

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Tuesday, 17 March 2020 commencing at 10:00  
am**

## **Present:**

Chair  
Vice Chair

Councillor J H Evetts  
Councillor R D East

## **and Councillors:**

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

### **PL.56 ANNOUNCEMENTS**

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

### **PL.57 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

- 57.1 Apologies for absence were received from Councillors R J G Smith, P D Surman and M J Williams. There were no substitutions for the meeting.

### **PL.58 DECLARATIONS OF INTEREST**

- 58.1 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.
- 58.2 The following declarations were made:

<b>Councillor</b>	<b>Application No./Agenda Item</b>	<b>Nature of Interest (where disclosed)</b>	<b>Declared Action in respect of Disclosure</b>
R D East	General declaration.	Had received correspondence in relation to various applications but had not expressed an opinion.	Would speak and vote.

J H Evetts	<p>Agenda Item 5b – 20/00042/FUL – Dixton Manor, Dixton, Gotherington.</p> <p>Agenda Item 5c – 20/00043/LBC – Dixton Manor, Dixton, Gotherington.</p>	Had attended a meeting with the applicant, who had explained the proposals, but had not expressed an opinion.	Would speak and vote.
J H Evetts	<p>Agenda Item 5d – 19/00722/FUL – Land at Berry Wormington, Stanway Road, Stanton.</p> <p>Agenda Item 5e – 19/00723/FUL – Land at Berry Wormington, Stanway Road, Stanton.</p> <p>Agenda Item 5f – 19/00724/FUL – Land at Berry Wormington, Stanway Road, Stanton.</p>	The Officer reports in relation to these applications made considerable reference to the property where he lives.	Would not speak or vote and would leave the room for consideration of these items.
A Hollaway	General declaration.	Had received correspondence in relation to various applications but had not expressed an opinion.	Would speak and vote.
J R Mason	<p>Agenda Item 5b – 20/00042/FUL – Dixton Manor, Dixton, Gotherington.</p> <p>Agenda Item 5c – 20/00043/LBC – Dixton Manor, Dixton, Gotherington.</p>	Had attended a meeting with the applicant, who had explained the proposals, but had not expressed an opinion.	Would speak and vote.
P W Ockelton	General declaration.	Had received correspondence in relation to various applications but had not expressed an opinion.	Would speak and vote.

58.3 There were no further declarations made on this occasion.

**PL.59 MINUTES**

59.1 The Minutes of the meeting held on 18 February 2020, copies of which had been circulated, were approved as a correct record and signed by the Chair.

**PL.60 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL**

The objections to, support for and observations upon the various applications as referred to in Appendix 1 attached to these Minutes were presented to the Committee and duly taken into consideration by Members prior to decisions being made on those applications.

**18/01251/FUL - Starveall Farm, Pamington Road, Pamington**

60.1 This was a hybrid planning application – a full planning application for the proposed erection of a new poultry site for up to 360,000 birds with solar panels, biomass boilers and associated buildings and development and an outline planning application for one agricultural worker's dwelling with all matters reserved except for access. The application had been deferred at the Planning Committee meeting on 18 February 2020 in order to allow the appropriate consultation to take place to accord with the Environmental Impact Assessment regulations.

60.2 The Planning Officer advised that the application related to land at Starveall Farm which was located approximately one mile south of Pamington. There were four existing broiler rearing units on Starveall Farm which had planning permission for up to 200,000 birds. The current application related to a parcel of land to the south of the existing units and comprised a full application for the erection of six broiler rearing units with capacity for 360,000 birds as well as biomass boiler buildings, 18 feed bins and other ancillary structures; the application also included outline proposals for the erection of one agricultural worker's dwelling. The six poultry units would sit parallel to one other and each unit would measure 92 metres by 28 metres with a ridge height of 5.3 metres. The supporting information with the application set out the need for a poultry enterprise and, although the proposal would not directly employ a large number of people, it would undoubtedly provide economic benefits to the area and the UK economy as a whole. The National Planning Policy Framework was supportive of development which promoted a strong rural economy and encouraged policies which supported sustainable growth and expansion of all types of business and enterprise in rural areas, and which promoted the diversification of agricultural enterprises. There would be harm arising from the development due to landscape impact but this was primarily restricted to nearby viewpoints from the public right of way to the south. Although the site was visible from other viewpoints, including a public right of way on Oxenton Hill which was located within the Area of Outstanding Natural Beauty, the development would be viewed in the context of the existing poultry units to the north and the visual impact would be partially mitigated by landscaping and the colour of the proposed buildings. There was potential for loss of amenity – both existing and future - as a result of on and off site operations primarily related to the emerging Garden Town. This was a matter which weighed against the proposal; however, it was considered that it could be mitigated to an acceptable impact through the Environmental Permitting Regime and the imposition of planning conditions. In addition, the Garden Town proposals could only be afforded, at best, very limited weight in the determination of the application. There would also be some impact on peace, tranquillity and amenity due to proximity but that could also be mitigated to an acceptable degree through the Environmental Permitting Regime. It was

considered there was a functional need for one additional agricultural worker's dwelling, which related to a full-time worker in association with the poultry enterprise in the best interest of animal welfare and bio-security. It was concluded that the proposed development was generally supported in principle by the National Planning Policy Framework and local plan policies and, whilst there would be some impacts on the area, Officers considered that the economic benefits of the proposal outweighed the harm in this case, as such, the Officer recommendation was to permit the application.

60.3 The Chair invited the applicant to address the Committee. The applicant indicated that he was pleased the application was being recommended for permission and hoped that Members would see it in the same light. The Officer report was very thorough, matching the amount of work and the assessments that had been carried out in submitting the application. He pointed out that there was no objection from the Environment Agency – which had approved an environmental permit to increase the farm size in August 2017 – and no objection or comments had been made by Environmental Health, Highways England, Highways Authority, Lead Local Flood Authority, Public Rights of Way Officer, County Archaeologist, Natural England, National Grid, Severn Trent Water or the Council's Conservation Officer. The site had direct access off the B4079 and was 430 metres from Claydon Farm, 570 metres from Claydon farmhouse and 710 metres from Claydon cottages with Pamington and Oxenton both over 1,250 metres away. The Council's Environmental Health Officer had been consulted on the application and had no objection with regard to odour, furthermore, given the relative remoteness and the presence of the existing facility, any loss of amenity arising from the proposal would be negligible. He explained that the site had no special environmental or ecological designations, was not identified as valued landscape in the development plan and was not within an area subject to any national or local landscape designation nor did it conflict with the National Planning Policy Framework. There was no objection to the application on flood risk or drainage grounds and the proposal would accord with the Joint Core Strategy. In terms of the proposed manager's dwelling and Paragraph 79 of the National Planning Policy Framework, it was considered there was an essential need for a further dwelling at Starveall Farm. In summary, a functional need for one additional dwelling had been established and, in terms of the poultry units, the proposed development was generally supported in principle by the National Planning Policy Framework and local plan policies. He wished to emphasise that it was absolutely essential for the manager's dwelling to be sited on the farm for biosecurity and welfare reasons and pointed out that Homes England had been consulted and raised no objection to the application.

60.4 The Chair indicated that the Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

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

#### **20/00042/FUL - Dixton Manor, Dixton, Gotherington**

60.5 This application was for the proposed demolition of an existing stable block and replacement with a new stable block and associated outbuildings and felling of six trees following previous consents 17/00048/FUL and 17/00049/LBC; resubmission of applications 19/00500/FUL and 19/00501/LBC. The Planning Committee had visited the application site on Monday 16 March 2020.

- 60.6 The Planning Officer advised that this was one of two applications in respect of Dixon Manor and sought permission to demolish a curtilage listed building and replace it with a modern range. The main matter to be addressed was the impact on the historic environment which, in this instance, comprised two key designated heritage assets – the curtilage stable block which was proposed to be demolished and the Manor itself. The loss of the curtilage listed stable block would result in substantial harm to that asset, and less than substantial harm to the setting of the Manor, as such, its loss required clear and convincing justification. The only perceived justification put forward related to the economic benefit to the applicant who suggested it would be more cost effective for them to demolish the stable rather than refurbish it; this had been assessed and was considered to be an inadequate justification for the harm. The Council's Conservation Officer and Historic England maintained strong objections to the scheme and it was therefore recommended for refusal.
- 60.7 The Chair invited the applicant to address the Committee. The applicant explained that he had purchased the Manor five years ago when it had been in a very poor state of repair having already had extensive and inappropriate alterations carried out. He had been keen to restore the Manor to its former glory in keeping with its history and completion of the courtyard was the next piece of the jigsaw. The application sought to remove the existing stable block, which had been altered to a point where very little heritage remained and was structurally unsound, as evidenced by the structural survey, so, despite his best intentions, could not be repaired and retained. The application was also accompanied by a detailed heritage assessment which fully supported the proposal. The applicant explained that he genuinely loved the house and had put a huge amount of work into its restoration. He had explored other options but the proposal put forward was the correct solution under the circumstances and he hoped the Committee would take this into consideration in making its decision.
- 60.8 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 the primary point of the listing was in respect of the Manor itself and the proposal was part of bringing it back to its former grandeur rather than detracting from it and was justified in that context. The proposer of the motion felt that it had been clear from the Planning Committee Site Visit that the existing structure was unsound and there had been a lot of movement in the existing gable ends with changes made over the years not in keeping with its heritage. Having read the Officer report and listened to the applicant, he fully supported the proposal and the attempt to reinstate the building. The seconder of the motion agreed that the vibrant courtyard no longer existed and the applicant's proposal would restore the status that it once had so that people driving along the road from Gretton to Gotherington would be able to look across and see a magnificent building that had been properly and caringly designed. In his view, bringing the property back to its former glory was the most important consideration. The Council's Conservation Officer disagreed with these sentiments, as had Historic England; the existing stable block was a historic building which was remnant of the original courtyard and still retained a significant amount of historic fabric such as the Cotswold stone roof, stone gables and brick walls. His understanding was not that the structural engineer had stated that it was unstable, rather that it was potentially unstable if converted due to the soil against the rear wall which was not designed to take that weight. He advised Members that they should consider the importance of the building in the wider context of the Grade II\* listed building and remember that, once destroyed, the historical remnant would disappear forever so they should must assess the relative value of that against the proposal. The applicant's justification for demolition was to provide larger stable blocks and boxes for horses which was fair but could be accommodated in the new building that had already been permitted without demolition of the existing building.

- 60.9 A Member queried whether it was possible to condition a permission to ensure the gable end was rebuilt as it was currently so that it would look exactly the same. In response, the Council's Conservation Officer explained that once demolished the context would be lost and using salvaged materials would not preserve the historical fabric. The building had been constructed in a pre-mechanical age by local craftsmen and that could not be recreated; whilst it could be rebuilt, it would not be the same building. The proposer of the motion accepted what the Conservation Officer was saying; however, the courtyard was a small part of a larger quadrangle which was almost all gone already and, in the longer term, he felt that replacing the building would be a positive rather than a negative. In response to a Member query, the Planning Officer confirmed there was already planning permission in place which would retain the existing outbuilding whilst allowing the construction of the courtyard. On that basis, the Member indicated that she could not support the proposal to permit the application and was of the view that the building should remain and be incorporated as part of the new courtyard in accordance with the extant planning permission. This opinion was shared by another Member who felt that heritage was rapidly disappearing and should be preserved at every opportunity. Another Member expressed the view that the purpose of listed buildings was to preserve something which had a future as opposed to something which would collapse if left alone, as in this instance. He felt that a rebuild which was sympathetic to the context of the original building contributed positively to the landscape and was functional would be far preferable to allowing the building to continue to deteriorate and he was supportive of the proposal. The Technical Planning Manager understood the debate but stressed that it was very important to understand the decision-making context and local planning authority's statutory duty under the Listed Buildings Act and the considerable weight to be given to preserving and enhancing historic buildings. There must be significant public benefits to outweigh any harm to the listed buildings and the Council's expert and Historic England both objected to the application on that very basis. The benefits of the application were very limited and the proposal was largely based on the applicant's personal preferences; whilst he could understand the reasons for that, a judgement must be made as to whether the benefits of the proposal constituted the public benefit that was needed to outweigh the harm that would be caused to the listed asset.
- 60.10 A Member reiterated her view that all listed buildings needed maintenance but that should be for the benefit of future generations and she strongly objected to the demolition of the building. Another Member indicated that she had been on the Planning Committee Site Visit and did not consider it an attractive building, certainly not of the standard of Tewkesbury Abbey or other similar historic buildings.
- 60.11 The Chair sought clarification as to the conditions that should be included if Members were minded to permit the application, particularly in terms of the gable end being rebuilt to appear as similar to the existing as possible. A Member noted that the new building would be wider than the existing and, on that basis, questioned how the gable end could be constructed to look the same. The Chair indicated that it would be impossible for it to be identical but could be constructed in a way to look the same so the historical context was not completely lost. The Technical Planning Manager drew attention to the elevations on the plan at Page No. 76 of the Officer report which appeared to show that it would be very different in terms of proportions. He recommended the inclusion of conditions in relation to; recording of the historic asset; materials; window and door design and materials; and boards and fascias. A Member hoped that the top of the gable could be retained so that the only difference would be a slight change in angle; however, the Chair pointed out that the pitch of the roof was different with the original roof being

far more gothic in aspect than that proposed so he was unsure if this could be addressed. Another Member indicated that the plan appeared to show a very large chimney and clarification was provided that the chimney was within another element of the proposal and not within the stable block.

60.12 Upon being put to the vote, it was

**RESOLVED** That the application be **PERMITTED** subject to conditions in relation to recording of the historic asset; materials; window and door design and materials; and boards and fascias.

### **20/00043/LBC - Dixton Manor, Dixton, Gotherington**

60.13 This was a listed building consent application for the proposed demolition of an existing stable block and replacement with a new stable block and associated outbuildings and felling of six trees following previous consents 17/00048/FUL and 17/00049/LBC; resubmission of applications 19/00500/FUL and 19/00501/LBC. The Planning Committee had visited the application site on Monday 16 March 2020.

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

**RESOLVED** That the application be **GRANTED CONSENT** in accordance with the decision in relation to the previous application ref: 20/00042/FUL.

### **19/00722/FUL - Land at Berry Wormington, Stanway Road, Stanton**

60.15 This application was for a new livestock/general purpose store building and formation of a new access track and yard.

60.16 The Planning Officer advised that the proposal would be served by a new access and track from the B4632 and, in combination with Agenda Items 5e and 5f, would form a new farmstead on a presently undeveloped field parcel. Whilst agricultural enterprises were broadly supported by the National Planning Policy Framework and local plan policy, the proposal would have landscape and heritage implications given its location within the Area of Outstanding Natural Beauty and its proximity to a number of listed buildings. The agricultural need for the building had been demonstrated and the scale and design of the building was considered appropriate for the proposed use. Although there would be some landscape harm by virtue of the development being within the open countryside, it was considered that the limited harm could be mitigated by conditions relating to landscaping, materials and external lighting. The setting to Wormington Grange - a Grade II\* listed building - would be preserved subject to compliance with the conditions set out in the Officer report. The Additional Representations Sheet, attached at Appendix 1, set out further information with regards to landscaping, external lighting, pollution control and the apron to the development which had all helped to address concerns, and the Officer recommendation was to grant permission, subject to conditions set out in the Officer report as amended by the late material set out on the Additional Representations Sheet.

60.17 The Vice-Chair in the chair invited the applicant to address the Committee. The applicant indicated that he intended to speak to this application and the subsequent applications at Agenda Items 5e and 5f. He explained that he had built up his livestock business - which included 1,200 breeding ewes, 2,400 lambs, 30 breeding rams and a number of cows and calves – over the last 25 years. As any farmers would appreciate, machinery and buildings were essential for the continued successful running of a business that was reliant on good animal welfare; buildings

allowed secure locations to undertake activities such as lambing and calving and for storage of hay/straw and equipment/machinery. He had previously rented large barns to undertake such activities; however, in 2018, his lease had not been renewed leaving him without secure premises. This had been a very anxious time with a real threat of losing the business. The land at Berry Wormington had become available which had opened up the opportunity for him to continue farming. Although he rented land in various parts of the borough, this was the only land he owned and its purchase had represented a huge gamble; whilst the proposal was also a big investment, the opportunity to lessen the risk and increase the farm offering was invaluable. From his experience with a previous application, he had come to appreciate the landscape sensitivities of the site and had worked hard with Officers and external organisations over the past years to create a high quality scheme with minimal impact on the surrounding area. The applicant went on to explain that the site was within the Area of Outstanding Natural Beauty and the listed buildings Wormington Grange and Berry Wormington were both within the vicinity. Through dialogue with the Council's Landscape and Conservation Officers, several amendments had been made to the proposal, including differently coloured external materials and additional planting of trees and hedges, which had been well-received. The Cotswold Area of Outstanding Natural Beauty Conservation Board had noted the efforts to adjust the scheme in line with its advice and, although there was some concern about darker skies, this had been discussed with the Planning Officer and three conditions had been agreed which would ensure that any lighting used would not significantly impact on the darkness of the Area of Outstanding Natural Beauty. The Environment Agency had not objected to the application and, further to its comments, the applicant had submitted a statement that set out how the scheme accorded with relevant Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991. The Committee was being asked to consider applications for three new barns which had been demonstrated to be necessary and policy compliant. In summary, he explained that the development was for the purposes of the continued functioning of a successful family agricultural business and, working with Officers and external organisations, amendments had been made and conditions agreed in order to create a high quality scheme with minimal impact on the landscape. He urged Members to support the Officer recommendations in relation to the three applications and permit his proposals.

