

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Tuesday, 16 July 2019 commencing  
at 10:00 am**

**Present:**

Chair  
Vice Chair

Councillor J H Evetts  
Councillor R D East

**and Councillors:**

R A Bird, G F Blackwell, M A Gore, D J Harwood, A Hollaway, M L Jordan, E J MacTiernan,  
J R Mason, P W Ockelton, A S Reece, P E Smith, R J G Smith, P D Surman, R J E Vines  
and P N Workman

**also present:**

Councillors H S Munro and C Softley

**PL.8 ANNOUNCEMENTS**

- 8.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 8.2 The Chair gave a brief outline of the scheme and the procedure for Planning Committee meetings including public speaking.

**PL.9 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

- 9.1 Apologies for absence were received from Councillor M J Williams. There were no substitutions for the meeting.

**PL.10 DECLARATIONS OF INTEREST**

- 10.1 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.

10.2 The following declarations were made:

<b>Councillor</b>	<b>Application No./Agenda Item</b>	<b>Nature of Interest (where disclosed)</b>	<b>Declared Action in respect of Disclosure</b>
M A Gore	19/00184/FUL Clematis Cottage, Shutter Lane, Gotherington.	The applicant had contacted her, and she had subsequently met with them, but this was purely for fact-finding and to facilitate a meeting between the applicant, Planning Officer and Conservation Officer.	Would speak and vote.
A Hollaway	19/00135/FUL Bishop's Leys Farm, Butts Lane, Woodmancote.	The applicant is a close family friend.  Is a Borough Councillor for the area.	Would not speak or vote and would leave the room for consideration of this item.
A Hollaway	19/00184/FUL Clematis Cottage, Shutter Lane, Gotherington.	Is a Borough Councillor for the area.	Would speak and vote.
E J MacTiernan	18/00043/OUT Land at Fitzhamon Park, Ashchurch Road, Tewkesbury.	The applicant is know to her; however, she had never expressed an opinion or given any advice in relation to the application.	Would speak and vote.
P W Ockelton	18/01295/OUT Fortitude, Birdlip Hill, Witcombe.	Had received emails in relation to the application but had not expressed an opinion.	Would speak and vote.
R J E Vines	18/01295/OUT Fortitude, Birdlip Hill, Witcombe.  18/00864/APP Phases 2 and 5, Land at Perrybrook, North Brockworth.	Is a Gloucestershire County Councillor for the area.	Would speak and vote.

P N Workman	18/00043/OUT Land at Fitzhamon Park, Ashchurch Road, Tewkesbury.	Is related to the applicant.	Would not speak or vote and would leave the room for consideration of this item.
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10.3 There were no further declarations made on this occasion.

## **PL.11 MINUTES**

11.1 The Minutes of the meeting held on 18 June 2019, copies of which had been circulated, were agreed as a correct record and signed by the Chair.

## **PL.12 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL**

### **Schedule**

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

### **19/00414/FUL – 6 Orchard Road, Alderton**

12.2 This application was for proposed two storey and single storey rear extensions.

12.3 The Planning Officer advised that the application related to a semi-detached dwelling located in Alderton. The immediate area was characterised by a mix of house types of differing styles and the site was located within the Special Landscape Area. The property itself was constructed with render and concrete interlocking tiles and benefited from a small single storey extension located to the rear. As set out in the Officer report, the proposal sought planning permission for the erection of a rear extension comprising single storey and two storey elements. The extension would be constructed from materials to match the existing building. The scheme also proposed the addition of two rooflights on the front elevation and the re-siting of a window at first floor level on the side elevation. The main issues to be considered were design and the impact upon neighbouring residential amenity and the Special Landscaping Area. The application had come to the Planning Committee for determination because the Parish Council had objected on the grounds that the proposal would have an unacceptable impact upon neighbouring properties. Neighbours had raised objections to the proposal in terms of potential loss of light, overlooking and overbearing impacts and these concerns had been addressed in the Officer report. Officers considered the scheme to be acceptable in policy terms and it was subsequently recommended for permission.

12.4 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. A Member understood that the electricity supply came from an overhead pole directly to the house and he questioned whether this would need to be changed, should planning permission be granted, and also whether the rooflights had been included in the application. The Chair noted that the Parish Council had raised a number of similar questions, as set out at Page No. 154 of the

Officer report, and he felt it would be helpful if the Planning Officer could respond to each point in turn. With regard to the statement that the boundaries appeared to encroach over the neighbouring site, the Planning Officer explained that the application had been assessed based on the submitted plans which showed the party wall encroached over the neighbouring site and he confirmed that this would be a matter for the neighbours. In terms of the electricity supply cables, the applicant would have to take this up with the energy provider as it may need to be redirected; however, this was not a material planning consideration. The Parish Council had raised concern that the first floor window would be close to the overhead electricity cable and he indicated that this may not be an issue if the electricity cable was redirected. In terms of whether a build over agreement was needed for the drain to the rear, Members were advised that this was a matter that Building Control would look at. Finally, he confirmed that the rooflights were included in the application as shown on the drawing of the front elevation.

12.5 Upon being put to the vote, it was

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

**18/00043/OUT – Land at Fitzhamon Park, Ashchurch Road, Tewkesbury**

12.6 This was an outline application for the erection of up to 90 houses, a care home, community centre and associated works. The Committee had visited the application site on Friday 12 July 2019.

12.7 The Planning Officer advised that the application site comprised two field parcels to the southern side of the A46 in Ashchurch and was located behind residential development and to the rear of Fitzhamon Park and Ashchurch View Care Home. The site would be accessed from Fitzhamon Park via St Barbara's Close and works to the A46 junction to improve the access arrangements onto the highway were included as part of the proposal. The application sought outline planning permission for up to 90 houses, a 66 bed care home, public open space and associated works with all matters except means of access reserved for future consideration. The proposal had originally been submitted to include a community building but the applicant had since clarified it would provide land for a community building as opposed to the building itself. In terms of the principle of development, the site was not allocated for housing in the Joint Core Strategy therefore the proposal conflicted with Policy SD10; however, as the Council could not currently demonstrate a deliverable five year housing land supply, the Council's policies for the supply of housing were out of date and the presumption here was that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the National Planning Policy Framework as a whole. The Officer recommendation was that authority be delegated to the Technical Planning Manager to permit the application, subject to the resolution of outstanding surface water drainage matters; imposition of/amendments to appropriate planning conditions; and the completion of a Section 106 Agreement to secure: 40% affordable housing, on-site public open space including a Local Equipped Area for Play (LEAP), an off-site playing pitch contribution of £74,925, serviced land for community use and £73 per dwelling for recycling and waste bins, as set out in the Additional Representations Sheet, attached at Appendix 1.

12.8 The Technical Planning Manager advised that this was the first Planning Committee meeting since the High Court judgement on the Oakridge, Highnam case where the Council had challenged the Secretary of State's assertion in the appeal decision in respect of the five year supply where he had followed the Inspector's advice in relation to discounting previous oversupply. Based on the Secretary of State's approach, the Council could only demonstrate a 2.7 year supply whereas if the dwellings that had been provided over and above the cumulative requirements were counted, the Council could demonstrate a 4.3 year supply. The High Court

judgement itself had not ruled one way or the other as it was considered that it should be left to a case where it would make a difference - the Council had won the Oakridge case therefore this ruling made no difference to the overall outcome. On that basis, there was no reason for the Council to change its position in terms of the oversupply being counted and, as such, it could demonstrate a 4.3 year supply.

