

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Tuesday, 21 March 2023 commencing  
at 10:00 am**

## **Present:**

Chair  
Vice Chair

Councillor R D East  
Councillor G F Blackwell

## **and Councillors:**

K Berliner, R A Bird, M A Gore, D J Harwood, M L Jordan, J R Mason, J P Mills, P W Ockelton,  
J K Smith, P E Smith, R J G Smith, R J E Vines, M J Williams and P N Workman

## **also present:**

Councillors C L J Carter and R J Stanley

## **PL.52 ANNOUNCEMENTS**

- 52.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 52.2 The Committee observed a one minute silence to mark the death of Honorary Alderman Philip Awford.
- 52.3 The Chair gave a brief outline of the procedure for Planning Committee meetings, including public speaking.

## **PL.53 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

- 53.1 Apologies for absence were received from Councillors E J MacTiernan, A S Reece and P D Surman. There were no substitutes for the meeting.

## **PL.54 DECLARATIONS OF INTEREST**

- 54.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.
- 54.2 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>
D J Harwood	Agenda Item 5a – 22/00251/APP – Phases 4 and 6, Land at Perrybrook, North Brockworth.	Is a Member of Brockworth Parish Council but does not participate in planning matters.	Would speak and vote.

J R Mason	Agenda Item 5e – 22/00609/FUL – Starvealls Cottage, Postlip, Winchcombe.	Is a Member of Winchcombe Town Council but does not participate in planning matters.	Would speak and vote.
J P Mills	Agenda Item 5a – 22/00251/APP – Phases 4 and 6, Land at Perrybrook, North Brockworth.	Is a Member of Brockworth Parish Council and attends its Planning Committee but does not discuss or vote on applications.	Would speak and vote.
R J E Vines	Agenda Item 5a – 22/00251/APP – Phases 4 and 6, Land at Perrybrook, North Brockworth.  Agenda Item 5d – 21/00868/FUL – Land Adjoining Blenheim Way, School Lane, Shurdington.	Is a Gloucestershire County Councillor for the area.	Would speak and vote.

54.3 There were no further declarations made on this occasion.

## **PL.55 MINUTES**

55.1 The Minutes of the meeting held on 21 February 2023, copies of which had been circulated, were approved as a correct record and signed by the Chair.

## **PL.56 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL**

56.1 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.

### **22/00251/APP - Phases 4 and 6, Land at Perrybrook, North Brockworth**

56.2 This was an approval of reserved matters application (appearance, landscape, layout, scale) for Phases 4 and 6 comprising development of new homes, landscaping, open space and associated works pursuant to outline permission 12/01256/OUT. The Planning Committee had visited the application site on Friday 13 February 2023. The application had been deferred by the Planning Committee at its meeting on 21 February 2023 for concerns to be addressed in respect of construction traffic, design issues relating to neighbouring residential amenity to the east, the landscape buffer to the eastern boundary, the local play area/attenuation pond, the bridge over/redirection of the Public Right of Way, the Oak tree being removed for a parking space, the lack of connectivity to services/surrounding areas and the arrangements for cycling.

- 56.3 The Development Management Team Leader (East) drew attention to Page No. 35 of the Committee report in relation to construction traffic and explained that the report was correct in stating that this matter had been considered during the determination of the original outline permission resulting in the imposition of Condition 27 which required no development to take place until a construction environmental management plan was approved; however, he should also have included reference to Condition 14 of the outline permission which required a construction management statement to be provided. He advised that the conditions were relevant to the whole site, rather than a phased approach, and confirmed they had been satisfied and discharged. Since the last meeting, the applicant had redesigned the site layout to address the concerns raised by Members which included the gable of a building on Maple Drive which the applicant had now moved further to the west to provide a wider landscape buffer away from the boundary. With regard to the south-east of the site, concerns had been raised in relation to the impact of a gable end backing onto a dwelling and the Development Management Team Leader (East) explained that was based on the plan originally submitted with the application which had subsequently changed following negotiations with the developer to ensure a back to back relationship with neighbouring dwellings, as could be seen from the plan displayed today. In terms of the footpath redirection, the Development Management Team Leader (East) explained that the spine road had been agreed at outline stage and it was inevitable that it would need to cross the footpath which would run directly under the new bridge. The applicant had advised that significant work would be required to raise the bridge to achieve head height clearance, therefore, the proposal was to redirect the footpath.
- 56.4 The Chair invited a local resident speaking in objection to the proposal to address the Committee. The local resident explained he had not been aware of the proposed revisions prior to today so his speech had been written on the basis of the plans on the Council's website and, as of yesterday, no new documents had been posted in relation to this scheme. He wished to seek assurance that work would not commence to the southern phase of the development until the new roundabout on Valiant Way had been completed in order to ensure the minimum amount of disruption from construction traffic. Regarding plot numbers 353-368, it appeared the house had now been moved back approximately one metre which did not seem to address residents' concerns regarding the shadows that would be cast in the gardens in Maple Drive and the loss of light and amenity. He also wished to object to the fact that the so-called reinforced landscape edge between the new development and the existing houses in Ermin Park and Maple Drive was now so narrow it was completely ineffective, in places consisting only of a path and a minute patch of soil scarcely wide enough to plant anything in – he felt the landscape edge was still too narrow even with the revisions resulting in more of a path than an area for planting. In particular, he objected to the vary narrow planting beds at the back of his neighbour's house and behind 34 Westfield Road which was so narrow it would be impossible to maintain or prevent from filling up with brambles, nettles and unwanted nuisance trees.
- 56.5 The Chair invited the applicant's representative to address the Committee. The applicant's representative explained that the proposal built on the consented outline for permission for the site which formed part of the wider mixed use development of up to 1,500 homes granted in 2016. They had been working on the design of the development and preparation of an application for the past two years and, over this period, the scheme had been reworked multiple times to incorporate comments from the Council, consultees and professional bodies. The development had been designed, and would be delivered, in line with the consented outline permission, including construction traffic management. It was considered the application met all key requirements, as highlighted by the Officer recommendation for approval and the lack of objections from all professional consultees. Following the previous Committee meeting, they had looked to address the concerns raised and provide

clarity on some outstanding questions. Confirmation had been provided that the construction traffic management would run in line with the consented outline permission and access would initially be provided to Phase 4 through the existing Linden development site. Access into Phase 6 land would be provided via a new four arm roundabout on Valiant Way – this roundabout was approved at the outline planning stage and technical approval was expected in the next three months with works targeted to commence in September/October 2023 and completion in March/April 2024 at which point construction traffic would access via that entrance. Concerns had been raised by the residents of a property on Ermin Road specifically regarding a gable wall close to the boundary and the applicant's representative confirmed the development had been redesigned to take this into account so there was no longer a gable wall facing the property and there was now a distance of approximately 22 metres between their property and the closest new dwelling. Questions had also been raised around plot 355 and the landscape buffer and the applicant's representative confirmed this area had been redesigned to provide an enhanced landscape buffer which was set out in the latest plans and showed a 19.5 metre separation between the property and the nearest existing house; site wide landscaping would be managed and maintained by a management company. Additionally, the applicant's representative confirmed that the existing footpaths would remain, albeit the layout of one would be very slightly altered. County Highways had confirmed it was content the site provided appropriate cycling infrastructure and links to the wider sustainable travel network. Tree removal was in accordance with the consented outline permission which allowed for the removal of trees; however, T11, an English Oak in good condition, would be retained. T8 and T10, being dead and a category C respectively, would be removed. The applicant's representative hoped Members could see the hard work that had been put in collectively by the Council, professional bodies and residents over a considerable period of time and would feel able to permit the application in accordance with the Officer recommendation.

