

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

Committee:	Planning
Date:	02.03.2020
Site Location:	Land To The West Of The A48, Minsterworth Village, Minsterworth, Gloucestershire, GL2 8JH
Application No:	20/00081/PIP
Ward:	Highnam With Haw Bridge
Parish:	Minsterworth
Proposal:	Residential development for between 4 to 8 dwelling houses.
Report by:	Mrs Helen Stocks
Appendices:	Site location plan
Recommendation:	Permit

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application site comprises a parcel of land, approximately 0.49 hectares, to the north-west of the A48 in Minsterworth. The site is currently used for agriculture (pastureland) and is located between existing residential properties 'Sharnbrook' and 'The Redlands'.
- 1.2 The site is not subject to any landscape designations. There is mature hedgerow along the site frontage onto the A48. The site lies within Flood Zone 1.
- 1.3 There is a Grade II Listed milestone along the road frontage which is currently buried beneath dense bushes and trees along the frontage.
- 1.4 The application seeks planning permission in principle for residential development between 4 to 8 dwellings.

2.0 RELEVANT PLANNING HISTORY

- 2.1 There is no relevant planning history pertaining to the site itself.
- 2.2 The adjoining parcel of land to the north (as shown within the blue line boundary on the attached site location plan) has been subject to recent applications for permission in principle for between 4 – 6 dwellings (ref: 19/00550/PIP and 19/00897/PIP). These applications were considered by Members of the Planning Committee in August 2019 and October 2019 respectively. It was resolved in both cases that permission in principle should be refused for the following reason:

The proposal is located outside of the defined settlement boundaries in Tewkesbury Borough Plan - Pre-submission version 2019; Policy RES2, and the site does not meet any of the other criteria within Policy RES3. The site is an encroachment into the countryside and does not comply with the

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 Policy SD10. There are no other specific exceptions/circumstances defined in district or neighbourhood plans which indicate that permission should be granted. Therefore the proposed application site is not an appropriate location for new residential development, and is contrary to the policies within the Joint Core Strategy 2017 and the emerging Tewkesbury Borough Plan 2019.

- 2.3 An appeal was subsequently lodged against the first refusal of permission in principle (ref: 19/00550/PIP). The Inspector acknowledged the proposal would be contrary to JCS Policies SP2 and SD10 and PSTBP Policies RES2 and RES3, the latter of which could only be afforded limited weight given the stage of plan preparation and nature of unresolved objections. It was considered that the site's position immediately adjacent to existing residential development and the proposal's ability to reflect the linear form of development in the vicinity would not encroach into the countryside to any greater extent than the adjoining development. Taking account of the Council's five year housing land supply position, where the 'tilted balance' is engaged, the Inspector concluded that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits. The appeal was therefore allowed on 20-01-2020 (ref: APP/G1630/W/19/3238070).

3.0 **RELEVANT POLICY**

- 3.1 The following planning guidance and policies are relevant to the consideration of this application:

3.2 **Town and Country Planning (Permission in Principle) Order 2017**

3.3 **National Planning Policy Framework (NPPF) (2019)**

3.4 **Planning Practice Guidance (PPG)**

3.5 **Gloucester, Cheltenham & Tewkesbury Joint Core Strategy (JCS) (Dec 2017)**

Policy SP1 – The Need for New Development

Policy SP2 – Distribution of New Development

Policy SD10 – Residential Development

3.6 **Tewkesbury Borough Local Plan to 2011 (TBLP) (Mar 2006)**

3.7 **Pre-submission Tewkesbury Borough Plan 2011-2031 (PSTBP) (2019) :**

Policy RES2 – Settlement Boundaries

Policy RES3 – New Housing Outside Settlement Boundaries

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

3.9 **The First Protocol, Article 1 (Protection of Property)**

4.0 **CONSULTATIONS**

4.1 **Minsterworth Parish Council – Objects to the application for the following reasons:**

- The development is not within the proposed settlement boundary for Minsterworth;
- Dangerous access and egress onto a fast and busy main road;
- Concerns regarding how drainage will be dealt with as the existing drainage

- in Watery Lane is already overloaded and road is regularly flooded;
- Concerns about the number of houses already proposed for Minsterworth as the infrastructure is not there to support further increases;
- If this application is granted, the Parish Council would request funding for the provision of an improved and adequate drainage.

4.2 **Gloucestershire County Council Highways** – No representations received.

4.3 **County Archaeologist** – No objection. There is low risk of archaeological remains within the application site. No archaeological investigation or recording required in connection with the application.

4.4 **Wales & West Utilities** – There are pipes in the area of the site. There is a risk that apparatus may be affected during construction works. Should the planning application be approved then the developer should contact Wales & West Utilities direct to discuss any requirements in detail prior to any work commencing on site. Any diversion works would be fully chargeable.

5.0 **PUBLICITY AND REPRESENTATIONS**

5.1 The application has been publicised through the posting of a site notice for a period of 21 days. No representations have been received.