- 12.9 The Chair invited the Parish Council representative to address the Committee. The Parish Council representative advised that the Parish Council objected to the application for a number of reasons. It was noted that access would be from the A46 which was well-known to be heavily congested along this section of the highway, particularly during rush hour in the morning and evening when it would become a labyrinthine route around existing dwellings to the site itself which would have an ongoing significant impact upon existing residents, affecting their quality of life and amenity. The construction phase of the development would also have a significant detrimental impact over many months given that heavy construction equipment and materials would also use the same access in close proximity to the residents' homes; some of the vehicles and equipment may not even be able to readily gain access which would undoubtedly endanger residents by increasing risk. The Parish Council questioned the sustainability of the development as the nearest shops were around 30 minutes' walk away across open fields and there were no regular bus services, despite there being a bus stop. This would simply increase congestion on the A46 as new residents would have to use their cars to shop as well as to travel to and from their place of employment. Under the circumstances, if Members were minded to permit the application, the Parish Council respectfully requested that a condition be included to limit the construction phase to Monday to Friday, excluding public holidays, for a maximum of 7.5 hours per day, and, to prepare relevant legal agreements to confirm that the developer's offer to provide community facilities would be honoured and delivered prior to completion of the development. Nothing had been heard from the developers since they had approached the Parish Council with the offer of a community hall and to now suggest that a parcel of land was appropriate for community facilities was questionable.
- 12.10 The Chair invited the applicant's agent to address the Committee. The applicant's agent advised that the submission of the application at the beginning of 2018 followed extensive pre-application discussions, not only with Planning Officers but also with local residents and the Parish Council which was when the idea of a community building was first mooted. This had been included within the original application as the Parish Council had indicated that it would be welcomed; however, it had become clear through the application process that this was not the case. It was only more recently that the Parish Council had suggested a second community building so close to the village hall could potentially be feasible. When the application was first submitted and the community building offered, the Community Infrastructure Levy (CIL) had not been adopted by the Council; without CIL, the Section 106 monies would have amounted to approximately £830,000, plus 40% affordable housing and on-site public open space - now the CIL bill alone would be in the region of £1.3M, plus approximately £6,500 Section 106 monies in addition to 40% affordable housing and on-site public open space. The CIL regulations meant that the Parish Council would receive around £40,000 of the £1.3 million to spend on 'local priorities' which could include a community building or other similar facility. Furthermore, Tewkesbury Borough Council was able to spend CIL monies on social and community facilities as listed on the Regulation 123 list. Under the circumstances, the applicant considered that offering the land to provide the building was a fair compromise. It had been recognised from the outset that the access, and the impact on the local and wider transport network, would require careful consideration and the applicant's transport consultants had engaged with both Highways England and Gloucestershire County Highways in 2016 with continued dialogue throughout the application process. Highways England had confirmed that the proposed development would not have a significant impact on the strategic road network in highway capacity terms and that

the improved A46 junction as proposed could safely accommodate the additional traffic demand. Gloucestershire County Highways had confirmed it had no objection to the application, subject to conditions. The applicant had altered the scheme to incorporate additional connections with the land either side and the illustrative masterplan now showed pedestrian and cycle links both east and west which would be incorporated into the detailed layout as part of the reserved matters application. All other technical consultees had confirmed they had no objection so there was no identified harm arising from the scheme. In summing up, the applicant's agent advised that the proposal would deliver many benefits including 36 affordable homes, a 66 bed care home, land for a community building and on-site public open space. The scheme represented sustainable development in an area identified by the Council as being suitable for residential development and she urged Members to follow the Officer recommendation and delegate authority to the Technical Planning Manager to permit the application.

12.11 A Member raised concern that the Parish Council was expecting a community facility to be built but that had changed at some point during the application process and she sought clarification from Officers as to whether land could be secured for future use by the Parish Council. She was frustrated that Highways England had not attended the meeting as she wished to know whether the application had been considered in isolation or whether the cumulative effect of Fiddington and the sites that had already been approved had been taken into account. She noted that it was considered safe to turn right out of Fitzhamon Park but questioned whether it was safe to turn right into the Park and she also raised concern about emergency vehicles being able to access the site, particularly as the bus had struggled to navigate the on-street parking on St Barbara's Close when the Committee had visited the site. There were currently lots of parking spaces for existing residents and she asked whether there would be provision for new spaces, either on the estate or within the green space provided. She had concerns about children walking to school from the site and questioned whether the pedestrian and cycle connectivity which was shown on the plans could be secured, particularly as routes appeared to go directly through the community centre and across the primary school field. She noted the Parish Council's request for the hours of construction to be restricted to 7.5 hours per day Monday to Friday and sought confirmation as to whether that could be achieved. Finally, she drew attention to Page No. 172 of the Officer report, recommended note 2, which set out that Wales and West Utilities required the developer to contact them to discuss their requirements before work commenced on site and she wondered if this should be made a condition of the planning permission as opposed to just a note.

12.12 In response, the Planning Officer reiterated that land for the community facility could be secured via a Section 106 Agreement, as set out in the Officer recommendation. He advised that Highways England would have considered emergency vehicles and routing through the site in its assessment of the application and further details would be forthcoming in the reserved matters application, should Members be minded to permit the application. With regard to cycleways, he explained that plans were indicative at this stage to show how connections could be provided and that there could be potential linkages in front of the school and existing community hall – the school would need to consent should that be the route proposed in the reserved matters application. In terms of a restriction on working hours, he advised that a standard condition had been recommended, as set out at Page No. 172 of the Officer report, which stated that no demolition, construction works or machinery shall be operated, or processes carried out and no deliveries taken at or despatched from the site, outside the hours of 7:30 and 18:00 Mondays to Fridays and 8:00 and 13:00 hours on Saturdays or at any time on Sundays or Bank or Public Holidays; consideration would need to be given as to whether it would be reasonable to restrict the hours of operation any further than that. With regard to the recommended note, this would not be something to be controlled by condition as it related to infrastructure controlled by another body, i.e. Wales and West Utilities, and was covered by other

legislation. The Technical Planning Manager went on to advise that parking provision would be identified at the reserved matters stage. Highways England had made it very clear that it only took account of committed development i.e. development identified in an approved plan or which had been granted planning permission, therefore it was doubtful that Fiddington would have been taken into account in its assessment of this proposal; notwithstanding this, he would have thought that Highways England would consider that the number of vehicles being added to the network from a development of this scale would not be significant and would not be severe in the context of the National Planning Policy Framework test. The County Highways representative clarified that a number of committed developments had been included in the County Council's traffic assessment including the Sainsbury's food store north of the A46 which had been permitted; service centre land south of the A46 which had been permitted ; 550 units at the Ministry of Defence site which had been dismissed; 150 dwellings at Pamington Lane which had been permitted; and 45 dwellings on land to the south of the railway on Ashchurch Road which had been permitted. The parking matter had already been covered by Officers and he reiterated that there would be layout issues to address at the reserved matters stage. With regard to pedestrian and cycle access, he indicated that a mitigation strategy would be requested to take this forward. The proposal was considered by County Highways to be safe and accessible and visibility splays had been tracked and re-tracked until it was satisfied with the road and vehicle visibility. He indicated that there was enough space for two 10 metre rigid vehicles to safely pass one another, despite the labyrinthine appearance.

- 12.13 With regard to the hours of working and whether it was reasonable to limit this further, the Member expressed the view that consideration needed to be given as to what was reasonable for the existing residents, which included a number of children, particularly as there was only one access route in and out. In response to the comments made by the County Highways representative, she reiterated that the A46 was enormously congested and, in her view, turning into or out of the site would be horrendous and she did not feel what had been suggested would be sufficient to counteract that. Another Member indicated that a specific question had been raised about parking along the access road and the Planning Officer had responded to say that could be dealt with at the reserved matters stage; however, he had observed the parking of existing residents on the Committee Site Visit and sought reassurance that the Council would have sufficient control over the access road in the reserved matters to provide effective parking for what had become the custom and practice of local residents. A Member went on to express the opinion that, if the community facility had been offered to the Parish Council by the applicant then that commitment should be upheld and he asked whether access could be provided from the lane to the right of the development. The County Highways representative explained that the masterplan submitted with this outline application showed the entire area access from the A46 - west to east and south down past the existing buildings- and included existing and new parking. The drawing that had been provided for the access was fairly comprehensive and, although it would be subject to technical approval if planning permission was granted, County Highways as an authority was accepting of the plan that had been submitted. County Highways had asked for large parking bays and the road width had been increased to 4.8 metres in view of the type of vehicles that would be using it – should the plan that came forward for technical approval be to a lower standard, that would not be acceptable. In terms of parking, County Highways was satisfied that what was proposed would accommodate the needs of residents. Submission of a Construction Management Plan was a condition to be discharged in its own right and Highways England and County Highways would be statutory consultees when that came forward. With regard to the location of the access, clarification was provided that this was the only location on the A46 where the applicant had control to enter the highway; the lane to the right of the site was a Public Right of Way and a track as opposed to an adopted highway – irrespective of whether the applicant was able to reach an agreement with the landowner, it would

not be possible to bring this up to the standard required to make it a suitable form of access onto the A46. A Member expressed the view that the access road was totally inadequate for the amount of development proposed. She indicated that she had read that it would be a legal requirement for all future developments to install electric charging points for vehicles and she queried whether they were being provided on this development. She felt that it was important to set a precedent and, as it was a legal requirement, this should be paid for by the developer rather than Section 106 or CIL money. The Technical Planning Manager clarified that there was no such requirement currently but it may be introduced as a regulation in the future. In terms of this application, it was possible to include a condition requiring electric charging points to be provided throughout the development.