- 56.6 The Chair invited a local Ward Member to address the Committee. The local Ward Member indicated that he did not object to the development itself but to its negative impacts. In terms of the nature corridor, the outline planning permission prescribed that the footpath should go under the road uninterrupted and re-routing would impact on the much loved and well used nature corridor which was important to local residents. He felt that other options, such as a subway, should be explored. In terms of active travel options, the outline planning permission prescribed that routes be provided through the site which did not seem to be the case. He believed that the construction method statement agreed at the outline stage had been contradicted in terms of the route being taken by construction traffic to access the site and the conditions around deliveries and loading/unloading in a designated area within the site boundary.
- 56.7 The Chair indicated that the Officer recommendation was to approve the application and he sought a motion from the floor. It was proposed and seconded that the application be approved in accordance with the Officer recommendation. A Member indicated that he sat on another Committee for a different authority where concerns had been raised regarding houses being built directly on a footpath and he asked for confirmation that no houses were to be constructed along the existing footpath in this instance. In response, the Development Management Team Leader (East) clarified that that the footpath to the north ran across the road within the site and there were no dwellings in or around the footpath. A footpath diversion order would be required and any obstructions would be considered as part of those details. Another Member asked, as he had at the last meeting, for the capacity of the culvert given the water flow from the escarpment would travel to parts of his Ward which already experienced issues with flooding. He also asked for confirmation that the bridge would comply with the Equalities Act 2010 in terms of disabled access. In response, the Development Management Team Leader (East) advised that he did

not have any information regarding disability compliance or water flows; however, with regard to the latter, the Lead Local Flood Authority and the Environment Agency had been consulted on the proposals and had raised no objection. The Member understood that the roundabout would be in place by 2024 and, based on that timescale, he asked what the trajectory would be in terms of delivery of houses. The Development Management Team Leader (East) advised that an application for the roundabout had been submitted and Officers were working on the technical details with County Highways. In terms of Phase 7, there were two current applications which should be determined over the next couple of months with a view to work commencing in September and completion in Spring 2024. More conditions needed to be discharged in terms of the outline planning permission but work on Phase 4 would start later in the year before moving onto Phase 6. He clarified that the roundabout would predominately be used by construction traffic in Phase 4 but would also come into play in Phase 6.

- 56.8 A Member drew attention to Page No. 38 of the Committee report which stated that the footpath would run directly under the proposed new bridge and he had been pleased to note that the applicant had recognised that it would need to achieve head height clearance; however, the Committee report went on to say that the bridge would need to have a large span, at a higher level than the road and would require a central support in order to achieve this, therefore it was unlikely to be supported by the Environment Agency. He asked if this was assumed knowledge or if a proposal for a raised bridge had been priced and engineering details produced and put forward to the relevant authorities. He would like to see a plan for a raised bridge as he would prefer short term disruption from construction traffic if it meant the footpath could be retained in its current position. In terms of cycling routes and access, he noted that cycle sheds would be provided for houses without garages but he had been unable to find any information about cycle lanes connecting to other developments so questioned whether residents were expected to travel everywhere by car. The original plan put forward showed connectivity to the existing village but he could not see that on the new plans and asked if it would still be provided and whether it would be big enough for cyclists. In terms of construction traffic, he sought clarification as to the route for accessing Phase 4 of the site. In response, the Development Management Team Leader (East) advised that he did not have any information regarding costings for the bridge as that had not been submitted; the proposal put forward had been assessed and redirection of the footpath was considered acceptable. In terms of cycling, County Highways had confirmed the roads were compliant with the Gloucestershire Manual for Streets and, as the Member had correctly pointed out, there would be additional cycling storage provision for dwellings without garages. With regard to connectivity, there were connecting routes running through the site with a new bridge into the site in Phase 7 and the Development Management Team Leader (East) pointed out the connecting routes on the plan displayed. He confirmed that construction traffic would access via Court Road and into Phase 5 across into the northern phase until the roundabout had been constructed. Another Member pointed out that the construction management statement was for the whole site and this made no reference to construction traffic using Court Road. Construction traffic travelling through the village had already been opposed by the County Council which had objected on safety grounds and she asked why that seemed to have been disregarded by Planning Officers. The Development Management Team Leader (East) clarified that Condition 14 of the outline planning permission required a site wide construction management statement – construction traffic details were not required to be submitted as part of the statement. The Member disagreed and indicated that she believed there was an agreement to access via Valiant Way, Delta Way and Mill Lane but not Court Road and she did not see why construction vehicles should be allowed to travel through Brockworth. The Development Management Team Leader (East) reiterated there was no requirement for a construction management statement to be submitted for each phase of the

development. The construction management statement mentioned by the Member in terms of Phases 2 and 5 was submitted by Taylor Wimpey but had not been requested by the local authority and was specific to the parcel of land it was developing. Whilst the consultee comments had not been uploaded onto the Council's website, following discussions that had taken place prior to the meeting, he was able to confirm this had been agreed by County Highways. With regard to the Public Right of Way, the Member went on to question whether it was acceptable to plan a bridge obstructing a footpath without consulting residents. The Development Management Team Leader (East) advised that redirection of the footpath had to be considered by the County Council and members of the public would have an opportunity to object at that point; if it was not acceptable, the applicant would have to come back with a redesign of the bridge. In response to a query about why the redirection order had not yet been obtained, the Legal Adviser explained that it was likely to follow after the Committee had determined the planning application and, as one in connection with a planning application, would probably come to this Council rather than the County Council. In terms of the construction management statement, she confirmed this had been dealt with at the outline stage, and discharges already made in respect of that, and the Council would be at risk of costs at appeal should the application be refused on the basis of matters which had already been dealt with as part of the outline application, or the discharge of conditions relating to the outline permission. Members were required to determine the application before them in terms of the reserved matters of appearance, landscape, layout and scale only.

- 56.9 A Member drew attention to Page No. 52, Paragraph 8.41 of the Committee report, which set out that 425 of the affordable housing units would be 'general affordable housing' and 175 would be 'extra care affordable housing' and she asked for clarification as to the definitions of those affordable housing types. In response, the Development Management Team Leader (Northwest) explained that extra care houses were affordable homes with an element of additional care for residents where that need had been identified. In terms of general affordable housing, this was usually a split of affordable rented accommodation and shared ownership type products. Affordable housing was nuanced but she provided assurance that the Council's Housing Enabling Officer worked with the County Council and other agencies to ensure the correct mix of affordable housing was achieved for each development.
- 56.10 A Member felt that he could not stop the application from being permitted but he would be voting against the motion as he did not feel access had been appropriately dealt with and, in his view, the applicant could have worked harder to ensure the roundabout was in place in order to negate construction vehicles having to travel through existing development causing problems for residents. Furthermore, he was unhappy about the bridge and the lack of clarity as to whether it would be disability compliant so he asked for Officers to provide a response by email following the meeting along with the information he had requested regarding culverting and water flows.
- 56.11 Returning to the debate regarding the construction management statement, a Member asked for clarification as to why construction traffic was able to use Court Road if the construction management statement specifically referenced Mill Lane, Delta Way and Valiant Way. In response, the Development Management Team Leader (East) reiterated that the construction management statement had been submitted to satisfy Condition 14 of the outline planning permission which did not require construction traffic routing - there was no requirement for the developer to advise the Council which route construction vehicles would be taking into the site. More in-depth construction management statements had been submitted for Phases 2 and 5 which talked about the routes construction vehicles would take when they accessed and egressed those sites but the Council did not have any power to control whether vehicles were going into the site from residential areas. Another

Member raised concern as to why the County Highways objection did not seem to have been taken into account and so continued to be of the opinion that the construction management statement stated that construction traffic needed to access the site via Mille Lane, Valiant Way and Delta Way. In terms of connectivity, three accesses were shown on the masterplan – one on Maple Road, one off Maple Drive, one near Prince Albert Court and one at the back of Burford Court - which were no longer in the plans and she asked what had happened to them. The Development Management Team Leader (East) advised that the details had been indicatively included at the outline stage and there had been changes to the internal layout of the site over the passage of time. Officers had considered the application as it stood today and determined it was acceptable. The Member asked if it was possible to see a copy of the construction management statement which referenced Court Road and the Development Management Team Leader (East) indicated that Members could be provided with the information on the system for the construction management statement and the agreement with County Highways specific to Phases 2 and 5. The Legal Adviser reiterated that issues which had been dealt with at the outline stage/discharged in respect of the construction management statement could not be used as reasons to refuse the reserved matters application as they could not be defended on appeal.

56.12 Upon being put to the vote, it was

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

### **21/01173/FUL - Land off Ruby Avenue, Bishop's Cleeve**

56.13 This application was for residential development to erect 22 units with associated car parking (100% affordable). The Planning Committee visited the application site on Monday 20 March 2023.

