

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Tuesday, 20 February 2024 commencing
at 9:30 am**

Present:

Chair
Vice Chair

Councillor P E Smith
Councillor S Hands

and Councillors:

M Dimond-Brown, M A Gore, D J Harwood, M L Jordan, G C Madle, J R Mason, G M Porter,
R J G Smith, R J E Vines, P N Workman and I Yates

PL.59 ANNOUNCEMENTS

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

PL.60 DECLARATIONS OF INTEREST

- 60.1 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.
- 60.2 The following declarations were made:

Councillor	Application No./Agenda Item	Nature of Interest (where disclosed)	Declared Action in respect of Disclosure
M A Gore	Item 5b – 22/00898/OUT – Retained Land at Brickhampton Court, Greenfields, Churchdown.	Had received letters and emails and had direct contact with the applicant in relation to the application but had not expressed an opinion.	Would speak and vote.
S Hands	Item 5b – 22/00898/OUT – Retained Land at Brickhampton Court, Greenfields, Churchdown.	Had received correspondence from the applicant in relation to the application but had not expressed an opinion.	Would speak and vote.

D J Harwood	Item 5c – 23/00275/APP – Plots 3 & 4 Gloucester Business Park.	Is a Member of Brockworth Parish Council but does not participate in planning matters.	Would speak and vote.
M L Jordan	Item 5b – 22/00898/OUT – Retained Land at Brickhampton Court, Greenfields, Churchdown.	Is a Borough Councillor for the area. Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.
G C Madle	Item 5b – 22/00898/OUT – Retained Land at Brickhampton Court, Greenfields, Churchdown.	Had received correspondence from the applicant in relation to the application but had not expressed an opinion.	Would speak and vote.
J R Mason	Item 5b – 22/00898/OUT – Retained Land at Brickhampton Court, Greenfields, Churchdown.	Had received correspondence from the applicant in relation to the application but had not expressed an opinion.	Would speak and vote.
P D Smith	Item 5b – 22/00898/OUT – Retained Land at Brickhampton Court, Greenfields, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.
P D Smith	Item 5c - 23/00275/APP – Plots 3 & 4 Gloucester Business Park.	Is a Member of Hucclecote Parish Council but does not participate in planning matters.	Would speak and vote.
R J G Smith	Item 5b – 22/00898/OUT – Retained Land at Brickhampton Court, Greenfields, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.
R J E Vines	Item 5c – 23/00275/APP – Plots 3 & 4 Gloucester Business Park.	Is a Gloucestershire County Councillor for the area.	Would speak and vote.

P N Workman	Item 5b – 22/00898/OUT – Retained Land at Brickhampton Court, Greenfields, Churchdown.	Had received correspondence from the applicant in relation to the application but had not expressed an opinion.	Would speak and vote.
I Yates	Item 5b – 22/00898/OUT – Retained Land at Brickhampton Court, Greenfields, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.
I Yates	Item 5c – 23/00275/APP – Plots 3 & 4 Gloucester Business Park.	Is a Borough Councillor for the area.	Would speak and vote.

60.3 There were no further declarations made on this occasion.

PL.61 MINUTES

61.1 The Minutes of the meeting held on 23 January 2024, copies of which had been circulated, were approved as a correct record and signed by the Chair.

PL.62 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL

62.1 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.

22/01337/OUT - Land off Lawn Road, Ashleworth

62.3 This was an outline application for the erection of up to 11 dwellings and associated works, with all other matters reserved for future determination except access (amended description).

62.4 The Senior Planning Officer advised that the Additional Representations Sheet, attached at Appendix 1, set out that Severn Trent Water had not confirmed its acceptance of a surface water connection to the drain on Sawyers Rise, therefore, the recommendation had been amended to seek delegated authority to impose any conditions pertinent to the connection. He explained that Ashleworth was not designated as a Rural Service Centre or a designated Service Village in the Tewkesbury Borough Plan and was not within the development boundary; however, given the backdrop of the five year housing land supply position, the application was recommended for permission. In terms of the site itself, the northern boundary was to the edge of Lawn Road with Grade II listed buildings of Lynchgate Cottage, St Michael's and Nupend House on the north side immediately opposite and the Conservation Officer had objected to the proposal. Land to the east of the site had been approved for four dwellings as set out in the Committee report and, beyond that to the east was a development of 35 dwellings which had been built-out. Immediately to the south was land approved for development of 42 dwellings. Due

to the development surrounding the site, the existing services within the village and the proximity to settlements for additional services, it was considered by Officers to be a sustainable location for development. It was an unusual application in terms of Biodiversity Net Gain (BNG) as grassland was classified as an urban meadow and was high value, requiring additional mitigation not all of which could be provided on site, therefore, the application included an off-site mitigation proposal in order to provide 10% BNG which would be secured via a Section 106 Agreement. As set out within the Committee report, Severn Trent Water had not confirmed the development could connect to the surface water drain – the original proposal was for surface water to be disposed via the highway drain and then into the Severn Trent surface water drain on Sawyer's Rise; however, the Lead Local Flood Authority had not been satisfied with that proposal and a revised proposal had been put forward to install a separate pipeline which bypassed the highways drain and formed a new connection to the same Severn Trent surface water drain - it was that new connection which Severn Trent had not yet agreed to. Officers were requesting a delegated permission, subject to agreement being reached with Severn Trent to dispose of foul water. The Senior Planning Officer went on to explain that, late the previous evening, it had transpired there was a footpath connection to Ashleworth which only extended as far as the top right of the application site and it was proposed to install a footpath directly into Ashleworth which would take up the highway verge but would not encroach on any private land. County Highways had no objection to the condition already in the report which required details of the footpath to be submitted to and approved by the Local Planning Authority prior to commencement of development. This had not been covered in the Committee report but it would provide a betterment as previously pedestrians had to walk down the road. Whilst the Conservation Officer had objected to the proposal, as explained in the Committee report, the harm was less than substantial and these comments were not sufficient to outweigh the benefits of the proposal. In summary, given the five year housing land supply position, Ashleworth was considered by Officers to be a sustainable settlement and, where the harms of development were considered against the benefits of new housing, with on and offsite mitigation and contributions, Officers believed the tilted balance lay in favour of development.

- 62.5 The Chair invited the applicant's agent to address the Committee. The applicant's agent indicated that this application had been pending determination for over 12 months, during which time they had worked hard with their consultant team, client and Officers to address the initial concerns raised which had ultimately resulted in reducing the scheme from 17 to 11 new homes to provide a scheme deemed acceptable and policy compliant. Ashleworth was a suitable location for a development of this scale with public transport accessibility to Gloucester and Tewkesbury and a good range of services and facilities for meeting day to day needs including a primary school, general store, cafe and community centre. Delivering a range of small sites such as this would assist the Council with demonstrating a rolling five year housing land supply and would ultimately help to ensure the vitality of the borough's rural communities. The site was not subject to any designations, was well-related to the built-up area of the village and contained within the landscape because of the strong landscaped boundary to the southwest of the site. It would represent a natural 'rounding off' of the village and an ideal location for its sustainable growth. The new homes provided would include four much needed affordable homes. As correctly noted within the Committee report, the development would not result in any harms that would warrant refusal. The applicant's agent recognised that some concerns had been expressed by the Parish Council and local residents, although none were received from residents following the reduction of the scheme by six units. Some concerns related to highway safety and those had been thoroughly assessed by County Highways with no objections raised subject to conditions. In terms of drainage, the proposal had been designed thoroughly by the consultant team and the Lead Local Flood Authority had no objection. Severn Trent Water had previously raised no objection in connection to

its assets as part of the proposals and the current proposals did not change that. They had worked closely with both their ecologist and the Council's Ecological Adviser as well as Enviro Bank - a company that supported the provision of off-site biodiversity enhancement measures - and, whilst there would be some habitat loss on site, a bespoke mitigation and BNG strategy was proposed resulting in the delivery of some off-site provision in the form of new lowland meadow creation within BNG trading rules and regulations. Overall, as the Committee report set out, the development would result in more than 10% BNG which was over and above what presently existed on site. The heritage assessment was correct in their view and any limited harm would be outweighed by the benefits which involved 11 new dwellings, including affordable homes and off-site affordable contributions; 10% BNG; education contributions towards primary school provision; Community Infrastructure Levy (CIL) payments, 25% of which would go to the Parish; and provision of publicly accessible open space. On that basis, the applicant's agent hoped that Members would support the Officer recommendation for a delegated permission.

