham Green which had been granted planning permission by the Committee. He also pointed out that a dwelling had replaced a barn at Court Farm on the opposite side of the A46 so there were other examples of new development in the Green Belt.
- 34.18 The Technical Planning Manager drew attention to the appeal decision, set out at Pages No. 248/A-248/D of the Officer report, in particular Paragraph 11 which stated that 'On balance, I consider that the increased height and prominence of the proposed house would outweigh the benefit of reducing the footprint of buildings on the site. I do not, therefore, consider that the appeal scheme would lead to an increase in the openness of the Green Belt'. He indicated that this was very much in respect of the impact on the openness of the Green Belt. Overall, the

conclusions about the policy and principle of development in the Green Belt were not 'on balance'. It was clearly felt that the development would be inappropriate in the Green Belt and that there were no very special circumstances to overcome that. The proposer of the motion to permit the application had made reference to Bentham Green, which the Committee was familiar with, and a judgement had been made in that case that it was appropriate development in the Green Belt as the land had previously been developed - that was not the case here. In addition, he explained that permitting an application like this could encourage others to allow agricultural buildings to deteriorate and then apply for a new dwelling. He reiterated that the proposal would be inappropriate in the Green Belt and very special circumstances were required. Should Members be minded to permit the application, the Planning Officer suggested that conditions be included in respect of the commencement of the development; approved plans; samples of existing materials; details of existing and proposed levels; detailed landscaping scheme and a subsequent condition to require this to be carried out during the first planting season; details of the access track surface treatment; submission of an ecological survey; and submission of a construction traffic management plan for Dog Lane and access to the site.

- 34.19 During the debate which ensued, a Member indicated that she could not support the proposal to permit the application given that the revised National Planning Policy Framework had strengthened the protection of the Green Belt. In her view, permitting this would make a mockery of Green Belt policy. Another Member advised that he lived in a rural area and he was not aware of any farmers that would be willing to spend money to maintain redundant farm buildings, therefore they would inevitably dilapidate whether the farmers wished to build on the land or not. Another Member expressed the view that the existing barn was doing nothing to enhance the Area of Outstanding Natural Beauty and a small dwelling would be a significant improvement; he could not see that it was better for it to be used or left as it was. In response to a query regarding new legislation designed to make it easier to convert agricultural buildings into houses, the Technical Planning Manager clarified that certain permitted development rights allowed agricultural buildings to be converted but that was not what was being considered here; this application was for planning permission subject to the policies set out in the Officer report.
- 34.20 A Member noted that there were concerns in respect of highways; however, he pointed out that the applicant already lived on the site so there was unlikely to be any additional impact as a result of the proposal. In response, the Technical Planning Manager explained that, whilst the applicant did live on site, an additional dwelling could result in increased traffic movements and the County Highways Authority was still waiting for information on trip generation. It would, therefore, be prudent to defer the application to allow that information to be submitted so that County Highways could be satisfied there would be safe access to and from the site. A Member drew attention to Page No. 248/B of the Officer report, Paragraph 8, which stated that 'The improvement of the track serving the site, if done in appropriate materials, need amount to no more than the reinstatement of the stone track that is already in place...' which appeared to suggest that access was not a significant issue. In response, the Technical Planning Manager indicated that his reading of the appeal decision was that this related to the impact on the Green Belt and the landscape rather than the highway safety aspect. A Member questioned whether the Council would be putting itself at risk if the application was permitted without a recommendation from the County Highways Authority and the Legal Adviser explained that ignoring expert advice on highways was to be taken very seriously – whilst it was only advice, and Members could take a different view, this could lead to difficulties should there be any claims in the future without the back-up of that advice. In response to a further query, the Legal Officer advised that, should Members be minded to delegate authority to the Technical Planning Officer

to permit the application, subject to the submission of the additional highways information, it would be a judgement for Officers as to whether the information was satisfactory; if it was not, the application would be brought back to Committee. The main point would still be that the proposal represented inappropriate development in the Green Belt and Members needed to carefully consider the reasons for granting planning permission contrary to policy. A Member expressed the view that applications like this were always difficult as they came down to perception. This was a site in the Green Belt which already looked developed and he felt the design of the proposal would fit nicely with the area and would be much better than the existing barn and pig pens.

