

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

Committee:	Planning
Date:	19.05.2020
Site Location:	Land At The Bungalow, Down Hatherley Lane, Down Hatherley, Gloucester, GL2 9QA
Application No:	20/00233/PIP
Ward:	Severn Vale South
Parish:	Down Hatherley
Proposal:	Erection of 1 No. infill dwelling.
Report by:	Mr Adam White
Appendices:	Site location plan
Recommendation:	Approve

1.0 SITE DISCRIPTION AND PROPOSAL

- 1.1. The application relates to land associated with a property known as 'The Bungalow', which is a residential property situated on the east side of Ash Lane. The Bungalow is primarily accessed via a private driveway off Down Hatherley Lane although there is a secondary gated access off Ash Lane, which forms part of the application site. That access also serves an electrical substation.
- 1.2. The site is generally level and laid to grass and does not contain any buildings or structures. The eastern boundary is formed by post and rail fencing with southern boundary formed by post and wire fencing. The northern boundary is currently open. The site is not located within any recognised settlement boundary and is not subject to any site allocation. The site is not subject to any formal landscape designation but is located in an area of safeguarded land, which is reserved for longer-term development needs.
- 1.3. The application is for permission in principle (PIP), which is defined in the NPPF as a form of planning consent, which establishes that a site is suitable for a specified amount of housing-led development in principle. Following a grant of permission in principle, the site must receive a grant of technical details before development can proceed.
- 1.4. This current application is the first stage of the process and solely seeks to establish whether the site is suitable in principle for the erection of a single dwelling. The Government's guidance sets out that the scope of the first stage of permission in principle is limited to location, land use and amount of development. The site layout, design, access, landscaping, drainage and any other relevant technical matters would be considered at the 'technical details' stage.

2.0 RELEVANT PLANNING HISTORY

There is no planning history that is considered to directly relevant to this proposal.

3.0 RELEVANT POLICY

- 3.1. The following planning guidance and policies are relevant to the consideration of this application:

National guidance

- 3.2. National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) - Adopted 11 December 2017

- 3.3. Policies:

- SD4 (Design Requirements)
- SD5 (Green Belt)
- SD6 (Landscape)
- SD9 (Biodiversity and Geodiversity)
- SD10 (Residential Development)
- SD14 (Health and Environmental Quality)
- INF1 (Transport Network)

Tewkesbury Borough Plan 2011-2031 Pre-Submission Version (July 2019)

- 3.4. Policies:

- RES3 (New housing outside settlement boundaries)
- RES4 (New housing at other rural settlements)

Down Hatherley, Norton and Twigworth Neighbourhood Development Plan

- 3.5. Policies:

- E2 (Landscape protection in open countryside)
- E3 (Landscape and new developments)

- 3.6. Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)

- 3.7. The First Protocol, Article 1 (Protection of Property)

4.0 CONSULTATIONS

- 4.1. Parish Council – Objects for the following reasons:

- Safeguarded land development cannot be approved without the specific support of a JCS review.
- The proposal does not represent infilling as the plot lies behind the linear street in a residential garden forming part of the open space which helps to promote the semi-rural nature of the local environment. The proposal is therefore inappropriate development in Green Belt terms.
- The proposal conflicts with the Down Hatherley, Norton and Twigworth NDP in that it fails to protect the Green Belt and maintain the rural character of the settlements.
- This proposal is not supported by any housing needs analysis for Down Hatherley.

- 4.2. Highways Officer – No objections.

5.0 PUBLICITY AND REPRESENTATIONS

- 5.1. The application has been publicised through the posting of a site notice for a period of 14 days.