- 62.6 The Chair indicated that the Officer recommendation was to delegate authority to the Associate Director: Planning to permit the application, subject to completion of a Section 106 Agreement with the obligations set out in the Committee report and Severn Trent Water confirming that a connection to its surface water drain was acceptable, and he sought a motion from the floor. A Member questioned the assertion this was a truly sustainable development given that, if agreed, there would be an increase of 90 houses to a village of approximately 200 properties since 2017 and the new properties would be largely reliant on cars due to the limited bus service. In response, the Senior Planning Officer confirmed that Ashleworth was not designated in the settlement hierarchy but the National Planning Policy Framework stated that, without a five year housing land supply, the titled balance must be considered, therefore, Officers were required to weigh up the harms of the development against the benefits. Ashleworth did have a number of local services which added weight to the application and other proposals for residential development had recently been approved at appeal establishing the principle of Ashleworth being able to accommodate additional development. The harm in terms of heritage assets would be less than substantial and insufficient to warrant refusal. He appreciated the highway concerns but those applied to many of this type of scheme, Lawn Road was lightly trafficked and the development was considered sustainable in terms of the tilted balance. The County Highways representative explained that, by nature, a village was not as sustainable as a city location but the sustainability of Ashleworth had been tested on appeal. There was a school, a coffee shop and a Memorial Hall within the village and a bus service operating between Gloucester and Tewkesbury ran every two hours so public transport was available, albeit limited. In terms of traffic flow, it was a narrow lane but was extremely lightly trafficked with 600 vehicles in a two way flow over a whole day period and less than one vehicle per minute even during peak hours; traffic generation from this site would be five to six vehicles in peak hours. The Member indicated that he genuinely did not believe the cumulative effect of development in the village had been thought through – the bus service was extremely limited with no evening service at all so there would inevitably be an increase in car usage as a result of this development. Another Member asked if accident statistics were available for the A417 as the representations received alluded to it being notorious for serious accidents. In terms of sustainability, she pointed out the village shops were often not economical to use and she asked if there was any way to improve the facilities within the village via the Section 106 Agreement. In response, the County Highways representative advised there were no reported accidents in the last five years within the village itself which accorded with the low speed of the road. In terms of the A417, there had been two accidents at the junction with Lawn Road, one involving a fatality due to a driver error, and three accidents at the junction with the B4211. The County Council Road Safety Team was looking at mitigation

measures for the A417; however, that was a separate issue and, in terms of this development which would generate an additional five vehicles in the peak hours, it would be difficult to say there would be a further negative impact in terms of accidents. In respect of the Section 106 Agreement, the Senior Planning Officer's view was that any additional dwellings in Ashleworth that could support the village shop would be a positive thing; that said, due to the scale of the development, the Council could not reasonably insist on a Section 106 contribution to support local services and this had not been requested by the Parish Council.

- 62.7 A Member asked what would happen if Severn Trent Water deemed the connection to its surface water drain unacceptable. She pointed out that the issue of drainage was a major concern for Ashleworth Parish Council and no improvements had been made since new developments had come online so she asked why this would be any different. In response, the Senior Planning Officer explained that, if there was no solution for the surface water drainage the application would be brought back to the Committee with a recommendation for refusal. A Member noted that the Committee report stated that the Head of Service: Housing was yet to confirm that the tenure mix was acceptable and an update would be provided at Committee. The Senior Planning Officer advised that the Housing team had been consulted and no response had been received, therefore, the tenure mix set out in the report was deemed to be acceptable. In response to a query regarding the Tree Preservation Order, Members were informed this was a group of TPOs along the frontage of the houses on the north side of Lawn Road and not within the application site itself.
- 62.8 It was proposed and seconded that authority be delegated to the Associate Director: Planning to permit the application in accordance with the Officer recommendation and, upon being put to the vote, it was

RESOLVED That authority be **DELEGATED** to the Associate Director: Planning to **PERMIT** subject to completion of a Section 106 Agreement with the obligations set out in the Committee report and to Severn Trent Water confirming that a connection to its surface water drain was acceptable, in accordance with the Officer recommendation.

22/00898/OUT - Retained Land at Brickhampton Court, Greenfields, Churchdown

- 62.9 This was a hybrid planning application seeking full permission for the use of land as public amenity space (including community woodland, pedestrian access, play space and biodiversity enhancements); outline planning permission for seven affordable (discounted market) dwellings with all matters reserved for future consideration; and outline planning permission for eight market dwellings with all matters reserved for future consideration. The Planning Committee had visited the application site on Friday 16 February 2024.
- 62.10 The Principal Planner advised that the application site comprised 2.4 hectares of land retained by the applicants after the farm was developed into Brickhampton Golf Club, club house and driving range in 1990. In 1994, eight new houses were built on the original footprint of the farmhouse and buildings at Greenfields and Fairways Drive. The site was not located within the settlement boundary of Churchdown and Innsworth but the settlement boundary ran along the southern boundary of the site, Highgrove Estate. To the west, the site was bound by the Nato Allied Force Base and the majority of the site was bound to the north and east by Brickhampton Golf Club with the middle portion of the site bound by the residential development at Greenfields and Fairways Drive. The application site was physically separated from Highgrove Estate by a small watercourse and a strong line of trees and hedges which provided a high degree of physical separation between the site and the settlement boundary. In relation to site designations, the site was located within the Green Belt

and a Public Right of Way ran along the eastern boundary. In terms of consultees, there were objections from Churchdown Parish Council due to Green Belt policy and highway safety, and from the Housing Strategy and Enabling Officer due to physical separation of the affordable units from the market sale units and the proposed tenure type not meeting the identified need for the borough. Having assessed the scheme, Officers believed the application should be refused as it was not an appropriate location for new residential development; the proposal would result in harmful encroachment into open countryside and would appear as an unacceptable intrusion, diminishing the existing sense of transition between the settlement and the open countryside; it would be inappropriate development in the Green Belt and would unacceptably reduce its openness and conflict with the purposes of the Green Belt; the applicant had failed to demonstrate how the affordable housing would be provided in a seamless and integrated manner and the proposed tenure type did not meet the identified need for the borough; the applicant had failed to demonstrate that the pedestrian connections shown on the illustrative masterplan could be achieved; and, in the absence of a completed planning obligation, the proposed development did not adequately provide for education and affordable housing contributions or refuse and recycling facilities.