- 34.21 The Chair indicated that a motion to permit the application had been proposed and seconded, and the proposer and seconder of that motion confirmed that they were happy to include the conditions suggested by the Officer. Upon being taken to the vote, it was

RESOLVED That the application be **PERMITTED** on the basis that it would improve the openness of the Green Belt and enhance the Area of Outstanding Natural Beauty, subject to conditions in respect of the commencement of the development; approved plans; samples of existing materials; details of existing and proposed levels; detailed landscaping scheme and a subsequent condition to require this to be carried out during the first planting season; details of the access track surface treatment; submission of an ecological survey; and submission of a construction traffic management plan for Dog Lane and access to the site.

18/00587/FUL – 19 Herford Road, Bishop’s Cleeve

- 34.22 This application was for the erection of a two storey side extension and roof alterations to accommodate a loft conversion.

- 34.23 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he invited a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being taken to the vote, it was

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

18/00710/FUL – 2 Gordon Close, Highnam

- 34.24 This application was for the erection of a single storey and two storey rear extension.

- 34.25 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he invited a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being taken to the vote, it was

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

18/00073/FUL – Walnut Farm, Tewkesbury Road, Norton

- 34.26 This application was for the demolition of existing agricultural buildings and erection of five dwellings with associated works.
- 34.27 With regard to the comments on the Additional Representations Sheet, and the agent's comments on the Officer report, the Technical Planning Manager explained that the comments in respect of the ridge heights were noted and accepted – Officers considered that the variation in ridge heights on the previous scheme had a lesser impact than the current scheme but this did not change the conclusions set out within the Officer report. In terms of the comments on the footway, this was a matter of policy rather than legislation, nevertheless, it was the overall layout of the access road which had led to the Officer conclusion that the access was over-engineered, not just the footway. The Department for Transport guidance regarding shared surfaces was under review and it remained to be seen whether there could be a total moratorium, which was the County Council's current position. The reference to Paragraph 123 of the National Planning Policy Framework in respect of density was noted; however, this related to situations where there was an existing or anticipated shortage of housing land and that was not the case here given the Council's five year housing supply position and the ongoing Joint Core Strategy review. Notwithstanding this, the report did recognise, at Paragraph 6.2, that the proposal would make more effective use of land. In respect of the agent's comments on the difference in policy between the current and previously approved scheme, both applications were contrary to housing policy and that had been made clear in both cases - Paragraph 5.6 of the Officer report set out why permission had been granted for the previous scheme and Paragraph 6 set out why this scheme was considered to be acceptable. He confirmed that Officers agreed with the Parish Council that the site was not within the settlement boundary.
- 34.28 The Chair invited the applicant's agent to address the Committee. The applicant's agent explained that the proposal was effectively a revised scheme following the grant of planning permission for four dwellings on the same site in August 2017. Whilst the number of dwellings had increased slightly, the size of the dwelling units had decreased. The permitted four unit scheme equated to a floor area of around 1,200 square metres whereas this revised scheme equated to just under 1,000 square metres. The maximum ridge height of both the permitted scheme and this revised scheme were identical at 8.7 metres and both had a mix of two storey and two and a half storey dwellings, not three dwellings as stated in the Officer report. The site was identified within the emerging Down Hatherley, Norton and Twigworth Neighbourhood Development Plan and it was thus anticipated by the parish that the site would be developed for housing in some form. Norton was identified as a Service Village within the Joint Core Strategy and therefore one of the villages within the borough where some growth was anticipated. The Parish Council objection was partly on the grounds that the prevailing circumstances when conditions were granted did not now apply. When consent was granted in 2017, the Council had demonstrated that it had a deliverable five year supply of housing and, following adoption of the Joint Core Strategy and associated monitoring reports, it continued to promote a five year supply of housing land. The same pressure for new housing existed in 2017 as it did now and Paragraph 123 of the revised National Planning Policy Framework encouraged local authorities to uplift average densities; this proposal increased the site density from four to five units. The proposal was therefore entirely compliant with current policy guidance and the emerging Neighbourhood Development Plan which identified this site for development. A material consideration weighed in the planning balance by Officers was the affordable housing contribution which equated to £160,000

compared to £103,000 agreed in respect of the permitted scheme. It was notable, however, that if the permitted scheme were resubmitted today, the affordable housing contribution would be zero as it now fell below the trigger set out in the 2018 framework; this proposal would therefore provide a significant boost to affordable housing provision in the borough. He urged Members to permit the application.