- 12.14 A Member understood that County Highways aimed to park vehicles off-road in parking bays and the County Highways representative confirmed that this was the case in this instance; the bays would be longer than normal and set back so as not to cause a nuisance to the thoroughfare but he stressed this was not an aim, rather it was what was considered to be an acceptable solution as there was space and visibility to accommodate it – it would not necessarily be acceptable everywhere. The Member indicated that his concern was that parked cars could help to slow traffic so if cars were parked in bays there would be a need for alternative traffic calming measures. He felt that the development would create more congestion and the junction would become a bottleneck at peak times unless there were traffic lights or an alternative flow system. The County Highways Officer indicated that Highways England had no objection to the application, subject to conditions, and in the absence of a representative to answer these specific questions, this must be taken at face value. In terms of traffic calming on the access road, the trunk road was in the control of Highways England and became a County Council highway through St Barbara's Close so the comments provided by each of the organisations should be taken in isolation. He advised that the bend was a traffic calming measure in itself and this would be supported by a physical narrowing and priority signage; these were traditional features which had been assessed by the Department for Transport etc. and County Highways was satisfied it could be designed in a way to keep speeds slow and not create a bottleneck.
- 12.15 A Member sought clarification of the Section 106 and CIL contributions which the applicant's agent had stated had been £830,000 prior to CIL and £1.3 million after the introduction of CIL. The Technical Planning Manager was unsure whether £830,000 was the correct figure for Section 106 monies but the key question was whether Section 106 for a new community building and its associated costs could reasonably be required for a proposed development of 90 dwellings; the CIL tests had been looked at closely and it was not considered to be appropriate – this would also have been the case prior to the introduction of CIL. The current proposal to set aside land for community use was considered to be reasonable in scale and kind.
- 12.16 A Member expressed her disappointment that Highways England had not attended the meeting. In light of the indicative masterplan and successful Garden Town bid and the possible A46 offline solution, she questioned how this application would impact on the masterplan, whether Officers considered this to be piecemeal planning and if it could be incorporated into the Garden Town bid. The Technical Planning Manager confirmed this was piecemeal development and the Officer recommendation for a delegated permission was a result of the five year housing land supply position. He had talked about consistency at the last Planning Committee meeting and indicated that this approach was following the same line that had been taken at the Fiddington Inquiry, albeit that had been in advance of the Garden Town proposal. Given the amount of uncertainty around the offline solution, this could not be used as a reason to withhold planning permission. There was a discrepancy in terms of the wider perspective of the masterplan for the Garden Town but this was not so substantial to create a problem and it could still be delivered effectively in his view. A Member questioned when a report could be expected in terms of Fiddington and,

bearing in mind the current conditions of the tilted balance, how comfortable Officers would be with defending a potential appeal should Members be minded to refuse this application. In response, the Legal Adviser explained there was a bespoke programme for Fiddington which included the Inspector's report being submitted to the Secretary of State by mid-September; however, it would still then be a case of awaiting the decision of the Secretary of State. The tilted balance was engaged due to the five year housing land supply position and a planning judgement was required in which the proposal had to cause significant and demonstrable harm in order to justify a refusal and she could not see anything in the Officer report to support that.

- 12.17 The Chair indicated that the Officer recommendation was to delegate authority to the Technical Planning Manager to permit the application, subject to the resolution of outstanding surface water drainage matters; imposition of/amendments to appropriate planning conditions; and the completion of a Section 106 Agreement to secure: 40% affordable housing, on-site public open space including a Local Equipped Area for Play (LEAP), an off-site playing pitch contribution of £74,925, serviced land for community use and £73 per dwelling for recycling and waste bins, and he sought a motion from the floor. It was proposed and seconded that authority be delegated to the Technical Planning Manager to permit the application in accordance with the Officer recommendation.
- 12.18 During the debate which ensued, a Member reiterated that the application had been submitted with a promise to deliver a community building as was clearly stated in the description of the application in the Officer report. The Parish Council was enormously frustrated that the applicant had subsequently reneged on this purely because CIL was now being collected and there was a larger bill to pay. The community facility had been included in the list of benefits being provided by the proposal but it was clear that was not the case. She was adamant that the land should be secured for the Parish Council and the community and also that an investigation should take place as to whether the hours of construction could be reduced to a level that was considered reasonable for the site residents. She pointed out that there would not be enough CIL money for the Parish Council to build a community facility here and there was a risk that the land itself would not come forward should the application be refused and an appeal subsequently be lodged, therefore, her preference would be to take control and ensure that all that had been promised was delivered for the future of the community. The Technical Planning Manager explained that the community land would be secured via a Section 106 Agreement, as set out in the Additional Representations Sheet. In terms of the working hours, rather than specify this now, he suggested that Officers work with Environmental Health to look more closely at the condition - his gut feeling was that to restrict the working hours further, as had been suggested, was unlikely to bear an appeal Inspector's decision as the working hours were based on World Health Organisation recommendations; however, there may be specific circumstances which would allow a departure. If the planning permission required a scheme to be agreed specifically at the time, this would give Officers control, recognising Members' views in terms of the current proposals. A Member suggested that restricting the hours of working further may ultimately be worse for residents as it would only prolong construction and make it more onerous for the people living there. Another Member raised concern that, based on her experience of Section 106 in other parts of the borough, community facility land was not always handed over to Parish Councils when it should be and she sought assurance that the land would be provided permanently for the Parish Council. Another Member added that there were also occasions when the benefactor had problems with the land that was handed over by the developer so he asked whether a condition could be included to ensure that the land was in an acceptable state when it was transferred. There had been a lot of discussion about the community land and there was currently no assurance that anything would actually be built upon it, given that the CIL money was unlikely to be enough to cover the cost, so he questioned whether it was possible to go back to the

applicant to ask them to provide the building. In response, the Technical Planning Manager explained that there had been much discussion throughout the application process and initially it had been proposed that the community building would be provided by the developer; however, this was essentially no longer being offered and the reasons for that had been explained. Having looked at whether it would be reasonable to require the developer to build a village hall for a development of 90 houses, given the position with CIL, Officers had taken the view that was not the case. With regard to the state of the land, he provided assurance that the Section 106 Agreement would set out the standard required and the land would need to meet those requirements. There would normally be a clause in the Section 106 Agreement which meant that the land would revert back to the developer after a certain period of time, for instance, if it was no longer required by the community; this would be part of the Section 106 negotiations but it was unlikely it would be open-ended and it would be unreasonable to require that – if nothing ever came forward for community use the land would be vacant and it was necessary to strike a balance between that use and it being left unoccupied which was probably not in the best interests of the community post-development.

- 12.19 A Member drew attention to Page No. 164, Paragraph 6.25 of the Officer report which stated that a revised Flood Risk Assessment was being reviewed by the Lead Local Flood Authority and that an update would be provided at Committee. The Planning Officer advised that a response had not yet been received from the Lead Local Flood Authority; however, the site was within Flood Zone 1 which was at least risk of flooding and the revised Flood Risk Assessment related more to the technical detail of how surface water drainage would be dealt with on the site which would be assessed as part of the reserved matters application.
- 12.20 A Member indicated that she had been on the Committee Site Visit and considered the proposed access to be diabolical therefore she would not be supporting the proposal for a delegated permission. A Member recognised that the lane to the right of the site could not be used for the main access but queried whether it could be used as access for construction vehicles. He also expressed the view that it was outrageous for the developer to retract its offer to provide the community building given that this had been agreed with the Parish Council. The Technical Planning Manager confirmed that the construction access was a concern and this would be conditioned through the Construction Management Plan that would be required as part of the planning permission. In terms of the community building, he reiterated that his firm advice would be that it was reasonable to require the developer to provide community land but not to require a community building; whilst the applicant may have made that commitment originally, Members needed to make a decision based on the planning policy and guidance before them.
- 12.21 The proposer and seconder of the motion indicated that they would be happy to amend their proposal to include the condition to require electric charging points to be provided throughout the development and for the condition in relation to working hours to be discussed with Environmental Health to consider whether there were any circumstances which would allow a further restriction that would be more reasonable for the existing residents in view of the fact that the only access was via St Barbara's Close. Upon being put to the vote, it was

**RESOLVED** That authority be **DELEGATED** to the Technical Planning Manager to **PERMIT** the application, subject to the resolution of outstanding surface water drainage matters; imposition of/amendments to appropriate planning conditions including a condition requiring electric charging points to be provided throughout the development and the condition in relation to working hours being discussed with Environmental Health to consider whether there were any circumstances which would allow a further restriction that would be more reasonable for the existing residents in view of the fact that the only access was via St Barbara's Close; and completion of a Section 106 Agreement to secure 40% affordable housing, on-site public open space including a LEAP, an off-site playing pitch contribution of £74,925, serviced land for community use and £73 per dwelling for recycling and waste bins.

**18/01295/OUT – Fortitude, Birdlip Hill, Witcombe**

12.22 This was an outline application for the demolition of an existing log cabin and the cessation of the extant log cabin development and erection of a new single dwelling (including means of access).