- 62.11 The Chair invited a local resident speaking in objection to the application to address the Committee. The local resident advised that he was speaking on behalf of residents who had set out clear and significant policy-based conflicts in their written submissions dated from November 2022 to September 2023; they endorsed the Officer's recommended reasons for refusal. The main issue in the determination of this application was the Green Belt and the proposal was, without any doubt or question, inappropriate development in the Green Belt. It did not constitute any of the permissible exceptions for allowing development in the Green Belt. It would seriously and significantly reduce openness and conflict with the purposes of the designated land. Moreover, this harm would occur in a segment of the Green Belt where the expert evidence assessed land to be of the highest value in terms of its contribution to Green Belt purposes. As a result, the proposal would cause very significant harm to the Green Belt. The applicant had singularly failed to demonstrate any credible evidence that very special circumstances existed that would outweigh that considerable harm. The current absence of a five year housing land supply did not trigger the tilted balance in this case and Green Belt protection prevailed. The Council would undoubtedly need to approve greenfield developments on unallocated sites in the coming years but they did not need to do so on Green Belt land, and doing so would drive a coach and horses through national and local planning policies. Local residents had pointed out in 2022 that the claimed affordable housing content was an illusion and provided no sound basis for allowing this application - the scheme did not include any affordable housing by any meaningful definition. They had also set out that, irrespective of the Green Belt designation, this was an unsustainable location for new housing. The nearest shop was the Tesco store at Churchdown, which was a walked route of 1.75 kilometres - the notion of walking a round trip of 3.5 kilometres for basic provisions was unrealistic. Overall, the proposal was in serious conflict with national policy and clearly not in accordance with the development plan. There were no material considerations that would direct a determination other than in accordance with the plan. The local resident urged Members to make a sound planning decision and refuse this unacceptable development and protect the Green Belt which national and local policy said was of 'great importance'.
- 62.12 The Chair invited the applicant to address the Committee. The applicant explained that he was born in Churchdown and had been involved in the development of the golf course and its residential houses since 1969. He was not a property developer but, as with the golf course and houses, had looked to ensure the retained land was developed in a sustainable manner with a balanced mix of community assets, affordable and market houses for local residents and their families. The application

had been with the Council for 18 months and appeared before the Planning Committee today with a recommendation to refuse based on a few key points which Members were not obliged to follow. He intended to set out how and why Members could make their own decision to grant planning permission in a way that would respect the integrity of the development plan policies and not weaken its protection over other land in the borough. Firstly, the site was in the Green Belt but a perfectly legitimate conclusion could be reached that the housing element of the site was infill to the neighbouring developed areas of the golf centre, the residential houses, the Highgrove Estate, Nato base and Churchdown. Officers had recommended against this because of the existing trees and hedges bordering the site but had not provided any landscape advice for making such an objection or that infill would significantly harm the openness of the remaining Green Belt. They also omitted to mention the Council's 2017 Green Belt Report on the site which said that its removal from the Green Belt was unlikely to constitute a significant loss of the physical or perceptual gap between areas of urban development and would have minimal impact. Those arguments were reassurance that, although it was Green Belt, it was land that would not fundamentally weaken that protection and should be considered for housing given that the Council could not demonstrate a five year housing land supply and due to the urgent need for more affordable housing which this site would deliver. If there was a real concern regarding the type of affordable housing being offered, that could be negotiated as part of the Section 106 terms and should not be a reason for refusal. The need for affordable housing in Churchdown and Innsworth was supported by Gloucester Homes and the Council's own data stated that 471 local residents were actively looking for this type of accommodation. In terms of footpath connection, nobody was arguing pedestrian connection was inadequate to allow development to take place and they were offering to improve the quality of that provision through cooperation with adjoining landowners. Finally, Officers stated that the application's potential harms to the Green Belt outweighed its many positive benefits, and the principle of very special circumstances could not be made for approving it, but then offered no balanced explanation for that. Members could make a decision today to approve the application to help Tewkesbury Borough get back on track with its housing shortfall and help local people in Churchdown and Innsworth who needed homes and he urged them to take it.

- 62.13 The Chair indicated that the Officer recommendation was to refuse the application and he sought a motion from the floor. A Member advised that he had walked home from the Planning Committee Site Visit along the access road to the golf club which was the sole means of access to the site from the main road and had found it very difficult with it being necessary to duck, or move out of the way whilst a vehicle passed, due to the height of the land. He questioned whether the safety of that access had been assessed. In response, the County Highways representative advised that no objection had been raised by County Highways on safety grounds but he did take this point – the access was narrow and not an ideal surface. Whilst it was necessary for pedestrians to move out of the way if a vehicle approached, there were passing places; however, the road was neither ideal or convenient for walkers, especially people with disabilities. In terms of accidents, there had been two near the site in the last five years, one of which was now outside of the five year period. The junction itself had a good accident record and, in terms of sustainability, it was possible to walk from Cheltenham Road East to the site until reaching this particular road. The Principal Planner confirmed there was one pedestrian route with the possibility of the Public Right of Way for those residents who chose to be car-free. A Member noted that the applicant had referenced the removal of the site from the Green Belt in the Council's Green Belt Report in 2017 and he asked why this was perceived differently now. In response, the Principal Planner clarified that, as set out in the Additional Representations Sheet attached at Appendix 1, the quotation in relation to the Green Belt Review related to purpose two of the Green Belt which sought to prevent the merging of neighbouring towns and the Council's

view was that it continued to conflict with purposes one and three in relation to checking the unrestricted sprawl of large built-up areas and safeguarding the countryside from encroachment – the Green Belt Report had stated that it conflicted with those two purposes and there had been no change from that position. Another Member questioned whether all three aspects of this proposal should be determined together and confirmation was provided that it was essentially three applications in one; Officers had assessed them individually and cumulatively and, in the event the application was refused and went to appeal, the Inspector would consider all three parts.

62.14 It was proposed and seconded that the application be refused in accordance with the Officer recommendation. The proposer of the motion expressed the view it was a comprehensive Committee report and nothing had changed in terms of the Green Belt position. The seconder of the motion felt there were numerous reasons to refuse the application, all of which were set out in the Committee report. A Member agreed that the application must be refused on the basis it was in the Green Belt but, if that was not the case, the proposal would provide sustainable housing in the area with connectivity to Cheltenham and Gloucester for businesses and amenities, therefore, it was far more sustainable than the previous Agenda Item which had been permitted and was a good proposal. Sadly, the application must be determined within the constraints of the Green Belt assessment and she could see no very special circumstances which would allow Members to permit the application. There may be a case for removing the site from the Green Belt via the Strategic and Local Plan but Green Belt outweighed all other considerations in her view, therefore, she supported the motion to refuse the application. The seconder of the motion indicated that she agreed to a certain extent and could see no way the application could be approved, particularly in light of the previous application on the golf course site which had been refused for the same reasons. She felt there were issues with some of the elements put forward as benefits, for instance, she did not see the community woodland and play area being a significant benefit to the community given other facilities in the vicinity and the tenure mix being proposed would result in two distinct areas of private and affordable housing which went against planning policy. She questioned how affordable three to four bedroom houses on a golf course in the Green Belt would actually be. Another Member shared this view and noted the applicant had referenced over 400 people on the housing register looking for this type of housing; however, they were actually looking for social housing, not very expensive houses reduced by 20%. The applicant had also suggested there could be a link to Imjin Barracks and she felt there were several reasons why this would not be an option, not least security. She did not feel that such “benefits” could be taken into account as they were not realistic options.

