

9 September 2019

Committee	Planning
Date	Tuesday, 17 September 2019
Time of Meeting	10:00 am
Venue	Tewkesbury Borough Council Offices, Severn Room

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND

Agenda

1. ANNOUNCEMENTS

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

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

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive apologies for absence and advise of any substitutions.

3. DECLARATIONS OF INTEREST

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



	Item	Page(s)
4.	MINUTES	1 - 37
	To approve the Minutes of the meeting held on 20 August 2019.	
5.	DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL	
	(a) Schedule	
	To consider the accompanying Schedule of Planning Applications and proposals, marked Appendix "A".	
6.	CURRENT APPEALS AND APPEAL DECISIONS UPDATE	38 - 43
	To consider current planning and enforcement appeals and Ministry of Housing, Communities and Local Government (MHCLG) appeal decisions.	

DATE OF NEXT MEETING
TUESDAY, 15 OCTOBER 2019
COUNCILLORS CONSTITUTING COMMITTEE

Councillors: R A Bird, G F Blackwell, R D East (Vice-Chair), J H Evetts (Chair), 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, S A T Stevens, P D Surman, R J E Vines, M J Williams and P N Workman

Substitution Arrangements

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

Recording of Meetings

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

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

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Tuesday, 20 August 2019 commencing at
10:00 am**

Present:

Chair	Councillor J H Evetts
Vice Chair	Councillor R D East

and Councillors:

G F Blackwell, M A Gore, D J Harwood, A Hollaway, M L Jordan, J R Mason, P W Ockelton,
A S Reece, P E Smith, C Softley (Substitute for R J G Smith), P D Surman, R J E Vines,
M J Williams and P N Workman

also present:

Councillor P D McLain

PL.14 ANNOUNCEMENTS

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

PL.15 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

- 15.1 Apologies for absence were received from Councillors R A Bird, E J MacTiernan and R J G Smith. Councillor C Softley would be acting as a substitute for the meeting.

PL.16 DECLARATIONS OF INTEREST

- 16.1 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.
- 16.2 The following declarations were made:

Councillor	Application No./Agenda Item	Nature of Interest (where disclosed)	Declared Action in respect of Disclosure
G F Blackwell	19/00320/FUL Land Adjacent to 53 Parton Road, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.

M A Gore	19/00422/APP Land Adjoining Gretton Road, Gotherington.	Was the local Ward Member when the application had initially been submitted and had met with the Parish Council but had not expressed an opinion.	Would speak and vote.
A Hollaway	19/00135/FUL Bishop's Leys Farm, Butts Lane, Woodmancote.	Is a friend of the applicant.	Would not speak or vote and would leave the room for the consideration of this item.
M L Jordan	19/00320/FUL Land Adjacent to 53 Parton Road, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.
C Softley	19/00320/FUL Land Adjacent to 53 Parton Road, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.

16.3 There were no further declarations made on this occasion.

PL.17 MINUTES

17.1 The Minutes of the meeting held on 16 July 2019, copies of which had been circulated, were approved as a correct record and signed by the Chair.

PL.18 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL

Schedule

18.1 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.

19/00269/FUL – 10 Columbine Road, Walton Cardiff, Tewkesbury

18.2 This application was for construction of a new place of worship and provision of associated vehicular access and parking area, cycle store, landscaping and drainage. The Committee had visited the application site on Friday 16 August 2019.

- 18.3 The Planning Officer advised that the application was for a place of worship and associated infrastructure and the plans before Members had been revised following consultation. Various conditions had been suggested for inclusion on the planning permission. The application site was a vacant parcel of land in the context of the existing Wheatpieces local centre and had extant planning permission for a day nursery for up to 24 children which had never been implemented; the application before Members was for another use which was considered acceptable within the context of a community area.
- 18.4 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 raised concern regarding traffic, particularly during school term time, and he questioned how an acceptable highway safety impact would be achieved. In response, the County Highways representative explained that a site visit had been carried out with the Parish Council which had highlighted the highway safety concerns. He advised that the retail area would be used for parking as well, which was more than generous, and the survey that had been carried out to assess the parking on a worst-case scenario basis had demonstrated there would still be opportunities for on-street parking that would not cause a highway issue. It was also noted that County Highways would be looking to formalise the zigzag markings as part of the extension to the school which was coming forward. It was not considered that access to and from the school would be adversely impacted by the proposal, or that it would result in any significant highway safety issues. In response to a query regarding noise abatement, the Planning Officer advised that, as set out in the Officer report, the Environmental Health Officer had looked carefully at the proposal and was satisfied that noise, both within the building itself and externally via the air conditioning unit, could be attenuated. It was noted that no conditions were proposed in terms of the hours of operation and Officers were happy that any issues that did arise could be dealt with satisfactorily under noise nuisance provisions.
- 18.5 Upon being put to the vote, it was
RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.
- 19/00422/APP – Land Adjoining Gretton Road, Gotherington**
- 18.6 This was an approval of reserved matters application for access, scale, appearance and landscaping pursuant to outline planning permission reference: 16/00336/OUT.
- 18.7 The Planning Officer explained that the application sought approval of the remaining reserved matters following previous approval of the layout by the Planning Committee in January 2018. The current application built upon the design statement submitted at the outline stage and the previously approved layout which would provide six detached units fronting Gretton Road with a further four dwellings set to the rear part of the site. The proposed appearance, scale and landscaping were considered acceptable in the context of the village, as set out in the Officer report. County Highways had now confirmed there were no objections on highway safety grounds or to the proposed access arrangements, subject to conditions. The proposal was therefore considered to be acceptable and the recommendation was that the application be approved subject to the conditions set out in the Officer report and on the Additional Representations Sheet, attached at Appendix 1.
- 18.8 The Chair invited the applicant to address the Committee. The applicant indicated that this was the third time he had been required to address the Committee in relation to the long running saga on this relatively small site. The site had first been promoted in the Parish Council's draft Neighbourhood Development Plan over four and half years ago when the Parish had sought 25-27 houses on the site as a preferred location. After local consultation, an outline application had been

submitted in 2016 for 27 dwellings; however, in accordance with a request from the Council's Urban Design Officer, this had subsequently been reduced to 10 dwellings. The Parish Council had not been happy with this change and had opposed the application but planning permission had been granted in November 2017. As the Urban Design Officer was unhappy with the illustrative layout, reserved matters details had been submitted solely for the siting of the dwellings and, despite opposition from the Parish Council, this application had been approved in January 2018. The remainder of the reserved matters application had been prepared by an experienced planning consultant who had also prepared two or three other recently approved housing schemes in the village, and specialist advice had also been sought in relation to highways. Consultation had taken place with the Urban Design Officer and together they had come up with the scheme before Members today. Notwithstanding this, it was still being opposed by the Parish Council, hence its referral for Committee determination. He believed that the application had been carefully prepared and considered to generate an attractive, low density housing scheme on the edge of the village, using a layout and floorplans which had already been approved and he urged the Committee to approve the application in accordance with the Officer recommendation in order for the scheme to finally come to fruition.

18.9 A Member noted that the Parish Council had objected to the application as this did not accord with the Neighbourhood Development Plan and she questioned why this was the case and where the scheme did fit in. In response, the Planning Officer explained that the site was an allocation in the Neighbourhood Development Plan and the Parish Council had raised concern with regard to the size and scale of the buildings which it considered did not fit with the character of the village; however, Planning Officers' felt that the charm and character of the village was partly due to the variation in scale of existing properties and a mixed housing scheme, which included two storey, houses and bungalows, was considered appropriate in this location. The Member indicated that a lot of the new houses in Gotherington used Bradstone type bricks but the photographs seemed to show red brick and she questioned what materials would be used. Clarification was provided that materials would be controlled by condition and would require further approval by the Local Planning Authority so the comments made in relation to the colours could be taken on board.

18.10 The Chair indicated that the Officer recommendation had been changed from delegated approve to approve, subject to conditions set out in the Officer report and on the Additional Representations Sheet, and he sought a motion from the floor. It was proposed and seconded that the application be approved in accordance with the Officer recommendation and, upon being put to the vote, it was

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

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

18.11 This application was for the erection of a detached dwelling with an integrated garage. The application had been deferred at the Planning Committee meeting on 16 July 2019 for a Committee Site Visit which had taken place on Friday 16 August 2019.

18.12 The Planning Officer indicated that Members would have received a letter from the applicant's agent and it was important to note that the appeal decisions referenced had been allowed in a very different context. The 2012 version of the National Planning Policy Framework had meant that, in those cases, the presumption in favour of sustainable development was engaged; this was no longer the case as the National Planning Policy Framework was now very clear that, where there was

landscape harm in an Area of Outstanding Natural Beauty, the tilted balance did not apply. It was therefore wrong to suggest that the appeal decisions quoted indicated that planning permission should be granted in this case.

- 18.13 The Planning Officer went on to advise that the application was for a two storey, four bed detached dwelling with an integrated garage on land adjacent to Bishop's Leys Farm. The site lay within the Area of Outstanding Natural Beauty and was a triangle parcel of land between the drive serving the farm and a track to the stables to the south east. The proposed dwelling would be set into the slope of the site with a ridge height of 105.35m, which was slightly lower than the existing dwelling, and would be built from Cotswold stone walls with a plain tile or slate roof. Whilst the proposal included some traditional features, the detailed design was not reflective of the high quality expected in an Area of Outstanding Natural Beauty. The site lay outside of a defined settlement boundary within the Tewkesbury Borough Plan Pre-Submission Version and, as stated in the Officer report, Policy RES4 set out criteria for proposals for very small scale residential development within and adjacent to the built-up area of other rural settlements and did not consider gardens, paddocks or other under-developed land within the curtilage of the buildings on the edge of settlements as acceptable. Policy RE5 gave consideration to the effect of the development on the form, character and landscape setting of the development and the Planning Officer advised that this was Cotswold escarpment, rural in character and more closely associated to surrounding farmland. It was therefore considered that the proposal would significantly change the character of this part of the Area of Outstanding Natural Beauty and its limited benefits were insufficient to outweigh the conflict with the Council's adopted policies and harm to the Area of Outstanding Natural Beauty.
- 18.14 The Chair invited the applicant's agent to address the Committee. The applicant's agent advised that the application related to land forming part of the garden of Bishop's Leys, a large detached dwelling that sat within a row of houses along Butt's Lane, Woodmancote. Woodmancote was a defined Service Village and was expected to take some proportionate growth over the plan period which had not yet occurred; in fact, Woodmancote was perhaps now the only Service Village not to have delivered anywhere near its quota. Nevertheless, this application was proposed under the 'infilling' provisions of the Joint Core Strategy, a policy which promoted infilling in the wider villages of Tewkesbury Borough, not just the Service Villages. He pointed out that the Planning Committee had granted an infill dwelling in the village of Stanton only a few months earlier under this provision and he was sure Members would agree that was a far smaller and far more remote location than this. Similarly, that site was within the Area of Outstanding Natural Beauty and it was clear there was no fundamental barrier to some small-scale housing in the Area of Outstanding Natural Beauty; the policy existed in recognition of the fact that there was a need to allow some development in rural areas to support rural communities. In his opinion, this was an obvious case of infilling – the dwelling sat in a row of housing and would be of similar size to that of its surroundings; the Officer report confirmed that it was not isolated in the context of the National Planning Policy Framework, as such, he failed to see the problem. Notwithstanding this, within the space of just a few months, the Council had gone from reporting a 5.3 year housing supply to one of between 2.7 and 4.3 years; bearing in mind the Joint Core Strategy was supposed to provide 20 years' worth of housing, the fact this was potentially as low as 2.7 years spoke volumes in his view. The Council's position could be best summed up by the Officer report which set out that the five year supply was a rolling requirement and required enough housing to be delivered year upon year through flexible interpretation of the policy – it was clear to him that the restrictive interpretation of the policy had caused the Council's current situation. The applicant's agent indicated that Members would be aware of a number of small-scale developments that had been granted by the Council, or at appeal, in Stockwell Lane and Bushcombe Lane at Woodmancote the last time the Council had an

undersupply; in all of those cases, the Inspector had found the need to boost housing outweighed any limited impact on the Area of Outstanding Natural Beauty and some of those sites had been greenfield land. He felt there was a need to change the mindset that only large scale developments could meet the housing supply requirements and, had there been positivity towards some of the smaller proposals such as this, the Council may well still have a five year supply. The last time the Council was in this position it had resulted in 1,000 houses at Bishop's Cleeve, 200 or more in Winchcombe and close to 100 in each of the villages of Gotherington, Alderton and Twyning and he was afraid those types of schemes would inevitably be back at the forefront if the supply was not kept ticking over with smaller schemes like this which were more palatable to communities and delivered more quickly.

