

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

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| Committee: | Planning |
| Date: | 16 June 2020 |
| Site Location: | Land Off Ashmead Drive Cobblers Close Gotherington Cheltenham Gloucestershire |
| Application No: | 19/01071/OUT |
| Ward: | Cleeve Hill |
| Parish: | Gotherington |
| Proposal: | Outline planning application with means of access from Ashmead Drive to be determined (all other matters reserved for subsequent approval), for the erection of up to 50 dwellings (Class C3); earthworks; drainage works; structural landscaping; formal and informal open space; car parking; site remediation; and all other ancillary and enabling works. |
| Report by: | Mr Adam White |
| Appendices: | Site location plan Illustrative site layout Land use plan Site access plan |
| Recommendation: | Delegated consent |

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1. The application relates to an agricultural field measuring around 6.3 hectares, which is located adjacent to the southern edge of Gotherington. It has a gentle slope and is contained by mature hedgerow and tree planting along its boundaries (**see attached site location plan**). The site is located within a Special Landscape Area (SLA), with the land to the north and east of Gotherington forming part of the Cotswold Areas of Outstanding Natural Beauty (AONB). The site sits outside of, but adjacent to the settlement boundary as defined in the Gotherington Neighbourhood Plan.
- 1.2. Gotherington itself is a broadly linear settlement running along an east to west axis along the road, with a limb extending southwards towards Bishops Cleeve. The settlement is generally horseshoe shaped and encloses the site on three sides, with agricultural land to the south. There are a number of public rights of way running across the site, which lead to the west and south.

- 1.3. The application proposes the erection of up to 50 dwellings, including associated drainage works; structural landscaping; formal and informal open space; car parking; site remediation; and other ancillary enabling works. The application is in outline with all matters reserved for future consideration with the exception of the means of access from Ashmead Drive. Whilst the application is in outline form, it is supported with an illustrative site layout plan (**see attached**) along with a Design and Access Statement, which explains how the site could be developed.

2.0 RELEVANT PLANNING HISTORY

- 2.1. In 1973, two outline applications for residential development on the land were refused (Ref: 73/00179/OUT & 73/00180/OUT).
- 2.2. More recently in 2017, an outline application for up to 50 dwellings was refused by the Council (Ref: 16/00901/OUT). That application was subsequently the subject of a planning appeal, which was dismissed on the 27th April 2018. Whilst that appeal was dismissed, the Inspector's findings on a number of matters are of material significance to this current application. This is discussed further in this report.

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: SP1, SP2, SD3, SD4, SD6, SD8, SD9, SD10, SD11, SD12, SD14, INF1, INF2, INF3, INF4, INF6, INF7,

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

- 3.4. Policy LND2 (Special Landscape Areas)

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

- 3.5. Policies: RES1, RES2, RES3, RES4, RES5, RES12, RES13, DES1, HER2, HER4, LAN1, LAN3, NAT1, NAT3, ENV2, RCN1, RCN2, TRAC1, TRAC2, TRAC3, TRAC9

Gotherington Neighbourhood Development Plan 2011- 2031 (GNDP)