34.29 The Chair indicated that the Officer recommendation was to delegate authority to the Development Manager to permit the application, subject to completion of a Section 106 Agreement to secure an affordable housing contribution of £160,000, and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. A Member noted that the Urban Design Officer report stated that four of the five dwellings would be three storey, which was not in keeping with the area, and he sought clarification as to the dimensions of the dwellings. In response, the Technical Planning Manager confirmed that the Urban Design Officer had incorrectly referred to three storey dwellings – all of the dwellings were two storeys with accommodation within the roof void, as per the permitted scheme. The Additional Representation Sheet clarified that the permitted scheme ranged from 8.25-8.7 metres in ridge height.

34.30 Upon being put to the vote, it was

RESOLVED That authority be **DELEGATED** to the Development Manager to **PERMIT** the application, subject to completion of a Section 106 Agreement to secure an affordable housing contribution of £160,000.

18/00025/APP – Land Rear of Lidl UK, Evesham Road, Bishop’s Cleeve

34.31 This was an approval of reserved matters application in relation to planning permission 15/00215/OUT for the erection of nine dwellings; revised submission to withdrawn application 17/00681/APP.

34.32 The Technical Planning Manager drew attention to the Additional Representations Sheet, which referred to the Environmental Health Officer’s concerns about the impact of noise on future residents. He confirmed that an additional condition was recommended to secure appropriate glazing to limit the noise impact and that a suitable wording could be agreed with the applicant’s agent under a delegated approval. A Member raised concern that delegated approval would delay the development and he questioned whether that could be avoided. The Technical Planning Manager clarified that it would be beneficial to both parties for Officers to agree a condition with the applicant’s agent as quickly as possible; a delegated approval was the correct way forward and would not result in any significant delay.

34.33 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to delegate authority to the Technical Planning Manager to approve the application, subject to a suitably worded condition being agreed with the applicant’s agent to secure appropriate glazing to limit the noise impact, and he sought a motion from the floor. It was proposed and seconded that the application be approved in accordance with the Officer recommendation and, upon being put to the vote, it was

RESOLVED That authority be **DELEGATED** to the Technical Planning Manager to **APPROVE** the application, subject to a suitably worded condition being agreed with the applicant’s agent to secure appropriate glazing to limit the noise impact.

PL.35 CURRENT APPEALS AND APPEAL DECISIONS UPDATE

35.1 Attention was drawn to the current appeals and appeal decisions update, circulated a Pages No. 13-17. Members were asked to consider the current planning and enforcement appeals received and the Ministry of Housing, Communities and Local Government appeal decisions issued.

35.2 It was

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

The meeting closed at 11:12 am

Appendix 1

SCHEDULE OF PLANNING APPLICATIONS
ADDITIONAL REPRESENTATIONS

Date: 25 September 2018

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	
214	1	<p>18/00588/FUL</p> <p>Riverside Cafe , The Gazebo, Back Of Avon, Tewkesbury</p> <p>The initial application was submitted with details regarding the operating hours of the business, this also included the option of seasonal opening hours given that the nature of the business is predominantly outside.</p> <p>A amendment has been suggested to the condition to limit the operation to seasonal hours between March and October. Since the report was written the applicant has raised concerns regarding the restriction of this condition, meaning that during the months of November to February, the business could not open if the weather is favourable.</p> <p>Having regard to this, the applicant has submitted supporting information to justify the need to have the ability to open all year round. This information has been submitted to the Council's Environmental Health department for comments as to whether the condition would be reasonable and appropriate in this instance. The Environmental Health Officer has advised the following:</p> <p><i>"An officer from Environmental Health has considered the impact of this business on local amenity and concluded that there will not be a significant impact. Given the nature of the business, this consideration and conclusion would stand whether the business is constrained to operate only between April and October or not. As such, I would not object to the applicant's proposal to allow the business to operate all year round."</i></p> <p>Given this information it is considered that to apply this condition would be unreasonable and would not meet the tests set out in Planning Practice Guidance (PPG). Therefore, whilst the recommendation for this application remains unchanged, it is recommended that, should permission be granted, Condition 5 (seasonal opening) should be removed to allow for use of the building as A3 all year round.</p> <p>Since the Officer's report was written, the applicant has submitted additional details in regard to the bin storage details. The proposed bin store would be a timber heritage apex store, enclosed on four sides with a lifting lid; the store would house two domestic style wheelie bins. These details have been assessed by the Conservation Officer who deems them to be acceptable. (Please see attached)</p> <p>Given this information it is recommended that, should permission be granted, Condition 2 should be altered to secure the approved bin storage details.</p>