6.0 **POLICY CONTEXT**

6.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of The Town and Country Planning Act 1990. Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which "indicate otherwise". Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other materials considerations."

6.2 The development plan comprises the Joint Core Strategy (JCS) (2017) and saved policies in the Tewkesbury Borough Local Plan to 2011 (TBLP) (March 2006).

6.3 Other material policy considerations include national planning guidance contained within the National Planning Policy Framework and the Pre-submission version of the Tewkesbury Borough Plan (PSTBP) (2019), the policies of which hold limited to moderate weight at this current time.

7.0 **ANALYSIS**

7.1 Planning Practice Guidance (paragraph 012) for permission in principle (PIP) states that the scope of the PIP is limited to:

- Location
- Land Use
- Amount

Each of these will be discussed in turn below.

7.2 The site layout, design, access details, landscaping, drainage and mix of dwellings would all be considered at the 'technical details' stage.

Location

- 7.3 JCS Policy SP2 identifies Minsterworth as a 'Service Village' which is capable of accommodating lower levels of development proportional to its size and function, proximity to Cheltenham and Gloucester and subject to environmental, economic and social impacts. A defined settlement boundary is proposed for Minsterworth within Policy RES2 of the Pre-Submission Tewkesbury Borough Plan (PSTBP). This policy can be afforded limited weight at present given the stage of plan preparation and the number of unresolved objections. The application site is not located within the proposed settlement boundary which is defined along the residential boundary of 'Sharnbrook' to the north-east.
- 7.4 JCS Policy SD10 specifies that new housing will be planned in order to deliver the scale and distribution of housing development set out in JCS Policy SP2. On sites that are not allocated, as in this instance, housing development and conversions to dwellings will be permitted on previously-developed land in the existing built-up areas and housing development on other sites will only be permitted where it constitutes affordable housing or infilling within Tewkesbury's towns and villages. The JCS defines infill development as "the development of an under-developed plot well related to existing built development."
- 7.5 PSTBP Policy RES3 states that new residential development will only be considered acceptable outside of the settlement boundary if it meets one of the following criteria:
- (1) The reuse of a redundant or disused permanent building (subject to Policy RES7)
 - (2) The sub-division of an existing dwelling into two or more self-contained residential units (subject to Policy RES8)
 - (3) Very small scale development at rural settlements in accordance with Policy RES4
 - (4) A replacement dwelling (subject to Policy RES9)
 - (5) A rural exception site for affordable housing (subject to Policy RES6)
 - (6) Dwellings essential for rural workers to live permanently at or near their place of work in the countryside (subject to Policy AGR3)
 - (7) A site that has been allocated through the Development Plan or involves development through local initiatives including Community Right to Build Orders and Neighbourhood Development Orders.
- 7.6 The application site is adjacent to the property known as Redlands to the south-west and adjoins the parcel of land to the north that has recently been granted permission in principle at appeal for residential development between 4 to 6 dwellings. It is not located within the proposed settlement boundary which extends along the residential boundary of 'Sharnbrook' to the north-west, immediately adjoining the neighbouring PIP site.
- 7.7 Minsterworth is characterised by fairly sporadic development, with additional approved development throughout the village. In part of the settlement, around the former petrol station, there is a distinct pattern of linear development along both sides of the A48. The application site is located adjacent to built-form, with existing residential development to the south-west and the approved PIP site to the north with residential development beyond. However, the proposal is not considered to constitute infill development nor does it meet any of the criteria detailed above. The proposal is therefore deemed contrary to the emerging Policy RES3.
- 7.8 For the reasons, the principle of development would be contrary to JCS Policy SD10

and PSTBP Policy RES3.

Five Year Housing Land Supply

- 7.9 Paragraph 11 of the NPPF sets out that plans and decisions should apply a presumption in favour of sustainable development. For decision making this means:

(c) approving development proposals that accord with an up-to-date development plan without delay; or

(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.10 The NPPF clarifies (footnote 7) that planning policies for housing will be judged out of date, inter alia, where the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

- 7.11 Notwithstanding the conflict with the Development Plan, the Council's policies for the supply of housing are considered to be out-of-date having regard to paragraph 11 of the NPPF. In these circumstances, as set out above, the NPPF advises that the presumption should be that planning permission is granted unless there are adverse impacts of doing so which would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

- 7.12 The balance of the principle of development against the harms of development is discussed further below.

Land Use

- 7.13 The guidance sets out that housing led development is an accepted land use for the PIP application process. The application is for up to 8 new dwellings and the site is considered to be fairly well related to the existing built development. The numbers proposed would correlate to a linear form of development to reflect the existing form and layout of the settlement which would be an acceptable pattern of development.

Amount

- 7.14 The application proposes between 4-8 dwellings to be accommodated on site. Officers are of the opinion that it would be possible to accommodate up to 8 dwellings in a linear form on this site and therefore the 'amount' of development is accepted.

