

1 April 2016

Committee	Planning
Date	Tuesday, 12 April 2016
Time of Meeting	9:00 am
Venue	Council Chamber

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND



**for Sara J Freckleton
Borough Solicitor**

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 (staff should proceed to their usual assembly point). 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.



	Item	Page(s)
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.	
4.	MINUTES	1 - 33
	To approve the Minutes of the meeting held on 15 March 2016.	
5.	DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL	
	(a) Schedule	
	To consider the accompanying Schedule of Planning Applications and proposals, marked Appendix "A".	
	(b) 13/01003/OUT - Land South of A46 and North of Tirlle Brook, Ashchurch	34 - 88
	To consider the recommended conditions and Section 106 obligations following the 'minded to permit' decision taken at the last Planning Committee meeting.	
	(c) 15/01124/FUL - Noake Farm, Churchdown Lane, Churchdown	89 - 106
	To consider the recommended conditions and negotiations in respect of the height of the buildings following the 'minded to permit' decision taken at the last Planning Committee meeting.	
6.	REVIEW OF PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS	107 - 109
	To agree the Members of the Planning Committee to serve on the re-established Joint Standards and Planning Working Group to review the Protocol for Councillors and Officers Involved in the Planning Process, as set out at Paragraph 2 of the report, following its operation for 12 months to assess how it has worked and whether any further amendment is necessary.	
7.	CURRENT APPEALS AND APPEAL DECISIONS UPDATE	110 - 116
	To consider current Planning and Enforcement Appeals and CLG Appeal Decisions.	

8. ADVANCED SITE VISITS BRIEFING

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To note those applications which have been identified as being subject to a Committee Site Visit on the Friday prior to the Planning Committee meeting at which they will be considered.

DATE OF NEXT MEETING**TUESDAY, 10 MAY 2016****COUNCILLORS CONSTITUTING COMMITTEE**

Councillors: R E Allen, R A Bird, Mrs G F Blackwell, D M M Davies, M Dean, R D East (Vice-Chair), J H Evetts (Chair), 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

Substitution Arrangements

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

Recording of Meetings

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 Chairman 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, 15 March 2016 commencing
at 9:00 am**

Present:

Chair
Vice Chair

Councillor J H Evetts
Councillor R D East

and Councillors:

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

PL.71 ANNOUNCEMENTS

- 71.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 71.2 Members were reminded that the Council had resolved to introduce a Scheme for Public Speaking at Planning Committee for a 12 month period, starting with the new term 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.72 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

- 72.1 Apologies for absence were received from Councillors R A Bird, D T Foyle and Mrs A Hollaway. Councillors R Furolo, Mrs R M Hatton and H A E Turbyfield would be acting as substitutes for the meeting.

PL.73 DECLARATIONS OF INTEREST

73.1 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.

73.2 The following declarations were made:

Councillor	Application No./Item	Nature of Interest (where disclosed)	Declared Action in respect of Disclosure
R E Allen	15/01277/FUL Site of Former Caretaker's Bungalow, 2 York Road, Tewkesbury.	Is a Borough Council representative on the Board of Severn Vale Housing.	Would not speak or vote and would leave the Chamber for consideration of this item.
Mrs G F Blackwell	15/01124/FUL Noake Farm, Churchdown Lane, Churchdown. 15/01125/LBC Noake Farm, Churchdown Lane, Churchdown.	Is a Borough Councillor for the area.	Would speak and vote.
Mrs J M Greening	15/01277/FUL Site of Fomer Caretaker's Bungalow, 2 York Road, Tewkesbury.	Is a Borough Councillor for the area.	Would speak and vote.
R J E Vines	15/01124/FUL Noake Farm, Churchdown Lane, Churchdown. 15/01125/LBC Noake Farm, Churchdown Lane, Churchdown.	Is a Gloucestershire County Councillor for the area.	Would speak and vote.
P N Workman	15/01326/FUL Cotteswold Dairy Estate, Northway Lane, Newtown.	Cotteswold Dairy was a family-run business.	Would not speak or vote and would leave the Chamber for consideration of this item.

73.3 There were no further declarations made on this occasion.

PL.74 MINUTES

- 74.1 The Minutes of the meeting held on 16 February 2016, copies of which had been circulated, were approved as a correct record and signed by the Chairman.

PL.75 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL**Schedule**

- 75.1 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.

13/01003/OUT – Land South of the A46 and North of Tirl Brook, Ashchurch

- 75.2 This was an outline application, with all matters reserved except for access, for a proposed garden centre and retail outlet centre and ancillary facilities together with associated infrastructure works including access, car parking and landscaping.
- 75.3 The Planning Officer advised that there had been some late representations which were included on the Additional Representations Sheet, attached at Appendix 1. These included a letter from Gloucester City Council raising concern about the potential impact on the regeneration scheme relating to King's Quarter and further comments from the Borough Council's retail consultant who considered that there was insufficient evidence to justify that there would be a significant adverse impact on planned investment in Gloucester city centre. The Council's Environmental Health Officer had confirmed that, whilst there were no adverse comments on air quality, conditions were recommended in relation to noise and extraction methods in terms of the possible A4/A5 types of usage.
- 75.4 The Planning Officer reiterated that this was an outline application for a new garden centre and retail outlet with all matters reserved aside from access. Given the scale of the development, the key consideration was the cumulative impact on the vitality and viability of existing centres. The National Planning Policy Framework advised that, where an application was likely to have a significant adverse impact on existing, committed and planned investment in a centre, or centres, and/or on town centre vitality or viability, then it should be refused. Similarly, Local Plan Policy RET6 sought to protect the vitality and viability of existing retail centres. A retail impact assessment had been submitted with the application which concluded that the proposal would not have a significant adverse impact on investment in any of the established centres, nor would it have a significant adverse impact on the vitality and viability of those centres having regard to the levels of trade diversification forecast in the assessment and the relative health of those centres. The spin-off benefits and new retail offer were also emphasised including its complementary nature to the existing retail offer in Tewkesbury and other centres. The Council had commissioned its own retail impact assessment which concluded that the proposal was likely to have a significant adverse impact on the health of Tewkesbury town centre and Gloucester city centre, and on existing investment in Tewkesbury due to the scale and type of retail floor space proposed and its proximity to the town centre. The applicant had offered a mitigation package for Tewkesbury town centre but none for Gloucester city centre. It was not considered that those measures would address the significant adverse impact on those centres and, as advised by the National Planning Policy Framework, the application should be refused planning permission. The applicant had also submitted draft Section 106 Legal Agreements but they had arrived late the previous day and Officers had not yet had chance to assess the submissions, which may also need to be made available

on the Council's website for public inspection. Other issues were fully addressed within the report and included concerns related to poor design and the loss of best and most valuable agricultural land. In terms of design, whilst this application was in outline form, the Urban Design Officer had raised fundamental concerns about the proposal given its nature, scale and form and stated parameters. Whilst some changes had been proposed to the deck parking area, the fundamental concerns raised by the Urban Design Officer relating to its poor design remained. It was noted that the proposal would result in the loss of 8.31ha of best and most versatile agricultural land. In conclusion, the economic benefits of the proposal were recognised and given significant weight, as were the social benefits. Nevertheless, the proposal was likely to have a significant adverse impact on the health of both Tewkesbury town and Gloucester city centres and on existing investment in Tewkesbury town centre. The proposal also failed to demonstrate good design which would deliver a strong sense of place and would result in the loss of best and most versatile agricultural land. Those identified harms would significantly and demonstrably outweigh the benefits of the proposal and the application was recommended for refusal.

75.5 It was noted that the applicant had submitted a critique of the GVA retail assessment and Matthew Morris from GVA was present to respond accordingly. Mr Morris advised that GVA had been asked by the Council to offer advice on a number of retail planning policy issues. This advice was just one part of the application and there were many other factors to take into account during the debate. He explained that the application site was not in the town centre and was not included in the Council's development plan. There were two matters to take into account; the sequential test and the impact on the existing town centre which would include impact on existing and planned investment in the centre. The Planning Officer had outlined the advice which had been provided by GVA and he highlighted that, whilst the applicant had not demonstrated sufficient flexibility in terms of the sequential test, there was no sequentially preferable site in nearby town centres to accommodate the development. GVA had used the Joint Core Strategy evidence base to assess the impact of the proposal on the health of Tewkesbury town centre and had concluded that, based on the applicant's suggested trade diversion there would be an impact of 6% on the non-food sector whereas their own assessment put that at 13%; the impact on Gloucester city would be 5%. In terms of the overall impact, it was considered that there would be significant trading overlap with goods sold in Tewkesbury town centre and significant adverse harm to the town centre.

75.6 The Chair invited Simon Tothill, speaking on behalf of the applicant, to address the Committee. Mr Tothill explained that he was Property and Development Director of Robert Hitchins Ltd, the developers promoting the application. He was hugely disappointed that the application was recommended for refusal as the scheme offered Tewkesbury so many benefits. It would deliver an investment of £60M into the Borough; up to 1,000 jobs; and more than £1M in Section 106 contributions towards Tewkesbury town centre and improvements to the A46. Furthermore, it would bring people in from miles around and would be linked to both the town centre and Ashchurch railway station by a subsidised bus service which would increase footfall in Tewkesbury town centre. He indicated that the scheme accorded with the Local Enterprise Partnership's Strategic Economic Plan and, as part of the proposals, frontage land would be reserved for future improvements to the A46 which would help in the delivery of other key strategic sites such as the Ministry of Defence site at Ashchurch. He pointed out that hundreds of people had attended public consultation events and over 70% had been in favour of the proposal. The concerns raised over highways and flooding had been addressed and confirmation had been received from Highways England and Gloucestershire County Council that they had no objection, subject to conditions. Likewise, the Environment Agency had confirmed that the scheme had suitable flood prevention measures. With all of the benefits, he questioned why Officers wanted Members to reject the scheme. It was suggested that the scheme would harm Tewkesbury town centre and Gloucester city centre and have

a negative impact on investment in Tewkesbury but that could not be correct; the factory outlet centre and garden centre would be a leisure destination and would attract people from an hour away who would not normally shop in Gloucester or Tewkesbury. With regard to Gloucester, the proposed scheme would not impact upon the King's Quarter proposals and the City Council had recently dropped the idea of a shopping centre for a mixed use scheme including the covered market. The owners of Gloucester Quays, an out of centre factory outlet centre, were bound to object as they had a vested interest. With reference to the points raised in the Officer presentation, he explained that design would be dealt with at the reserved matters stage and, with regard to agricultural land quality, he pointed out that the site was already designated for development in the Joint Core Strategy. He questioned why Tewkesbury should be a poor cousin to Gloucester and urged Members to do the right thing. Saying no today would be an opportunity missed and another blow to Tewkesbury town, and the wider borough, which seemed to always draw the short straw. He felt that Members should vote to permit the application, create 1,000 new jobs and give the borough the economic investment it deserved.

- 75.7 The Development Manager informed the Committee that an email had been received the previous day from Councillor Mrs H C McLain, a Borough Councillor for the area, which she had asked to be read out to the Committee. She had reviewed the documents on the proposal and felt that the assessment by Bilfinger GVA seemed to challenge a number of the assumptions on future retail demand. She asked the Committee to consider whether there would be a negative impact as suggested. She felt that there was a reasonable challenge that there would actually be a benefit to regeneration, as well as offering a wider range of local retail choice and employment. In her opinion, the proposed development delivered a number of opportunities to the area. As a Borough Councillor, her priority was her local Ward. Gloucester city had benefited from considerable investment and regeneration and she found it hard to believe that an investment in Tewkesbury such as the one proposed should be discarded as it offered no real threat to what was a well-established, vibrant offer in Gloucester and Cheltenham. Given the detailed information presented by GVA, she felt that the Planning Committee would be justified in concentrating on what was best for Tewkesbury as the impact on surrounding retail provision appeared to be minimal and, it could be argued, enhanced the range. She was not a specialist traffic analyst or highway engineer, however, as a complete layman, she argued that it was naïve to consider traffic impact in isolation, particularly as there could be significant implications from the proposed developments in that area.
- 75.8 The Development Manager clarified that the Officer recommendation was based on an independent assessment and it was considered that the proposal would result in a significant adverse impact on both Tewkesbury town and Gloucester city centres and existing investment in Tewkesbury town centre. On the other hand, the applicant had invited the Committee to permit the application on the basis that there would not be undue harm to Gloucester city centre and the impact on Tewkesbury could be mitigated. It was noted that the Section 106 offer was significantly below what would be expected and was not necessarily in accordance with the discussions that had taken place throughout the application process.
- 75.9 The Chair advised that the Officer recommendation was to refuse the application and he sought a motion from the floor. It was proposed that the application be refused in accordance with the Officer recommendation and the proposer of the motion indicated that he was particularly concerned about the potential impact on the exciting plans for the redevelopment of the Spring Gardens site. There was no seconder for this proposal and the Chair sought an alternative motion from the floor. It was proposed and seconded that the Committee be minded to permit the application on the basis that it would have to be referred to the Secretary of State and for it to be brought back to the next meeting of the Committee with recommended conditions and negotiations with the applicant in respect of Section 106 obligations. The proposer of the motion felt that the Section 106 contributions offered by the applicant seemed to be below what might be

expected for a development of this size. A Member indicated that, as a former retailer, he had studied the application in some detail and he did not think that the Tewkesbury high street would be adversely affected. Consumers were looking for something more when they were shopping and he was of the view that the development would bring more people to Tewkesbury. Upon being put to the vote, it was

RESOLVED That the Committee be **MINDED TO PERMIT** the application, subject to referral to the Secretary of State, and that the application be brought back to the next meeting of the Committee with recommended conditions and negotiations with the applicant in respect of Section 106 obligations.

15/00750/FUL – Part Parcel 6295, Blacksmith Lane, The Leigh

- 75.10 This application was for the construction of a new bungalow and detached garage building for a disabled person and the construction of a new access. The Committee had visited the application site on Monday 14 March 2016.
- 75.11 The Chairman invited Councillor Colin Withers from Leigh Parish Council to address the Committee. Councillor Withers indicated that the Leigh Parish Council and its Chair, had made their feelings well known with regard to future development in the Parish, both to the Planning Committee and directly to the Planning department. With assistance from Tewkesbury Borough Officers, the Leigh Parish Council was completing its own Neighbourhood Development Plan, which would include a service village at Coombe Hill, and it was intended to ensure that there was controlled infill development throughout the Parish. This application was a perfect example of that and it was hoped that the Committee would support those local aims. The Parish Council had been surprised and disappointed that the Officer report recommended refusal on two grounds. The first reason being that the proposed development formed a visually intrusive and discordant feature, however, the plot was more than adequate for the development and, being a bungalow, it would scarcely be noticed by speeding motorists on the A38. The growth of the hedge on the front boundary was far more rural than the extensive brick wall in front of Leigh House and the coach house on the opposite side of the road. The lantern created an architectural feature that was lower than any of the roof lines opposite but could be reduced if requested as a condition. The second reason for refusal related to the site being a remote location in the open countryside, outside of any recognised settlement boundary. The Parish Council did not believe that the Parish, or this site in particular, was isolated. Whilst the surroundings may be rural, the Parish and the site itself were ideally located close to Tewkesbury, Gloucester and Cheltenham with direct connections to the M5 motorway only two miles away. The application site was less than 30m from bus stops which was closer than most houses on new estates. It was closer to shops, a petrol station and a public house at Coombe Hill than any of the sites recently granted permission in Norton and Twigworth, sites which were also on the A38 with adjacent fields. With 10 houses in the immediate vicinity, the site could not be regarded as remote or being outside of a recognised settlement. The applicant had been born in the village and had tragically become paraplegic in 1997 meaning that he required a house of a specific design to cope with his disability. He wished to remain in the community close to the support of family and friends. Councillor Withers reiterated that the application was supported fully by the Parish Council and the local community with absolutely no objections. Paragraph 14 of the National Planning Policy Framework stated that there should be a presumption in favour of sustainable development and that planning permission should be granted unless doing so would significantly and demonstrably outweigh the benefits. With no objections from consultees or local residents, and given that it would clearly be of massive personal and social benefit to the applicant and his future life, the Parish Council asked the Committee to permit the application.

75.12 The Chair advised 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 suggested that it may be necessary to make some minor amendments to the design of the building but he felt that the proposal was largely acceptable and the Council had a responsibility to assist people with disabilities. A Member expressed the view that the atrium at the top was rather large and suggested that it be dropped in line with the chimney stacks to make it more agreeable. Another Member noted that one of the objections in the Officer report was that the side elevation of the proposed bungalow would present a continuous length of walling facing the main A38 highway. However, it was apparent on the Committee Site Visit that the structure on the opposite side of the road, and a house on the same side of the road, presented windowless elevations and, as such, the proposed bungalow would fit perfectly well with its surroundings. Furthermore, he did not consider the location to be unsustainable given that there was a bus stop on the main road which was used every day. He had liked what he had seen on site and felt that there were very good reasons for the application to be supported. A Member indicated that he disagreed with the second recommended refusal reason which cited the lack of pedestrian and cycle links as he regularly encountered cyclists when driving up and down the A38.

75.13 The Development Manager reminded Members that development needed to be controlled and the Joint Core Strategy and Borough Plan were being produced for that purpose. National and local planning policy sought to restrict new development in the open countryside which was not well-served by facilities and, whilst it was recognised that there were bus stops in the vicinity of the site, the occupants of the property would be likely to be highly reliant on the private car. A Member pointed out that personal circumstances were largely irrelevant in the consideration of planning applications as permission was granted to a building as opposed to a person. In response to a Member query, the Planning Officer advised that it would be unreasonable to include a condition to tie the occupancy of the property to the applicant. If Members were minded to permit the application, she recommended the inclusion of conditions relating to materials, access arrangements and the removal of permitted developments rights. She indicated that it would be difficult to address issues with the design by condition as it was likely that the layout would need to be revised and a delegated permit would therefore be necessary in those circumstances. A Member expressed the view that the overall design was acceptable but he had concerns about the lantern on the top of the building which could be a source of light pollution. Another Member indicated that she liked the lantern and felt that any light pollution it might cause would be minimal. She did not consider that the site was isolated and felt that the applicant would be very much part of a community if the bungalow was permitted. A Member expressed the view that the lantern was integral to the design of the building and helped to make it unique and individual. The proposer and seconder of the motion indicated that they would be happy to permit the application without amendment, subject to conditions relating to materials, access arrangements and the removal of permitted developments rights and, upon being taken to the vote, it was

RESOLVED That the application be **PERMITTED** subject to conditions relating to materials, access arrangements and the removal of permitted developments rights.

15/01345/FUL – Vine Tree Farm, The Wharf, Coombe Hill

75.14 This application was for the removal of condition 14 attached to planning permission 14/01224/FUL (permitted development rights).

75.15 The Chair invited Councillor Colin Withers from Leigh Parish Council to address the Committee. Councillor Withers indicated that the Parish Council had met several times and received many objections regarding this application site. The original application was for a large three storey mansion which was out of keeping with the location and disproportionate with the building it was replacing. The plans approved and supported in the August 2015 application were more appropriate to the site and included several

important conditions including condition 14, aimed at preventing uncontrolled development in this visually important location. Since that time, the Parish Council had seen several new applications, all aimed at increasing the size of the new dwellings and garages. Removal of condition 14 could allow the applicant to run riot with additional permitted development buildings at this sensitive location. The Parish Council Planning Committee had explained to the applicant that it was always willing to consider additional requirements but that any further development must remain controlled in both volume and design. The Parish Council therefore agreed with the Officer's recommendation to reject the application and retain the condition 14 control.

75.16 The Chair invited Stephen Hawksworth, speaking in objection to the application, to address the Committee. Mr Hawksworth indicated that he was speaking on behalf of the objectors to the application who felt that there was no justification for the removal of condition 14 attached to the application 14/01224/FUL. Given the history of the property over the past four years, the close proximity of the Grade II listed building known as Evington House, and its rural location within the landscape protection zone, there was a need to ensure that the local planning authority was allowed to strictly monitor all further works on site. This would help to ensure that the development integrated harmoniously within its surroundings and was in accordance with the National Planning Policy Framework guidelines and Tewkesbury Borough Council's own local policies HOU7 and HOU10.

75.17 The Chair invited the applicant, John McCreadie, to address the Committee. Mr McCreadie explained that he was the owner of Vine Tree Farm and was speaking in favour of the application to remove permitted development rights. Government planning policy was focused on reducing red tape for the most simple and basic of planning applications. Homeowners up and down the country who wanted a shed, a conservatory or minor alterations to the rear of their homes, had long been allowed to do so under their permitted development rights and parliament had recently further extended those householder rights to free up local councils from unnecessary red tape. Tewkesbury Borough Council was understaffed, had very tight budget constraints and really needed to utilise its precious and scarce resources, deciding the most significant applications and undertaking its 10 year housing supply requirements in the interests of the wider community. The Council received no application fees for dealing with applications which would fall under homeowners permitted development rights and the Planning department was being bogged down with numerous non-fee paying applications. Appeal Inspectors found it impossible to refuse an application which fell under permitted development rights as they had a directive from central government. Permitted development rights did not extend to the front of the property where they would be visible to neighbours or spoil the streetscene and were only applicable to private rear gardens where neighbours could not be overlooked. His home faced onto the open landscape on the west elevation and he was not permitted to do anything to the front of his house which would impact upon the landscape or neighbours. It was nonsense to say that removing his permitted development rights was in the interest of protecting the landscape as the front elevation was already excluded from permitted development rights and, due to the established hedgerows, the rear could not be seen beyond the boundaries of the property. He did not think that anyone could argue with the reasoning behind householder permitted development rights and he questioned why they were routinely removed by Planning Officers. He reiterated that this was clogging up the Planning department which was ruining the Council and undermined its reputation in the eyes of honest, hardworking families who had to wait for months on end and spend considerable amounts of money on drawings just to have a garden shed at the rear of their home. He urged Members to give local residents their most basic rights as householders to make very minor, very controlled changes to their home, without delays. He hoped that Members would permit the application and free the Council's Planning department to deal with much more important, fee-paying, applications.

75.18 The Development Manager understood the comments which had been made and accepted that, in the past, the Planning department may have been too quick to remove blanket permitted development rights; it was intended to look into reinstating those rights, particularly in terms of the larger housing estates. Notwithstanding this, the scenario before Members was very different as the replacement dwelling was much larger than the previous dwelling on the site. Members had given careful consideration to the application before granting planning permission and, being mindful of the significant increase, had taken the view that any further extension should be controlled.

75.19 The Chair indicated that the Officer recommendation was to refuse the application and 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 put to the vote, it was

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

15/01007/FUL – Vine Tree Farm, The Wharf, Coombe Hill

75.20 This application was for a proposed replacement dwelling with an attached garage building; hard and soft landscaping; and provision of new access and driveway (revised scheme following planning permission ref: 14/01224/FUL).

75.21 The Chair invited Councillor Colin Withers from Leigh Parish Council to address the Committee. Councillor Withers indicated that the Parish Council had received several complaints, as well as some support, from members of the public relating to this new application which considerably increased the size of both the dwelling and garage. Objections had also been made as to the need for such a large separate building for bats. The Parish Council agreed with the Conservation Officer that the revised design was a cheaper and less desirable version of the original design. The Parish Council Planning Committee was sympathetic and could agree to the applicant squaring-off the original design which would provide the desired increased residential space, however, it was opposed to increasing the height of either the house or the garage above ground level and to the size of the proposed bat refuge. It was also understood that the revised access arrangements had very recently been presented to County Highways and, as such, the Parish Council had been unable to comment, although it was understood that the arrangements were opposed by existing landowners. The Parish Council's conclusion, therefore, was that the application as presented should be refused in accordance with the Officer's recommendation. If the Committee decided to support the application, it was requested that all conditions, including the vital condition 14 imposed on the original approved plans, be imposed on this application and that the finished floor level be reduced so as not to increase the overall ridge height.

75.22 The Chair invited Stephen Hawskworth, speaking in objection to the application, to address the Committee. Mr Hawskworth advised that he was speaking on behalf of the objectors to the application and indicated that there were four main areas of opposition. The floor area of the proposed house had increased from 304sqm to 443sqm, an increase of 46%, and the garage had increased from 30sqm to 66sqm, an increase of 120%. The size and scale were contrary to Section 11 of the National Planning Policy Framework and Policy LND3 of the Tewkesbury Borough Local Plan. It was noted that a smaller dwelling had been granted planning permission in August 2015 despite being recommended for refusal by the Planning Officer. In terms of the rise in ridge height, a typical new house had an unobstructed ridge height of 7.5m and did not have a chimney whereas the proposed house had a total height of 11.2m with a prominent chimney. The dwelling was positioned on a raised plateau 1.5m above the surrounding ground, giving a total height of 12.7m and this was visually intrusive to the rural landscape. The Land Assessment report from November 2014 commissioned by Tewkesbury Borough Council made direct reference to this specific parcel of land and its surroundings in respect of visual context and prominence. With regard to character,

changing the 'L' shape to a rectangle with the addition of a balcony did not accord with existing properties in the area and the proposed house would overshadow the nearby Grade II listed building. The front elevation of the house, lobby and garage was now an unbroken 31m and the proposed development failed to respect the character and settlement pattern of the locality which was contrary to Policy HOU7. The fourth issue related to the A38 access and he indicated that the drawings referenced in the letter from County Highways dated 14 March 2016 were not in the public domain. In addition it was felt that accurate dimensions and valid reasons should be supplied for requisite visibility splays. Whilst the applicant had cut back hedges to improve the visibility, he did not own the hedges and had no authority to undertake the works. Furthermore, the existing access had a width of 4m which was insufficient to accommodate a two lane carriageway.