- 18.15 A Member drew attention to Page No. 254, Paragraph 4.6 of the Officer report and questioned whether there was any update in relation to the Council's five year housing land supply. He also queried what stage the annual monitoring report was at and when definitive figures would be available. In response, the Technical Planning Manager explained that, as set out in the Officer report, the latest published figure was 4.33 years and when the annual monitoring report was published in the next couple of weeks it was likely that this would increase very slightly to around 4.38 years. Clearly others would try to take the Secretary of State's comments in respect of the appeal decision relating to land at Oakridge, Highnam as the position; however, for reasons that had been explained previously, Officers felt the Secretary of State was wrong and the figure of 4.33 was the right one. In response to a query as to the relevance of the five year supply to this particular application, the Technical Planning Manager explained that it was a material consideration that must be taken into account and the Council could not currently demonstrate a five year supply; however, Officers believed that the difference between this case and the appeal decisions referenced by the applicant's agent in his speech was that, in terms of the Area of Outstanding Natural Beauty, the approach taken with the previous National Planning Policy Framework was that if policy was out of date, the tilted balance applied whereas under the current version of the National Planning Policy Framework which had been updated in February 2019 there was a different approach in that, if there was harm to the Area of Outstanding Natural Beauty – as there was in this case – the presumption in favour of sustainable development did not apply and there was no tilted balance but the assessment on that would be on the normal balance. The fact that the Council could not demonstrate a five year housing supply was relevant; however, a lot of Inspector's had made clear that a single dwelling did not carry much weight in terms of permitting applications against policy as one house did not deal with the shortfall effectively. The Technical Planning Manager did not necessarily agree with the applicant's agent that permitting lots of single dwellings in different locations was the right approach, particularly as Members had recently agreed to publish the Tewkesbury Borough Plan for consultation which, along with the Joint Core Strategy, would address the shortfall.
- 18.16 The Chair indicated that the Officer recommendation was to refuse the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted on the basis that any harm to the Area of Outstanding Natural Beauty could be mitigated by using traditional materials that would be in keeping with the surrounding area. The proposer of the motion felt that the Area of Outstanding Natural Beauty was the main crux of the debate and, in his view, it did not have to comprise only fields or trees but could also include Cotswold stone buildings. The seconder of the motion made reference to the tilted balance and expressed the view that the visual impact of the proposal would be limited and the dwelling would help to meet the objective to support the rural economy and would contribute to the local community. Another Member indicated that he had requested a Committee determination for this application due to the loss of appeals which had

not found a single dwelling to be intrusive in the Area of Outstanding Natural Beauty. In response, the Technical Planning Manager reiterated his advice that the tilted balance was not in play for the reasons he had given and as set out in the Officer report. In terms of benefits, the single dwelling appeal decisions had clearly shown that these would be minimal and should only be given limited weight. The proposer of the motion had stated that the crux of the application was the Area of Outstanding Natural Beauty; however, another important consideration was emerging and existing policy in the Joint Core Strategy and Tewkesbury Borough Plan.

- 18.17 A Member sought further information regarding the lost appeal that had been referenced in terms of the reasons for that decision being overturned. He drew attention to the site location plan at Page No. 259/A of the Officer report and pointed out that, as Members would have seen on the Planning Committee Site Visit, there were a number of other potential housing plots. He was concerned that permitting this application could lead to this becoming a ribbon development which was not wanted in the Area of Outstanding Natural Beauty. The Technical Planning Manager advised that the Stockwell Lane and Hillview Stables appeals had been determined when there was a presumption in favour of sustainable development and that had very much been in the Inspector's mind when making those decisions. The appeal decision in respect of The Waltons was a matter of judgement - the Officer recommendation had been to permit the proposal as there was considered to be an acceptable relationship with the existing settlement and that there would be no undue impact on the landscape. He stressed that applying the same tests would not always result in the same judgement. In terms of the Badger Bank appeal, this differed from the current proposal as the existing building had been granted planning permission as a conversion. He reminded Members that each site had different merits and two of the appeal decisions, in 2015 and 2017, had been determined under previous government guidance where there was a presumption in favour of sustainable development that did not apply now. Should Members be minded to permit the application, the Planning Officer recommended the inclusion of conditions in relation to commencement of the development; drawing numbers; materials details; window details; additional site levels plan; landscaping; biological enhancement measures; and a construction management plan. The seconder of the motion questioned whether a condition should also be included to ensure the ridge line did not exceed the existing building and the Planning Officer clarified that the proposed ridge height was very similar but could be controlled through the site levels. A Member queried what was meant by biological enhancement measures and was advised that because of the nature of the area, it may be possible that bat or bird boxes would be needed to improve biodiversity of the site and this condition would cover such requirements.

- 18.18 Upon being put to the vote, the motion to permit the application was lost. It was subsequently proposed and seconded that the application be refused in accordance with the Officer recommendation and, upon being taken to the vote, it was

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

18/01129/FUL – 6 Persh Way, Maisemore

- 18.19 This was a retrospective application for the erection of a playhouse in the rear garden. The Planning Committee had visited the application site on Friday 16 August 2019.

- 18.20 The Technical Planning Manager clarified that the Committee had resolved to delegate permission for this application at its meeting on 18 June 2019 - the application had not been deferred as incorrectly stated at the start of the Officer report. Since that time, however, there had been further strong objections from the neighbours - summarised in the Officer report - and he understood that Members had also been written to separately. He drew attention to Page No. 262, Paragraph

5.7 of the Officer report, which referred to a low picket fence between the neighbour's property and their neighbour on the opposite side, and clarified that this was in fact a close-boarded fence, approximately one metre in height, as Members would have seen on the Planning Committee Site Visit. Planning permission had been delegated subject to the satisfactory completion of the consultation process in respect of the revised plans and he explained that the current plans did not represent what had been constructed on site. Measurements had been taken on the site visit and the distance from the common boundary was 2.4 metres as opposed to three metres. The height shown on the original plans when the application was first submitted was 3.99 metres and the amended plans showed this as 3.63 metres; however, measurements taken on Friday had shown the structure to be 4.16 metres high and the height of the platform in front of the structure would be approximately 1.6 metres. It was noted that the monkey bars shown on the floor plans, but not on the elevation plans, now also had a rope bridge so there was also a walkway across them which Members would have seen on the site visit. Given that the structure was already in place, if Members agreed that the playhouse should be permitted, they would need to be clear as to whether that was in respect of the structure as it stood with a need for further amended plans, i.e. 4.16 metres in height, or as per the submitted amended plans, i.e. 3.63 metres, and whether the position and location, with the as built just over half a metre closer to the fence, was acceptable. The key issue was the impact on neighbouring properties and strong objections had been received from one of the neighbours. Members would have seen the relationship between the playhouse and the neighbouring properties on the site visit, and from the photographs and plans, and it was a matter of judgement as to whether it was acceptable in terms of overlooking and if it had an overbearing impact. The Officer recommendation was that, on balance, planning permission should be granted.

- 18.21 The Chair invited a representative of a local resident speaking in objection to the proposal to address the Committee. The representative indicated that the application referred to a child's playhouse but it was clear that the structure was currently also being used by three teenage boys and adults living at the property. The playhouse had been designed and constructed by a registered building company that had required planning permission and the subsequent retrospective planning application had been rejected by Planning Officers on the grounds that it was clearly overlooking and an invasion of privacy. After many months of corresponding with the Planning Department, compromises had been suggested to make it less of an intrusion including a reasonable request to reduce the height of the structure and have a flat, as opposed to an apex, roof but those requests had been rejected by the applicant. In the meantime, the structure had been rebuilt with an even higher platform and additional handrails and climbing walls, as the Planning Committee would have seen on the site visit and from the photographs submitted. The playhouse now towered over the boundary fence and had a major impact on the lives and privacy of the neighbours. Furthermore, the structure no longer complied with the revised plans and dimensional drawings submitted in June and had been increased in height to over four metres. He noted that the applicant had been working with the Planning Officers to make some compromises and that the application was being recommended for permission; however, he opposed this on the basis that the original application had been rejected due to overlooking and invasion of privacy and yet the building was now a much more imposing structure that dominated the garden more than when it was first constructed. He reiterated that the building was now even more overlooking and even more of an invasion of privacy for the neighbours which had impacted on their family life and the leisure time spent in the garden. He asked that the Committee refuse the application as no significant effort had been made to change the original decision and he made reference to Article 8 of the Human Rights Act 1988 which stated that everyone had a right to respect for privacy and family life.