		<p>Therefore the condition should read:</p> <p><i>"The development hereby permitted shall be carried out in accordance with details within the application form received by the Local Planning Authority on 1st February 2017, bin storage details received by the Local Planning Authority on the 20th September 2018 and approved plans/drawings Nos. 10.RS.W.PR.03 REV and 10.RS.W.PR.01 RE VC received by the Local Planning Authority on 1st March 2017.</i></p> <p>Given the above the recommendation for this application remains unchanged.</p>
222	2	<p>18/00589/LBC</p> <p>Riverside Cafe , The Gazebo, Back Of Avon, Tewkesbury</p> <p>Since the Officer's report was written the applicant has submitted additional details in regard to the bin storage details. The proposed bin store would be a timber heritage apex store, enclosed on four sides with a lifting lid; the store would house two domestic style wheelie bins. These details have been assessed by the Conservation Officer who deems them to be acceptable. Given this information it is recommended that, should permission be granted, Condition 2 should be altered to secure the approved bin storage details. Therefore the condition should read:</p> <p><i>The development hereby permitted shall be carried out in accordance with the following plans and documents:</i></p> <ul style="list-style-type: none"> - <i>Details within the email sent by the applicant on 2nd July 2018 with additional and amended details;</i> - <i>bin storage details received by the Local Planning Authority on the 20th September 2018 – Please see attached</i> - <i>Approved drawings "Block Plan & "Site Location Plan" received by the Local Planning Authority on 5th June 2018;</i> - <i>Approved drawing nos. "G/EFP/052018/001/6", "G/PFP/052018/002/6", "G/PLP/052018/003/6", "G/ERP/052018/004/6", "G/EFE/052018/005/6", "G/PFE/052018/006/6", "G/ERE/052018/007/1", "G/PRE/052018/008/6", "G/ELE/052018/009/6", "G/PLE/052018/010/6", "G/ERE/052018/011/6", "G/PRE/052018/012/6" received by the Local Planning Authority on 2nd July 2018; and any other conditions attached to this consent.</i> <p>Given the above the recommendation for this consent remains unchanged.</p>
235	4	<p>18/00334/FUL</p> <p>1 Slate Mill Farm, Tewkesbury Road, Elmstone Hardwicke</p> <p>Attention is drawn to the following revisions to the report:</p> <p>5.19 Furthermore the appropriateness and accessibility of the proposed annexe is questioned. The submitted drawings show the proposed building facing onto and being accessed from the garden to Slate Mill Farm. It is noted that in order to minimise the risk of flooding the finished floor level would be set at 19.8 metres and some 1.5 metres higher than the assumed Ground Floor and courtyard level to the west of Slate Mill Farm, which may prove challenging to traverse in winter conditions or at night time due to impaired mobility. Further development in the form of access ramps, and hand rails may therefore also be required and appear not to have been considered in designing this scheme and have not been shown on the submitted drawings. Such works would further impact the openness of the Green Belt however it is acknowledged that these works if undertaken within the residential curtilage of Slate Mill Farm, may constitute permitted</p>