60.18 The Vice-Chair in the chair indicated that 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 indicated that she was very happy to have the opportunity to support an application for a rural business within her Ward. In response to a query in relation to the location of the site in Flood Zone 3, and the potential for leeching into existing watercourses, the Planning Officer drew attention to the Additional Representations Sheet which referenced the waste/manure management plan which explained the processes that would be carried out in the barns and that waste generation from the enterprise would be removed from the site and disposed of elsewhere. Upon being taken to the vote, it was

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

### **19/00723/FUL - Land at Berry Wormington, Stanway Road, Stanton**

- 60.19 This application was for a new livestock housing/calf rearing building and formation of a new access track and yard.
- 60.20 The Planning Officer explained that the Officer recommendation was permit rather than refuse as stated at Page No. 96 of the Officer report. The application was for an agricultural building for the keeping of livestock/calf rearing and associated access drive and the size and design of the building was considered appropriate for the proposed use and, subject to compliance with conditions, would not adversely impact the landscape or heritage assets. Notwithstanding this, there were concerns that the development may give rise to future demand for a caravan or dwelling at the site to provide supervision of livestock. The applicant's attention has been drawn to the observations from the Cotswold Area of Outstanding Natural Beauty Board, the Council's Landscape Adviser and Conservation Officer in that any further development at the site was likely to have adverse landscape and heritage impacts; however, the development as proposed was considered acceptable and the Officer recommendation was to grant planning permission, subject to conditions set out in the Officer report as amended by the late material set out in the Additional Representations Sheet, attached at Appendix 1.
- 60.21 The Vice-Chair in the chair indicated that there were no public speakers for this item as the applicant had made a statement under the previous Agenda Item which related to Agenda Items 5d, 5e and 5f. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being taken to the vote, it was

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

### **19/00724/FUL - Land at Berry Wormington, Stanway Road, Stanton**

- 60.22 This application was for a new agricultural workshop/storage building and formation of a new access track and yard.
- 60.23 The Planning Officer advised that, since the publication of the Committee papers, the design of the building has been revised to omit 10 roof lights which would reduce light spill from the building and minimise the impact upon the dark skies of the Area of Outstanding Natural Beauty. He confirmed that the building was considered to be appropriate for the proposed use and would have an acceptable impact on landscape and heritage assets, subject to compliance with conditions. As such, the Officer recommendation was to grant planning permission, subject to conditions set out in the Officer report as amended by the late material set out in the Additional Representations Sheet, attached at Appendix 1.
- 60.24 The Vice-Chair in the chair indicated that there were no public speakers for this item as the applicant had made a statement under the previous Agenda Item which related to Agenda Items 5d, 5e and 5f. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being taken to the vote, it was

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

### **19/00781/OUT - Land on the South Side of Dibden Lane, Alderton**

- 60.25 It was noted that this outline application for the erection of up to 41 new residential dwellings, including 20 affordable houses, associated access and landscaping had been withdrawn.

### **19/00772/FUL - Land Parcel 0088, Willow Bank Road, Alderton**

- 60.26 This application was for residential development up to 28 units, including means of access and landscaping.
- 60.27 The Planning Officer advised that the site was located outside, but adjacent to, the settlement boundary of Alderton as shown in the Neighbourhood Development Plan and was within a Special Landscape Area with the Area of Outstanding Natural Beauty located to the north of Beckford Road. The site was predominantly within Flood Zone 1, although the southern areas of the site close to the watercourse were within Flood Zones 2 and 3. The application was made in full for the erection of 28 dwellings, 11 of which would be affordable, and the proposal was for a mixture of one, two, three and four bedroom properties including detached, semi-detached and terraced properties. Access would be provided directly off Willow Bank Road. As set out in the Officer report, the proposal was contrary to the development plan; however, as the Council could not currently demonstrate a five year supply of deliverable housing, the tilted balance was engaged and there was a presumption in favour of granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits. Officers were of the view that, on balance, the adverse impacts would significantly and demonstrably outweigh the benefits in this case and the application was recommended for refusal for a number of reasons, primarily as the site was contrary to the development plan in respect of its location but also as the proposal would risk the erosion of social cohesion due to the cumulative increase in dwellings within Alderton in a relatively short period of time; it would have a harmful impact on the landscape within the Special Landscape Area; it would not provide an appropriate mix of dwelling sizes that reflected the local housing evidence base; it would fail to ensure that future residents could access sustainable means of transport; and the access was unsafe. There were also a number of technical reasons for refusal due to lack of a signed Section 106 Agreement which was needed to secure the required affordable housing, education facilities, off-site play facilities, recycling facilities and library facilities. In terms of ecology, as set out in the Additional Representations Sheet attached at Appendix 1, the proposal was now considered to be acceptable from an ecology perspective and therefore that recommended refusal reason had been removed.
- 60.28 The Chair invited the representative from Alderton Parish Council to address the Committee. The Parish Council representative explained that the Parish Council's reasons for objecting to the proposed development were well summarised in the report from the Planning Officer and the problems with the scheme were numerous. He pointed out that this matter was being taken seriously by the village with over 100 letters of objection received. The Parish had a Neighbourhood Development Plan in place and this application was an important test of that Plan which did not provide for this development; furthermore, the site was outside of the settlement boundary and it was not included within the emerging Tewkesbury Borough Plan which had reached an advanced stage. Alderton had already seen a 26% rise in new homes over the past few years which was a huge increase for a small rural village; there also continued to be small infill developments in addition to this so the Parish Council believed that Alderton had already done its bit for new housing stock. The Parish was surrounded by fields owned by developers, or where developers had speculative interests, and this was part of a process where

a historic village on the fringe of the Cotswolds would become nothing more than a series of housing estates surrounding a small older centre. One of the main reasons for the first development from the applicant being allowed on appeal was because it was for 24 – to become 25 – houses and the obvious way to defeat opposition was to simply provide for staged increases, as such, this development should be looked upon as 53 houses in two stages; he pointed out that the Parish Council could not remember any comments from the developer about a second stage at the time of the first development. The Parish Council representative went on to explain that the village had tried hard to engage the 200-250 new residents in community life but this had been very limited - at times non-existent - and having a further 75 people living on the fringe of the village down a long cul-de-sac, and driving out of the village every day, would do nothing for social cohesion. He also pointed out that both the Landscape Adviser and Urban Design Officer objected to the proposal from a landscape perspective. His final comment was that the Parish Council consultation response contained a number of quotes from appeal inspectors, including those who had approved developments in the village, about the potential harm from any further significant development in the village.

60.29 The Chair invited a local resident speaking against the proposal to address the Committee. The local resident explained that Alderton took pride in being a welcoming village with a vibrant community spirit; however, the strongly held view of residents was that yet another new build estate would have a detrimental impact on that village. There were over 100 objections to the planning application on the Council's website with one of the main concerns being that Alderton had already had its fair share of new houses. She pointed out that it had taken hundreds of hours and a huge amount of effort from many residents to prepare the Alderton Neighbourhood Development Plan which had finally been adopted in 2018 and clearly laid out what the future of the village should be. This development site was within the Special Landscape Area and would further close the historic gap between the village and the B4077. Residents had moved to Alderton because of the beautiful surrounding fields and the views towards the Area of Outstanding Natural Beauty and the Cotswold hills; if further expansion outside the village boundary was allowed, those open views would be lost forever. She raised concern that the applicant had already removed much of the hedgerow along the approach to the village from the main road as part of the previous development and any further loss of the remaining hedgerow from Arch Bridge would further urbanise the village. As an owner of a bed and breakfast business, guests commented upon the negative impact on the landscape and the disappointment of coming to a rural village only to see exactly the same new build houses they had left at home; this was echoed by residents that lived in nearby villages and those who drove along the B4077. She was pleased that County Highways supported her views on the safety and sustainability of the proposed development; given climate change, it made no sense to build houses in areas where cars were essential and she indicated that the bus service in the village was dismal and could not be used for commutes to and from work. In addition, there were insufficient local facilities so residents were reliant on cars to access medical services, employment, leisure and retail – cycling or walking to places outside of the village was far too dangerous. She explained that she overlooked the proposed site and she had witnessed flood water on, or very close to, some of the lower part of the site on at least three occasions this winter. In addition, the recent increase in housing had not helped the falling pupil numbers at the school, or increased footfall in the village shop, so she could see no reason why the additional properties would benefit the village in any way and she asked that Members refuse the application.

60.30 The Chair indicated that the applicant's representative had been due to speak in favour of the proposal; however, due to the exceptional circumstances associated with the coronavirus and the government advice in relation to that, the representative was not able to attend in person and it had been agreed that, on

this occasion, the statement would be read out by the Planning Officer. The statement set out that the applicant was grateful for the hard work of Officers to progress the application, although clearly they did not agree with the conclusions. The applicant believed that the development could contribute much needed housing to Tewkesbury Borough's housing land supply shortfall in a highly sustainable location, including 11 affordable homes and a mix of market houses, of which four were two bedroom bungalows. The proposed development would contribute pupil places to the local primary school, which was undersubscribed, and over £100,000 directly to the Parish Council via the Community Infrastructure Levy. Section 106 contributions would also provide around £200,000 of financial contributions toward pre-school and secondary education. Figures from the Home Builders Federation stated that a development of this size would support around 87 local jobs within the construction industry and supply chain. The proposal would provide an improved outward facing edge to the village with high quality homes in a palette of materials in keeping with the local vernacular and 162 new trees would be planted to reduce localised flood risk and create a pleasant green environment with open spaces and equipment for natural play. Alderton was considered to be a sustainable location for development within the Joint Core Strategy and, given the substantial need for housing – both within the borough and nationally – the applicant believed that the proposal was well-designed, national planning policy compliant and able to deliver the housing required immediately. The applicant had resolved all highways and flooding comments with statutory consultees having no objection to the proposal and, should planning permission be granted, it would be in a position to commence development within the next twelve months with housing completions in a timely manner thereafter. With that in mind, the applicant requested that the Committee permit the application.

60.31

The Chair indicated that the Officer recommendation was to refuse the application and he sought a motion from the floor. It was proposed and seconded that the application be refused in accordance with the Officer recommendation. The proposer of the motion raised particular concern about flooding, as outlined by the Parish Council. He pointed out that Alderton had been subject to speculative development for some time but the facilities within the village, such as the village shop, were neither well-used nor viable with poor public transport creating reliance on the car. The seconder of the motion indicated that Alderton Parish Council and the Neighbourhood Development Plan group had carried out consultation and collected evidence to demonstrate the impact of this development, and other developments, on social cohesion. Page No. 172, Paragraph 7.7 of the Officer report set out that the Alderton Neighbourhood Development Plan was adopted as part of the development plan in 2018 but did not contain policies and allocations to meet its identified housing requirement; whilst there were specific reasons for this, it meant that Paragraph 14 of the National Planning Policy Framework was not engaged. The Member felt this needed to be looked at as there were a lot of Neighbourhood Development Plans which allocated existing developments or did not allocate sites at all so this could have a significant impact. Another Member agreed this needed to be considered as a matter of urgency; however, he could not support the proposal as he could see nothing in the report to convince him that the authority would be able to defend an appeal should the application be refused. He disagreed with the housing land supply figures which he believed were considerably lower and, although he could not dispute the hard work of the Parish Council, he could not support a refusal when this would potentially be at the expense of the Council and would result in the local community losing control over the development. In response to these comments, another Member recognised that the housing land supply figure was constantly changing and, though the developer was seeking to take advantage of the fact that the Council could not demonstrate a five year housing land supply and preferred to provide development outside of the strategic plan areas that had been allocated for that purpose, he was of the view that this particular battle was one worth fighting. He did not agree with

the comments made by the applicant in their statement and made particular reference to the fact that any jobs generated via construction of the development would not benefit local people. As such, he would be supporting the proposal to refuse the application. The proposer of the motion pointed out two appeal decisions for housing developments in Alderton where the Inspector had been in agreement with the Council so it was possible to take on developers and win in the right circumstances.

60.32 Upon being taken to the vote, it was

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

### **19/01205/FUL - 53 Wynyards Close, Tewkesbury**

60.33 This application was for the erection of a two storey rear extension.

60.34 The Planning Officer explained that the proposal sought the erection of a two storey rear extension which would protrude into the garden by 1.6 metres. Whilst there was some perceived harm to neighbouring amenity by way of a reduction in morning light to a ground floor window, as highlighted by the Town Council and adjoining neighbour, this was not considered to be sufficient to warrant a refusal, as such, the application was recommended for permission.

60.35 The Chair indicated that a local resident had been due to speak in objection to the application; however, due to the exceptional circumstances associated with the coronavirus and the government advice in relation to that, the representative was not able to attend in person and it had been agreed that, on this occasion, the statement would be read out by the Planning Officer. The statement set out that the local resident lived in a neighbouring property and felt that the proposed extension would have a detrimental impact on their quality of life. The Planning Officer had decided that the loss of early morning light and the overshadowing to their property from the proposed extension was not a concern as the late afternoon and evening light would compensate; however, along with the Town Council, he would argue that the house would be further deprived of natural light during all times of the day. The house was north facing and already suffered from low light within the kitchen/dining area during long winter months so any further overshadowing would have a huge impact. As No. 53 Wynyards Close was the end house in a terraced row it had the option to extend to the side of the property where there was plenty of space; this would not overlook or encroach on any other property and meant that No. 53 could still be in extended in a way that would not impact on their quality of light and life with only some slight changes to the plans. Finally, he felt the proposed extension would enclose their already small garden which was 5.5 metres wide – the rear window of their house already faced an apex garage 5.2 metres away – so they could not afford to lose any more valuable natural light from an already dark garden. Before a final decision was made, he would appreciate a Planning Committee Site Visit to their property and garden.

60.36 The Chair indicated that 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 deferred for a Planning Committee Site visit to assess the impact of the proposal upon neighbouring residential amenity. The proposer of the motion felt that this was only fair in view of the statement that had been read out on behalf of the local resident. The Chair felt it should be borne in mind that it was unclear when the Planning Committee would next meet in view of the uncertainty around the national coronavirus pandemic so it could potentially be quite some time before a site visit could be undertaken and he questioned whether a deferral would be reasonable. The Legal Adviser clarified that, despite the unusual circumstances, the question for Members remained whether they were in a position to determine

the application today or whether they needed a site visit before a decision could be made. The seconder of the motion expressed the view that the impact of the proposal upon the neighbouring property could last a lifetime so the fact there may be a delay in undertaking a site visit was not a reason not to have one. A Member indicated that, based on his calculations, the extension would only protrude 1.6 metres from the property so this would be quite a small extension which he did not feel would have a considerable impact in terms of loss of light given the angles of the sun. In his view, regardless of the length of a deferral, he could not see what would be gained from a site visit. The Planning Officer confirmed that a light assessment had been undertaken which had demonstrated that, whilst there would be an impact, it would not be significant enough to warrant a refusal; the garden was north facing meaning that the light would be reduced in the morning but not in the afternoon.

60.37 Upon being put to the vote, the proposal for a deferral for a Committee Site Visit was lost. It was subsequently proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being taken to the vote, it was

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

#### **19/01194/FUL - Land East of Old Gloucester Road, Staverton**

60.38 This application was for change of use of land to provide nine travelling showperson's plots and associated works including hardstanding.

60.39 The Planning Officer explained that this application was identical to an earlier application which was currently the subject of a non-determination appeal scheduled to be held on 16 April 2020 with the Statement of Case due on 24 March 2020. At the Planning Committee meeting in January 2020, Members had resolved that they would have refused the application had they gone on to determine it; whilst they had been happy that very special circumstances existed to outweigh harm to the Green Belt, concerns had been raised in respect of the proposed site access and the ability to achieve suitable visibility splays. Essentially, it was unclear whether the visibility splay to the north east could be provided on land entirely within the control of the Highway Authority. In response to this, further information had been provided by the applicant which sought to provide some clarity on ownership of the land in question. The Highways Officer had reviewed the additional information and was satisfied that the visibility splays could be provided over land within the control of the Highway Authority or the applicant; on that basis, a planning condition could be imposed to secure the visibility splays. The additional information had been subject to further consultation, including writing directly to the adjacent landowner, and no further matters had arisen from that. Given that the very special circumstances case remained the same and the outstanding highway matters had been addressed, the Officer recommendation was to permit the application.

60.40 The Chair invited the applicant to address the Committee. The applicant indicated that he wished to thank Officers for their hard work in bringing the application to the Committee so quickly.

60.41 The Chair indicated that the Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. The proposer of the motion indicated that he was happy to support the proposal on the basis of the very special circumstances that had been put forward which he felt would outweigh any harm to the Green Belt. With regard to the site access arrangements, a Member pointed out that Heavy Goods Vehicles (HGVs) entered

and exited the site on a daily basis but there were no plans showing them turning right and she sought clarification that vehicles could turn both ways. In response the County Highways representative confirmed that the access was acceptable both in terms of the speed and visibility. A lot of work had been carried out with the applicant who had been very agreeable to County Highways' position in terms of securing appropriate conditions. It was not uncommon for HGVs to want to use A or B roads so the design must be necessary for them to enter and exit the site; that would be possible, albeit at a slower pace than a car, and he provided assurance that visibility splays were designed for the exceptional as opposed to the regular so County Highways was fully satisfied that all vehicles could safely turn out of the site and onto the highway. Another Member indicated that the site was within his Ward and it was interesting that it was recommended for permission given its location within the Green Belt. The Member felt the very special circumstances case was similar to that put forward for other applications within his Ward which had been refused.

60.42 Upon being put to the vote, it was

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

#### **19/00758/OUT - Land at Homelands Farm, Gotherington Lane, Bishop's Cleeve**

60.43 This was a hybrid application – a full planning application for 65 residential units (to include affordable housing, public open space, associated highways and drainage infrastructure) and an outline planning application, with all matters reserved except access, for up to 200sqm (GIA) small scale employment use (B1 class) and associated demolition, parking and open space. The application was deferred at the Planning Committee meeting on 18 February 2020 to allow Officers to address the issues raised in respect of education matters.

60.44 The Planning Officer advised that, following the deferral of the application at Planning Committee in February, Officers had held discussions with Gloucestershire County Council and had reviewed the additional information submitted by the applicant's agent in respect of the outstanding education matter. In considering this information, the County Council had now withdrawn its objection to the proposal, subject to financial contributions being secured for education – pre-school, primary and secondary – via a Section 106 Agreement. As set out in the original report, the County Council's objection on the grounds of there being insufficient primary school spaces to meet the needs of the development formed the main reason for refusal. As that objection had now been withdrawn, the Officer recommendation had been amended to a delegated permit, subject to the drafting of planning conditions in line with consultee recommendations and as set out on the Additional Representations Sheet, attached at Appendix 1, and the resolution and completion of necessary planning obligations. The applicant had previously confirmed they would be happy to enter into the required Section 106 Agreement for education, although Officers were still in the process of reviewing whether the County's request met the relevant tests and would be justified in the context of the Community Infrastructure Levy regulations.