- 18.22 The Chair invited one of the local Ward Members to address the Committee. The local Ward Member indicated that he did not intend to go into detail as this had been covered by the previous speaker and Members had visited the site so would be well aware of the impact of the playhouse on the neighbouring properties. He reiterated that the actual build was contrary to the amended plans, both in terms of height and distance from the boundary, and included a walkway as opposed to monkey bars. Should Members be minded to permit the application, he asked that consideration be given to proposed privacy screening or obscured glazing; whilst it was a nice looking playhouse, it was in an elevated position with a platform of approximately 1.6 metres and therefore was prominent and incongruous. He made reference to Section 12 of the National Planning Policy Framework and Policy SD14 of the Joint Core Strategy and questioned whether the proposal had been successful in terms of ensuring there was no harm to the amenity of neighbouring occupants. The temporary nature of the design was reflected in the Officer report and he wished to flag up that there was no guarantee it would be removed as the children grew up and the structure could potentially continue to be used by adult members of the family. The key issue for consideration of the Committee was its overbearing and intrusive nature and he pointed out the need to look at Policies HOU8 and SD4 in terms of unacceptable impact, in this instance, size and overlooking.
- 18.23 The Chair sought a comment from the Technical Planning Manager as to what a privacy screen might entail should Members be minded to permit the application and attention was drawn to recommended condition 4, at Page No. 263 of the Officer report, which would require details of screening to the raised platform to be submitted to, and approved by, the Local Planning Authority. The Technical Planning Manager indicated that no details were available as yet but it would need to be at least 1.7 metres high and extend beyond or around the corner of the platform; it was to be borne in mind that the result of that may be that the playhouse appeared larger as a structure and that could potentially create another issue. In response to a query, he confirmed that, should Members be minded to permit the application, it was possible to specify the dimensions of the screening but condition 4 currently left this open for Officer judgement. Another Member sought clarification regarding the Human Rights Act 1988 and whether that was a material consideration for the Committee. In response the Legal Adviser confirmed that the Human Rights Act 1988 was a material consideration when determining applications and would effectively be taken into account as part of the judgement in respect of amenity issues such as overlooking and overbearing impact. In response to a query regarding whether complaints about overlooking had been received in respect of the existing summerhouse in the neighbouring garden when that had been constructed, the Technical Planning Manager indicated that he had no details about whether there had been any objections at that time; however, it was noted that the neighbours could have done something about that in terms of planting but had chosen not to do so. A Member queried whether it was possible to review the structure of the playhouse to move the platform to the rear as that could resolve the issues in terms of noise and overlooking, although possibly not in respect of visual impact. The Technical Planning Manager indicated that this could be discussed with the applicant if Members so wished, although it had been suggested by Officers during the application process and the applicant had been keen for the application to be determined by the Committee in its current state.
- 18.24 The Chair indicated that the Officer recommendation was to delegate authority to the Technical Planning Manager to permit the application, subject to amended plans to reflect the structure as built, and he sought a motion from the floor. It was proposed and seconded that the application be refused as it would have an overbearing impact and would adversely affect the amenity of the adjoining properties in terms of overlooking and loss of privacy. The proposer of the motion indicated that the playhouse was very overbearing and, in his view, the proposed screening would make that even worse. The applicant did not seem to have taken on board Planning

Officers' advice and he would not feel comfortable granting permission. Upon being taken to the vote, it was

RESOLVED That the application be **REFUSED** as it was considered to have an overbearing impact and would adversely affect the amenity of the adjoining properties in terms of overlooking and loss of privacy.

18/01202/OUT – Part Parcel 3538, Church Road, Maisemore

- 18.25 This was an outline application for up to 25 dwellings (consisting of 15 self-build and 10 discounted market houses) together with access and associated works such as footpath links to village hall and play area (all matters reserved).
- 18.26 The Planning Officer advised that the application site comprised a field of approximately 1.4 hectares located to the north of Maisemore. A public right of way bordered the small watercourse to the north of the site beyond which lay the Landscape Protection Zone. The Grade II listed buildings of Maisemore Court and St Giles Church were situated approximately 120 metres and 195 metres to the north respectively. The Officer report provided an assessment of the principle of development and all other material planning considerations, and extra information - including a rebuttal letter - was included within the Additional Representations Sheet, attached at Appendix 1. She clarified that the revised indicative layout plan had been amended to include annotations referring to additional tree and structural landscaping along the watercourse which could be subject to a condition; existing landscaping to be integrated into the new scheme; and a new two metre wide footway over the watercourse and potential footpath improvement, subject to owner consent. Members should also have received a late representation from one of the local Ward Members for the area who had commented that a Committee Site Visit would be beneficial to assess the proposed development in the local landscape. Officers accepted there was a duty to grant sufficient permissions for self or custom build housing and, given the information in the Additional Representations Sheet, they agreed that this should be attributed some weight in the overall decision; however, based on the significant and demonstrable harms identified in the Officer report, the application was recommended for refusal.
- 18.27 The Chair invited the applicant's representative to address the Committee. The applicant's representative indicated that Maisemore was a Service Village with a good level of employment and a sense of community and history which meant it was a place that families wanted to live. Development was expected – and indeed required – for continued vibrancy and to support services and facilities. This scheme was for up to 25 homes but Members would recall recently allowing a greater level of development in the smaller settlement of Coombe Hill. He went on to point out that heritage and landscape concerns had been identified and it was accepted that these were important issues; however, the heritage harm was described by Officers as “less than substantial” and there was no harm to the fabric of the listed buildings with the concern relating to the extent of the gap between the Church and Maisemore Court – which occupied an elevated position – and the main part of the village which lay below and to the south. He felt that the important separation would remain and that the sensitive development of the site would not result in any real harm to the significance of the heritage assets. The closer northern field adjoining the Church was prominent, elevated, visual and sensitive, and therefore most important, and that prominent land was not part of these, or any other, proposals. He explained that the site was being promoted through the Tewkesbury Borough Plan and was closely related to the village and adjoined the Village Hall. When viewed from the Church and Maisemore Court, those parts of the site visible through filtered landscape features were viewed in the context of the backdrop of the built form of the village – he pointed out that the site would be best assessed through a Committee Site Visit. Housing supply was in crisis nationally and locally and, although there was debate regarding the level of local deficiency, it

was agreed that there was a less than five year supply within Tewkesbury Borough. The local affordable housing position was even worse and this scheme would deliver 40% of the homes as discounted market sales housing allowing first time buyers the opportunity to get a step on the housing ladder. The remainder of the houses would be self-build and it was noted that, as of yesterday, the self-build register contained 74 with confirmed local connections – the number was greater than the previous week and continued to grow so, like other aspects of housing, self-build need was outstripping delivery. The Officer report recommended refusal on the basis that the harms of the scheme outweighed the benefits but he argued that the harms would be modest and would be mitigated at the approval of reserved matters stage which remained in the Council's control.

- 18.28 In response to a Member question, the Chair confirmed that it was open for a site visit motion to be made. 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 Office recommendation. The proposer of the motion advised that the Tewkesbury Borough Plan Working Group had considered the site during the preparation of the Plan and had dismissed it as unsuitable for the reasons set out in the Officer report. She was supportive of self-build properties provided they were in the right place but she did not believe this was the correct location. A Member questioned how self-build schemes were assessed and monitored to ensure that they were truly self-builds and whether developers were able to self-build or if this could only be done by individuals. The Technical Planning Manager indicated that self-build was a relatively new concept and some Councils had tried to frame the position whereby only single dwellings in a garden, or similar, could count as self-build; however, this had been rejected through an appeal decision. Some authorities would only consider individuals who submitted a self-build scheme and signed a Section 106 Agreement to tie them into building the property themselves but there were also situations whereby an individual may wish to appoint someone to build the property for them to live in. If only those with a legal agreement were counted, the number of self-builds in the borough would be in single figures. As the Planning Officer had stated, there was a duty to grant planning permission to meet a certain need on the self-build register and that had to be weighed in the planning balance. Tewkesbury Borough Council was not currently meeting that need but, in terms of the current application, Officers considered that the benefits of the proposal - including the self-build element - were not sufficient to outweigh the identified harm. A Member sought clarification as to the self-build target within the Joint Core Strategy and how many had been delivered. He also questioned how confident Officers were that an appeal could be defended and what the likely costs would be. In response, the Technical Planning Manager advised that the Planning Policy Team was working on a report for publication that would also be provided to Members. In terms of a potential appeal, he confirmed that Officers would not recommend refusal if they did not feel it was defensible; however, he was unable to put a figure on the likely costs without researching historic appeals. A Member questioned whether there was a legal definition of self-build and the Legal Adviser explained that self build and custom housing did not distinguish between someone physically building their own house and commissioning a house to be built for themselves. The legal definition was: *“the building or completion by individuals, associations of individuals or persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals”*.
- 18.29 During the debate which ensued, a Member indicated that he was generally supportive of individual or small scale developments where the scheme had been well thought out and that seemed to be the case here. He felt that a significant weight should be given to the affordable housing element and he would not be prepared to support a refusal. A Member indicated that he shared this view and considered that the additional information provided by the applicant's agent, set out

in the Additional Representations Sheet attached at Appendix 1, had helped to convince him of that. He noted there had been no objections to the proposal from County Highways, the Council's Environmental Health Officer, Natural England, Severn Trent Water, the Lead Local Flood Authority, the Council's Flood Risk Management Engineer, or the County Archaeologist; nor from the Council's Tree Officer and Housing Enabling Officer, subject to condition. There had been an objection from the Council's Urban Design Officer on the grounds that it was not an appropriate location for development but he did not agree on the basis that Maisemore had been identified as a Service Village. He indicated that he would have liked to have visited the application site to put the development into context as he believed it complied with Policies SD12 and SD4 of the Joint Core Strategy. If the Council continued to refuse applications such as this he failed to see how it would achieve a five year housing supply and, in his view, this proposal was in keeping with the surrounding area and would have no adverse impact on heritage sites as with the development at Highnam that had been recommended for approval. A Member pointed out that there was a small business area to the right of the Grade II listed St Giles Church which had previously been extended so there was already evidence of development on the site. Another Member asked for legal advice as to what was stopping developers from seeking planning permission for self-build properties and the Legal Adviser indicated that it was not clear that self-builds were not being permitted and built, in particular as regards single dwelling applications, but that what was essential for the monitoring was to ensure in some way that there were developments meeting the demand on the register. The Head of Development Services clarified that self-build properties were exempt from Community Infrastructure Levy but that meant the property could not be sold on within a certain timeframe so there were processes in place for monitoring and flagging this up to Officers.

18.30 The proposer of the motion pointed out that the Joint Core Strategy and Tewkesbury Borough Plan required 880 dwellings to be delivered across the Service Villages; Maisemore had been given an indicative requirement of 41 dwellings and 52 dwellings had been committed over the plan period – this was sufficient for Maisemore and meant that, if planning permission was granted for another 25 dwellings, this would be disproportionate based on its size and the facilities it could offer to residents. She drew attention to Page No. 267, Paragraph 2.2 of the Officer report which set out that the Landscape Officer considered that development would significantly alter the parkland setting and have a detrimental impact on the character of the area. Whilst there were important merits of self-build properties, they needed to be in sustainable locations and she urged the Committee to refuse this proposal. A Member pointed out that the Committee had recently permitted an application for residential development of 40 dwellings at Coombe Hill which had only limited facilities and that had not been considered to be disproportionate so he failed to see why that should be a reason in this instance.

18.31 Upon being put to the vote, there was an equal number of votes for and against, and on the Chair exercising his casting vote, it was

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

19/00320/FUL – Land Adjacent to 53 Parton Road, Churchdown

18.32 This application was for a proposed new dwelling on land adjacent to No. 53 Parton Road.

18.33 The Planning Officer advised that the site was located on a corner plot adjacent to No. 53 Parton Road and Meadow Way in Churchdown within an established residential area. The proposal was for a new two storey, three bedroom semi-detached dwelling erected in the side garden of No. 53 Parton Road. The plot measured 7.2 metres wide and was rectangular in shape taking in the full length of

the rear garden. An existing garage in the rear garden would be demolished and a new parking space provided along the rear boundary with a footpath-only access to the front of the property. The proposed dwelling would be approximately 92 square metres and would match the size and style of the existing property. The proposed dimensions of the property were 9.6 metres long by 5.9 metres wide with a total ridge height of 8.3 metres to match No. 53. It was noted that the first floor would be rendered with a brick ground floor also to match No. 53. No. 53 would retain its vehicle access and parking at the front of the property but, in order to alleviate some of the concerns raised, the access would be moved further to the south east, away from the mini-roundabout, and the existing driveway would be blocked off.