75.23 The Chair invited the applicant, John McCreadie, to address the Committee. Mr McCreadie felt that the application should be straightforward as planning permission for a very similar building had already been approved in August 2015. Many compromises had been made to the roof design and accommodation during the drawing of the detailed construction plans and local architects had re-designed the rear to change the 'L' shaped building into a rectangle with an attached garage. He explained that he was a local businessman and employer and often worked from home so the extra space to the rear would create space for an office, as well as providing more space for his family. The overall height and position of the house was unchanged and the side elevation to the south, which could only be seen from the private shared driveway with Evington House and Evington Lodge, was unchanged from the approved scheme. The front elevation to the west which faced the landscape/public footpath was also unchanged. The simple squaring-off of the approved house only changed the easterly elevation which faced into the slope of the hill and could not be seen by any neighbours or across the landscape. In other words, the impact on the landscape would be no different to that of the approved scheme and there would be no adverse effect on neighbours or the setting. He reiterated that the replacement dwelling did not impact upon neighbours' privacy or amenity and the proposed house was still cut into the slope by over 3m at the rear to reduce its height and anchor it into the landscape. The award winning architects Coombes Everitt had done a fantastic job in designing a home for his family which fitted with the existing larger properties accessed from the shared private drive. He sincerely believed that the replacement home would be an excellent contribution to the built environment and it had significant local support, particularly from the immediate neighbours of Evington Lodge who had written a letter of support, and he hoped that the Committee would grant permission.

75.24 The Chair advised that the Officer recommendation was minded to refuse on the basis that a non-determination appeal had been submitted, and the Committee was therefore required to advise the Secretary of State of its views on the application had the decision remained with the local planning authority, and he sought a motion from the floor. It was proposed and seconded that the Committee be minded to refuse the application in accordance with the Officer recommendation and, upon being taken to the vote, it was

RESOLVED That the Committee be **MINDED TO REFUSE** the application in accordance with the Officer recommendation.

15/01373/FUL – Vine Tree Farm, The Wharf, Coombe Hill

75.25 This application was for a proposed replacement dwelling with attached garage building; hard and soft landscaping; and provision of new access and driveway (revised scheme following planning permission ref: 14/01224/FUL – alternative scheme to application 15/01007/FUL with stone/render proposed in place of brick).

- 75.26 The Chair invited Councillor Colin Withers from Leigh Parish Council to address the Committee. Councillor Withers indicated that, once again the Parish Council had been disappointed with this attempt to further increase the size of the original approved dwelling and garage and to add a spacious new bat dwelling. The Parish Council agreed with the Conservation Officer that the application was a less desirable and more confused version of the original design; it now included two aspects in stone and two elevations rendered, used aluminium windows out of character with the style of house and included a balcony not shown on any previous plans. The Parish Council had explained its concerns to the applicant over the numerous changes with the various applications. It was recognised that the location deserved redevelopment, and the Parish Council would be delighted when a final proposal was acceptable to all parties, however, there were many conflicting aspects within the various plans presented in the proposal which did not all match up. He reiterated that revised access arrangements had only recently been presented to County Highways and, as such, the Parish Council had not had the opportunity to comment, however, it was understood that they were opposed by existing landowners. The Parish Council had concluded that the application should be refused in accordance with the Officer recommendation. If the Committee decided to support the application, it was requested that all conditions, including the vital condition 14 imposed on the original approved plans, be imposed on this application and that the finished floor level be reduced so as not to increase the overall ridge height.
- 75.27 The Chair invited Stephen Hawskworth, speaking in objection to the application, to address the Committee. Mr Hawskworth indicated that his objections to this scheme were the same as those he had raised in respect of the last two items i.e. the property was too large, too high, would be out of character within its surroundings and would have inadequate access. In addition, the visibility splays were unknown and the applicant did not own the land to achieve them.
- 75.28 The Chair invited the applicant, John McCreadie, to address the Committee. Mr McCreadie indicated that he did not intend to go through the same points he had raised under the previous application but he understood that County Highways had confirmed that the visibility splays were satisfactory. The proposal would have no detrimental impact on the quality of the landscape and he felt that it was a perfectly reasonable application.
- 75.29 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 and, upon being put to the vote, it was
- RESOLVED** That the application be **REFUSED** in accordance with the Officer recommendation.
- 15/00457/FUL – Orchard Lodge, Gretton Road, Gretton**
- 75.30 This application was for the erection of extensions to provide additional living accommodation and garaging (revised scheme further to planning permission ref: 05/1808/1542/FUL); and erection of detached machinery store/workshop and hay loft/livestock shelter in connection with adjoining agricultural land. The Committee had visited the application site on Monday 14 March 2016.

- 75.31 The Chair indicated that there were no public speakers for this item. The Officer recommendation was for a split decision, with the proposed extension being recommended for permission and the proposed garage/store being recommended for refusal, and he invited a motion from the floor. It was proposed and seconded that the application be permitted as a whole. After visiting the application site, the proposer of the motion felt that the development was acceptable and it was a carefully considered scheme for a beautiful house. There was an enormous amount of space around the house and it would be well screened by trees so there would be no adverse impact on the neighbours or the listed building. Upon being put to the vote, it was
- RESOLVED** That the application be **PERMITTED** subject to standard conditions.
- 15/00963/FUL – Gardeners Arms, Beckford Road, Alderton**
- 75.32 This application was for alterations to the existing car parking layout and provision of an overspill car park area; provision of an external seating area; external lighting and fencing; and alterations to the existing fenestration to include the replacement of existing UPVC framed windows with timber framed windows.
- 75.33 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. A Member indicated that she did have some concerns about the proposals, not least that the land surrounding the Gardeners Arms was allocated as an "attractive open space important to village character" within the Tewkesbury Borough Local Plan. The Parish Council was working hard on a Neighbourhood Development Plan for the area and she understood that this particular space was to be included. She drew attention to Page No. 839, Paragraph 4.3, of the Officer's report which referred to Section 12 of the National Planning Policy Framework "conserving and enhancing the historic environment" and set out that local planning authorities should recognise heritage assets as an irreplaceable resource and conserve them in an appropriate manner. The proposal would create six additional parking spaces within the car park, however, the amount of space taken up by the access and turning was greater than the parking spaces themselves so the net effect would be very little. A Member sought clarification regarding the designation of the land and the Development Manager advised that the Neighbourhood Development Plan was emerging and therefore could only be given limited weight, however, part of the area was designated as important open space in the existing adopted Tewkesbury Borough Local Plan. Officers had taken a view that the car park would largely retain the sense of openness, although it would be disrupted to a degree when in use. A Member supported the view which had been expressed in relation to the need to protect important open space. He indicated that Alderton was a very unique village with a compact community which was appreciative of its locality and sought to ensure that it was developed appropriately in the future. On that basis he proposed that the application be deferred for a Committee Site Visit. This proposal was seconded and, upon being put to the vote, it was
- RESOLVED** That the application be **DEFERRED** for a Committee Site Visit.

15/01277/FUL – Site of Former Caretaker’s Bungalow, 2 York Road, Tewkesbury

- 75.34 This application was for the erection of four flats with associated access and amenity space. The Committee had visited the application site on Monday 14 March 2016.
- 75.35 The Planning Officer advised that an additional condition was recommended for inclusion in the planning permission in respect of the approval of a construction traffic management plan. 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. The proposer of the motion noted that there was already a current application for a two storey dwelling on the site. She welcomed the reduction in the number of flats from six to four, and that parking was provided, and she felt that the site was large enough to accommodate four flats of a two storey design. Upon being taken to the vote, it was

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

15/01326/FUL – Cotteswold Dairy Estate, Northway Lane, Newtown

- 75.36 This was a hybrid planning application for the phased redevelopment of Cotteswold Dairy including: a full application for the demolition of existing buildings and provision of new buildings comprising 6,223sqm of floor space to provide cold stores, offices, visitor reception, plant room and staff welfare facilities, additional milk silos, vehicle loading areas and other associated infrastructure (phases 1-2); and, an outline application for the demolition of existing buildings and the phased provision of additional cold storage, processing hall, effluent treatment plant, energy centre, additional car and lorry parking areas, internal roadways and other associated infrastructure totalling up to 8,000sqm of floor space on the remaining 2.065ha of land (all matters reserved for future consideration).
- 75.37 The Planning Officer explained that late information had been received from the applicant’s agent in relation to the recommended planning conditions set out in the report. A number of issues had been identified with the wording of the conditions from a practical perspective and revisions had been requested by the applicant. Furthermore, revised plans had been submitted showing some minor changes to the front of the site. Officers were satisfied that the revised wording would not change the objectives of the conditions but more time was required to consider and agree precise wording. On that basis, the Officer recommendation had been changed from permit to delegated permit, subject to agreeing appropriate conditions and the consideration of minor amendments to the submitted plans.
- 75.38 The Chair indicated that there were no public speakers for this item. He clarified that the Officer recommendation was that authority be delegated to the Development Manager to permit the application, subject to agreeing appropriate conditions and consideration of minor amendments to the submitted plans, and invited a motion from the floor. It was proposed and seconded that authority be delegated to the Development Manager to permit the application in accordance with the Officer recommendation. A Member recalled that there had previously been a number of complaints regarding noise from the refrigeration units within the lorries parked on the site and he sought assurance that this would be addressed. The Planning Officer explained that lorries were presently being parked along the southern boundary of the site which was in close proximity to residential properties, however, the proposal would relocate the lorry park to a less sensitive location and would benefit from the mitigation of an acoustic fence. The Environmental Health Officer had raised no objection to the application on noise grounds, subject to compliance with appropriately worded planning conditions.

75.39 Upon being put to the vote, it was

RESOLVED That authority be **DELEGATED** to the Development Manager to **PERMIT** the application, subject to agreeing appropriate conditions and consideration of minor amendments to the submitted plans.

16/00195/ADV – Various Locations within Tewkesbury

75.40 This application was for the erection of four ‘town gateway’ signs on highway verges at A38 Mythe Road, A38 Gloucester Road, A438 Ashchurch Road and B4080 Bredon Road.

75.41 The Planning Officer explained that the Local Highway Authority had requested that additional information/plan(s) be provided by the applicant to ensure that the signage was safe to be located on the highway. As such, it was now recommended that authority be delegated to the Development Manager to grant consent. The Chair indicated that there were no public speakers for this item. He clarified that the Officer recommendation was to delegate authority to the Development Manager to grant consent, subject to the receipt of suitable information and/or plans from the applicant as requested by the Local Highway Authority and no subsequent objection being raised, and he sought a motion from the floor. It was proposed and seconded that authority be delegated to the Development Manager to grant consent in accordance with the Officer recommendation. The proposer of the motion considered that the signs were beautifully designed and would be of great benefit to Tewkesbury town. She welcomed the fact that the signs would be in keeping with the wooden horses at the roundabout on the A38 Gloucester Road. Another Member agreed with this view and felt that the signage would make a statement as people entered the town. A Member queried who would be responsible for maintaining the planters and was advised that, whilst this was not a material planning consideration, steps would be taken to ensure that Tewkesbury Borough Council fulfilled any responsibilities it might have as the applicant.

75.42 Upon being put to the vote, it was

RESOLVED That authority be **DELEGATED** to the Development Manager to grant **CONSENT** for the application, subject to the receipt of suitable information and/or plans from the applicant as requested by the Local Highway Authority and no subsequent objection being raised.

15/01002/APP – Land off the A46, Pamington Lane, Pamington

75.43 This was a reserved matters application in relation to outline planning permission 14/00972/OUT relating to appearance, landscaping, layout and scale of the proposed development of 150 homes at the site. Access had been approved under the outline planning permission.

75.44 The Chair invited Dennis Barry, speaking in support of the application, to address the Committee. Mr Barry indicated that he was a planning advisor to the joint applicants, Linden Homes and Bloor Homes. The reserved matters application followed the decision to approve an outline planning application for 150 new homes and associated infrastructure this time last year when matters such as access, affordable housing and Section 106 contributions were approved. This application sought approval for the outstanding reserved matters; layout, scale, landscaping and appearance. Whilst the application had been submitted in September 2015, it had been subject to many revisions in order to incorporate the comments and suggestions received from Officers. As a result, and as concluded by Officers, the proposal comprised a high quality scheme that reflected national and local planning policy, accorded with the parameters established through the outline consent, and provided a high quality reference point for the proposed redevelopment of the Ministry of Defence site to the north of the A46. The scheme provided a strong built frontage onto the A46 with the density reducing as one moved southward through the scheme, reflecting the more open/rural landscape to the south. A landscape buffer along the south of the site incorporated flood mitigation measures, four children’s play areas, parkland and new planting which provided a

suitable buffer between the built area and open farm land and Pamington village to the south. Meanwhile, the western part of the site affected by potential archaeological factors remained free of development and species rich meadow grassland was proposed. As set out in the Officer report, County Highways was generally happy with the proposed internal layout but had queried the swept path analysis for refuse vehicles and the ability for cars to pass. The County's comments had now been addressed and updated drawings submitted to the Council within the last week which had slightly widened the affected internal road layouts in response to the updated swept path analysis. Subject to the Committee's agreement to grant delegated authority to approve the revised swept-path analysis, and the developers making submissions to discharge the pre-commencement planning conditions and Section 106 requirements, the scheme would deliver 150 new homes within the next three years that would include 40% affordable homes in accordance with the Section 106 Agreement. The proposals included a mix of housing with garages, on-plot parking and additional visitor parking within the development. Linden Homes and Bloor Homes trusted that the Committee would find the proposals prepared in consultation with the Officers to be acceptable and would grant delegated approval for the scheme.

- 75.45 The Chair advised that the Officer recommendation was to delegate authority to the Development Manager to approve the application, subject to the receipt of satisfactory comments from County Highways in relation to the internal road layout and other conditional requirements, and he invited a motion from the floor. It was proposed and seconded that authority be delegated to the Development Manager to approve the application in accordance with the Officer recommendation. A Member queried whether the design had taken account of the need for refuse vehicles to get around the site, particularly if cars were parked on the road. The Planning Officer explained that a revised site layout had just been received which demonstrated refuse vehicle and car tracking. County Highways and the Council's Waste team would be consulted on the plan to ensure that they were satisfied with the layout. Upon being taken to the vote, it was

RESOLVED That authority be **DELEGATED** to the Development Manager to **APPROVE** the application subject to the receipt of satisfactory comments from the County Highways in relation to the internal road layout and other conditional requirements.

15/01124/FUL – Noake Farm, Churchdown Lane, Churchdown

- 75.46 This application was for a change of use to horticultural/landscaping business, including the redevelopment of existing building and creation of new buildings for use of the business, and conversion of coach house to one dwelling including the erection of a detached garage/store and associated vehicular access and parking (including demolition of derelict buildings). The Committee had visited the application site on Monday 14 March.
- 75.47 The Chair invited Ted Stevens, speaking against the application, to address the Committee. Mr Stevens indicated that he was one of the residents that lived nearby who had formally objected to the development. He wanted Members to get a feel for the scale of the two enormous industrial buildings that were proposed; both were 40m long, 15m wide and more than 8m high with a net volume of nearly 10,000 cubic metres. One way of visualising the volume was that the buildings could accommodate 70 double decker buses and they were almost as high as two double decker buses stacked on top of one another. He agreed with the Planning Officers that the buildings would overwhelm the site; they would be visible for miles and would have a massively detrimental impact on the landscape. There were sound reasons to reject this development, the first being that the land was designated as one of the best bits of Gloucestershire's Green Belt. The applicant's planning consultants would argue that it was a landscaping business and would therefore fit in; however, he believed that was nonsense as it was a very large industrial and logistics depot which would generate scores of lorry and car movements every day via a narrow single-track lane. There

were no special circumstances to justify this colossal blot on the landscape being built in the Green Belt. If that was not enough, the site was also in the Special Landscape Area and the Council's policies stated that any development that impacted on the quality of the natural and built environment should be rejected; this development would certainly have a huge impact on both counts. Whilst the applicant might argue that the ramshackle state of the existing farm complex meant that the development would be a visual improvement, he felt that it would be an even bigger blot on the landscape. Hucclecote Parish Council had also raised concern over the limited amount of staff parking proposed, the number of lorry movements that would be generated and traffic safety issues at the junction of Stump Lane and Churchdown Lane where there was a nasty blind spot. The applicant's planning consultants would plead that they could not find another site to accommodate the business, and jobs were at risk, but he urged Members not to fall for that sob story; as the Planning Officer had pointed out in the report, the applicant had provided no real evidence of a thorough search for sites until a few days earlier when a hastily assembled token document had been conjured up. He suggested that the jobs were not really at risk as the company had another big depot near Evesham that could be used in the short to medium term until it found the right site. The right location for an industrial/logistics complex was a business park, not a priceless part of the county's Green Belt. In his view, the application was a cynical attempt to get permission for some enormous industrial buildings on cheap agricultural land. Gloucestershire's Green Belt was more important than that and he urged Members to follow the Officer's recommendation and reject the application.

- 75.48 The Chair invited the applicant, Tom Rimell, to address the Committee. He explained that he was the director of Town Farm Nurseries (TFN) Limited, a business that had been established for over 30 years and was based at Longford. The business related to the horticultural, agricultural and forestry sectors and needed to be located on agricultural sites in order to grow plants and trees. The business needed to relocate by February 2017 due to Planning permission for 570 homes being granted on the existing site in Longford. His agents had looked for sites for over five years but commercial units were unsuitable as they did not have the adjoining agricultural land which was needed. The only suitable location was Noake Farm which had operated as a commercial hay and straw dealing business for over 20 years and also had permission for a scaffolders business. The yard had become dilapidated, with burnt down buildings, and neighbours described the site as an eyesore and mentioned the number of illegal activities taking place such as fly-tipping. At the pre-application stage, a generally favourable view had been given for relocation with Officers describing the site as 'Brownfield' and the landscaping scheme had subsequently been revisited to try to appease the concerns of local residents. The application included ample storage to ensure that the site would be clean and tidy rather than having unsightly material and equipment all over the yard. The buildings were a similar size footprint to those which had previously been on the site. He pointed out that the coach house already had planning permission, which included demolition of a number of the existing buildings; additional bat surveys had been completed for the application but he would be happy to extend if required; and, none of the immediate neighbours had raised any objection to the application. Over 60 staff were employed at Gloucester, and almost 100 overall. It had taken over 20 years to build up the employee base and many had joined the business as young men without any formal qualifications. Staff came from Gloucester and Tewkesbury, the majority of which had GL1, GL2 or GL3 postcodes and would be unwilling to travel more than 10 miles to work. He believed that there were unique and special circumstances that warranted planning permission being granted and, if unsuccessful, the business would have to wind up which would leave 60 Gloucester families out of work; the cost to the local economy would be in excess of £1.75M in wages alone. He was committed to TFN and he asked Members to support the application to allow him to reinvest in Gloucester, maintain a successful local business and secure jobs.

- 75.49 The Development Manager explained that the application site was within the Green Belt and Special Landscape Area and it was very clear that the proposal would constitute inappropriate development in the Green Belt. National planning policy set out that planning permission should be refused unless there were very special circumstances which would outweigh the harm that would be caused to the Green Belt. In this instance, the openness of the Green Belt would also be compromised as the proposals would introduce a significant level of development to a largely undeveloped rural area in a sensitive site within the valued Special Landscape Area associated with Chosen Hill. Whilst it was accepted that the site was untidy and in need of redevelopment, this should never be used as justification for development and there were enforcement powers available to address such matters. If redevelopment was the way forward, it was necessary to have regard to the sensitivity of the site in terms of the Green Belt and the Special Landscape Area, and based on the scale and massing of the buildings and other associated development, it was not considered that this proposal did that. He had sympathy with the needs of the applicant and the business, and the economic benefits of the proposal were clear, however, Officers did not feel that very special circumstances were in existence to clearly outweigh the harm which would be caused to the Green Belt, and the other harms identified, particularly in terms of the impact on Chosen Hill and the surrounding landscape. Furthermore the applicant had failed to undertake a robust assessment of alternative sites; the document referenced by the public speaker simply listed a number of Gloucestershire villages and anecdotal evidence that no sites were available.
- 75.50 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. Another Member felt that the proposal was acceptable and considered that the site was a suitable location for this type of unique development. It would not make sense to relocate an agricultural business to an industrial estate and he did not feel that the proposal would cause significant harm to the openness of the Green Belt. Although the buildings were large, this was due to the nature of the machinery, and they would be no more incongruous than the Walls factory site which could be clearly seen across the fields from the proposed site. The proposer of the motion to permit the application recognised that the site was in a poor state but he reiterated that this should not be taken into account in determining the application as an enforcement order could be put in place to ensure that it was cleared up. The fact was that the site was located within the Green Belt and was overlooked by Chosen Hill so constructing a huge building would give the site a very different aspect. A Member indicated that she was concerned about the amount of additional vehicle movements which would be generated by the proposal as the road was already very dangerous and she would be supporting the motion to refuse the application.
- 75.51 A Member noted that the site had a slope at one end and he questioned whether it might be possible to reduce the height of the buildings by sinking them lower into the ground. The Development Manager indicated that this was something which could be looked at if Members were so minded, but he did not consider that this would be likely to address the harm which had been identified. A Member reiterated that the proposal would be inappropriate development in the Green Belt as a matter of fact. The Walls development was not in the Green Belt so it should not be used as a comparison with this application. The Officer recommendation was absolutely correct in his view and he would be supporting the motion to refuse the application. Another Member went on to explain that the machinery used within the agriculture and horticulture industry was getting bigger and he could understand the need for the business to be located on a large piece of land which could accommodate the buildings associated with this work. In his view this was the right location for the proposal and he was supportive of the

application. A Member echoed these views and pointed out that other buildings could be seen from the site in the surrounding landscape. The proposer of the motion stressed that the site was located within the Green Belt and, if land was to be removed from the Green Belt this needed to be done through the plan-led process and not through individual planning applications.

75.52 A Member noted that the existing use of the site was a hay and straw business and he queried whether it could be considered as a Brownfield site. The Development Manager confirmed that the issue of the status of the land was set out in the Officer report and he advised that there was no permission with any lawful use other than the scaffolding business which was limited to a very small area. It was a matter of fact, with regard to the National Planning Policy Framework, that the development would be inappropriate within the Green Belt and the question was whether very special circumstances existed which clearly outweighed the harm which had been identified.

75.53 Upon being put to the vote, the motion to refuse the application was lost. The Development Manager advised that a comprehensive list of conditions would be recommended if Members were minded to permit the application including materials for the buildings; surfacing materials; highway conditions relating to access and turning/manoeuvring areas; drainage; landscaping; environmental issues around noise and working hours; levels; lighting; and the potential for the removal of permitted development rights. Given the number of unresolved issues around the conditions, and bearing in mind that the application would need to be referred to the Secretary of State, the Chair indicated that his preference would be for a 'minded to permit' decision with the conditions coming back to the Committee for consideration once formulated, rather than being delegated to Officers. A Member agreed with this suggestion and felt that this would also provide an opportunity to work with the applicant to reduce the height of the buildings. It was proposed, and seconded, that the Committee be minded to permit the application, subject to referral to the Secretary of State; negotiations with the applicant to reduce the height of the building; and the formulation of conditions. Upon being put to the vote, it was

RESOLVED That the Committee be **MINDED TO PERMIT** the application, subject to referral to the Secretary of State; negotiations with the applicant to reduce the height of the buildings; and formulation of conditions.

15/01125/LBC – Noake Farm, Churchdown Lane, Churchdown

75.54 This application was for listed building consent for demolition of existing buildings and conversion of coach house to one dwelling, erection of detached garage/store and associated vehicular access and parking, together with other facilitating works relating to planning application 15/01124/FUL.

75.55 The Planning Officer clarified that planning permission and listed building consent had already been granted in 2013 for the conversion of the coach house to a dwelling, demolition of the collapsed stone barn, and the erection of a detached garage/store and associated vehicular access; there would be no conflict with the resolution for the previous application if Members decided to grant consent for this work. The Chair invited the applicant, Tom Rimell, to address the Committee, however, Mr Rimell confirmed that he had nothing to add to what the Development Manager had said in respect of this particular application. The Chair indicated that the Officer recommendation was to grant consent and he invited 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 **CONSENT** be **GRANTED** for the demolition of existing buildings and conversion of coach house to one dwelling, erection of detached garage/store and associated vehicular access and parking, together with other facilitating works relating to planning application 15/01124/FUL.

PL.76 CURRENT APPEALS AND APPEAL DECISIONS UPDATE

76.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Pages No. 26-31. Members were asked to consider the current planning and enforcement appeals received and the Communities and Local Government (CLG) appeal decisions issued

76.2 It was

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

PL.77 ADVANCED SITE VISITS BRIEFING

77.1 Attention was drawn to the Advanced Site Visits Briefing, circulated at Pages No. 32-33, 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.