60.45 The Chair invited the applicant's agent to address the Committee. The applicant's agent explained that the proposal was for a mixed use development of housing and employment with the latter in outline to give maximum flexibility to respond to occupiers' needs. He pointed out that the proposal had been developed over the last two and half years to establish what the need in the area might be. At the last Committee meeting, they had provided a Counsel opinion on the way the issue of education had been dealt with and that information was set out in the Additional Representations Sheet with Paragraph 35 outlining the benefits and possible adverse effects of the scheme and how they weighed in the planning balance. As

Gloucestershire County Council had withdrawn its objection, there were now no technical objections to the proposed development and the applicant had been working with Officers to consider draft conditions and an appropriate Section 106 Agreement.

60.46

The Chair indicated that the Officer recommendation was to delegate authority to the Technical Planning Manger to permit the application, subject to the drafting of planning conditions in line with consultee recommendations and as set out on the Additional Representations Sheet, and the resolution and completion of necessary planning obligations, and he invited a motion from the floor. It was proposed and seconded that authority be delegated to the Technical Planning Manager to permit the application in accordance with the officer recommendation. The seconder of the motion expressed her disappointment that the County Council had withdrawn its objection but, unfortunately, she could see no planning grounds to refuse the application. A Member raised concern that a future application could come forward for additional housing in the area currently proposed for business use and he questioned whether anything could be done to ensure it was retained for that purpose. The Technical Planning Manager clarified there were no guarantees and Members must make a decision on the application before them; should another application be submitted in future that must also be determined on its planning merits. The proposer of the motion pointed out that the business use element of the proposal was on a piece of land that had been allocated as employment land in the emerging Tewkesbury Borough Plan but it only took up half of that allocation and he asked if there was a reason for that. In addition, he felt that Members would benefit from an explanation as to the education matters which had resulted in the deferral at the previous Planning Committee meeting as that had not been discussed at the time. Education in Bishop's Cleeve - particularly primary education - was a critical issue and the site now proposed for housing had at one stage been put forward as a potential site for an education facility which the County Council had decided was not needed, as such, he would like to understand specifically what the County Council objection had been to this particular proposal. In response to the first question regarding the land earmarked for employment use in the Tewkesbury Borough Plan, the Technical Planning Manager indicated that he did not know why the whole area had not come forward for business use; however, there were existing buildings to the east of the application site which were still in use so it may well be intended to continue using those buildings at this stage. In terms of the County Council's position at the last Committee, there was simply not enough capacity – current or planned – to be able to take any pupils arising from additional housing; the County Council had also submitted an objection to the Tewkesbury Borough Plan on that basis. What had come to light since that time, as correctly submitted on behalf of the applicant, was that, in any event, the County Council had a statutory duty and objecting to an application because it could not meet that need would be very difficult. His understanding was that the County Council had reflected on that and withdrawn the application on the basis that there was a plan for a new school in Bishop's Cleeve and discussions were ongoing with regard to its location; whilst Members may not agree that the planned site was the correct one, that was not a matter for the Committee. It would be very difficult for a local education authority to say to an Inspector at appeal that it had a site for a new school that would only meet the needs of existing development which could potentially be overcome for example, by the applicant offering to pay for additional places to make it a three-form entry school as opposed to a two-form entry school. It was noted that the County Council had stated that Officers would be happy to meet local Members outside of the planning process to discuss its plans for moving forward in more detail. The proposer of the motion thanked the Technical Planning Manager for the explanation which helped greatly with his understanding of the complicated issue.

60.47

A Member raised concern that the site had originally been allocated for 30 homes but this application was for 65 and he could not support a proposal for that number of houses. Another Member pointed out that Bishop's Cleeve was now larger than Tewkesbury but had no real infrastructure and he felt that Members needed to stand up to developers. He indicated that he would be requesting a recorded vote on this application at the appropriate point. During the debate which ensued, a Member advised that she would not be supporting the application on the basis of the lack of an education facility and residents' strong feelings about the proposed new school site. A Member reminded the Committee that, when the application had been considered at the meeting in February, she had specifically asked for a firm offer from the County Council regarding the school and she did not feel that it had gone far enough in giving any guarantees; in her view the situation had not changed since the deferral, as such, she could not support the proposal. The seconder of the motion for a delegated permit recognised that several Members were unwilling to support the proposal and, if they could provide an appropriate planning reason for refusal, she would be happy to reconsider her position. The proposer of the motion agreed with the seconder and wished to respond to some of the comments that had been made during the debate. As far as education was concerned, he wanted to understand the County Council's position in terms of the wider context, not in terms of this particular application – the need for Gloucestershire County Council to find a suitable site to provide a significant educational facility for Bishop's Cleeve was a different question and that issue was not relevant to this application. In terms of the point about the likelihood of winning an appeal should the application be refused, he reiterated his earlier comment in relation to the importance of choosing the right battles; this site was allocated for residential development within the Tewkesbury Borough Plan so the Council had already determined that it was suitable for housing, whether that be 30 or 65 houses. He stressed that he was not proposing a delegated permit because he wanted to see yet more housing in Bishop's Cleeve but the reality was that the authority had accepted it as a housing site and refusing the application would be a futile gesture. In putting forward some justification for a refusal, a Member suggested that, whilst the benefits arising from the proposal were substantial, the identified harms, particularly the absence of capacity to meet the needs of primary age children arising from the development, significantly and demonstrably outweighed the benefits in this case; and the lack of social infrastructure to support the proposal would fail to achieve a healthy, inclusive and safe community and would not represent sustainable development contrary to the provisions of the National Planning Policy Framework. The Technical Planning Manager explained that the justification provided by the Member reflected the Officers' position at the last Committee when there was an objection to the proposal from the local education authority; however, that was no longer the case. Despite there being no firm plan at this stage, the County Council was the statutory provider of school places and there was no justifiable reason for refusal – having taken advice, this was a very clear and firm stance and to refuse the application on those grounds would put the authority in a position an Inspector would find unreasonable and it would therefore be at risk of costs being awarded should there be an appeal. The Member indicated that it was not just the school position but the total lack of any social infrastructure whatsoever and that had not changed since the last meeting of the Committee. In terms of refusal reasons, another Member suggested that the proposal was deviating from the masterplan for 30 houses and three different developers had promised two community buildings but not one brick had been laid so he felt the lack of infrastructure was a good enough reason. A Member went on to express the view that the site had been earmarked for a school in the masterplan and it was probably an oversight that it had not been stipulated at the time that, should the school not come forward on the site, the land should form part of the open space; he felt this was a lesson everyone could learn in future when

masterplanning sites in order to prevent situations like this.

60.48 The Chair indicated that he had a proposal on the table for a recorded vote on the motion for a delegated permission in accordance with the Officer recommendation. Upon receiving the appropriate support, the vote was recorded as follows:

<b>For</b>	<b>Against</b>	<b>Abstain</b>	<b>Absent</b>
R A BIRD	R D EAST	E J MACTIERNAN	L A GERRARD
G F BLACKWELL	D J HARWOOD	A S REECE	R J G SMITH
J H EVETTS	A HOLLAWAY		P D SURMAN
M A GORE	M L JORDAN		M J WILLIAMS
J R MASON	P W OCKELTON		
R J E VINES	P E SMITH		
P N WORKMAN			

60.49 With seven votes in favour and six against, it was therefore

**RESOLVED** That authority be **DELEGATED** to the Technical Planning Manager to **PERMIT** the application, subject to the drafting of planning conditions in line with consultee recommendations and as set out on the Additional Representations Sheet, attached at Appendix 1, and the resolution and completion of necessary planning obligations.

#### **20/00081/PIP - Land to the West of the A48, Minsterworth**

60.50 This application was for residential development of between four and eight dwellings.

60.51 The Planning Officer advised that the application was for permission in principle for residential development of between four and eight dwellings on land to the west of the A38 in Minsterworth. The application had been brought to the Committee following an objection from the Parish Council. Members were reminded that, as with all planning in principle applications, the matters for consideration were limited to location, amount and land use. The proposal was located outside of the emerging settlement boundary for Minsterworth and conflicted with Joint Core Strategy Policy SD10; however, Officers considered the proposal to be well-located in respect of neighbouring development and that it would not extend westward into the countryside to any greater extent than the adjoining development. Officers were satisfied that up to eight dwellings could be accommodated on site in a linear form and both the land use and amount of development was therefore accepted. Taking account of the Council's five year housing land supply position, it was concluded that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits and it was recommended that permission in principle be granted. Members would recall considering permission in principle applications for the neighbouring parcel of land, immediately to the north of the current application site, in August and October 2019; on both occasions permission was refused on the grounds that it would conflict with the development plan and would cause landscape harm. An appeal had been lodged against the refusal which had subsequently been allowed and an overview of the Inspector's decision was included in the Current

## Appeals and Appeal Decisions Update at Agenda Item 6.

- 60.52 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. A Member indicated that he had huge reservations regarding the application due to the dangerous road but he recognised that was not an appropriate reason to refuse a permission in principle application. The Chair sought clarification as to whether a full application would need to be submitted if a permission in principle application was granted and whether the proposal could be refused at that point should the access be considered dangerous or unsuitable. The Technical Planning Manager explained that it was a two part process; permission in principle was somewhere between pre-application advice and an outline planning application and the second stage was a technical details application which looked at the technical issues. If it could be demonstrated that the development was unsuitable for a variety of reasons – including highway reasons – then it could be refused on that basis at the technical details stage. If there was no prospect whatsoever that development would be acceptable on the site then permission in principle could be refused but, in terms of the application before Members, permission in principle had already been granted on appeal for the adjoining parcel of land to the north and, given that the Inspector had taken the view that it was not possible to say there was no prospect of access being achieved on that site, it would be difficult to say that development could not take place on this site as access could theoretically be gained from the adjoining site.
- 60.53 The Chair sought a comment from the County Highways representative who explained that, from a highways perspective, it was a simple exercise to state whether access could or could not be achieved and he provided assurance that County Highways wanted to achieve an appropriate form of access off a classified road - particularly in view of the specific safety issues in this case as evidenced by the speed camera in situ - so this would be thoroughly assessed at the technical details stage, should Members be minded to permit the permission in principle application. A Member felt that the Inspector's decision to allow the appeal had given solace to the applicant when the proposal would never be suitable in highway safety terms and he indicated that if a full application had been put forward then it would at least be possible to secure affordable housing; he did not believe that solace should be given to speculative developers. The Technical Planning Manager provided assurance that developers understood the process and that the technical details would be considered at that stage. Given the appeal decision and the Inspector's conditions he did not think it was possible to determine there was absolutely no way that an acceptable access could be achieved from the site and it was to be borne in mind that a costs claim had been made by the appellant at the previous appeal, albeit one that had been successfully defended in that appeal. With regard to the point about affordable housing, he explained that the two developments together would be likely to breach the threshold of 10 for affordable housing; this was a very new situation and he had not seen any case law on it but, from his perspective, the Technical Planning Manager did not see why that could not be taken into account at the technical details stage. The Legal Adviser clarified that planning policy guidance set out that local authorities may agree planning obligations at the technical details stage but these could not be secured at the permission in principle stage. A Member indicated that, when applications were refused and went to appeal, if they were overturned by an Inspector then the local authority could lose control over what happened on site and she sought clarification as to the situation with permission in principle applications. The Technical Planning Manager advised that the authority would probably retain more control if the permission in principle application was allowed as the technical details application was still to come forward; the technical details stage was much more controlled than the reserved matters stage where a lot of the issues would have been dealt with at the outline stage.

60.54 Having considered the information provided and views expressed, it was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

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

#### **19/01083/FUL - 1 Severn Close, Maisemore**

60.55 This application was for the installation of a new access and dropped kerb.

60.56 The Planning Officer advised that the proposal was for a new access and dropped kerb off the main A417 in Maisemore. A Committee determination was required as the Parish Council had objected on the grounds that there was already adequate access and it may cause congestion on the bend. The Parish Council's concerns had been noted; however, the County Highways Officer had raised no objections in terms of highway impact or safety. The new access was required as delivery vehicles struggled to access Severn Close due to the tight bend on the entrance. Overall, the proposal was considered to be acceptable from a highway safety perspective and in terms of visual amenity, therefore the Officer recommendation was to permit the application.

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

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

#### **PL.61 CURRENT APPEALS AND APPEAL DECISIONS UPDATE**

61.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Pages No. 293-299. Members were asked to consider the current planning and enforcement appeals received and the Ministry of Housing, Communities and Local Government appeal decisions issued.

61.2 A Member noted that 19/00192/FUL Land on the East Side of Broadway Road, Stanway had been dismissed on appeal. She pointed out that there was a current application for the same site which made some changes to the proposal and she questioned whether this would require a Committee determination based on its sensitivity and the fact that the Committee had dealt with the majority of the application phases. The Technical Planning Manager noted these comments and undertook to update local Members following the meeting. In response to a further query in relation to the appeal, assurance was provided that this was being considered from an enforcement point of view and as regards the revised application.

61.3 A Member asked for an update on the appeal that had been received in respect of 19/00246/FUL Parcel 5762, Land Adjacent Rudgeley House, Cold Pool Lane, Badgeworth and was informed that there was no update as yet but Members would be advised as soon as any information was available.

61.4 It was

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

The meeting closed at 12:48 pm

## Appendix 1

### **ADDITIONAL REPRESENTATIONS SHEET**

Date: 17 March 2020

The following is a list of the additional representations received since the publication of the Planning Agenda 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.

<b>Page No</b>	<b>Item No</b>	
78	5d	<p><b>19/00722/FUL</b></p> <p><b>Land At Berry Wormington, Stanway Road, Stanton</b></p> <p>Discussions in respect of the outstanding matters highlighted at Paragraph 8.2 of the Officer report have been ongoing and an update in respect of these matters is set out below:</p> <p><b>Landscaping</b></p> <p>The principles of a landscaping scheme have been discussed with the applicant which would include the reinstatement of a new hedge line inside of the visibility splay onto B4623 and the new access drive as it returns into the site, tree and hedgerow planting along an existing post and rail fence through the central part of the site and tree planting to the southwestern boundary to the site. These measures would be acceptable in principle and would ensure satisfactory screening to the development however the precise details including position, size, species and mix of new planting along with its implementation and future maintenance would be adequately controlled by Condition 6 as set out in the Officer report.</p> <p><b>Lighting</b></p> <p>The design of the store/workshop has been revised in order to remove the 10 originally proposed roof lights, which will minimize the impact of any internal lighting upon the night sky. The applicant has advised that the specific lighting requirements to the building/site are yet to be determined and it is considered that a satisfactory scheme in order to protect the dark skies of the AONB can be adequately controlled by Conditions 4 (precise details), 14 (PIR control) and 15 (no further lighting) as set out in the Officer report.</p> <p><b>Pollution control</b></p> <p>A waste/manure management plan has been received (attached). The details are being considered by the Council's Flood Risk Management Engineer. The operation of the site in accordance with an approved pollution/waste management strategy would be controlled by Condition 5 as set out in the Officer report.</p> <p><b>Apron</b></p> <p>Revised drawings (<b>attached</b>) have been received to define the area of apron associated with the proposed buildings and this is considered to be appropriate to the nature and size of the proposed development.</p>

		<p><b>Recommendation</b></p> <p>That permission is granted subject to the conditions set out in the Officer report and as amended below:</p> <p><b>Condition</b></p> <p>2. The development hereby permitted shall be carried out in accordance with drawing nos. CTP-19-109 SK01 and 3513008A-SSM 001 A3 received by the Local Planning Authority on 16th July 2019 and drawing nos.4804-101C, Location Plan - Building 1 and site plan 1:2500 at A3 received by the Local Planning Authority on 11th March 2020 except where these may be modified by any other conditions attached to this permission.</p> <p>Reason: To ensure that the development is carried out in accordance with the approved plans.</p> <p>13. The development shall be carried out in accordance with the levels set out on drawing no.4804-101C.</p> <p>Reason: In order to minimise the impact of the development upon the wider landscape.</p>
96	5e	<p><b>19/00723/FUL</b></p> <p><b>Land At Berry Wormington, Stanway Road, Stanton</b></p> <p>Discussions in respect of the outstanding matters highlighted at Paragraph 8.2 of the Officer report have been ongoing and an update in respect of these matters is set out below:</p> <p><b>Landscaping</b></p> <p>The principles of a landscaping scheme have been discussed with the applicant which would include the reinstatement of a new hedge line inside of the visibility splay onto B4623 and the new access drive as it returns into the site, tree and hedgerow planting along an existing post and rail fence through the central part of the site and tree planting to the southwestern boundary to the site. These measures would be acceptable in principle and would ensure satisfactory screening to the development, however the precise details including position, size, species and mix of new planting along with its implementation and future maintenance would be adequately controlled by Condition 6 as set out in the Officer report.</p> <p><b>Lighting</b></p> <p>The design of the store/workshop has been revised in order to remove the 10 originally proposed roof lights, which will minimize the impact of any internal lighting upon the night sky. The applicant has advised that the specific lighting requirements to the building/site are yet to be determined and it is considered that a satisfactory scheme in order to protect the dark skies of the AONB can be adequately controlled by Conditions 4 (precise details), 14 (PIR control) and 15 (no further lighting) as set out in the Officer report.</p> <p><b>Pollution control</b></p> <p>A waste/manure management plan has been received (attached). The details are being considered by the Council's Flood Risk Management Engineer. The operation of the site in accordance with an approved pollution/waste management strategy would be controlled by Condition 5 as set out in the Officer report.</p>