18.34 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 that the application be refused on overdevelopment grounds but there was no seconder for the motion. It was subsequently proposed and seconded that the application be permitted in accordance with the Officer recommendation. A Member asked for a comment from the County Highways representative as he could not see one in the Officer report. The County Highways representative indicated that this application was subject to standing advice on design which was why there was no comment from County Highways in the report; notwithstanding this, the proximity to the roundabout was not considered unsafe. He had been looking at a similar application in another part of the county earlier that week and was clear that if an access was to be stopped up this would be made permanent e.g. level with kerbs etc. Any concerns regarding use of the access would be addressed should they come forward, although he thought this was unlikely.

18.35 Upon being taken to the vote, it was

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

19/00550/PIP – Land to the West of A48, Minsterworth Village, Hygrove Lane, Minsterworth

18.36 This application was for permission in principle for residential development of up to six houses. The Committee had visited the application site on Friday 16 August 2019.

18.37 The Planning Officer advised that the site was located adjacent to the property known as Sharnbrook along the western edge of the A48, to the edge of the built form, and adjacent to the proposed settlement boundary in the emerging Tewkesbury Borough Plan. The site measured 0.40 hectares and was rectangular in shape. As this was a permission in principle application, the main considerations could only be in relation to location, land use and range of dwellings in accordance with the Town and Country Planning (Permission in Principle) Order 2017. It was noted that further details on permission in principle were included in the Additional Representations Sheet, attached at Appendix 1. All details such as layout, design, scale, mix and type, landscape and access would need to be covered within a technical details consent application. She advised that the original application form stated that the proposal was for six to nine dwellings; however, Officers felt that this would not fit the linear pattern of development within the village and the applicant's agent had submitted amended details for between four and six dwellings. It was noted that there was a Grade II listed milestone along the frontage of the application site and, whilst its exact location had not yet been determined due to the overgrown nature of the boundary hedge, the Conservation Officer had indicated that this needed to be identified and protected which would be a matter for the technical details stage. In addition, County Highways had raised concern that it could not be established whether a safe and suitable access could be achieved as no technical reports, such as speed surveys, visibility etc. had been submitted; again, this was a

matter for the technical details stage rather than this initial permission in principle stage.

- 18.38 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 refused on the basis that the site was outside of the residential settlement boundary and was not included within the Joint Core Strategy or the Tewkesbury Borough Plan. A Member raised concern that this was the first planning in principle application that had been brought to the Committee for determination and he felt that further details were needed in order to make an informed decision - without information on size, scale etc. he would be minded to support the motion to refuse the application. The Chair indicated that he shared these concerns and was unsure how the introduction of planning in principle applications would simplify and speed up the planning process as was intended; nevertheless, the process was available and the application was before the Committee for determination. The Technical Planning Manager explained that the application had been considered in terms of the five year housing land supply position and he clarified that the tilted balance did apply in this case. A similar approach had been taken with other schemes in Minsterworth and, for similar reasons, it was felt that the broad principle of development in this location could be supported based on the tilted balance. He stressed that this was not to say there would not be objections when the details were submitted and, whilst access had been mentioned, he reiterated that it was not something which could be considered at this initial stage. The Legal Adviser reiterated that permission in principle had been introduced in June 2018 and was about establishing the principle of development i.e. in this case was this location suitable for a development of four to six dwellings. A Member noted that the details of the proposal would need to come forward should the permission in principle application be granted and she questioned whether that application could be refused if the Council was able to demonstrate a five year housing land supply at that point. In response, Members were advised that, once granted, permission in principle lasted for three years. A Member expressed the view that, once the principle had been established, it would be very difficult to stop. Another Member drew attention to the comments made by the Conservation Officer in relation to the Grade II listed milestone and questioned if that would be an appropriate reason for refusal. The Technical Planning Manager indicated that his advice would be that this would form part of the technical matters that would come further down the line and could not be included as a refusal reason at this stage. In terms of location, this was very much a policy issue, as set out in the Officer report; the site was not within the village boundary and was contrary to Policy SD10 of the Joint Core Strategy but the Council was not able to demonstrate a five year housing supply so the tilted balance came into effect.
- 18.39 A Member raised concern that granting permission in principle could give false hope to the applicant that their proposals would sail through the application process. The Technical Planning Manager indicated that his view was that it could potentially give "hope" value to land which would not come to fruition, although he was not talking specifically in relation to this particular application. The Legal Adviser clarified that, once permission in principle had been granted, the location had been established as being appropriate for development; whilst it was not the same as outline planning permission, once outline planning permission had been granted, approval of reserved matters applications were only refused if the technical details themselves were unsatisfactory and that would similarly be the case for these applications. In response to a query, the Technical Planning Manager confirmed that there was a right of appeal for permission in principle applications and one was currently in process in relation to a site in Minsterworth.

18.40 In response to a query regarding highway concerns, the County Highways representative indicated that his advice must be that Members have these discussions at the technical matters stage; however, he was also concerned that permission in principle was giving false hope that suitable access could be achieved. Nevertheless, the decision should not be predicated on highway issues. A Member indicated that she was confused as to the interpretation of the assessment of location and was advised that this must be considered in the context of the development plan and whether it was a designated area e.g. Green Belt or Area of Outstanding Natural Beauty. On that basis, a Member reiterated that the site was not included within the Tewkesbury Borough Plan and she believed that development in this location would encroach into the countryside and have a detrimental impact which she felt was an appropriate reason to refuse the application. The proposer and seconder of the motion to refuse the application indicated that they would be happy to incorporate this into their proposal.

18.41 In response to a query regarding the tilted balance, the Technical Planning Manager clarified that Paragraph 11 of the National Planning Policy Framework and the tilted balance were engaged and the presumption in favour of sustainable development applied, therefore, the application should be granted unless there were any adverse impacts which would significantly and demonstrably outweigh the benefits. If Members were minded to refuse the application, they would need to be very clear about the reasons for doing so. He indicated that he would be reluctant to include the setting of the listed milestone as it was not possible to say with certainty at this stage that its existence would mean there were no circumstances in which housing would be permitted in this location. He was also mindful of the fact that the Committee had previously granted planning permission for five houses next door to the Apple Tree Public House in the village so it would be difficult to say that there would now be unacceptable harm which could not be overcome in terms of this proposal.

18.42 Upon being put to the vote, it was

RESOLVED That the application be **REFUSED** on the basis of location which was contrary to the Joint Core Strategy and Tewkesbury Borough Plan and would result in unacceptable encroachment into the open countryside.

PL.19 CURRENT APPEALS AND APPEAL DECISIONS UPDATE

19.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Pages No. 28-33. Members were asked to consider the current planning and enforcement appeals received and the Ministry of Housing, Communities and Local Government appeal decisions issued.

19.2 It was

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

The meeting closed at 12:12 pm

Appendix 1

SCHEDULE OF PLANNING APPLICATIONS
ADDITIONAL REPRESENTATIONS

Date: 20 August 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	
248	2	<p>19/00422/APP</p> <p>Part Parcel 9527, Gretton Road, Gotherington</p> <p>The Gloucestershire Highways Officer has raised no objections to the proposal.</p> <p>As the outstanding matters have now been resolved it is now recommended that the reserved matters are approved subject to the following amendment to Condition 1 and highways conditions set out below:</p> <p>Condition 1 is revised to:</p> <p>The development hereby approved shall be carried out in accordance with drawing nos. P17_1209_05 Rev.B, P17_1209_06 Rev.A, P17_1209_07-2 Rev.A, P17_1209_07-3, P17_1209_08 Sheets 1-9, P17_1209_09, P17_1209_10 Rev.A, and P17_1209_11 Rev.A Received by the local planning authority on 22nd April 2019, drawing no. P17_1209_12 received on and drawing no.P17_1209_07 Rev.D received on 18th July 2019 and any other conditions attached to this approval.</p> <p>4. Throughout the construction [and demolition] period of the development hereby permitted provision shall be within the site that is sufficient to accommodate the likely demand generated for the following:</p> <ul style="list-style-type: none"> i. parking of vehicles of site operatives and visitors; ii. loading and unloading of plant and materials; iii. storage of plant and materials used in constructing the development; iv. provide for wheel washing facilities <p>Reason: To reduce the potential impact on the public highway and accommodate the efficient delivery of goods.</p> <p>5. Prior to occupation of the proposed development hereby permitted the first 10 metres of the proposed access road, including the junction with the existing public road and associated visibility splays, shall be completed to at least binder course level.</p> <p>Reason: To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians.</p> <p>6. Prior to occupation of the proposed development hereby permitted details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in</p>

accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

Reason: To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the scope for conflict between traffic and cyclists and pedestrians.

7. No above ground works shall commence on site until a scheme has been submitted to, and agreed in writing by the Council, for the provision of fire hydrants (served by mains water supply) and no dwelling shall be occupied until the hydrant serving that property has been provided to the satisfaction of the Council.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to access and tackle any property fire in accordance with paragraph 110 of the National Planning Policy Framework.

8. The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 53 distant in both directions (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.26m and 2.0m at the Y point above the adjacent carriageway level, broadly in accordance with drawing TN2-5

Reason: To avoid an unacceptable impact on highway safety by ensuring that adequate visibility is provided and maintained to ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians.

9. The development hereby permitted shall not be occupied until details of secure and covered cycle storage facilities for a minimum of 1 bicycle per dwelling has been made available in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the appropriate opportunities for sustainable transport modes have been taken up.

10. No dwelling hereby permitted shall be occupied until the vehicular parking and turning facilities to serve that property have been provided in accordance with the submitted plan TN2-5, and those facilities shall be maintained available for those purposes thereafter.

Reason: To minimise the scope for conflict between traffic and cyclists and pedestrians.