77.2 It was

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

The meeting closed at 11:45 am

Appendix 1

SCHEDULE OF PLANNING APPLICATIONS
ADDITIONAL REPRESENTATIONS

Date: 15 March 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	
790	1	<p>13/01003/OUT</p> <p>Land South of the A46 & North of Tirl Brook, Ashchurch, Tewkesbury</p> <p>Further letter from Gloucester City Council - Remains concerned that the proposal has the potential to lead to a significant adverse harm to the important regeneration scheme relating to King's Quarter (A copy of the letter is attached below).</p> <p>Officer comments - The Council's Retail Consultant GVA is still of the view that there is insufficient evidence to justify the view that there would be a significant adverse impact on planned investment in Gloucester city centre.</p> <p>EHO comments - I can confirm that I have studied the supporting documentation in relation to noise and agree with the methodologies and detail provided. Conditions are recommended relating to a construction management plan, lighting, noise from any external plant, extraction ventilation, electric vehicle charging and cycle parking. EHO has no adverse comments on air quality.</p>
815	3	<p>15/01345/FUL</p> <p>Vine Tree Farm, The Wharf, Coombe Hill, Gloucester, GL19 4AS</p> <p>Consultations & Representations</p> <p>An objection has been raised by the adjoining neighbour on the following grounds: the extant permission already exceeds the original size of HOU7 policy. If the condition remains in place, each application can be dealt with on merit, allowing an element of control on the site in respect of the inevitable impact on the area.</p>
820	4	<p>15/01007/FUL</p> <p>Vine Tree Farm, The Wharf, Coombe Hill, Gloucester, GL19 4AS</p> <p>Recommendation</p> <p>An appeal has been submitted against non-determination of the application. On that basis the Committee must advise the Secretary of State of its views on the application had the decision remained with the LPA. On that basis the recommendation is changed to Minded to Refuse.</p>

		<p>Consultations & Representations</p> <p>Letter from neighbouring resident - Reaffirm stance regarding the highway conditions. Will not grant permission for hedge to be cut, set back or disturbed. In addition, the access is not of the shape or dimensions already granted and neither is the boundary correct on any of the submitted drawings.</p> <p>Letter from local resident - Concerned about proposed new access. Highway improvement works required should be enforced in the interests of highway safety. A survey has highlighted that the required improvements would cut across our property and we do not give permission for any of our hedges or trees to be cut back or removed.</p>
826	5	<p>15/01373/FUL</p> <p>Vine Tree Farm, The Wharf, Coombe Hill, Gloucester, GL19 4AS</p> <p>Consultations & Representations</p> <p>An objection has been received from the adjoining neighbour to the site. Their concerns are summarised as follows:</p> <ul style="list-style-type: none"> – The size is hugely outside of the HOU7 Policy - the build is almost back to the original application size (which the applicants were invited to withdraw). – The original outline planning permitted a replacement dwelling of a similar size and moved just above the public footpath. – The access drive does not reflect the works already carried out. – The destruction of my boundary has totally altered the visual impact of the setting of my home. – The change in height would affect my neighbours at Coombe Bank which has caused them undue distress. – Had the development been sympathetic to the area as first intimated, the contention that has arisen would not have happened. When making your decision, it would warrant some thought for those who have lived in the area for many years. <p>A letter of objection has been received from the adjoining neighbour to the east of the site, Coombe Bank. Their concerns are summarised as follows:</p> <ul style="list-style-type: none"> – The extant permission disregards national and local policies (LND3, HOU7, NPPF) The comments made at the Planning Committee meeting on 4 August 2015 (14/01224/FUL) were inaccurate re: 'significant that the majority of local neighbours most affected by the application had written letters of support for the application and the one who had complained could not really see the property from their location'. Only one neighbouring household has shown support for the scheme and I believe that I will see the house from my dwelling. – It is questioned whether there has been deliberate confusion created by submitting concurrent planning applications together with misleading information, in the hope that certain aspects of design will go through on default.

- Size and height: This application now grossly fails to meet TBC replacement dwelling policy HOU7 - no longer "of similar size and scale to the existing dwelling". There is little point in having these policies and procedures if Tewkesbury Borough Council and the Borough Councillors fail to make decisions based on them - concern that the creeping increases in height will allow for the windows in the roof to be re-instated, as per the original drawings submitted for this site in 2014, which were subsequently withdrawn before they went to the Planning Committee. A recent survey has confirmed that the whole of the roof will be seen from my property. If the windows are re-instated then they will look directly into my bedrooms and bathroom.
- Proposed Ashlar stone would be very prominent - brick would mellow over the passage of time. By converting the L shaped building into a rectangular box, it increases the bulk (footprint) still further and loses the relief factor of shading and breaking the eye line on the north and east elevations. The increased number of windows from 22 to 37 emphasizes the expansion further.
- The joining of the enlarged garage (double to triple) to the main house by a new 'lobby' now results in an unbroken elevation measuring 31.5 metres.
- There is no attempt to screen the house by sensitive planting as can be seen by other properties along the escarpment to the north. TBC published a report dated November 2014 - Landscape and Visual Sensitivity Study - Land Assessment Parcel Reference Co0-04 contains direct references to this parcel of land and its surroundings with regard to visual context and prominence - "There are few visual detractors at present (although construction appears to have started on new development). This land assessment parcel remains sensitive to prominent, unsympathetic, development on the upper slopes". It highlights a 'high' sensitivity to the Coombe Hill Canal on the Key Visual Receptors.
- Access: safety concerns regarding the increased use of the vehicular access off the A38 and for use by construction traffic. The applicant confirmed at a parish meeting that conditions relating to the main road access had been discharged yet County Highways have raised concerns regarding the existing access/visibility and the applicants have been asked to 'demonstrate that the required visibility splays/access/egress, can be achieved'. As the applicant does not own the land at the main road end of the drive, he is not legally entitled to alter the vegetation without permission.
- Ecology: question the timing of the submitted habitat surveys given the seasonal use of bat roosts. Nothing has been recorded between the months of late-January to August, probably the busiest times in the wildlife calendar.
- Concern over the legality of the work regarding the partial destruction of the badger sett which straddles the boundary between Vine Tree and Evington House.
- Concerns over the accuracy of the original boundary fence line. The accuracy of this boundary is vital to prevent further misinformation and inaccuracies especially as this questions the legality of the badger licence issued by Natural England.
- The bats have been given little attention by the applicant but have suddenly become convenient when wishing to convert the existing out building into a proposed shelter/store incorporating a bat loft which will be built in flood zone 3 - the new store has little relation to recommendations for temperature and humidity within the roost, aspect and orientation, materials and correct planting and landscaping features which have a direct impact on feeding habits.

- Landscape and Boundary Plan: inaccurate; a continuous hedge which borders the public footpath running through the site (access gates removed), changing shape and the differing construction materials of the driveway - no planting of shrubs or trees to north and east boundaries proposed and the stability of the bank on the east elevation is questioned since all the trees have been removed. This area is part of a green wildlife corridor and a deliberate attempt to divert or block access with stock fencing is not acceptable.
- Accuracy and volume of information: the sheer amount of information and applications being submitted in respect of the site is confusing for all. Questions have been raised about the position of the actual boundary as highlighted in a report from the Badger Trust (Glos). Inaccurate drawings have been included in the ecology surveys, which further compound the inaccurate information. The surveys themselves on deeper examination are at odds with recommendations with those from the Badger Trust and information widely available on the Bat Conservation Trust website. Having commissioned my own survey using the same data I can now confirm that the wording 'NEW DWELLING IS NOT VIEWABLE FROM COOMBE BANK' is false - survey drawings have been submitted to accompany the neighbour's concerns/objection letter. I have also been told that the side view of my house on the aforementioned drawings has not been drawn accurately. As drawn, it is 124% larger in all directions than in reality and yet there is the comment of not being visible from Coombe Bank.

In summary:

- No further enlargements to the house and garage should be permitted. Size and height should remain as that granted under 14/01224/FUL. HOU7 should be enforced.
- More efforts must be made by the applicant to ensure the house fits in with its surroundings as it is the Landscape Protection Zone. (LND3)
- Concerns over safe access to and from the A38 via Evington House driveway should be addressed.
- Existing dwelling and outbuilding must be demolished.
- Independent review of the ecology on the site.
- Recommend that construction traffic is restricted from entering and exiting the site during the hours of 7.00am to 9.00am and then 4.00pm to 6.00pm in the interests of highway safety to minimise conflict between traffic during peak times.
- A comprehensive landscape and boundary plan to include plant and tree species, together with improved details to boundary fences such as badger gates or large gaps for animals to pass through, bat roosts and other wildlife considerations (e.g. Owl box)
- The shelter/store incorporating a bat roost should be constructed of animal friendly materials and the walls left sufficiently open to allow the flow of waters during times of flood.

Further letter from neighbouring resident - Reaffirm stance regarding the highway conditions. Will not grant permission for hedge to be cut, set back or disturbed. In addition, the access is not of the shape or dimensions already granted and neither is the boundary correct on any of the submitted drawings.

		<p>Letter from local resident - Concerned about proposed new access. Highway improvement works required should be enforced in the interests of highway safety. A survey has highlighted that the required improvements would cut across our property and we do not give permission for any of our hedges or trees to be cut back or removed.</p> <p>A draft response has been received from the ecology advisor in relation to the current ecological survey and proposed bat roost:</p> <ul style="list-style-type: none"> - The response states that further information is required in respect of this issue - in particular, clarification is required regarding the new access ground works and impact upon the remnant section of the sett. Also, details required as to why the remnant sections remain closed and details of shrub planting in the vicinity of the remaining sett is still required. - The principle of the new bat roost/store building is acceptable in ecological terms but further details are required as to position and style of entrances, and positioning of lighting prior to the proposal being deemed acceptable. <p>The County Highways Officer has re-visited the site following the local resident and Parish Council concerns over visibility/access and egress to/from the A38. The Highways Officer has asked the applicant to provide confirmation that the access widths on plan P500/03A are the existing access width, as measured on site between the edge of neighbours boundary hedges, and to provide visibility plans.</p> <p>Confirmation has also been requested regarding the applicant's revised plan (submitted directly to the County Highways Officer) which is annotated to show the proposed cutting back of conifer trees at site entrance to achieve visibility and dual vehicular width. The conifers appear to be outside of the applicant's ownership and the extent of the site.</p> <p>It should be noted that the Case Officer has recently been contacted by the neighbour and landowner of the existing access off the A38 to advise that her trees have been further cut back to provide increased visibility, without her knowledge or consent.</p>
849	9	<p>15/01326/FUL</p> <p>Cotteswold Dairy Estate, Northway Lane, Newtown</p> <p>Recommendation</p> <p>Late information has been received from the applicant's agent in relation to the recommended planning conditions. A number of issues have been identified with the wording of the recommended conditions from a practical perspective, principally to take into account the phasing of the permission. Revision to the wording of some conditions is therefore requested by the applicant.</p> <p>Furthermore, revised plans have been submitted to the Council showing the following minor changes:</p> <ul style="list-style-type: none"> - A small entrance canopy on to the existing office building (which will then be demolished again as part of the latter phases). - The removal of one of the loading bays on the front (north) elevation and its replacement with additional silos. - The widening of the internal roadway at the front (north) entrance. <p>In response, Officers are satisfied that the revised wording would not change the objectives of the conditions as set out in the recommendation, but more time is required to consider and agree the precise wording of the conditions.</p>

		<p>Furthermore, Officers consider that the proposed amendments appear to be minor and would not materially affect the scale and nature of the proposed development currently before the Committee. Accordingly it is recommended that authority be DELEGATED to the Development Manager to PERMIT the application, subject to considering what appear to be very minor changes to the submitted plans, and subject to the rewording of some of the planning conditions.</p> <p>Representations</p> <p>Two additional representations have been received from a nearby resident on Northway Lane. Further concerns are raised over the accuracy of the Noise Assessment submitted with the application. Noise levels have been measured by the local resident and it is argued that the existing background levels are lower than those used in the Noise Assessment. Concerns are also raised in relation to air pollution and the absence of an Air Quality Assessment.</p> <p>In response to these concerns officers would comment that no credibility can be given to the noise measurements provided by the local resident. No defined measurement positions or details of the recording equipment have been provided and no evidence has been provided to demonstrate that the measurements conform to BS 4142:2014 - Methods for rating and assessing industrial and commercial sound.</p> <p>With regard to the air quality concerns, the NPPF is largely concerned with controlling vehicle emissions associated with developments within Air Quality Management Areas (AQMAs). In this instance the site is not located within an AQMA. Under Part IV of the Environment Act 1995, the Council has a statutory duty to review and assess air quality within the borough. At the time of the last review in April 2014 the Borough Council had no areas of concern in respect of the proscribed pollutants as defined in the Air Quality Regulations (includes NO₂); except within the Air Quality Management Area (AQMA) declared for Tewkesbury town centre in December 2008. Having regard to national planning policy guidance and on the basis that the site is not located within an AQMA, it is not a requirement for the NO and NO₂ impacts of the development to be assessed and controlled through the planning process.</p>
865	10	<p>16/00195/ADV</p> <p>Various Locations Within Tewkesbury, Gloucestershire</p> <p>Consultations and Representations</p> <p>Tewkesbury Town Council - No objection</p> <p>Local Highway Authority - The Local Highway Authority advises that additional information/plan(s) will need to be provided by the applicant to ensure that the signage is safe to be located on the highway.</p> <p>Officer Comments</p> <p>The Local Highway Authority advises that they do not object to the principal of the proposed structures. However, they do require further technical information to ensure that they would not cause detriment to the safety of highway users and to reduce the liability for the highway authority should an incident occur.</p> <p>Recommendation</p> <p>It is therefore recommended that authority be DELEGATED to the Development Manager to PERMIT the application, subject to the receipt of suitable information and/or plans from the applicant as requested by the Local Highway Authority and subject to no subsequent objection being raised by the Local Highway Authority.</p>

869	11	<p>15/01002/APP</p> <p>Land off the A46, Pamington Lane, Pamington</p> <p>Revised plans</p> <p>A revised site layout has now been received to address the concerns raised by the County Highways Authority in relation to refuse vehicle and car tracking. The County Highways Authority has been consulted and their comments are awaited.</p>
874	12	<p>15/01124/FUL</p> <p>Noake Farm, Churchdown Lane, Churchdown, GL3 2LS</p> <p>The applicant has submitted additional information in relation to it a site search assessment which sets out the requirements of the business, the search parameters for sites, potential locations for the business and provides an analysis of the search undertaken for an alternative site. The applicant has also stated why the bat survey was not extended beyond the Coach House. The details are attached in full below.</p>

**Item 1 – 13/01003/OUT, Land South of the A46 & North of Tirlle Brook, Ashchurch,
Tewkesbury**
(Page 1 of 2)



*Gloucester City Council
Herbert Warehouse,
The Docks,
Gloucester.
GL1 2EQ*

Ms Joan Desmond
Planning and Development Management
Tewkesbury Borough Council
Gloucester Road
Tewkesbury
Gloucestershire
GL20 5TT

01452 396396
heretohelp@gloucester.gov.uk
www.gloucester.gov.uk

Date: 01/03/2016
Officer: Anthony Wilson
Unit: Planning

Dear Ms Desmond,

Planning Application: 13/01003/OUT
Land south of A46 and north of Tirlle Brook, Ashchurch, Gloucestershire.
Outline planning application (with all matters reserved except access) for proposed garden centre, retail outlet centre and ancillary facilities together with associated infrastructure including access, car parking and landscaping.

As you will be aware, Gloucester City Council has previously objected to the above proposal on our letter dated 14 March 2014. The objection was based on retail impact, the retail sequential test and loss of employment land. The proposal is for a Retail Outlet Centre (ROC) of up to 17,545 sq m gross, a garden centre of up to 8,000 sq m gross, along with a total of 2,112 parking spaces, associated access road and landscaping.

It is understood the assessment of this planning application is now reaching its conclusions and Tewkesbury Borough Council's retail consultant has requested confirmation from the City Council as to whether the objection specifically relating to impact on King's Quarter still stands, given the amount of time that has now passed. It is further understood a further response has been submitted by Stanhope Plc, the Council's 'development partner', which maintains the strong objection to the proposal.

The two key impact tests when assessing planning applications for retail development that are not in accordance with an up-to-date development plan and not located in a designated centre are:

- Impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- Impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.

The City Council has a longstanding policy relating to King's Quarter, which is the Council's top regeneration priority and is intended to provide a significant boost to the city centre through the provision of a significant quantum of new comparison goods retail floorspace along with other associated town centre uses such as restaurants, cafes and a new bus station. The Council has signed Stanhope Plc as the preferred developer partner and it represents a committed, planned public and private investment and it forms an important part of the Council's recently adopted 'Regeneration and Economic Development Strategy' (January 2016).

...Continued

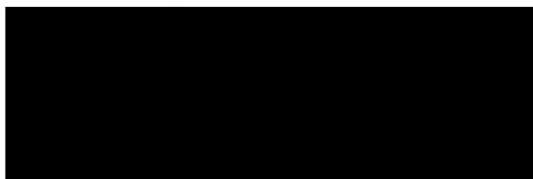
**Item 1 – 13/01003/OUT, Land South of the A46 & North of Tirlle Brook, Ashchurch,
Tewkesbury**
(Page 2 of 2)

The City Council remains concerned that the proposal has the potential to lead to a significant adverse harm this important regeneration scheme. For example, since the previous objection letter was submitted, the Joint Core Strategy (JCS) Retail Study has been updated (December 2015) to provide revised figures for the amount of floorspace that should be planned for at each of the main settlements. This shows a significant drop across the board and much of this can be attributed to the impact of internet shopping – there is simply less need for new floorspace on the ground and it follows that it becomes increasingly important that this is directed to city and town centres wherever possible.

Specifically in relation to Tewkesbury town, the December 2015 Retail Study shows a need for comparison goods of 3,150 sq m (net) between 2015 and 2031. Whilst it is accepted that a test focussed specifically around need is no longer relevant in the context of the NPPF, it is clear that the proposed comparison goods floorspace of the proposal is significantly greater than that identified in the Retail Study at circa 17,500 sq m gross, which means this floorspace (expenditure) will be drawn from elsewhere and causes concern regarding its potential impact on the King's Quarter investment. Furthermore, it should be noted that the range of goods to be sold from the ROC would be non-bulky comparison goods, the same type of goods that will form the focus for King's Quarter, creating additional out-of-centre competition within the same timescale it is intended to bring forward King's Quarter.

At the time of writing, good progress has been made with planning permission having been granted for the new bus station and contractors are on-site undertaking clearance works. The new bus station will be operational by mid-2017 and it is intended the retail element will follow behind this.

Yours faithfully,



Anthony Wilson
Planning Services Manager

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Date: 01/03/2016
Officer:
Reference:
Page: 2 of 2

Item 12 – 15/01124/FUL, Noake Farm, Churchdown Lane, Churchdown
 Agent email

From: Angela Cornell [Angela.Cornell@fishergerman.co.uk]
Sent: 08 March 2016 11:25
To: Paul Instone
Subject: Noake Farm Application

Dear Paul

I have now reviewed the committee report for the Noake site. I was disappointed that it reads as negatively as it does, especially in relation to the site search and bat survey work.

In terms of the site search, please find attached an Alternative Site Search and associated map which provides an analysis of the search undertaken.

With reference to the bat survey, the conversion of the coach house building application, which included demolition of many of the buildings on the site did not have a bat survey. I have checked the committee report again and there was no mention of bats whatsoever. So there is an extant consent for the demolition of several buildings.

The pre-application response we received did not make reference to bats, albeit in terms of the Coach House we didn't specify at the pre-application stage what the intentions were for the coach house. Once we confirmed this would be included in the application the officer at the time requested a bat survey of the coach house, but nothing further. As such a bat survey of the coach was undertaken. No further survey work was recommended in the survey. As such none was undertaken. Obviously if this is essential, this can be undertaken, but there is already an existing consent for demolition of many buildings on site.

We would appreciate if Members could be updated on both of these matters.

Kind regards

Angela

Angela Cornell MRTPI
 For and on behalf of Fisher German LLP
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East Midlands Planning Consultancy of the Year

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Item 12 – 15/01124/FUL, Noake Farm, Churchdown Lane, Churchdown
 Alternative Site Search (Page 1 of 3)



Planning Reference: 15/01124/FUL

Property: Noake Farm, Churchdown Lane, Churchdown GL3 2LS

Applicant: TFN Landscapes Limited

Alternative Site Search following Enforced Relocation from Field Farm, Longford due to residential redevelopment of surrounding agricultural land

- I. The existing workforce live in the following areas:
- | |
|-------------------|
| 53% in Gloucester |
| 16% in Cheltenham |
| 10% in Tewkesbury |

It is essential to the ongoing success of the business to remain within 5 miles of the existing site to retain the experienced and long-serving employees and minimise their journey times and costs.

II. Requirements:

- a) Buildings – offices, workshop and secure storage
- b) Parking – employees and visitors
- c) Land – approximately 10 acres for Nursery to grow trees and shrubs
- d) Secure outside storage – for bark, compost, turf, etc.
- e) Purchase Site – lease if purchase not possible.

III. Within the above parameters, a site search was undertaken. Restrictions to the Site Search are:

- a) Urban development on the fringe of Gloucester;
- b) Flooding from the River Severn;
- c) Green Belt between Gloucester and Cheltenham;
- d) Cotswolds Area of Outstanding Natural Beauty (AONB) to south and east of Gloucester;
- e) Existing use/users;
- f) Availability;
- g) Accessibility.

IV. The attached numbered plan shows 31 potential locations. Below are the details relating to each considered Option:

1. Hempsted – residential village with narrow and difficult access and no suitable or available sites.
2. Elmore – difficult access to small residential village, with no suitable or available sites.
3. Quedgeley – residential suburb, with Waterwells Olympus Business Park. No land available for outside store or tree nursery.
4. Hardwicke – village now incorporated into suburb of Gloucester. Quedgeley West Business Park, no land available for outside store or tree nursery.
5. Moreton Valence – good main road access, but no suitable, or available sites.
6. Haresfield – residential village on edge of AONB with no suitable or available sites.

Item 12 – 15/01124/FUL, Noake Farm, Churchdown Lane, Churchdown
Alternative Site Search (Page 2 of 3)



7. Harescombe – small residential village with difficult access in AONB with no suitable or available sites.
8. Brookthorpe / Whaddon – edge of AONB with no suitable or available sites.
9. Painswick – residential village in AONB with no suitable or available sites.
10. Upton St Leonards – extended residential village on edge of Gloucester, with no suitable or available sites.
11. Witcombe – part Green Belt and in AONB, no suitable or available sites.
12. Bentham – AONB with difficult access.
13. Shurdington – Green Belt with nothing suitable or available.
14. Churchdown – Chosen Hayes Farm (in Green Belt) became available in June 2015 with approximately 15 acres. This was a possibility, but became available only after Noake Farm had been identified and purchased, subject to planning. Discussions with Planners were also well advanced. Chosen Hayes Farm has now been sold.
15. Brockworth – Gloucester Business Park, with offices and retail use. No land available.
16. Badgeworth – Green Belt, residential village with no suitable or available sites.
17. The Reddings – Green Belt, residential suburb of Cheltenham. No suitable or available sites.
18. Staverton – Green Belt, some commercial units available, but no land available with them.
19. Down Hatherley – Green Belt, residential village with no suitable or available sites.
20. Innsworth – Green Belt. Innsworth Technology Park is privately owned, with only units to let and no land available.
21. Norton – residential village with no suitable or available sites.
22. Twigworth – good access via A38 to residential village. Twigworth Court Business Centre, with office units only and no land available.
23. Sandhurst – residential village with difficult access and flooding issues.
24. Ashleworth – residential village with country lane access.
25. Hartpury – residential village, dominated by Hartpury College, an agricultural, tertiary and secondary education facility. No suitable or available sites.
26. Maisemore – residential village with Steadings Business Centre providing office space. No suitable or available sites. Flooding issues.

Access to 24, 25 & 26 is restricted when the River Severn floods between Gloucester and Maisemore.

Item 12 – 15/01124/FUL, Noake Farm, Churchdown Lane, Churchdown
Alternative Site Search (Page 3 of 3)



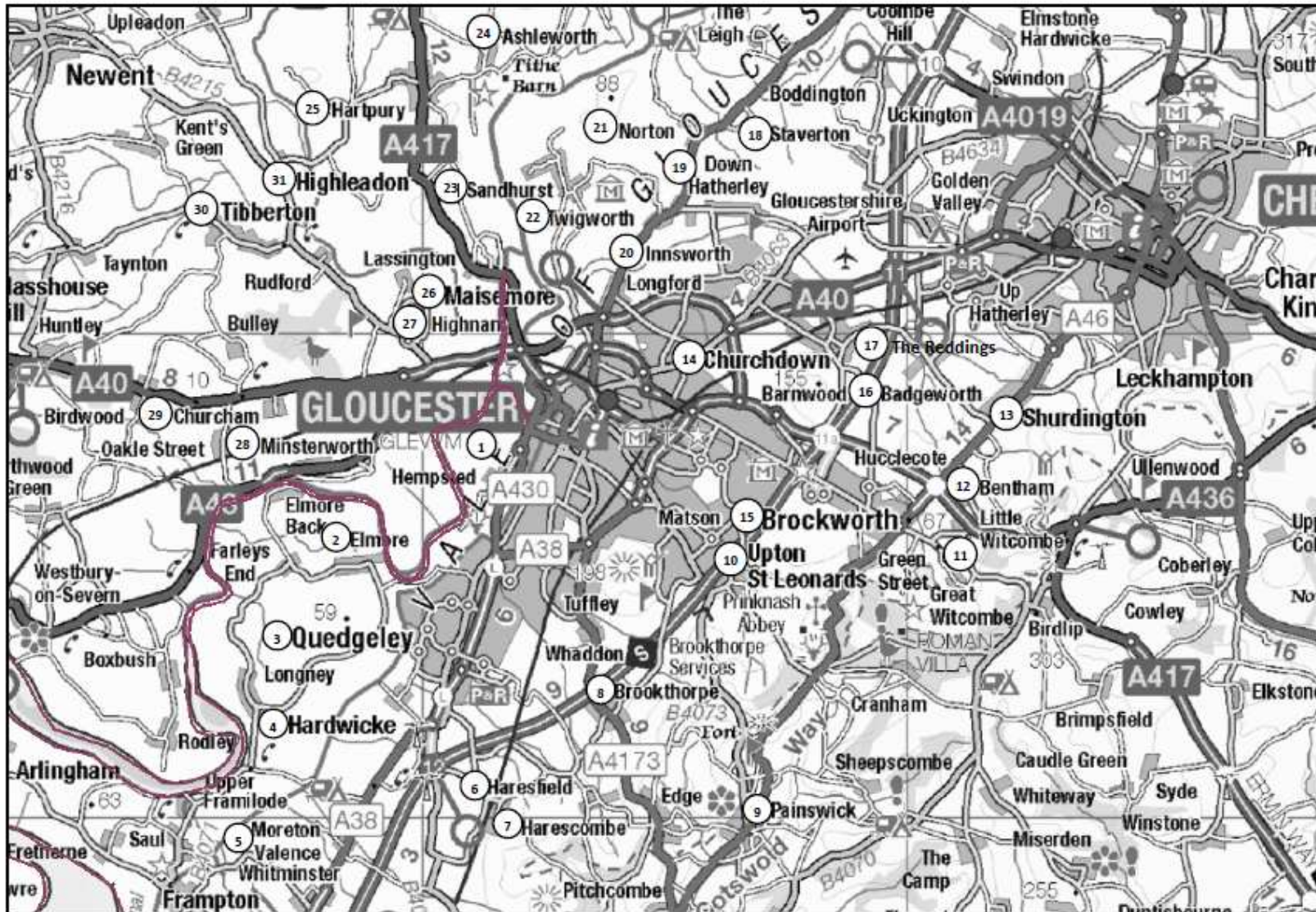
- 27. Over / Highnam – good access to Over. Highnam is a residential village with no suitable or available sites.
- 28. Minsterworth – residential village with good access from the A48, but no suitable or available sites.
- 29. Churcham – units available on the Business Park with good access from the A40, but too small and no land. No suitable or available sites.
- 30. Tibberton – residential village with no suitable or available sites.
- 31. Highleadon – residential village with no suitable or available sites.