62.15 A Member expressed the view that very special circumstances existed as outlined at Page No. 49, Paragraph 8.19 of the Committee report which set out exceptions to the construction of new buildings in the Green Belt including limited infilling in villages. Whilst Page No. 52, Paragraph 8.35 of the Committee report stated that Officers did not consider the site to be infill development, the Member pointed out that decision lay with the Planning Committee as decision-makers. Page No. 52, Paragraph 8.37 of the Committee report set out that points 1, 2, 3 and 4 as outlined at the top of Page No. 52 were considered by Officers to be benefits which had the potential to amount to very special circumstances and the proposal would provide affordable housing and contribute to housing land supply. Case law established that very special circumstances did not have to be unique or unusual and a number of elements could combine to give a cumulative and positive set of circumstances. In his view, there would be very little potential harm to the Green Belt which would be outweighed by very special circumstances and he would not like to see the application be refused and go to appeal given that the Inspector had previously approved 1,500 houses on Green Belt land at Brockworth; he pointed out that the Council had also recently approved 49 dwellings at Badgeworth which was in both

the Green Belt and Cotswold Area of Outstanding Natural Beauty. Another Member shared this view given that the site was surrounded by housing, the golf course and the Ministry of Defence site so he felt housing would sit well in that location. Green Belt was a very strong issue but a common sense approach was needed and, in this case, he felt any harm would be limited. The seconder of the motion expressed the view that the Green Belt was very important and needed to be preserved; permitting the application would set a dangerous precedent. Officers clearly considered that no very special circumstances had been advanced by the applicant and, based on the evidence before them, she was inclined to agree. The proposer of the motion indicated that, whilst on the Planning Committee Site Visit, he had reflected on the view that the proposal constituted infilling and agreed with Planning Officers who had identified there was a strong boundary between the site and the Highgrove Estate with outlying dwellings around the golf course – infilling was a red herring in his opinion. In terms of the public open space constituting a community woodland and play area, he pointed out there was a recreation ground not a significant distance from the site and he did not think an additional playground would be used except by the residents of the affordable housing and the separation of tenure types was contrary to policy. In terms of the bigger picture, this was a major section of land preventing the sprawl of Gloucester and should be treated as sacrosanct. Consideration had been given to removing the land from the Green Belt in 2017 but the fact was that it remained and to put any stock in the arguments for taking it out when they were not substantiated at the time would be foolhardy. As such, he remained of the opinion the application should be refused.

62.16 In response to a Member query, the Principal Planner advised that very special circumstances were not required if the proposal was considered to be limited infilling; however, Officers believed it was inappropriate development as set out in Paragraph 152 of the National Planning Policy Framework and should not be approved except in very special circumstances. A Member asked whether it was acceptable for the play area and attenuation pond to be in such close proximity and was advised it was not unheard of and, should the application be permitted, there would be a requirement for additional detailed information regarding the attenuation basin. The Development Management Team Manager (South) advised that attenuation basins were designed with safety aspects, such as ledges, in mind.

62.17 The Development Management Team Manager (East) advised that affordable housing provision had been omitted from proposed refusal reason 6 within the Committee report and the proposer and seconder of the motion to refuse the application indicated they would be happy to amend the motion to include that. Upon being put to the vote, it was

RESOLVED That the application be **REFUSED** in accordance with the Officer recommendation, subject to an amendment to refusal reason 6 to refer to affordable housing provision in relation to the absence of a completed planning obligation.

23/00275/APP - Plots 3 & 4 Gloucester Business Park

62.18 This was a reserved matters application in relation to plots 3 and 4 for the erection of employment development of 16,481sqm (GIA), access arrangements, servicing, parking including cycle provisions, electric vehicle charging and landscape provision comprising of Class B2 and B8 development with ancillary offices, alongside discharge of pre-commencement conditions 8 and 11 to planning permission reference 11/01155/FUL.

62.19 The Principal Planner advised that outline consent had been granted for the business park in March 1992 and the permission had been renewed in 2001 to allow a further 10 years for the submission of the reserved matters. In 2012, a further permission was granted for the reserved matters for the remainder of the

plots to be submitted by 2026 and the current application was for the reserved matters for plots 3 and 4 on the outskirts of the business park adjacent to residential properties and required a Committee determination due to objections from the Parish Councils and local residents. The original approval had no set parameters in terms of the size or height of the units with heights across the business park ranging from 16m to 24m; the elevations for this application had a proposed overall height of 15.5m. The applicant had confirmed that the units would be BREEAM Excellent. Comments were still awaited from the Land Drainage Officer in relation to drainage condition 8 and the Lead Local Flood Authority had no comment given that it had not been established when the original application was approved and County Highways had requested an additional condition. It was therefore recommended that authority be delegated to the Associate Director: Planning to approve the application, subject to no adverse observations from County Highways and the Land Drainage Officer and any additional or amended conditions.

62.20 The Chair invited a local resident speaking in objection to the application to address the Committee. The local resident explained that the application had received over 30 objections from the public giving a wide range of valid points to consider. The Statement of Community Involvement run by Gloucester Business Park sampled 75 responses with 50% answering no to “Does the scale of development feel appropriate for Plots 3 and 4?”; however, she and her partner had run a separate poll on Facebook via Cooper’s Edge Noticeboard Community Group, attracting 315 votes, with only 4% agreeing with the warehouse use. Remaining votes were for uses such as affordable housing, small retail or other non-imposing structures which could bring employment to the area and also enhance the business park as well as Cooper’s Edge. Housing on plots 3 and 4 had previously been considered and the poll marked it as a more favoured solution by the community so she encouraged the Council to think of the benefits of more housing in the area during the current housing crisis. Given the location of the plots so close to Cooper’s Edge, local residents had significant objection to the scale, aesthetic and location within the plot and the use of the proposed units. There would be no transition within the current proposal from the residential area to the business park and they felt the design should be closer in style to residential areas with use of traditional brick and render and an appropriate height, not 15m which was visually imposing and would greatly detract from the beauty of Cooper’s Edge. Other commercial units bordering the residential areas, such as Benefact and Javelin House, were much better examples and were significantly smaller in size with more green buffer space. Approving the disproportionately large warehouse units at plots 3 and 4 would increase Heavy Goods Vehicle (HGV) traffic in an area very close to residential properties and a busy primary school. This caused significant pedestrian safety concerns within Cooper’s Edge and leaving Cooper’s Edge for Whittle Square; particular safety concerns should be considered due to the extensive use of bikes in the area by commuters and families. The added traffic would further increase pollution in an area which already became congested at peak times, as well as causing considerable noise with traffic leaving the site at all hours of the night. For those reasons, the application was not suitable and a more favoured use of the plots would be houses or added amenities to enhance existing residential areas. This could help meet the Council’s targets and provide long term employment to Cooper’s Edge residents whilst also benefiting Gloucester Business Park.

62.21 The Chair invited the applicant’s agent to address the Committee. The applicant’s agent advised that Gloucester Business Park was a successful employment destination in a high quality location, acting as a driver for employment opportunities and economic benefit to the area. The reserved matters application for these plots was part of the final pieces of the jigsaw to complete the Business Park and provided a high level of alternative retail and leisure uses which were complementary to the existing and planned employment uses which benefited the wider community. They considered the proposed employment uses were the right

ones and in the right location for Tewkesbury Borough and Gloucestershire. They had listened to residents and stakeholders throughout the development process and had provided a comprehensive range of surveys to support the planning application. Those surveys had confirmed the proposed development was compatible with the location and resulted in no demonstrable impact upon neighbours. The buildings had been designed to complement the existing buildings within the park and provided a transition between the employment and residential area. They were of a scale and height that was suited and attractive to a modern occupier, making an efficient use of land. The relationship between the proposed buildings and the adjacent residential area had been a key consideration throughout the design process. Sustainability at the Business Park was important for the applicant and the proposed buildings had all been designed to achieved BREEAM Excellent demonstrating a commitment to delivering high quality sustainable buildings. They had consulted widely with the community and stakeholders prior to the application being submitted and one of the key asks from the community was improved transport links. They had engaged with Stagecoach and, shortly after, a new and improved bus service to the Business Park had been introduced with the intention it would help reduce individual car journeys. They had been made aware there were local concerns regarding traffic, in particular HGVs leaving the Business Park via Lobleys Drive. Whilst no objection had been raised by County Highways, the applicant had noted the importance of resolving the HGV issue and, as a priority, additional signage had been put up at key locations to direct HGV drivers as soon as they left service yards to exit the Business Park via Hurricane Road or Pioneer Avenue and that would also be applied for the new development plots. To reiterate, the applicant's agent advised that the development of these final employment plots would contribute to the economic growth of the area and was considered to be the right use in the right location. The applicant had listened to the community and stakeholders as they developed the final employment plots and continued to manage the success of the Business Park. As a final point, it was important to note that the proposed development was deliverable and the applicant was already in advanced discussions with potential occupiers and ready to begin delivering further jobs for Tewkesbury Borough and Gloucestershire.