Note: The applicant is advised that to discharge Condition 6, the Local Planning Authority will require a copy of a completed dedication agreement between the applicant and the local highway authority or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

252	3	<p>19/00135/FUL</p> <p>Bishops Leys Farm, Butts Lane, Woodmancote</p> <p>The Council has approved the Tewksbury Borough Plan Pre-Submission Version (2019) The proposed development could be in conflict with emerging Borough Plan Policy RES 4 and RES 5 which is to be afforded at least moderate weight in the consideration and determination of planning applications in accordance with para 48 of the NPPF.</p>
260	4	<p>18/01129/FUL</p> <p>6 Persh Way, Maisemore</p> <p>An additional letter has been submitted by the applicant's partner, in support of the application as follows:</p> <p>Dear committee</p> <p>The tree house is positioned where Mr Hinett told us to place it and permission would be granted!</p> <p>This was back in April</p> <p>We also had a site visit from Mr Hinett and Ms Pugh to discuss compromises a month or so later some of which have been implemented but the others I have yet to do as after reading the nature of the neighbours complaints it seems that they entirely agree with the location/position of the tree house but feel that a screen fence etc would serve no purpose, i agree!</p> <p>Whatever happens the children at some point or other whether using the tree house or trampoline will be able to see over the neighbours garden</p> <p>May I call your attention to the neighbours garden on the other side of the complanees whose fence is only 3ft high and also who have 2 small children who can see fully across the garden more so than my children at any time they wish!</p> <p>Lastly the tree house is a temporary structure, the neighbours are temporary and so is [REDACTED] neither being a home owner.</p> <p>The owners of [REDACTED] property are fully aware of all works completed at 6 persh way and have all appropriate information</p> <p>Officer Comments</p> <p>Further to the Committee site visit the following clarification is provided in respect of the height and distance from the boundary of the structure:</p> <p>The height of the structure on the originally submitted plans was 3.985m. Amended plans were submitted in June which indicated the height would be reduced to 3.625m. The height of the structure as built was measured during the site visit as 4.16m.</p> <p>The submitted plans indicated that the structure would be sited 3m from the boundary with 5 Persh Way; the distance as measured during the site visit was 2.44m</p>

264	5	<p>18/01202/OUT</p> <p>Part Parcel 3538, Church Road, Maisemore</p> <p><u>Public Rights of Way - Additional Information</u></p> <p>The applicant's agent has provided additional information which seeks to address the concerns raised by Gloucestershire County Council's Public Rights of Way (PROW) Officer. The indicative layout plan (see below) has been updated to include additional annotations only. The applicant's agent has confirmed that the proposal would incorporate measures to remove the current sub-standard footbridge and replace it with a 2 metre wide footway over the new culvert which would be required to facilitate vehicular access to the site. The applicant's agent has also expressed a willingness for the proposed footway to be adopted and to be constructed to a design/specification that meets the relevant standards. It has also been confirmed that an existing footbridge over the watercourse, close to the north-western corner of the application site, would be retained for private use in connection with a single plot. Finally, the applicant's agent has confirmed that the applicants would be prepared to make a financial contribution towards future maintenance / installation of kissing gates together with the provision of dog waste bins to the sum of £1,000.00</p> <p>The PROW Officer has been re-consulted on the above revisions but no response has been received to date. In any case, the original concerns raised by the PROW Officer are not included as a reason for refusal and the potential resolution of this matter would not change the recommendation for refusal.</p> <p><u>Additional comments from Severn Trent Water (STW)</u></p> <p>Following on from paragraph 6.56 in the committee report (p.276), STW have been re-consulted on the proposal in light of the concerns raised by the Parish Council and local residents in respect of foul and surface water drainage associated with the proposed development. STW have reiterated that they have no concerns with foul water drainage and have confirmed that surface water would not be permitted to discharge into the foul sewerage system. It is recommended that the disposal of foul and surface water flows could be adequately secured by way of condition.</p> <p><u>Additional comments from Community Development Officer (CDO)</u></p> <p>The CDO has confirmed the off-site contribution for public open space provision would be £20,651.50.</p> <p>Refusal Reason No.6 has been revised to make reference to the planning obligation requirements in respect of recycling and waste bins and now reads as follows:</p> <p>In the absence of an appropriate planning obligation, the application does not make provision for the delivery of public open space and recycling/waste bins and therefore the proposed development is contrary to Policy RCN1 of the Tewkesbury Borough Local Plan to 2011 (March 2006), Policies INF4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 -2031 (December 2017) and the National Planning Policy Framework.</p> <p><u>Correspondence from Local Ward Member</u></p> <p>An email has been received from one of the local Ward Members for the area (attached).</p> <p>Additional comments</p> <p>A note on the content of the officer report has been submitted on behalf of the applicant. A copy of this is attached in full. The note is effectively a rebuttal, disagreeing with various elements of the report, however there are two issues</p>
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		<p>which require particular clarification.</p> <p>In respect of the self-build register, the position has been updated since the Planning Policy Officer's response which informed the report. As of 19th August 2019 there are 87 individuals on the register plus 1 group 88. Of these, 74 are confirmed to meet the local connection test and are registered under Part 1 of the register. Six individuals have identified Maisemore as a preferred location whilst 2 further individuals who have identified Maisemore as a preferred location are waiting to be registered.</p> <p>The submitted note also queries the development which has already been committed, and in particular whether the permission for 15 dwellings at Bell House Farm is still extant. Permission for that site was granted in October 2015 with a 3 year implementation condition. As such, the permission has expired.</p> <p>A Waste Minimisation Statement has been submitted (on Monday 19th August) however given the late stage this has been submitted, officers have been unable to consult upon and fully consider its content.</p> <p>Officers have considered the above information and the recommendation remains unchanged.</p>
287	7	<p>19/00550/PIP</p> <p>Land To The West Of The A48, Minsterworth Village, Hygrove Lane, Minsterworth</p> <p>Permission in Principle (PIP) briefing note.</p> <p>1.0 This briefing note has been drawn up to help provide some further background and information regarding the Planning in Principle application process.</p> <p><i>Overview</i></p> <p>1.1 The Permission in Principle consent route is an alternative way of obtaining planning permission for housing led development, which separates the consideration of matters of principle for proposed development from the technical details of the development.</p> <p>1.2 The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second (technical details consent) stage is when the detailed development proposals are assessed.</p> <p>1.3 The PIP consent route was introduced in June 2018, within the Town and Country Planning (Permission in Principle) Order 2017 (as Amended).</p> <p>1.4 The PIP process is only for minor development and will mainly relate to housing development although there are other types of development that can be considered (details set out within the PIP Order above).</p> <p>1.5 The PIP process was introduced to be a simpler and quicker form of application to determine whether the principle of development is acceptable on the site. In addition, there are considerable cost savings for the applicants at the initial stages as it is unlikely that any technical reports would need to be completed prior to the PIP application.</p> <p><i>2.0 The PIP application</i></p> <p>2.1 The guidance (paragraph 012 Planning Practice guidance) for Permission in Principle states that the scope of the PIP is limited to:</p> <ul style="list-style-type: none"> o Location o Land Use

o Amount

2.2 No other details, such as highways, can be considered at this initial stage of application, only the principle of the development in the site's location.

2.3 A PIP application has a time period of 5 weeks for determination, however extensions of time can be granted if required.

2.4 If a PIP is approved then no conditions can be attached to the decision apart from the timescale for the Technical Details application to be submitted; this is a default duration of three years (paragraph 014 Planning Practice guidance).

2.5 If a PIP application is refused then the applicant has the same right to appeal as other planning permissions.

Requirements of a PIP application

2.6 The submission of a PIP application only requires an application form / details in writing stating the proposed development; the minimum and maximum number of dwellings; a site location plan, (at a suitable scale, highlighting the site in a red outline) and the relevant fee. No additional plans, elevations or layout details are required.

3.0 Technical Details Consent application

3.1 Following the grant of permission in principle, the site must receive a grant of technical details consent before development can proceed. The granting of technical details consent has the effect of granting planning permission for the development. Other statutory requirements may apply at this stage such as those relating to protected species or listed buildings. An application for technical details consent must be in accordance with the PIP that is specified by the applicant.

3.2 The time period for a Technical Details consent to be determined is also 5 weeks.

3.3 The Technical Details consent application must specify all matters necessary to enable full planning permission to be granted for the whole site which has a grant of permission in principle. There cannot be separate technical details consent applications made for the site.

3.4 Conditions can be attached to any grant of a technical details consent approval, as long as they meet the existing requirements around the use of conditions.

3.5 Any CIL charges or S106 payments may apply to development at the technical details consent stage, with charges due from the date that a chargeable development commences.

3.6 If the technical details consent application is refused, the permission in principle is unaffected and (subject to the powers of local planning authorities to decline to consider repeat applications) the applicant has the option to submit a new technical details consent application. A technical details consent application cannot be made by an applicant if the permission in principle has expired.

3.7 An application for technical details consent may be appealed on grounds of non-determination, refusal or against any condition imposed.

Item 5 – 18/01202/OUT, Indicative layout plan



NOTE: THIS DRAWING IS PURELY ILLUSTRATIVE TO SHOW EXISTING LEVELS OF SITE AROUND PROPOSED LAYOUT. DO NOT SCALE FROM THIS DRAWING AS IT CANNOT BE DEEMED AS 100% ACCURATE

Planning
 Proposed New Dwellings
 Swinley, Malsome Gloucestershire
 Proposed Site Layout with Existing Topo Date: July 18
 Scale: 1/500 and 1/500 @ A1 Drawing No: 654 / 02 Rev L
 AGS Development Consultants
 Chris Adams, Chris Adams

Item 5 - 18/01202/OUT

From: Councillor J Smith
Sent: 17 August 2019 14:32
To: Helen Stocks <Helen.Stocks@tewkesbury.gov.uk>; PlanningCommitteeAdmin <PlanningCommitteeAdmin@tewkesbury.gov.uk>
Cc: cllrpaul.mclain@tewkesbury.gov.uk
Subject: Planning application 18/01202/OUT

Dear Helen and Planning committee members

I am writing as one of the councillors for the Maisemore ward re the above planning application for 25 dwellings, including 15 self build and 10 discounted market houses. As the planning committee did not do a site visit last week I felt I should write. A site visit would have been beneficial for all concerned.

On doing a site visit a few weeks ago with Cllr P McLain, at the request of [REDACTED], I feel the proposed development is well thought out and sensitive to the local landscape. With a limit on the heights of the dwellings there will be little obstruction of views of the church and from the village hall across the valley.

The tree line is to be maintained alongside the road to provide a natural barrier.

The dwellings are proposed to be individual in nature to fit in with the rest of the villages housing style.

Priority is to be given to local applicants for plots and to those who work in the village. Historically there has been a shortage of self build plots, particularly for smaller properties or bungalows. This application supports and addresses the affordable housing shortage and allows flexibility of dwelling size to meet individual needs (instead of fitting the people into the already build new houses). It also helps towards TBC's housing deficits.

The development will have its own sewerage system.

I would like to ask the planning committee to take a more detailed look at this application.

I am unfortunately unable to be at the forthcoming meeting as I am away.

Thank you for your consideration

Kind Regards

Jill Smith

Councillor J K Smith
Highnam with Haw Bridge Ward
Tewkesbury Borough Council
Tel: 01452 524938
Email: councillor.jsmith@tewkesbury.gov.uk

Notes on Officer's Report to Planning Committee Meeting 20th August 2019,

Item 5: Ref 18/1202/OUT Part Parcel 3538 Land at Church Road Maisemore.

These notes follow the order of the Report with heading titles as applicable.

POLICIES & CONSTRAINTS

Clarification is required regarding the status of the Tewkesbury Borough Plan Pre- submission version (2019) which is not published on the Council's online planning policy pages. It is currently only available through the democratic services committee agendas and minutes pages.