		<p><b>Apron</b></p> <p>Revised drawings (attached) have been received to define the area of apron associated with the proposed buildings and this is considered to be appropriate to the nature and size of the proposed development.</p> <p><b>Recommendation</b></p> <p>That permission is granted subject to the conditions set out in the Officer report and as amended below:</p> <p><b>Conditions</b></p> <p>2. The development hereby permitted shall be carried out in accordance with drawing nos. CTP-19-109 SK01 and 3513008A-SSM 001 A3 received by the Local Planning Authority on 16th July 2019 and drawing nos.4804-102C, Location Plan - Building 2 and site plan 1:2500 at A3 received by the Local Planning Authority on 11th March 2020 except where these may be modified by any other conditions attached to this permission.</p> <p>Reason: To ensure that the development is carried out in accordance with the approved plans.</p> <p>13. The development shall be carried out in accordance with the levels set out on drawing no.4804-102C.</p> <p>Reason: In order to minimise the impact of the development upon the wider landscape.</p>
115	5f	<p><b>19/00724/FUL</b></p> <p><b>Land At Berry Wormington, Stanway Road, Stanton</b></p> <p>Discussions in respect of the outstanding matters highlighted at Paragraph 8.2 of the Officer report have been ongoing and an update in respect of these matters is set out below:</p> <p><b>Landscaping</b></p> <p>The principles of a landscaping scheme have been discussed with the applicant which would include the reinstatement of a new hedge line inside of the visibility splay onto B4623 and the new access drive as it returns into the site, tree and hedgerow planting along an existing post and rail fence through the central part of the site and tree planting to the southwestern boundary to the site. These measures would be acceptable in principle and would ensure satisfactory screening to the development however the precise details including position, size, species and mix of new planting along with its implementation and future maintenance would be adequately controlled by Condition 6 as set out in the Officer report.</p> <p><b>Lighting</b></p> <p>The design of the store/workshop has been revised in order to remove the 10 originally proposed roof lights, which will minimize the impact of any internal lighting upon the night sky. The applicant has advised that the specific lighting requirements to the building/site are yet to be determined and it is considered that a satisfactory scheme in order to protect the dark skies of the AONB can be adequately controlled by Conditions 4 (precise details), 14 (PIR control) and 15 (no further lighting) as set out in the Officer report.</p>

		<p><b>Pollution control</b></p> <p>A waste/manure management plan has been received (attached). The details are being considered by the Council's Flood Risk Management Engineer. The operation of the site in accordance with an approved pollution/waste management strategy would be controlled by Condition 5 as set out in the Officer report.</p> <p><b>Apron</b></p> <p>Revised drawings (attached) have been received to define the area of apron associated with the proposed buildings and this is considered to be appropriate to the nature and size of the proposed development.</p> <p><b>Recommendation</b></p> <p>That permission is granted subject to the conditions set out in the Officer report and as amended below:</p> <p>2. The development hereby permitted shall be carried out in accordance with drawing nos. CTP-19-109 SK01 and 3513008A-SSM 001 A3 received by the Local Planning Authority on 16th July 2019 and drawing nos.4804-104C, Location Plan - Building 2 and site plan 1:2500 at A3 received by the Local Planning Authority on 11th March 2020 except where these may be modified by any other conditions attached to this permission.</p> <p>Reason: To ensure that the development is carried out in accordance with the approved plans.</p> <p>13. The development shall be carried out in accordance with the levels set out on drawing no.4804-104C.</p> <p>Reason: In order to minimise the impact of the development upon the wider landscape.</p>
163	5h	<p><b>19/00772/FUL</b></p> <p><b>Land Parcel 0088, Willow Bank Road, Alderton</b></p> <p><u>Further representations</u></p> <p>Following the publication of the Officer report, three additional letters of objection have been received from local resident; however, no additional matters have been raised.</p> <p><u>Ecology</u></p> <p>As set out at Paragraph 7.53 of the Officer report, additional information was submitted to the Council in respect of the potential effects of the proposed development on local European sites (Dixton Wood and Bredon Hill SACs). The Council's Ecology Consultant has now reviewed the information and confirms that the applicant has demonstrated that the development would result in positive Biodiversity Net Gain provided the landscaping plan is followed and hedgerows are retained. However, it should be noted that the applicant has still not clarified how much of the hedgerow along Willow Bank Road would need to be removed in order to accommodate the proposed site access. The Ecological Consultant also confirms that the applicant has demonstrated that the proposal would not have any significant impacts on nearby SACs.</p> <p>On the basis that the roadside hedgerow is largely retained, the proposal is considered to be acceptable from a biodiversity perspective and recommended reason for refusal 7 can be removed. If it later transpires that additional hedgerow needs to be removed to accommodate a safe and suitable site access, this may need to be readdressed in an appeal situation.</p>

### Highways

Following further consultation with the Highways Officer, it is reiterated that there is no footway that would connect the village to the development, which is essential to ensure that Alderton's services and facilities can be accessed. These services and facilities helped to designate Alderton as a Service Village and it is essential that there is safe and segregated pedestrian connectivity into the village. The lack of suitable pedestrian facilities also raises issues for people with mobility concerns. People with wheelchairs, mobility scooters, walking stabilisers and pushchairs would be sharing a narrow route with motor vehicles without any protection. The lack of passing places and edge of the road/verge conditions would frequently push the pedestrian further into the carriageway and into a more unsafe position. The carriageway is also not suitable for people who have mobility supporting apparatus, as it is a carriageway with uneven surfaces. This would reduce their confidence and ability to use the route, thereby preventing access to the village without a vehicle.

With regard to cycling, the Highways Officer further points out that village schools are often ideal locations to promote sustainable trips and many schools encourage cycling and walking to school. The lack of any cycle or pedestrian segregated routes from the development into the main village would either lead to more car trips, which is unsustainable, or result in children using the only route to the village, which is a carriageway shared with vehicular traffic. The Highways Officer considers that this is an unacceptable situation for safety and sustainability reasons.

In terms of the site access itself, this is located on a section of the main route into Alderton, with the proposed junction being in the exact spot where the speed gate for 30mph begins. To build the junction the speed gate would have to be moved to a new location. This would require a Traffic Regulation Order (TRO), which requires a road safety audit and consultation with statutory bodies and the local residents. There is no assurance to the granting of a TRO or weight given because a development that requires it to begin construction has been granted planning permission. There is a risk that local and statutory objections and representations may not allow the TRO to be enacted and the development would then be unable to proceed.

The Highways Officer further advises that the visibility splays can only be achieved by removing a substantial amount of hedgerow and vegetation. The splays are also dependent on the 30mph boundary being moved. The submitted access drawing shows the splays have been designed for 37mph traffic using the highway. Should the 30mph zone not happen or it be moved closer to the village rather than away from the village, the highway will remain at the relevant National Speed Limit of 60mph. This would make the designed visibility splays unsuitable. Consequently, there are too many dependencies on the access junction for a secure assessment that would be considered safe to be undertaken. As it stands the Highway Authority does not believe the design is safe. In light of this, a further reason for refusal is recommended on highway safety grounds as follows:

*'The proposed development, by virtue of its nature, scale and location, would fail to ensure that future residents could access sustainable means of transport and avoid private car reliance to access employment, education, retail and leisure facilities to car dependent destinations such as Tewkesbury, Cheltenham or Gloucester. The proposed design also fails to give priority to pedestrian and cycle movements within the scheme and neighbouring areas of Alderton and fails to address the needs of people with disabilities and reduced mobility in relation to all modes of transport. As such, the proposed development conflicts with Policy INF1 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017), Policy RP1 of Alderton Neighbourhood Development Plan (July*

		<p>2018) and the National Planning Policy Framework.'</p> <p>The applicant has provided a summary note from Rural Solutions (<b>as attached</b>) in respect of the proposal.</p>
235	5k	<p><b>19/00758/OUT</b></p> <p><b>Land At Homelands Farm, Gotherington Lane, Bishop's Cleeve</b></p> <p>Officers have been liaising with Gloucestershire County Council's Education Department in light of additional information (<b>see attached</b>) provided by the applicant in respect of education matters. Following the consideration of this additional information, the County Council has formally withdrawn its objection to the proposal, subject to financial contributions being secured for education (pre-school, primary and secondary) by way of a S106 agreement. The updated response from the County Council, dated 13 March 2020, is <b>attached</b>.</p> <p>Given the original objection comprised the main reason for refusal, it follows that the Officer recommendation has been amended as a result of the updated position. The absence of capacity to meet the needs of primary school children arising from the development is no longer recognised as an identified harm on the basis that this issue is resolvable by securing the requested monetary sum through a S106 agreement. The benefits arising from the proposal are substantial and it is not considered that the proposals would result in any adverse impacts that would significantly and demonstrably outweigh these benefits when assessed against the policies in the Framework taken as a whole. Nevertheless, the County Council has not at this stage provided evidence to justify the contributions requested in the context of the CIL regulations (Regulation 122).</p> <p>It is therefore recommended that authority is <b>delegated to the Technical Planning Manager to permit the application, subject to the drafting of planning conditions as appropriate (including standard time limits, approved plans, levels, materials, landscaping details, drainage, highways, informal play equipment, tree protection, external lighting, ecological mitigation and biodiversity measures), resolution of education matters and the completion of planning obligations to secure affordable housing, waste and recycling, and education and library provision if those contribution would be justified and lawful in the context of regulation 122 of the CIL regulations.</b></p>

**Item 5d – 19/00722/FUL, Land At Berry Wormington, Stanway Road, Stanton - multiple plans**



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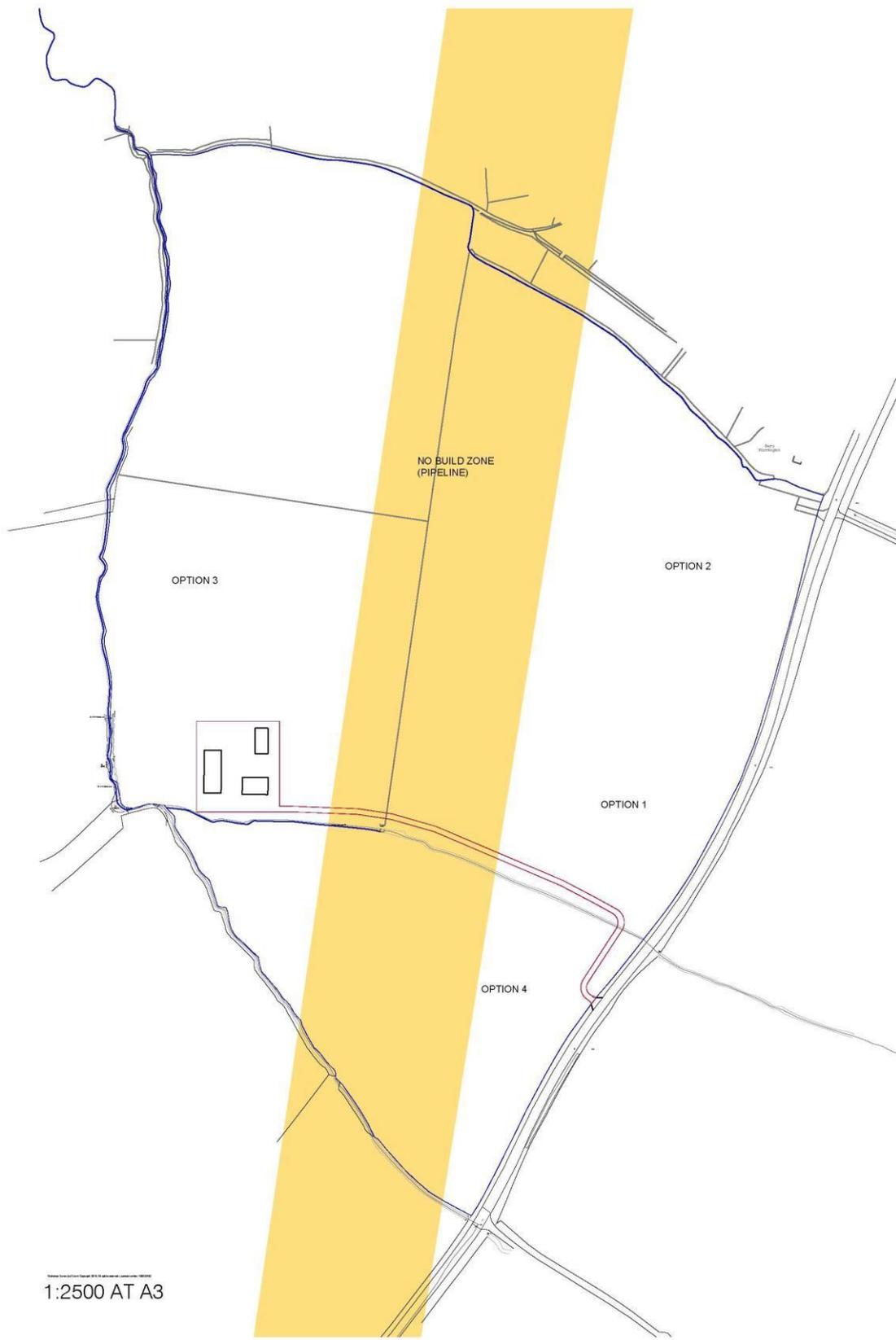
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 www.absolutearchitecture.co.uk  
 company number 6853959 VAT Reg No. 934 5463 12

**project title**  
 PROPOSED BUILDINGS AT BERRY  
 WORMINGTON, FOR MR R KEEPER

**drawing title**  
 Location plan - building 1

<b>scales</b>	1:2500 AT A2	<b>drawn</b>	SB
<b>date</b>	10.03.2020	<b>number</b>	4804-115

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1:2500 AT A3



## Manure Management Statement

**On behalf of:**

**In support of:**

Proposed agricultural buildings and farmyard comprising:

Building 1: 19/00722/FUL | New livestock/general purpose store building and formation of new access track and yard

Building 2: 19/00723/FUL | New livestock housing/calf rearing building and formation of new access track and yard

Building 3: 19/00724/FUL | New agricultural workshop/storage building and formation of new access track and yard

**At:**

Land at Berry Wormington  
Cheltenham Road  
Stanton  
Broadway  
WR12 7NH  
Ref: 2532a/WMS



Moule & Co Ltd, The Farm Office, Millridge Farm, Parsons Lane, Hartlebury, Worcs, DY11 7YQ

Telephone: 01299 250184

Email: [info@mouleandco.co.uk](mailto:info@mouleandco.co.uk)

Web: [www.mouleandco.co.uk](http://www.mouleandco.co.uk)

## **PARTICULARS**

<b>Document title</b>	Manure Management Statement
<b>Proposal</b>	Proposed agricultural building and farmyard
<b>Applicant details</b>	
<b>Site details</b>	Land at Berry Wormington Cheltenham Road Stanton Broadway WR12 7NH
<b>Reference</b>	2532a/WMS
<b>Submitted by</b>	Angela Cantrill BSc (Hons) MRICS FAAV
<b>Agent details</b>	Angela Cantrill BSc (Hons) MRICS FAAV Moule & Co Ltd

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## **1.0 Introduction**

- 1.1 This statement is submitted in support of three planning applications relating to land at Berry Wormington, to address manure and silage management and the management of fuel oils at the three agricultural buildings.

## **2.0 Proposed Development Description and Location**

- 2.1 The submitted applications relate to the following:
- Building 1: livestock housing / general purpose store, associated access track and yard. 30.5 x 12.2m (372.1m<sup>2</sup>)
  - Building 2: livestock housing / calf rearing building, associated access track and yard 18.1 x 12.2m (220.8m<sup>2</sup>)
  - Building 3: workshop / storage building, associated access track and yard 18.3 x 9.2m (168.36m<sup>2</sup>)
- 2.2 Whilst the applications are submitted separately for three buildings, the applications should be read as a whole scheme and therefore this planning statement relates to all three.
- 2.3 The proposed development site (the site) is located at Berry Wormington to the west of the B4632, Cheltenham Road. An unnamed watercourse is flowing along the western boundary of the site.
- 2.4 The post code near the site is WR12 7NH. The site is currently under agricultural use. Location and Block Plans are submitted with the applications.

## **3.0 Livestock Housing and Storage**

- 3.1 The information below was provided in the submitted Planning Statement:
- 3.1.1 Livestock on the site will be housed on deep litter straw beds at all times. When the livestock buildings are mucked out from time to time (either after a batch of stock are moved, or periodically) the muck is either transported directly off the farm to a local arable farmer in a 'muck for straw' deal, or to a suitable muck storage site on the holding to be stored in accordance with NVZ requirements, before being spread on the land as valuable farmyard manure fertiliser.
- 3.1.2 There will be no slurry or dirty water produced from the development.
- 3.2 The proposal will not result in the production of waste products which could present a risk to water pollution. All livestock will be housed on straw which then produces valuable farm yard manure which can spread back onto land. No slurry or dirty water will be produced. Clean roof water will be harvested for use on the farm.

- 3.3 It is proposed that any farm yard manure is removed from site and stored on a suitable muck storage site, outside of the land held at Berry Wormington.
- 3.4 During the course of the applications, the Environment Agency have made no comments in respect of the proposals but stated that a holding such as this should "...comply with the relevant NVZ/Silage Slurry & Agricultural Fuel Oil (SSAFO) regulations. Similarly, if any agricultural fuel oil is to be stored then it should comply with SSAFO regulations where relevant..."
- 3.5 **Building 1:** New livestock/general purpose store building and formation of new access track and yard.
- 3.5.1 This building will primarily be used for the storage of hay and straw along with the housing of ewes during lambing, with the cattle being housed periodically.
- 3.5.2 There is no risk of dirty water run off as there is no dirty water generated/associated with the use of this building because it is a self-contained unit which is predominantly used for the dry storage of hay and straw.
- 3.5.3 Figure 1 illustrates the straw areas to house sheep during lambing. Once lambing is complete, the building will be mucked out and the straw based farm yard manure is exported off the land at Berry Wormington.



**Figure 1: Straw Areas to House Sheep**

- 3.6 **Building 2:** New livestock housing/calf rearing building and formation of new access track and yard.
- 3.6.1 This building will be used for the housing and rearing of calves using a straw based system. The calves require a significant amount of straw for welfare and health reasons, and therefore will be housed on dry bedding (Figure 2).
- 3.6.2 Once a batch of calves is removed from the building, the dry muck from the buildings are removed off site to be stored or spread at a suitable site, away from the land at Berry Wormington.



**Figure 2: Dry Bedding**

- 3.7 **Building 3:** New agricultural workshop/storage building and formation of new access track and yard. The workshop will be self-contained.
- 3.7.1 The workshop building will not generate any farm yard manure, however, small amounts of fuel oil may be stored on site.
- 3.7.2 There are specific rules which must be adhered to if a new agricultural fuel oil store is built and where over 1,500 litres of agricultural fuel oil is stored on farm. If any fuel oil is stored on the holding, the storage has to comply with the legislation.
- 3.7.3 Any fuel oil to be stored at Berry Wormington will be stored in a tank that meets ISO 9000 and will have a secondary containment structure or 'bund'. The 'bund' will have a life-expectancy of at least 20 years with maintenance. It will be impermeable to oil and water and contain every part of the tank. In addition, it will have taps and valves directed down and locked shut when not in use and have delivery pipes that are permanently attached to the primary tank, which are fitted with self-closing taps or valves and locked inside when not in use.