The foregoing reflects the almost impossible situation. However, Noake Farm does provide a unique opportunity for the applicant to relocate his existing successful business, along with his trained and experienced workforce, within the timescale and with minimal disruption.

JDL Hiram
1 March 2016

Item 12 – 15/01124/FUL, Noake Farm, Churchdown Lane, Churchdown
Alternative Site Map

33



TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	12 April 2016
Subject:	13/01003/OUT - Land South of the A46 And North of Tirlle Brook, Ashchurch, Tewkesbury
Report of:	Joan Desmond, Senior Planning Officer
Chief Officer:	Rachel North, Deputy Chief Executive
Lead Member:	Cllr D M M Davies
Number of Appendices:	3

<p>Executive Summary:</p> <p>At the Planning Committee on 15 March 2016 Members resolved to grant outline planning permission (with all matters reserved except access) for a proposed garden centre, retail outlet centre and ancillary facilities together with associated infrastructure works including access, car parking and landscaping (reference: 13/01003/OUT). The decision was that the Committee was 'minded to permit' the application subject to referral to the Secretary of State, and that the application be brought back to the next meeting of the Committee with recommended conditions and negotiations with the applicant in respect of Section 106 obligations.</p> <p>A list of suggested conditions is provided along with the s106 contributions suggested by both the applicant and by Officers. Negotiations are continuing with the applicant and an update will be provided at Committee.</p>
<p>Recommendation:</p> <p>To CONSIDER the report.</p>
<p>Reasons for Recommendation:</p> <p>To advise Members of suitable planning conditions and to consider the scope and scale of potential s106 obligations.</p>

<p>Resource Implications:</p> <p>None</p>
<p>Legal Implications:</p> <p>Completion of S106 legal Agreements</p>
<p>Risk Management Implications:</p> <p>None</p>

Performance Management Follow-up:

Should the Committee determine to grant permission in accordance with the report then the decision will be issued as soon as possible, depending on the view of the Secretary of State as to whether he wishes to call-in the application to determine the application himself.

Implications for Biodiversity:

None

1.0 INTRODUCTION/BACKGROUND

1.1 At the last Planning Committee on 15 March 2016 Members resolved to grant outline planning permission (with all matters reserved except access) for a proposed garden centre, retail outlet centre and ancillary facilities together with associated infrastructure works including access, car parking and landscaping (13/01003/OUT) on land South of the A46 and North of Tirlle Brook, Ashchurch, Tewkesbury subject to appropriate planning conditions and S106 agreement.

1.2 Members considered that the proposed development would not have an adverse impact on the health of Gloucester City centre and whilst it was felt that it would have an impact on the health of Tewkesbury Town centre, this impact would not be significant and any adverse impact could be addressed through appropriate mitigation measures. County Highways raised no objection to the development subject to a S106 agreement for the following contributions:

- £70,000 towards the provision of GCC scheme 9172 for the footway/cycleway to the east of Northway lane
- £ 289,425 towards the GCC A438/Shannon Way Improvement scheme
- £5000 monitoring fee for a Travel Plan.

1.3 Given the type and scale of the development, the Secretary of State has been notified that the Council intend to permit the application subject to appropriate conditions and S106 agreement and the Secretary of State will decide whether or not to call in the application. A decision on this matter is still awaited.

2.0 SUGGESTED CONDITIONS AND S106

2.1 A list of suggested conditions and reasons is attached at **Appendix 1**.

2.2 Members may recall that the applicant has submitted draft S106 agreements for transportation issues; Town Centre initiatives and a draft Unilateral Undertaking for the safeguarding of land for improvements to the A46 and Junction 9 of the M5. Copies of these agreements are attached at **Appendix 2**.

2.3 The draft transportation agreement accords with the recommendations of County Highways and is considered to be acceptable. Similarly the draft Unilateral Undertaking for the safeguarding of land for improvements to the A46 and Junction 9 of the M5 is considered to be acceptable and accords with advice from Highways England. The proposed mitigation measures for the town centre are not however, considered to be adequate and would fail to mitigate the harmful impact of the proposed development on the health of the town. Attached at **Appendix 3** is a draft CIL Compliance Statement which sets out the suggested mitigation measures which would include:

- £127,800 - Riverside Links
- £250,000 - Heritage and Riverside Walks
- £375,000 - Riverside Moorings
- £125,000 - Back of Avon Re-development
- £15,000 - Tourism App
- £150,000 - Local Shop/retailer Support Programme
- £150,000 - Public Art Trails
- £150,000 - Town Centre frontages Grant Initiative
- £100,000 - Town Centre Events
- £25,000 - 'Maybe' Shopping App for Tewkesbury
- £50,000 - Evening Economy Contribution
- £52,473 - Electric Cycle Hire/Bike Shared Scheme
- £25,000 - Tourist information provision
- £200,000 - Marketing Campaigns
- Employment and Training Policy

2.4 The total contributions for the Tewkesbury Town centre mitigation measures amount to £1,795,273. The applicant is presently offering £675,000 towards town centre initiatives with all payment to be paid prior to the date of first occupation. As previously stated, the amount of contribution being offered is not considered to be adequate to mitigate the likely impacts of the proposals on Tewkesbury Town Centre and some of the payments should be required to be paid upon the grant of the outline planning permission and/or on commencement of the development. This would enable some of the mitigation measures to be put in place prior to occupation of the Outlet Retail Centre and its inherent impacts.

2.5 The suggested conditions and contributions for town centre mitigation measures are still under discussion with the applicant and Members will be updated at Committee.

3.0 OTHER OPTIONS CONSIDERED

3.1 None

4.0 CONSULTATION

4.1 None

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 The Tewkesbury Borough Local Plan to 2011 - March 2006 - TPT1, TPT9, TPT13, RET6. Tewkesbury Town Centre Masterplan.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 NPPF

Community Infrastructure Levy Regulations 2010 (as amended).

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 Resolution at March Planning Committee on 13/01003/OUT

Background Papers: Application 13/01003/OUT

Contact Officer: Joan Desmond, Senior Planning Officer
01684 272103 joan.desmond@teWKesbury.gov.uk

Appendices: Appendix 1 – List of suggested Conditions/Reasons
Appendix 2 – Draft S106 Agreements submitted by Applicant
Appendix 3 – Draft CIL Compliance Statement

Land south of the A46 and north of the Tirlle Brook, Ashchurch, Tewkesbury

Reference: 13/1003OUT

Draft Planning Conditions

Phasing

1. As part of the first reserved matters application a phasing plan for the whole site shall be submitted to the LPA for approval in writing. The phasing plan shall indicate the development phases and their order and phasing of key infrastructure, including surface water drainage, green infrastructure and access for pedestrians, cyclists, buses and vehicles. The development shall be carried out in accordance with the approved phasing plan.

Design Principles

2. As part of the reserved matters application for phase 1 submitted pursuant to condition 3 a document setting out the Design Principles (hereafter referred to as 'Design Principles') for the development hereby approved shall be submitted to the LPA for approval in writing. The Design Principles shall accord with the Parameter Plans (6611/PL03, 6611/PL04, 6611/PL05 Rev A, 6611/PL06, 6611/PL07); the indicative Masterplan (6611/PL02), Indicative Sectional Elevations Plan (6611/PL08 Rev A), the Design and Access Statement dated September 2013 and addendum to same dated October 2014. The Design Principles shall include the following matters:
 - (i) The principles for determining the design, form, heights and general arrangement of external architectural features of buildings including the roofs and fenestration;
 - (ii) The principles for determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;
 - (iii) The principles for determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;
 - (iv) The principles for the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, parking areas and external pedestrian circulation space;
 - (v) The principles for the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, parking areas and external pedestrian circulation space;
 - (vi) The principles for the laying out of the green infrastructure including the access, location and general arrangements of the area of publicly accessible open space;The development shall be carried out in accordance with the approved Design Principles.

Reserved matters

3. The development of each phase for which permission is hereby granted shall not be begun before detailed plans thereof showing the layout, scale and external appearance of the buildings and landscaping (hereinafter referred to as "the reserved matters") of that phase have been submitted to and approved in writing by the LPA. The development shall be carried out as approved.
4. Application for the approval of the reserved matters for phase 1 as identified by the phasing plan shall be made to the LPA before the expiration of 3 years from the date of this permission. The development hereby permitted shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of approval of the reserved matters for phase 1, whichever is the later.

5. Application for the approval of reserved matters for the subsequent phases of development as identified by the phasing plan shall be made to the LPA before the expiration of 8 years from the date of this permission. The subsequent phases of development hereby permitted shall be begun either before the expiration of 10 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Ground and floor levels

- 6 No development comprising the erection of buildings shall take place in any given phase of the development until details of existing and proposed ground levels and ground floor slab levels of the buildings relative to Ordnance Datum Newlyn in that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Outlet Centre Conditions

- 7 The Factory Outlet Centre (FOC) shall be used only for factory outlet shopping (Class A1) and uses within Classes A3, A4 and A5 of the *Town and Country Planning (Use Classes) Order 1987* (as amended).
- 8 All retail sales from the Class A1 floorspace in the FOC shall only be by manufacturers selling their branded seconds, surplus stock, or discontinued lines or other retailers selling rejects, returned goods, seconds, clearance goods and surplus stock, all at discounted prices.
- 9 Not less than 85% of the total gross Class A1 retail floorspace of the FOC shall offer goods for sale at a price at least 30% below either recommended retail price (if available) or, if that price is not available, the price at which such a good is, or has been, offered for sale at the manufacturers' or their retailers' high street outlets
- 10 The remainder of the total gross Class A1 retail floorspace of the FOC shall offer goods for sale at a price at least 10% below either recommended retail price (if available) or, if that price is not available, the price at which such a good is, or has been, offered for sale at the manufacturers' or their retailers' high street outlets
- 11 The retail units other than those in Class A3, A4 and A5 shall not be used for any of the purposes within Class A1 of the *Town and Country Planning (Use Classes) Order 1987* as amended other than for the sale of goods by way of factory outlet shopping. The Class A1 retail units shall not be used for the sale of convenience goods, DIY goods, tools, garden furniture, carpets, floor covering, electrical/gas goods/appliances, hardware, motor vehicle spares and accessories.
- 12 No Class A1 retail unit (excluding the Tourist Information Centre) in the Factory Outlet Centre shall have a gross floor area less than 50m².
- 13 No Class A1 retail unit in the Factory Outlet Centre shall have a gross floor area greater than 1,200m².

- 14 The net sales area for the Factory Outlet Centre shall not exceed 13,436m².
- 15 Not more than 11,500m² of the total net sales area shall be used for the sale of clothing and/or footwear or uses ancillary thereto.
- 16 Not more than 3,850m² of the total net sales area shall be for the sale of items other than clothing and/or footwear.
- 17 There shall be no more than 10 Class A3-A5 units and no single unit shall exceed 750m² gross
- 18 Other than the Class A3-A5 units, the Factory Outlet Centre shall constitute no less than 30 units and no more than 90 units at any one time.

Garden Centre Conditions

- 19 The premises shall be used as a garden centre (incorporating café/restaurants and foodhall) and for no other purposes including any other purpose in Class A1 of the *Town and Country Planning (Use Classes) Order 1987* as amended.
- 20 The floorspace permitted for each of the following categories of Class A1 goods shall not exceed the maximum floor area indicated below.

The covered, enclosed accommodation (to a maximum of 7,600m² Gross Internal Area):

		Maximum floor area (GIA)
a)	Horticultural products, composts, peats, chemicals and other goods associated with plant/garden care, tools, watering equipment and garden machinery.	7,600
b)	Houseplants, dried, artificial and cut flowers and goods associated with their care and maintenance.	
c)	Garden and conservatory furniture and furnishings, garden lighting and heating, barbecues and barbecue accessories.	
d)	clothing and footwear for outdoor pursuits	
e)	Pets, pet foods, pet cages, fish and accessories including ponds, equestrian products, pet care advice and care products.	
f)	Other goods falling within Class A1, including farm produce, gifts and crafts, confectionary, preserves, pickles, herbs, spices and biscuits.	1,600
g)	Seasonal products.	1,140

The uncovered external area (to a maximum of 7,765m² Gross External Area):

		Maximum floor area (GEA)
a)	All living plants of all varieties and sizes.	7,765
b)	All garden related products which are not plants: including rockery, statuary, ponds, pools, fountains and accessories, cold water fish, compost, peat and other garden care products, garden and conservatory furniture, garden lighting and heating, barbeques and accessories, pets, birds, fish and accessories, including aviaries, cages and ponds, garden buildings, greenhouses, conservatories, gazebos, summer houses, swimming pools, spas with all accessories, landscape and building material, fencing and timber products.	

- 21 No part of the Garden Centre shall be used for the sale of the following goods and services (other than as otherwise permitted above): carpets and other floor coverings (other than for outdoors and conservatories), electrical goods (other than electric garden tools and machinery, and electrical products for garden features), chemists, medical and beauty products, newspapers and magazines (other than gardening magazines), food and drink, toys, jewellery, watches and clocks, CDs DVDs and videos (other than those related to gardening and seasonal goods), caravans and car parts and accessories, photographic goods, musical instruments, luggage, leather goods, DIY goods and decorator's supplies, hardware (other than products for garden construction, improvement and maintenance) and clothing and footwear.
- 22 The café/restaurants hereby permitted shall only be used for the purposes of Class A3 (Restaurants and Cafes) and Class A5 (Hot Food Take-away) and for no other purpose.
- 23 There shall be no more than two A3/A5 units subject to a combined maximum gross internal area of 929m².
- 24 The external dining area shall not exceed 1,045m² gross floorspace.

Protection of existing trees and hedgerows

- 25 Within each phase no hedges or trees shall, with the exception of those required to implement the approved accesses, be removed or felled unless the removal or felling is part of an approved landscaping scheme.
- 26 Details of fencing for the protection of existing trees within a phase shall be submitted to and approved in writing by the local planning authority. The fencing shall accord with BS 5837:2012 (Trees in Relation to Construction). Before any equipment, machinery or materials are brought into that phase for the purpose of the development, the fencing shall be erected in accordance with the approved details.

The fencing shall be retained until all equipment, machinery and surplus materials have been removed from that phase. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor any excavation be made without the prior written consent of the local planning authority.

- 27 All planting, seeding or turfing comprised in the approved details of landscaping for each phase shall be carried out in the first planting and seeding seasons following last occupation of that phase. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the LPA, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place.

Landscaping and Ecological Management Plan

- 28 No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall be in accordance with the mitigation and enhancement measures in the submitted Environmental Statement. It shall include a timetable for implementation, details for monitoring and review and how the areas concerned will be maintained and managed. Development shall be in accordance with the approved details and timetable in the LEMP.

Construction Management Plan

- 29 No development shall commence until a construction environmental management plan (CEMP) detailing how the site will be accessed and laid out during construction has been submitted to, and approved in writing by, the LPA and the CEMP shall be fully implemented and shall include:

- (i) specific noise level targets and vibration levels at existing residential properties;
- (ii) the type of machinery to be used to meet the noise and vibration levels;
- (iii) hours of operation;
- (iv) methods of construction;
- v) Likely type and number of vehicular movements;
- vi) Parking provision;
- vii) How deliveries will be controlled and managed;
- (viii) traffic routes and signage for construction traffic and site staff traffic;
- (ix) provision for wheel washing facilities;
- (x) measures to control the emission of dust and dirt during construction;

In producing the CEMP guidance should be sought from BS 5228.

Construction Noise

- 30 No external construction works, deliveries, external running of plant and equipment or internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday. There shall be no such working Sundays, Public or Bank Holidays without the prior written agreement of the Local Planning Authority.

External Plant/Extraction

- 31 Prior to installation, details of any external plant, including air handling units, extract ventilation and filter systems shall be submitted to and approved in writing prior to the installation of the external plant. The detail shall include details of how noise and odour will be controlled. The external plant/extract ventilation and filter system shall be installed in accordance with the approved scheme before the development is brought into use and maintained in accordance with the approved scheme thereafter.

Lighting

- 32 A lighting plan for each phase of development shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved details.

Highways/Access Conditions

- 33 With the exception of operations relating to site clearance, remediation, diversion of services, site investigations and the erection of fencing and hoardings, the development hereby approved shall not commence until a detailed scheme for the proposed access works to the A46 has been agreed in writing by the Local Planning Authority. Such works shall be broadly in accordance with drawings H439/03 and H439/04 and incorporate site access traffic signal arrangements which are linked through Link MOVA, to the existing signal controls between the M5 Junction 9 and Northway Lane.
- 34 The development hereby approved shall not be occupied until the highways works agreed under condition 33 above have been implemented in full, to the written satisfaction of the Local Planning Authority. 35 Notwithstanding the submitted details, no works shall commence on site until the full engineering details of the eastern access route and non-motorised user linkages with Fiddington Lane, including a scheme to prevent the right turn from the northern access to Newton farm, have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the approved works have been completed. The works shall be retained as such thereafter unless and until adopted as highway maintainable at public expense.
- 36 No works shall commence within a phase until details of the Car park Management Plan (CPMP) for that phase have been submitted to and approved in writing by the Local Planning Authority. Prior to the beneficial occupation of a phase the CPMP for that phase shall be implemented and shall be retained for the duration of the development thereafter.

- 37 The car parking, vehicular loading and turning, cycle parking arrangements agreed pursuant to Condition 1 shall be provided prior to the beneficial occupation of that phase and shall be retained for the duration of the development thereafter.
- 38 Prior to the beneficial occupation of a phase, the approved Travel Plan (TP), reference H439-DOC06 TP Issue 3 shall be implemented insofar as that phase is concerned and shall be continued thereafter.

Fire Hydrants

- 39 No development within a phase shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority for the provision of fire hydrants (served by mains water supply) within that phase. No development within a phase shall be occupied until the fire hydrants serving that phase have been provided to the satisfaction of the Local Planning Authority.

Drainage

- 40 The first reserved matters application submitted pursuant to Condition 3 shall be accompanied by details of the surface water drainage strategy for the whole development hereby approved, incorporating sustainable drainage principles and a management and maintenance plan. All subsequent reserved matters submitted pursuant to Condition 1 shall accord with the approved surface water drainage strategy and the development shall be carried out only in accordance with the approved surface water drainage strategy. The details shall be based on the Flood Risk Assessment dated September 2013. No building hereby permitted shall be occupied until the sustainable drainage scheme for the relevant phase has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Archaeology

- 41 No development shall take place within a phase (excluding works to the existing public highway) until a programme of archaeological work for that phase has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

Informatives

1. For the purposes of the “Retail” conditions the following definitions apply:

Gross External Area (Gross) - The aggregate superficial area of a building measured externally at each floor level (includes: external walls and projections, and open-side covered areas and enclosed car parking areas, but excludes open covered ways or minor canopies and open vehicle parking areas etc)

Gross Internal Area (GIA) - Measurement of a building on the same basis as gross external area, but excluding external wall thicknesses (includes atria/entrance halls and ancillary space e.g. offices)

Net Sales Area - The usable space within a building measured to the internal finish of structural, external or party walls, but excluding toilets, lift and plant rooms, stairs and lift wells, common entrance halls, lobbies and corridors, internal structural walls and columns and car parking areas.

2. The applicant is advised that this planning permission does not confer approval to any departures from standards in respect of highways design and layout, as set out in the Design Manual for Roads and Bridges (DMRB).
3. The highway proposals associated with these consents involve works within the public highway, which is land over which you have no control and is subject to the provisions of the Highways Act 1980. In order for these works to proceed, the Highways Authority for the A46 requires the developer to enter into a suitable legal agreement to cover the design and construction of the works.
4. Please contact Mr David Steventon of the Highways Agency’s Area 9 Network Delivery and Development Directorate at an early stage to discuss the details of the highways agreement. His contact information is as follows: Floor 9, The Cube, 199 Wharfside Street, Birmingham, B1 1RN. Tel: 0121 678 8723.
5. The proposed development will require works to be carried out on the public highway and the Applicant/Developer is required to enter into a legally binding Highway Works Agreement (including appropriate bonds) with the Local Highway Authority, which includes both the Highways Agency and Gloucestershire County Council, before commencing works on the development.
6. The developer will be expected to meet the full costs of supplying and installing the fire hydrants and associated infrastructure.

REASONS

1. To secure the programming and phasing of, and an orderly pattern to the development.
2. To ensure that the development is carried out in accordance with good urban design principles and in order to integrates harmoniously with its surroundings.
3. The application is in outline only and the reserved matters referred to in the foregoing condition will require further consideration.
4. To comply with the requirements of Section 91 of the Town and County Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure the timely commencement of this development in order to meet the proposed housing trajectory of the emerging plan.
5. To comply with the requirements of Section 91 of the Town and County Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure the timely commencement of this development in order to meet the proposed housing trajectory of the emerging plan.
6. In the interests of amenity to accord with the NPPF.
7. To protect the vitality and viability of other centres.
8. To protect the vitality and viability of other centres
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23. To protect the vitality and viability of other centres
24. To protect the vitality and viability of other centres
25. To ensure that the new development will be visually attractive in the interests of amenity in accordance with Policy LND7 of the Tewkesbury Borough Local Plan to 2011 - March 2006.
26. To secure the protection of the health and visual amenity of mature trees and hedgerows on the site, which are important to the quality of this development
27. To ensure that the new development will be visually attractive in the interests of amenity in accordance with Policy LND7 of the Tewkesbury Borough Local Plan to 2011 - March 2006.
28. To ensure proper provision is made to safeguard protected species and their habitats, in accordance with the guidance set out in the NPPF and Policy NCN5 of the Tewkesbury Borough Local Plan to 2011 - March 2006.
29. To ensure that the proposed construction work does not cause undue nuisance and disturbance to neighbouring properties at unreasonable hours.
30. To ensure that the proposed construction work does not cause undue nuisance and disturbance to neighbouring properties at unreasonable hours.
31. In the interests of noise and air pollution to accord with the NPPF.
32. In the interests of amenity to accord with the NPPF.
33. In the interests of highway safety in accordance with Policy TPT1 of the Tewkesbury Borough Local Plan to 2011 – March 2006 and the NPPF.
34. To reduce highway impact, in accordance with Policy TPT1 of the Tewkesbury Borough Local Plan to 2011 – March 2006 and the NPPF
35. To reduce highway impact, in accordance with Policy TPT1 of the Tewkesbury Borough Local Plan to 2011 – March 2006
36. To reduce highway impact, in accordance with Policy TPT1 of the Tewkesbury Borough Local Plan to 2011 – March 2006 and the NPPF
37. To reduce highway impact, in accordance with Policy TPT1 of the Tewkesbury Borough Local Plan to 2011 – March 2006
38. To reduce highway impact, in accordance with Policy TPT1 of the Tewkesbury Borough Local Plan to 2011 – March 2006 and the NPPF
39. To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire.

40. To ensure adequate disposal of surface water drainage in accordance with the NPPF and Policies EVT5 and EVT9 of the Tewkesbury Borough Local Plan to 2011 - March 2006.
41. To make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which would be lost.