Clarification is also required concerning amendments agreed at the meeting of The Council 30 July 2019 (Minutes to be confirmed by the next Council meeting)

The document has not yet been presented for required (minimum 6 week period) public consultation. There are unresolved objections from the previous consultation stage, including those relevant to the issues to be debated, and site specific representations. In addition TBC is currently in a housing crisis with the JCS failing to deliver a 5 year supply of housing (currently at some 2.77 years supply) and a failure to deliver affordable homes and self-build homes. In the circumstances we suggest that currently little or no weight should be given to the emerging plan.

There is reference in the report to a "50m buffer" related to a Landscape Protection Zone. There is no such reference in Policy LND3 or supporting text. Clarification of the source of this reference is requested. The Council is also requested to provide access to the Affordable housing SPD (which is not available online) referred to, and to confirm when the SPD was adopted and whether it is fully up to date and in conformity with national policy.

CONSULTATIONS & REPRESENTATIONS

Maisemore PC: Has TBC checked the "facts" provided by MPC or have MPC's view simply been reproduced? (e.g. Grade of agricultural land? Note: The land is grade 3) The Parish Council's views on Foul drainage appear contrary to the views of ST Water and its Highway safety views contrary to views of Gloucestershire County Council's (Highway Authority) views.

The Minerals and Waste Strategy is referred to and a requirement for a Waste Minimisation Statement. No such statement has been formally requested of the applicant. In a tel conversation the officer requested a statement but appeared to be satisfied by the agent's explanation that a statement would be of greater benefit at the approval stage given the self build and DMSH nature of the proposals. The Council is requested to agree that the matter is able to be controlled by planning condition. The applicant is however willing to provide essential information, if requested.

Urban Design Officer: Appears to have treated the indicative layout as fixed.

Trees Officer: Recommends conditions. Note the indicative access is shown in an existing gap so as not to affect the avenue of lime trees.

Housing Enabling Officer: Does not object but apparently suggests an affordable housing mix to include rented and shared equity. The proposals as presented are for a policy compliant 40% affordable housing. The type of affordable housing proposed (the applicants' first position) is for Discounted Market Sales Housing ("DMSH"). As you will know this type of housing has been introduced to enable first time purchasers, including young local families, the opportunity to get a foot on the housing ladder. The "discount" will be delivered in perpetuity via a S106 obligation. The Case Officer is formally requested to provide the Planning Committee with information as to how many Discounted Market sales Houses have been approved in the Borough (since this type of Affordable Housing was introduced by National Policy), and how many have been actually delivered. If the figure is a small handful (or nil) Borough wide then how will this equate to the delivery of housing choice? If, having given full and proper consideration to DMSH, the LPA advise the applicant (with justification) that other forms of affordable housing are essential in this case then provision can be made in a S106 obligation to be agreed (including e.g. a "blue pencil" clause, if necessary).

Planning Policy Officer: The Planning Policy Officer's advise would appear not to be up to date and is misleading as there is no reference to TBC's current 5 year Housing supply deficit. It is disingenuous to say that the site has been "rejected" in the emerging TBP, as the plan is yet to be placed on deposit (for consultation) and has not proceeded to the Examination stage. The site has been presented as an omission site at the preferred options stage and will continue to be promoted when deposited and examined. There are currently considerable unresolved objections to the emerging plan (including site specific objections) and as such the emerging plan should be afforded little or no weight. The officer makes reference to the potential for landscape harm, but it must be noted that the reply falls short of identifying any harm. The site was linked to land to the north in the Landscape and Visual Sensitivity Study referred to. We suggest that it's "Medium Sensitivity" tag results from the high sensitivity of parts of the northern parcel of land and that in isolation the site ought to fall within the "Low Sensitivity" category. It is the northern parcel (not the application site) that is more elevated and prominent. The northern parcel is also the land that lays in closest proximity to the heritage assets. The Case is Officer is requested to give particular consideration to this view and advise members accordingly. The Planning Policy Officer does not advise on Self build needs. The current need with reference to numbers on the self-build Register (and TBC's record in delivery of self-build) should be presented to Members so that a properly informed, fair and balanced view may be taken.

Conservation Officer: The officer identifies “less than substantial harm” but does not further quantify the harm perceived. The officer comments that “it is not clear that the benefit generated would be sufficient to outweigh the harm”. Firstly “not clear” is insufficient for refusal. The correct test is whether any adverse impacts would “significantly and demonstrably outweigh the benefits”. Secondly it is not clear whether the officer had full knowledge of the extent of the benefits, or took into account the fact that the proposal is for “up to” 25 dwellings. In addition the applicant has not been required (or requested) to “unreserve” any of the reserved matters, or to provide information to address any perceived harm(s).

Historic England: The national heritage body appears to have been consulted rather late in the day. The case officer (apparently-to be verified) not initially deeming consultation necessary. The HE reply is to the Case Officers letter of 15th May 2019 (application validated November 2018). A copy of the letter of 15th May 2019 is requested. The précis of the consultation reply gives the impression of HE objection including specific conflicts with quoted national policy. However reading the consultation in full the HE position appears to one of caution that identifies concerns, but ultimately refers to the necessity to undertake the required balancing exercise.

The following paragraph extract from the HE consultation reply is reproduced below:

When considering a development proposal, local planning authorities should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably (it follows that those that do not, should not be treated favourably) (para. 200). Furthermore, a decision should take account of the desirability of new development making a positive contribution to local character and distinctiveness (192), and should ensure that schemes are sympathetic to local character and history, including the surrounding built environment and landscape setting (127).

Whilst the sentiments of the HE officers view are generally accepted it is also important to consider the possibility of a development that leaves heritage asset(s) setting(s) unharmed, resulting in a neutral impact. It does not follow that such proposals should be treated unfavourably. That is a mischaracterisation of paragraph 200.

Objections/support/comments: Whilst it is appreciated that it is not an easy task to précis representation care should be taken to ensure that the representation reported are factually correct and not misleading. Where they are not the case officer should qualify matters and ensure that the decision maker is armed with correct facts and professional advice.

Planning Officer Comments

1.1 The site is described as being “located immediately to the north of Maisemore”. We argue that the site is “in Maisemore”. There is currently no DP defined settlement Boundary for the village. The Report does not comment on whether the proposed self build and affordable housing is located where it will enhance and/or maintain the vitality of Maisemore, or whether it is an isolated site. We say it falls into the former category and would request the officer’s agreement.

1.3 The distance to Heritage assets are recorded but the extent of e.g. inter-visibility is not discussed. It may e.g. be of some importance that Maisemore Court was designed to be approached from the east (i.e. via The Rudge).

1.4 The commemorative avenue of Lime trees referred to is to be retained and will remain unaffected by the proposals.

Planning History

2.1 The pre-application discussion identified a degree of conflict with the then saved policy HOU4. That policy is now no longer in place and is therefore no longer relevant. Any view relating to the scale or proportion of housing (in a period when TBC believed it had a healthy supply of housing land) is by fact and degree less relevant in the current period of admission of a failure to delivery. Local failure to deliver also needs to be placed in context with the national housing crisis, and the NPPF3 paragraph 59 objective of “significantly boosting the supply of homes”.

The JCS defines infilling or infill differently to the more usual definition of the term(s)

“For the purpose of this policy (4 ii), infill development means the development of an under-developed plot well related to existing built development”.

The above quote is from JCS paragraph 4.11.5 and the reference to “this policy” is to policy SD10. The site is part of an under-developed plot (i.e. part of the original parcel of land having been part developed by the Village Hall and associated MUGA). It is well related to built development: having frontage to a highway (east); to residential to the north; and residential together with the Village Hall to the south. Only the northern boundary is to undeveloped land, a minor watercourse (with a public footpath and open land beyond). The boundary is a defensible boundary. The officer (at a time i.e. in a period of perceived good supply of housing) considered the site to have very limited potential for housing. The inference was that even in that period there was some potential for housing. To follows that the planning balance will have shifted further in favour of the provision of needed homes.

The case officer provides a quote from the Landscape Officer relating to the emerging Borough Plan. (It is noted that the Landscape Officer’s comments on the application are not set out under the consultations heading) No comments from the Landscape Officer are

displayed on the Council's public Planning pages and have not hitherto been brought to the attention of the applicant. A copy of the full consultation reply (assuming the Landscape Officer has been consulted) is requested. It is also requested that it (and all other "missing" documents) is/are publically displayed. The Council is invited to produce/share its evidence relating to "parkland setting". The site is not part of a historical parkland setting. Early OS maps show that Maisemore Court was not in a parkland setting. Land to the south of the Court was dominated by commercial fruit orchards, which will have had a major impact on view(s) (inward and outward) of both the Court and the Church. The Lime Avenue and lake are "recent" landscape additions to a working agrarian landscape. The land is not high quality agricultural land it is classified grade 3 and combined with the small parcel size makes it less than ideal for efficient agricultural production.

The UDO and Heritage Officers made some positive comments in relation to the emerging Borough Plan regarding the potential for (limited) development, which are welcomed. There is no evidence to suggest that any consideration has been given to the "up to" part of the current application. The applicant has not previously had any feedback from TBC on submissions made at the Preferred Options stage of the TBP. It is requested that full details of comments received are shared. Please also confirm when TBP feedback will be made publically available and when the pre-submission consultation will commence. The consistency of consultation responses (relating to plan making and decision taking) needs to be carefully considered.

2.3 The "discounting" of the site at a policy level needs to be reviewed in the light of e.g. TBC's housing crisis, and the landscape sensitivity of the site itself. The Council should be aware that the site will continue to be promoted and its omission should be regarded as an unresolved objection. In addition more specific regard should also be paid to the proposals for self build and affordable homes which is before the Planning Committee for consideration.

Current Application

3.1 The words "up to" are referred to here, but there is no evidence of consideration of the application in accordance with its terms.

Policy Context

4.3 The view is expressed by the case officer that the weight to be attached to the emerging TBP is "moderate weight". There are considerable unresolved objection (the full extent of which will not be apparent until after the up-coming consultation period has passed and the plan (inclusive of objections) examined by an independent Inspector. There are unresolved TBP objections relating specifically to the site and to the issues. In the circumstances the emerging plan should be afforded little or no weight, and certainly not moderate weight.

CIL & S106

5.1-5.6 There does not appear to be reference (in the report) relating to the exemptions to be applied to Self build and to affordable housing provision, although these have been acknowledged by the Council's Planning Policy Officer. There appears to be some officer confusion. For the avoidance of doubt the proposal before the Planning Committee for consideration relate solely to self build and affordable housing and do not include any housing not meeting the respective definitions, as set out in the glossary to NPPF3. The homes are to be delivered in accordance with a S106 obligation proposed to be entered into with TBC. A draft S106 has been submitted to assist the process. The usual practice, should members be minded to permit the development would be to issue a minded to permit instruction subject a necessary S106 obligation delegating power to the officer to issue permission when the obligation(s) have been signed and sealed. (Refusal reasons 5 and 6 are not relevant when S106 obligations are delivered, as intended)

Analysis**Principle of development**

6.1 It is a fact that Maisemore has been designated in the JCS as a Service Village. It is also common ground that Maisemore is not appropriate for large scale developments (i.e. those of hundreds of dwellings). The development is comparable to others under consideration at Service Villages including e.g. 18/00173/FUL and 17/01337/OUT (at Coombe Hill)

For 18/00173/FUL it was RESOLVED (in June 2019) That authority be DELEGATED to the Technical Planning Manager to PERMIT the application, subject to the resolution of outstanding matters in respect of ecological mitigation measures, any additional/amended planning conditions and the completion of a Section 106 Agreement. A similar resolution was made in respect of the other Coombe Hill site. The combined sites (25+40) at that Service Village are for 65 dwellings.