56.14 The Planning Officer advised that the application required a Committee determination as it was for more than 10 residential units and as the Parish Council had objected to the proposal. It was noted that an additional objection had been received from the Parish Council the previous night raising concerns relating to amenity, parking issues, community development and overdevelopment. This application sought full planning permission for the erection of 22 affordable houses which would be secured through a Section 106 Agreement. The site was currently open land with an area of approximately 0.5 hectares. It was located within the settlement development limit of Bishop's Cleeve and had previously been granted planning permission as part of the Cleevelands mixed use development scheme. As part of the outline permission, the application had been approved for a High Street comprising four retail units. The outline consent contained a condition which required reserved matters to be submitted but no application of that nature had been advanced on this parcel of land. Planning permission had been granted on the site in 2020 for the erection of a Marston's family pub but that had not been implemented and no conditions had been discharged. Upon grant of consent, Marston's had concluded there was insufficient demand in the location to acquire and develop the public house following which it had instructed the site to be advertised on the open market. Marketing was subsequently carried out for a period of six months resulting in no bids. Policy RET7 of the Tewkesbury Borough Plan required the change of use of public houses to be marketed for a period of 18 months; however, in this case, the public house planning permission was neither implemented, nor operational, as per the retail units. Therefore the marketing exercises carried out by the applicant were considered to be acceptable. Although planning permission had been granted for community facilities, neither the retail or the pub schemes had been implemented for this site, therefore, in planning terms, the land effectively reverted back to its original use. The principle of residential

development on the site was acceptable in line with Policy RES2 as it was within a defined settlement boundary. Turning to the site layout, the site would be accessed mainly via a side street off Sapphire Road to the north. The proposed development would comprise a variety of dwellings with 10 apartments and 12 semi-detached houses. The development offered a range of accommodation providing for single occupancy and family accommodation. All properties were two storey, as shown on the elevation plans, which was in keeping with the size and scale of properties in the wider area. A question had been raised by Members on the site visit in relation to the provision of affordable housing in the wider area and the Planning Officer advised that Phases 1-5 had provided a total of 560 houses of which 224 were affordable houses and 336 were market houses and with the 22 unit there would be 42% and 58% respectively. The proposal provided public open space on the western boundary which totalled 967 square metres and the units would have rear/front gardens for private amenity space. All units met the nationally described space standards as set out in Policy DES1 and the Council's Housing Enabling Officer supported the proposed tenure of affordable housing mix. The Lead Local Flood Authority had no objections and County Highways and the Highways Agency had concluded that, subject to appropriate conditions, the application would not have an unacceptable impact on highway safety or congestion. In line with the policy in the Joint Core Strategy, the County Council had requested an education contribution of £177,000 which the applicant had claimed would make the scheme unviable. A financial viability assessment prepared by RCA Regeneration had been submitted to support that position and the Council had appointed Porter Planning Economics to independently review the assessment and scrutinise its underlying assumptions. The Council's independent assessor concluded that the proposed scheme would be unable to support a financial contribution and it was therefore recommended that the education contributions were not pursued on the grounds of the viability of the scheme in accordance with Policy INF7 of the Joint Core Strategy. In light of the proposal complying with the relevant national and local planning policies, and given all technical consultees supported the application, it was recommended that authority be delegated to the Development Manager to permit the application, subject to completion of a Section 106 Agreement.

- 56.15 The Chair invited a local resident speaking in objection to the proposal to address the Committee. The local resident indicated that the land had originally been designated for retail use – a community and social space for the residents of Cleavelands whilst providing local employment opportunities. The estate had developed into a good community, sharing concerns and helping each other in many ways. There was a need for a commercial outlet, such as a coffee bar, restaurant or licensed premises, to help community cohesion with space for social interaction and to make contact with neighbours. This was especially important to many who were still working from home and lacking contact with work colleagues - having somewhere for face to face conversations was proven to ease mental health issues. Other objections included concerns about traffic congestion and she refuted what had been said by the Planning Officer. There was a particular fear regarding restricted access for emergency vehicles, especially in terms of being able to reach the care home. There was also a lack of visitor parking on the estate meaning roads were becoming congested and there was a genuine concern that extra houses would exacerbate those issues, particularly in this area which already saw a high volume of traffic for the medical centre and other associated buildings. In addition, residents were concerned about the high density of social housing already on the estate along with that planned for the neighbouring site on Nortonham Allotments. The local resident asked Members to consider the change of landscape, moving from a plan for a single storey building and car park to two storey housing thus losing the open space feel of the estate entrance. She believed that thinking should be in the interest of the local community and how this area could be developed in line with the original site development plan to provide social and community infrastructure which would benefit Bishop's Cleeve as a whole.



Development should be sustainable, reflecting not only current but future needs and supporting community and cultural wellbeing. She strongly urged Members that the retail use of the land be maintained.

- 56.16 The Chair invited the applicant's representative to address the Committee. The applicant's representative indicated that, as the Planning Officer had mentioned, Marston's Pubs successfully obtained planning approval for a family pub on this site but had withdrawn from the purchase in 2019. Marston's had recently put 61 freehold pubs up for sale following a review of their estate, highlighting that it wanted to maximise returns by focusing on existing core venues. As Members would have heard in the press, it was normal for three public houses to close each week highlighting the demise of what was once a vibrant industry. Following extensive marketing over several months without success, the landowner's agent had presented the site to Rooftop Housing Association which had recently completed housing on the adjacent land with a view to converting it to residential use. There were currently approximately 1,700 people on Tewkesbury Borough Council's housing register, of which, over 400 had expressed a preference to live in Bishop's Cleeve. Rooftop had experienced considerable demand for its shared ownership homes, not only in the village, but on the Cleavelands development. This new development of 22 one, two and three bedroom homes had the full support of the Council's Community Services team and would go some way towards meeting this housing need through the provision of 16 social rented and six shared ownership properties which would complement Rooftop's existing 30 homes on Cleavelands. The homes had been designed with the same principles in mind as the recently completed homes, and those on the wider Cleavelands development, including the same material, quality and sustainable features. The layout took account of several significant drainage easements which blighted the south-west corner of the site, allowing parking and green open space. Properties facing onto Sapphire Road had also been set back from the footpath to afford residents privacy from passers-by. Quality affordable housing was especially important in the current economic climate and Rooftop considered it had a responsibility to provide residents with homes that they could be proud to live in and which were environmentally sustainable, energy efficient and economical to run. These homes would achieve the highest Energy Performance Certificate rating of 'A' through a fabric-first approach and residents would be provided with rotary washing lines, water butts and compost bins within their private gardens. In addition, all properties would have secure bicycle storage, either through provision of communal bike racks or within individual garden sheds. Notwithstanding this, it was recognised that many residents would be car owners so all homes would be provided with allocated car parking and there would be a number of unallocated visitor spaces, giving a total number of parking spaces in excess of that required by County Highways within the guidance set out in the Gloucestershire Manual for Streets.
- 56.17 The Chair invited a local Ward Member to address the Committee. The local Ward Member indicated the site had been proposed and marketed as a community asset for the Cleavelands development, part of a High Street at the heart of the new community. Residents had expressed strong opposition demonstrating the importance of the community asset. Tewkesbury Borough Plan Policy COM1, Paragraph 9.23 set out that the Council sought to protect and maintain those assets, any loss should be exceptional and would need to be fully justified to the satisfaction of the Borough Council. The local Ward Member questioned what, if any, exceptional circumstances applied in this case to fully satisfy the Council; 9.24 set out that community assets could be made up of a range of facilities; 9.28 stated that where a community asset was not viable for one use, the first preference was to reuse the asset for another community facility use; 9.26 set out that proposals for the loss of community facilities would be required to prove there was no demand for the asset at the current time and in the future; 9.26 required applicants to seek involvement of the local community and, given the strong local objections and

community petition to save the asset gaining 300 signatories, he wondered how the applicant had worked with the community regarding loss of the asset; and 9.27 stated that the business or organisation would need to be marketed for 18 months at a realistic price, discussion should take place with community groups, Parish Councils and others and that grant funding should be explored – he questioned whether this had been done within the six months the asset had been marketed for. To summarise, the Tewkesbury Borough Plan deliberately set a high bar before losing community assets because once lost they were lost forever. The correct process was 18 months marketing, not six months, for any community asset, not just a pub, and working with the community to exhaust all options for community assets, including grant funding – only once those options were exhausted was policy to approve housing. In his view, this was a tick box marketing process and the housing application felt premature. It was a significant deviation from Policy COM1 and set a precedent which he felt would be a risk to other community assets in the borough. Setting this aside, the application did not meet the requirements of the National Planning Policy Framework Chapter 8 Policy 92 “strong neighbourhood centres”, “community cohesion” and “providing high quality public spaces” unless a strip of scrubland next to a pumping station and car park was considered high quality. Furthermore, he felt it was unlikely that the site had met the 10% biodiversity enhancement requirement. Chapter 12, of Gloucestershire Manual for Streets, “achieving well designed places”, discouraged car parking courtyards because they tended to attract crime yet this site had a large unlit car park. Much of the site could not be built on, none of the surrounding development was planned with this housing in mind so the cramped application would sit awkwardly in the High Street. He urged Members to refuse the application at this time as it contradicted many areas of the National Planning Policy Framework and COM1 of the Tewkesbury Borough Plan.