#### **4.0 Manure Management**

- 4.1 As manure will be exported off site, there will be no requirement to store manure on site outside the confines of the proposed buildings.
- 4.2 Manure should not be stored within 10 metres of a watercourse or within 50 metres of a 'protected water supply source'. No part of the built development is within 10 metres of inland or coastal waters, or within 50 metres of any protected water source.
- 4.3 At all times of being housed, livestock will be kept on deep straw bedding. This type of management system will ensure absolute minimum smell or waste, as all muck is solid and there will be no effluent or liquid manure to consider for waste disposal purposes.
- 4.4 Farm yard manure (a mixture of straw and manure) will be removed when the building is cleaned out, and exported off farm straight out of the sheds to other local farmers for use as fertiliser, therefore there would be no need for either temporary field heaps or spreading on farm.
- 4.5 Where there is need for temporary storage of farm yard manure, in case of inclement weather etc, it can be stored in a suitable temporary field heap before being applied to fields, as permitted by and in accordance with the farm's Cross Compliance / Nitrogen obligations.
- 4.6 Farmyard manure is to be stored inside the farm buildings until such time as it needs to be removed and is required for use as fertiliser away from Berry Wormington, and therefore it is unlikely that the farm would use temporary field heaps.
- 4.7 The manure produced consists mostly of straw and is not highly concentrated; any 'clean out' would therefore produce absolutely minimal odour and certainly no more than any other farming operations in the area, or what would be considered normal for farm activities. Manure management is well considered and appropriate for the farm.

#### **5.0 Silage**

- 5.1 There are specific rules for making and storing silage which means that baled silage cannot be stored or unwrapped within 10 metres of inland or coastal waters. In accordance with best agricultural practice, the applicant does not intend to store silage near the watercourse, or where flooding may occur.
- 5.2 In addition, silage must not be stored within 50 metres of a 'protected water supply source'. The site is over 50 metres away from any protected water source.

- 5.3 Any baled silage will be sealed in an impermeable membrane 'silage wrap', in accordance with the Silage, Slurry & Agricultural Fuel Oil (SSAFO) regulations. It does not need a specially constructed base. Any silage fed to livestock will be self-contained with the building to ensure no effluent leaches. This is a best practice because livestock will not consume sodden fodder.

## **6.0 Summary**

- 6.1 All livestock are bedded on deep straw which eliminates any slurry or other effluent.
- 6.2 The farmyard manure (a mixture of straw and manure) will be exported off farm to arable farms for incorporation into their land as fertiliser and organic matter.
- 6.3 There is no requirement for farmyard manure to be stored at the site.
- 6.4 All operations from this site will fully comply with the SSAFO regulations.

**Angela Cantrill BSc (Hons) MRICS FAAV**

Moule & Co Ltd  
March 2020

**Item 5e – 19/00723/FUL, Land At Berry Wormington, Stanway Road, Stanton - multiple plans**



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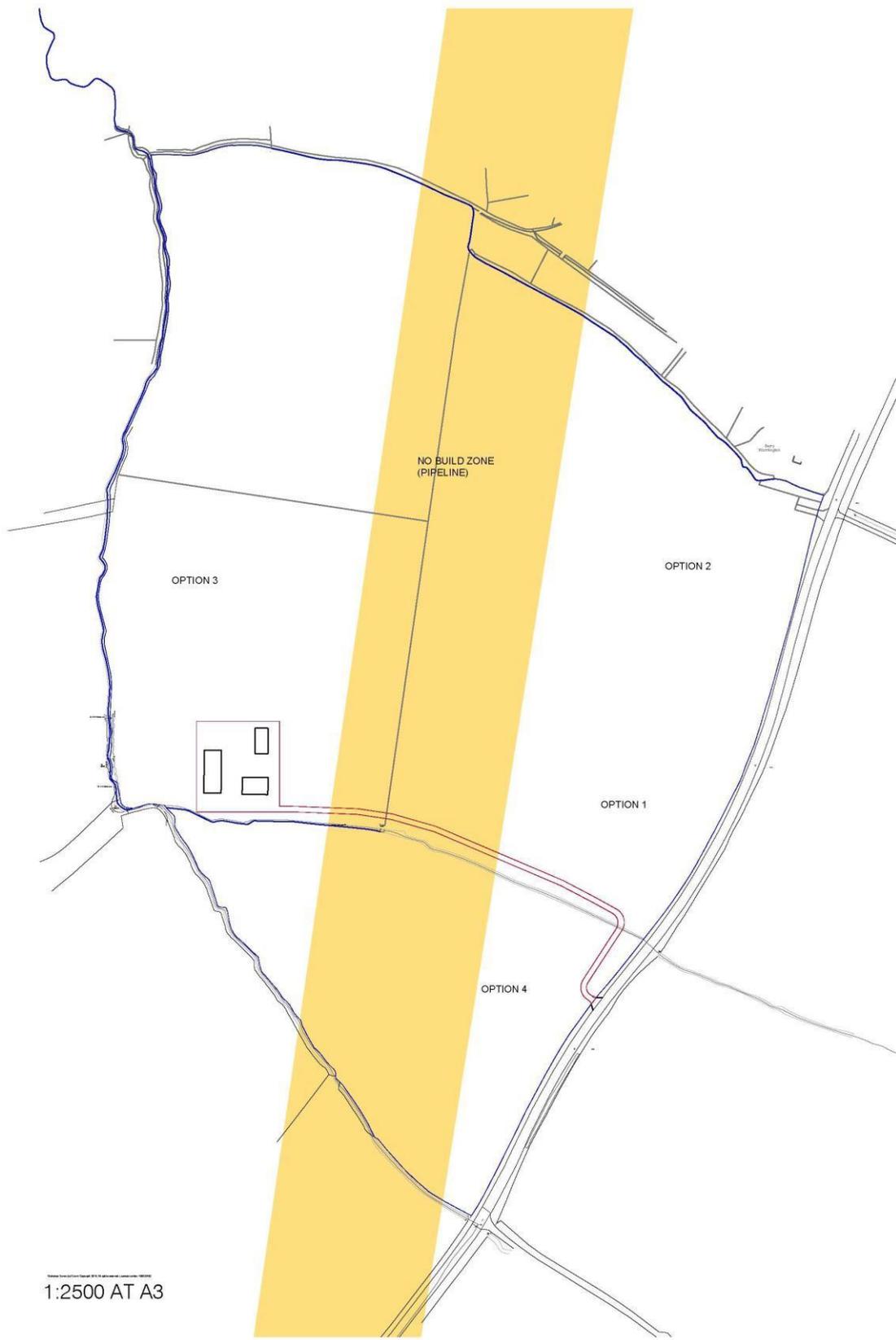
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WORMINGTON, FOR MR R KEEPENCE

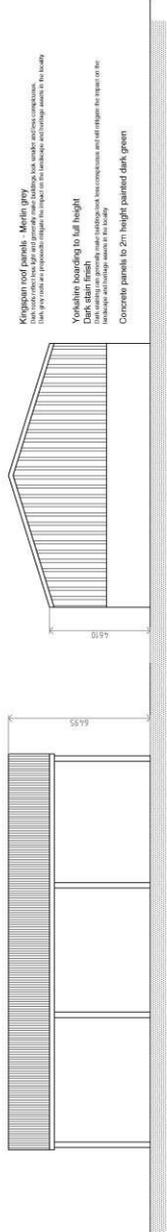
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1:2500 AT A2	SB
date	number
10.03.2020	4804-116

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1:2500 AT A3



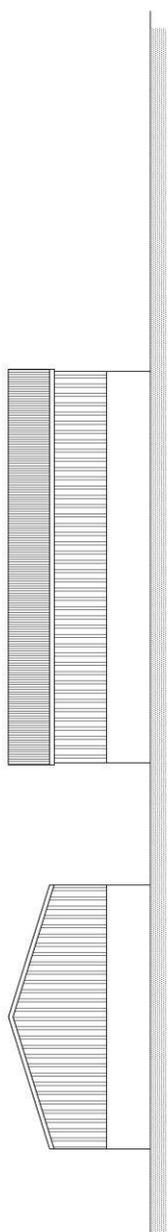
**Koppanen roof panels - Matte grey**  
 Dark matt roof panels for an industrial look. Panels are made of recycled aluminium and are available in a range of finishes.

**Vokkalis boarding to full height**  
 Dark matt vertical boarding to full height for an industrial look. Panels are made of recycled aluminium and are available in a range of finishes.

**Concrete panels to 2m height painted dark green**

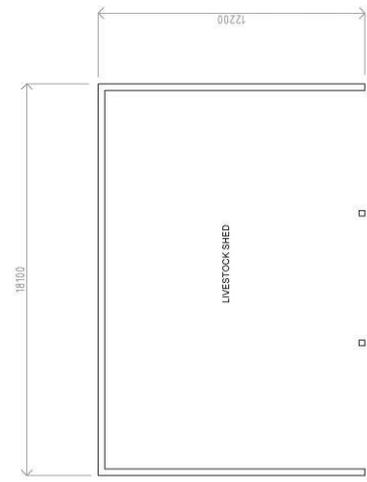
NORTH ELEVATION

WEST ELEVATION



EAST ELEVATION

SOUTH ELEVATION



GROUND FLOOR PLAN



BLOCK PLAN 1:500

C 01.02.2019 new elevations  
 1 18.02.2019 site plan  
 2 18.02.2019 site plan

1:500 1:100 1:50

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Project No: PROPOSED BUILDINGS AT BERRY WORMINGTON, FOR MR R KEEPENCE

Block No: LIVESTOCK SHED 2

scales 1:100 AT A1  
 date 19.06.18  
 drawn 4804-102C  
 SB

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**Item 5f - 19/00724/FUL, Land At Berry Wormington, Stanway Road, Stanton - multiple plans**



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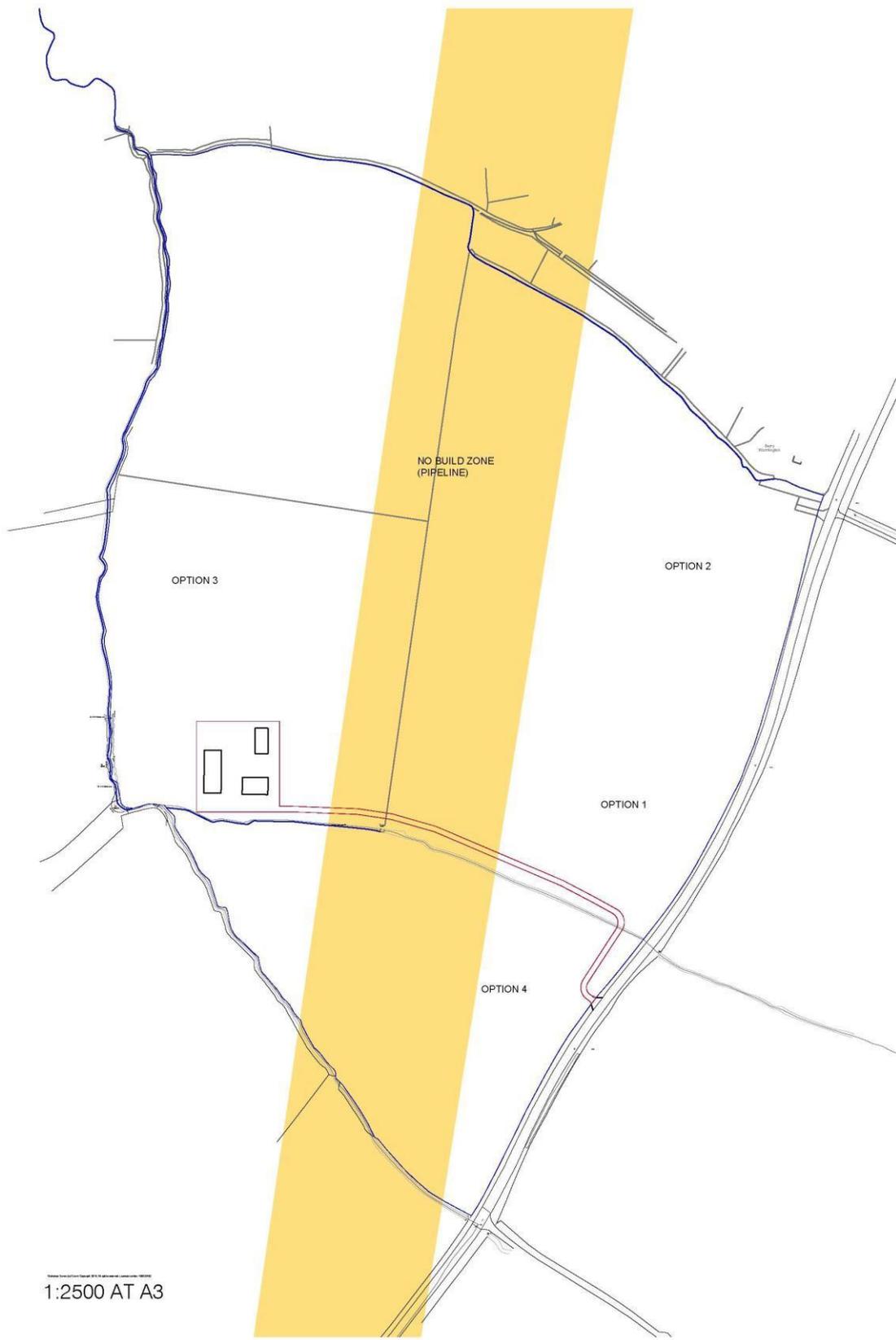
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**project title**  
PROPOSED BUILDINGS AT BERRY  
WORMINGTON, FOR MR R KEEPENCE

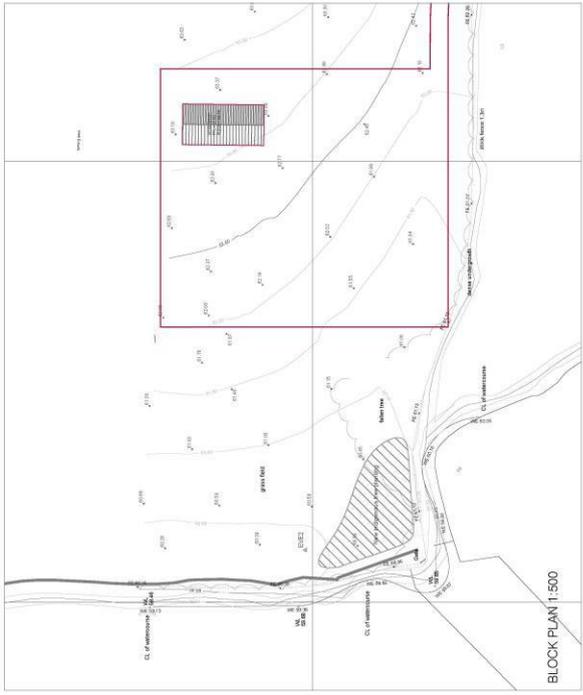
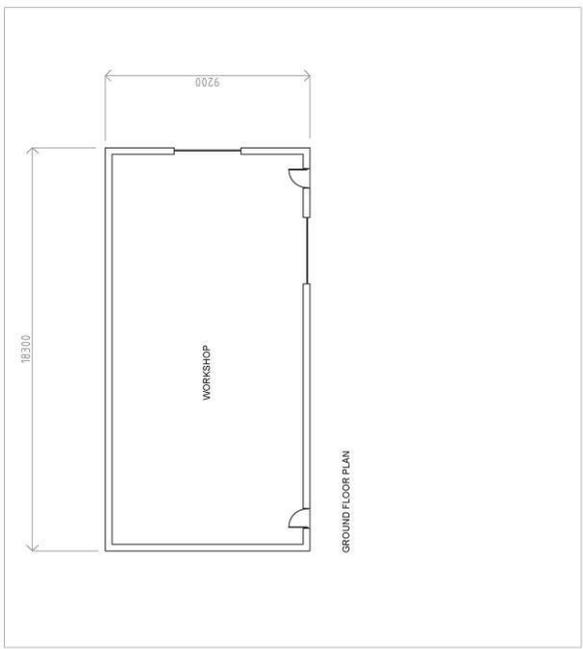
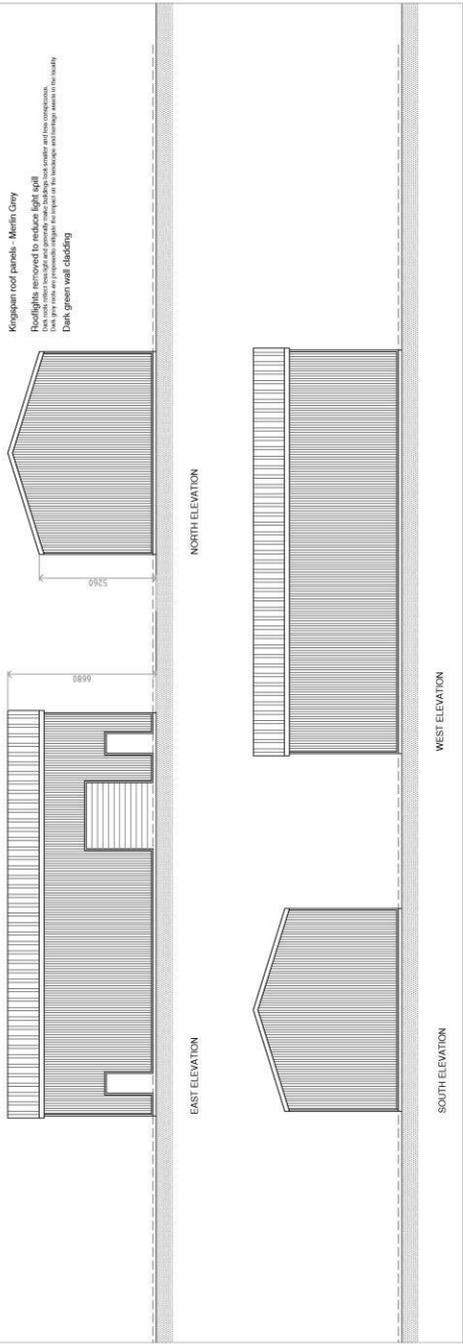
**drawing title**  
Location plan - workshop

scales	drawn
1:2500 AT A2	SB
date	number
10.03.2020	4804-117

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1:2500 AT A3



REV.	DATE	DESCRIPTION
C	04.12.18	near completed
B	03.07.18	for construction
A	18.07.17	for legal advice

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CHARTERED ARCHITECTS  
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 ARCHITECTS  
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 ARCHITECTS

PROPOSED BUILDINGS AT BERRY  
 WORMINGTON, FOR MFR REFERENCE

Sheet 03  
 WORKSHOP BUILDING

SCALES	1:100 AT A1	drawn	SB
date	19.06.18	number	4804-104C

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# Item 5h – 19/00772/FUL – Land Parcel 0088, Willow Bank Road, Alderton

## LAND SOUTH OF FLETCHER ROAD AND EAST OF WILLOW BANK ROAD, ALDERTON, TEWKESBURY



This note summarises the key findings in relation to the sustainability and the capacity of the village of Alderton to host new development, and the key social and economic benefits which would result from the proposed development.