The current application proposals are for up to 25 homes. The two recent permissions for housing developments at Maisemore are for 28 dwellings at Rectory Farm (under development) and 15 dwellings at Bell House Farm (total approved 43). The Bell House Farm permission appears to have expired. TBC is requested to confirm whether the development has commenced. The Report indicates that 52 dwellings have been "committed" in the village over the plan period (so presumably permitted post 2011), but it is not clear where the other 9 dwelling commitments are? Whether they have been developed? Or whether the permissions remain extant? TBC is requested to share information relating to these commitments. The committed numbers will fall within the range of 43-52, but deliverability could potentially fall significantly short of even the lower figure. Adding a full 25 to the range will result in a new range of 68-77. The figures are not dissimilar to those found by

TBC to be acceptable at Coombe Hill. Given the comparative scales of Coombe Hill and Maisemore (e.g. by existing household), it will be difficult for the Council to substantiate a “disproportionate growth” argument for Maisemore.

6.3 Please X ref with comments made under the history sub heading in the first paragraphs on page 4. The Council is requested to reconsider the definition of infill in the context of JCS paragraph 4.11.5. In addition the TBLP-2011 is out of date. It has/had no polices for self- build and is no longer in conformity with national policy (e.g. NPPF3). The site is not an “isolated site”¹.

6.4 The weight to be attached to the emerging TBP should be little or none. It should not be afforded moderate weight at this stage and certainly not given the current housing crisis and the failure of the JCS/old TBLP to deliver.

6.5 There is no clear conflict with SD10. The perception of conflict is one of judgement. If it were accepted that there is a degree of conflict, such conflict should be placed in context with the current plans failure to deliver housing (including affordable housing and housing choice). We say there is compliance with SD10, and the weight to be applied should be positive. The boundaries of Maisemore are yet to be determined through the TBP process. We would suggest that the site is a good candidate to assist in meeting the Borough’s housing needs. The applicant will be promoting the site further as the TBP progresses through examination. The site is very well related to the physical framework of the settlement. The housing shortfall also means that positive weight should be applied.

5 Year Supply

6.7 Reference to a 5.22 years supply in this paragraph is most misleading. The Council has admitted that it cannot provide a 5 year supply.

6.8 The figure of 4.33 provided is the Council’s “best” position. In a Statement of Common Ground agreed for a recent appeal (land at Fiddington) the Council agreed with the developer that there was a shortfall and dependent upon the method of calculation it would fall within the range of 2.77 years supply and 4.33 years supply. The Council had challenged an appeal decision relating to its housing supply position in the High Court² and lost. Our view is that by correct calculation the lower figure is more reliable, but in any event there is common ground that there is a shortfall. There is also common ground that if “less than substantial” heritage harm is identified (rather than no heritage harm) then the normal planning balance will apply rather than the so called “tilted Balance”. Correct interpretation of the NPPF presumption in favour of sustainable development has been considered by the

¹ *Braintree* judgement [2018] EWCA Civ 610

² [2019] EWHC 1775 (Admin)

Courts including e.g. *FODDC v S of State & Gladman*³. It is interesting that when the correct test was applied in the redetermined appeal it was allowed⁴.

6.9 There is agreement relating to the test to be applied (assuming that some level of less than substantial harm is identified, and can be substantiated). Our position is that the harm (if indeed there is any) is minor and insubstantial. The harm does not/will not significantly and demonstrably outweigh the benefits in this case. The benefits, most particularly the social benefits of affordable housing provision and housing choice through self build, are significant, and should be afforded significant positive weight.

Self build considerations

6.12 Details of the Registers content have been requested but not (at the time of writing) supplied. It is however understood (from a telephone conversation and email exchange between Alan Steele for the applicant and Matt Tyas for TBC) that there are some 86 names on the Register, including 66 qualifying under the local connection clause. It is further understood that a number of the recipients have requested a village/rural location, with some requesting Maisemore as a preference. Please confirm the position in advance of the Planning Committee meeting. It is requested that appropriate details of the Register, together with current levels of delivery/shortfall are presented to Members so that they have the most appropriate, correct, and up to date information.

6.13 Requires updating to reflect true facts.

6.14 Whilst the Officer may be correct that demand for self-build is relatively small the flip side to that argument is that delivery to meet the need is also relatively small and achievable. The Council does have a duty under the Self build Act to deliver. This duty must be considered in the planning balance and should not be trivialised as “attracting only very limited weight”. The self-build need is a specific need in addition to the general need to supply homes. There is a short fall in both general and specific housing need. The provision of affordable housing in the Borough is woefully inadequate. It would be prudent for officers to advise Members of the current annual and overall shortfall in affordable housing provision.

Housing Mix

6.15-16 No precise housing mix is presented as the application is an all matters reserved outline application. There is however a firm proposal before the Council that 40% of the housing will be affordable and that the remainder will be self-build plots. Further detail can be explored and agreed at the approval of reserved matters stage.

³ [2016] EWHC 421 (Admin)

⁴ APP/P1615/A/14/2228822

Affordable Housing

The proposals are presented in compliance with the JCS policy SD12 requirement for 40% affordable housing. Members will be aware that many larger sites have not/are not delivering at this rate. Discounted Market Sales Housing (“DMSH”) is a comparatively new addition to the Affordable homes stable. The type has been introduced recognising the importance of home ownership and the need to assist those would otherwise struggle to enter the housing market to take the first step. Officers are requested to inform the applicant (and Members) how many of this type of affordable homes have been approved? and how many have actually been delivered? The proposal (the applicant’s first position) is for all of the affordable homes to be DMSH (x ref with comment at top of page 2). The suggestion that some of these should be rented seems to demonstrate a misunderstanding of the proposals. The applicant has not been approached for comment or discussion on the matter, but is happy to discuss. The absence of an agreement does not/should not weigh against the proposals. A draft agreement has been prepared and submitted. It is normal practice for such agreements to be finalised post resolution (e.g. as in the two very recent Coombe Hill applications referred to earlier.

Impact on Heritage Assets

6.20-21 Agreed

6.22 We agree that significance “can” be harmed by development within the setting of the heritage assets in question. The question though is “will” the setting be harmed. That is a matter of judgement. Such judgement is not easily made in the absence of a detailed inspection of the assets and the specific relationship between their setting(s) and the site. Assessment and understanding of the proposals would benefit from site inspection.

6.24 The suggestion here appears to be that the topography of the site plays a part in, and may well accentuate, the harm to the heritage assets. We disagree. Views of the site from the assets are firstly filtered views through vegetation including the comparatively recent, but now important (from a landscape view) lime avenue. Secondly they are middle distant views seen across a valley and against the rising backcloth of the village’s existing built environs including the Village Hall. Looking from the site northwards back towards the assets they will remain distinct and separate occupying the high ground. Looking north from the public vantage points along the length of Church Road the eye is focused towards the central focal point of St Giles Church, and is less inclined to deviate to take in the wider view to e.g. the left (west) where the site is located. The relative isolation of the group which occupies the high ground will remain intact, and undisturbed by the development. It is however worth noting that the high ground group is not made up exclusively of high grade heritage assets. The Model Farm located to the north and east of the principal assets has more recently been re-developed into a modern and successful business estate (The Steadings), including elements of new built development. Modern agricultural buildings

have been permitted further to the east and new (in heritage terms) dwellings have been erected to the west, and to the north, of the principal assets. Maisemore Court is not a single large dwelling. It currently comprises 3 dwellings (as referred to in the listing notes) and has been much altered through time. Indeed, its evolution is considered to be an important attribute. The high ground group has also evolved and no doubt will continue to evolve through time. The Village has also developed and evolved. Change should not (necessarily) be equated to harm.

6.25-28 There is common ground relating to the importance of the group of assets. The high ground group's current "separation" from that part of the village which has seen the greatest level of 20/21 century development is recognised. The proposals do not however impact upon the immediate settings of the assets and nor will it materially impact on important views of, or from, the assets. The impact is to the wider setting and is diluted by the sites proximity to the existing built development within the village. The development will, as a matter of fact reduce the distance between the assets and built development in the main part of the village but it will retain the "separation" that is desired by your heritage officer and the HE Assistant Inspector. I do not consider that the development (to be carefully controlled and detailed at reserved matters) will be materially harmful. If this view is accepted then the "tilted balance" should be applied. Where material (less than substantial) harm is identified then the ordinary balance will be applied. The extent of any such harm should not be exaggerated, and the value of benefits not underestimated.

It is material that the applicant's family members own and occupy the important residential assets identified and it is certainly not in their interests to present, or permit, a scheme that adversely impacts on their assets. They are the asset's guardians, and have a vested interest in ensuring that the reserved matters details are of a suitably high quality. Rather than detracting from the assets it is more likely that the development will facilitate inward investment from a family who have been committed to Maisemore Court and to Maisemore village for generations.

The heritage harm (if any) is small and therefore does not weigh heavily against the proposals. It will not significantly and demonstrably outweigh the benefits.

Design & Layout

6.29-33 These matters are reserved for approval. An illustrative layout (depicting 25 plots) has been provided for information only and as such there are no details before the Council for consideration. No request was made for any aspect of the proposal to be "unreserved". The Urban Design Officer's (UDO) view that illustrative proposals showing an ecological corridor (supported by an ecological appraisal) are appropriately described as a "hard boundary" is difficult to fathom. In any event detail will remain within the LPA's control through the approval of reserved matters.

Impact on amenity of adjoining occupiers

6.34 No impacts on neighbours are identified

6.36 The Council's EHO is the appropriate expert on matters of noise disturbance. The EHO raises no objection. Notwithstanding the EHO's view, the UDO suggests that no dwelling should be within 30 metres of the existing MUGA "to reduce impact on the residential amenity of future occupiers". No response has been made to the applicant's request for the source of the "standard" to be shared. The request to share information is repeated here. The applicant will adhere to reasonable standards, but needs to understand their applicability. Other measures can of course be explored to mitigate the potential for noise (if applicable) at the approval stage.

Landscape

It is unclear whether the landscape officer has been consulted. Clarification is requested.

6.39 The report advises that no LVIA has been submitted. No such assessment was requested at validation stage, and none has been requested during the consideration of the application.

6.40 There is common ground that the site is part of a larger site (including more prominent land to the north) which was, as part of the supporting landscape material to the JCS, identified as "medium landscape sensitivity" and "medium Visual sensitivity". The site has not been identified as being of "high" sensitivity. As stated earlier in these notes the site has a very different character, context and elevation to that of the northern parcel. Had the sites been disaggregated I am confident that the site (the southern parcel) would have been identified as having "low" sensitivity. We commend that view to the decision maker. In any event this matter requires very careful consideration.

