

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

Committee:	Planning
Date:	16 June 2020
Site Location:	1 Starling Walk Walton Cardiff Tewkesbury Gloucestershire GL20 7TB
Application No:	20/00318/FUL
Ward:	Wheatpieces
Parish:	Tewkesbury
Proposal:	Change of use from landscaped area/public open space to residential garden area including erection of a new boundary fence.
Report by:	Emily Pugh
Appendices:	Site layout plan
Recommendation:	Permit

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1. This application relates to 1 Starling Walk, a detached brick built property located on an estate comprised of dwellings similar in form and appearances- many of which have been extended or altered. The dwelling has a small garden to the rear (east) and is bordered by a public right of way to the south which is lined on either side by grass verges. The site is not affected by any restrictive constraints or designations.
- 1.2. The current application seeks to change to use of a small strip of land south of the curtilage which currently belongs to Tewkesbury Borough Council.

2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
14/00433/FUL	Proposed two storey rear extension.	PER	14.07.2014

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. Policy SD4 (Design Requirements)
- 3.4. Policy SD14 (Health and Environmental Quality)

Tewkesbury Borough Local Plan to 2011 - March 2006 (TBLP)

- 3.5. Policy HOU8 (Domestic Extensions)

Tewkesbury Borough Plan 2011-2031 Submission Version (May 2020)

- 3.6. Policy RES10 (Alteration and Extension of Existing Dwellings)
- 3.7. Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)
- 3.8. The First Protocol, Article 1 (Protection of Property)

4.0 CONSULTATIONS

- 4.1 Wheatpieces Parish Council –Objection. Concerns include:
- Work has already started by the applicant putting down weed killer
 - There are trees and a hedgerow on site important to the local character of the area
 - A tree survey should be undertaken
 - There are important habitat and biodiversity features on site
 - The area should remain as public open space

5.0 PUBLICITY AND REPRESENTATIONS

- 5.1. The application has been publicised through the posting of a site notice for a period of 21 days and no letters of representation have been received.

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), saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans.

- 6.3. The Pre-Submission Tewkesbury Borough plan was submitted to the Secretary of State for Housing, Communities and Local Government on 18 May 2020 for examination. On the basis of the stage of preparation it has reached it is considered that the plan can be afforded at least moderate weight. However, the weight to be attributed to individual policies will be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and their degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.4. The relevant policies are set out in the appropriate sections of this report.

7.0 ANALYSIS

Design and Visual Amenity

- 7.1. JCS Policy SD4 of the Joint Core Strategy sets out requirements for high quality design while Local Plan Policy HOU8 provides that development must respect the character, scale and proportion of the existing dwelling and the surrounding development.
- 7.2. The current application seeks to remove the existing southern boundary fence and reinstate it a further 2m south. This would encapsulate a strip of land some 21m² in area which is currently within the ownership of Tewkesbury Borough Council.
- 7.3. The proposed layout of the new residential curtilage would be linear and well related to the host dwelling and surrounding area. The proposed boundary fencing would comprise of a close boarded style with concrete posts and timber panels to a height of 1.8m, replicating what is already in situ.
- 7.4. A hedgerow and a number of small trees which are located outside of the red line boundary would remain intact and be unaffected as a result of the proposal. As such, the fence would benefit from some screening against the adjacent public right of way.
- 7.5. The design and layout of the proposal is considered to be minimal and in keeping with the characteristics of the area. It would not undermine the public open space to an unacceptable degree because a strip would still remain between the curtilage and footpath.
- 7.6. In view of the above, the proposal is considered to comply with the requirements set out in the relevant design Policies.

Effect on the Living Conditions of Neighbouring Dwellings

- 7.7. Policy SD14 of the JCS requires that new development must cause no harm to local amenity including the amenity of neighbouring occupants. Local Plan Policy HOU8 provides that extensions to existing dwellings should not have an unacceptable impact on adjacent property and residential amenity. In this regard, Policy 5.1 states that the amenities of neighbouring residential occupiers should not be unduly affected by overlooking, loss of light, over-dominance or disturbance.
- 7.8. Other material policy considerations include national planning guidance contained within the National Planning Policy Framework 2018 and the emerging Tewkesbury Borough Local Plan (Preferred Options Consultation) 2011-2031.
- 7.9. The fence would prolong the eastern boundary of the site which faces onto the driveway of Number 4 Starling Walk. However, this would not result in any discernible impacts to that, or any other nearby property.

Other matters

- 7.10. Whilst the comments of objection relating to trees and biodiversity are duly noted, they do not give sufficient cause to warrant a refusal. The trees and hedgerow are located to the south of the application site outside of the red line boundary as well as outside of the applicant's ownership. The Council sees no reason why the hedgerow and trees should not remain intact and in this regard, no statement has been made setting out that they would be removed. The landscape character and appearance of the estate would therefore be retained in accordance with the original permission.
- 7.11. It should be noted that if any further development into public open space on the estate would need to be carefully considered on its own merits in order to prevent overdevelopment or unacceptable levels of encroachment.
- 7.12. The land is not currently in the ownership of the applicant and as such, notice has been served on the owners (Tewkesbury Borough Council) under Certificate B. The Property Services Team raise no objection to the scheme and advise that it would be amenable to selling the land if planning permission were granted.

8.0 CONCLUSION AND RECOMMENDATION

- 8.1. It is considered that the proposal would be of an acceptable layout and design and would not be harmful to the appearance of the existing site nor the surrounding area. Neither would it result in an unacceptable loss of residential amenity to neighbouring dwellings. It would therefore accord with relevant policies as outlined above. It is therefore recommended the application be permitted.

CONDITIONS:

1. The works hereby permitted shall be begun before the expiration of five years from the date of this consent.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved documents:
- Proposed block plan: WOA14.01 11, received 6th April 2020
; except where these may be modified by any other conditions attached to this permission.

Reason: To ensure that the development is carried out in accordance with the approved plans.

INFORMATIVES:

1. 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.
2. This permission does not imply any rights of entry to any adjoining property nor does it imply that the development may extend into or project over or under any adjoining boundary.

3. Your attention is drawn to the Party Wall Act 1996. The Act will apply where work is to be carried out on the following:
- Work on an existing wall or structure shared with another property.
 - Building a free standing wall or a wall of a building up to or astride the boundary with a neighbouring property.
 - Excavating near a neighbouring building.

The legal requirements of this Act lie with the building/ site owner, they must find out whether the works subject of this planning permission falls within the terms of the Party Wall Act 1996. There are no requirements or duty on the part of the local authority in such matters. Further information can be obtained from the DCLG publication Preventing and resolving disputes in relation to party walls - explanatory booklet.