Alderton is a successful and sustainable settlement. It has an active community and access to a good level of services and amenities. Employment rates are good, and a range of employment hosting sites are available locally. These attributes mean Alderton is an attractive place to live and a good place to locate new housing. (RSL Assessment of Current and Future Sustainability).

### BENEFITS OF THE DEVELOPMENT



...to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities...

(NPF7 Para 78)

#### ECONOMIC BENEFITS

CIRCA **87** INCREASED CONSTRUCTION + ASSOCIATED SUPPLY CHAIN JOBS

**INCREASED PATRONAGE TO BUSINESSES IN ALDERTON FROM NEW RESIDENTS** (AND WORKERS DURING THE CONSTRUCTION PHASE AND BEYOND)

PROVISION OF **FAMILY HOMES** WILL DELIVER A SIGNIFICANT INCREASE IN THE **ECONOMICALLY ACTIVE** POPULATION WITHIN THE PARISH

NEW HOMES BONUS FUNDING FOR TEWKESBURY BOROUGH COUNCIL ESTIMATED IN THE REGION OF **£48,370** [ OVER 4 YEARS ]

INCREASED COUNCIL TAX PAYMENTS ESTIMATED IN THE REGION OF CIRCA **£48,370** [ OVER 10 YEARS ]

COMMUNITY INFRASTRUCTURE LEVY PAYMENTS OF APPROX **£448,345** [ 25% PAID DIRECT TO THE PARISH ]

SECTION 106 CONTRIBUTIONS:  
PRE-SCHOOL: **£97,186** | SECONDARY: **£103,686** | LIBRARIES: **£5,388**

#### SOCIAL BENEFITS

UP TO **40%** OF THE DEVELOPMENT **AFFORDABLE HOUSING** ADDRESSING A LOCAL NEED

MIX OF HOUSE SIZES PROVIDING **MORE CHOICE** IN THE HOUSING STOCK INCLUDING **4 x 2 BED BUNGALOWS**

ADDITIONAL RESIDENTS **TO USE AND SUPPORT** LOCAL SERVICES AND AMENITIES



DEVELOPMENT ON A SITE **WITHIN WALKING DISTANCE** OF A NUMBER OF EXISTING FACILITIES

AN INCREASED NUMBER OF FAMILY HOMES AND ADDITIONAL CHILDREN WHO WILL **HELP TO INCREASE PUPIL NUMBERS** AT OAK HILL CHURCH OF ENGLAND PRIMARY SCHOOL AND OTHER SCHOOLS LOCALLY.

## LAND SOUTH OF FLETCHER ROAD AND EAST OF WILLOW BANK ROAD, ALDERTON, TEWKESBURY



### CAPACITY FOR GROWTH

An assessment of the impact of the proposed development on future sustainability and community cohesion shows that new housing which delivers market and affordable housing of different types and tenures as this development does, will have a positive impact on the demographic profile of Alderton.

There is sufficient capacity or the means of providing additional capacity in local services and infrastructure to meet the needs arising from the proposed development.



The proposed scale of growth is proportionate to Alderton:

- The development is of modest scale (28 dwellings or c. 7% on 2019 commitments) and compatible with the level of services and facilities available in Alderton.
- There is no evidence that the previous growth since the last census (26% since 2001) has led to any negative impacts to community cohesion or services and facilities.
- Time has lapsed since the most recent developments: it is anticipated that a start on this scheme would be made on site in 2021, which is nearly three years since the sale of the last plot on Fletcher Close and five years on Beckford Road.



Alderton is well served by a variety of services (Public house, post office / village store, village hall, primary school):

- Consultee responses have not highlighted any issues in capacity of local services or infrastructure.
- The new population will continue to support the delivery of services including the village store and post office which reopened after closing.
- The development will be subject to contributions regarding financial provisions to healthcare to ensure services are appropriately supported.



The development is accessible to local education provision:

- There is significant capacity at the village primary school which would suggest an opportunity for new family housing to support the continued provision of a school in the settlement. The school has a current roll of 69 pupils against a capacity of 105 (October 2019).
- The development will be subject to contributions regarding financial provisions to education to ensure services are appropriately supported.



An active community is an indicator of community vitality:

- There are a range of community activities to ensure there are opportunities for new residents to integrate into the community.
- Various community groups, sports groups and associations that would allow new residents to integrate into village life: the cricket club is seeking new players; the garden club, golf society and football club are all welcoming new members.



# Item 5k – 19/00758/OUT, Land At Homelands Farm, Gotherington Lane, Bishops Cleeve



Your ref: 19/00758/OUT

Our ref: 42375/HB/CD

Date 06 March 2020

Planning Department (Development Management)  
Tewkesbury Borough Council  
Gloucester Road,  
Tewkesbury  
GL20 5TT

BY EMAIL ONLY

**Attention of: H Stocks**

Dear Helen

**Re: Homelands Farm, Bishop's Cleeve**

1. Following the committee meeting on the 18 February 2020, where the committee resolved to defer the application until the next committee, the Applicant has considered the reasons for deferral and wishes to respond.
2. Enclosed with this letter are:
  - a. An education note prepared by EFM;
  - b. Legal advice prepared by Sasha White QC of Landmark Chambers.
3. This letter sets out why the overall planning balance in respect of paragraph 11 of the NPPF should lead to the grant of planning permission.

## **Introduction**

4. The starting point for any planning application is paragraph s38(6) of the TCPA 1990 determination of planning applications shall be made in accordance with the plan unless material consideration indicates otherwise.
5. This includes an assessment of the proposals consistency with the adopted Development Plan, in this instance being the Joint Core Strategy (JCS) having regard to any other material considerations and the weight to be attached to them.
6. In the context of the Council's land supply position and following an application of footnote 7 of the NPPF (2019), a tilted balance must be applied to material considerations as set out in paragraph 11 d) (ii) of the NPPF.
7. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development (para 11 of the NPPF) does not change the statutory status of the development plan as the starting point for decision making. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
8. There is a suggested conflict with the Development Plan (JCS) Policies SD12, INF4, INF6 and INF7. These conflicts can be addressed by the completion of an appropriate planning obligation. The applicant has already confirmed that they will enter into a S106 with reasonable planning obligations which meet the tests of reasonableness set out in the CIL regulations.

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9. The site sits contiguous with but on the outside edge of the settlement boundary of Bishop's Cleeve. Under normal circumstances the proposals conflict with Policy SD10 of the JCS. This is the only conflict with the Development Plan and now needs to be put in the context of material considerations which are applied on the bases of a tilted balance set out in paragraph 11 d) (ii).
10. While Policy SD10 forms part of an up-to-date Development Plan and must receive development plan weight, the lack of five-year land supply is a material consideration which weighs against Policy SD10 and its application in this case. The lack of housing supply is significant and results in the need to provide development outside the settlement boundary. As has been the case for a number of years, where numerous applications have been granted sitting outside of the settlement boundary (07/00448/OUT and 10/0100/OUT). While the PSTBP amends the settlement boundary and includes this site as an allocation, the Plan is yet to be adopted and so the settlement boundary is yet to be formally amended.
11. Whether or not this particular site is suitable for development has been established previously through historic applications, it too has been considered by the Council as sustainable and suitable through the PSTBP. The Inspector at Stoke Road concluded that the Policy was intended to work alongside allocations:

**"I accept that the proposed development may be in breach of Policy SD10 of the JCS, because the site is located outside the settlement limits. However, those settlement limits were plainly intended to operate in the context of adopted allocations which meet the housing need set out in the JCS. Policy SD10 has no full role to play as a development management tool in advance of the proposed allocations being made. (para 25)"**

**"Further, as there is an agreed lack of a five year housing land supply, the Council accepts that Policy SD10 is out of date and deserves only limited weight. Mr Muston explained that is why it is not cited in any putative RfR. In my view that concession must be correct, because adherence to the settlement limits in Policy SD10 would not allow a five year supply to be achieved. Those settlement limits restrain housing delivery (para 26)"**

12. The JCS Policy SP2 currently identifies the TBLP as the mechanism for identifying specific sites for the delivery of homes within the two Rural Service Centres in Tewkesbury. In the absence of the TBLP, currently there are no allocations to accommodate future growth in Bishop's Cleeve. As set out in the Inspectors report, strict adherence to SD10 would not allow the Council to achieve housing supply. It is maintained, that in this case the application of Policy SD10 is outweighed by substantive material considerations.
13. **Housing Supply**
14. The Council are unable to demonstrate five-year housing supply, and have not been able to do so for a significant period of time. It is noted that the Council since at least 2012 have not been able to meet their needs (Homelands Farm Appeal). The lack of a five-year supply has been confirmed in paragraph 14 of the recent Highnam Appeal decision (Ref: PCU/APP/G1630/W/3184272), which establishes that the Council is currently only able to demonstrate a housing land supply of 3.99 years. The lack of supply is confirmed within the Officers Committee report for this application.
15. In the context of housing need and supply (Policy SP1 and SP2 of the JCS), the NPPF Paragraph 11 (footnote 7) makes clear that this constitutes an out of date planning policy and that the 'tilted balance' of paragraph 11 d), the presumption in favour of sustainable development, is therefore triggered in relation to housing need and Policy SP1 and SP2 of the JCS. This is confirmed in the Officers Committee report para 5.8.

16. The proposed development will provide a boost to the supply of housing and makes a contribution towards the supply position. The proposed development is fully deliverable within the five-year period and would form a natural progression to the final build out stages of Homelands 2. The development would therefore be relatively quick to come forward and would contribute to meeting the immediate short-term need.

**17. Sustainable Location**

18. Bishop's Cleeve is identified within the Joint Core Strategy (JCS page 26 table SP2c) as a Rural Service Centre (one of two identified), second only to Tewkesbury Town in Tewkesbury Borough and it contains a high provision of local services relative to its size and is a sustainable location in principle within the surrounding area.
19. The site is located near to the existing services and community facilities in Bishop's Cleeve. The following social/community facilities are within approximately 2km of the application site:

Table 1: Social/community facilities within 2km of the application Site

Facility	Provision within 2km	Notes
Primary school	4	Woodmancote Primary, Bishop's Cleeve Primary, Grangefield Primary, Gotherington Primary,
Secondary school	1	Cleeve School and Sixth Form
Primary Healthcare	2	Stoke Road surgery, Cleevelands Medical Centre (merging of Greyholme and Sevenpost Surgeries)
Pharmacy	3	Badham Pharmacy (three branches)
Community facilities	4	Woodmancote Village Hall, Tithe Barn Village Hall, St Michael's Centre, Bishop's Cleeve Community Building, The Potthouse pottery workshop.
Food stores	5	Tesco Superstore, Lidl, Co-op Foodstore, Gotherington Village store, Lewis convenience store.
Public Houses	5	The Swallow Inn, The Royal Oak, The King's Head, The Apple Tree, The Shutters Inn
Churches	2	Bishop's Cleeve Methodist Church, St Michael's Church
Sports clubs and facilities	5	Cleeve Sports Centre, Milham Road Playing Field, Bishops Cleeve Bowling Club, Bishop's Cleeve FC, Woodmancote Cricket Club.
Allotment Sites	2	Nortenham Site and new plots within the wider Homelands development.
Library	1	Bishop's Cleeve Library
Post Office	1	Bishop's Cleeve Post Office

20. The Homelands Farm location has been confirmed as sustainable through the approval of previous schemes, now being built out, on the wider Homelands Farm site. Paragraph 23 of the Secretary of State's decision relating to 10/01005/OUT explicitly agrees with the Inspector's conclusion that

the development would be sustainable. The Inspector of the Stoke Road Appeal confirmed that Bishop's Cleeve is an appropriate location for development in accordance with the settlement strategy as set out in the JCS and that there was no evidence to suggest that Bishop's Cleeve, as a Rural Service Centre, lacks the physical, environment or social capacity to accommodate the appeal scheme and the infrastructure demands arising from the proposal could be met with the provision of justified contributions in a planning obligation or through the CIL payment (para 27).

21. Additionally, the Council has accepted development at Bishop's Cleeve through the draft emerging Borough Local Plan allocation. The site has been through the Council's own sustainability appraisal and is considered a sustainable location for development of residential and employment. It cannot be the case that the Council now consider that the site is unsustainable. It is questioned whether the Council has considered providing school buses to transport children to the other nearby primary schools listed at table 1.
22. Overall, the location of the site presents a natural progression and completion of the Homelands Farm 2 site and in the context set out above, it is clear that the application site is a sustainable location for development.
23. **Sustainable development**
24. Having established that the site is located in a sustainable location for development, the scheme is assessed against paragraph 8 of the NPPF which sets out the three sustainability objectives that should be met. The scheme proposed delivers sustainable social, environmental and economic development.
25. **Social** - The proposals provide a mix of market and affordable homes which in itself is a substantial benefit of the scheme. The proposal will promote sustainable transport use and the site is located within 250m of a bus stop, served by the W1 and W2 to Cheltenham/Greet. Part of the proposed National Cycle Route 413 runs north to south alongside the eastern boundary of the site. The proposals are fully in accordance with Policy INF1 of the JCS.
26. The proposal includes informal open spaces and landscaped areas with direct and open connectivity to the open space provided in the Homelands 2 scheme. The scheme is located within close proximity to local play areas providing future residents with the ability to walk to areas of formal play. The vision for the employment hub includes an open courtyard area which could be used by occupiers and the general public. The application accords with Policies INF3, SD14 and SD6 of the JCS.
27. Facilities including a new local centre and public open space are proposed as part of planning permission 10/01005/OUT. The local centre is due to include retail and employment provision, a community centre and leisure facilities. It will be located approximately 200m from the application site and will provide suitable services to facilitate a healthy environment for future residents.
28. **Economic** - The proposals offer the opportunity to promote interlinked housing development and economic growth, and the ability for residents to work in the local area.
29. The proposed development also has the potential to directly support workers in the construction industry. Bishop's Cleeve offers a number of employment opportunities within 2km of the application site including: Sun Life Insurance, Capita Insurance, Bovis Homes, GE Aviation Systems, Ontic Engineering and Manufacturing, and Malvern View Business Park. There are also wider employment opportunities and services at Cheltenham (c. 6km from the site), which is on a direct bus route, and also Ashchurch to the north west.
30. The increase in local population created by the proposed development will inevitably result in increased local expenditure to support local business, services, shops and facilities.

31. **Environmental** – The proposed residential density of 26 dwellings per ha makes effective use of the land in accordance with the NPPF and is reflective of the character of the area. On this matter, it is worth noting that typically low density is in the 20-30dph, medium is 30-40dph and higher density would be above this.
32. The proposals include a high-quality landscaping scheme that will have visual and ecological benefits. It will soften views of the development from the surrounding areas, together with achieving biodiversity net gain through providing new opportunities for wildlife habitats.
33. The proposed development has been designed with mitigating climate change in mind. It will be built to the relevant sustainability standards and will encourage the use of sustainable transport modes. The development accords with Policies SD3, SD14 and INF1 of the JCS.
34. **Planning Balance**
35. In arriving at a concluding planning balance in accordance with paragraph 11 of the NPPF, a qualitative assessment of weight needs to be given to various benefits of the scheme and any potential adverse effects. In a scenario where the adverse effects outweigh the benefits, these adverse effects must be significant for refusal to be given. The level of significance can vary and can be mitigated thereby reducing the significance. The table below summarises the scheme benefits and possible adverse effects of the scheme.

Benefit	Sustainability Role	Weight	Consideration
Housing delivery 65 dwellings	Social	Substantial	Significant deficit in housing land supply – it's been acknowledged that the Council do not have five – year housing supply. The shortfall is considered significant by the Inspector in the Stoke Road Appeal (para 81).
Affordable housing	Social	Substantial	Provision 40% affordable housing to meet needs and considered a substantial benefit when considering National Policy and Government objectives. The Inspector in the Stoke Road Appeal described the provision of affordable housing as 'a powerful material consideration' and a 'very significant benefit' (para 81). The provision of affordable housing is particularly beneficial given the median average housing price in Tewkesbury is currently almost 8.5 times the average earnings in the area.
Mix of units sizes to meet local needs	Social	Moderate	Provision of a mix of units to meet needs of the local area can be considered a moderate benefit. The Officers Report requests that a 1x4 bed dwelling is provided for social rented and that this matter can be resolved through planning obligations.
Efficient use of land with densities appropriate to the location and size of site	Environmental	Neutral	NPPF encourages appropriate densities and the optimum density for sites. The NPPF is clear that planning decisions should promote effective use of land (para 117) and that where there is a shortage of land for meeting housing needs, it is especially important that policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential for each site (para 123).
Development in a sustainable location where use of public transport / use of	Environmental / social	Substantial	The status of Bishop's Cleeve as a Rural Service Centre, a second tier settlement and the focus for development in sustainable locations which this is acknowledged to be.

existing services are realistic			
Employment hub of up to 2000sqm flexible space	Economic	Substantial	Meeting local needs and requests. Providing excellent telecommunications connectivity. Space to support at least 150 FTE jobs. This is confirmed as a significant benefit in the Stoke Road Appeal (para 81).
Direct and indirect employment opportunities during the construction period	Economic	Substantial	Homelands Farm would retain up to 217 FTE existing jobs in the local area and would generate up to 56 FTE indirect jobs and is a substantial benefit to the local area.
Increased local expenditure in the locality as a result of new residents and workers	Economic	Moderate	Increase local spend in the wide range of shops and community facilities in Bishop's Cleeve (Cira £2.2m per annum) supporting the existing community.
Biodiversity net-gain through enhancement of existing landscape features and wildlife habitats	Environmental	Moderate	Biodiversity gain from improved ecological features is a moderate benefit of the scheme.
Gotherington Lane would remain intact and buffered by substantial existing planting.	Environmental	Minor	Ecology and landscaping along Gotherington Lane helps to buffer views to and from the site to the wider countryside, it is a minor benefit.
CIL Payments	Social	Minor	CIL from the scheme helps to mitigate impact of the development on infrastructure. Its provision and payment will have a level of benefit considered to be minor.
S106 contributions	Social	Minor	Payments toward education infrastructure to mitigate the demand for education resulting from the scheme, in accordance with the JCS requirement to use S106 for infrastructure (para 5.1.2 / 5.1.5 and Infrastructure Delivery Plan 2016 and INF7).
<b>Adverse Effect</b>	<b>Sustainability Role</b>	<b>Weight</b>	<b>Consideration</b>
Education places are not sufficient to cope with the increased demand resulting from the scheme	Social	Neutral	These impacts can be mitigated with S106 and CIL.
Development outside the settlement boundary in the open countryside.	Environmental	Minor Adverse	The site is located at Bishop's Cleeve, a Rural Service Centre and highly sustainable settlement. It is also adjoining existing housing development and is a sustainable settlement. The need to go beyond the settlement boundary is caused by the lack of deliverable sites within this and other settlement boundaries to meet the five-year land supply requirement. The Stoke Road Inspector confirms this policy is out of date and confirms further why the conflict with the Development Plan in this instance is not relevant.