- 62.22 The Chair indicated that the Officer recommendation was to delegate authority to the Associate Director: Planning to approve the application, subject to no adverse observations from County Highways and the Land Drainage Officer and any additional or amended conditions, and he sought a motion from the floor. A Member drew attention to Page No. 82, Paragraph 8.5 of the Committee report which set out that Policy EMP5 of the Tewkesbury Borough Plan stated that development must respect the character, scale and proportion of the proposal and the surrounding development's character and she asked whether the proposal met that requirement in terms of the opposite side of the road which was residential. In response, the Principal Planner confirmed that the buildings were slightly smaller than the existing buildings on the Business Park and there was a landscape buffer which acted as a transition between the existing warehouse employment use and residential dwellings. Another Member expressed the view that it was a shame the site could not be used for housing but he understood the reasons why not. He asked if it was possible to apply a condition to reflect the findings of the external lighting report, as set out at Page No. 85, Paragraph 8.25 of the Committee report, in order to address residential amenity concerns and ensure nighttime pollution was kept to an absolute minimum. In response, the Principle Planner confirmed there was a condition proposed in relation to ecology and biodiversity but there was no reason why an additional condition could not be added in relation to the lighting being switched off at nighttime. In response to a query, Members were informed the distance between the warehouses and residential properties was approximately 40m. A Member asked if the proposal would include secure cycle storage with facilities for cyclists to shower and the County Highways representative advised that County Highways had requested additional conditions, which had not reached the Officer prior to the

meeting, which required secure cycle storage and staff shower facilities. A travel plan had been approved for the overall site as part of the outline application and a further condition was suggested asking for details. Whilst electric vehicle charging points were shown on the plans, County Highways had also requested a further condition requiring up to 10% of the total provision to be electric vehicle charging points.

- 62.23 A Member expressed the view that it was difficult to visualise the buildings in the context of the existing Business Park and therefore the impact it would have on neighbouring residents. Another Member indicated that she was very concerned about the height of the units. The Development Management Team Manager (South) advised that Officers were satisfied that the development would have an acceptable impact in terms of its scale and relationship to nearby dwellings. It was proposed and seconded that the application be deferred for a Planning Committee Site Visit to assess to size and scale of the proposal and the impact on residential amenity. The proposer of the motion acknowledged that a site visit could have been requested prior to the meeting but she continued to have concerns about the size and scale and felt it was important to take a look at the site to put this into perspective. A Member asked if it was possible to negotiate a reduction in the height of the units and the Development Management Team Manager (South) advised that he suspected these modern industrial units needed to be a particular size to accommodate machinery but he could ask the question of the applicant. Another Member indicated that he would support a site visit as, although the size may be in line with the norm for industrial units, it was their proximity to housing which was the concern in this case. Whilst he understood the reasons for requesting a site visit, another Member indicated that he did not believe he had heard anything new today which had not been set out in the Committee report.

- 62.24 Upon being put to the vote, it was

RESOLVED That the application be **DEFERRED** for a Planning Committee Site Visit to assess the size and scale of the proposal and the impact on residential amenity.

PL.63 CURRENT APPEALS AND APPEAL DECISIONS UPDATE

- 63.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Pages No. 101-102. Members were asked to consider the current planning and enforcement appeals received and the Department for Levelling Up, Housing and Communities appeal decisions issued.
- 63.2 A Member expressed the view that it was disappointing for both the Council and local residents to lose the appeal in relation to Land Off Ruby Land, Bishop's Cleeve which suggested that the Inspector favoured residential development over much needed infrastructure.
- 63.3 It was
- RESOLVED** That the current appeals and appeal decisions update be **NOTED**.

The meeting closed at 11:35 am

Appendix 1

ADDITIONAL REPRESENTATIONS SHEET

Date: 20 February 2024

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.

Agenda Item No.	
5a	<p>22/01337/OUT</p> <p>Land Off Lawn Road, Ashleworth</p> <p>Since the Committee report was published, Severn Trent Water has not confirmed acceptance of a surface water connection to the drain on Sawyers Rise.</p> <p>The recommendation at Paragraph 11.1 of the Committee report should be changed to:</p> <p>It is recommended that authority be DELEGATED to the Associate Director: Planning, to PERMIT the application, subject to the completion of a Section 106 legal agreement with obligations as set out above, and subject to Severn Trent Water confirmation that a connection to its surface water drain is acceptable.</p>
5b	<p>22/00898/OUT</p> <p>The Retained Land At Brickhampton Court , Greenfields, Churchdown</p> <p>Additional Representations</p> <p>Since writing the Committee report, it has been brought to the attention of the Case Officer that a letter of support from Gloucester City Homes (uploaded to Council website 1 February 2023) was not included within Section 5.4 of the Committee report.</p> <p>Furthermore, an additional letter of support (attached) has been received from a Parish Councillor on Churchdown Parish Council. The Councillor believes the proposal would contribute to the five year housing land supply shortage, the shortfall in open market affordable homes and the new footbridge would provide immediate and safe access to residents living at the Innsworth end of Churchdown. It should be noted these are the Councillor's own personal views and not those of the Parish Council which objected to the application.</p> <p>The points raised by the additional letter of support are addressed throughout the Committee report therefore no further comments are made in this regard.</p> <p>Additional Comments from the Applicant to a Member of the Planning Committee</p> <p>Since writing the Committee report, the applicant has provided representations to a local Ward Councillor ahead of the Committee Site Visit. This email contains eight key points which the applicant asked the Councillor to take into consideration. Full details are in the attachment and the Council has commented on each point as detailed below:</p>

1. The Council has assessed the existing infrastructure on the site and within the wider site context. Details are set out within the Committee report.
2. A full assessment of the site's context is provided in the Committee report.
3. The Council's assessment of the scheme's connectivity is set out in detail within the Committee report.
4. It should be noted that the Council's Strategic Housing and Enabling Officer objects to the affordable housing contribution as detailed within the Committee report and as shown by refusal reason 4.
5. The Council acknowledges the potential benefits of the scheme and has assessed the benefits against the harms as detailed throughout the Committee report and, in particular, within the conclusions under Section 9.
6. A Section 106 Heads of Terms has been provided by the applicant but this has not been progressed any further due to the Council recommending the application be refused - see Refusal Reason 6.
7. Whilst letters of support have been received, petitions and letters of objection have also been received including from members of Brickhampton Golf Club and seven properties within Greenfields and Fairfields as detailed within Section 5 of the Committee report.
8. As per point 5 above, the Council has assessed the proposal in relation to the Green Belt as detailed within the Committee report. In relation to the quotation from the Green Belt Review, this quote relates to Purpose 2 which seeks to prevent the merging of neighbouring towns. This Council considers the proposal to be in conflict with Purpose 1, Checking the unrestricted sprawl of large built up areas, and Purpose 3, Safeguarding the countryside from encroachment as detailed at Paragraph 8.28 of the Committee report. Despite the comments within the Green Belt Review, the site was not released from the Green Belt and remains part of the Green Belt. This factor should be given considerable weight over comments on the Green Belt Review.

Additional Comments from the Agent related to Affordable Housing

The agent sent a copy of an appeal decision to the Case Officer in relation to Land at Ruby Avenue, Bishops Cleeve (21/01173/FUL and appeal ref 3325421) which has been **attached**. Case Officers have reviewed the comments from the agent and have responded explaining that the sites are not comparable as the appeal decision was for a site within a wider site context of circa 600 homes. Furthermore, refusal reason four for Brickhampton also relates to the mix of dwellings being provided as the tenure type does not meet the identified need for the borough.