DATED

2016

(1) ROBERT HITCHINS LIMITED

(2) LLOYDS BANK PLC

(3) GLOUCESTERSHIRE COUNTY COUNCIL

A G R E E M E N T

in respect of land to the south of the A46 and north of the Tirlle Brook,
Tewkesbury, in the County of Gloucestershire
pursuant to Section 106 of the Town and Country Planning Act 1990 (as
amended) Section 111 of the Local Government Act 1972 278 of the
Highways Act 1980 (as amended) and Section 1 of the Localism Act 2011
(Transportation)

BETWEEN

1. ROBERT HITCHINS LIMITED (Co. Regn. No. 686734) whose registered office is at The Manor Boddington Cheltenham Gloucestershire GL51 0TJ ("the Owner")
2. LLOYDS BANK PLC (Co. Regn. No. 2065) whose registered office is at 25 Gresham Street, London, EC2V 7HN ("the Chargee") and
3. GLOUCESTERSHIRE COUNTY COUNCIL of Shire Hall in the City of Gloucester GL1 2TG ("the Council")

WHEREAS:

- (1) The Owner is the registered proprietor of the freehold interest in the Land which is registered with title absolute under title numbers GR118545 and GR92289 subject to the matters set out in the registers
- (2) The Owner proposes to carry out the Development on the Land
- (3) The Council is
 - (a) a Local Planning Authority as defined in the Act and the Local Planning Authority for the purposes of planning obligations imposed pursuant to the provisions of Section 106 of the Act; and
 - (b) the Highway Authority for Gloucestershire and is of the opinion that the Contributions are necessary to address the consequences of the Development; and is
 - (c) satisfied that entry into this Agreement is of benefit to the public
- (4) By the Charges the Owner charged the Land (together with other land) to the Chargee to secure repayment to the Chargee of the monies therein mentioned

NOW THIS DEED WITNESSETH as follows:

1. Definitions and Interpretation:

- a) It is hereby agreed by the parties that in this Agreement the following expressions shall have the following meanings:

'the Act'	means the Town and Country Planning Act 1990 and any
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	amendment thereof
'the Application'	means an application for planning permission pursuant to the Act and made to Tewkesbury Borough Council under reference number 13/01003/OUT (with all matters reserved except access) for a proposed garden centre, retail outlet centre and ancillary facilities together with associated infrastructure works including access, car parking and landscaping
'the Charges'	mean firstly a charge dated 9 September 2011 (charge reference GR92289) and secondly a charge dated 20 December 2013 (charge reference: CYM126641) both made between (1) the Owner and (2) the Chargee relating to the Land and other land
'CIL Regulations'	means, for the purposes of this Agreement, Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended by the Community Infrastructure Levy (Amendment) Regulations of 2012 and 2013
'Commencement Date'	means the date which any material operation as defined in Section 56 of the Act, comprised in the Development shall commence to be carried out (but excluding for the avoidance of doubt operations consisting of site clearance demolition work archaeological investigations for the purpose of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions diversion and laying of services erection of any temporary means of enclosure and the temporary display of site notices and advertisements) and 'Commence' and 'Commencement of Development' shall be construed accordingly
'the Contributions'	means the Footway and Cycleway Contribution, the Highway Works Contribution and the Travel Plan Contribution
'the Development'	means the construction on the Land of a new garden centre and retail outlet centre with associated highway works in accordance with (or largely in accordance with) the Permission

'the Footway and Cycleway Contribution'	means the sum of Seventy Thousand Pounds (£70,000.00) to be used toward the cost of the new footway/cycleway which is to be constructed on the east side of Northway Lane to provide improved facilities for employees and customers travelling between Northway and the proposed Development
'the Highway Works Contribution'	means the sum of up to Two Hundred and Eighty Nine Thousand Four Hundred and Twenty Five Pounds (£289,425.00) to be used towards the costs of the A438/ Shannon Way junction improvement scheme identified in Gloucestershire County Council's 'Pinch Point' scheme for the A438 at Ashchurch
'the Index'	means the Road Construction Tender Price Index (1995 = 100) Road Type Factors - New Construction Location Factors - South West (issued by Department for Business Innovation and Skills or by any other Department Ministry or other body upon which the duties in connection with that index devolves
"the Land"	means the land to the south of the A46 and north of the Tirlle Brook, Tewkesbury and shown edged red on the Plan
'Late Payment Interest'	means a rate calculated on a daily basis and compounded quarterly from the due date until payment at five per cent (4%) per annum over HSBC Bank place base rate from time to time in force
'Notice of Commencement'	means written notification from the Owner to the Proper Officer of the Commencement Date in accordance with the provisions of the agreement
'the Permission'	means planning permission granted pursuant to the Application
'the Plan'	means the plan annexed hereto
'the Proper Officer'	means the Commissioning Director: Communities & Infrastructure or such other Chief Officer as shall from time to time be responsible for the highway and transportation function of the Council
'Repayment Interest'	means interest repaid at the London Interbank seven day rate (as compiled by the British Bankers Association) then subsisting calculated annually at the end of each financial

	year to ascertain the simple average interest rate for that year and then compounded annually calculated from the date of payment until repayment (net of tax if such deduction is required by the guidance in respect thereof issued by Her Majesty's Government at the date of such refund)
'the S106 Monitoring Officer'	means that officer of the Council appointed from time to time with the role of monitoring the compliance of the Owner or other persons with the provisions of this Agreement
"Occupation" and "Occupied"	occupation for the purposes permitted by the Permission but not including occupation by personnel engaged in construction and 'first Occupation' shall be construed accordingly
'the Travel Plan'	means a plan to promote sustainable travel patterns and behaviour
'the Travel Plan Contribution'	mean the sum of Five Thousand Pounds (£5,000.00) to be used towards the monitoring of the Travel Plan
'VAT'	means the tax referred to in the Value Added Tax Act 1994 or any tax of a similar nature which is introduced in substitution for or as an addition to such tax from time to time

- (b) The Development shall be deemed to be commenced on the Commencement Date
- (c) Where the context so admits
- (i) words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa and where there is more than one covenantor all obligations of such covenantors shall be joint and several
- (ii) where reference is made to a statutory provision this includes all prior and subsequent enactments amendments and modifications relating to that provision and any sub-ordinate legislation made under it
- (d) The expressions "the Council" "the Owner" and "the Chargee" shall include their respective successors in title and assigns

- (e) All headings in this Agreement are for ease of reference only and are not part of the Agreement nor are they intended to be used as a guide to its interpretation
- (f) All payments in accordance with the terms of this Agreement shall be exclusive of any VAT payable in respect thereof
- (g) Any phrase introduced by the terms 'including' 'include' 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words following those terms

2. Statutory Provisions:

The parties hereby agree that:

- (a) the obligations on the part of the Owner hereinafter contained are planning obligations imposed pursuant to the provisions of Section 106 of the Act which are enforceable by the Council and
- (b) inter alia this is an Agreement pursuant to Section 278 of the Highways Act 1980 Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011
- (c) Obligations hereunder shall not be enforceable against:
 - (i) owner-occupiers or tenants of retail units constructed pursuant to the Permission nor against those deriving title from them
 - (ii) any local authority or statutory undertaker who takes a transfer of any part of the Land in the normal course of the Development
 - (iii) a chargee of any part of the Land personally unless and until it takes possession or otherwise exercises its right of sale under a charge
 - (iv) any person who has disposed of his interest in the Land or relevant part of it at the time a breach hereunder occurs always provided that they have given notice to the Council of the date of disposal and details of to whom the disposal has been made

3. Conditionality

- 3.1 Save for the provisions of Clause 5 (Payments due on Completion) jurisdiction and delivery clauses and any other relevant provisions which shall come into effect immediately upon completion of this Agreement, this Agreement is conditional upon:
 - (i) the grant of the Planning Permission; and
 - (ii) the Commencement of Development
- 3.2 In the event that the Application falls to be determined by Secretary of State or by an Inspector appointed by the Secretary of State (as to the whole or any

part of this Agreement, as appropriate), the obligations hereunder are conditional upon the Secretary of State or the Inspector appointed not stating in his report that the provisions are irrelevant or not required in order to grant Planning Permission or are not compliant with the CIL Regulations (and any provision in this Agreement that the Inspector determines does not meet the policy tests set out in the CIL Regulations shall from the date of such determination not be enforced) UNLESS such decision is quashed following a successful planning challenge

4. The Contributions:

The parties hereby agree and covenant with the other that:

Travel Plan Contribution

- (a) the Owner will pay the Travel Plan Contribution to the Council prior to the Commencement Date
- (b) the Council will return the Travel Plan Contribution to the Owner within twenty one (21) days of;
 - (i) the Permission lapsing before the Commencement Date; or
 - (ii) the occurrence of any of the events set out at clause 8(e) hereoftogether with Repayment Interest on the amount repaid from the date of payment until the date of repayment

Footway and Cycleway Contribution and Highway Works Contribution

- (c) The Owner will pay the Footway and Cycleway Contribution to the Council prior to the Commencement Date (provided that the Footway and Cycleway Contribution shall not be payable in the event that the Owner shall have already paid such sum to the Council pursuant to a planning obligation entered into in relation to the Owner's proposed development of land to the south of Aston Fields Lane, Ashchurch, Tewkesbury);
- (d) The Owner will pay the Highway Works Contribution to the Council prior to the Commencement Date (provided that the Highway Works Contribution shall not be payable in the event that the Owner shall have already paid such sum to the Council pursuant to a planning obligation entered into in relation to the Owner's proposed development of land to the south of Aston Fields Lane, Ashchurch, Tewkesbury);
- (e) The Council will return the Footway and Cycleway Contribution to the payee within twenty one (21) days of the relevant event, if the Footway and Cycleway Contribution has been paid but the Permission lapses before the Commencement Date together with Repayment Interest on the amount repaid from the date of payment until the date of repayment.

- (f) The Council will return the Highway Works Contribution to the payee within twenty one (21) days of the relevant event if the Highway Works Contribution has been paid but the Permission lapses before the Commencement Date together with Repayment Interest on the amount repaid from the date of payment until the date of repayment
- (g) The Council will
 - (i) expend all sums and contributions paid by the Owner to the Council under this Agreement in the manner and solely for the purpose for which the monies are paid and as soon as practicable following receipt of each payment;
 - (ii) ensure that all costs and expenses which it incurs or expends in relation to any of its obligations pursuant to this Agreement are reasonable, accurate, verifiable and evidenced by appropriate documentation;
 - (iii) if requested by the Owner, provide a written statement accounting for the planned, proposed or actual collection and expenditure of contributions received and
 - (iv) in the event that all or part of the Footway and Cycleway Contribution and/or the Highway Works Contribution is unspent or uncommitted by the date five (5) years from the date of receipt of the respective payment of the same, return to the payee any such unexpended or uncommitted sum together with Repayment Interest on the amount repaid from the date of payment until the date of repayment
- (h) There shall be added to the payment of the Footway and Cycleway Contribution and the Highway Works Contribution a sum calculated by reference to any percentage increase in the Index between the publication immediately before the date hereof and the date upon which the payment of the respective Contributions are actually paid to the Council

5. Payments due on Completion:

The Owner hereby agrees with the Council that it will upon the execution hereof pay to the Council:

- (a) the Council's legal charges in the sum of [] Pounds (£[]) and
- (b) the Council's (highways) technical charges in the sum of [] Pounds (£ [])

6. Notices:

Any notice to the Owner or the Chargee under this Agreement shall be in writing signed by the Head of Legal Services for the time being of the Council unless otherwise herein provided and shall be deemed to be sufficiently served if sent to it by registered or recorded delivery post in the case of the Owner or the Chargee at their respective addresses stated at the beginning of this Agreement and any notice to the Council under this Agreement shall be in writing and shall be deemed to be sufficiently served if sent by registered or recorded delivery post to the Council addressed to the Head of Legal Services Gloucestershire County Council Shire Hall Gloucester GL1 2TG

7. Non-Waiver:

It is hereby agreed by the parties hereto that failure by the Council or the Proper Officer at any time to enforce the provisions of this Agreement or to require performance strictly or otherwise by the Owner of any of the conditions covenants agreements or obligations of this Agreement or any failure or delay by the Council or the Proper Officer to exercise any act right or remedy shall not be construed as a waiver of or as creating an estoppel in connection with any such condition covenant agreement or obligation and shall not affect the validity of this Agreement or any part thereof or the right of the Council to enforce any provision

8. General:

The parties hereby agree that:

- (a) this Agreement constitutes the entire agreement between the parties in respect of the Permission and
- (b) this Agreement supersedes and replaces all previous negotiations whether oral or written and
- (c) none of the parties has relied on any express or implied statement warranty representation or undertaking given by or on behalf of another and no collateral agreement exists between the parties and
- (d) nothing herein contained excludes the liability of any of the parties in relation to fraud
- (e) this Agreement shall be determined and have no further effect if;
 - (i) the Permission expires before the Commencement Date;
 - (ii) the Permission is varied or revoked or otherwise withdrawn;
 - (iii) the Permission is quashed following a successful legal challenge
 - (iv) the Permission (without the consent of the Owner) is modified by any statutory procedure; or

(v) development of the Land is undertaken pursuant to another planning permission granted after the date of this Agreement insofar as it has not already been complied with or should have been complied with save for clauses 4 (b) 4(e) 4(f) and 4(g) which shall remain in force until complied with

9. Indemnity:

Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Permission) granted (whether or not on appeal) after the date of this Agreement

10. Warranty

The Owner warrants that it has not mortgaged charged or otherwise created any interest (legal or equitable) in the Land or any part thereof which would adversely affect the enforceability of this Agreement at the date of this Agreement other than as shown on the register of title numbers GR118545 and GR92289 as at the date hereof

11. Contract (Rights of Third Parties) Act 1999:

It is not intended that any third party shall have a right to enforce the terms of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 even if the terms are expressed to be for their benefit and nor shall any such third party have a right of veto over any future variations of this Agreement

12. Effect of invalidity illegality or enforceability:

- (a) If any provision in this Agreement shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired
- (b) In the event that the Application falls to be determined by Secretary of State or by an Inspector appointed by the Secretary of State (as to the whole or any part of this Agreement, as appropriate), and either the Secretary of State or the Inspector appointed by the Secretary of State determines that any provision hereunder does not meet the statutory tests set out in either the CIL Regulations or paragraphs 203-206 of the National Planning Policy Framework such provision shall from the date of such determination not be enforced UNLESS such decision is quashed following a successful planning challenge

13. Late Payment Interest

If any sum payable under the terms of this agreement is not paid at the time specified herein the Owner shall pay to the Council Late Payment Interest on such sum

14 Notice of Commencement and Notice of Substitution:

The Owner hereby agrees and covenants with the Council that:

- (a) it will write to the S106 Monitoring Officer no less than twenty eight (28) days before the Owner expects commencement of the Development to occur notifying the Council of the expected Commencement Date;
- (b) within 7 (seven) days of the actual Commencement Date the Owner will serve on the S106 Monitoring Officer the Notice of Commencement
- (c) the Proper Officer is at liberty to elect a date which it considers to be the Commencement Date in default of the Owner's compliance with sub-clauses 14(a) and (b) above for the purposes of Clause 4(a) and 4 (c) as applicable and will notify the Owner of such date;
- (d) the Owner will give the S106 Monitoring Officer written notice as soon as possible following any change in ownership of any part or parts of the land occurring before all of the obligation of the Owner under this Agreement have been discharged, such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land sold by reference to a plan

14. Chargee's consent:

The Chargee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Agreement and that the security of the Chargee over the Land shall take effect subject to this Agreement PROVIDED THAT the Chargee shall otherwise have no liability under this Agreement unless it takes possession of the Land as mortgagee in possession, (and then only if it shall have caused such breach to have been occasioned and provided further for the avoidance of doubt it shall not in any event be liable for any breach of this Agreement arising prior to it becoming a mortgagee in possession of the Land regardless of whether or not such pre-existing breach shall continue for any period during which it is a mortgagee in possession of the Land) in which case it too will be bound by the obligations as if it were a person deriving title from the Owner PROVIDED ALWAYS that the successors in title to the Chargee shall become fully liable for any breach of this Agreement.

THE COMMON SEAL of
GLOUCESTERSHIRE COUNTY COUNCIL
was hereunto affixed
in the presence of:-



Head of Legal Services

DATED

2016

(1) ROBERT HITCHINS LIMITED

(2) LLOYDS BANK PLC

(3) THE COUNCIL FOR THE BOROUGH OF TEWKESBURY

A G R E E M E N T

in respect of land to the south of the A46 and north of the Tirlle Brook,
Tewkesbury, in the County of Gloucestershire
pursuant to Section 106 of the Town and Country Planning Act 1990 (as
amended) Section 111 of the Local Government Act 1972 and Section 2 of
the Local Government Act 2000
(Town Centre Initiatives)

	secondly a charge dated 20 December 2013 made between (1) the Owner and (2) the Chargee relating to the Land and other land
'CIL Regulations'	means, for the purposes of this Deed, Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended by the Community Infrastructure Levy (Amendment) Regulations of 2012 and 2013
'Commencement of Development'	means the date which any material operation as defined in Section 56 of the Act, comprised in the Development shall commence to be carried out (but excluding for the avoidance of doubt operations consisting of site clearance demolition work archaeological investigations for the purpose of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions diversion and laying of services erection of any temporary means of enclosure and the temporary display of site notices and advertisements) and 'Commence Development' shall be construed accordingly
"Development"	means the construction on the Land of a new garden centre and retail outlet centre with associated highway works in accordance with (or largely in accordance with) the Permission
'Index'	Means the All Items Index of Retail Prices issued by the Office for National Statistics
'Interest'	means interest calculated on a daily basis and compounded quarterly from the due date until payment at 4% above the base lending rate from time to time of Lloyds Bank Plc
"Land"	means the land to the south of the A46 and north of the Tirlle Brook Tewkesbury shown edged red on the Plan
"Occupation" and "Occupied"	occupation for the purposes permitted by the Permission but not including occupation by personnel engaged in construction and 'first Occupation' shall be construed accordingly
'Permission'	means planning permission granted pursuant to the Application
'Plan'	means the plan annexed hereto

'Town Centre Initiatives'	<p>means any one or more of the following, but not limited to:</p> <ul style="list-style-type: none"> • Built environment/public realm enhancements; • Accessibility improvements • Security improvements • Promotional events (including provision of a tourist information point) • Town centre management
'Town Centre Initiatives Contribution'	<p>mean the sum of Six Hundred and Seventy Five Thousand Pounds (£675,000.00) to be used by the Council towards the implementation of the Town Centre Initiatives</p>
'VAT'	<p>means the tax referred to in the Value Added Tax Act 1994 or any tax of a similar nature which is introduced in substitution for or as an addition to such tax from time to time</p>

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council or the successors to their statutory functions.
- 2.7 Any covenant by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing

3. LEGAL BASIS:

- 3.1 This Deed is made pursuant to Section 106 of the Act. To the extent that the obligations fall within the terms of Section 106 of the Act the obligations contained in this Deed are planning obligations for the purpose of Section 106 of the Act and are enforceable by the Council
- 3.2 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the Act they are entered into pursuant to powers contained in Section 111 of the Local Government Act 1972 Section 2 of the Local Government Act 2000 and all other enabling powers
- 3.3 The obligations created by this Deed create planning obligations for the purpose of Section 106 of the Act and are enforceable by the Council as local planning authority for the area in which the Land is situated

4. CONDITIONALITY

- 4.1 Save for the provisions of Clause 14 (Costs) jurisdiction and delivery clauses and any other relevant provisions which shall come into effect immediately upon completion of this Deed, this Deed is conditional upon:
- (i) the grant of the Planning Permission; and
 - (ii) the Commencement of Development
- 4.2 In the event that the Application falls to be determined by Secretary of State or by an Inspector appointed by the Secretary of State (as to the whole or any part of this Deed, as appropriate), the obligations hereunder are conditional upon the Secretary of State or the Inspector appointed not stating in his report that the provisions are irrelevant or not required in order to grant Planning Permission or are not compliant with the CIL Regulations (and any provision in this Deed that the Inspector determines does not meet the policy tests set out in the CIL Regulations shall from the date of such determination not be enforced) UNLESS such decision is quashed following a successful planning challenge

5. THE COVENANTS:

The parties hereby agree and covenant with the other that:

- 5.1 The Owner will pay the Town Centre Initiatives Contribution to the Council prior to the date of first Occupation;

- 5.2 The Council will return the Town Centre Initiatives Contribution to the payee within 21 days of the relevant event, if the Town Centre Initiatives Contribution is not used five years from the date of first Occupation;
- 5.3 There shall be added to the payment of the Town Centre Initiatives Contribution a sum calculated by reference to any percentage increase in the Index between the publication immediately before the date hereof and the date upon which the payment of the Town Centre Initiatives Contribution is actually paid to the Council
- 5.4 The Owner hereby agrees and covenants with the Council that:
- (i) it will write to the Council no less than twenty eight (28) days before the Owner expects first Occupation to occur notifying the Council of the expected date of first Occupation; and
 - (ii) within 7 (seven) days of the date of first Occupation it will serve on the Council written notice confirming the date of first Occupation

6. MISCELLANEOUS

- 6.1 The covenants in this Deed shall come into effect on the date of it.
- 6.2 This Deed shall be registrable as a local land charge by the Council.
- 6.3 Nothing in this Deed shall be construed as imposing a contractual obligation upon the Council as to the issue of the Permission or as restricting the exercise by the Council of any power or function exercisable under the Act or under any other Act or authority.
- 6.4 This Deed shall cease to have effect if;
- (i) the Permission expires before Commencement of Development;
 - (ii) the Permission is varied or revoked or otherwise withdrawn;
 - (iii) the Permission is quashed following a successful legal challenge
 - (iv) the Permission (without the consent of the Owner) is modified by any statutory procedure; or
 - (v) development of the Land is undertaken pursuant to another planning permission granted after the date of this Deed insofar as it has not already been complied with or should have been complied with save for clause 5.2 which shall remain in force until complied with.
- 6.5 This Deed shall not be enforceable against tenants of the retail units constructed pursuant to the Permission nor against those deriving title from them.
- 6.6 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after parting with their entire interest in the Land

but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

- 6.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 6.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Permission) granted (whether or not on appeal) after the date of this Deed.
- 6.9 If the Permission shall expire (or shall be revoked or be quashed in any legal proceedings) before the Commencement of the Development then this Deed shall forthwith determine and cease to have effect and the Planning Obligations shall be removed from the register of local land charges by the Council or otherwise record the fact that it has come to an end and no longer affects the Land

7. WAIVER

No waiver (whether expressed or implied) by the Council or Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

8. THIRD PARTY RIGHTS

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed but this does not affect any right or remedy of a third party which exists or is available apart from that Act

9. CHANGE IN OWNERSHIP

The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Land occurring before all the obligations under this Deed have been discharged, such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan.

10. INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

11. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

12. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England.

13. NOTICE

13.1 Any notice or other communication required to be given under this deed shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to any person required to receive the notice or communication at its address as set out below:

Council: at the address set out above

Owner: at the address set out above;

or as otherwise specified by the relevant person by notice in writing to each other person.