- 56.18 The Chair indicated that the Officer recommendation was that authority be delegated to the Development Manager to permit the application, subject to any additional/amended planning conditions and the completion of a Section 106 Agreement to secure the provision of 100% affordable housing and a contribution of £73 per dwelling (£1,241 based on 22 dwellings) towards recycling and waste bin facilities, and he sought a motion from the floor. It was proposed and seconded that the application be refused on the basis that it failed to deliver a balanced community, lack of a contribution towards education and the unacceptable delivery of non-integrated affordable housing. The proposer of the motion thanked the Planning Officer for his detailed report; the site had considerable planning history and there were a lot of different factors relevant to this particular proposal which had been well set out to enable Members to make an informed decision. Whilst he could understand the reasoning behind the Officer recommendation he had come to a different conclusion and felt the application should be refused – he found it very difficult to reject an application for social housing from a developer which had already done a lot of good work in Bishop’s Cleeve but the overriding issue for him was that the site had been designated for commercial use in the Secretary of State’s decision on the original outline planning permission and he felt that should be maintained as far as possible. Whilst he understood the outline permission was not sacrosanct, commercial use was vitally important to the community and, if it could not be implemented in accordance with the plan, it would not create the right communities. There was a history of commercial land being designated in planning policies and applications which ultimately did not come forward and this had happened in Bishop’s Cleeve over the years. The seconder of the motion was of the view that the proposal went against policy in terms of the density of affordable housing – in his opinion, social housing should be integrated into development sites as opposed to being clustered in one area. He agreed with the policy justification

put forward by the local Ward Member and was particularly unhappy that the developer did not feel able to commit to a contribution towards education as part of the Section 106 Agreement.

- 56.19 A Member indicated that, following the Planning Committee site visit, he had raised concern as to whether the site layout met the requirements in terms of the Council's waste vehicles being able to service the new properties and he asked the County Highways representative if the potential for on-street parking was taken into account when assessing distances. In response, the County Highways representative confirmed that was considered and, in terms of this site specifically, refuse collection would be from bin storage collection points so the refuse vehicles would not enter the site. With regard to marketing of the site which was discussed in the Committee report, a Member noted that Policy RET7 of the Tewkesbury Borough Plan required an 18 month marketing period and she asked what policy was being relied upon in terms of the justification for marketing this site for a much shorter period of six months, bearing in mind that this was likely to have taken place during lockdown when all public houses were closed. The Planning Officer clarified that the site was not for retail use – a reserved matters application had not been forthcoming therefore the outline planning permission had expired meaning the land reverted to its original use, as such, there were no retail or community facilities designation for this site. He advised that the site had been marketed between October 2019 and March 2020 which was prior to the COVID lockdown. The Member indicated that she would still like to know which policy was being relied upon in terms of six months being an acceptable marketing period. In terms of the masterplan for the site, she believed it had stated that this area was set aside for commercial use. The Legal Adviser recognised it was a complex situation and advised that the policy referenced and Policy COM1, referenced by the local Ward Member, related to existing community facilities, did not apply here. There was no policy in relation to an appropriate length of time to market this site which was an open piece of land. She appreciated the site had been outlined for retail use on the masterplan when the outline application had been determined and a reserved matters application could have been submitted on that basis; however, the time for that had now passed. Members therefore needed to determine the application based on the site being an open piece of land within the settlement boundary and apply planning policies to that.
- 56.20 A Member indicated that Page No. 79 of the Committee report suggested there was interest from a party to acquire the site for commercial use; she had asked for the detail on this and had been informed that would be provided today. The Development Management Team Leader (Northwest) advised that the reference was in an objection made by a third party and Officers had no detail in relation to that; she did not know if there had been any discussion about whether they wished to acquire the site from the existing owner. The Member questioned if this was something which should have been followed up by Officers and whether a response was provided to objectors as standard. The Development Management Team Leader (Northwest) advised that objections were taken as read and reported to the Committee so were taken into account in forming a decision. No approach had been made over and above the objection that had been submitted. Delivery of development was dictated by market forces and the local planning authority did not get involved in that. In this case, the site had been marketed through commercial agents and there was no information to say there may be another party interested in taking it forward for commercial use.
- 56.21 Another Member drew attention to Page No. 78, Paragraph 4.6 of the Committee report, and noted that the response from the Lead Local Flood Authority stated that Severn Trent would be adopting the foul drainage and would therefore be responsible for future maintenance so he asked when that would happen. The

Planning Officer indicated that conditions required detailed design of waste management. The application had been reviewed by the Council's Flood Risk Management Engineer who had raised no objection to the proposal so it would be for Severn Trent and the developer to negotiate when it was put in place. The Member asked if it was possible to include a timeframe within the condition as he was concerned about the impact if it was not maintained on a regular basis. The Development Management Manager pointed out that proposed Condition 3 dealt with both foul and surface water drainage. Another Member indicated that he shared the concerns raised by the local resident speaking in objection to the proposal and he asked if the ratio of houses had been assessed as, in his opinion, an additional 22 affordable houses did not seem valuable enough in comparison to the provision of a community asset which would benefit a greater number of residents.

- 56.22 In terms of the refusal reasons put forward, the Legal Adviser sought clarification as to whether the proposer and seconder of the motion wished to include Policy COM1 as this would be difficult to defend on appeal given there was no existing community facility on the site. The seconder of the motion indicated that he accepted the advice in terms of COM1 but he raised concern that the site had initially been identified as a local centre and permitting this application would set a dangerous precedent for other local centres. Whilst he considered the applicant to be an excellent social housing provider, he felt this was the wrong place for affordable housing as there was other social housing in the existing area and the Council had a policy in relation to integrated development and understood there should be no more than 16 affordable dwellings in one location. Another Member sought clarification in terms of the clustering plan as the previous application was asking for no more than 25 affordable houses. The Development Management Team Leader (Northwest) advised that affordable housing had been approved through the outline permission but that decision had lapsed which meant this site was effectively white land within a development boundary, as such, this scheme was not subject to the affordable housing plan that would have been submitted for the outline approval. Officers considered that the scheme would deliver an appropriate mix of housing and, whilst the Joint Core Strategy required a minimum of 40% affordable housing on residential developments, there was no maximum. Although this application was for 100% affordable housing, in the context of the whole site there would be 42% affordable housing which was just above the Joint Core Strategy minimum and Officers did not consider 100% affordable excessive in the context of that policy.
- 56.23 A Member asked who the landowner of the site was as he felt that was relevant to the marketing of the site and he was advised that Officers did not have that information. The Member indicated that Officers had stated a number of times that this piece of land was open to any application because an application had not been forthcoming to fulfil the requirements of the original Secretary of State approved plan and he asked if this meant that part of the approved masterplan could be ignored and whether he was correct in thinking that, if a developer failed to bring forward a reserved matters application, they did not need to develop parts of the site they did not want to. The Development Management Manager advised that the original decision had been made in 2012, over 10 years ago, and there had been significant changes since that time. As set out in the Committee report, the site had been deemed appropriate for a range of uses including a medical centre, retail offer and a community centre. The opportunity for submitting a reserved matters application had expired in July 2016 and there had been further marketing since in terms of retail use. The masterplan was a material consideration but the weight it could be attributed given the change in context in planning terms and the various community facilities coming forward had been carefully considered in the Committee report. The Council's Housing Enabling Officer had assessed the application and there were no outstanding objections to the proposal in planning terms. The design had been considered in terms of creating an entry point into the overall development

and the creation of a High Street and affordable housing was considered an appropriate use of the site. In terms of the policy position, he echoed the comments made earlier and the concerns regarding the need to avoid references to policies which related to existing community facilities. The proposer of the motion thanked the Development Management Manager for his response and accepted the point about the planning environment reasons. He reiterated that it was an excellent report detailing the planning context but both the planning and economic situation had changed since 2012. Low cost housing was needed but so were commercial premises and, ultimately, if this application was permitted, Bishop's Cleeve would lose land that had, in planning terms, been set aside for commercial activity over the years, pushing it further away from the community; that would be fine if it was a two way process and land which was designated for residential use could be used for commercial but that was not what happened in reality. In his view, it was important to maintain the overall concept of the masterplan i.e. a High Street.