Agenda Item No. 5b – 22/00898/OUT - The Retained Land At Brickhampton Court, Greenfields, Churchdown

[REDACTED]
[REDACTED]

13th February 2024

Outline Application: (22/00898/OUT): Tewkesbury Borough Council Planning Committee: Confirmed Date: Tuesday 20 February 2024:

[REDACTED] I am a Parish Councillor on Churchdown Parish Council and live at [REDACTED], Churchdown very close to where the application is located at Brickhampton.

I wish to support this application as I, and many others, believe it is well balanced and has much to offer the future residential, environmental and lifestyle needs of local residents and their families in Churchdown and Innsworth. While also making an immediate contribution to the Council's lack of a Five-Year Housing Land Supply and current shortfall of open market and affordable houses across the Borough.

The affordable housing element is an essential requirement for those not yet on the housing ladder to have the opportunity to stay in their own locality. We know from the council's Housing Officer that there are over 472 local people in Churchdown and Innsworth actively looking for this type of accommodation.

As a local resident myself, I regularly use the foot-paths that criss-cross the golf course connecting to the local foot-paths leading to Down Hatherley, Twigworth, Staverton and Norton. As an active member of the local walking groups, I am aware that the Churchdown Medical Centre, through its Social Prescriber, advise and recommend that patients join local walking groups to enhance both their physical and mental well-being. I'm aware that these groups have expanded since the end of Covid restrictions through these recommendations.

The new footbridge proposed on the southern part of the site connecting it to the Highgrove Estate provides immediate and safe access for those residents living at the Innsworth end of Churchdown. Their families will then be able to take full advantage of the application's "green benefits" created by the New Community Woodland, its Public Open Spaces and Outdoor Play Area. At present people would have to walk along Innsworth Lane and Cheltenham Road East to access these walks which isn't ideal for the elderly and young families.

When you take into account the application's overall mix of housing, public open spaces, and connectivity I hope you will agree that the benefits far outweigh any concerns regarding extra properties in this location.

Thank you.

[REDACTED]

Jonny Martin

From: Jonny Martin
Sent: 16 February 2024 12:13
To: Jonny Martin
Subject: FW: Hybrid Outline Application 22/00898/OUT: Retained Land: Brickhampton Court, Cheltenham Road East, Churchdown, Gloucester (Applicants: J Evans & S. Price): Number 5b:
Attachments: 22.00898.OUT - Plans.pdf

From: Jeremy Evans
Sent: Thursday, February 15, 2024 2:54:58 PM
To: Councillor Gore <councillor.gore@tewkesbury.gov.uk>
Subject: Hybrid Outline Application 22/00898/OUT: Retained Land: Brickhampton Court, Cheltenham Road East, Churchdown, Gloucester (Applicants: J Evans & S. Price): Number 5b:

CAUTION: This message originated outside of Tewkesbury Borough Council's network.
THINK TWICE before clicking links or attachments.

Good afternoon, Councillor Gore

Hybrid Outline Application 22/00898/OUT: Retained Land: Brickhampton Court, Cheltenham Road East, Churchdown, Gloucester (Applicants: J Evans & S. Price): Number 5b:

I trust you and your colleagues on the Planning Committee are keeping well.

Further to the above information about the application that was delivered to you on Sunday 4th February 2024 relating to the Committee's Site Visit to Brickhampton on Friday 16th February and appearance before the Committee on Tuesday 20th February.

Please find attached a file containing three plans to assist with your Site Visit tomorrow.

The first one shows the application's red line boundaries of its 2.4 hectares (five acres). The second plan shows the design and layout of the application's three component parts, featuring the community woodland and public open spaces, the 7 affordable houses and the 8 open market houses. The third plan shows their different colour schemes, green, yellow, blue.

Set out below is a summary of the application's key points that you might like to consider when visiting it tomorrow.

1. Its 35-year planning history (1987/2022) and built infrastructure incorporating the golf centre, club house, car parks, floodlit driving range, greenkeepers maintenance store, established road access (B4063), the 8 residential houses (Fairways/Greenfields) and their private roads.
2. Its enclosed location featuring all the above infrastructure plus the Highgrove Estate to the south and the NATO Forces Base (Innsworth) to the west.
3. Its accessibility and connectivity to local transport and community services featuring the new cycleway, and bus stops on the B4063, existing and proposed new footpaths and bridges connecting to the Highgrove Estate to the south.
4. Its balanced mix of 7 Affordable Houses (35% Market Discount) and 8 Open Market Houses to offset Tewkesbury not having a Five-Year Housing Land Supply and its Settlement Boundaries for Housing development being out of date.

5. Its Environmental, Ecological and Recreational benefits for local residents and schools in Churchdown and Innsworth featuring the new Community Woodland, Public Open Space, New Footpaths & Bridges, Outdoor Play Area, culminating in a Biodiversity Net Gain of 15%.

6. Its submitted Section 106 Agreements for the Community Woodland, Public Open Spaces, New Footpaths & Bridges, Outdoor Play Area, PROW, Education and Library Services.

7. Its level of support from local residents in Churchdown and Innsworth (12 Letters), the Highgrove Estate (60 residents), Gloucester City Homes and local Parish Councillor.

8. Its balanced package of housing, environmental and recreational "benefits" for Churchdown and Innsworth and how they outweigh any potential harms to its "moderate" Green Belt status.

This important point was noted in [Tewkesbury's 2017 Green Belt Report on the Site \(PO2\)](#) which said, "*its removal from the Green Belt was unlikely to constitute a significant loss of the physical or perceptual gap between areas of urban development!*"

Kind regards

Jeremy Evans (Joint Applicant/Owner Retained Land)

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Appeal Decision

Site visit made on 2 November 2023

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/G1630/W/23/3325421

Land off Ruby Avenue, Bishops Cleeve GL52 7ZN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Rooftop Housing Association Ltd against the decision of Tewkesbury Borough Council.
 - The application Ref 21/01173/FUL, dated 25 September 2021, was refused by notice dated 21 March 2023.
 - The development proposed is proposed residential development to erect 22 units with associated car parking; development 100% affordable
-

Decision

1. The appeal is allowed and planning permission is granted for the proposed residential development to erect 22 units with associated car parking; development 100% affordable at Land off Ruby Avenue, Bishops Cleeve GL52 7ZN in accordance with application Ref 21/01173/FUL, dated 25 September 2021 subject to the conditions set out in Schedule 1 of this decision.

Application for Costs

2. An application for costs was made by Rooftop Housing Association Ltd against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal was originally to be determined via a hearing. However, during the course of the appeal and having considered representations from the main parties, I deemed the written representations procedure to be appropriate for this case.
4. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. The main parties have been given the opportunity to provide comments on the updated Framework, which have been taken into account in preparing this decision.

Background and Main Issues

5. The main issues are whether the proposal would:
 - comply with paragraph 97 of the Framework regarding services and facilities;
 - provide affordable housing in a seamless and integrated manner in accordance with Policy SD12 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (the JCS); and

- make adequate provision for education, affordable housing and waste and recycling facilities through a planning obligation.