13.2 Any notice or other communication shall be deemed to have been duly received:

13.2.1 if delivered personally, when left at the address and for the contact referred to in this clause;

13.2.2 if sent by recorded delivery, at the time the delivery was signed for; or

13.2.3 if by post on the second working day after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom

13.2.4 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

13.2.5 if sent by facsimile transmission at the time of successful transmission provided it was sent before 4pm and if sent after 4pm the next working day,

AND in proving such service it shall be sufficient to prove that personal delivery was made and a receipt obtained or that the envelope containing such notice consent or approval was properly addressed and delivered into the custody of the postal authority in a pre-paid first class recorded delivery envelope and a receipt obtained or that facsimile was successfully transmitted

14. COSTS:

The Owner shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed which shall be limited to the sum of [] Pounds (£[])

15. CHARGEES CONSENT

The Chargee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Deed and that the security of the Chargee over the Land shall take effect subject to the Deed PROVIDED THAT the Chargee shall otherwise have no liability under the Deed unless it takes possession of the Land as mortgagee in possession, in which case it too will be bound by the obligations as if it were a person deriving title from the Owner

IN WITNESS whereof the parties hereto have caused this Deed to be executed the day and year first before written

THE COMMON SEAL of
ROBERT HITCHINS LIMITED
was hereunto affixed
in the presence of:-

Director:
Director/Secretary:

Executed as a Deed (but not delivered until
dated) by

(name and designation)
as attorney for LLOYDS BANK PLC
in the presence of:-

Signature of Witness
Name of Witness
Address
Occupation

THE COMMON SEAL of
TEWKESBURY BOROUGH COUNCIL
was hereunto affixed
in the presence of:-



DATED

2016

ROBERT HITCHINS LIMITED

and

LLOYDS BANK PLC

To

THE COUNCIL FOR THE BOROUGH OF TEWKESBURY

Unilateral Undertaking

in respect of land to the south of the A46 and north of the Tirlle Brook,
Tewkesbury, in the County of Gloucestershire
pursuant to Section 106 of the Town and Country Planning Act 1990 (as
amended)

A DEED made the day of 2016

BY

1. **ROBERT HITCHINS LIMITED** (Co. Regn. No. 686734) whose registered office is at The Manor Boddington Cheltenham Gloucestershire GL51 0TJ ("the Owner") and
2. **LLOYDS BANK PLC** (Co. Regn. No. 2065) of Registrations, Secured Assets, Barnett Way, Gloucester GL4 3RL ("the Chargee")

creating planning obligations enforceable by THE COUNCIL FOR THE BOROUGH OF TEWKESBURY of Council Offices Gloucester Road Tewkesbury GL20 5TT ("the Council")

WHEREAS:

- (1) The Owner is the registered proprietor of the freehold interest in the Land which is registered with title absolute under title numbers GR118545 and GR92289 subject to the matters set out in the registers
- (2) The Owner proposes to carry out the Development on the Land
- (3) The Council is a Local Planning Authority as defined in the Act and the Local Planning Authority for the purposes of planning obligations imposed pursuant to the provisions of Section 106 of the Act
- (4) By the Charges the Owner charged the Land (together with other land) to the Chargee to secure repayment to the Chargee of the monies therein mentioned

NOW THIS DEED WITNESSETH as follows:

1. Definitions and Interpretation:

- a) The definitions and rules of interpretation in this clause apply in this Undertaking:

'the Act'	means the Town and Country Planning Act 1990 and any amendment thereof
'the Application'	means an application for planning permission pursuant to

	the Act and made to Tewkesbury Borough Council under reference number 13/01003/OUT (with all matters reserved except access) for a proposed garden centre, retain outlet centre and ancillary facilities together with associated infrastructure works including access, car parking and landscaping
'the Charges'	mean firstly a charge dated 9 September 2011 (charge reference GR92289) and secondly a charge dated 20 December 2013 (charge reference: CYM126641) both made between (1) the Owner and (2) the Chargee relating to the Land and other land
'CIL Regulations'	Means, for the purposes of this Deed, Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended by the Community Infrastructure Levy (Amendment) Regulations of 2012 and 2013
'Commencement Date'	means the date which any material operation as defined in Section 56 of the Act, comprised in the Development shall commence to be carried out (but excluding for the avoidance of doubt operations consisting of site clearance demolition work archaeological investigations for the purpose of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions diversion and laying of services erection of any temporary means of enclosure and the temporary display of site notices and advertisements) and 'Commencement of Development' shall be construed accordingly
'the Development'	means the construction on the Land of a new garden centre and retail outlet centre with associated highway works pursuant to the Permission
'the Highway Reserve Land'	means the land shown edged and hatched blue on Plan 2
'the Highway Reserve Period'	means the period of 10 years following the Commencement Date
"the Land"	means the land to the south of the A46 and north of the Tirlle Brook, Tewkesbury and shown edged red on Plan 1
'Notice of Commencement'	means written notification from the Owner to the Council of the Commencement Date in accordance with the

	provisions of the Undertaking
'the Permission'	means planning permission granted pursuant to the Application
'Plan 1' and 'Plan 2'	means the plans annexed hereto and respectively numbered Plan 1 and Plan 2
'VAT'	means the tax referred to in the Value Added Tax Act 1994 or any tax of a similar nature which is introduced in substitution for or as an addition to such tax from time to time

- (b) Where the context so admits
- (i) words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa and where there is more than one party all obligations of such parties shall be joint and several unless there is an express provision otherwise
- (ii) where reference is made to a statutory provision this includes all prior and subsequent enactments amendments and modifications relating to that provision and any sub-ordinate legislation made under it
- (c) The expressions "the Council" "the Owner" and "the Chargee" shall include their respective successors in title and assigns and any deriving title through or under that party and successors to any statutory functions of the Council
- (d) All headings in this Undertaking are for ease of reference only and are not part of the Undertaking nor are they intended to be used as a guide to its interpretation
- (e) All payments in accordance with the terms of this Undertaking shall be exclusive of any VAT payable in respect thereof
- (f) Any phrase introduced by the terms 'including' 'include' 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words following those terms

2. Legal Basis:

- (a) Obligations hereunder on the part of the Owner are planning obligations for the purposes of Section 106 of the Act and enforceable by the Council
- (b) The covenants restrictions and requirements created by this Deed are planning obligations for the purposes of Section 106 of the Act to the intent that it shall bind the Owner and its successors in title to each and every part of the Land and are enforceable by the Council as local planning authority
- (c) Obligations hereunder shall not be enforceable against:

- (i) owner-occupiers or tenants of retail units constructed pursuant to the Permission nor against those deriving title from them
- (ii) any local authority or statutory undertaker who takes a transfer of any part of the Land in the normal course of the Development
- (iii) a chargee of any part of the Land personally unless and until it takes possession or otherwise exercises its right of sale under a charge
- (iv) any person who has disposed of his interest in the Land or relevant part of it at the time a breach hereunder occurs always provided that they have given notice to the Council of the date of disposal and details of to whom the disposal has been made

3. Conditionality:

The obligations hereunder are conditional upon:

- (a) the grant of Planning Permission and
- (b) the Commencement of Development

4. Owner's Covenants:

- (a) The Owner will observe and perform the obligations set out in this Undertaking
- (b) The Owner undertakes that, during the Highway Reserve Period, it will not erect any structures on the Highway Reserve Land nor use the Highway Reserve Land in such way as would preclude use of the Highway Reserve Land as highway or footpath maintainable at public expense
- (c) The Owner shall pay to the Council its proper and reasonable legal costs incurred in negotiating this Deed upon completion of this Deed

5. Notices:

Any notice to the Owner or the Chargee under this Undertaking shall be in writing signed by the Head of Legal Services for the time being of the Council unless otherwise herein provided and shall be deemed to be sufficiently served if sent to it by registered or recorded delivery post in the case of the Owner or the Chargee at their respective addresses stated at the beginning of this Undertaking and any notice to the Council under this Undertaking shall be in writing and shall be deemed to be sufficiently served if sent by registered or recorded delivery post to the Council addressed to the Head of Legal Services at The Council For The Borough Of Tewkesbury Council Offices Gloucester Road Tewkesbury GL20 5TT

6. Non-Waiver:

The Owner acknowledges that failure by the Council at any time to enforce the provisions of this Undertaking or to require performance strictly or otherwise by the Owner of any of the conditions covenants or obligations of this Undertaking or any failure or delay by the Council to exercise any act right or remedy shall not be construed as a waiver of or as creating an estoppel in connection with any such condition covenant or obligation and shall not affect the validity of this Undertaking or any part thereof or the right of the Council to enforce any provision

7. General:

- (a) This Undertaking supersedes and replaces all previous negotiations whether oral or written and
- (b) Nothing herein contained excludes the liability of any of the parties in relation to fraud
- (c) This Undertaking shall be determined and have no further effect if;
 - (i) the Permission expires before the Commencement Date;
 - (ii) the Permission is varied or revoked or otherwise withdrawn;
 - (iii) the Permission is quashed following a successful legal challenge
 - (iv) the Permission (without the consent of the Owner) is modified by any statutory procedure; or
 - (v) development of the Land is undertaken pursuant to another planning permission granted after the date of this Undertaking insofar as it has not already been complied with or should have been complied with
- (d) The Owner acknowledges that this undertaking will be registered as a local land charge in the Register of Local Land Charges
- (e) Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Permission) granted (whether or not on appeal) after the date of this Undertaking

8. Warranty

The Owner warrants that it has not mortgaged charged or otherwise created any interest (legal or equitable) in the Land or any part thereof which would adversely affect the enforceability of this Undertaking at the date of this Undertaking other than as shown on the register of title numbers GR118545 and GR92289 as at the date hereof

9. Contract (Rights of Third Parties) Act 1999:

It is not intended that any third party shall have a right to enforce the terms of this Undertaking pursuant to the Contracts (Rights of Third Parties) Act 1999 even if the terms are expressed to be for their benefit and nor shall any such third party have a right of veto over any future variations of this Undertaking

10. Effect of invalidity illegality or enforceability:

- (a) If any provision in this Undertaking shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired
- (b) In the event that the Application falls to be determined by Secretary of State or by an Inspector appointed by the Secretary of State (as to the whole or any part of this Undertaking, as appropriate), the obligations hereunder are conditional upon the Secretary of State or the Inspector appointed not stating in his report that the provisions are irrelevant or not required in order to grant the Permission or are not compliant with the CIL Regulations (and any provision in this Undertaking that the Inspector determines does not meet the policy tests set out in the CIL Regulations shall from the date of such determination not be enforced)

11 Notice of Commencement:

The Owner:

- (a) undertakes that it will write to the Council no less than twenty eight (28) days before the Owner expects commencement of the Development to occur notifying the Council of the expected Commencement Date;
- (b) within 7 (seven) days of the actual Commencement Date will serve Notice of Commencement on the Council
- (c) acknowledges that the Council is at liberty to elect a date which it considers to be the Commencement Date in default of the Owner's compliance with sub-clauses 12(a) and (b) above for the purposes of Clause 4(a) and will notify the Owner of such date

12. Chargee's consent:

The Chargee acknowledges and declares that this Undertaking has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Undertaking and that the security of the Chargee over the Land shall take effect subject to this Undertaking PROVIDED THAT the Chargee shall otherwise have no liability under the Undertaking unless it takes possession of

the Land as mortgagee in possession, in which case it too will be bound by the obligations as if it were a person deriving title from the Owner

13. Jurisdiction:

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales

14. Consent to Registration:

The Owner hereby consents to the registration of this Deed as a Local Land Charge and as a notice against title numbers GR118545 and GR92289

IN WITNESS whereof the parties hereto have caused this Deed to be executed the day and year first before written

THE COMMON SEAL of
ROBERT HITCHINS LIMITED
was hereunto affixed
in the presence of:-

}

Director:

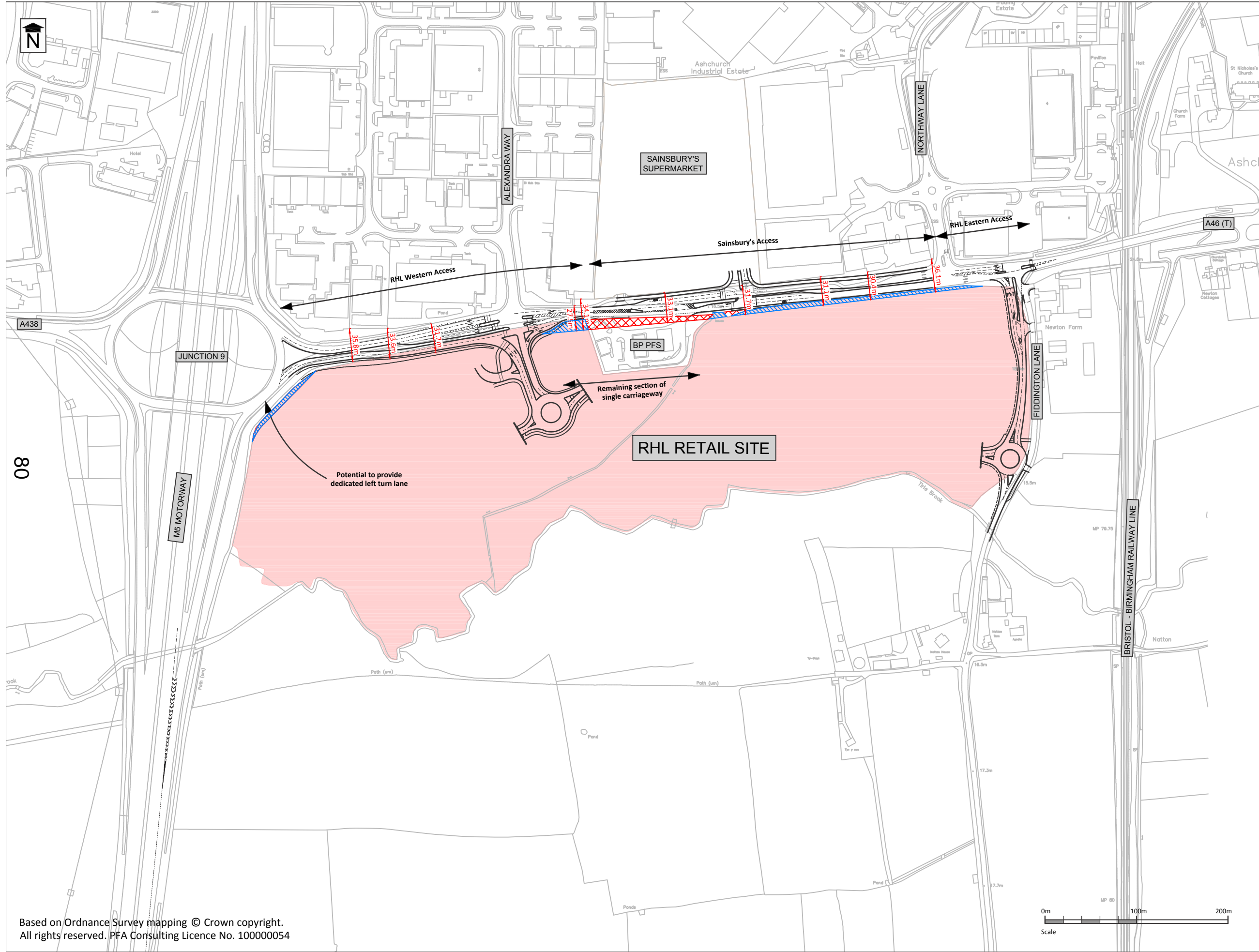
Director/Secretary:

THE COMMON SEAL of
LLOYDS BANK PLC
was hereunto affixed
in the presence of:-

}

Director:

Director/Secretary:



Stratton Park House, Wanborough Road
Swindon, SN3 4HG

Telephone
01793 828000
Facsimile
01793 835500
Email
admin@pfapl.com
Website
www.pfapl.com

- KEY**
- 3rd Party land potentially required for highway improvements to provide dual carriageway
 - Land within RHL ownership to be safeguarded for a potential future improvement to the A46 (T)
 - RHL ownership boundary

FOR DISCUSSION

Rev	Date	Description	Initials
B	06/02/2015	Minor amendment to safeguarded land.	CS
A	05/02/2015	Safeguarded land amended to accommodate illustrative master plan and landscaping	CS

Client
Robert Hitchins Ltd

Project
**Proposed Garden Centre and Retail Outlet
Ashchurch, Gloucestershire**

Drawing Title
Plan showing land to be safeguarded for potential future improvement to A46(T)

Drawing No. **H439/29** Rev B

Date	January 2015
Scale	1:4000 @ A3
Drawn By	CS
Checked By	JA
E-Mail	csumbler@pfapl.com
File Ref.	F:\Workfile\H439\Drawings

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DRAFT

Planning Obligations – CIL Compliance Statement

Address: Land south of A46 and north of Tirl Brook, Ashchurch

Proposal: Outline planning application (with all matters reserved except access) for proposed garden centre, retail outlet centre and ancillary facilities together with associated infrastructure works including access), car parking and landscaping.

Application Reference: 13/01003/OUT

Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) relates to pooling restrictions and provides:

A planning obligation ("obligation A") may not constitute a reason for granting planning permission to the extent that—

(a) obligation A provides for the funding or provision of an infrastructure project or type of infrastructure; and

(b) five or more separate planning obligations that—

(i) relate to planning permissions granted for development within the area of the charging authority; and

(ii) which provide for the funding or provision of that project, or type of infrastructure, have been entered into before the date that obligation A was entered into.

This came into effect on 6 April 2015 and applies to all S106 obligations entered into since 6 April 2010. Tewkesbury Borough Council has carried out a review of all S106 obligations entered into since April 2010 to identify any infrastructure that may be affected by the pooling restrictions.

The table below assess each obligation against Regulation 122 and Regulation 123.

Updated Information

The below table has been updated since originally provided to the developer in 2015. Revised priorities and projects are outlined below, many of which comprise elements of the Tewkesbury Town Centre Regeneration. All the identified projects are justified based upon:

- The impact of the proposal on the vitality and viability of Tewkesbury town centre
- Providing an identity of an area that is 'on the up' which will encourage visitors and also investment into the area
- The requirements directly relating to the development
- Meeting Local Plan Policy RET6

Tewkesbury Town Centre Regeneration

The Borough Council has adopted the Strategic Framework Document which outlines that "Tewkesbury is likely to experience development opportunities within and beyond the town centre during the timescale of the 15 year Masterplan. It will be important that any development is well planned and designed to help deliver the vision, aspirations and principles as set out in the Strategic Framework Document."

The Tewkesbury Town Centre Regeneration is a 15 year regeneration programme for the town centre, its aims are:

- To achieve an holistic and joined up approach to the future regeneration of Tewkesbury Town Centre
- To enable Tewkesbury to establish itself as a desirable place to live and work, and a popular visitor destination
- To make best use of Tewkesbury Borough Council's assets for the benefit of both the town and the borough as a whole, through recognising and building on key opportunities

This regeneration is designed with the intention of including private sector partnerships. A Section 106 with Robert Hitchins is a key example of how this partnership can help contribute to many of these initiatives, as part of a long term vision. The regeneration programme is designed to make Tewkesbury a popular visitor destination - the work within the town centre can help bring in visitors with potential reciprocal benefits for both the town centre and Retail Outlet.

Obligation	Justification (Compliance with Reg 122)	Pooling (Regulation 123)
Riverside Links £127,800	This project focusses on developing the physical links between the High Street, Church Street and the river. Currently the town centre turns its back on this physical asset, therefore discouraging visitors to the town centre. The project comprises improvements to alleyways, connections and links to the riverside. These improvements will include new paving, lighting, seating and signage.	

	<p>These improvements will improve the access and legibility of both the riverside and the town centre, therefore making it a more attractive place to visit and thus offsetting the loss of visitors to the retail outlet centre. This will in turn increase footfall to the town centre.</p>	
<p>Heritage and Riverside Walks</p> <p>£250,000</p>	<p>This project concentrates on public realm improvements that will completely upgrade the riverside and heritage walks. The costs include benches, street furniture and boardwalk improvements.</p> <p>These improvements will encourage greater use of the riverside and attract more visitors, who in turn will support the businesses in the town centre – many of whom will be impacted by the Retail Outlet.</p>	
<p>Riverside Moorings</p> <p>£375,000</p>	<p>Despite the potential of the riverside, there is currently a lack of quality moorings within Tewkesbury. The improvements will heighten the quality of the environment and provide suitable and fit for purpose moorings. It will include refurbishing and creating new moorings and floating pontoons along the riverside between King John’s Bridge and the Abbey Mill to increase activity, vibrancy and vitality to the riverside area.</p> <p>This uplift will provide for both casual boaters and commercial boat operators. The high quality moorings will create a boating culture and add to the riverside ambience, thus becoming an attraction in its own right. The attractiveness and new uses for the river will increase footfall, generate new income into the economy and reduce the impact of the Retail Outlet on the town centre.</p>	
<p>Back of Avon Re-development</p> <p>£125,000</p>	<p>This funding would contribute to the Back of Avon project. Comprising public realm improvements, it would inter-relate with the improved moorings and riverside improvements.</p> <p>These improvements, comprising paving, lighting and benches would support the re-development of this vital civic space which buffers the town centre and riverside. In turn it would provide an improved look and identity for key areas of the town centre.</p> <p>This would improve the vitality of this site, making it more attractive and encourage new visitors, thus offsetting the effect of the retail outlet centre.</p>	

<p>Tourism App</p> <p>£15,000</p>	<p>Linked to the existing Cotswold Tourism phone app, this app will provide information for the visitor on the attractions, accommodation, shopping and tourism businesses in the wider area, including the retail outlet centre.</p> <p>This japp will encourage users of the app to shop across a wider area, including both the town centre and the new retail outlet. This will enable more visitors to find their way and see the tourism attractions locally, thus increasing their dwell time and spending more within the local economy. This will assist in alleviating the impact on the town centre businesses.</p>	
<p>Local Shop/Retailer Support Programme</p> <p>£150,000</p>	<p>This project supports local independent businesses in Tewkesbury town centre. It will develop and implement a local shop campaign in Tewkesbury, including the development of a Retail Support Group. It will provide key support and promotion to town centre retailers, developing and strengthening the retail sector in Tewkesbury. This will help offset impacts on town centre businesses caused by the proposed retail outlet centre development. It will help deliver real economic benefits for the town centre, helping businesses to be more resilient and sustainable in the long term by implementing a series of measures and initiatives. Town retail businesses will benefit from promotion through the schemes, skills development and business support, which will lead to increased footfall and expenditure.</p> <p>It will also help reduce vacant shop units in town, again mitigating any impact from the out of town retail centre development and any leakage. It will also support an improved retail offer and retention of retail businesses. As the project develops and higher levels of shopper and trader confidence are achieved through enhancements to the general town environments, more businesses will see the potential of locating to the area.</p>	
<p>Public Art Trails</p> <p>£150,000</p>	<p>This will support the development of public art trails linking the town centre with the proposed retail outlet development. This will help encourage people to combine trips with the town centre, increasing footfall to Tewkesbury, helping mitigate impacts on town businesses from this proposed development.</p> <p>The trails will build on the success of the renowned 'The Arrivall' statues and encourage interactions from all age groups and families along key routes. The trail will link across the whole town encouraging footfall and develop the offer of the town and area. The trail will link with local businesses and attractions and support retail centre vitality and viability.</p>	

<p>Town Centre Frontages Grant Initiative</p> <p>£150,000</p>	<p>This project will help enhance the town environment and encourage increased usage and higher levels of footfall in the retail centre as well as a reduction in vacant retail units. It will create an identity and look for the town centre, creating a sense of place and arrival for the visitor. The grants will be provided to retailers to enhance their frontage with the aim to enhance the image of the town. The grants will cover front renovation and decoration, new signage and replacement of historical features, including lighting.</p> <p>The grants will enhance the appearance and appeal of the town to visitors, customers and the local population. They will also preserve and enhance the special characters of the area, its listed buildings and other buildings of public importance.</p> <p>Visitors will also benefit from the project through the improved retail offer and enhanced retail environment. It will help support retailer confidence and support a more sustainable local economy. The improvements may also help attract new investors to the towns, stimulating growth and again offsetting the identified negative impact of the retail outlet development on Tewkesbury town centre businesses.</p> <p>Improved shopper perceptions of the town centre will help increase footfall, spend. This will also support an improved retail offer and retention of retail businesses.</p>	
<p>Town Centre Events</p> <p>£100,000</p>	<p>This will help develop an 'all year round' calendar of town centre events and markets, to encourage increased levels of footfall and support economic vitality. The development of a strong and vibrant events offer will help mitigate the identified impacts on town centre businesses from the proposed retail outlet development. Events are recognised as encouraging greater numbers and variety of visitors to an area, as well as providing an enhanced reputation and identity.</p> <p>The need for increased town centre events was also identified in a 2016 retailer survey. Proposed events to be supported include Food and Drink Festival, Medieval Festival and a new Music Festival.</p>	

<p>'Maybe' Shopping App for Tewkesbury</p> <p>£25,000</p>	<p>To support the adoption of the Maybe* town centre app for Tewkesbury.</p> <p>Maybe* is a social shopping app that lets you shop anywhere, save things you like, ask your friends what they think and get the best deal. This will provide improved levels of interaction with the town centre from shoppers and encourage increased usage and footfall. It will help mitigate the identified impacts of the proposed outlet centre by encouraging all age groups to interact and use the town centre.</p>	
<p>Evening Economy Contribution</p> <p>£50,000</p>	<p>This project is a voucher scheme to support the town centre evening economy in light of the proposed out of town development. This will help support town centre, evening economy businesses in view of any similar competing proposed out of town offer. It will help support footfall and participation in the evening economy and could be linked to any transport initiatives between the two retail areas. This will help with the retention of town centre businesses and promote linked trips.</p>	
<p>Electric Cycle Hire /Bike Shared Scheme</p> <p>£52,473</p>	<p>This project will help link the town, train station and the proposed retail outlet centre. Encouraging people to make linked trips between both retail areas. The costs would include the infrastructure costs i.e. bikes, rental stations.</p> <p>Cycle hire provision would initially be available at the retail outlet, train station and in Tewkesbury town centre, with the ability to extend. This will support existing retails businesses and help mitigate impacts on the town by facilitating a fun, healthy and easy method of visiting Tewkesbury town centre and the retail outlet. The bikes also provide the opportunity to advertise the funder.</p>	
<p>Tourist Information Provision</p> <p>£25,000</p>	<p>This will provide for either an interactive console based at the Retail Outlet/more standard leaflet and provision, that will allow retail outlet shoppers the opportunity to know more about the local area. The most appropriate method will be decided at the time, based on the technology available. It will provide information on other attractions and shopping experiences within the town centre and beyond, thus reducing the impact of the Retail Outlet on these businesses. It will also help to support the tourism businesses through directing visitors to them and encouraging footfall.</p>	

<p>Marketing Campaigns</p> <p>£200,000</p>	<p>This joint 5 year marketing campaign will act as a promotional tool to encourage people to visit and shop within Tewkesbury town centre, as well as the Retail Outlet. Using a variety of marketing tools visitors will be informed and enticed to the area for; the quality of the shopping experience, the beauty of the local area, and the assortment of local attractions.</p> <p>The marketing will help promote the area as a destination in its own right and encourage increased dwell time for visitors, thus supporting the town centre. This will help alleviate the impact on the town centre businesses and attractions in the vicinity.</p>	
<p>Employment</p> <p>No cost</p>	<p>Developer to provide an Employment and Training Policy, to be agreed by the council, which incorporates:</p> <ul style="list-style-type: none"> • designating a local employment co-ordinator • measures to promote and advertise local job and skills training opportunities • measures to facilitate pre-employment training and education provision for those residents who live in the local area • measures to prioritise recruitment of contractors and sub-contractors from the local area to work on the site • measures to prioritise the recruitment of employees from the local area to work on site 	
<p>Transport -</p> <p>A contribution of £70,000 towards the provision of GCC Scheme 9172, the footway/cycleway to the east of Northway Lane.</p> <p>A contribution of £289,425 towards the GCC A438/Shannon Way Improvement Scheme.</p>	<p>County Highways requirements.</p>	<p>GCC to update</p>

A Travel Plan monitoring fee of £5,000.		
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TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	12 April 2016
Subject:	15/01124/FUL – Noake Farm, Churchdown Lane, Churchdown.
Report of:	Paul Skelton, Development Manager
Corporate Lead:	Rachel North, Deputy Chief Executive
Lead Member:	Cllr D M M Davies, Lead Member for Built Environment
Number of Appendices:	2

Executive Summary:	<p>The Planning Committee determined to permit application reference 15/01124/FUL at its meeting on 15 March 2016, subject to referral to the Secretary of State to ascertain, in accordance with the regulations, whether he wishes to call in the application to determine it himself; negotiations with the applicant to reduce the height of the buildings; and formulation of conditions.</p> <p>Amended plans have been submitted following negotiations with the applicant to reduce the impact of the buildings and a list of suggested planning conditions is provided, however, there is some dispute in respect of the hours of operations.</p>
Recommendation:	To CONSIDER the report.
Reasons for Recommendation:	To inform Members of changes to the scheme following the Committee's resolution to permit application reference 15/01124/FUL at its meeting on 15 March 2015 and to suggest appropriate planning conditions to be attached to the planning permission.