36. While it is accepted that the scheme conflicts with SD10 this letter sets out the justified reason why in this case, there are material considerations which outweigh the application of this policy. There are no technical objections to the proposals with the only objection relating to education. Therefore, the only harm that needs to be considered against the proposal and in the balance is the affect that the scheme has on education.
37. The Committee report at para 5.21 confirms that the County Council will maintain their objection to the proposal irrespective of whether or not S106 contributions are secured as they require a site for a school. The Officer confirms that this, in their opinion, weighs significantly against the proposal and planning balance.
38. The Applicant has agreed to enter into S106 Agreement to provide contributions toward the necessary infrastructure for education, this together with the obligation to pay CIL, is sufficient to mitigate any effects of the scheme. The purpose of financial planning obligations is to balance the pressure created by development with improvements to the surrounding area ensuring that where possible the development would make a positive contribution to the local area and community. It cannot be the case where the Applicant has agreed to enter into a S106 to mitigate the developments impact, that the County Council still maintain their objection until a physical school site is found. Certainly, it is not the responsibility of this scheme to provide a school site, especially given the relatively small scale of the scheme.
39. The enclosed note prepared by EFM confirms that it is the is the responsibility of the education authority to ensure there are enough school places to serve the future population which can be supported through CIL and S106 contributions where new development is provided and they are necessary. Additionally, the education authority is not a statutory consultee, it is therefore up to the Local Authority how much weight they attribute to the education department comments. With this in mind, and the fact that the County Council are committed to the provision of a school (press announcement stating they will issue a statement later this year on its provision) it is not reasonable for planning permission to be with-held until the County Council find one.
40. Having assessed the benefits of the scheme which are wide ranging and substantial and are acknowledged in the Officers Committee report (para 7.2), it cannot be concluded that the adverse impacts significantly and demonstrably outweigh the benefits.
41. **Conclusion**
42. The proposals constitute sustainable development as they would deliver social, economic, and environmental benefits. An appropriate mix of both open market and affordable homes are proposed within walking and cycling distance to Bishop's Cleeve, which is sustainable in principle in planning policy terms. The site has good access to services, facilities and employment opportunities both locally and further afield, via sustainable transport modes. The scheme would deliver biodiversity improvements and enhance existing wildlife habitats.
43. There is an immediate and compelling need for new housing in the Borough and the currently defined settlement boundaries are being updated through the PSTBP. The scheme proposes 65 new homes which is a significant benefit, given the serious and significant shortfall in housing supply. The site is not protected and there are clearly no adverse impacts that would significantly outweigh the benefits of granting planning permission.
44. In the context of the NPPF's aim to boost housing; the JCS directing growth to Rural Service Centres; the site as a proposed allocation; the acknowledgement that this is a sustainable location; the applicant willing to enter into a S106 agreement and the significant benefits of the scheme - it is clear that there are no reasonable reasons to refuse the application.
45. It is therefore contended that the weight attributed toward the education objection is clearly outweighed by the sustainability credentials, benefits of the proposals and other material

considerations, which when, applying the planning balance, shows that permission should not be refused because any adverse effects are not capable of significantly and demonstrably outweighing the benefits.

Yours sincerely

PP Hannah Bizoumis Associate

Colin Danks

**Planning Director**

For and on behalf of **Stantec UK Ltd**

Enclosures:

Education letter prepared by EFM

Counsel Advice

## Gloucestershire County Council Community Infrastructure Planning Application Representations

<b>Date:</b> 13/03/2020
<b>To Case Officer:</b> Helen Stocks
<b>From:</b> GCC Developer Contributions Investment Team
<b>Application Ref:</b> 19/00758/OUT
<b>Proposal:</b> Hybrid planning application, seeking; 1. Full planning permission for 65 residential units (to include affordable housing, public open space, associated highways and drainage infrastructure); and, 2. Outline planning permission, with all matters reserved except access, for up to 2,000 sqm (GIA) small scale employment use (B1 use class) and associated demolition, parking and open space.
<b>Site:</b> Land At Homelands Farm Gotherington Lane Bishops Cleeve
<b>Summary:</b> Contributions will be required to make the development acceptable in planning terms

### SECTION 1 – General Information

This application has been assessed for impact on various GCC community infrastructures in accordance with the “Local Developer Guide” (LDG) adopted 2014 and revised 2016. The LDG is considered a material consideration in the determination of the impact of proposed development on infrastructure.

<https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-local-developer-guide-infrastructure-and-services-with-new-development/>

The LDG is currently being updated and will be available for public consultation Spring 2020.

The assessment also takes account of CIL Regulations 2010 (as amended)

In support of the data provided please note the following: -

#### Education

- The School Place Strategy (SPS) is a document that sets out the pupil place needs in mainstream schools in Gloucestershire between 2018 and 2023. The SPS examines the duties placed upon GCC by the Department for Education (DfE) and it explains how school places are planned and developed. This document is currently being reviewed and updated.

<https://www.gloucestershire.gov.uk/media/2085281/gloucestershire-school-places-strategy-2018-2023-final-web.pdf>

- Cost Multipliers - The DfE have not produced cost multipliers since 2008/09, so in the subsequent years we have applied the annual percentage increase or decrease in the BCIS Public Sector Tender Price Index (BCIS All-In TPI from 2019/20) during the previous 12 months to produce a revised annual cost multiplier in line with current building costs, as per the wording of the s106 legal agreements. We calculate the percentage increase using the BCIS indices published at the start of the financial year and use this for all indexation calculations during the year for consistency and transparency.

Pupil Yields – GCC is using the updated Pupil Yields supported by two studies in 2018 and 2019. The updated pupil product ratios for new housing are; 30 pre-school children, 41 primary pupils, 20 secondary pupils and 11 post-16 pupils per 100 dwellings. All data/research produced is available from:

<https://www.gloucestershire.gov.uk/media/2093765/gloucestershire-county-council-ppr-report-703.pdf>

- The new LDG will include the most up-to-date PPR.
- This assessment is valid for 1 year, except in cases where a contribution was not previously sought because there were surplus school places and where subsequent additional development has affected schools in the same area, GCC will reassess the Education requirement.
- Any contributions agreed in a S106 Agreement will be subject to the appropriate indices.

#### **Libraries:**

- Gloucestershire County Council has a statutory duty to provide a comprehensive and efficient library service to all who live, work or study in the County.
- New development will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In doing so careful consideration will be given to current levels of provision compared against the nationally recommended benchmark of the Arts Council - formerly put together by Museums, Libraries and Archives Council (MLA).
- The nationally recommended benchmark is now available in the following publication: Public Libraries, Archives and New Development A Standard Charge Approach (May 2010) It sets out a recommended library space provision standard of 30 sq metres per 1,000 population. This is costed at £105 per person. The current GCC figure of £196 reflects the uplift in costs since 2010.
- A Strategy for Library Services in Gloucester 2012. This strategy for providing library services is set in the context of two main drivers for change; the technological revolution and the financial situation.

<https://www.gloucestershire.gov.uk/libraries/library-strategy-and-policies/>

[https://www.gloucestershire.gov.uk/media/3413/updated\\_strategy1\\_-64623.pdf](https://www.gloucestershire.gov.uk/media/3413/updated_strategy1_-64623.pdf)

**SECTION 2 – Education and Library Impact - Site Specific Assessment**

SUMMARY: Land At Homelands Farm Gotherington Lane Bishops Cleeve, Gloucestershire

A summary of the contributions (note these figures can be subject to change over time because of for example; updated multipliers and education forecasts) are found below.

Please note that on the potential granting of planning permission a decision will be made between the LPA and Gloucestershire County Council (GCC) as to whether the contributions will be secured via S106 or via CIL.

This is an updated assessment based on the new Pupil Yield data.

**Education:**

**SUMMARY: S106 Developer Contributions - for 19/00758/OUT - Land at Homelands Farm, Gotherington Lane**

Phase of Education	Name of closest non-selective school	No of dwellings	Pupil Yield	Max Contribution (£)	Contribution
Pre-school	<b>EY provision in Bishops Cleeve Primary Planning Area</b>	65	14.95	<b>£225,610.45</b>	Yes - Full
Primary	<b>Bishops Cleeve Primary Academy</b>	65	24.05	<b>£362,938.55</b>	Yes - Full
Secondary (11-18)	<b>Cleeve School</b>	65	13	<b>£255,659.30</b>	Yes - Full

Calculation: Multiplier\* x Pupil Yield = Maximum Contribution)

\*Multipliers 2019 (DfE per pupil):

£15,091.00 – Pre-school/Primary

£19,490.00 – Secondary 11-16yrs

£23,012.00 – Secondary 16-18yrs

**Pre-school:** In consultation with the Early Years team, childminder and day nurseries in the area are full and the number of settings delivering 08:00-18:00hrs year-round provision is limited and GCC would therefore seek a full EY contribution to expand full day-care year round provision in the Bishops Cleeve area.

In updated DfE Guidance on securing developer contributions for education provision, GCC has a duty to ensure early years childcare provision within the terms set out in the Childcare Acts 2006 and 2016. The DfE has scaled up state-funded early years places since 2010, including the introduction of funding for eligible 2 year olds and the 30 hours funded childcare offer for 3-4 year olds. The take-up has been high, which has increased the demand for early years provision and as such developer contributions have a role to play in helping to fund additional nursery places required as a result of housing growth .

**Primary and Secondary:** Existing schools are at capacity and full primary and secondary contributions are sought for the purpose of expanding the number of school places in the Bishops Cleeve area. Bishops Cleeve is an identified 'hot spot' where it is increasingly challenging to accommodate additional pupils arising from new housing development.

In support of the increased yields, GCC commissioned an independent review of pupil yields from housing developments in 2018 and the findings of this report were supported by a second review funded by housing developers carried out in 2019. Prior to these reviews pupil yields had remained unchanged for a number of years.

#### **Library :**

The nearest Library is Bishops Cleeve Library

Detailed guidance within the GCC Developer Guide states that:

*"New development will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In doing so careful consideration will be given to current levels of provision compared against the nationally recommended benchmark of the Arts Council - formerly put together by Museums, Libraries and Archives Council (MLA)".*

The scheme will generate additional need for Library resources calculated on the basis of £196.00 per dwelling. A contribution of £12,470 (65 dwellings x £196) is therefore required to make this application acceptable in planning terms, in accordance with the GCC LDG.

The nationally recommended benchmark is now available in the publication Public Libraries, Archives and New Development A Standard Charge Approach (May 2010). It sets out a recommended library space provision standard of 30 sq metres per 1,000 population. This is costed at £105 per person. The current GCC figure of £196 reflects the uplift in costs since 2010.

In accordance with the Library Strategy ("A Strategy for Library Services in Gloucestershire 2012, and any updates), where development occurs it will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In this case the proposed development and increase in population will have an impact on resources at the local library and a contribution is required.

### SECTION 3 – Compliance with CIL Regulation 122 and paragraph 204 of the NPPF (2019)

The Community Infrastructure Levy (CIL) is a charge which can be levied by local authorities on new development in their area.

Where planning applications are capable of being charged the levy, they must comply with the tests set out in the Regulation 122 of the CIL Regulations. These tests are as follows:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

As a result of these regulations, Local Authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly' related to the development'. As such, the regulations restrict Local Authorities ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests, it is 'unlawful' for those obligations to be taken into account when determining an application.

Amendments to the Community Infrastructure Levy Regulations 2010 were introduced on 1 September 2019. The most noticeable change in the amendments is the 'lifting' of the 'pooling restriction' and the 'lifting' of the prohibition on section 106 obligations in respect of the provision of the funding or provisions of infrastructure listed on an authority's published 'regulation 123 list' as infrastructure that it intends will be, or may be, wholly or partly funded by CIL (as a result of the deletion of Regulation 123).

Any development granted planning permission on or after 1 September 2019 may now be subject to section 106 obligations contributing to infrastructure that has already benefited from contributions from five or more planning obligations since 6 April 2010 and authorities are allowed to use funds from both section 106 contributions and CIL to pay for the same piece of infrastructure. However, the tests in Regulation 122 continue to apply.

The Department for Education has updated its guidance in the form a of document entitled "Securing developer contributions for education (November 2019), paragraph 4 (page 6) states that:

*"In two-tier areas where education and planning responsibility are not held within the same local authority, planning obligations may be the most effective mechanism for securing developer contributions for education, subject to the tests outlined in paragraph 1 [ the 3 statutory tests set out in 1.3 above]. The use of planning obligations where there is a demonstrable link between the development and its education requirements can provide certainty over the amount and timing of the funding you need to deliver sufficient school places. We recommend that planning obligations allow enough time for developer contributions to be spent (often this is 10 years, or no time limit is specified)"*

The education contributions which are based on up to date pupil yield data are necessary to fund the provision of the additional pre-school, primary and secondary school places generated by this development because there is a lack of capacity in the relevant education sectors to address the increase in the numbers of children needing a place at a local school arising directly from this development. In addition, GCC is currently discussing the need for a new school site with Tewkesbury BC to meet the requirement for places generated by developments across Bishops Cleeve.

**Education:**

There will be an additional 14 pupils in the pre-school sector, 24 pupils in the primary sector and 13 pupils in the 11-18 secondary sector all needing a place at a local school as a direct result of this development .

The developer contributions are directly related to the proposed development in that the contributions have been calculated based on specific formulas relative to the numbers of children generated by this development and will be allocated and spent towards improving capacity in the planning area to enable children from this development to attend a local school .

The contributions are fair and reasonable to mitigate the impacts of the proposed development because they only relate to the additional pupils arising directly from this development to cover the costs of the extra places that will be required. The scale of growth is based only on the numbers of additional pupils arising from the proposed qualified dwellings.

There are significant issues in being able to meet the demand for primary school places from existing development proposals and GCC is currently discussing the need for a new school site with Tewkesbury BC to meet the requirement for places generated by new developments across Bishops Cleeve.

**Libraries:**

The contribution of £12,740.00, towards the nearest library which is Bishops Cleeve Library is considered necessary to make this development acceptable in planning terms .

Bishops Cleeve Library serves the local population and is the third busiest in the County. The Library cannot be expanded further however; the contribution will be used to increase access to services in line with A Strategy for Library Services in Gloucester 2012. The contribution will be used towards capacity improvements, facilitating increased opening hours, increase in accessibility and support for digital and IT facilities and increasing library stock for example.

The contribution is necessary to support local community facilities and deliver services to users from new development.

It is directly related to the development in that the contribution has been calculated relative to the number of dwellings proposed and funds would be used at the closest library to mitigate the impact of increasing numbers of users directly arising from this development.

The contribution is reasonable and fair in scale being calculated by reference to the Public Libraries, Archives and New Development A Standard Charge Approach (May 2010).

<b>SECTION 4 – CIL/S106 Funding Position</b>
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There are currently no mechanisms or mutually agreed financial arrangements in place between the LPA as CIL Charging Authority and GCC to fund GCC strategic infrastructure from the CIL regime to mitigate the impact of this development as it occurs.

The level of CIL charged on a development is unlikely to cover the amount of developer contributions that would be required to contribute towards the strategic infrastructure necessary to mitigate the impact of this development.



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## **Land at Homelands Farm Gotherington Lane Bishops Cleeve**

**19/00758/OUT**

Land at Homelands Farm, Gotherington Lane, Bishops Cleeve, validated 26.07.19 and described in brief as: Hybrid Planning Application seeking 1. Full planning permission for 65 residential units (to include affordable housing, public open space, associated highways and drainage infrastructure); and 2. Outline planning permission, with all matters reserved except access, for up to 2,000 sqm (GIOA) small scale employment use (B1 use class) and associated demolition, parking and open space.



## INTRODUCTION

This note addresses two matters:

- the updated Consultation Response from the Lead Officer Monitoring and Negotiating Developer Contributions – Economic Growth and Strategic Planning at Gloucestershire County Council with regard to Education Matters (9<sup>th</sup> January 2020).
- the Planning Schedule Report to the Planning Committee (18<sup>th</sup> February 2020) reference to education matters.

## STATUTORY and PLANNING POLICY MATTERS

Tewkesbury Borough Council is required to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise.

**Planning law** prescribes circumstances where local planning authorities are required to consult specified bodies (known as statutory consultees) prior to a decision being made on an application. Whilst the County Council is a statutory consultee as a Planning Authority<sup>1</sup> and is a statutory consultee as a Highways Authority<sup>2</sup>, there is no blanket inclusion of other County Council functions. As the list of statutory consultees is prescribed, the Education Authority is not a statutory consultee.