Reasons

Provision of Facilities and Services

6. The site is a parcel of open land off Ruby Avenue. The surrounding area is primarily residential in nature, with a range of commercial uses and services also present, such as a medical practice, a shop and a gym. The proposal seeks planning permission for the erection of 22 residential units of affordable housing.
7. Paragraph 97 of the Framework states that in order to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, among other things, plan positively for the provision and use of shared spaces, community facilities and other local services to enhance the sustainability of communities; guard against the unnecessary loss of valued facilities and services; ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and ensure an integrated approach to considering the location of housing, economic uses and community facilities and services. The proposal would make provision for 22 affordable housing units, but would not provide additional facilities or services.
8. The appeal site forms part of the wider mixed-use Cleavelands development, for which outline planning permission was granted in July 2012 for up to 550 dwellings with associated facilities, to include a high street, community facility and open space¹. The masterplan for this development designated the appeal site as part of 'High Street' being an area of retail and employment class uses, including 16 live/work units, and comments from interested parties indicate a strong local preference for such a use at the site. However, no reserved matters application was submitted in respect of this outline planning permission within the required timeframe. Accordingly, the site does not benefit from any such designation at the time of this appeal either within local policy or as a result of this permission.
9. Planning permission was later granted in February 2020 for the erection of a pub and restaurant with ancillary accommodation, community amenity areas and associated access, parking and landscaping at the site². Based on the evidence before me and my observations on site, this planning permission remains implementable but the development has not yet come forward. In granting permission for the scheme before me, it is therefore reasonable to conclude that the permitted pub and restaurant use would not be developed.
10. However, it remains that this use has not commenced such that no existing or established service or facility would be lost. The main parties also agree that the original applicant has no intention to implement the permission believing that there is no sufficient demand for the use in this location and following a 6 month marketing exercise in 2019 that resulted in no bids. A later marketing exercise in 2020 similarly resulted in no bids. While concerns have been raised that these marketing exercises were not long enough, given that the proposal does not involve the change of use of an existing public house, there is no policy requirement setting out how long the marketing periods should have been, and I note that the Officer's Report did not find issue with these periods. On this basis, notwithstanding that the

¹ 10/01216/OUT

² 18/01031/FUL

permission for the pub and restaurant use could still be lawfully implemented at present, the existence of this fallback position carries little weight.

11. The site is located within the residential development boundary of Bishops Cleeve, defined as a Rural Service Centre within the JCS and recognised as a settlement that contains a higher range of services and facilities. In addition, I noted on my visit that the immediate area comprises a range of facilities to serve the local community, including a shop, a medical centre, and a gym. There is nothing substantive before me to suggest that the facilities both local and within the wider area would be unable to continue to effectively serve the needs of the community if the proposal were to be granted planning permission.
12. As such, while the proposal would not provide for any services and facilities, it would not result in the loss of existing services and facilities or prevent established services and facilities from further modernising or developing. Future occupiers of the development would have the opportunity to make use of the existing services located in close proximity as part of their daily routines and in meeting their day to day needs, ensuring an integrated approach in the proposed location of this housing proposal and the nearby community facilities and services.
13. For the reasons given, the proposal would comply with paragraph 97 of the Framework insofar as it relates to the provision of services and facilities.

Affordable Housing

14. Policy SD12 of the JCS outlines the approach to the provision of affordable housing in new development. In particular, it states that, where possible, affordable housing should be provided on site and should be seamlessly integrated and distributed throughout the development scheme. The proposal relates to the provision of 22 affordable housing units. The Council raises no objection to the provision of a 100% affordable housing scheme, but has expressed concerns that the proposal would result in a cluster of affordable housing at the site, rather than the affordable housing provision being integrated and sitting among market dwellings. I note that interested parties have expressed similar concerns.
15. I have been provided with the planning layout of the wider Cleavelands development, within which the appeal site is located. This demonstrates that, although clusters of affordable housing are provided as part of that wider scheme, in each phase of development these clusters are spread among and alongside the market dwellings. The Council contends that this complies with the definition of Affordable Dwellings within the section 106 agreement relating to that development, which refers to such dwellings 'to be built across the whole site', and lists clustering requirements for each phase of affordable housing provision, with limits of clusters of 8, 12 and 16 dwellings depending on the housing type and mix to be provided.
16. Nevertheless, this section 106 agreement is not directly applicable to the scheme that I have before me, and the relevant part of Policy SD12 is not an absolute requirement, but is to be followed 'where possible'. Given that the proposal relates wholly to affordable units, such distribution among the completed market housing of the Cleavelands development is not possible in this instance. I note a reserved matters approval for the erection of 30 dwellings, all of which are affordable units at a site directly to the north of the appeal site, resulting in a combined 52 affordable units in close proximity. However, I do not consider that this would prevent the proposal from being integrated within the wider residential setting.

17. The proposal would introduce residential development that would sit among the housing of the wider Cleavelands development scheme, which the main parties agree would be of a sympathetic scale and complementary design. Set back from Sapphire Road and facing the commercial development that serves the immediate community, it would create an avenue style approach to the wider residential area to the north, visible from and alongside multiple elements of the Cleavelands scheme. Even acknowledging that it would be immediately to the south of other affordable units and not dispersed among market dwellings, it remains that the proposal would be experienced as part of the overall residential use and setting of the immediate vicinity.
18. For the reasons given, the proposal would provide affordable housing in a seamless and integrated manner in accordance with Policy SD12 of the JCS.

Planning obligation

19. The Council's reasons for refusal stated that the proposal would fail to secure a planning obligation in relation to education contributions as requested by the County Council pursuant to policies INF6 and INF7 of the JCS. However, having updated its independent planning viability report concerning the impact of the education contributions on the viability of the proposal, the Council has withdrawn this reason for refusal as set out in the submitted Statement of Common Ground.
20. Furthermore, the Council is clear that its reason for refusal relating to the absence of a completed planning obligation to secure a minimum of 40% affordable housing or provide for recycling/waste bin facilities could be overcome by the provision of a suitably worded section 106 agreement in this respect. The main parties have supplied a completed planning agreement during the course of the appeal. Among other things, this secures the delivery of 100% affordable housing units on the site, being 22 units in total, and the payment of a refuse and recycling contribution to Council prior to first occupation of any dwelling.
21. For the reasons given, the proposal would make adequate provision for education, affordable housing and waste and recycling facilities through the completed planning obligation. In this regard, it would comply with Policies INF6, INF7 and SD12 of the JCS insofar as they seek to ensure new development delivers affordable housing, is served and supported by adequate and appropriate infrastructure and services, and that financial contribution towards the provision of infrastructure and services are sought through a planning obligation.

Other Matters

22. I note concerns from interested parties on a number of issues, namely: parking provision, highway safety, flood risk, living conditions, over supply of housing, character and appearance through the loss of open space, emergency vehicle access and sanitation.
23. With regard to highways and parking, the proposal would increase the amount of vehicular traffic in the vicinity. However, it would provide ample parking spaces prior to occupation of the dwellings. It would also utilise an existing junction off Ruby Avenue that based on my observations would provide good visibility. Taken together with the existing speed limits in the area, even acknowledging the additional traffic movements I do not consider that concerns regarding highway safety or parking provision would arise. There is also nothing substantive before me to suggest that emergency vehicles would be unable to access the site.

24. The precise positioning, layout and separation of the proposed dwellings in relation to both the surrounding commercial and residential uses, and the other dwellings proposed as part of the scheme, is such that the living conditions of both future and existing residents would not be compromised. The largely residential nature of the surrounds would also ensure the increase level of activity and movements associated with further dwellings would not create undue noise and disturbance.
25. While the proposal would result in the loss of an open area of space, it has been sensitively designed with a range of landscaping measures and planting that would ensure an effective visual integration within the immediate area. Although it would result in additional housing, combined with the other surrounding residential uses, it would not appear out of place or create undue visual harm and, as discussed below, would assist the Council in meeting its required housing land supply.
26. With regard to concerns regarding flooding and sanitation, the proposal is located in Flood Risk Zone 1 and has been accompanied by a flood risk assessment and drainage strategy that the Council deemed acceptable in its Officer's Report. Based on my observations, I have no reason to disagree. A condition would also ensure that the surface water and foul water drainage scheme is to be completed prior to occupation of the dwellings.