5.2. 8 letters of objection have been received. The comments are summarised as follows:

- The proposal does not represent infilling.
- The proposed access is alongside the sewage pumping station for Ash Lane, which could be damaged by vehicles.
- The proliferation of development expecting to use Ash Lane is not be coordinated or questioned by the Council.
- The landowner's home access is from Down Hatherley Lane and not Ash Lane.
- Ash Lane is a private road and approval to access the proposed development from the road has not been sought or given. It should also not be implied.
- The increase of traffic on Ash Lane would increase wear and tear on the road that is not constructed to public highway standards. It has not been built to take such a volume and lacks facilities such a street lighting and footpaths, so to allow unrestricted access directly impacts on the safety of residents.
- There is no clarity as to how the property would contribute to the upkeep of Ash Lane which is privately maintained by its residents.
- The application is invalid as Certificate B notification has not been served on the owners of Ash Lane.
- The site should be accessed from Down Hatherley Lane.
- The water/sewerage system in Ash Lane is regularly under pressure and can't cope.
- The proposal would not be in character with the configuration of other properties in Ash Lane where all have frontages onto the lane.

5.3. 1 neutral letter has also been received, which states that the purported damage to Ash Lane from other recent building development has been exaggerated and is only a result of a property refusing to pay any repair contribution. Because of this, no repairs were ever made beyond Sandpipers. It goes on to set out that there is no formal weight restriction in place along Ash Lane and there is no coordinated maintenance in place.

6.0 POLICY CONTEXT

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.2. The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), the saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans.
- 6.3. A further material consideration is the Pre-Submission version of the Tewkesbury Borough Plan to 2031, which was approved for publication and submission at the Council meeting held on 30th July 2019. On the basis of the stage of preparation the plan has reached, and the consistency of its policies with the NPPF, the emerging policies of the plan can be afforded at limited to moderate weight, subject to the extent to which there are unresolved objections to each individual policy (the less significant the unresolved objections, the greater the weight that may be given).
- 6.4. Other material policy considerations include the National Planning Policy Framework (NPPF) and its associated Planning Practice Guidance.

7.0 ANALYSIS

Location

- 7.1. Down Hatherley is not designated as a rural service centre or service village in the JCS. However, the settlement does contain a reasonable level of services and facilities given its size and function. Furthermore, given its proximity to the Innsworth and Twigworth strategic allocations, the level of available services and facilities will increase as those sites are developed.
- 7.2. In terms of the principle of this development, the site does not represent previously developed land and is not allocated for development in the development plan. Criterion 4 (ii) of policy SD10 sets out that on sites that are neither allocated or previously-developed land, housing development will be permitted, except where otherwise restricted by policies within district plans, where it would represent infill within the existing built up areas of Tewkesbury Borough's towns and villages. The JCS defines infill development as the development of an under-developed plot well related to existing built development.
- 7.3. In this instance, the site is set back from the established build line of the properties that front onto Ash Lane and is essentially back-land development. However, given the nature of the site, any dwelling on the site would relate reasonably well to the existing properties along Ash Lane, including The Bungalow, which itself sits behind the established frontage properties. Whilst the proposed dwelling would be seen against a rural backdrop when viewed from Ash Lane, it would still be seen in the context of existing built form and would not appear divorced from the settlement. The proposal is therefore considered to represent infilling in the context of Policy SD10.
- 7.4. It is also noted that there is currently an extant permission for 2 dwellings to the south west of the site fronting onto Ash Lane (15/00720/FUL). That permission expires on the 27th October 2020. If those dwellings were constructed, the relationship between the application site and the existing dwelling in Ash Lane would be further improved. There is no guarantee that the permission would be implemented but in any event, the proposal is still considered to comply with Policy SD10 based on the current site context.
- 7.5. Whilst not part of the development plan, policies RES3 and RES4 of the emerging Tewkesbury Borough Plan to 2031 are also material considerations. Policy RES3 supports very small scale development at rural settlements in accordance with Policy RES4. Policy RES4 follows and supports very small-scale residential development within and adjacent to the built up areas of other rural settlements providing:
 - a) it is proportionate to the size and function of the settlement and maintains or enhances sustainable patterns of development;
 - b) it does not have an adverse cumulative impact on the settlement having regard to other developments permitted during the plan period; as a general rule no more than 5% growth or 10 dwellings, whichever is lesser, will be allowed;
 - c) it complements the form of the settlement and is well related to existing buildings within the settlement;
 - d) the site of the proposed development is not of significant amenity value or makes a significant contribution to the character and setting of the settlement in its undeveloped state;
 - e) the proposal would not result in the coalescence of settlements;
 - f) the site is not located in the Green Belt, unless the proposal would involve limited infilling in a village, limited affordable housing for local community needs (in accordance with Policy RES6) or any other exceptions explicitly stated within the National Planning Policy Framework.
- 7.6. For the reasons set out above, it is considered that the proposal would complement the form of the settlement and is reasonably well related to existing buildings. Furthermore, it is