Tewkesbury Borough Council consults with the County Council as the Education Authority as a Non-Statutory Consultee<sup>3</sup> on the basis that there are planning policy reasons to engage with this consultee who – whilst not designated in law – are likely to have an interest in this development. It is therefore at the discretion of the LPA whether and what weight they give to the comments.<sup>4</sup>

**Education law** requires the Education Authority to secure sufficient schools for its area. The statutory duties of an education authority are set out in the Education Act 1996 (as amended). In respect of schools, and inter alia school places, section 14 applies. Section 14 is supplemented by Regulation 3: The Education (Areas to which Pupils and Students Belong) Regulations 1996<sup>5</sup>. Regulation 3 says that a person shall be treated as belonging to an area of

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<sup>1</sup> Paragraph 7 of Schedule 1 to the Town and Country Planning Act 1990, Article 21 Development Management Procedure Order and Schedule 4(b)(c) Development Management Procedure Order

<sup>2</sup> Schedule 4(g)(h)(i) Development Management Procedure Order

<sup>3</sup> Statement of Community Involvement (May 2013) Appendix A: Indicative Consultee List: Specific Consultation Body: category (h)

<sup>4</sup> PPG Paragraph: 022 Reference ID: 15-022-20140306

<sup>5</sup> SI 1996 No. 615



the education authority in which he is normally resident or, where he has no ordinary residence, the area of the authority in which he is for the time being resident.

Regulation 3 gives a voice to the various particularities in the superceded education acts from 1870 through to 1996<sup>6</sup>.

The duty under the Act is not an absolute duty. But the circumstances on the day or a state of emergency have been determined by the Courts to be the only satisfactory excuse.<sup>7</sup>

Despite the s14 duty being described as thus, the statutory duty of the education authority to achieve sufficiency of provision is not fettered in any way. Thus, whilst the education authority sits outside of the town planning system, not being a statutory consultee, it is a non-statutory consultee because (a) it is on a list created by this LPA and (b) it might be affected by its decisions.

The coverage of the duty imposed by s14 is greater than the needs of its general population and those attributed to permitted new housing. This includes all manner of transient and future populations, however unexpected. It must plan for and secure capacity to accommodate the decisions of the town planning system and the clearly stated priorities for housing growth. It must presume the possibility of planning permission being granted. There are funding mechanisms in place for the impact on the school infrastructure of new housing in areas with a CIL charging regime set at zero or sites where the LPA agrees that viability matters prevent funding by new development. There is also a funding pot where developer funding is delayed.<sup>8</sup>

It is clear that the duty to secure sufficient provision (s14) is very wide ranging and all encompassing. The bar is set extremely high and whatever the circumstances, were the LPA

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<sup>6</sup> See appendix 1

<sup>7</sup> "In *Meade v London Borough Haringey* [1979] 2 All ER 1016 at 1027 Eveleigh LJ said: 'The Act imposes a general duty to make education available. It may well be that in order to achieve this end it will be necessary in a state of emergency to close the schools for a while. Provided the grounds which they genuinely have for their action can be regarded as a state of emergency, in other words, just and reasonable excuse for the closure, the authority should not be in breach of the duty.' In *R v Liverpool City Council, ex p Ferguson* [1985] IRLR 501, Watkins LJ said: 'The [Meade] judgments made it clear that there can be circumstances where an Education Authority can close schools without being in breach of statutory duty. However, before this is the situation, the Council must be acting legitimately in furtherance of the duty which is placed upon it under s8 <predecessor to s14 EA 96> and not in total disregard of its responsibilities as an Education Authority. The duty placed upon the LEA by s8 of the 1944 Act was very broad and general terms. This type of duty can be described as a 'target duty'. ..... in *R v Secretary of State for Education and Science, ex p Avon County Council* (No 2) (1990) 88 LGR 737n, [1990] COD 349, CA, the Court of Appeal held that a local education authority is entitled and required to take into account the provision of all schools to determine what numbers and sorts of schools must be provided in order to secure that there are sufficient schools". Law of Education [3024 footnotes]

<sup>8</sup> Joint letter from DCLG & DfE to Chief Executives – Supporting housing development to increase housing supply 09\_02\_2016



to grant permission, the education authority is compelled by statute, if there is no or insufficient existing surplus, to secure sufficient additional provision.

The Education Act (s497 EA96) contemplates default or failure by an education authority to discharge any duty under education act and the Secretary of State if satisfied, either on complaint by any person or otherwise, of the failure can issue instructions or step in.

**The updated Consultation Response from the Lead Officer Monitoring and Negotiating Developer Contributions – Economic Growth and Strategic Planning at Gloucestershire County Council with regard to Education Matters (9<sup>th</sup> January 2020).**

The response says that it is discussing a site for a new primary school with Tewkesbury Borough Council and in the meantime, it has no choice but to object to all Bishops Cleeve Primary Planning Area developments until a new site becomes available. This is untrue. The County Council is an acquiring authority and can acquire a site by virtue of the Local Government Act 1972 (s120). These enable local authorities to acquire property for any of their functions, or for the benefit, improvement or development of their area.<sup>9</sup> It is also a Regulation 3 planning authority and can grant itself planning permission.<sup>10</sup>

The objection is undermined by a quantified s106 financial contribution being sought by GCC to provide the necessary school places arising from this development despite them admitting that they have not made provision to disburse it.

**The Planning Schedule Report to the Planning Committee (18<sup>th</sup> February 2020) reference to education matters.**

The report repeats the assertions of the Education Authority without scrutiny or challenge. It advises that the site features as an identified Housing Site Allocation for Bishops Cleeve in the PSTBP (2019). There is thus no fundamental planning objection to housing on this land. The report confirms that the LPA cannot demonstrate a 5-year land supply and thus there is a presumption in favour of sustainable development.

The report concludes that *“There are emerging policies in the PSTBP which support the proposed development but these can only be afforded limited weight at present. The Council’s five year housing land supply position means the ‘tilted balance’ is engaged. Thus, there is a presumption in favour of sustainable development where planning permission should be*

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<sup>9</sup> Gloucestershire County Council Property Acquisition Policy paragraph 1.2

<sup>10</sup> Regulation 3 Town & Country Planning General Regulations 1992 (SI No. 1492)



*granted unless there are adverse impacts resulting from the proposal that would significantly and demonstrably outweigh the benefits”.*

Accepting the County Council’s blanket objection without question is, when considered alongside the powers and duties of the County Council, plainly wrong.

### **Conclusions**

In exercising its functions as a local planning authority to consider all representations and objections to a residential planning application, an objection from the education authority that the application should be refused because of insufficient school capacity is not a credible objection. The education authority is in the business of securing sufficient capacity to meet all needs for its area.

A representative summation by a Planning Inspector in relation to similar matters, says:

44. However, that is not to say I share the Council’s view that the current absence of any solution to the existing primary school capacity problem is reason enough to refuse planning permission for the development now proposed. The implications of that approach would be that all new residential development of any significance could be prevented by the consequential demand for places at local schools, irrespective of how desperate the need for more housing may be. The Council has a duty to provide sufficient quantities of housing, and (the education authority has) a duty to provide the population of its area with sufficient school places. I understand and applaud its attempts to ensure that both are delivered in a timely and integrated manner, but the planning system recognises that due assessment of a wide range of (often conflicting) considerations needs to be made in respect of each proposal for development.<sup>11</sup>

The LPA is exercising its proper functions as a local planning authority in considering the benefits arising from a scheme and all representations and objections to a residential planning application. However, a request from the education authority for a blanket ban, temporary or permanent, on all residential planning applications because it, the education authority, is failing to discharge its s14 duty to secure sufficient provision is not a proper objection. It is seeking to interfere in the local planning authority’s duty to determine planning applications in accordance with the Development Plan and Government’s emphasis on securing housing. It is an unreasonable position for an education authority and could (should) give rise to a complaint from any person (LPA or aggrieved Applicant) to the Secretary of State (EA 96 s497 complaint) or the Courts.

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<sup>11</sup> Appeal Ref: APP/Y3940/A/11/2159115 Land off Park Road, Malmesbury, Wiltshire SN16 0QW



## Appendix 1

### **14 Functions in respect of provision of primary and secondary school**

- (1) A local education authority shall secure that sufficient schools for providing –
- a. Primary education, and
  - b. Education that is secondary by virtue of section 2(2)(a),
- are available for their area.

While that duty does not extend to the exigences on the day and is thus described as a 'target duty', it is in all other respects as close to absolute as can be. In addition, it does not exist in a vacuum but has a history stretching back to 1870.

#### **The general principle**

Wherever a child shall live, unless otherwise provided for, the State will provide a school in accordance with the statutory provisions.

#### Section 5 1870 Elementary Education Act (superceded)

There shall be provided for every school district a sufficient amount of accommodation in public elementary schools (as hereinafter defined) available for all children resident in such district for whose elementary education efficient and suitable provision is not otherwise made, and where there is an insufficient amount of such accommodation, in this Act referred to as 'public school accommodation,' the deficiency shall be supplied in manner provided by this Act.

#### Section 17 1921 Education Act (superceded)

The local education authority for elementary education ..... shall provide such additional school accommodation ..... in order to provide for their area a sufficient amount of public school accommodation, that is to say, accommodation in public elementary schools available for all the children resident in the area of the local education authority, for whose elementary education sufficient and suitable provision is not otherwise made.

{Note: Section 50 expressly identifies canal-boat children as resident}

#### Section 8 1944 Education Act (superceded)

(1) It shall be the duty of every local education authority to secure that there shall be available for their area sufficient schools .....

#### Section 14 1996 Education Act

- (1) A local education authority shall secure that sufficient schools for providing –
- a. Primary education, and
  - b. Education that is secondary education by virtue of section 2(2)(a),
- are available for their area.



Regulation 3 The Education (Areas to which Pupils and Students Belong) Regulations 1996

**General Principle** ..... a person shall be treated as belonging to the area of the education authority in which he is ordinarily resident or, where he has no ordinary residence, the area of the authority in which he is for the time being resident.

(Note: This provides for Traveller children and homeless household children in Bed & Breakfast accommodation not in the home area. It provides for the homeless; the asylum seeker; the illegal immigrant; foreign children in England & Wales on longer holidays with British resident relatives; and so on.

IN THE MATTER OF  
A PLANNING APPLICATION FOR DEVELOPMENT  
ON LAND AT HOMELAND FARM, BISHOP'S CLEEVE

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ADVICE

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**Introduction**

1. We are asked to advise Stantec in relation to a hybrid planning application for full planning permission for 65 residential units and outline planning permission for up to 2,000 sqm small scale employment use (“**the Proposal**”) on the Land at Homelands Farm, Gotherington Lane, Bishops Cleeve. The Proposal was due to be considered by the Planning Committee for Tewkesbury Borough Council (“**the Council**”) on 18 February 2020, however determination of the application has been deferred.

2. The Council Officers have drafted a Report recommending refusal primarily based on the following reason:

*“The proposed development is not on previously developed land and is outside of the built-up area of Bishop’s Cleeve. Furthermore, the cumulative impact of consented housing schemes in Bishop’s Cleeve has resulted in a lack of social infrastructure, specifically primary school provision, which would fail to satisfactorily accommodate the needs of new residents arising from the proposed development. As a result, the development would not be served by adequate and appropriate infrastructure/services and for these reasons would not constitute sustainable development, contrary to policies SD10 and INF6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) and the provisions of the National Planning Policy Framework.”<sup>1</sup>*

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<sup>1</sup> We note that the other two reasons for recommending refusal relate to the lack of a planning obligation in relation to affordable housing, recycling/waste bins and education contributions. We deal with education contributions more widely within this advice; however, we are not asked to advise on the affordable housing and recycling/waste bins. In any event, our view is that these objections could be easily overcome by way of an appropriate planning obligation being provided.

3. We are asked a number of questions, which are each addressed below.

**1) Is it reasonable to refuse planning permission and is it correct that the Council determine that education impacts are demonstrably and significantly adverse thereby outweighing the need for housing and employment?**

4. The starting point for decision-making is section 38(6) of the Planning and Compulsory Purchase Act 2004 which provides that decisions should be made in accordance with the development plan, unless material considerations indicate otherwise.
5. The Council's proposed primary reason for refusal references two policies in the JCS: policies SD10 and INF6.
6. In relation to policy SD10, our view is that it is not credible to refuse permission for the Proposal on this basis. Policy SD10 was considered very recently by the Inspector in the *Land at Stoke Road* appeal decision<sup>2</sup> in relation to other proposed development in Bishop's Cleeve. The Inspector in that decision comprehensively explained that policy SD10 "*has no full role to play as a development management tool in advance of the proposed allocations being made*", and that it is out of date due to the Council's failure to demonstrate a five-year housing land supply (which still remains the case now) and that these settlement limits unjustifiably restrain housing delivery.<sup>3</sup> That previous Inspector also explained that the development plan supported Bishop's Cleeve as a sustainable location for development. Accordingly, it is clear that conflict with SD10 is not a credible reason for refusing to grant permission for this Proposal.
7. In relation to policy INF6, this provides that permission will only be granted where sufficient provision has been made for infrastructure and services which are required to mitigate the impact of new development. The education-related financial mitigation requested by the Council, in line with policy INF6, amounts to CIL payments and contributions through a planning obligation. As indicated in the Officer Report, the applicant is willing to provide these, and the Council

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<sup>2</sup> APP/G1630/W/19/3229581.

<sup>3</sup> See paras 22 to 28 of the Appeal Decision.

accepts that these are “*necessary to make the development acceptable in planning terms.*” In such circumstances, it is not credible for the Council to allege conflict with INF6.

8. Overall, the Proposal clearly complies with the development plan as a whole. As accepted in the Officer Report, the Proposal complies with policies on employment, design and layout, affordable housing, landscape and highways. Further, as set out above, there is no conflict with INF6, and conflict with SD10 only has limited weight and does not result in conflict with the development plan when considered as a whole.
9. Accordingly, the decision in accordance with the development, following section 38(6) of the 2004 Act, would be to grant permission.
10. The most important “*other material consideration*” for this matter is the NPPF. In particular, it is accepted in the Officer Report that the Council cannot demonstrate a five-year housing land supply, and that therefore the tilted balance in paragraph 11(d) of the NPPF is engaged. This means that permission must be granted unless the impacts “*significantly and demonstrably*” outweigh the benefits.<sup>4</sup>
11. The benefits of the Proposal are overwhelming, in particular including: market and affordable housing given the substantial housing shortfall, housing in a sustainable location, and the numerous economic and employment benefits. These significant benefits are all accepted in the Officer Report.
12. In light of this acceptance, it is surprising that Officers have refused on the basis of the capacity of the existing primary school, following the consultation response from the County Council. Our view is that it is not credible to say that this “*significantly and demonstrably*” outweighs the overwhelming benefits. In effect, the County Council’s approach places a blanket ban on all future housing development, in a sustainable location, no matter how desperate the accepted

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<sup>4</sup> Or if there is a clear reason for refusal based on specific policies, however there are no such clear reasons in this matter.

housing need is. This is not justifiable, and is not consistent with the requirement in the NPPF to significantly boost the supply of housing.

13. Further, the County Council is under a statutory duty to provide school places, for current and future residents, and it is clear that the County Council has not sufficiently explored how it can fulfil this statutory duty. For example, providing school buses for children to other nearby schools. Finally, as also explained above, the Council has accepted that education-related CIL payments and planning obligations are necessary to make the development acceptable.
14. On this basis, our view is that it is not credible for Officers to say that pressures on primary school education by itself “*significantly and demonstrably*” outweighs the overwhelming benefits of the Proposal. It follows that the tilted balance also directs that permission should be granted for the Proposal.
15. The analysis above sets out the main contents of our advice, but for completeness we also answer below the remaining questions which have been asked.

**2) Having regard to the planning balance set out in Enclosure 9 and summary points a-e below, what is Counsels’ opinion of the reasonableness of granting or refusing planning permission:**

- a. Considered in the context of a recently concluded Appeal at Stoke Road**
- b. The tilted balance is engaged (due to land supply shortages)**
- c. The site is in an agreed sustainable location (Rural Service Centre)**
- d. An education contribution and CIL are being offered by the Applicant**
- e. There are no technical consultee objections**

**3) Does Counsel have any comments to make on Enclosure 9 – which sets out the planning balance in favour of granting planning permission?**

16. It is convenient to address these questions together. As explained in the analysis above, our view is that it is not credible to refuse permission for the Proposal.

17. Primarily, the Proposal accords with the development plan when considered as a whole. Thus, the decision in accordance with the development plan would be to grant permission.

18. In addition, other material considerations, particularly the tilted balance in the NPPF, further indicate that permission should be granted. The benefits of the Proposal, including market and affordable housing given the substantial housing shortfall, housing in a sustainable location, and the numerous economic and employment benefits, are in no way “*significantly and demonstrably*” outweighed in this matter.

**4) In the event that CIL and S106 are being paid towards education is it reasonable to grant planning permission?**

**5) The County Council has not provided a physical school site. However, on the basis that the Director of Education has confirmed on record that the County Council will be making a decision on a school site by September 2020 should planning permission be granted?**

**6) Would the Council be acting unreasonably or erroneously if they concluded that the lack of / delay of the County Council providing or confirming where the school site is to be located, until September 2020, significantly and demonstrably outweighs the benefits of the proposal?**

19. As set out above, our view is that it is not credible to refuse to grant permission for the Proposal on the basis of pressure on primary school places.

20. In effect, the approach advocated by the County Council (which the Council are following) places a blanket ban on all future housing development, in a sustainable location, no matter how desperate the accepted housing need is. This is not justifiable, and is not consistent with the requirement to significantly boost the supply of housing.

21. Further, the County Council is under a statutory duty to provide school places, for current and future residents, and it is clear that the County Council has not sufficiently explored how it can fulfil this statutory duty. For example, providing

school buses for children to other nearby schools. As also explained above, the Council has accepted that education-related CIL payments and planning obligations are necessary make the development acceptable.

**7) In Counsels' opinion, given the status of the education authority as a consultee, rather than statutory consultee – how much weight can be attributed to their objection?**

22. It is a matter for the Council as to what weight is given to the advice from consultees and statutory consultees. However, it is clear that local planning authorities are not obliged to follow the advice of consultees where there are “good reasons” to depart from that advice.<sup>5</sup> Here, the approach of the County Council is not justifiable, and there are such good reasons for the Council to depart from their advice in this matter.

**Conclusion**

23. We have provided our advice to the questions set out above.

24. In summary, our view is that the Proposal complies with the development plan, and therefore the decision in accordance with the development plan would be grant permission. In addition, other material considerations, most particularly the tilted balance in paragraph 11(d) of the NPPF, further indicate that permission should be granted.

25. If there are any further issues, please do not hesitate to contact us.

**SASHA WHITE QC AND ANJOLI FOSTER**

**LANDMARK CHAMBERS**

**6 MARCH 2020**

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<sup>5</sup> See *Visao Ltd v Secretary of State* [2019] EWHC 276 (Admin).