56.24 A Member indicated that he had viewed the proposal in a positive light when reading the Committee report and he had been interested to hear the views expressed, particularly by the local Members. He would be abstaining from the vote but indicated that a refusal would allow an Inspector to make a decision at appeal based on the weight of the argument put forward. Another Member shared this view; as an advocate for social housing she recognised there was a need for affordable housing but she did not believe it should be allowed on any available piece of land. She felt the proposal would set a dangerous precedent for future development in the area she lived and she could not vote for it in the absence of an education contribution. She drew attention to Page No. 89, Paragraph 8.64 of the Committee report which stated that the applicant had indicated a willingness to enter into a legal agreement to secure the affordable housing provision but at this stage there was no such agreement in place – this appeared to be a contradiction and she could not support the application on that basis. The seconder of the motion appreciated the guidance from Officers and the information provided, however, he felt deviating from the masterplan due to being “timed out” would set a precedent for other applications coming forward. The site had been designated as a local centre and that was what he believed it should be. A Member indicated that he would be supporting the motion to refuse the application. He had been interested to hear from the local resident speaking in objection to the proposal with regard to the expectation of being part of a community and he felt a refusal would send a clear message to developers that infrastructure was needed as well as housing in order to create communities.

56.25 Upon being put to the vote, it was

**RESOLVED** That the application be **REFUSED** on the basis that it failed to deliver a balanced community, lack of a contribution towards education and the unacceptable delivery of non-integrated affordable housing.

### **21/01013/FUL - Lunn Cottage, Aston Cross, Tewkesbury**

56.26 This application was for the erection of 10 dwellings, garages, construction of internal estate road, formation of parking areas and gardens/amenity space.

56.27 The Senior Planning Officer advised that, in terms of the site location, access was located approximately 100 metres south of the junction between the B road north to Aston Cross and the A46 from Tewkesbury to the west. Access to the proposal through Queen's Head Close ran through the existing development which was approved in 2017 and the Tirl Brook was located at the south end of the site which was within Flood Zone 2//3 and would be public open space. The application was supported by all of the required assessments including trees, ecology, highways, transport, drainage and flooding. As set out in the Committee report, all of the

technical concerns in the original submission had been resolved, so there were now no consultee objections outstanding including the Parish Council which had a neutral position as set out in the Committee report. That said, there had been a number of public objections, principally in relation to highways and access provisions. The Senior Planning Officer advised that the application included provision for four affordable units and whilst these had not been secured via Section 106 Agreement, he had been asked to emphasise the applicant's willingness to enter into one should Members resolve to permit the application. He went on to advise that the application was outside of the Tewkesbury Town settlement boundary which included Ashchurch. Members would be aware that the borough currently had a housing land supply comfortably exceeding five years which enabled new housing development to be directed toward sustainable locations, for example, market towns, and sites within settlement boundaries of rural service centres and service villages. In the overall balance of harms and benefits, the proposed development was considered by Officers to be inappropriate in principle, being outside of the development boundary, furthermore, permitting the application would risk undermining the authority's ability to use the five year housing land supply as a means to directing housing to sustainable locations as part of a plan-led system. With that in mind, the Officer recommendation was to refuse the application as set out in the Committee report.

- 56.28 The Chair invited the applicant's representative to address the Committee. The applicant's representative indicated that the planning application before Members had been submitted on 9 August 2021 and the Council's planning portal still confirmed the determination deadline as being 16 December 2021; at that time, the Council had less than four years supply of housing land. The fact that it had taken another 15 months for the application to reach Committee was entirely due to the Planning Officers failing to deal with it in a timely manner and he assured Members he had made every effort to move the application forward as swiftly as possible. Therefore, for this application to come to Committee once the Council had decided it had a five year housing land supply – which the Committee would be aware was subject to challenge by other applicants – and for that to be the only reason for recommending refusal after all this time was quite unreasonable, not least because even if a five year supply existed, that was not a cap on development. A five year supply was a minimum, not a maximum, so there was no imperative to refuse this application and it should be considered on its merits. In that context, the applicant's representative confirmed that he was willing to enter into a Section 106 Agreement dealing with affordable housing and education contributions, therefore approval would secure the delivery of much needed affordable housing which was a significant benefit to those in need. As was clear from the Committee report, the application had generated few objections and the Urban Design Officer had commented that it made a logical extension to the adjoining recently developed site, as such, to recommend refusal only on the basis that the Council was now claiming it had a five year supply was illogical, unjustified and untimely. In the conclusions section of the Committee report, weighing the balance of benefits and harm, Paragraph 8.41 detailed a significant number of benefits to be derived from this development whilst Paragraph 8.42 set out that the only harm identified was the lack of a Section 106 Agreement to supply affordable housing. In reality, the Council would not enter into a Section 106 Agreement until planning permission was granted so it was a chicken and egg situation in terms of which came first. As had been confirmed, the applicant would be happy to enter into a Section 106 Agreement and the Community Infrastructure Levy paperwork had already been completed. Finally, the plans for the Tewkesbury Garden Town identified development all around the site including some 300 houses in the Severn Bends road, south of Pamington, outside of the current settlement boundary. It seemed

perverse to refuse this application in light of all these plans and the applicant's representative urged the Committee to permit the application which would provide a sustainable, well-designed and logical extension to this part of Aston Cross.

56.29 The Chair indicated that the Officer recommendation was to refuse the application and he sought a motion from the floor. A Member indicated that she had been expecting to see something on the plans in respect of the Sustainable Urban Drainage System (SUDS) and asked whether that should be included. She also asked for clarification as to whether surface water run off and its impacts had been assessed, given that the site was located within Flood Zones 2 and 3, whilst recognising that the Lead Local Flood Authority had stated there would be no impact. In response, the Senior Planning Officer advised that the development would connect to the mains system in terms of foul waste and surface water drainage. The southern half of the site was within Flood Zones 2 and 3 and the proposed attenuation basin would be underground which was why it was not shown on the plan. This had been assessed by the Lead Local Flood Authority and found to be acceptable, therefore, the drainage situation had been resolved and did not amount to a reason for refusal. It was subsequently proposed and seconded that the application be refused in accordance with the Officer recommendation.

56.30 A Member was surprised that no concern had been raised about air quality given the proximity to the A46 where traffic, including Heavy Goods Vehicles, often queued at the Aston Cross traffic lights backing up to Teddington Hands roundabout. The Senior Planning Officer confirmed that a report had been submitted with the application which had been assessed by the Environmental Health Officer who had raised no objection. In response to a query as to whether there was an identified need for houses outside of the development boundary in this area, the Development Management Team Leader (Northwest) advised that there was an identified need across the borough but proposals were assessed based on what was considered appropriate in the context of the development plan – there were some instances where the principle of development was considered acceptable but this was not one of those. Another Member expressed the view that the reasons for refusal were clear and the comments about the five year housing land supply should not detract from them. Upon being put to the vote, it was

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

### **21/00868/FUL - Land Adjoining Blenheim Way, School Lane, Shurdington**

56.31 This application was for erection of a single dwelling and associated access. The Planning Committee had visited the application site on Monday 20 March 2023. It was noted that the Officer recommendation was permit, rather than delegated permit as set out in the Committee report.

56.32 The Planning Officer indicated that an objection had been received the previous evening from the property at Phoenix Meadow, formerly New Haven, raising concerns in relation to amenity; however, the amended plans reducing the front garage element, making it single storey, were welcomed. The Planning Officer advised that the application site comprised a parcel of land to the western side of School Lane which lay between two dwellings – Blenheim Way to the south and Phoenix Meadow to the north. The eastern part of the site lay within the settlement boundary to Shurdington, with the remainder of the site being within the Green Belt. Planning permission was sought for the erection of a two storey detached dwelling and single storey front garage. The proposed dwelling would have a contemporary appearance and the proposed materials would comprise a mix of buff facing brick, zinc cladding, zinc roofing and grey aluminium windows. As mentioned, amended

plans had been submitted reducing the 1.5 storey garage to a single storey detached garage. A permission in principle application had been refused by the local planning authority as it was then considered that the proposed development for one dwelling would not constitute limited infilling in the village; however, the applicant had submitted an appeal and the Inspector had commented that the proposed dwelling would be flanked on either side by existing dwellings and would also face houses on the opposite side of the road, as a result, it would relate well to the existing pattern of development along the road, assimilating effectively with the wider streetscene and, given this surrounding context, it was considered that the proposed development would constitute infill development, as envisaged by the National Planning Policy Framework. Furthermore, in terms of design, the Inspector had noted that the dwelling would be set back from the road and had a ridge height appropriate for its setting as shown on the streetscene elevation. In terms of amenity, any side facing windows would be obscurely glazed and the first floor rear balcony had a privacy screen. The existing windows at Phoenix Meadow served non-habitable rooms such as a toilet, utility room and stairwell. There were no objections from County Highways, the Council's Flood Risk Management Engineer, the Environmental Health Officer or Severn Trent Water and the Planning Inspector considered a single dwelling would be appropriate in this location.