considered that the proposal would be proportionate to the size and function of the settlement and would not result in an adverse cumulative impact. The proposal would also not result in the coalescence of settlement. However, it is considered that the weight that can be afforded to this policy is currently limited due to the level of unresolved objections.

- 7.7. The site is also located in an area of safeguarded land that has been removed from the Green Belt. Policy SD5 of the JCS states that safeguarded areas are not allocated for development at the present time. It follows that planning permission for the permanent development of safeguarded land (except for uses that would not be deemed inappropriate within the Green Belt) will only be granted if a future review of the JCS deems the release of this land necessary and appropriate and proposes the development. In this context, the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. One exception to this is where the development represents limited infilling in villages.
- 7.8. Whilst the Parish Council are of the view that Ash Lane is more of a single street hamlet rather than a village, previous decisions in the immediate vicinity of the site have established that the settlement is considered to constitute a village in this context. In terms of 'limited infilling', the Framework does not define what this constitutes and therefore a judgement has to be formed based on the individual circumstances of the case. Whilst it is considered that the proposal represent infilling in the context of Policy SD10, it does not necessarily follow that it represent infilling in a Green Belt context. In this instance, whilst the proposal would be reasonably well related to existing built development it would still sit behind the established build line of the properties fronting onto Ash Lane. The application site is predominantly open to the north, south and east and there is no real sense of enclosure from existing built development. Moreover, the proposal would not fill in any form of existing gap. It is therefore considered that the proposal would also not represent limited infilling in a Green Belt context and therefore conflicts with Policy SD5 insofar as it relates to safeguarded areas.
- 7.9. Whilst the proposal is contrary to Policy SD5 of the JCS, it is currently the case that the Council cannot demonstrate a 5-year supply of deliverable housing. In this situation, Policies SD5 and SD10 are both considered to be out-of-date, despite Officer's view that the proposal is SD10 compliant. Paragraph 11 of the Framework is therefore engaged and permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is known as the 'tilted balance'.
- 7.10. Footnote 6 to paragraph 11 sets out the policies in the Framework that provide a clear reason for refusing the development proposed and includes land designated as Green Belt. However, as safeguarded land has been removed from the Green Belt, the tilted balance is still engaged.
- 7.11. In response to the Parish Council's concerns that the proposal is contrary to the Down Hatherley, Norton and Twigworth NDP, there are no direct policies that relate to the provision of new housing in the Down Hatherley Parish. The NDP explains that no new housing growth is planned in Down Hatherley Parish and therefore no settlement boundaries are defined. It goes on to states that given the poor sustainability and the Green Belt designation over the majority of the Parish, it is not necessary for the NDP to replicate the national and Development Plan policies that preclude new housing development in the area. Similarly, in respect of landscape protection, whilst Policy E2 lists a number of vistas and landscape features to be protected, the policy reverts to the strategic policies of the JCS in respect of the protection of the landscape, ecology and water environment. Consequently, whilst there is considered to be conflict with Policy SD5 of the JCS in respect of safeguarded land and a slight degree of landscape harm as noted further in this report, there is not considered to be any direct policy conflict with the NDP.