Resource Implications:	None
Legal Implications:	None

Risk Management Implications:	None
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Performance Management Follow-up:

Should the Committee determine to grant permission in accordance with the report then the decision will be issued as soon as possible, depending on the view of the Secretary of State as to whether he wishes to call-in the application to determine the application himself.

Environmental Implications:

As set out in the report.

1.0 INTRODUCTION/BACKGROUND

1.1 At its meeting on 15 March 2016 the Planning Committee determined to permit application reference 15/01124/FUL against Officer advice. The decision to be minded to permit the application was subject to referral to the Secretary of State to ascertain, in accordance with the regulations, whether he wishes to call in the application to determine it himself; negotiations with the applicant to reduce the height of the buildings; and formulation of conditions.

2.0 HEIGHT OF BUILDINGS

2.1 Following the Committee meeting on 15 March, the applicant has submitted amended plans which make the following changes:

- Building 1 at the north of the site remains the same height due to the required mezzanine level, but the door windows have been omitted.
- Building 2 (along Stump Lane) has been reduced by 0.5 metres in height, and again the door windows have been omitted

2.2 In addition, both buildings are now proposed to be set 0.5 metres into the existing ground levels; thus creating an overall reduction in height of 0.5 metres for Building 1 and a reduction of 1 metre for Building 2 on the plans which were previously presented to the Committee. Building 1 would be at a height of 7 metres above existing ground level and Building 2 would be at a height of 6.5 metres above existing levels.

2.3 The applicant's agent has advised that it was decided early in the project to apply for the buildings required to operate the business allowing for growth, rather than applying for less floorspace and then expanding the site, unlike Woodlands Farm, Brockworth Road which has faced enforcement action due to many expansion of the site with unsightly shipping containers and caravans. Training rooms and meeting rooms are required to comply with health and safety, as well as welfare requirements. To avoid the site becoming overcrowded, upstairs rooms are therefore required and the buildings are the minimum height to allow for this. Although the company's vehicles are quite small, 7.5 tonne box van being the largest, once they are added to a ramp to maintain them, complying with VOSA and health and safety requirements, the additional height is needed. The vans can be up to 4.9m and at least 1.82m is required underneath, hence the overall building height requirement.

3.0 CONDITIONS

3.1 A list of suggested conditions is attached at **Appendix 1**, in line with the Development Manager's verbal suggestion of the matters which would need to be controlled by way of condition at the Committee meeting on 15 March 2016.

3.2 The applicant is broadly happy with the conditions proposed, however, the applicant has requested opening times of 06:30 - 18:30 Monday to Friday. The Environmental Health Officer has been consulted and advises that this would have an unacceptable impact on residential amenity in terms of noise and how night time and day time measurements are undertaken in the British Standard (BS 8233) and World Health Organisation where day time runs from 07:00-23:00. Whilst the applicant's operational requirements are understood, proper regard must be had to the living conditions of neighbouring residential properties and, as such, it is recommended that the suggested conditions 15 and 16 restrict the hours of operation from 0700 - 1830 Monday to Saturday.

4.0 OTHER OPTIONS CONSIDERED

4.1 None

5.0 CONSULTATION

5.1 None

6.0 RELEVANT COUNCIL POLICIES/STRATEGIES

6.1 As set out in Appendix 2.

7.0 RELEVANT GOVERNMENT POLICIES

7.1 As set out in Appendix 2.

8.0 RESOURCE IMPLICATIONS (Human/Property)

8.1 None

9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

9.1 As set out in Appendix 2.

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: Paul Instone, Planning Officer,
01684 272106 paul.instone@tewkesbury.gov.uk

Appendices: Appendix 1 - List of suggested planning conditions
Appendix 2 - Officer report to Planning Committee on 15 March 2016

Suggested Conditions for application reference 15/01124/FUL

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. This permission is in respect of plan numbers:

Coach House Proposed Elevations - Drawing HH/NF/GL-201CH/1
Coach House Proposed Plans - Drawing HH/NF/GL-201CH/2
Cart Lodge Style Garage and Store, Proposed Plan Section and Elevations - Drawing HH/NF/GL-201 E/a
Landscape Proposals - 16/424/01 A
Unit 1 Elevations – Drawing 215668-02 revision B
Unit 2 Ground Floor Plan and Elevations – Drawing 215668-03 revision B
3. The Coach House garage building shall be constructed of reclaimed stone, clay tile and Welsh slate (lean to) unless otherwise approved in writing by the Local Planning Authority.
4. Prior to the commencement of development, a Method Statement shall have been submitted to and approved in writing by the Local Planning Authority detailing the proposed coach house conversion works. There shall be no deviation from the approved Method Statement unless first agreed in writing by the Local Planning Authority.
5. Notwithstanding any indication of materials which have been given in the application, a schedule and/or samples of the materials and finishes for the development shall be submitted to and approved in writing by the Local Planning Authority before any development takes place. Thereafter, the development shall not be carried out other than in accordance with the approved details.
6. No work shall start on the conversion of the listed coach house until detailed drawings of the proposed external joinery, including elevations and sections, have been submitted to and approved in writing by the Local Planning Authority and the fitted joinery shall be in accordance with the approved drawings. The elevations shall be at a minimum scale of 1:20 and the sections shall be at a minimum scale of 1:5 and shall indicate moulding profiles at full size.
7. No development approved by the permission shall be commenced until a detailed Drainage Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy should be supported by evidence of ground conditions and modelling of the scheme to demonstrate it is technically feasible; and where applicable adheres to the NPPF, Non-statutory technical Standards for Sustainable Drainage, Building Regulation H and local policy. The drainage scheme shall be carried out in accordance with the approved details. Where surface water requires disposal off site (i.e. not infiltrated) the applicant must provide evidence of consent to discharge/connect through third party land or to their network/system/watercourse.
8. No development shall be put in to use/occupied until a SUDS maintenance plan for all SuDS/attenuation features and associated pipework has been submitted to and approved in writing by the Local Planning Authority. The approved SUDS maintenance plan shall be implemented in full in accordance with the agreed terms and conditions.
9. The carriageway widening works to Stump Lane shall be constructed broadly in accordance with the approved plan T14566 001 A prior to any other works commencing on site.

10. Prior to works commencing on site details of a scheme to increase driver awareness of the Stump Lane/Churchdown Lane junctions shall be submitted to and agreed in writing by the Local Planning Authority and shall be completed as such prior to the development being brought into beneficial use.
11. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall:
 - i. provide for the parking of vehicles of site operatives and visitors;
 - ii. provide for the loading and unloading of plant and materials;
 - iii. provide for the storage of plant and materials used in constructing the development;
 - iv. provide for wheel washing facilities;
 - v. specify the intended hours of construction operations;
 - vi. measures to control the emission of dust and dirt during construction
12. The buildings hereby permitted shall not be occupied until the vehicular parking and turning and loading/unloading facilities have been provided in accordance with the submitted plan 16/424/01 A, and those facilities shall be maintained available for those purposes thereafter.
13. Notwithstanding the submitted details the southern boundary of the car parking area north of Unit 2 shall be maintained at a height no higher than 600mm above the adjacent carriageway surface.
14. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
15. The horticultural/landscaping business hereby permitted shall not take place other than between the hours of 07:00 and 18:30 Monday to Saturday, with no working on Sundays.
16. No machinery shall be operated, no process shall be carried out and no deliveries taken or dispatched for the horticultural/landscaping business hereby permitted other than between the hours of 07:00 and 18:30 Monday to Saturday, nor at any time on Sundays.
17. External door openings to workshops where plant machinery is operating shall be kept closed except for emergencies or for maintenance. During daytime hours, doors may only be opened as and when required for movements in/out of buildings and when plant machinery is not operating.
18. Noise generated from activities in association with this permission, as measured at the converted Coach House, shall not exceed background noise levels in accordance with the principles set out in BS 4142:2014 Methods for rating and assessing industrial and commercial sound. Any additional

plant should have a design criteria 10dB below the measured background level to ensure the cumulative noise does not increase the noise level at the closest receptor.

19. A noise management plan for the delivery/service yard which includes the mitigation measures set out in paragraph 6.6 of the Noise Impact Assessment prepared by Philip Dunbavin Acoustics Ltd received 13th October 2015, shall be submitted to and approved in writing by the Local Planning Authority before the development takes place. Thereafter, the approved noise management plan shall be implemented unless the Local Planning Authority otherwise agrees in writing.
20. The development shall be landscaped and planted in accordance with the approved landscaping scheme
 - Landscape Proposals 16/424/01 A prepared by Peter Quinn Associates
 - 10 Year Landscape Maintenance Programme dated 27th January 2016 prepared by Peter Quinn Associates

unless otherwise first agreed in writing by the Local Planning Authority
21. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings, or the completion of the development, whichever is sooner. Any trees, plants or areas of turfing or seeding, which, within a period of 3 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation.
22. No work shall commence on site until details of existing and proposed levels with reference to a fixed datum point, to include details of finished floor and ground levels, have been submitted to and approved by the Local Planning Authority. All development shall be carried out in accordance with the approved details.
23. No floodlighting or other form of external lighting shall be installed unless it is in accordance with details which have previously been submitted to and approved in writing by the local planning authority. Any lighting which is so installed shall not thereafter be altered without the prior consent in writing or the local planning authority other than for its routine maintenance which does not change its details.
24. Details of all screen and boundary walls, fences and other means of enclosure shall be submitted to and approved in writing by the local planning authority before any development takes place. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until details have been fully implemented.
25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no enlargement or alteration of buildings on the site shall be carried out and no private car garages, extensions, garden sheds, gates, fences, walls, other means of enclosure or structures of any kind (other than any hereby permitted) shall be erected or constructed on this site without the prior express permission of the Local Planning Authority.

Reasons for the Conditions:

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the sake of clarity, and to ensure a more satisfactory development of the site
3. To ensure a sympathetic conversion scheme in accordance with Policies AGR6 and AGR7 of the Tewkesbury Borough Local Plan to 2011 - March 2006.
4. To ensure a sympathetic conversion scheme of the listed building in accordance with Policies AGR6 and AGR7 of the Tewkesbury Borough Local Plan to 2011 - March 2006.
5. To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with the NPPF.
6. To safeguard the traditional character and appearance of the listed building to accord with Policy AGR 7 of the Tewkesbury Borough Local Plan to 2011 - March 2006 and the Planning (Listed Buildings and Conservation Areas) Act 1990.
7. To ensure the development is provided with a satisfactory means of drainage and thereby preventing the risk of flooding. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality
8. To ensure the continued operation and maintenance of drainage features serving the site and avoid flooding.
9. To ensure that cost effective improvements are undertaken to the transport network that mitigate the significant impacts of the development in accordance with paragraph 32 of the National Planning Policy Framework.
10. To ensure that cost effective improvements are undertaken to the transport network that mitigate the significant impacts of the development in accordance with paragraph 32 of the National Planning Policy Framework.
11. To reduce the potential impact on the public highway and accommodate the efficient delivery of goods and supplies in accordance paragraph 35 of the National Planning Policy Framework.
12. To ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided in accordance with the National Planning Policy Framework.
13. To provide for visibility for emerging vehicle and to minimise conflicts between vehicles, pedestrians and cyclists in accordance with paragraph 35 of the NPPF.
14. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors
15. To protect occupants of nearby residential properties from noise disturbance

16. To protect occupants of nearby residential properties from noise disturbance
17. In order to protect the amenity of occupiers of nearby properties
18. In order to protect the amenities of occupiers of nearby properties
19. In the interests of amenity and to ensure a satisfactory standard of landscaping.
20. In the interests of amenity and to ensure a satisfactory standard of landscaping.
21. To ensure the proposal is constructed at an acceptable level with regards to the surrounding area
22. To protect occupants of nearby residential properties from noise disturbance
23. In the interests of visual amenity
24. In the interests of amenity and top ensure a satisfactory landscaping
25. To safeguard the Green Belt and Special Landscape Area

Notes:

1. Statement of Positive and Proactive Engagement

In accordance with the requirements of the NPPF the Local Planning Authority has worked with the applicant in a positive and proactive manner in order to secure sustainable development which will improve the economic, social and environmental conditions of the area by negotiating changes to the height of the proposed buildings.

2. The proposed development will involve works to be carried out on the public highway and the Applicant/Developer is required to enter into a legally binding Highway Works Agreement (including an appropriate bond) with the County Council before commencing those works.
3. The applicant is advised that protected species (including bats) may be present on site. The Conservation of Habitats and Species Regulations 2010 provides very strong protection for these species and so you must be certain that they are not present before works begin. If the presence of bats or other protected species is suspected, a licence may be required from Natural England before works can commence. If protected species are found whilst carrying out work, all work must stop and Natural England must be informed.

The consent given by this notice does not override the protection afforded to these species and their habitat.

Officer Report to Committee dated 15 March 2016

15/01124/FUL

Noake Farm, Churchdown Lane, Churchdown

Valid 13.10.2015

Change of use to horticultural/landscaping business including the re-development of existing building and creation of new buildings for use of the business and conversion of coach house to 1 dwelling including the erection of detached garage/store and associated vehicular access and parking (including demolition of derelict buildings).

Grid Ref 387797 217879

Parish Hucclecote

Ward Hucclecote

TFN Landscapes Ltd
C/O Agent

RECOMMENDATION Refuse**Policies and Constraints**

National Planning Policy Framework (NPPF)

Planning Policy Guidance (PPG)

Tewkesbury Borough Local Plan to 2011 - Policies GRB1, EMP4, TPT1, EVT3, LND2, AGR6, AGR7, NCN4, NCN5F

Submission Version Joint Core Strategy (November 2014) - policies SD1, SD2, SD5, SD6, SD7, SD10, SD15, INF1, INF2, INF3

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

The First Protocol, Article 1 (Protection of Property)

Green Belt

Special Landscape Area

Grade II Listed Building

Consultations and Representations**Hucclecote Parish Council** - Objects for the following reasons (summarised)

- o The employee car park consists of 35 spaces which is not enough to serve 60+ employees and may result in vehicles being parked in Stump Lane. Additional parking should be provided.
- o The proposed buildings are very large and higher than the existing structures on the farm. They will be visible from the neighbouring Noake Court Farm and properties on the hill.
- o Churchdown Lane is very busy during peak times and vehicles exiting Stump Lane would have difficulties turning right. Proposed highways works would help but concerned about additional traffic and visibility.
- o The site is in the Green Belt and a Special Landscape Area and should be give careful consideration.

Highways Authority - No objection subject to the imposition of conditions.**Environmental Health (Contamination)** - There is a historical landfill adjacent to the site. No objection subject to the imposition of a condition requiring investigation of the nature and extent of contamination.**Environmental Health (Noise)** - No objection and suggest imposition of conditions to control noise levels

- o Working hours, deliveries and loading/unloading times.
- o That the doors to the workshop should be closed at all times
- o Any additional plant that is introduced other than those measured as part of the assessment should be below 10Db
- o Vehicle reversing alarms should be 'silent white noise reversers' on all forklifts and associated machinery outside.

It is also suggested that a noise management plan could be implanted on site to position deliveries and fork lifts away from noise sensitive receptors.

Historic England - The application should be determined in accordance with national and local policy advice.

Lead Local Flood Authority - No objection in principle following the submission of a Flood Risk Assessment and a Drainage Strategy. However, the submitted Strategy requires the discharge of water through an existing culvert outside the site boundary. Full details however have not been included, such as the owner of the culvert, their agreement to connect, the hydraulic capacity and condition.

Highways England - No objection.

Conservation Officer - No objection.

5 objections have been received from local residents which are summarised as follows:

- o The site is in the Green Belt and within a Special Landscape Area. The proposal is for commercial buildings and seeks buildings which are materially larger than those on site. The proposal does not comply with Green Belt policy.
- o The planning application justifies development in the Green Belt by adding up footprints but many of these structures have been demolished or derelict for years.
- o The buildings are too high and will overshadow the entrance to the narrow rural track. The existing buildings on the site are no more than 4-5 metres and the proposed buildings would be much higher than any existing buildings on the site.
- o As well as large buildings the car and lorry parking would be a blot on the landscape. The proposal is more suitable for an industrial/trading estate than the countryside, as is the perimeter fencing.
- o Traffic will park on the grass verges when the car park is full.
- o Vehicle movements, which will include HGVs, will be too much for the lane increasing dangers of accidents.
- o The lower section of Stump Lane should be widened so that two vehicles can pass each other, which will help prevent vehicles backing onto Churchdown Lane.
- o There is a lack of car parking for staff, especially if the business grows. A condition should be imposed preventing vehicles parking on the verges of Stump Lane.
- o There is inadequate landscaping.
- o The buildings would be visible from many of the footpaths on Chosen Hill and without generous landscaping the site could be an eyesore.
- o The colour of the elevations should be considered carefully to reduce visual impact.
- o The applicant states that the height of the buildings are required so work underneath lorries can be undertaken. Commercial vehicle pits are the obvious answer.
- o The boundary between the new development and the listed house should be more detailed in order to respect the curtilage of the listed house.
- o The entrance to the car park to the north should access onto Stump Lane and not onto the private road leading to Millbridge Cottage.
- o The buildings should have a curved roof such as a Dutch Barn to lessen the visual impact.
- o If commercial vehicles are maintained on site this would not be a light industrial use and would require a separate planning consent.
- o Attention should be paid to the hidden dip at the Churchdown Lane junction and the associated safety implications.

The application has been called to committee by Councillor Foyle and Councillor Allen. The reason for the application being called to committee is that it is considered that the site requires redevelopment.

Planning Officers Comments: Paul Instone

1.0 Application Site

1.1 The application site extends to 1.07 hectares and is located approximately 0.7km north of Hucclecote. The site consists of several agricultural buildings in various states of repair and extensive areas of hardstanding. The site also contains the Coach House, a curtilage grade II listed detached two storey building. The upper floor of the Coach House is in residential use. The site is part of a farmstead, which, although formerly belonged to The Noake (grade II listed farmhouse), is now in separate ownership.

1.2 Existing access is via a number of gateways along the northern and eastern boundaries. The site is near

to Chosen Hill and is generally surrounded to the north, east and south with countryside with the A417 bypass and built up area of Hucclecote further to west. The site is located in the Green Belt and within a Special Landscape Area.

2.0 Relevant Planning History

2.1 In 2002, permission was refused for the continued use of part of the farmyard as commercial storage (re:- 02/8157/0663/FUL). The application was refused due to conflict with Green Belt, landscape and rural employment policies. The application was also dismissed at appeal (re:- APP/G1630/A/02/1103908).

2.2 In 2003, permission was granted for the change of use of part of the site for the purposes of a scaffolding business (ref:-03/8157/1452/FUL). Condition 4 of the permission stated that the parking of vehicles and the storage of scaffolding and ancillary components in connection with the use be restricted to an area comprising a building with a footprint of approximately 80 square metres and 5 car parking spaces.

2.3 Planning permission and listed building consent was granted in 2013 for the conversion of the Coach House to a dwelling, the erection of a detached garage/garden store and associated vehicular access (ref: 13/00823/FUL and 13/00866/LBC). These consents have not been implemented but are still extant. At present the coach house is used as a first floor flat and has been associated with this use for around 15 years.

3.0 Current Application

3.1 The applicant is TFN Landscapes and the application is proposed to facilitate the relocation of an existing business premises from Longford. TFN Landscape is a landscaping/horticultural business which offers a variety of services including landscaping, fencing, carpentry and horticultural operations (growing and distribution of various plant species) as well as health and safety training. Clients includes Councils and public service providers, commercial and industrial users and domestic clients. Approximately 60 employees would be accommodated at the site.

3.2 The proposed development seeks a change of use to landscaping/horticultural business and to demolish all building/structures aside from the curtilage listed Coach House and the two most westerly buildings which are currently used as a stables and an open fronted hay barn.

3.3 On the north and north eastern boundary of the site it is proposed to construct two buildings. Unit 1 is proposed on the north boundary and unit 2 on the north east boundary. Each building extends to approximately 40 metres by 15 metres and each has a ground floor footprint of approximately 600 square metres. The buildings would be steel clad and have a pitched roof with a ridge height of approximately 8.2 metres and eaves height of 6.9 metres. Unit 1 would accommodate a mezzanine floor, which would provide office, canteen and toilets, providing a total floorspace within the unit of 857 square metres. Landscaping materials would be stored externally on the site, including timber, slabs, trees, shrubs and bark.

3.4 Within the main site hardstanding parking is proposed for up to 24 business vehicles. In addition to the north of the main site hardstanding is proposed to provide staff parking for up to 35 vehicles. This area is currently used for lorry and machinery storage/parking.

3.5 Access to the site would be via the existing access to the south east off Stump Lane, and improvements are proposed to the junction of Stump Lane and Churchdown Lane. Two metre high security fencing is proposed on the north, east and south boundary. A 10 metre sliding gate is proposed on the east boundary and a swing gate and pedestrian access gate are proposed on the north boundary.

3.6 The proposal also includes the erection of Cart Lodge Garage, and the restoration and conversion of the Coach House to provide a residential property. These elements have already gained planning consent as per application 13/00823/FUL and 13/00866/LBC and these works are consistent with the approved plans. The current proposal varies from the permitted scheme insofar as the approved scheme proposed access from a new driveway from the east whereas the current proposal seeks access from the north. The proposed boundary treatments and external amenity space have also been altered.

4.0 Analysis

Principle of Development

4.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England

and how these are expected to be applied. The NPPF sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay. The NPPF goes on to say that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted. Footnote 9 to paragraph 14 gives examples of where policies in the Framework indicate where development should be restricted and includes land designated as Green Belt.

4.2 One of the core planning principle of the NPPF is that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. The NPPF states that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future. Furthermore, the NPPF states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth.

4.3 The NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The NPPF provides that as with previous Green Belt policy, inappropriate development is, 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 is given to any harm to the Green Belt by reason of inappropriateness. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

4.4 The NPPF sets out that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. There are exceptions to this; however, new commercial buildings such as proposed here are not an exception. This advice is reflected in policy GRB1 of the Local Plan which is consistent with the NPPF. The current proposals therefore represent inappropriate development in the Green Belt which is harmful by definition.

Green Belt

4.5 The application site is located in the Green Belt and the proposals constitute inappropriate development in the Green Belt. There is an established agricultural use on the application site. As set out above, in 2003, permission was granted for the change of use of a farm building for use as a scaffolding business but this permission related to a small portion of the application site and the use of the application site remains agricultural. As such the site does not constitute previously developed land and does not seek to re-use the existing buildings on the site, which in any event are generally not in permanent or substantial state of construction.

4.6 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in the very special circumstances.

4.7 The essential characteristics of Green Belts are their openness and their permanence. In support of the application, the applicant makes the case that the removal of the existing buildings and structures on the site would off-set the impact of the proposed buildings in terms of footprint and that the proposed footprint of the site (1660.6 sq m excluding mezzanine - which is made up of 2 x no. 600 sq m units, as well as the lodge garage for the coach house (60 sq m) and the two retained buildings (394.6 sq m)) would not have a greater impact than the existing built form (1,632.9 sq m).

4.8 It is considered that this approach does not adequately assess the impact of the proposed development on the openness of the Green Belt as it does not consider the size and scale of the proposed buildings or the derelict nature of the structures on this site, some of which are no longer present.

4.9 The two new commercial buildings are steel clad and have a pitched roof with a ridge height of approximately 8.2 metres and a eaves height of approximately 6.9 metres. The existing buildings on the site are generally no more than 4-5 metres high and the proposed buildings would be much higher than any existing buildings on the site. Due to the topography of the surrounding area, these buildings would be visible within the surrounding landscape and it is considered that by virtue of the size, height and scale of the proposed buildings that the proposal would be harmful to the openness of the Green Belt. In support of the application, the applicant has enhanced proposed landscaping on the site and offered to reduce ground

levels by 0.5 metres, however, it is considered that these measures would not overcome the impact that the proposed buildings would have on the openness of the Green Belt.

4.10 In addition to the proposed commercial buildings, the application also includes a 2 metre high security fence around parts of the perimeter of the site where there are no buildings and parking within the main site for up to 24 business vehicles. External storage is also proposed for landscaping materials including bark, timber, slabs, trees and shrubs. To the north of the main site hardstanding is proposed to provide staff parking for up to 35 vehicles. These components of the scheme which include a significant amount of parking and outside storage, will increase the massing of the proposed development and will impact also impact on the openness of the Green Belt.

4.11 On the basis of the above, it is considered that the proposed buildings alongside the proposed car parking, external storage and fencing would increase the mass, density and scale of development on the site over and above the current situation. It is therefore considered that the proposed development would be harmful to the openness and of the Green Belt and the purposes of including land within the Green Belt.

Is the potential harm to the Green Belt outweighed by other considerations

4.12 The applicant does not consider the proposed development to represent inappropriate development in the Green Belt, however for the reasons set out above, this is not the case. Nevertheless the applicants have provided information in support of the case.