56.33 The Chair invited the applicant's agent to address the Committee. The applicant's agent advised that, as set out in the Committee report, permission in principle had already been granted for this development. At appeal, the Inspector had agreed that the proposal would constitute infill in the Green Belt and would not be inappropriate, thus finding the site location to be suitable for a single residential dwelling. Given this decision, which remained extant, the principle of a new dwelling at the site had already been established so the main planning considerations for the application were related to design and visual amenity and impact on neighbouring properties. In terms of design, it was worth noting the Inspector's comments that the lane was distinctly residential in character, with a built-up frontage running along the substantive part of each side. The Inspector had stated that "given this location, the proposed dwelling would be flanked on either side by existing dwellings and would also face houses on the opposite side of the road. As a result, it would relate well to the existing pattern of development along the road, assimilating effectively with the wider streetscene. When viewed from the more open fields to the west, the proposal would also be read within the context of surrounding residential development, which would again allow it to integrate effectively within the existing built fabric of the village". He went on to conclude that an additional dwelling in this location would help form an effective transition between Phoenix Meadow and the ribbon of houses to the south. As acknowledged by Officers, the proposal had been sensitively designed and would sit comfortably within its surroundings, resulting in a visually attractive building that was sympathetic to the surrounding area. It was therefore of an appropriate design and would have an acceptable impact on the character and appearance of the streetscene. In terms of amenity, the Committee report was clear there would be no adverse impacts in terms of overlooking, loss of light or overbearing effects on the neighbouring property. The applicant's agent reiterated that the windows in the side elevation of the property to the north of the site served a ground floor utility room, a toilet and a stairwell so were not habitable rooms. As such, there could be no reasonable grounds to object to this application based on any alleged impact on these windows. In terms of drainage, no objections had been raised by the Flood Risk Management Engineer or Severn Trent Water in respect of the proposed surface water and foul drainage details. Regarding highway matters, County Highways raised no objection in terms of highway safety; however, the comments from residents regarding construction traffic had been acknowledged and, in direct response to this, alternative access to the site for construction traffic and materials could be obtained via the land to the rear of the site. There was also sufficient hardstanding for several vehicles, including Heavy Goods Vehicles (HGVs), away



from the highway at the farm off Church Lane, which the applicant had negotiated access to. This could form the basis of the construction environmental management plan which could be secured by condition.

- 56.34 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 asked for clarification on the principles on which a permission in principle application must be determined and was informed that those applications must be assessed in terms of location, land use and amount only. Another Member noted that the Parish Council had previously raised concern in relation to traffic and access to the site; the applicant's agent had stated that the site could be accessed from the adjoining Church Farm and he asked if that had been confirmed. In response, the Planning Officer explained that the applicant had confirmed that the site could be accessed via the agricultural land during the construction phase in light of the objection from local residents and those details would be included in the construction environmental management plan which was required by proposed Condition 5, as outlined at Page No. 141 of the Committee report.
- 56.35 A Member expressed the view that the Committee should refuse the application in line with the previous decision on the permission in principle application as he did not feel the Inspector had come up with justifiable reasons regarding Green Belt use and flooding had also been mentioned in the Inspector's findings, as such he would be voting against the motion. Upon being put to the vote, it was

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

#### **22/00609/FUL - Starvealls Cottage, Postlip, Winchcombe**

- 56.36 This application was for construction of a replacement dwelling and associated works following demolition of existing dwelling and change of use of additional areas of land to residential garden.
- 56.37 The Senior Planning Officer advised that this was a full application seeking the erection of a replacement dwelling in addition to the enlargement of the existing residential curtilage, the purpose of which was to allow the inclusion of a historic byre, parking area and drainage features within that land. The Committee report explained the detailed planning history of the site which was particularly relevant to the application. Firstly, it was noteworthy that the application was a revised iteration of a previous similar application which also sought the erection of a replacement dwelling. The previous application had been considered by the Planning Committee in July 2021 when it had been recommended for permission; however, due to concerns raised by Members during the debate, the scheme was refused on landscape and heritage grounds. In response, the current revised application was accompanied by additional information to address and overcome Members' concerns. This had included a landscape and visual appraisal and a biodiversity metric; the landscape and visual appraisal summarised that the new dwelling would result in no material change to the landscape due to surrounding topography and intervening mature trees and vegetation between the viewer and public viewpoints from footpaths and roads. The additional landscaping measures would reduce the impact even further by introducing new trees, hedgerows and native planting within the site. The Council's Landscape Adviser concurred with the applicant that there would be an acceptable impact to the landscape. In terms of the biodiversity enhancements, the proposal included a biodiversity net gain of 104% which would comprise the provision of enhanced habitats; specifically, this would involve the creation of improved wildflower grassland, ponds, hedgerows and trees. The second important part of the planning history was a permitted development scheme; this fallback scheme demonstrated there was a reasonable

possibility that substantial extensions and alterations could be carried out to the existing dwelling as permitted development. The Council had no conditional control over these significant extensions which could be built out at any time. The third and final important part of the planning history was the access track which was permitted in 2013 and provided the dwelling with an existing lawful access which had also been implemented. Within the current application, Officers had identified a single harm i.e. the loss of a non-designated heritage asset; however, when weighed against the many benefits, the scheme as presented was considered to be, on balance, acceptable. As set out in the Committee report, the benefits of the scheme included the significant biodiversity net gains, the retention and restoration of the historic byre, landscaping enhancements, economic and employment benefits and betterment and conditional security in contrast to the permitted development fallback scheme. Although Officers were satisfied with the previous application and that the existing proposal met the relevant tests, it was considered the applicant had taken clear steps to address and overcome Members' previous concerns. Although ordinarily the Officer recommendation would have been to permit, given that the applicant had submitted an appeal against non-determination, the recommendation before Members today was minded to permit subject to conditions which included a condition on the Additional Representations Sheet, attached at Appendix 1, requested by the Conservation Officer to secure the archaeological recording of the building prior to its demolition. Officers had received an email from the applicant's agent last night, which was not included on the Additional Representations Sheet due to the time it was received, and Members were informed this raised no new information and did not impact the application or the Officer recommendation.

- 56.38 The Chair invited the applicant's agent to address the Committee. The applicant's agent indicated that they were understandably disappointed when a similar scheme had been refused a couple of years ago but they had taken stock and looked carefully at how to address Members' concerns with a fresh application. As the Senior Planning Officer had advised, additional landscaping work had been undertaken to explain further the approach and significantly enhance the outcome. Biodiversity net gain was not required when the original application had been submitted and, whilst it was not yet a legal requirement, they had embraced it and achieved over 100% improvement to habitats and hedgerows. In addition, a greater understanding of the economic benefits of the scheme had been provided and ecology surveys and reports had been updated along with a flood risk assessment to ensure there would be no risk from the occasional existing surface water flow. The applicant's agent also noted that the Conservation Officer had referred to the incorrect test from the National Planning Policy Framework for assessing this type of asset – this had set the bar higher than it should have been and meant assessment of the application had come from the wrong starting point and could have affected the outcome. This had been carefully checked and clarified as part of the fresh application, explaining why, when assessed against the correct part of the National Planning Policy Framework, the proposal did not cause the harm the Conservation Officer felt it did. The applicant's agent pointed out that the Conservation Officer response made the same mistake again quoting the wrong part and thus the wrong test – this was clarified at Paragraph 8.29 of the Committee report. Paragraph 8.77 of the Committee report was clear in stating that the many benefits of the proposed development would clearly outweigh the harm. The Town Council objected to the proposal solely because of the precedent it was feared would be set but, as Members knew, each case was assessed on its own merits and the unusual circumstances here, with the very large extensions as a legitimate fallback, could not be repeated because the government had changed the regulations – the circumstances could not be repeated elsewhere but remained materially significant. The application had been submitted in May last year and the applicant's agent stressed they had tried hard to get feedback; they were acutely aware of the challenges the Planning team had faced but, with no response for

almost six months, and not knowing if or when they might get one, the applicant had made the difficult decision to appeal. The applicant's agent stressed this was not the desired approach and, following the decision today, he had been instructed to explore with Officers ways of averting the appeal if possible. Based on his statement, and the clarity and strength of the Officer report, he asked Members to support the Officer recommendation.