		<p>development.</p> <p>5.33 While the wider site is principally located within Flood Zones 3, the proposed annexe would in its entirety be located within Flood Zone 2. The application has been accompanied by a flood risk assessment which sets out that the finished floor levels should be set at 19.8 metres in order to ensure that the development and future occupiers are safe from the risk of flooding.</p>
242	5	<p>18/00568/FUL</p> <p>Oakland Farm Barns, Dog Lane, Witcombe</p> <p>Consultation Update</p> <p>In response to the County Highways Authority's original comments, the applicant has submitted an additional plan (see attached) which seeks to demonstrate the required visibility splays can be achieved at the site access. The County Highways Authority has been re-consulted on the proposal and initially raised no highway objection subject to conditions; however, it is commented within the response that the visibility splay to the left of the site access may not be safely achieved due to the presence of existing over-grown vegetation on land outside the applicant's control. Officers do not consider the suggested visibility condition to be enforceable as it would be seeking to control land outside the application site boundary and in third party ownership. Further clarification has therefore been sought from the County Highways Authority on this point and an updated response has been received which reads as follows:</p> <p><i>Without evidence that the extant agricultural use of the site generated more trips than the proposed development, the County Highways Authority are unable to determine if the current access arrangements are acceptable or not. Therefore we request evidence from the applicant of the extant use trip generation compared to the proposed dwelling estimated trip generation. If this evidence illustrates additional trips from the proposed dwelling then further details of suitable visibility splays and access improvements would be necessary. This would entail DMRB compliance speed surveys on Dog Lane to determine necessary visibility splays, which would need to be illustrated, can be provided and inter-visible swept path tracking showing additional vehicles can pass those currently using the shared site access.</i></p> <p>In light of this updated consultation response, it remains that further information is required by the County Highways Authority to fully assess the suitability of the proposed access arrangements for the proposed dwelling. Without this information, the proposal has failed to demonstrate safe and efficient access to the highway network contrary to JCS Policy INF1 and the provisions of the NPPF.</p> <p>The recommendation remains unchanged.</p>

254	8	<p>18/00073/FUL</p> <p>Walnut Farm, Tewkesbury Road, Norton</p> <p>Condition 2 should refer to:</p> <p>PL17-243-28 Rev A Plans and Elevations Plot 2</p> <p>PL17-243-30 Rev A Plans and Elevations Plot 4</p> <p>In addition, the applicant's agent has made the following comments on the Officer Report:</p> <ul style="list-style-type: none"> - The plan references are wrong/incomplete Officer Note: The Illustrative Views are not set out as Approved Plans in Condition 2 but are displayed at Committee. - The Urban Design Officer incorrectly refers to three storey dwellings. All of the dwellings are two storey with accommodation within roof void (exactly as per the permitted scheme). - The height of the permitted scheme ranges from 8.25 - 8.7 m ridge height. The current proposal is set at 8.7m high ridge height it is thus set at the same overall height as the permitted scheme. Officer Note: It is confirmed that the height of the permitted scheme ranges from 8.25m (plots 2&3) to 8.7m (Plot 4) and Paragraph 5.15 of the Officer Report is incorrect. - The proposed dwellings are arranged in a farmstead pattern to form an east facing courtyard within a hard and soft landscape setting. The design and proportions of the dwellings takes cues from traditional agricultural buildings and at 2.5 storeys are an appropriate mass and scale for the site context. - If 2.5 storey and a height of 8.7m was deemed an appropriate massing a year ago why has it suddenly become a problem now? - The Urban Design Officer's comments regarding the provision of a pavement show a lack of understating of highway legislation as it applies today. The Officer should be aware that, following withdrawal of the manual for streets, all accesses now have to have a footway. Both my client and I would prefer not to have a footway but our hand is forced by the County Council on this matter. - At Paragraph 1.3 (or anywhere else in the planning balance) your Officer has failed to acknowledge or clarify that the buildings proposed are smaller than the permitted scheme circa 1000m2 GIA (as now proposed) set against 1200m2 (as approved); whilst I acknowledge that the red line boundary has been extended slightly, the footprint of the built form is now circa 725m2 (as proposed) against 750m2 (as approved). - At Paragraph 5.4 your Officer again fails to state that, whilst the site area is slightly larger, the built form is less and the dwellings are no higher than that approved. Furthermore, it is your Officers who have encouraged a revised housing mix, originally seeking to encourage the applicant to increase the density (more smaller units), although Officers subsequently 'U' turned on this suggestion. - The report fails to reference Paragraph 123 (a) of the Framework which seeks to increased residential densities in "...locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas. This proposal increases the density within the same development parameters as previously approved (smaller footprint, same height and lower GIA) it is thus entirely compliant with the aims and objectives of the framework.
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- At Paragraph 5.6, the Officer references consideration of the approved scheme against the government requirement to significantly boost the supply of housing and recognised that housing supply is a rolling calculation. Your authority's stated position is that it has a five year housing land supply. The Joint Core Strategy Inspector approved the Joint Core Strategy on the basis that the plan would be subject to immediate review; this hardly supports a robust supply position in the longer term and thus the considerations which applied in April 2017 apply equally now. Your Officer's suggestion that some sort of special circumstances applied when approving the previous scheme is thus somewhat disingenuous. The planning considerations applicable in 2017 are equally applicable now and I consider that, in the planning balance, your Officer's report should accurately reflect that position. In my opinion the Officer report will give the Committee the impression that special circumstances led to the approval in 2017 which do not apply now. That simply is not an accurate representation of the policy position as it stands today.
- Your Officer's comments upon the design I again find to be disingenuous. Officers have not sought peer review of the scheme and, as far as I am aware, those reviewing this proposal are not qualified architects. Your Urban Design Officer has clearly misread the plans and has had no regard to that which has been approved.
- At Paragraph 4.9, your Officer states that the site falls outside of the defined settlement boundary identified in the draft Neighbourhood Development Plan. Again, this statement is not in my view correct - the Neighbourhood Development Plan confirms that the settlement boundary has been informed by (Neighbourhood Development Plan Paragraph 38) various bullet pointed items including "extant planning permissions". The settlement plan identifies each consented scheme within Norton and outlines each with a black line. Paragraph 37 of the draft Neighbourhood Development Plan confirms that the settlement includes sufficient capacity to meet indicative levels of development from inception. It is thus reasonable to conclude that all of the approved sites within the draft Neighbourhood Development Plan are deemed to form part of the settlement and thus the development as proposed is in conformity with the Neighbourhood Development Plan as drafted.
- Paragraph 5.16 of the Officer report is incorrect. The tallest building within the approved scheme is 8.7/8.8metres. The proposal before you is thus the same height as the tallest building previously approved