Other Matters

Archaeology

- 7.15 Paragraph 189 of the NPPF states that in determining planning applications “where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”
- 7.16 The application has been accompanied by a desk-based archaeological assessment. The County Archaeologist has reviewed the submitted information and has raised no objection to the proposal, commenting that the site is of low risk of archaeological remains. No archaeological investigation or recording is therefore required in connection with the application.

Highways

- 7.17 The County Highways Authority has not provided comments on this application. However, it is not within the scope of this application to determine the details of access to the site, this would be given full consideration at the technical approval stage. Permission in principle could only be refused on this basis if there were insurmountable reasons why the development as proposed would have an unacceptable impacts on the operation of highway network.

Drainage

- 7.18 The Parish Council has raised concerns in respect of drainage. However, it is not within the scope of the PIP process to determine details of the site-specific drainage requirements and this would be addressed at technical matters stage.

Heritage

- 7.19 In respect of heritage assets, the Conservation has not raised any specific comments on the current application. However, it is noted that there is a Grade II listed milestone along the site frontage onto the A48. As with the neighbouring PIP proposal, there is potential for the proposed development to have an adverse impact on the milestone by virtue of potential access arrangements. This remains a matter for consideration at the technical matters stage and any issues that may arise would need to be addressed at that stage of the process. It is not within the scope of this PIP application.

Landscape Impact

- 7.20 The current proposal would align with the neighbouring PIP scheme which was allowed at appeal. In considering the appeal, the Inspector concluded that while the proposal would result in the introduction to built form into a currently undeveloped parcel of land, it would be positioned immediately adjacent to existing residential development, would reflect the linear form of development in the vicinity and would not extend westward into the countryside to any greater extent than the adjoining development. It was therefore concluded that the encroachment into the countryside would be limited, as would the adverse effects arising from the development.
- 7.21 Officers consider the same consideration should be given to the current proposal and do not consider that the development of the application site, alongside the neighbouring development, would amount to landscape harm to such an extent that would warrant the refusal of permission in principle. It is further considered that mitigation measures to limit the impact of the proposal on the landscape would be

agreed at technical approval stage.

8.0 **OVERALL BALANCING EXERCISE AND CONCLUSION**

Benefits

- 8.1 The proposal would deliver up to 8 new dwellings, which would contribute towards the shortfall in housing supply albeit limited by the scale of the development. There would also economic benefit arising from the proposal both during and post construction. Whilst this weight is limited by virtue of the scale of the development, it is nevertheless a matter which weighs in favour of the proposal, particularly in light of the five year housing land supply position.

Harms

- 8.2 Harm arises from the conflict with the development plan policies, in particular JCS Policy SD10 and PSTBP Policy RES3. However, this conflict must be considered having regard to the lack of a five year housing land supply and paragraph 11 of the NPPF. Furthermore, only limited weight can be afforded to PSTBP Policy RES3 at the current time given the stage of plan preparation and number of unresolved objections.
- 8.3 The proposal would be located outside the proposed settlement boundary and there would be encroachment into the countryside by virtue of the development of this undeveloped plot. However, the impacts would be limited and could be mitigated through careful design, layout and detailed landscaping which would be agreed at technical approval stage.

Neutral Impacts

- 8.3 Highways matters (subject to confirmation there are no insurmountable highway reasons why development should not be permitted), impact upon heritage assets, detailed design, mix, drainage and layout would be properly considered at technical details stage.

Conclusion

- 8.4 Although the application site's location is contrary to JCS Policy SD10 and PSTBP Policy RES3, the Council's lack of a five year land supply means that Paragraph 11 of the NPPF comes into effect. The test is whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
- 8.5 The proposal is considered to relate well to the existing built form of the settlement and the proposed number of dwellings (between 4 and 8) would allow for a linear form of development of a density similar to existing development in vicinity of the site. There would be harm to the landscape by reason of the proposed development's encroachment into the countryside; however, this is considered to be limited and could be mitigated. For these reasons, it is concluded that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits.
- 8.6 In light of the above, it is recommended that permission in principle is **GRANTED**.

Informatives:

1. 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.

2. Tewkesbury Borough Council operates a District Level Licence (DLL) scheme for GCN. The application site is located in a 'Red Zone' for Great Crested Newts (GCN) as identified by the NatureSpace Impact Risk Maps. Red zones are characterised as containing suitable habitat and most important areas for GCN. Further information will be required at technical approval stage to demonstrate (a) the proposal poses no risk to GCN or (b) an assessment is submitted in respect of the risk to GCN alongside any measures to safeguard for significant risks and compensate for any impacts. This may result in the need for a GCN site mitigation licence if the developer chooses not to use the DLL.

3. The applicant is hereby advised that there may be a requirement for affordable housing contributions at technical approval stage to accord with the requirements of JCS Policy SD12 when taking account of cumulative site area and/or number of dwellings to be delivered across the application site and the adjoining PIP site (ref: 19/00550/PIP) which are within the same ownership.