- 56.39 The Chair indicated that the Officer recommendation was minded to permit the application and he sought a motion from the floor. It was proposed and seconded that the Committee be minded to refuse the application on the basis that the proposed development, by reason of its bulk, mass and design would be an unsuitable addition in this prominent location and consequently would have an unacceptable impact on the Cotswold Area of Outstanding Natural Beauty, furthermore, demolition of the existing building would result in a total loss of a non-designated heritage asset and there were no public benefits which would outweigh the substantial harm caused as a result of the loss of this asset. The proposer of the motion drew attention to the refusal reasons for the previous application, set out at Pages No.150-151, Paragraph 3.2 of the report, and indicated that he did not feel anything had changed. With regard to the point about the public benefits, the Legal Adviser clarified that the National Planning Policy Framework test applied to the heritage asset was incorrect – the correct test in relation to a non-designated heritage asset did not refer to public benefit therefore it would be appropriate to remove that reference from the refusal reasons and instead state that the harm would not be outweighed by 'the benefits', as opposed to 'public benefits'. The proposer and seconder of the motion confirmed they were happy to amend the motion on that basis.
- 56.40 Another Member indicated that, if this was being considered as a fresh application and the existing properties were not there, it would be an isolated development and applications would only be looked upon favourably for properties of exceptional design. As such, she asked whether Officers considered this to be an exceptional design which met that criterion. In response, the Senior Planning Officer advised that Policy RES9 was applicable to replacement dwellings and did not require properties to be assessed against the exceptional test, therefore, that assessment had not been undertaken at this stage. In response to a query as to why a decision had not been reached on the current application within the statutory timeframe, the Development Management Manager advised that this was due to resource issues within the team, as had been referenced by the applicant's agent. It had been a particular focus for the last few months and there had been positive momentum to bring the application before Members today. A Member noted that the cinema room on the top floor had no windows but she was under the impression that all habitable rooms must have windows. The Legal Adviser explained that a cinema would not be classed as a habitable room. A Member sought clarification regarding the fallback position and was informed that it had already been lawfully implemented – the planning history showed that a lawful development certificate had been submitted for all applications which had been allowed on appeal. It was therefore a reasonable prospect that it could be built and there was case law which required that to be taken into consideration.
- 56.41 A Member indicated that he took a different view from the motion on the table and, should that fall, he would be happy to propose minded to permit in accordance with the Officer recommendation. Another Member shared this opinion as this was a replacement dwelling so the principle of development had already been established and a lot of effort had been put in by the applicant to address biodiversity etc. Upon being put to the vote, the motion that the Committee be minded to refuse the application was lost. It was subsequently proposed and seconded that the Committee be minded to permit the application in accordance with the Officer recommendation and, upon being taken to the vote, it was

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

**22/00650/FUL - Truman's Farm, Manor Lane, Gotherington**

- 56.42 This application was for residential development comprising 45 dwellings, creation of new access, public open space and other associated ancillary works.
- 56.43 The Development Management Team Leader (Northwest) advised that this was a full application seeking approval for a residential development of 45 dwellings which would comprise 18 affordable dwellings (40%) and 27 open market dwellings, including a mix of one and two storey and one to five bedroom dwellings. The application was the subject of a non-determination appeal which would be heard at an informal hearing in June and the Council must advise the Secretary of State of its view on the proposals by 4 April 2023. The site comprised two agricultural fields located at the eastern end of Gotherington on the southern side of Gretton Road and was adjoined to the west by existing residential development along Manor Lane, to the south by the Trumans Farm building complex and to the southeast by the Gloucestershire-Warwickshire Railway. It was located within the Special Landscape Area designated within the Tewkesbury Borough Plan and the Cotswolds Area of Outstanding Natural Beauty was located on the other side of the railway embankment. The site was immediately adjacent to, but outside of, the residential development boundary of Gotherington, within the Tewkesbury Borough Plan and Gotherington Neighbourhood Development Plan. In terms of history, outline planning permission had previously been refused for 65 dwellings and dismissed at appeal in 2017 and a more recent application for 45 dwellings was refused in 2021. The main difference between the current and the dismissed scheme was the removal of the eastern block of development which resulted in a larger area of green open space to the east, including enhanced landscaping and a reduction in the number of accesses through the hedgerow onto Gretton Road. Members would be aware that the Council could currently demonstrate a housing land supply of 6.68 years so the tilted balance was not engaged in this case, therefore, the presumption was that the scheme should be delivered in accordance with the development plan. The key material issues had been carefully assessed as set out in the Committee report and, in the context of the current appeal, Members were asked to consider a recommendation of minded to refuse which, along with the Committee report, would be submitted to the Planning Inspectorate to inform the appeal. The putative reasons for refusal were that the proposed development did not meet the strategy for the distribution of development in Tewkesbury Borough; it would result in a cumulative development disproportionate in scale to the existing development that would fail to maintain or enhance the vitality of the village and would have a harmful impact on the social wellbeing of the local community, risking the erosion of community cohesion; the adverse impact of the development on the landscape of the Special Landscape Area and the Cotswolds Area of Outstanding Natural Beauty; and, the absence of planning obligations at the current time to secure affordable housing, community, outdoor recreation and sports facilities, education and provision of libraries infrastructure.
- 56.44 The Chair invited the representative from Gotherington Parish Council to address the Committee. The Parish Council representative indicated that an almost identical application for the site came before the Committee on 17 August 2021 which had been rejected by Members. Since that time, the five year housing land supply had increased from 4.35 to 6.68 years and the Tewkesbury Borough Plan had progressed from emerging to adopted – the Tewkesbury Borough Plan and the Gotherington Neighbourhood Development Plan now carried full weight. The Parish Council appreciated the hard work that Planning Officers and Members had put in to achieve such a strong planning position for the borough. In their significant response of 151 objections to the application, residents had highlighted a number of

concerns including traffic, the Malleson Road/A435 junction, access to doctors, impact on character and appearance, views from the Area of Outstanding Natural Beauty, flooding, foul water disposal and capacity of buildings and playing fields. The Parish Council would be voicing these concerns at the hearing on 13 June. As highlighted by the Planning Officer, the proposal conflicted with policies of the Joint Core Strategy, Tewkesbury Borough Plan and Gotherington Neighbourhood Development Plan and did not meet the strategy for the distribution of new development in Tewkesbury Borough. The Parish Council did not believe the site was an appropriate location for new residential development. As stated by the Planning Officer, the disaggregated requirement for Gotherington was 86 dwellings for the plan period 2021-31 and, if approved, this application would bring the number of consented dwellings to 190 at just over halfway through the plan period. In the foreword to the current National Planning Policy Framework stated that plans should deliver what they promised and to do other than accept the Officer recommendation would further break that promise.

- 56.45 The Chair invited a local resident speaking in objection to the proposal to address the Committee. The local resident indicated that the proposal occupied two Special Landscape Area fields adjacent to Nottingham Hill in the Cotswolds Area of Outstanding Natural Beauty. The fields were a “valued landscape” and deserved protection in their own right – walkers, horse riders and cyclists could often be seen on Nottingham Hill and on weekends families also enjoyed its openness and tranquillity. The proposal was outside the built form on the eastern end of the linear village so new residents, far from facilities, would feel isolated. As the site was so remote, a playground had now been added to the public open space compromising the already tenuous plans to mitigate for wildlife. The mitigation strategy stated that increased risk caused by cats and dogs could result in potential dormouse mortality and population collapse but existing residents did not believe new residents would follow the advice to keep their cats in at night. It was difficult to imagine a more inappropriate location for a modern housing estate. The government’s planning bill promised to safeguard Areas of Outstanding Natural Beauty, give more weight to local plans and remove the requirement for a rolling five year supply of housing land with the intention of curbing speculative development and planning by appeal. It was vital to protect farmland, the openness and tranquillity of the countryside and residents’ mental health and the local resident urged Members to refuse this opportunistic and inappropriate proposal.
- 56.46 The Chair indicated that the Officer recommendation was minded to refuse and he sought a motion from the floor. It was proposed and seconded that the Committee be minded to refuse the application in accordance with the Officer recommendation. The proposer of the motion advised she had been Borough Councillor for the area when the original application had been received and she was glad to see the same reasons for refusal stood today. A Member questioned how the housing land supply and impact of the new calculation which had come into effect in December would be addressed at appeal. He was aware that not all of the justification would be included in the statement of common ground and he was concerned that the Council would lose control of the application if it lost the appeal. In response, the Development Management Team Leader (Northwest) advised that the Council would be defending its five year housing land supply position on several sites and was putting together a robust case – there had been no adverse Inspector decisions which had given Officers any reason to reconsider this position at the current time. The Member did not disagree and felt that Officers put up outstanding arguments at appeal but he referenced the Fiddington appeal when the Inspector had gone against that and he feared the developer would have free reign if that was to happen again in this case. The proposer of the motion pointed out that the Council did not have a five year housing land supply at the time of the Fiddington appeal but there was now a 6.68 year supply and Officers had provided a robust case so she did not see why an application should be allowed just because there was a risk of it

being overturned at appeal – that would put the village at risk and would not protect the Area of Outstanding Natural Beauty.