12.23 The Planning Officer advised that the site was located on 1.3 hectares of land known as Fortitude, on the north east side of Birdlip Hill Road and within the Cotswold Area of Outstanding Natural Beauty. It was in an isolated position outside of any defined settlement with Brockworth being the closest settlement approximately two miles away. There was an extant planning permission on the site for 10 log cabins for the use of tourism, and manager's accommodation, which was granted on appeal in 1992. There was considerable planning history on the site since that time, including the refusal of planning permission for four dwellings, and subsequently for three dwellings, in February 2016. The access onto the site and track around the site had been implemented and there was one existing log cabin on the central part of the site which was currently used for short term holiday let; no further development had taken place in terms of the extant permission. With regard to the current application, the proposal was for the demolition of the existing log cabin, and cessation of the extant planning permission for the wider log cabin development, and the erection of one detached dwelling. This application was in outline form, therefore, the size of the dwelling, design and landscaping had not been included and would be subject to a reserved matters application. The illustrative scheme that had been submitted with the application showed the proposal utilising the existing access from the Birdlip Hill Road and there was an indicative form of a dwelling on the site of the existing log cabin, shown on the plan in dash form, which provided a comparison of the existing log cabin size with the proposed indicative dwelling - all of the 1.3 hectares and the pond were proposed to be included within the residential curtilage. It was noted that Great Witcome and Badgeworth Parish Councils had both objected to the scheme. In addition, there had been five letters of support, five letters of objection and a petition of objection with 30 signatories; there was no objection from County Highways. The applicant's agent had provided the fallback position that the construction of 10 log cabins and associated facilities would be developed and had argued that the extant scheme would have a more harmful impact on the Area of Outstanding Natural Beauty and in terms of traffic movements and noise. Although Officers acknowledged there would be a reduction in transport movements from the approved tourism scheme, it was their opinion that, without the detailed design and size of the proposed dwelling, the full impact of the scheme on the Area of Outstanding Natural Beauty could not be determined. Furthermore, the proposal was contrary to Policy SD10 as it was an isolated site, as such, Officers were of the view that the application should be

refused in its outline form.

- 12.24 The Chair invited the applicant's agent to address the Committee. The applicant's agent indicated that the Committee would no doubt be aware of the history of the site which centred around 10 holiday log cabins granted on appeal during the 1990's. That permission had been implemented through the construction of one log cabin and, although not complete, it was an extant permission that could be lawfully finished at any time – this formed the baseline consideration for any alternative proposal. It was fair to say that the log cabin consent was not welcomed locally and it had always been seen as a problem site so it was in everyone's interest to find the best possible solution once and for all. He explained that previous applications for four and five dwellings had been refused on the basis that those scales of development did not tip the balance in favour; however, this proposal was for a single dwelling only which was the least intensive form that could be proposed – for the avoidance of doubt, he clarified that this would result in the cessation of the log cabin permission. He drew attention to Page No. 180, Paragraph 5.15 of the Officer report which, in his view, set out the principle issue: *“Officers do agree that the log cabin development would have a landscape impact and that an argument could be made that a different, smaller-scale and high quality residential scheme could potentially result in a better and less harmful development which in the overall balance could potentially outweigh the conflict with housing policy”* – in other words, this was a matter of planning judgement and it was for the Committee to decide the relative merits of the case. The main concern seemed to be limited to the fact that the application was submitted in outline form with the suggestion that there could be no certainty that there would be an improvement to the Area of Outstanding Natural Beauty. Firstly, he wished to emphasise that that application proposed a maximum of 800 square metres of floorspace – this was a firm proposal and could be conditioned. This was a 115% reduction from the 1,700 square metres that had consent for the log cabins and less than half the size of what was already approved. Without being flippant, he failed to see how a single dwelling contained within a small part of the site, and less than half the floor space of the log cabins that were spread across the whole site, could ever be said to have a greater impact on the Area of Outstanding Natural Beauty. The applicant was committed to a high-quality design which was demanded by a site of this nature. If the Council was to later judge that the detailed scheme was not of sufficient quality, it would ultimately refuse it, as with all detailed applications that followed outline consent. It was difficult to see why the outline application was of concern and he drew attention to the fact that Item 2 of the Planning Schedule related to an outline scheme for 90 dwellings and the recently conceded appeal for 850 dwellings at Fiddington was also an outline application – outline planning permissions had also previously been granted by the Council in the Area of Outstanding Natural Beauty and he referenced 22 dwellings being granted at Gretton Road, Winchcombe and questioned why a single dwelling on a brownfield site was such an issue. Finally, the Planning Officer had confirmed to him in writing in March 2019 that the application was finely balanced at that time in the context of a 5.3 year housing supply; it was now known that the Council's supply had been somewhat decimated and, if it had been finely balanced in March, how could the balance not have firmly tipped in favour of this proposal given the obvious need to boost supply. He felt this was the best opportunity there would ever be to close this chapter and deliver a solution and he urged Members to move on and permit this preferable development.
- 12.25 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. The proposer of the motion indicated that the history of the site dated back some 20 years and, in spite of what the applicant's agent had stated, the planning permission was only extant because only one of the ten log cabins had been built. The Area of Outstanding Natural Beauty was the most protected type of land in the country and,

whilst tourism was a permitted use, she questioned how anyone could assume it would be acceptable to build a house there. She felt that Members must refuse the application as allowing a permanent structure would set a precedent and, in view of the fact that the last application submitted by the applicant was for three dwellings, she was quite convinced that more applications would follow.

- 12.26 A Member agreed that the site had been a bone of contention since the 1990s when the Planning Inspector had originally permitted the development of log cabins on the site. The applicant had now applied for a single dwelling which he could only assume would be built to a very high standard given its location in such a prime site. The issue for Members to consider was the impact on the Area of Outstanding Natural Beauty and he felt that 10 log cabins plus manager's accommodation would be significantly greater than that of a single dwelling which would clearly not exceed the 1,700 square metres which had been granted planning permission. As such, he urged Members not to support the motion for refusal. A Member shared this view and indicated that there had been no objections from the Public Rights of Way Officer, the Tree Officer or from County Highways. He felt that the proposal was in accordance with Paragraphs 11a, 11b ii), 11c and 11d of National Planning Policy Framework, Section 38 (6) of the Planning and Compulsory Planning Act 2004 and Section 70 (2) (c), Section 78 and Schedule 6 of the Town and Country Planning Act 1990. In terms of the Officer report, he drew attention to Page No. 180, Paragraph 5.13 which stated that no details of the design had been provided and he indicated that should be covered by condition, for instance, by requiring the dwelling to be of exceptional design and build quality. In terms of Page No. 181, Paragraph 5.23 of the Officer report, which stated that the National Planning Policy Framework set out that local planning authorities should aim to conserve and enhance biodiversity, he pointed out that the impact on habitats would be significantly reduced with one dwelling as opposed to 10 log cabins, sports facilities, a swimming pool and a manager's residence and a single dwelling would also reduce traffic on and off the site. Page No. 181, Paragraph 5.24 of the Officer report related to the 2015 ecological survey being out of date and he pointed out that this had not been mentioned in respect of the Brockworth, Bishop's Cleeve, Twigworth and Innsworth applications. Paragraph 5.26 set out that the site was within a secluded rural location and would not have an undue impact on neighbouring properties and he indicated that the site was 1.5km from the Cotswold Way and would be much less intrusive than the Bentham Domes or Pace Cottage which was in an exposed position above this application site. The site had already been tested at appeal and the Council had lost and, whilst he recognised the distinction between tourism and residential development, this application came to the Committee in what he would define as exceptional circumstances. Page No. 178, Paragraph 5.7 of the Officer report set out that the Council could demonstrate a 4.33 housing land supply but, in his view, this was out of date following the Highnam judgement dated 8 July 2019 with the Highnam appeal having found that the Council could demonstrate a housing land supply of around 3.99 years. He also felt that this was further supported by the Statement of Common for the Land at Fiddington appeal dated 7 June 2019. In the Highnam judgement it was stated that the Council's dissatisfaction with the interpretation of planning policy was a matter which could be re-examined in a subsequent appeal if there was good reason to do so. The Member indicated that his problem with this statement, and the Fiddington Statement of Common Ground, was that the Council had lost over 30 planning appeals since 2011 based on a housing calculation that, in his view, was unsound. If this application was refused and the applicant took the Council to appeal under the current tilted balance, he would have serious reservations as to what would come forward on the site and would rather the local planning authority keep control of the planning process.