Planning Balance

27. Paragraph 11(d) of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable) of deliverable housing sites (with a buffer, if applicable) and does not benefit from the provisions of paragraph 76 of the Framework.
28. The main parties agree that the Council cannot demonstrate the required supply of housing. There is nothing substantive in the evidence before me to suggest that the provisions of paragraphs 76 or 77 of the Framework alter this position in this instance. The Statement of Common Ground sets out that the main parties agree that there are no adverse impacts of granting permission for the proposal that would significantly and demonstrably outweigh the benefits.
29. On the basis of my observations, I have no reason to disagree. The proposal would provide for 22 affordable housing units, a clear benefit of the scheme that carries significant weight. I have also found that the proposal would not cause harm in respect of any of the main issues. I have also addressed the other matters raised by interested parties above and, while I recognise the fallback position of the extant pub use permission at the site, for the reasons given above I have attributed this limited weight.
30. Accordingly, I find that there are no adverse impacts of granting permission for the proposal that would significantly and demonstrably outweigh the benefits, and that planning permission should therefore be granted subject to the imposition of suitably worded conditions.

Conditions

31. I have had regard to the conditions suggested by the Council, and have provided the appellant with an opportunity to provide comments on these, including those which are pre-commencement conditions.
32. I have attached the standard timeframe condition, as well as a condition specifying the relevant plans in accordance with which the development is to be carried out in the interests of certainty and proper planning. As the plans condition contains reference to Site Layout Plan D20 RevN, a separate condition that the development be carried out in accordance with the site levels noted thereon is not necessary. A condition that the development be in accordance with the agreed waste strategy is also necessary to ensure effective implementation of waste minimisation.
33. A condition that no development shall take place until a Construction Method Statement has been submitted to, and approved in writing is necessary in the interests of highway safety. A further pre-commencement condition is also necessary in the interests of protection for existing trees. A condition that no development above plate level shall take place prior to approval of external materials has been attached in the interests of the surrounding character and appearance.
34. I have attached various conditions that are to be discharged prior to first occupation. These relate to: drainage scheme completion; installation of bird boxes and hedgehog fencing; submission of a noise assessment relating to the pumping station; layout of access, parking and turning; and provision of a dropped kerb. These are necessary in the interests of: flood risk; ecology; living conditions of occupiers; highway safety and parking provision, respectively. I further attach a condition relating to the approval of a residential welcome pack in the interests of promoting sustainable transport.
35. I have attached a condition that planting shall be carried out in the first planting season following the occupation of any building or the completion of the development, whichever is the sooner, in the interests of surrounding character and appearance. A condition restricting the hours of demolition and construction works is necessary in the interests of the living conditions of surrounding residents. I have also attached a condition outlining the approach should contamination be found during the course of construction of the development to ensure there are no unacceptable impacts with regard to land contamination. Finally, a condition that no external lighting is to be installed without approval is required in the interests of character and appearance and the living conditions of surrounding residents.

Conclusion

36. For the reasons given, the appeal should be allowed subject to the conditions at Schedule 1.

C Rafferty

INSPECTOR

SCHEDULE 1 - CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - Site Location Plan D100 Rev A;
 - Site Layout Plan D20 Rev N;
 - Floor Plans and Elevations House Types C Plots 1-2, 21-22 D14 Rev A;
 - Floor Plans and Elevations House Types B/D Plots 3-4 D12 Rev B;
 - Floor Plans and Elevations House Types B/D Plots 5-6 D11 Rev B;
 - Floor Plans and Elevations House Types A1 Plots 7-12 D10 Rev A;
 - Floor Plans and Elevations House Types F/F1 Plots 13-16 D16 Rev B;
 - Floor Plans and Elevations House Types E Plots 17-18 D15 Rev A;
 - Floor Plans and Elevations House Types C Plots 19-20 D13 Rev A;
 - Detail Planting Plan D900 Rev B;
 - Bin Strategy Plan D95;
 - Amenity Areas and POS figures D20;
 - Wastewater Plan 506148-2;
 - Clean water plan 506148-1;
 - Gas Plan 21306639 dated 15 February 2021;
 - Landscape and Habitat Management and Maintenance plan dated August 2021;
 - Storm Water Calculations dated 30 November 2022;
 - Drainage Strategy 21-063/502a DS;
 - Drainage Catchment Plan 21-063/523;
 - Tree Survey and AIA dated February 2021;
 - Lighting Assessment prepared by Dwd dated 15 June 2021;
 - Flood Risk Assessment dated August 2021;
 - Parking Court and Open Space Management Plan;
 - Transport Statement dated 2021; and
 - Energy Statement dated 22nd October 2021
3. The development hereby approved shall be implemented in accordance with the waste strategy, Bin Collection Strategy and the SWMP document as received by the local planning authority on 2 February 2023.
4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Advisory routes for construction traffic;
 - Any temporary access to the site;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Method of preventing mud and dust being carried onto the highway;
 - Arrangements for turning vehicles;
 - Arrangements to receive abnormal loads or unusually large vehicles;

- Highway Condition survey; and
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

5. No development shall take place, including any works of demolition, site clearance, materials delivery or erection of site buildings, until the erection of tree protection measures of any retained tree are undertaken in accordance with the approved details specified in the tree protection plan Drawing No D17270- before any development. The approved tree protection measures shall remain in place until the completion of development or unless otherwise agreed in writing with the local planning authority. Excavations of any kind, alterations in soil levels, storage of any materials, soil, equipment, fuel, machinery or plant, site compounds, latrines, vehicle parking and delivery areas, fires and any other activities liable to be harmful to trees and hedgerows are prohibited within any area fenced, unless agreed in writing with the local planning authority.
6. No development above floor plate level shall take place until samples or a precise specification of all external facing materials, including hard landscaping, have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
7. No dwelling hereby permitted shall be occupied until the surface water and foul water drainage scheme for the site shall have been completed in accordance with the submitted details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
8. No dwelling hereby permitted shall be occupied until bird nesting sites/boxes and hedgehog fencing has been installed in accordance with details, including a plan showing locations, height and orientation of the boxes and fencing, that have been submitted to and approved by the local planning authority in writing.
9. No dwelling hereby permitted shall be occupied until a noise assessment report relating to any potential noise arising from the adjacent pumping station has been submitted to and approved in writing by the local planning authority. The report shall include any required noise attenuation measures and a timetable for their implementation. All measurements shall be made in accordance with the methodology of BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound.
10. No dwelling hereby permitted shall be occupied until the access, parking and turning facilities have been implemented as detailed on approved drawing Site Layout Plan D20 Rev N. These areas as detailed on the approved drawing Site Layout Plan D20 Rev N, shall thereafter be kept available at all times for the access, parking and turning of vehicles.
11. No dwelling hereby permitted shall be occupied until a dropped kerb tactile crossing has been provided at the site access junction and made available for public use.

- 12.No dwelling hereby permitted shall be occupied until a residential welcome pack promoting sustainable forms of access to the development has been submitted to and approved in writing by the local planning authority. The approved pack shall be provided to each resident at the point of the first occupation of their dwelling.
- 13.Demolition or construction works, including the receipt or despatching of deliveries during the construction or demolition phase, shall take place only between 0800 hours and 1800 hours on Monday – Friday inclusive, 0800 hours and 1300 hours on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 14.Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 15.All planting comprised in the approved details of tree/hedgerow planting shall be carried out in the first planting season following the occupation of any building or the completion of the development, whichever is the sooner; and any trees or hedgerows which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. If any trees or hedgerows fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year period.
- 16.No external lighting/floodlighting is to be installed on the site prior to details having been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.