4.13 The applicant has stated that the business has to relocate from their existing premises at Field Farm, Longford as a residential consent has been granted at their property and the land surrounding it. The applicant has been looking for alternative premises since 2008. Ideally, the business needs to be within 5 miles of their current location so as not to lose employees and minimise road miles and extra journey times. The new site needs buildings for servicing and securing vehicles and equipment, workshops and offices as well as a secure compound. Additionally land is required for a plant and tree nursery.

4.14 The applicant states that '*such a site has been almost impossible to find: farms are Greenfield and throw up planning complications, whilst pure industrial units are, not only, usually only available to rent, and not buy, but also do not have the land available for the nursery*'. On this basis the applicant considers Noake Farm a unique opportunity, albeit one other possibility, Chosen Hayes Farm, did become available in 2015, but the application for Noake Farm had already started and Chosen Hayes Farm has now been sold.

4.15 Whilst the needs of the business are noted it is considered that the requirement to relocate the existing business does not represent 'very special circumstances' in this instance. This consideration is informed by the fact that the applicant has not clearly demonstrated that there are no other sites or premises available which would be capable of accommodating the business within a reasonable search area. No evidence has been provided as to how the applicant has gone about searching for alternative land and no assessment has been made of potentially alternative sites. Due to the importance of Green Belt such an assessment is the absolute minimum that would be expected as part of a 'very special circumstances' case.

4.16 In addition, the applicant has pointed out that the site contains various unsightly structures which are in varying states of disrepair and suggests that the redevelopment of this site could potentially offer significant benefits in terms of the impact on the surrounding landscape and nearby listed buildings. The fact that the site is in a state of disrepair cannot not be considered in itself a 'very special circumstance'. If this were the case this would leave it open to all landowners to neglect land in the hope of being able to develop it at a later stage. Nevertheless, as set out below, it is also not considered that the proposal offers significant benefits in terms of the impact on the surrounding landscape and nearby listed buildings given the scale of the development proposed.

4.17 The applicant also highlights the economic benefits to the company and the area of the proposals. Whilst these benefits are acknowledged these matters are not considered to constitute very special circumstances; planning policy does not set out economic arguments as a factor which overrides Green Belt policy.

Conclusions in respect of Green belt policy

4.18 It is concluded that the proposed development is inappropriate development in the Green Belt and that there are no special circumstances arising from proposed development to justify inappropriate development in the Green Belt. It is also concluded that the form and nature of the proposed development would be harmful to openness of the Green Belt and would not offset the impact of the existing structures on

the site. These matters weigh heavily against the proposal in the overall planning balance in light of the clear national and local policy guidance on inappropriate development in the Green Belt.

Landscape

4.19 As well as being within the Green Belt is also within a Special Landscape Area (SLA) as designated in the Local Plan. The prominent feature in the immediate landscape is Chosen Hill a short distance to the north. Policy LND2 of the Local Plan states that within the SLA, special attention will be accorded to the protection and enhancement of the landscape character of the Special Landscape Area which are of local significance. Within this area, proposals must demonstrate that they do not adversely affect the quality of natural and built environment, its visual attractiveness, wildlife and ecology, or detract from the quiet enjoyment of the countryside.

4.20 The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) in support of the application. The LVIA, amongst other factors, make the case that:

- o The visual impact of the development is confined principally to views from points within the immediate setting, and localised northern more elevated setting of the site.
- o The removal of the low quality, derelict and degraded nature of the existing components on the site will be of benefit to the locality. The new buildings will replace the current poor quality built form, reflect the wider agricultural setting and will not be out of context
- o The proposals will replace an existing low quality and degraded site that is already developed and will not introduce new components which do not already exist.
- o The proposals will seek to enhance and reinforce the vegetated boundaries through a comprehensive scheme of landscaping which will assist in integrating the proposed built form as well as creating a high quality environment.

4.21 The LVIA does not include photomontages of the proposed development, but instead provides photos of the application site in its present state and this does not provide a clear visual representation of the proposed development.

4.22 Whilst it is recognised that there is currently unsightly structures on the site, it is considered that the proposed development by reason of increasing the massing on site (including storage of materials, parking and fencing), as well as by virtue of the height of the proposed buildings, would be harmful to the visual appearance of the Special Landscape Area and would be out of context with the wider area. Given the topography of the surrounding landscape, and the height of the buildings, it is not considered that the proposed landscaping scheme would screen and integrate the site.

4.23 Chosen Hill is a highly valued local landscape feature with public footpaths and open access land on its slopes. It is also prominent in views from across the wider landscape. Whilst it is noted that there are some urban influences in the immediate area, the proposed development would introduce an intensive commercial use to the land, including large industrial scale buildings and an extensive area of hardstanding to be used for the parking of commercial vehicles, into a sensitive rural landscape. This would represent significant and demonstrable harm to the visual appearance of the Special Landscape Area and this is a matter which weighs significantly against the proposals.

Heritage Assets

4.24 The Noake is a Grade II listed building which lies immediately adjacent to the site. The site contains the curtilage listed Coach House which is associated with The Noake which, as set out above, enjoys an extant permission for conversion to a single dwelling.

4.25 The current proposal includes the resubmission of the approved elevation and floor plans for the extant consent. The current proposal varies from the permitted scheme insofar as the approved scheme proposed access from a new driveway from the east whereas the current proposal seeks access from the north. The proposed boundary treatments and external amenity space have also been altered. With regards to heritage assets, it is considered that there has been no material change in circumstances since the 2013 approval, and subject to the imposition of appropriate conditions these works are considered to be acceptable. It remains the case that the proposed internal and external alterations would sustain and enhance the historic significance of the Coach House and would not detract from the historic character and appearance of the listed building in line with Policy AGR7 of the Local Plan and the provision of Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and the NPPF.

4.26 With regards to the proposals on the remaining part of the site, it is considered that the historic farmstead has a fairly self-contained focus and that there is a sufficient separation distance to mitigate the impact of the proposed development, and in particular the proposed buildings on the north and north east of the site. It is therefore considered that the proposed development would not adversely affect the setting of the listed building.

Residential Amenity

4.27 The Noake is an existing dwelling and a further dwelling known as Millbridge Cottage is located in close proximity to the north east of the site. In addition it is the applicant's intention that the Coach House located in the south west corner of the site would be an independent dwelling. Landscaping is proposed within the site to separate the Coach House from the remainder of the site, but it would still be necessary for future residents to access the Coach House through the site compound.

4.28 The applicant has submitted a Noise Impact Report in support of the application and the Council's Environmental Health Department have been consulted on the application and do not object to the application subject to the imposition of conditions which would include restrictions to working hours and deliveries and loading/unloading times, that the doors to the workshop should be closed at all times, that any additional plant that is introduced other than those measured as part of the assessment should be below 10Db and that vehicle reversing alarms should be silent white noise reversers on all forklifts and associated machinery outside. It is also suggested that a noise management plan could be implemented on site to position deliveries and fork lifts away from noise sensitive receptors. The applicant has also confirmed that there will be no lighting at night, or after normal working hours.

4.29 Taking account of the Noise Impact Report and consultation response from Environmental Health, it is considered that subject to the imposition of appropriate conditions, the impact of the proposed development on the amenity of existing residents would be acceptable.

4.30 In respect to the residential amenity of future residents of the Coach House, it is considered that the access arrangements to the property through commercial premises are undesirable. However, the day-to-day operation of this access arrangement would be a private matter and it is not considered that this is a reason to refuse the application.

Transport Matters and Parking

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

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

4.33 Subject to the imposition of conditions, no objection has been raised by the Highways Authority in respect of highway matters.

4.32 The main access to the site is proposed from Stump Lane via an existing access. The access arrangements are proposed to be modified to allow for large vehicles to manoeuvre in and out of the access. The proposals would also widen the carriageway of Stump Lane to the south of the access to 7.3 metres to allow for two vehicles to pass, including large articulated vehicles. Amendments would also be made to the junction with Churchdown Lane to allow two vehicles to pass at this point.

4.33 The topography of the visibility splay onto Churchdown Lane would mean that a vehicle waiting to

leave Stump Lane and join Churchdown Lane would be able to see vehicles approaching from their left beyond the extent of the visibility splay but for a short period the bottom half of the vehicles would be out of view, blocked by the road surface before appearing fully as they get closer to the junction. The proposal would significantly increase the number of vehicles movements at this junction, but the Highways Authority consider that this impact should be mitigated by the provision of warning signs notifying drivers of the vertical alignment of the road. These could be secured by planning condition and therefore the residual cumulative impact of the development in terms of paragraph 32 of the NPPF is not severe.

4.34 Turning to car parking provision, the hardstanding is proposed to provide staff parking for up to 35 vehicles and the application indicates that there would be approximately 60 employees. The Highways Authority do not object to the proposed parking provision which has been based on the existing level of car parking and parking usage at the existing operational site. As little data is available for similar uses the existing operation of the business is an appropriate source of evidence.

4.35 On this basis, the level of car parking provision is considered to be acceptable given the parking usage at the existing operational site and the proximity to public transport.

Accessibility

4.36 A Transport Assessment (TA) has been submitted with the application which states that there is an existing footway along Churchdown Lane that would be extended along Stump Lane into the site. Bus stops which provide access to a regular service are located on Hucclecote Road, approximately 900m from the development and facilities including a convenience stores, bakery, public house and restaurant and are also located within 900m - 1.3km of the site. The TA has also looked at the available opportunities for employees of the site to travel to the site by sustainable transport modes. The TA recognises that walking and cycling infrastructure leading directly to the site along Churchdown Lane is limited to a footway on the north western side of Churchdown Lane. However, it is argued that this is typical of the semi-rural type environment and is sufficient to provide a pedestrian link to Hucclecote Road. The No. 10 bus service stops on Hucclecote Road and provides a service every 10 minutes during the day between Gloucester and Cheltenham. The TA points out that this service gives the opportunity for future employees living in these areas to travel to the site via sustainable means.

4.37 The TA proposes some Sustainable Travel Initiatives in order encourage sustainable modes of transport. It is argued that a significant proportion of staff at the existing site currently car-share to access work. The TA expects this to continue if the business moves to Noake Farm. However, it is still accepted that measures should be implemented within the development to discourage use of the private car and encourage sustainable travel, where possible. The following measures and initiatives will be considered by the business.

- Provide shower and changing/storage facilities for employees cycling to work;
- Provide covered cycle storage at the site;
- Encourage staff to sign-up to www.carsharegloucestershire.com and provide guaranteed ride home in emergencies; and
- Provide up-to-date public transport information on notice boards.

4.38 In conclusion, although the site is reasonably well served by public transport, the connection on foot between the site and the bus stops, and to local services and facilities are on an unlit road that would be unlikely to encourage cycling and walking. However, subject to a condition requiring implementation of the Sustainable Travel Initiatives set out in the applicants TA, the site's location is not a matter that would warrant refusal in its own right.

Ecology and Trees

4.39 A Bat Survey Report has been submitted in support of the application, which assessed the presence/absence of bat roosts at the Coach House. The assessment did not include any other buildings/structures on the site which are proposed to be demolished. The Report concludes that the Coach House does not provide a breeding site or nesting site for bats, but bats were observed in the ground floor rooms of the coach house and within the wider site. The Report concludes that bats roost within the immediate vicinity of the Coach House. The presence of protected species, such as bats, is a material consideration when considering a planning application. The presence of bats should be considered at an early stage in the development process and prior to the determination of the application. Given the conclusions of the Bat Survey, and the identified likely presence of roosting bats in the vicinity of the Coach House and possibly within the application site, the application is recommended for refusal on this basis as the scope of the submitted Bat Report is considered inadequate. With the exception of bats, whilst survey information has been provided, no other ecological assessment has been carried out. This is a matter that

weighs against the application.

4.40 An Arboricultural Impact Assessment has been submitted in support of the application which provides an assessment of existing trees and their relationship with the proposed development. The proposals necessitate the removal of 4 no. category C trees and 3 no. category C groups of trees. The removal of these trees is considered acceptable.

5.0 Overall balancing exercise and conclusions

5.1 The NPPF sets out that there are three dimensions to sustainable development: economic, social and environmental. In terms of the economic and social dimensions it is recognised that the proposal would provide jobs and contribute towards building a strong, competitive economy. These matters are given significant weight in line with the NPPF.

5.2 Turning to the environmental dimension, the proposals would introduce a significant level of commercial development to a largely undeveloped rural area in a sensitive site within the valued Special Landscape Area associated with Chosen Hill. The proposals would be harmful to its character and appearance and this weighs significantly against the proposal.

5.3 More fundamentally, the site is located within the Green Belt and the proposed development represents inappropriate development which is harmful by definition. The proposal would introduce significant development where there is currently none and therefore the proposal would erode the openness of the Green Belt and conflict with the purposes of including land within it. This fact alone weighs considerably against the proposal.

5.4 The application does not properly consider the impact of the proposals on ecology, including protected species and their habitats. This again is a matter which weighs significantly against the proposal.

5.5 There would be no undue impact in terms of residential amenity, contamination and the local highway network subject to approval of technical details.

5.6 Whilst there are benefits to the proposal as set out above, it is considered that the adverse impacts identified significantly and demonstrably outweigh the benefits that would accrue from the development. Furthermore, very special circumstances have not been demonstrated that clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harms as identified above. The proposal therefore does not represent sustainable development in the context of the NPPF and is recommended for **refusal**.

RECOMMENDATION Refuse

Reasons:

- 1 The proposal would represent inappropriate development in the Green Belt that would cause harm to the openness of the Green Belt, harm by reason of inappropriateness and conflict with one of the purposes of the Green Belt to protect the countryside from encroachment, contrary to advice within the National Planning Policy Framework 2012, Policy GRB1 of the Tewkesbury Borough Local Plan to 2011 and Policy SD6 within the emerging Joint Core Strategy Submission Version (November 2014).
- 2 The proposed development by reason of design, appearance, scale, bulk and layout would have a significant adverse impact on the quality of the natural and built environment of the Special Landscape Area. The proposal would be harmful to visual attractiveness would create an incongruous visual intrusion and would detract from the character and appearance of the rural landscape. For this reason, the proposal conflicts with advice within the National Planning Policy Framework 2012, policy LND2 of the Tewkesbury Borough Local Plan to 2011 and policy SD7 within the emerging Joint Core Strategy Submission Version (November 2014).
- 3 Bats have been recorded in the vicinity of the Coach House and are likely to be present on site. The Bat Survey Report prepared by Quants Environmental Ltd dated September 2015 only included a survey of the Coach House and did not survey other structures on the site. The applicant has therefore failed to satisfactorily demonstrate that the development would not harm the habitat of

protected species. Furthermore no assessment of the ecological value of the wider site has been submitted. As such the proposal conflicts with advice within the National Planning Policy Framework 2012, policies NCN4 and NCN5 of the Tewkesbury Borough Local Plan to 2011 and policy SD10 within the emerging Joint Core Strategy Submission Version (November 2014).

Notes:

1 Statement of Positive and Proactive Engagement

In accordance with the requirements of the NPPF, the Local Planning Authority has worked with the applicant in a positive and proactive manner in order to seek solutions to overcome the planning objections and the conflict with Development Plan Policy by seeking to negotiate with the applicant to address identified issues of concern and providing on the council's website details of consultation responses and representations received. However, negotiations have failed to achieve sustainable development that would improve the economic, social and environmental conditions of the area.

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	12 April 2016
Subject:	Review of Protocol for Councillors and Officers Involved in the Planning Process
Report of:	Lin O'Brien, Democratic Services Group Manager
Corporate Lead:	Sara Freckleton, Borough Solicitor
Lead Member:	Councillors D M M Davies, Lead Member for Built Environment R J E Vines, Leader of the Council
Number of Appendices:	None

Executive Summary:

To seek nominations to serve on a joint Standards and Planning Committee Working Group to review the Protocol for Councillors and Officers Involved in the Planning Process as required by the Council decision made on 14 April 2015 and the decision of the Standards Committee on 21 March 2016.

Recommendation:

To AGREE the Members of the Planning Committee to serve on the re-established Joint Standards and Planning Working Group to review the Protocol for Councillors and Officers Involved in the Planning Process, as set out in Paragraph 2 of the report, following its operation for 12 months to assess how it has worked and whether any further amendment is necessary.

Reasons for Recommendation:

To ensure that the Protocol for Councillors and Officers Involved in the Planning Process is reviewed in accordance with the Council's decision on 14 April 2015.

Resource Implications:

Officer and Member resources will be required to undertake the review.

Legal Implications:

None specifically in relation to this report.

Risk Management Implications:

None in relation to this report.

Performance Management Follow-up:

Upon completion of the review a revised Protocol will be submitted to Council for approval.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 At its meeting on 14 April 2015 the Council considered the revised Protocol for Councillors and Officers Involved in the Planning Process and resolved that the Protocol be adopted, with a review after 12 months. A mechanism to undertake this further review is proposed in Paragraph 2 set out below.

2.0 REVIEW OF THE PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

2.1 The initial review was undertaken by a joint Working Group made up of four Members of the Planning Committee and four Members of the Standards Committee. This mechanism worked extremely well and it is therefore suggested that a similar arrangement be put in place to examine how the new Protocol has worked after being in operation for 12 months and whether any further amendments are required.

2.2 At its meeting on 21 March 2016, the Standards Committee nominated representatives as follows:

Tewkesbury Borough Councillors Mike Dean and Philip Surman; Parish representative, Jeremy Horsfall; and Independent Person, Martin Jauch.

2.3 Previously the representatives from the Planning Committee were Councillors Derek Davies, John Evetts, Jim Mason and Mrs Jude Perez and it is suggested, for consistency, that those Members remaining on the Planning Committee may wish to put themselves forward to serve on the Group. In respect of Jude Perez, as she is no longer a Member of the Council, there would be a vacancy to fill. With this in mind, it would be the suggestion that the Committee's representatives on the Working Group be as follows:

Councillors Derek Davies, John Evetts and Jim Mason with one vacancy to be filled by the Committee.

2.4 It is anticipated that no more than two meetings of the Group would be required and Officer support would be provided by the legal and planning sections.

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 A revised Protocol will be subject to Member consultation.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Tewkesbury Borough Council Code of Members' Conduct (adopted 26 June 2012 taking effect 1 July 2012).

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None.

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 The review will involve Officer/Member resources.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 Council on 14 April 2015 and Standards Committee on 21 March 2016.

Background Papers: None

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Appendices: None

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	12 April 2016
Subject:	Current Appeals and Appeal Decisions Update
Report of:	Paul Skelton, Development Manager
Corporate Lead:	Rachel North, Deputy Chief Executive
Lead Member:	Cllr D M M Davies
Number of Appendices:	1

<p>Executive Summary:</p> <p>To inform Members of current Planning and Enforcement Appeals and of Communities and Local Government (CLG) Appeal Decisions issued February and March 2016.</p>
<p>Recommendation:</p> <p>To CONSIDER the report</p>
<p>Reasons for Recommendation:</p> <p>To inform Members of recent appeal decisions</p>

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

1.0 INTRODUCTION/BACKGROUND

1.1 At each Planning Committee meeting, Members are informed of current Planning and Enforcement Appeals and of Communities and Local Government (CLG) Appeal Decisions that have recently been issued.

2.0 APPEAL DECISIONS

2.1 The following decisions have been issued by the First Secretary of State of CLG:

Application No	15/01059/FUL
Location	36 Pottersfield Road, Woodmancote
Appellant	Miss E Elliott
Development	Erection of detached single garage.
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	Dismissed
Reason	<p>The application was for a garage in front of the existing house and was refused on the basis of its unacceptable impact on the streetscene in this open plan estate.</p> <p>There had been previous refusals on this site however the Inspector concluded that the reduction in scale from earlier refused applications did not overcome the harm caused to the character and appearance of the area and agreed with the Council that permission should be refused.</p>
Date	09.03.16

Application No	15/00587/FUL
Location	Woodlands Bank, Gander Lane, Teddington
Appellant	Mrs J Baker
Development	Erection of stabling for Alpaca breeding herd
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	Allowed
Reason (if allowed)	<p>The application was refused on the grounds that it would have an undue impact on the Cotswolds AONB in accordance with the Parish Council view.</p> <p>In allowing the appeal, the Inspector considered that existing farm buildings and timber structures within the fields close to the appeal site form part of the landscape character of the area, and that the size of the proposed building would not be disproportionately large or excessive. He further observed that the building would be discretely sited close to the adjoining woodland 'Teddington Grove', and that it would be largely viewed against this woodland from public vantage points, including from the nearby rights of way and the rear elevations of properties in Teddington village. The woodland would rise above the height of the building up the hillside, such that the building would not be intrusive in the wider landscape.</p>

	In this context, the Inspector considered that the scale, siting and size of the proposal would not be overly prominent, intrusive or out of keeping with the rural landscape, or overbearing or harmful to the character of the Cotswolds AONB, and that the visual impact of the building could be mitigated further with the addition of further landscaping
Date	15.03.16

Application No	15/00836/PDAD
Location	The Dutch Barn, Sawpit Lane, Apperley
Appellant	Mr Paul Benbow
Development	Change of use of existing agricultural barn to 1 no. residential dwelling and building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses)
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	Dismissed
Reason	<p>This case was a notification under permitted development rights to change the use of a barn to a dwelling. The Council refused the application on the basis that there would be substantial alterations involved which took it outside the ambit of permitted development rights and because the building had not been previously solely used for agriculture.</p> <p>The appeal was made on the basis that the Council had not given notice of its decision within the relevant period however the Inspector noted the Council's reasons for deciding that the scheme did not represent permitted development in any event.</p> <p>The Inspector was not convinced that the evidence showed that the barn had solely been used for agricultural use and the proposal did not therefore constitute permitted development. Nevertheless, and disappointingly the Inspector considered that whilst the works required for the proposed conversion were extensive, they would fall within the requirements of the General Permitted Development Order. Whilst each case is different this does seem to be in conflict with other appeal decisions and better guidance on this matter from Government is sorely needed to help inform decision makers.</p>
Date	17.03.16

Application No	15/00994/FUL
Location	74 Stanford Road, Northway
Appellant	Mr G Short
Development	Erection of first floor rear extension (revised proposal to previous permission reference 15/00518/FUL)
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	Dismissed
Reason	<p>The application was refused on the basis that the proposals would have an unacceptable impact on neighbouring property by reason of overshadowing/overbearing impact and overlooking.</p> <p>The Inspector agreed with the Council and in doing so made the point that even if a side window overlooking the neighbouring property was obscure glazed, there would still be a real perception of overlooking, particularly given the very close proximity of the garden and rear windows of the neighbouring property.</p>
Date	23.03.16

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

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Appendices: Appendix 1: List of Appeals received

List of Appeals Received						
Reference	Address	Description	Date Appeal Lodged	Appeal Procedure	Appeal Officer	Statement Due
15/00865/FUL	Land At Berrow Farm Wickridge Street Ashleworth Gloucester Gloucestershire GL19 4JW	Installation of two no. biomass boilers on a concrete pad and the change of use of the grain store and mill house for use in association with commercial wood chip drying.	14/03/2016	W	HMS	18/04/2016
15/00639/FUL	Kings Head Inn Tewkesbury Road Norton GL2 9LR	Construction of 4 dwellings (Revised scheme to previously approved under 14/00686/FUL to incorporate a double garage at plot 2)	14/03/2016	W	CIP	18/04/2016
15/01211/FUL	Newton Farm Natton Ashchurch Tewkesbury Gloucestershire GL20 7BE	Retrospective consent for the creation of a construction training centre	14/03/2016	W	MAT	18/04/2016
15/00162/FUL	Grafton House Gretton Fields Gretton Cheltenham Gloucestershire GL54 5HH	Proposed use of land and buildings for a mixed use Class B1, Class B2, Vintage Vehicle Storage (Class B8) and Equestrian Purposes. Formation of Manege. Construction of vehicular access and driveway.	29/02/2016	W	JBD	04/04/2016
15/01139/FUL	The Willows Bamfurlong Lane Staverton Cheltenham Gloucestershire GL51 6SL	Change of use of holiday touring caravan and camping site to gypsy and traveller site for 20 static caravan pitches and 9 touring caravans pitches, amenity space, landscaping and utility building, following demolition of existing buildings.	04/03/2016	W	JWH	08/04/2016

List of Appeals Received						
Reference	Address	Description	Date Appeal Lodged	Appeal Procedure	Appeal Officer	Statement Due
15/01007/FUL	Vine Tree Farm The Wharf Coombe Hill Gloucester Gloucestershire GL19 4AS	Proposed replacement dwelling with attached garage building. Hard and soft landscaping. Provision of new access and driveway. - Revised scheme following planning permission ref: 14/01224/FUL.	29/02/2016	W	LJD	04/04/2016

Process Type

- "HH" Indicates Householder Appeal
- "W" Indicates Written Reps
- "H" Indicates Informal Hearing
- " I " Indicates Public Inquiry

Advanced Site Visits Briefing

The following applications have been identified as ones which may be subject to a Committee Site Visit on the Friday prior to the Planning Committee meeting at which they will be considered:

Reference No.	Site	Description of Development
15/00749/OUT	Land Adjacent Ivy Cottage, Innsworth Lane, Innsworth	A mixed use development comprising demolition of existing buildings, up to 1,300 dwellings and 8.31 hectares of land for employment generating uses comprising a neighbourhood centre of 4.23ha (A1, A2, A3, A4, A5, A6, D1, D2, B1), office park of 1.31ha (B1) and business park of 2.77ha (B1 and B8 uses), primary school, open space, landscaping, parking and supporting infrastructure and utilities, and the creation of new vehicular accesses from the A40 Gloucester Northern Bypass, Innsworth Lane and Frogfurlong Lane.