265	9	<p>18/00025/APP</p> <p>Land Rear of Lidl UK, Evesham Road, Bishops Cleeve</p> <p><u>Consultation Update</u></p> <p>The Council's Flood Risk Management Engineer has advised that, based on the revised drainage drawing scheme, there is no objection to the application.</p> <p>The Environmental Health Officer has raised queries about the accuracy of the distance to potential residential receptors set out in the noise report which accompanied the application for the redevelopment of the Lidl site (Ref: 17/00133/FUL). This was based on the centre of the plant room being 15 metres from the facade of the dwellings as shown on the indicative site plan in outline planning permission (Ref:15/00215/OUT). Following consideration of the current application, it is questionable if the distance of 15 metres as quoted in the Lidl noise report was correct, albeit the layout of the proposal was not a consideration at outline stage. As such the Environmental Health Officer advises that the only way of being 100% confident that future residents are afforded an acceptable noise climate is to condition the current application with glazing specifications to protect residential amenity.</p>
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Item 1 and 2 – 18/00588/FUL – Details of Bin Store



Heritage Apex Bin store

CODE: H18ED4P

BARCODE: 5013856956413



Features Dimensions Downloads

- Attractive storage for two wheeled bins
- 12mm tongue & groove fine sawn vertical cladding
- Apex style roof
- Lifting lids with chains to bin lids
- Easy access to bins
- Grey wash paint finish
- Made in Great Britain