12.27 In response, the Technical Planning Manager clarified that, given the harm that it was considered would be caused to the Area of Outstanding Natural Beauty, the tilted balance would not apply. Officers felt that it was necessary to see what the actual impact of a very large building would be as it had not been demonstrated that a single dwelling would result in a lesser impact than separate log cabin structures set across the site. It was ultimately a matter of judgement as to whether the landscape impact was such that the proposal should be refused and Officers had taken the view that more detail was needed for Members to make a fully informed decision. A Member indicated that it was possible to build in the Area of Outstanding Natural Beauty and pointed out that the Council had permitted a single dwelling of supposedly superior design on Cleeve Hill. The proposer of the motion to refuse the application recognised that it was possible to build in the Area of Outstanding Natural Beauty but there were very specific directions in that regard and she made reference to two properties in Prestbury and Leckhampton Hill which had been permitted due to their innovative design and ecological credentials. The difference with this proposal was that Members had no idea what the dwelling would look like in terms of size, design or form and it would be irresponsible to permit something in such a protected area without that knowledge, furthermore, it would be setting a precedent for residential development. Another Member agreed that she needed more information before she could make a decision as, although there may be potential for a residential dwelling on the site, it was important to know what that would look like. If the application was permitted she would like to see a condition included to restrict the residential curtilage to prevent further building in the area. She would be happy to support the motion to refuse the application as she would like to see a full application setting out exactly what the applicant was proposing to ensure this met with the requirements of the Area of Outstanding Natural Beauty. The Chair indicated that he had similar feelings in that there probably was a case for a well-designed building in the landscape which could be considered to be of exceptional quality and he queried whether a deferral would be an appropriate way forward. In response, the Technical Planning Manager clarified that the Committee may wish to defer the application in order to require the applicant to provide more details at this stage in respect of reserved matters of appearance, layout, scale and the extent of the residential curtilage. It was subsequently proposed and seconded that the application be deferred on that basis. The proposer of the motion to refuse the application indicated that she was still of the view that it would be more appropriate for Members to refuse the application based on what was before them today and to invite the applicant to submit a full application. A Member questioned how long it would be before the application was out of time and the applicant could appeal on the grounds of non-determination. In response the Technical Planning Manager explained that the deadline had been extended until the following day which meant that, technically, the applicant could submit an appeal at that time; however, he was hopeful that they would have listened to the Committee and would be willing to work with Officers to reach a solution.

12.28 Upon being taken to the vote it was

**RESOLVED** That the application be **DEFERRED** to request that the applicant provide details at this stage in respect of reserved matters of appearance, layout and scale and the extent of the residential curtilage.

**19/00135/FUL – Bishop’s Leys Farm, Butts Lane, Woodmancote**

- 12.29 This application was for the erection of a detached dwelling with integrated garage.
- 12.30 The Chair indicated that he understood there was a feeling amongst some Members that this application should have been subject to a Committee Site Visit and a Member confirmed that he had misunderstood the call-in process and therefore would like to propose that the application be deferred for a Committee Site Visit. The applicant’s agent confirmed that he would forgo addressing the Committee at this meeting. It was subsequently moved and seconded that the application be deferred for a Committee Site Visit and, upon being taken to the vote, it was

**RESOLVED** That the application be **DEFERRED** for a Committee Site Visit.

**19/00184/FUL – Clematis Cottage, Shutter Lane, Gotherington**

- 12.31 This application was for demolition of an existing extension and erection of a two storey side/rear extension and external alterations to the existing building, a link extension to the existing garage, erection of a detached double garage for Butts Orchard and the demolition of a single garage.
- 12.32 The Planning Officer advised that the application proposed extensions to an existing cottage located off Shutter Lane in Gotherington. The existing cottage was two storey with additions to the roof and an existing single storey extension plus outbuildings. The proposal included a two storey extension to the side of the cottage and a two storey gabled rear plus demolition of an existing single bay garage to be replaced with a two bay garage for use by neighbouring properties. There had been several revisions to the original proposal and two iterations of revised plans which had significantly reduced the size and scale of the proposal based on guidance from the Conservation Officer who, along with the Parish Council, had subsequently withdrawn their objection; the Parish Council had submitted an additional representation which was set out in the Additional Representations Sheet, attached at Appendix 1.
- 12.33 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 seconder of the motion advised that the applicant had contacted her a few weeks ago and she had facilitated a meeting between the applicant, Planning Officer and Conservation Officer who had come up with an appropriate scheme for this property, which was effectively land-locked as it stood. She thanked the Officers for their hard work to find an acceptable solution. Upon being put to the vote, it was

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

**19/00284/FUL – 4 Meadvale Close, Longford**

- 12.34 This application was for a proposed two storey side extension and dropped kerb to Fircroft Road to create vehicular access to the property.
- 12.35 The Planning Officer advised that the application related to a two storey end of terrace property in the village of Longford. The property was brick built and occupied a prominent position on the corner of Fircroft Road and Tewkesbury Road. The application sought permission for the erection of a two storey side extension and the creation of a new vehicular access and parking space off Fircroft Road. The proposed extension would be set back from the front elevation of the host dwelling and would be constructed using materials to match the main dwelling. The Officer report provided an assessment of the material considerations which included the design and visual impact of the proposed extension and the impact upon highway safety and flooding. No harm had been identified therefore it was recommended that

permission should be granted. The Planning Officer clarified that the site was within Innsworth Ward and not Coombe Hill as stated in the Officer report.

- 12.36 A Member noted that the Parish Council had objected to the application because of concerns regarding road safety as the proposed vehicular access would join Fircroft Road very close to the junction with Tewkesbury Road and he queried whether this was considered to be an issue. The County Highways representative advised that County Highways had assessed the application and confirmed that appropriate levels of visibility could be achieved and the location was deemed to be safe.
- 12.37 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 pointed out that the application was actually within Innsworth Parish as opposed to Longford Parish. Upon being taken to the vote, it was

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

### **18/00249/OUT – Land at Stoke Road, Bishop’s Cleeve**

- 12.38 This was an outline application for up to 215 dwellings; up to 2.24 hectares of commercial use (B1 and B8); up to 0.2 hectares of retail uses (A1); public open space, landscaping, sustainable urban drainage including associated works, and two vehicular access points from Stoke Road.
- 12.39 The Planning Officer advised that the application had been submitted in March 2018 and, since that time, Officers and consultees had worked proactively with the applicant, in accordance with guidance set out in Paragraph 38 of the National Planning Policy Framework, to ensure that the application was in a suitable condition for presentation to the Planning Committee. During this period, the applicant had agreed to several extensions of time to determine the application and, despite there being a number of unresolved matters, they had decided to lodge an appeal against non-determination; as such, the Council must advise the Planning Inspectorate of its view on the proposals.
- 12.40 The application sought outline consent - with all matters reserved with the exception of two access points from Stoke Road - for up to 215 dwellings; up to 2.24 hectares of commercial land; up to 0.2 hectares of land for a 300 square metre retail unit; 4.96 hectares of green infrastructure, including an area of public open space to the west of the site and a Local Equipped Area for Play (LEAP); landscaping; and an attenuation basin. The site was located to the west of Bishop’s Cleeve and north of Stoke Road and covered an area of approximately 13.5 hectares comprising four fields. The documents submitted with the application included a development framework plan and an illustrative masterplan which indicated how the quantum of development could be delivered. Members were informed that an outline permission for up to 265 dwellings and an A1 convenience retail store of up to 200 square metres on the same site had been refused twice by the Council, once in April 2016 and again in December 2016. The refusal reasons for both applications were identical and principally based around two issues: an unacceptable risk from pollution and failure to provide good connectivity with the existing settlement, thus poor design quality. An appeal was lodged against the refusal of the first outline application which was subsequently withdrawn during the Inquiry. The current application differed from the previous two in that the number of dwellings proposed had been reduced to 215 and the proposal now included commercial development. The layout had also been revised so that the commercial development would be located within the most southern part of the site with the proposed dwellings located beyond this. This would result in a standoff distance of 160 metres from the Wingmoor Farm Integrated Waste Management Facility to the nearest dwelling.