Land-use

- 7.12. The site forms part of the land associated with The Bungalow. The application site is described as garden land and is continuous with the substantial land that surrounds the property. Whilst the site may not represent the residential curtilage of The Bungalow, it has a well-kept appearance and has likely been used in association with the residential enjoyment of the property. It is therefore considered that a dwelling in this location would not be out of character. Furthermore, whilst the land to the east of the site has an open and semi-rural character, it is not subject to any formal landscape designation. There would be some harm to the landscape but given the context of the surrounding area, it is considered that the harm would be limited subject to achieving a suitable design and layout, which would be established at the technical details stage. Furthermore, the proposal would not impact on any of the vistas and landscape features noted in Policy E2 of the NDP.
- 7.13. In terms of access, the application suggests that this would be taken directly off Ash Lane, which is a private road off Down Hatherley Lane. Following consultation with the Highways Authority, it is acknowledged that Ash Lane is a typical country lane with limited width and not suitable for large volumes of traffic. However, based on a single dwelling of a moderate size for a family, the number of associated trips would be minor and would not have an adverse impact on Ash Lane. In light of this, it is considered feasible that an acceptable access could be provided to the site from Ash Lane. The exact details would be assessed at the technical details stage.
- 7.14. A number of residents have raised concerns regarding the private nature of Ash Lane and rights of access. However, this is considered to be a civil matter and outside the scope of this application. Concerns have also been raised that the application site does not extend to Down Hatherley Lane and the appropriate notices have not been served on all interested parties. In response to this, a revised site location plan has been submitted, which extends the red line of the application site to include Ash Lane up to where it meets with Down Hatherley Lane. Given the nature of the application, there is no requirement to serve notice on any interested parties at this stage. However, should permission be granted, there would be a requirement to serve the appropriate notices at the technical detail stage.
- 7.15. With regard to other matters, there is no designated heritage assets in the vicinity and no overriding ecological constraints. The site is located in Flood Zone 1 and is therefore at a low risk of flooding. Drainage details can also be secured at the technical details stage. Concerns have been raised in respect of the potential impact on the water/sewerage system in Ash Lane. However, this is a matter that would be assessed at the technical design stage.

Amount

- 7.16. Subject to achieving a suitable design, it is considered that a single dwelling could be physically accommodated on the site in an acceptable manner, along with any associated outdoor amenity space and on-site parking provision. It is also considered that the scale of development is proportionate to the size and function of Down Hatherley.

8.0 CONCLUSION AND RECOMMENDATION

- 8.1. Whilst it is considered that the proposal represent infilling in the context of Policy SD10, it does not represent infilling in a Green Belt context. The proposal would therefore represent inappropriate development if the site was still within a Green Belt, contrary to Policy SD5 of the JCS. However, despite the proposal being considered to be Policy SD10 compliant, the Council cannot currently demonstrate a 5-year supply of deliverable housing sites and therefore technically the 'tilted balance' is engaged in accordance with paragraph 11(d) of the Framework.

- 8.2. In terms of the conflict with Policy SD5, the proposal would be inappropriate development in a Green Belt context but the site is no longer within a Green Belt. As such, it is considered that the impact of the proposal on the safeguarded land should not necessarily be assessed in the context of the purposes of the Green Belt but whether it would prejudice the proper development of the safeguarded land when it is eventually released.
- 8.3. Policy SD5 sets out that should any land be released in the safeguarded areas, development proposals would be assessed against the following criteria:
- Development must be well-integrated and planned as part of any urban extension of strategic scale, directly and substantially physically linked to the urban area of Cheltenham or Gloucester;
 - Development must be well-related to public transport and other existing and planned infrastructure and where it makes a positive contribution to the setting of Cheltenham or Gloucester;
 - Development must not lead to a piecemeal, isolated or inefficient use of land in this area.
- 8.4. In this case, given the scale of the development proposed, the proximity of the site to the existing properties in Ash Lane, and the intervening land to the east, which is in multiple ownership, it is difficult to see how the proposal would prejudice the purpose of the safeguarded land. Moreover, for the same reasons, it is considered that it would be difficult to sustain an objection on the grounds of prematurity given the Council's current land supply shortfall.
- 8.5. In light of the above, it is considered that there would not be any adverse impacts that would significant or demonstrably outweigh the benefits of the scheme, subject to securing appropriate details at the technical detail stage. The proposal is therefore recommended for **Permit**.

CONDITIONS:

Nil

INFORMATIVES:

1. A technical details application for the approval of matters must be made prior to commencement of development and no later than the expiration of three years from the date on this decision notice, after this period this planning permission in principle shall lapse.
2. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.