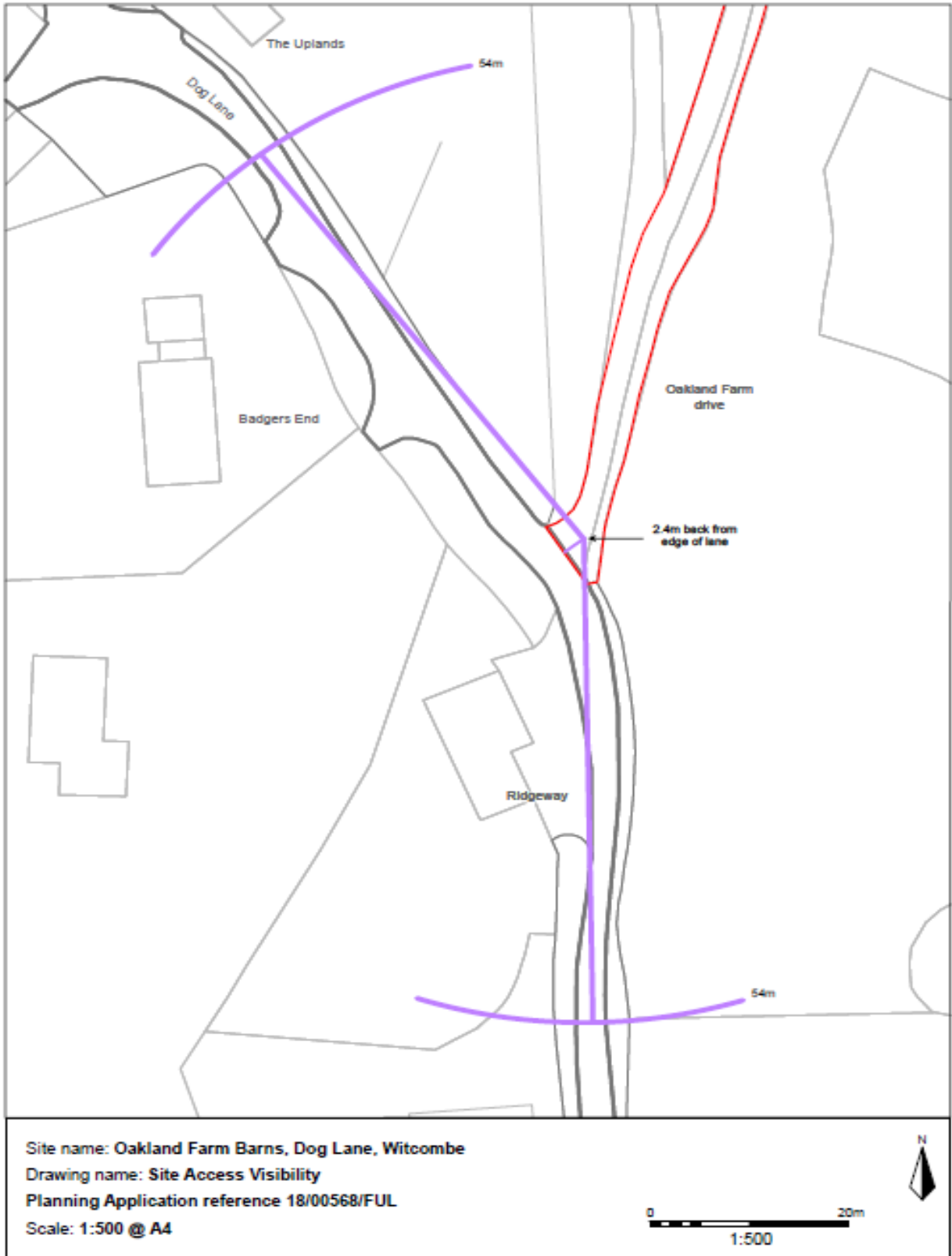
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Item 5 – 18/00568/FUL – Site Access Visibility



Site name: Oakland Farm Barns, Dog Lane, Witcombe
Drawing name: Site Access Visibility
Planning Application reference 18/00568/FUL
Scale: 1:500 @ A4

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	Tuesday 23 October 2018
Subject:	Current Appeals and Appeal Decisions Update
Report of:	Technical Planning Manager
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Built Environment
Number of Appendices:	1

<p>Executive Summary: To inform Members of current planning and enforcement appeals and Ministry of Housing, Communities and Local Government (MHCLG) appeal decisions issued.</p>
<p>Recommendation: To CONSIDER the report.</p>
<p>Reasons for Recommendation: To inform Members of recent appeal decisions.</p>

<p>Resource Implications: None</p>
<p>Legal Implications: None</p>
<p>Risk Management Implications: None</p>
<p>Performance Management Follow-up: None</p>
<p>Environmental Implications: None</p>

1.0 INTRODUCTION/BACKGROUND

1.1 At each Planning Committee meeting, Members are informed of current planning and enforcement appeals and Ministry of Housing, Communities and Local Government (MHCLG) appeal decisions that have recently been issued.