- 12.41 Pages No. 204-227 of the Officer report provided a clear assessment of the principle of development and all other material planning considerations; however, at the time of writing the report, discussions had been ongoing in respect of whether any infrastructure requirements specifically related to the impact of the development would need to be secured via a Section 106 Agreement. Officers had now reviewed the various requests from consultees for financial contributions and concluded that the following would be directly related to the development and should be secured via a Section 106 Agreement, if the appeal was allowed: a contribution towards upgrading the T bus service with the amount to be confirmed by County Highways; the Community and Economic Development Manager had advised that - in accordance with saved policy RCN1 of the Tewkesbury Borough Local Plan and the Council's adopted Playing Pitch Strategy - the proposal would generate a requirement of 0.75 hectares of playing pitches and associated changing facilities, therefore, it was suggested that this requirement be met by an off-site contribution of £344,295 towards the pitches and changing provision at Cheltenham North Rugby Football Club pitches; a contribution towards the future maintenance cost of public open space, including equipped play areas and informal play area, in accordance with the Council's current schedule of rates; and a contribution of £73 per dwelling towards recycling and waste bins. Officers considered all other contributions requested would not meet the prescribed tests and could not be delivered through the Section 106 Agreement, nevertheless, they could be capable of being delivered through CIL. Discussions with the appellant would take place prior to the Public Inquiry in respect of the outlined contributions; however, at this stage there was no signed Section 106 Agreement and the proposed development did not currently adequately provide for public transport improvements, open space, outdoor recreation and sports facilities or recycling and waste bins. As such, an additional refusal reason was recommended, as set out in the Additional Representations Sheet, attached at Appendix 1, to state that *'In the absence of an appropriate planning obligation, the proposal does not make adequate provision for public transport improvements, open space, outdoor recreation and sports facilities and recycling and waste bins. The proposal therefore conflicts with Policies RCN1 and RCN2 of the Tewkesbury Borough Local Plan, Policies INF4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and guidance in the National Planning Policy Framework'*.
- 12.42 In terms of the overall balancing exercise and conclusion, as Members were aware, the Council could not currently demonstrate a five year supply of deliverable housing land therefore the Council's policies for the supply of housing were out of date. In accordance with Paragraph 11 of the National Planning Policy Framework, as there were no National Planning Policy Framework policies for the protection of areas of assets of particular importance which applied, it was clear that the decision-making process for determination of this application was to assess whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. In terms of benefits, the appeal proposal would contribute towards the supply of market and affordable housing to help meet the objectively assessed need for housing in the borough – this weighed in favour of the appeal, particularly given the Council's five year housing land supply position. In addition, considerable weight should be given to the economic benefits that would arise from the proposal, both during and post construction, and through the provision of the proposed employment-generating development. Officers had also identified a number of harms, listed at Pages No. 225-226, Paragraphs 22.7 to 22.14 of the Officer report, which included harm to the landscape by introducing new urban development where there were currently green fields; the loss of Best and Most Versatile (BMV) agricultural land; conflict with the strategic housing policies of the development plan; the proposal would fail to maximise the employment potential of the site; the appellant had failed to demonstrate compliance with the sequential test for the retail element of the proposal; and, insufficient information had been submitted to demonstrate that safe and suitable access to the site could be achieved and to

accurately determine the likely transport impacts of the development. In addition, Officers considered the proposal would not positively contribute to making places better for people, it would not achieve inclusive design having regard to the wider area and would do little to integrate itself with the existing built development of Bishop's Cleeve. Of equal concern was that the appeal failed to demonstrate that residents of the proposed development would not be at risk from pollution arising from the Wingmoor Farm Integrated Waste Management Facility, nor that the proposals would not prejudice the operation of the site for waste management purposes – these were failings of the scheme which would weigh significantly against the proposal. In conclusion, whilst the benefits of the proposal were not underestimated, Officers considered that the identified harms would significantly and demonstrably outweigh the benefits in the overall planning balance, therefore it was recommended that the Planning Inspectorate be advised that the Council would be minded to refuse the appeal.

- 12.43 The Chair invited the representative from Bishop's Cleeve Parish Council to address the Committee. The Parish Council representative indicated that the Parish Council wished to urge the Committee to support the Officer recommendation to refuse the appeal. Whilst the Officer report was comprehensive and set out the key matters, the Parish Council considered that it did not go far enough in terms of the reasons for refusal. The spatial strategy identified a settlement hierarchy with Tewkesbury as the principle town and Bishop's Cleeve and Winchcombe as service centres; however, Bishop's Cleeve was now bigger in terms of population and property than Tewkesbury. This gave an indication of the amount of large scale residential development in Bishop's Cleeve since 2011 which was unsustainable and skewing the spatial strategy. The Parish Council representative drew attention to Page No. 210, Paragraph 6.15 of the Officer report which set out that Bishop's Cleeve fell significantly short of Tewkesbury Town in terms of its service provision and employment opportunities and had already experienced significant growth during the plan period above that of Tewkesbury Town. For that reason, the Parish Council considered that this proposal would result in significant and demonstrable harm and requested that this matter be included in the reasons for refusal.
- 12.44 The Technical Planning Manager advised that, because of the stage the Tewkesbury Borough Plan was currently at, and given the five year housing land supply situation, he could not see any specific harms arising from the issue raised by the Parish Council in respect of the spatial strategy. Bishop's Cleeve being larger than Tewkesbury Town did not mean that it was inherently unsustainable, and nothing had been put forward to demonstrate that the adverse impact of that fact would significantly and demonstrably outweigh the benefits of the proposal which was the test that needed to be applied. He did not doubt that it was an issue, particularly for local residents, but in terms of defending an appeal, he could not see any evidence to support this as a robust reason for refusal in this instance.
- 12.45 The Chair indicated that the Officer recommendation was that the Planning Inspectorate be advised that the Council was minded to refuse the application and he sought a motion from the floor. It was proposed and seconded that the Planning Inspectorate be advised that the Council be minded to refuse the application in accordance with the Officer recommendation. The proposer of the motion thanked the Planning Officer for an excellent presentation and comprehensive report which demonstrated how the refusal reasons had strengthened since the 2016 when outline planning permission had initially been refused on the site. A Member indicated that he had great sympathy with the residents of Bishop's Cleeve and the Parish Council. He questioned when the appeal was due to start and raised concern that, should the Council lose, there would be no opportunity for any input from local Members. In response, the Planning Officer advised that the Council had been selected for a fast-track Inquiry for this appeal, as such, it would commence on 8 October and run until 11 October with a second week scheduled from 22 October, should it be necessary. Another Member expressed the view that it was essential for employment land to

come forward in Bishop's Cleeve to cater for local residents and the Council had looked at this site as a natural progression of the industrial estate for Bishop's Cleeve and the north east of the borough. The Technical Planning Manager explained that the employment potential of the land was recognised both by Officers and by the Tewkesbury Borough Plan Working Group; however, the Tewkesbury Borough Plan and its emerging policies could only be given limited weight at this time - should that change between now and the appeal, the Inspector would be informed and it may be given more weight. The proposer of the motion pointed out that the pre-submission version of the Tewkesbury Borough Plan was due to be considered by Council at the end of the month where Members would be asked to approve it for publication so he hoped that a more definitive version of the Plan would be available by the time the Inquiry came around. The Technical Planning Manager confirmed that plans and policies gained weight the further along the process they were and, if it was the case that the pre-submission version of the Plan was approved by Council for publication, the policies would attract more weight which could be reported to the Inspector.

12.46 Upon being taken to the vote, it was

**RESOLVED** That the Planning Inspectorate be advised that the Council was **MINDED TO REFUSE** the application in accordance with the Officer recommendation.

**18/00864/APP – Phases 2 and 5, Land at Perrybrook, North Brockworth**

12.47 This was an approval of reserved matters application (appearance, landscaping, layout and scale) comprising Phase 5 and Phase 2 (in part) of outline planning permission 12/01256/OUT for the erection of 240 dwellings with public open space, play area and associated infrastructure.

12.48 The Planning Officer clarified that the application site was within Brockworth West Ward rather than Hucclecote Ward as stated in the Officer report. The application related to two adjoining phases of the Perrybrook development to the north of Brockworth and Hucclecote. The application sought approval of reserved matters and comprised residential development laid out in a swathe to the north east of the main spine road providing a total of 240 dwellings, of which 78 would be affordable, ranging in size from one bed apartments to five bedroom houses. The proposal contained landscaping to the northern and eastern boundaries, which included a Local Equipped Area for Play (LEAP), and along the Horsbere Brook in the southern part of the site with additional planting to the western boundary which would provide a suitable buffer to Brockworth Court. The proposed layout was considered appropriate for the site, and was broadly consistent with the principles set at the outline stage in terms of design and character, and the proposed highways layout was broadly in accordance with the masterplan which had accompanied the outline planning permission; however, discussions relating to technical highways matters were ongoing although it was considered they could be resolved with further negotiations. Similarly, the significant landscaping concerns had now been resolved and the minor outstanding details would be resolved by receipt of revised plans. On that basis, the Officer recommendation was for a delegated approval, subject to the resolution of matters relating to highways, landscaping and affordable housing as set out in the Officer report and the imposition of any other conditions as appropriate.