6.42 The comment that "the site is not considered overly prominent due to its topography..." is generally agreed, but the word "overly" is not necessary. Integration with the village will be achieved through the reserved matters, and such detail remains fully within the Council's control.

6.43 Comments such as "inevitably result in the introduction of hard boundary treatments to rear gardens..." are not helpful and are not factually correct. Such detail is certainly not part of the current proposals and would not form part of detailed proposals to follow. Such detail will remain wholly within the Council's control. The officer's have misunderstood the applicant's intention to treat the stream corridor as an important ecology/biodiversity corridor, but in any event control will be retained at the approval stage.

6.44 Subject to correction of the officers misunderstanding of the proposals it is hoped that the corrected assessment will record no landscape harm. There is no evidence that anything

other than 25 dwelling has been considered, notwithstanding the clear terms of the proposals for up to 25 dwellings.

Biodiversity

There are no objections under this heading. The proposals include real capacity to result in biodiversity enhancement, and this should be afforded some positive weight.

Arboricultural implications

There is nothing negative in the consultation. Appropriate protection can be addressed by planning conditions.

Drainage/flood risk

Again nothing negative that cannot be addressed by condition. It is noted that the officer intends to report an update from ST water. The applicant will not have an opportunity to address any matter raised. Such matter could however be addressed, as necessary, following a resolution to delegate, and in a period for the S106 obligation to be finalised.

Access & Highway Safety

There is nothing negative in the consultation. Appropriate improvements/controls can be addressed by planning conditions.

Public Rights of Way

The matter has been addressed by the submission of additional information.

Waste Minimisation

No formal request for a WMS was made. The worth of such statements at the outline stage is questionable, but a proportionate statement could have been supplied if confirmed as essential. The applicant would wish to endorse, and apply, the principles of Waste minimisation and will commit to work with the Council at the approval stage.

Public Open Space

No POS has been requested during the application's consideration. As the site immediately adjoins the village Hall site and MUGA the provision of dedicated POS may well not be essential. Should a degree of onsite POS be required it can be dealt with at the approval stage. This is a low density scheme with sufficient land for amenity greenspace/POS, as required.

Overall balancing exercise and conclusion

7.2 The extent of the failure to deliver is material to the planning balance. Should the Council present the case that it has a 4.33 years supply and the supply is found to be 2.77

years (or e.g. somewhere between) the Council's planning balance will have been negatively skewed and (any negative) decision taken likely to be unsound.

There is general agreement relating to the application of NPPF3 policy, but not in respect of the weight to be attached to the negatives and positives that are required to be balanced.

7.5 The benefits have in our view been devalued with "very limited weight" afforded (for the self build element) and "limited weight" afforded overall. Our submission is that the self build housing (dependent upon the true level of need - to be verified by reference to the Register) should fall within a positive weight range from moderate to significant. It is incorrect for the LPA to characterise the benefit as small scale simply because the development itself is small in scale, (when elsewhere it argues significant adverse impact due to scale), and to have no regard for the positive cumulative impacts of small scale developments (as recognised in national policy).

7.6 Whilst the benefits have been played down the harms have been exaggerated.

7.7 It is most unusual for a LPA to seek to reject an application (at outline stage) for the lack of information on Waste Minimisation and particularly so when such information had not been formally requested. Members should ask whether this stance is reasonable but more importantly whether the controls sought can be covered by a planning condition. The simple answer is firstly that the reason is not reasonable and not justifiable in this case. Secondly the matter can be adequately covered by a suitably worded condition that will meet the required tests. A refusal on this issue will be most difficult (if not impossible) for the LPA to substantiate. Interestingly the final sentence of the paragraph acknowledges that the matter can be resolved with additional information.

General comment on Refusal reasons

1. The proposal does not conflict with SD10 and leaves SD2 unharmed. Maisemore is a designated Service Village, where the scale of development (up to 25 dwellings) is in general accordance with the Strategy not contrary to it. (e.g. a similar scaled development was allowed on appeal in neighbouring Ashleworth, which is not recognised as a Service Village). It is of course material that a strategy that is not delivering is a failing strategy.

2. The development of the site relative to the importance of the gap referred to is considered to have been overplayed and exaggerated. The development (carefully detailed as it will be at the approval stage) will preserve a reasonable and acceptable gap and the harm to the heritage assets will, at the worst, be small. Any such harm will not seriously impact upon the significance of the assets. There are no matter of fact policy conflicts; this is purely a matter of judgement. The impacts can only be properly assessed by detailed analysis, inclusive of site inspection.

- 3.** The quantum of development is relatively small and low density. There is potential for considerable open space and landscaping and for a reduction in numbers if the LPA is not convinced that 25 dwellings can be satisfactorily accommodated. Landscape harm has been exaggerated. The policy conflicts referred to will be difficult for the LPA to substantiate.
- 4.** There is nothing in this reason that cannot be suitably controlled at the detailed stage. The reason is inadequate.
- 5.** A S106 obligation is proposed. With the benefit of a S106 obligation the reason cannot be substantiated
- 6.** A S106 obligation is proposed. If on site open space provision is necessary it can easily be accommodated. With the benefit of a S106 obligation the reason cannot be substantiated.
- 7.** This can be controlled by condition and is not a valid reason for refusal.

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	17 September 2019
Subject:	Current Appeals and Appeal Decisions Update
Report of:	Development Manager
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Built Environment
Number of Appendices:	1

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

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

1.0 INTRODUCTION/BACKGROUND

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

2.0 APPEAL DECISIONS

2.1 The following decisions have been issued by the MHCLG:

Application No	18/00797/FUL
Location	Highfield Green Lane Witcombe Gloucester GL3 4TY
Development	Proposed 1.5 storey side extension between garage and dwelling and raising of ridge height to provide first floor accommodation.
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	Dismiss
Reason	<p>The main issues with this appeal were the effect of the proposal on the character and appearance of the existing dwelling and the surrounding AONB. The Inspector considered that the elongation of the dwelling by the proposed extension would undermine its design integrity and pleasing vernacular appearance and character. The proposal would also introduce dormer windows which would fail to reflect the simple design of the existing dwelling.</p> <p>Whilst the appeal site occupies an isolated position and is not visible within the wider AONB, there are clear views of the appeal site from a public right of way (PROW) which skirts around the boundary of the site. The Inspector therefore considered that as the proposal fails to reflect the character and appearance of the property, the views into the site of this dwelling from the PROW would be unacceptably harmed.</p> <p>Overall, the inspector concluded that the proposal would be harmful to the character and appearance of the existing dwelling and the AONB. For those reasons the appeal was dismissed.</p>
Date	29.07.2019

Application No	18/00749/FUL
Location	Newton Farm Natton Ashchurch Tewkesbury Gloucestershire GL20 7BE
Development	Creation of construction training centre with parking area (retrospective), erection of office/classroom building for training purposes with adjoining 7 metre high scaffold tower and removal of existing shipping container. Proposal to include provision of screening bund and associated landscaping. Resubmission following refusal of applications 15/01211/FUL and 17/00010/FUL
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	Dismiss
Reason	<p>The Planning Inspector identified the main issue as the effect the proposed development would have on the character and appearance of the area. He acknowledged that there are views across the site and the surrounding area which can be appreciated from public vantage points, and that these views provide visual links to the wider countryside. The Inspector noted that the site contributes to the rural setting and character of the locality with it being relatively inconspicuous. He acknowledged that the proposal would extend the area occupied by buildings and plant machinery significantly further south than at present.</p> <p>The Inspector noted that, whilst the proposed tower would be located immediately adjacent to, and largely screened by, the proposed building, it would be considerably higher than the existing features at the appeal site that are largely screened by the roadside hedgerow. He considered that the tower would appear as an obviously industrial feature and that, even where seen against the backcloth of the existing development, it would be at odds with the agricultural appearance of existing buildings at the wider site and the proposed building.</p> <p>The Inspector further noted that, if the appeal were to be allowed, there would be no control to prevent a far greater use of it in the future, and that this would be more harmful than the existing appearance of the site. In addition, the Inspector considered that the proposed bund would result in the excavation area appearing separate from the rest of the business park.</p> <p>The Inspector considered that, whilst development nearby may result in plant machinery being present in the landscape, this would be limited to the construction period. Moreover, he noted that this does not reduce the increased harm that would result from more frequent plant machinery at the appeal site.</p> <p>The Inspector acknowledged that, whilst the appeal site would be seen with the existing development at Newton Farm from certain vantage points, it would be prominent from several viewpoints. He considered that the development would be detrimental to the existing open countryside context of the site.</p> <p>It was also recognised by the Inspector that any planting</p>

	<p>would take time to mature and soften views of the site and that, in any event, it would not be practical to screen the tower given its height. While the Inspector acknowledged that landscape conditions can be appropriate in certain instances, he stated that they should not be used to try to hide development which is inherently unacceptable.</p> <p>Further, the Inspector acknowledged that, while works associated with the approved garden and retail outlet centre to the west would change the context of the site, this would not be the case for the land to the south and the east of the appeal site. The Inspector further noted that he could not be sure that the proposal at Fiddington would be granted permission or proceed and noted that, irrespective of this, this would be located on the other side of the road from the appeal site.</p> <p>The Inspector therefore concluded that the proposal would cause unacceptable harm to the character and appearance of the area, and that it would be contrary to Policies SD1, SD4 and SD6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031, and would also fail to accord with the NPPF.</p> <p>The Inspector identified that the benefits of the proposed development would be the expansion of an existing business, support of the local economy, and possible environmental benefits resulting from elements of the training. Notwithstanding the fact that there is support for economic growth in the NPPF, which includes the recognition that there are specific locational requirements of different sectors and that in rural areas business needs may have to be found adjacent to or beyond existing settlements, the Inspector found that the scheme would run contrary to the environmental objective of sustainable development in the NPPF. The Inspector concluded that the benefits of the scheme would not outweigh the harm and policy conflict he identified, and therefore dismissed the appeal.</p>
Date	08.08.2019

Application No	19/00159/FUL
Location	50 Greenways Winchcombe Cheltenham GL54 5LQ
Development	First floor extension over garage to front.
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	Dismiss
Reason	The Inspector stated that the proposal would be unbalanced and top heavy by virtue of its design. Likewise, the materials would fail to respect the street scene, resulting in harm to the appearance of the area. No public benefit was identified to outweigh the harm and as such the appeal was dismissed.
Date	16.08.2019

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

Background Papers: None

Contact Officer: Appeals Administrator
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Appendices: Appendix 1: List of Appeals received

Appendix 1

List of Appeals Received						
Reference	Address	Description	Date Appeal Lodged	Appeal Procedure	Appeal Officer	Statement Due
19/00078/FUL	Doe House Main Street Dumbleton Evesham Gloucestershire WR11 7TH	Proposed Extensions/Alterations to existing dwelling. Retention of replacement windows on front elevation (retrospective) and replacement of a bay window on the ground floor front elevation. (revised application following the split decision of application reference 17/00569/FUL).	14/08/2019	H	JLL	
19/00401/FUL	4 Farm Lane Shurdington Cheltenham Gloucestershire GL51 4XL	Erection of a two-storey rear extension and additional windows at first floor level to the south and east elevations.	14/08/2019	H	DLL	

Process Type

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