2.0 APPEAL DECISIONS

2.1 The following decisions have been issued by the MHCLG:

Application No	17/00170/CONDIS
Location	Land Rear Of Queens Head Inn A46 Aston Cross Aston Cross Tewkesbury Gloucestershire
Appellant	
Development	Application for approval of details subject to conditions 10 (materials blue/black roof slate, terracotta roof slate, flame red slate, vertigo blue/black slate, wiewerberger roy stow mixed red brick), 11 (Vehicle tracking), 12 (New site internal layout road), 15 (construction method statement), 17 (Management of Streets), 18 (Fire hydrants) of planning application ref number 16/00665/FUL
Officer recommendation	Split decision
Decision Type	Delegated
DCLG Decision	Allowed
Reason	<p>The Inspector considered that proposed palette of facing materials submitted in pursuit of the discharge of Condition 10 of planning application ref number 16/00665/FUL (and that had already been applied by the appellant), would not appear out of place with the contemporary design approach of the development set out in the Design and Access Statement (DAS). He considered that the materials palette delivers a scheme that provides the houses with a distinct character and cohesive whole that does not represent the tipping point whereby the development appears more urban and prominent in the landscape.</p> <p>Although not utilising the materials specified in the DAS the Inspector highlighted that the site is not within a conservation area or designated landscape and the local context does not display a cohesive or consistent character. He recognised that although such factors do not necessarily justify accepting a lesser quality development, he did not consider the site to be sensitive to the changes that have been applied, nor the quality of the approved development envisaged in the DAS unacceptably diminished between permission and completion stage.</p> <p>In conclusion the Inspector found that the external materials do not result in unacceptable harm to the character and appearance of the development or surrounding area and do not conflict with JCS Policy SD4 or section 12 of the NPPF. For these reasons he found no sound material reason to withhold approval of the details submitted in respect of the discharge of Condition 10.</p>
Date	25.09.2018

- 3.0 ENFORCEMENT APPEAL DECISIONS**
- 3.1 None
- 4.0 OTHER OPTIONS CONSIDERED**
- 4.1 None
- 5.0 CONSULTATION**
- 5.1 None
- 6.0 RELEVANT COUNCIL POLICIES/STRATEGIES**
- 6.1 None
- 7.0 RELEVANT GOVERNMENT POLICIES**
- 7.1 None
- 8.0 RESOURCE IMPLICATIONS (Human/Property)**
- 8.1 None
- 9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 9.1 None
- 10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 10.1 None
- 11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**
- 11.1 None

Background Papers: None

Contact Officer: Appeals Administrator
01684 272062 AppealsAdmin@teWKesbury.gov.uk

Appendices: Appendix 1: List of Appeals received

List of Appeals Received						
Reference	Address	Description	Date Appeal Lodged	Appeal Procedure	Appeal Officer	Statement Due
17/00520/OUT	Land At Fiddington Ashchurch	Residential development (up to 850 dwellings), a primary school, local centre (comprising up to 2,000 sq m gross internal floor area (A1, A2, A3, A4, A5 and D1 uses) with no single A1 comparison unit exceeding 500 sq m gross internal area), supporting infrastructure, utilities, ancillary facilities, open space, landscaping, play areas, recreational facilities (including changing facilities and parking). Demolition of existing buildings. New primary access points from the A46(T) and Fiddington Lane defined as: Western Access point from A46(T) up to 153 metres measured from the southern edge of the carriageway of the A46(T) into the site, Eastern Access point from Fiddington Lane (via A46(T)) up to 50 metres measured from the western edge of the carriageway of Fiddington Lane into the site.	14/09/2018	P	CAS	21/12/2018
18/00056/PDAD	Barn At Woodfold Down Hatherley Lane Down Hatherley GL2 9QB	Prior approval for conversion of agricultural building into 1 no. dwelling (use class C3) and associated building operations	24/09/2018	W	DEK	29/10/2018

Process Type

- **FAS** indicates FastTrack Household Appeal Service
- **HH** indicates Householder Appeal
- **W** indicates Written Reps
- **H** indicates Informal Hearing
- **I** indicates Public Inquiry