12.49 The Chair invited the applicant's representative to address the Committee. The applicant's representative confirmed that the application before Members was for Phases 2 and 5 of the Perrybrook development and would deliver 240 homes with associated access arrangements as well as public open space and play provision. Of the 240 homes proposed, 78 would be affordable in accordance with the approved site-wide affordable housing scheme. The remaining extra care and health provision would be delivered by separate applicants to fulfil the overall Section 106 requirements for these phases. He pointed out that noise from the A417 had been a key consideration whilst developing the proposals and this had resulted in the

northern edge of the development being orientated in such a way that the perimeter properties would screen noise from the remainder of the development. Acoustic measures would be deployed at varying levels across the whole development including a two metre acoustic fence along the boundary of the A417. The Phase 1 archaeological works had been completed in accordance with the approved written scheme of investigation and signed-off by the County Archaeologist. In addition, support had been secured from the Lead Local Flood Authority for the surface water drainage proposals which had been developed in accordance with the site-wide strategy. The Section 106 Agreement was signed in advance of the developer purchasing the site and, as such, the development would be delivered in accordance with the parameters which had been set. The developer had worked closely with Officers to ensure that a strong design solution was achieved, with placemaking being a key consideration throughout the application, and the proposals had been developed in accordance with the principles set out in the outline Design and Access Statement. Regular discussions had been held with County Highways and the applicant's representative confirmed they were close to agreement on most of the remaining highway matters. He made specific reference to standard roads being 5.5 metres wide, which would allow for plenty of on-street visitor parking, and an additional segment of pedestrian footway/cycleway which would run through the centre of the public open space. The amount of parking had been a key consideration in the evolution of the scheme and confirmation was provided that the development would include just over 650 spaces with all four bed dwellings benefiting from a minimum of three spaces, all three bed dwellings benefiting from a minimum of two spaces and so on with an average of 2.7 spaces per dwelling being achieved.

- 12.50 A Member indicated that she had grave concerns in relation to this development, particularly as the exit on the right hand side of the plan was onto a lane next to a school and the junction of Brockworth Lane and Churchdown Lane was inadequate. There were no plans in place for highways and she felt that approval should not be granted without securing an upgrade to the road - her view was that a roundabout was needed. The Technical Planning Manager advised that the principle of development, including the access points, was in line with the masterplan that had been approved as part of the outline application which had been permitted by the Secretary of State and he indicated that the only option was for traffic to go onto Brockworth Lane and Churchdown Lane. The Member went on to raise concern about the health and safety of over 1,000 children coming out of the school and pointed out that the roads were already a problem at peak times. The Chair indicated that he had sympathy with the Member but, unfortunately, there was nothing more that could be done at this stage given the Secretary of State's decision.
- 12.51 A Member noted there would be an average of 2.7 parking spaces per dwelling and he queried whether there would be on-street parking within the development. He also questioned what was meant by the extra care housing being 'developed by others' and questioned whether there was any indication as to who might actually deliver this. In response, the Technical Planning Manager explained that the extra care housing was part of the planning permission so was part of the proposal that had been put forward in the original outline application. In terms of the current application, the applicant was not in negotiations to build that part of the site, therefore this was not a consideration for the developer. Whilst there was no requirement in the Section 106 Agreement for the extra care housing to be built, planning permission had been granted should someone come forward to deliver it. The Section 106 Agreement included provision for 175 extra care units and it was the landowner's responsibility to ensure there was adequate land for those properties. The County Highways representative drew attention to the parking on the plans and advised that this was tandem style, i.e. back to back, which was not a preferential arrangement but could not be refused on that basis. The applicant had taken on board the comments made by County Highways and had indicated that a different design principle would be adopted moving forward. In terms of the rest of the parking arrangements, Members

were advised that there would be no indiscriminate parking on the highway and County Highways would discuss potential parking restrictions with the applicant. The County Highways representative stressed that the applicant had gone to great lengths to build bridges with County Highways and he was confident that they would be able to work together on those matters.

- 12.52 A Member indicated that he was also concerned regarding the safety of vehicles exiting the development onto small, country lanes; however, he recognised that the access had been permitted as part of the outline planning permission granted by the Secretary of State. Notwithstanding this, he did wonder whether the application was premature and he referred to Page No. 236, Paragraph 5.9 of the Officer report which set out that the local community had raised concern with pressure on the existing doctor's surgery and the fact that the delivery of the local centre had been excluded from this application to be brought forward in a separate reserved matters application by another developer. He felt that a comprehensive view needed to be taken and plans needed to be put in place to give Members comfort that the doctor's surgery would be built. Another Member drew attention to the Additional Representations Sheet, attached at Appendix 1, which set out that a number of technical highway issues remained outstanding with further details being sought from the applicant and he asked what they were. In response, the County Highways reiterated that the Secretary of State had determined the outline planning application and planning permission had been granted for that level of development which could not be changed. Whilst County Highways could be mindful of the reservations and concerns that had been raised regarding highways, the access could not be reconsidered here. In terms of the technical matters, he confirmed that the layout was predominantly sound but it was necessary to determine where give way lines would be etc. Although County Highways was satisfied with the vehicle movements, it was not confident on the rationale for pedestrian movement through the site and connectivity to various parts of the development. These comments had been passed to the developer and he was confident that they would find the best technical solution. In terms of prematurity, the Technical Planning Manager reminded Members that they were considering a reserved matters application for appearance, landscaping, layout and scale, as set out in the description of development. Whilst everyone would like to see the doctor's surgery come forward at the beginning of the development, it would be unreasonable to the refuse application for reasons outside of the remit of the reserved matters being considered. A Member questioned whether Officers were content with the proposed layout and the Technical Planning Manager confirmed that they were – he indicated that lessons had been learnt from past developments and the Planning Officer had done a lot of work with the applicant and County Highways to achieve a layout and form of development that could be presented favourably.

- 12.53 The Chair indicated that the Officer recommendation was that authority be delegated to the Technical Planning Manager to approve the application, subject to the resolution of matters relating to highways, landscaping and affordable housing as set out in the Officer report and the imposition of any other conditions as appropriate, and he sought a motion from the floor. It was proposed and seconded that authority be delegated to the Technical Planning Manager to approve the application in accordance with the Officer recommendation and, upon being put to the vote, it was

**RESOLVED** That authority be **DELEGATED** to the Technical Planning Manager to **APPROVE** the application, subject to the resolution of matters relating to highways, landscaping and affordable housing as set out in the Officer report and the imposition of any other conditions as appropriate.

**PL.13 CURRENT APPEALS AND APPEAL DECISIONS UPDATE**

13.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Pages No. 46-49. Members were asked to consider the current planning and enforcement appeals received and the Ministry of Housing, Communities and Local Government appeal decisions issued.

13.2 It was

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

The meeting closed at 12:54 pm

## Appendix 1

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

Committee date: 16 July 2019

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	
159	2	<p><b>18/00043/OUT</b></p> <p><b>Land At Fitzhamon Park, Ashchurch Road</b></p> <p>Clarification of community facility proposal</p> <p>The applicant has clarified the position in terms of the initially proposed community building and has advised the following:</p> <p><i>'In terms of the community building, this was initially included as the applicants' pre-application conversations with the Parish suggested it would be welcomed and everyone thought the application would be determined prior to the adoption of CIL. During the course of the application, the PC responded to say they weren't sure they wanted the building hence it was removed from the scheme. It was only late in the day that the PC changed their minds and thought it might actually be feasible.</i></p> <p><i>Furthermore, CIL was adopted by TBC and the CIL bill for this scheme will be in the region of £1.3m (based on 54 (60%) open market dwellings with an average size of 120 sq m). Of this, some £40,000 will be passed to the Parish Council 'to be spent on local priorities' (15%, with a cap of £100 per existing Council Tax dwelling as there is no made NDP). Worth noting that the PC would receive c. £325,000 from this scheme alone if they did have an NDP in place!'</i></p> <p>As well as the Parish Council being able to spend this £40,000 on local priorities, Tewkesbury Borough Council is also able to spend Community Infrastructure Levy (CIL) monies on 'social and community facilities (ref. Tewkesbury Borough Council's Regulation 123 list which includes: community halls, indoor sports and leisure facilities, libraries, faith and spiritual, museums, youth facilities and health.)</p> <p>In addition to £1.3million CIL, the Section 106 will require £6,570 monies for recycling and waste bins (as well as 40% affordable housing and on-site public open space) (ref: Committee report).</p> <p>When the application was first submitted and the community building offered, there was no CIL and the Section 106 monies amounted to £829,608 (pre-school, primary school, secondary school/sixth form and library resources) (as well as 40% affordable housing and on-site public open space).</p> <p>It seems to us that the applicants' offer to provide the land for Tewkesbury Borough Council/Parish Council is a fair compromise under the circumstances.</p> <p>It is considered that the proposed community land contribution is on balance reasonably related in scale and kind to the proposed development and can be secured through a Section 106 agreement.</p>

## Open space and play

The Council's Community and Economic Development Manager has requested the following contributions:

### **Playing Pitch Provision**

*Tewkesbury Borough Council's Sports, Social and Open Spaces Strategy outlines a financial requirement for £74,925 for playing pitch provision, based on the need for 0.27 of a pitch. It is recommended that this is directed towards Pamington Playing Fields, which is close to the site and would serve the new population, or other facilities within Ashchurch Rural Parish. The Pamington facilities are also identified within the Football Association Football Facilities Development Plan for expansion.*

### **Community Facilities**

*The Parish Council has expressed a need for the community use land.*

#### *Play - Fields in Trust*

*Based on Fields in Trust guidelines, it is recommended that a LEAP be provided, particularly due to the proximity of the Primary School. This would be best located on the informal kick-about area and the play trail shown on the Illustrative Masterplan should relate to this. '*

This provision is required by Tewkesbury Borough Plan saved Policies RCN1 and RCN 2 and the Councils Playing Pitch Strategy could be secured by Section 106.