56.47 Upon being put to the vote, it was

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

**PL.57 CURRENT APPEALS AND APPEAL DECISIONS UPDATE**

57.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Page No. 215. Members were asked to consider the current planning and enforcement appeals received and the Department for Levelling Up, Housing and Communities appeal decisions issued.

57.2 Accordingly, it was

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

The meeting closed at 1:08 pm

## Appendix 1

**ADDITIONAL REPRESENTATIONS SHEET**

Date: 21 March 2023

The following is a list of the additional representations received since the Planning Committee Agenda was published 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.

Item No	
5a	<p><b>22/00251/APP</b></p> <p><b>Phases 4 And 6, Land At Perrybrook, North Brockworth</b></p> <p><b>Late Representations</b></p> <p>Since the preparation of the Committee report, an additional letter of objection has been received. The details of this letter are summarised below:</p> <p><i>"I wish to make the following further comments on and objections to the proposals for the development of Perrybrook North stages 4 &amp; 6 .</i></p> <p><i>1) Can we have an assurance that work will not commence to this phase of the development until the new roundabout on Valliant Way is completed? Otherwise construction traffic will cause a great deal of nuisance to current residents of Brockworth.</i></p> <p><i>2) I wish to object to the close proximity of the gable ends of houses on the proposed development (plot numbers 353-368) to several existing houses in Maple Drive. These new houses will cast the gardens in Maple Drive into shadow and create severe loss of light and amenity.</i></p> <p><i>3) With reference to the attenuation basin in the landscaped area running north-south in south west part of the site, how will this be drained and maintained? A muddy dip full of weeds will look most unsightly.</i></p> <p><i>4) I wish to object to the fact that the so-called Re-inforced Landscape Edge between the new development and the existing houses in Ermin Park and Maple Drive has got so thin as to be completely ineffective. In places it consists only of a path and minute patch of soil scarcely wide to plant anything in. Why is the path intermittent, when this is currently a route regularly used by walkers? In particular I object to the very narrow planting beds at the back of my neighbour's house, 34 Westfield Road. How will access be provided to such a narrow area, to maintain it and so prevent it filling up with brambles, nettles and unwanted nuisance tree species such as ash and sycamore?</i></p> <p><i>5) What are Tewkesbury Borough's proposals for a pedestrian link between the new development and Westfield Avenue/Prince Albert Court, across the existing rough patch of grass (not owned by the current developer)? Who owns this patch of grass?</i></p> <p><i>6) A point of detail: I welcome the bulb plantings shown, but as a garden designer with 40 years experience, I strongly recommend that all the crocuses shown should be Crocus tommasinianus, as these survive well and multiply better than any other species".</i></p> <p>These comments have been considered and an update will be provided to</p>

	<p>Members within the Officer's introduction to the application. Notwithstanding these additional comments, the Officer recommendation remains as set out in the report to Committee.</p>
<p><b>5b</b></p>	<p><b>21/01173/FUL</b></p> <p><b>Land Off Ruby Avenue, Bishops Cleeve</b></p> <p><b>Amended Condition 5</b></p> <p>Condition 5 to read:</p> <p>The development hereby approved shall be carried out in accordance the updated CEMP that was received by the LPA on 20.02.2023 and approved by the Highway Authority as confirmed in writing on 13.03.2023. The approved plan shall be adhered to throughout the demolition/construction period.</p> <p>Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.</p> <p><b>Para 8.52 to read:</b></p> <p>The semi-detached properties (Plots 1-6, 17-22) would have rear private gardens ranging in size from 51.79sqm -75.72sqm which is considered to be acceptable. The flatted development at plots 7-12 would have amenity space in the form or front gardens. Each of these units would have Juliet Balconies. The flatted units at 13 and 14 would have private amenity space of 22.2sqm and 26.12sqm respectively. The flatted units at 15 and 16 would have an amenity space of 37sqm and units 7-12 would also have shared amenity space of 102sqm. The development also provides public open space at 969sqm in the south western corner of the site. The dwellings are therefore considered to be served by sufficient amenity space.</p> <p><b>Para 8.58 to read:</b></p> <p>2x2b4p 80.7sqm</p> <p><b>Para 8.60 to read:</b></p> <p>In terms of the tenure mix, the following is proposed:</p> <ul style="list-style-type: none"> <li>- 6 units will be for shared ownership (Plots 1-6: six 1-bedroomed maisonettes, four 2-bedroom maisonettes, two 2-bedroom houses and four 3-bedroom houses)</li> <li>- 16 units will be for social rent (Plots 7-22: four 2-bedroom houses and two 3-bedroom houses)</li> </ul> <p><b>Para 8.65 - 8.70 to read:</b></p> <p>JCS Policy INF2 (2) (iv) requires new development to incorporate Sustainable Urban Drainage Systems (SUDS) where appropriate to manage surface water drainage. Policy INF6 also requires that the infrastructure requirements generated by a proposal are met, including by adequate on and off site infrastructure.</p> <p>The site is partially in flood zone 2 according to the Flood Maps for Planning. The Flood Risk Assessment (S11479-JNP-XX-XX-RP-C-0001-P01; August 2021) states that modelling carried out in 2010 for the planning application for the wider development site shows that the site should actually be considered in flood zone 1.</p> <p>The applicant provided updates to the site layout plan in order to address concerns raised by the Lead Local Flood Authority (LLFA) in relation to surface water management and climate change. The FFL of the dwellings has been raised so that it's above the predicted flood level and it has been shown that the proposed residential site has a lower impermeable area than the previous site</p>



	<p>layout design so it can be accommodated in the wider drainage network it is discharging into. Simulations of the drainage have been provided that show there will be no flooding in the 1 in 30 year 1 in 100 year rainfall events plus 40% for climate change. Finally, it is confirmed that the drainage will be put up for adoption by Severn Trent Water who will be responsible for future maintenance.</p> <p>The LLFA has no further objections to the proposal and do not require any conditions.</p> <p>The development is therefore considered satisfactory with regard to flood risk and drainage subject to a condition to ensure the implementation of the development in accordance with the approved drainage scheme.</p> <p><b>Para 10.1 to read:</b></p> <p>In the absence of policies in the NPPF which would provide a clear reason for refusal, it is not considered the harms of the development would significantly and demonstrably outweigh the benefits set out above. It is therefore recommended that authority be DELEGATED to the Development Management Manager to PERMIT the application subject to any additional/amended planning conditions; and the completion of a section 106 legal agreement to secure the following:</p> <ul style="list-style-type: none"> <li>- The provision of 100% affordable housing.</li> <li>- A contribution of £73 per dwelling, (£1,241 based on 22 dwellings), towards recycling and waste bin facilities.</li> </ul> <p><b>Additional Consultations</b></p> <p>Since writing the Committee report, an additional 81 objections have been received from members of the public. These new objections raise no new concerns that have not previously been raised by objectors or consultees, bar an objection to loss of open space.</p> <p><b>Officer Update</b></p> <p>The proposed scheme provides 969sqm of public open space. Furthermore, there are public open spaces provided across the wider area and the Council currently has a number of planning applications under consideration for a LEAP and the provision of sports pitches. Therefore, all objections have been addressed as set out in the main Committee report.</p>
5e	<p><b>22/00609/FUL</b></p> <p><b>Starvealls Cottage, Postlip, Winchcombe</b></p> <p>The Conservation Officer has requested that the following condition be attached in the event that Members resolve 'delegated permit':</p> <p>No demolition shall take place until a programme of archaeological building recording work including a Written Scheme of Investigation followed by a final report has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of the pair of cottages which are to be recorded to a standard equivalent to a Level 2 (descriptive record) as specified by Historic England in its publication Understanding Historic Buildings: A Guide to Good Recording Practice (2016).</p> <p>Reason: In the interests of the historic environment. This condition is required to be pre-commencement as archaeological building recording work is required prior to the loss of the historic buildings.</p>

<b>5f</b>	<p><b>22/00650/FUL</b></p> <p><b>Trumans Farm , Manor Lane, Gotherington</b></p> <p>There is an error in Paragraph 7.2 of the Committee Report. This should state:</p> <p>The Development Plan currently comprises the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) (adopted December 2017), Tewkesbury Borough Plan to 2011-2031 (adopted June 2022) and a number of 'made' Neighbourhood Development Plans. Of relevance to this application is the Gotherington Neighbourhood Plan (GNP) 2011-2031 (Made September 2017)</p>
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