A further representation has been received and the comments are set out below:

*'The development is back fill (ribbon development), the 'community centre' will generate considerable traffic to a roadway already hazardous from residents parking and from school traffic, Fitzhamon Park roadway is not capable of managing this additional traffic movement. The A46 is already struggling to cope with vehicle movement and will deteriorate further with an additional 215 houses being built at Pamington and outline consent to the rear of Fitzhamon Park for 49 dwellings, this development would impact further on Ashchurch in terms of traffic and pollution, aside from the environmental impact upon Tirl Brook.*

*The proposal is completely inappropriate'.*

### **Amended Condition**

Condition 9 is revised as set out below in order to refer to the correct drawings and details:

9. The details to be submitted as part of the Reserved Matter(s) application for layout, appearance and scale, pursuant to Condition 1 shall accord with principles set out within the Fitzhamon Park, Ashchurch Design and Access Statement (June 2019) received on 28th June 2019 and Illustrative masterplan RHIN160211 IMP-01 Rev.K received on 15th July 2019 and any other conditions attached to this permission.

Reason: To ensure a satisfactory appearance to the development.

### **Revised Recommendation**

It is recommended that authority is **DELEGATED to the Technical Planning Manager to PERMIT the application, subject to resolution of outstanding surface water drainage matters; imposition of/amendments to appropriate planning conditions; and the completion of a Section 106 legal agreement to secure the following:**

- Affordable Housing - 40%
- On-site Public Open Space including a Local Equipped Area for Play

		<p><b>(LEAP)</b></p> <ul style="list-style-type: none"> <li>- Off-site playing pitch contribution of £74,925</li> <li>- Serviced land for community use</li> <li>- Recycling and waste bins - £73 per dwelling</li> </ul>
174	3	<p><b>18/01295/OUT</b></p> <p><b>Fortitude, Birdlip Hill, Witcombe.</b></p> <p><b>Ecology</b></p> <p>The agent has submitted an updated ecology report dated July 2019.</p> <p>This report has concluded that although parts of the site may be suitable for use by some protected species, there were none apparent. The area of the proposed dwelling would not impact upon any of the detailed habitats, including the pond on the site nor the existing hedgerows. The managed grassland around the site currently would not be suitable for reptiles, nesting birds nor Great Crested newts as it would be too short.</p> <p>Therefore, there are no objections with regards to ecology, subject to the recommendations set out in the ecology report.</p> <p>Due to this updated report, Officers are removing refusal reason 3, regarding the out of date ecological report.</p> <p><b>Current accommodation</b></p> <p>There was a request for clarification as to whether the existing log cabin is currently being resided in. The agent has responded to say the log cabin is <i>'let out for short-term stays, as per its lawful use. It has never been occupied as anyone's permanent or primary place of residence.'</i></p>
191	5	<p><b>19/00184/FUL</b></p> <p><b>Clematis Cottage, Shutter Lane, Gotherington</b></p> <p>Gotherington Parish Council has made an additional representation in response to the revised proposal as follows:</p> <ul style="list-style-type: none"> <li>- The Parish Council objected to the original plan as it was considered that the design did not fit in with its setting.</li> <li>- The Parish Council was positively influenced by the Conservation Officer's report concerning the latest plan.</li> <li>- Parish Councillors also visited the site and were reassured that the new plan would retain the traditional nature of the property.</li> <li>- Gotherington Parish Council's recommendation to the Planning Committee is to <b>approve</b> the amended application.</li> </ul>

201	7	<p><b>18/00249/OUT</b></p> <p><b>Land At Stoke Road, Bishops Cleeve</b></p> <p><b>Consultations &amp; Representations</b></p> <p><u>Environment Agency</u> - The Environment Agency has previously confirmed it has no objections in principle to the proposal; however, further information was requested in relation to the levels from the return periods run in the new modelling. The additional information has been received and reviewed by the Environment Agency and confirmation has been provided that it is satisfied with the detail but recommend a condition in terms of the floor levels, should planning permission be granted.</p> <p><u>Local Residents</u> - Two further comments objecting to the application have been received. The majority of the objections raised have already been summarised in the main Committee report. The new objections are summarised below:</p> <ul style="list-style-type: none"> <li>- insufficient consideration and lack of evidenced resolution for significantly increased flood risk downstream in Stoke Orchard and towards Tewkesbury;</li> <li>- the jobs are low value employment which are not in sufficient demand in Bishops Cleeve;</li> <li>- the retail space will exacerbate traffic issues;</li> <li>- the development will be ill-served by public transport; and</li> <li>- risk people will buy the houses but won't fully enjoy living in them.</li> </ul> <p><b>Other Developer Contributions Update</b></p> <p>As set out in Paragraph 17.2 of the Committee report, a number of consultees have requested financial contributions towards local infrastructure. Officers have now reviewed the requested contributions and conclude that the following contributions would be directly related to the development and thus should continue to be secured via a Section 106 agreement:</p> <ul style="list-style-type: none"> <li>- a contribution towards upgrading the T bus service - amount to be confirmed by the Local Highway Authority;</li> <li>- in relation to playing pitches, an off-site contribution of <b>£85,850</b> towards improving the pitch provision at Cheltenham North RFC, which is opposite the site, is required. In addition, an off-site contribution of <b>£258,445</b> towards improving the changing facilities at Cheltenham North RFC is required;</li> <li>- a contribution towards the future maintenance cost of public open space, including equipped play areas and informal play areas, is also sought in accordance with the Council's current schedule of rates;</li> <li>- a contribution of £73 per dwelling towards recycling and waste bins.</li> </ul> <p>All other contributions requested would not meet the prescribed tests and cannot be delivered through the Section 106. Nevertheless, could be capable of being delivered through CIL.</p> <p>Discussions with the appellant will take place prior to the Public Inquiry in respect to the above contributions; however, at this stage there is no signed Section 106 agreement. On that basis the proposed development does not adequately provide for public transport improvements, open space, outdoor recreation and sports facilities and recycling and waste bins.</p>
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		<p>As such, an additional refusal reason (No.6) is recommended:</p> <p><i>In the absence of an appropriate planning obligation, the proposal does not make adequate provision for public transport improvements, open space, outdoor recreation and sports facilities and recycling and waste bins. The proposal therefore conflicts with Policies RCN1 and RCN2 of the Tewkesbury Borough Local Plan, Policies INF4, INF6 and INF7 of the Gloucestershire, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and guidance in the National Planning Policy Framework.</i></p>
228	8	<p><b>18/00864/APP</b></p> <p><b>Phases 2 &amp; 5, Land At Perrybrook, North Brockworth</b></p> <p><b>Affordable Housing</b></p> <p>The affordable housing on the entire Perrybrook site is governed by the approved Site Wide Affordable Housing Scheme (SWAHS). The current application provides for all the general affordable housing required under the SWAHS for phases 2 and 5 (78 units). However, the SWAHS also proposes 60 and 115 extra care affordable units on phases 2 and 5 respectively. The applicant suggests that this extra care housing, plus the doctor's surgery and retail space will be accommodated within those remaining parcels of phases 2 and 5 which are shown as 'to be developed by others' on the layout plan submitted with the current application. Discussions are ongoing in this regard and it is recommended that resolution of this matter is delegated to the Technical Planning Manager to ensure that the granting of the current application does not prejudice the provision of the extra care affordable housing, doctor's surgery and retail space.</p> <p><b>Highways</b></p> <p>The applicant met with the Highways Officer last week and additional technical drawings were subsequently provided. A number of technical issues remain outstanding and further details have been sought from the applicant. It is considered that the outstanding matters can be resolved through continuing discussions and appropriate conditions.</p> <p><b>Landscape</b></p> <p>The Council's Landscape Adviser is broadly satisfied with the proposal and the majority of original concerns have now been resolved. It is considered that remaining matters can be resolved in a satisfactory manner through ongoing discussions and appropriate conditions.</p> <p>The recommendation remains as set out in Paragraph 6.2 of the Committee report.</p>