- 3.6. Policies: GNDP01, GNDP02, GNDP03, GNDP04, GNDP05, GNDP07, GNDP08, GNDP09, GNDP10, GNDP11, GNDP12

- 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. Gotherington Parish Council – The objections to the proposal are summarised as follows:
- The application is substantially the same as what was previously refused by the Council and subsequently dismissed at appeal. The site remains unchanged since the initial application and remains unsuitable for development.
 - The site is outside of the settlement boundary and is not included in the Neighbourhood Plan or the Tewkesbury Borough Local Plan.
 - The development would breach NDP Objective 6, which seeks to protect the identity of Gotherington and prevent its coalescence with Bishops Cleeve and Woolstone.
 - Gotherington's housing allocation for 2011-2031 has already been allocated and development is underway on sites included in the NDP.
 - Based upon Gloucestershire Highways figures there would be a rise in traffic along Ashmead Drive and at the junction of Ashmead Drive and Malleson road in excess of 300%.
 - The local school is heavily oversubscribed as is Bishops Cleeve, meaning more car journeys to schools further afield leading to additional traffic and pollution.
 - The disproportionate and destabilising effect on the local community of so many houses being built when developments in Shutter Lane and Malleson Road are ongoing.
 - The social well-being of existing residents will not be protected if views from the houses, gardens and local footpaths are destroyed by the development of a housing estate.
 - The parish council find that this application fails to meet development guidance, fails to meet environmental guidance and fails to meet the social well-being of local residents.
- 4.2. County Archaeologist – No objection subject to a planning condition to secure a programme of archaeological works.
- 4.3. Gloucestershire County Council (Education and Libraries) – Object until a new primary school becomes available in the Bishops Cleeve Primary Planning Area. However, when a site becomes available, contributions have been sought in respect of pre-school, primary and secondary education. A contribution towards libraries has also been requested.
- 4.4. Highways Authority – No objection subject to recommended planning conditions.
- 4.5. Minerals and Waste Planning Authority – No objections subject to conditions to secure a detailed Site Waste Management Plan and to facilitate the recycling of waste generated during the occupation phase.
- 4.6. Severn Trent – No objections subject to a planning condition to secure foul and surface water drainage details.
- 4.7. Environmental Health (WRS: Noise) – No objections but comments are made in respect of the proximity of the MUGA to residential properties.
- 4.8. Environmental Health (WRS: Air Quality) – A condition is recommended to secure an Air Quality Assessment.
- 4.9. Strategic Housing and Enabling Officer – No objections subject to the scheme being in accordance with the recommended housing mix.
- 4.10. Lead Local Flood Authority (LLFA) – No objections to the revised drainage information.

5.0 PUBLICITY AND REPRESENTATIONS

5.1. The application has been publicised through the posting of site notices for a period of at least 21 days and through a press advertisement.

5.2. 159 letters of objection have been received. The objections are summarised as follows:

- The proposal is not in accordance with the Neighbourhood Development Plan.
- This development has already been refused and dismissed at appeal.
- 50 houses would far exceed the number required for Gotherington in the Neighbourhood Development Plan.
- The development would lead to traffic congestion on Ashmead Drive, which is a small residential street.
- The junction with Malleson Road would be dangerous and overcrowded.
- The site is an important green space in the village and a regular walk way for children going to and from the primary school.
- The quick growth of the village is affecting the community and it no longer feels like a village.
- It will narrow the gap between the village and Bishops Cleeve.
- Cleeve has had substantial growth and infrastructure can't cope.
- Gotherington Lane gets very congested on rush hour and school runs and the Evesham Road junction is dangerous now.
- The junction of Malleson Road and the Evesham Road is a death trap.
- There is an increased risk of flooding.
- The current developments aren't selling so do we need more houses?
- Local schools can't cope.
- The NDP has identified sites that will keep the village as a linear village.
- The bus service is very poor.
- There are 4 parking bays at the end of the road that will vanish.
- There are mature trees at the end of the Ashmead Drive, which will have to be destroyed.
- The local school is already full.
- Allowing the development would mean a further loss of green space.
- The visual impact to those close to the meadow would be affected along with the character of the village.
- It will overstretch demand for the bus service used by secondary school pupils.
- There is no justification for a further area of open country to be dedicated to sporting use or used as a children's playground.
- The site is within a Special Landscape Area.
- If we do not prevent this development the land in between will become infill and we will slowly lose our village and become just a suburb of Bishops Cleeve.
- The recent developments in Gotherington have already increased the population of the village by 20%
- The Neighbourhood Development Plan should give us protection against over-development for years to come. If this development is permitted, it would send a very negative message to any other villages which intend to produce their own NDP.
- The large developments in Bishops Cleeve has put the local doctor's surgeries under pressure and waiting times have already increased. The supermarkets in Bishops Cleeve also do not have adequate parking.
- The layout is similar to the larger developments in Bishops Cleeve, which is not appropriate for a rural setting such as Gotherington.
- The development would obstruct views across the field and to the hills for existing properties and the many residents who use the footpath through the meadow.
- The development would adversely impact on the existing properties to the east.

- The development would be out of scale with the village.
- The development would affect the setting of a The Holt, which is a listed building to the south east of the site.
- There appears to be little attempt to achieve net environmental or biodiversity gain as part of the proposals.
- The site is highly visible from the AONB and the quality of views from Cleeve Hill and Nottingham Hill would be impaired.
- The recent Gladman appeal for 215 that was allowed in Bishops Cleeve is not included in the Council's 5-year supply calculation. If the supply were assessed today the shortfall would be covered by the 215 houses from the Gladman appeal.
- There is no new local plan or spatial development strategy either adopted or emerging that would supersede the policies within the NDP.
- The number of houses suggested would add 10% to the size of the village, which has limited facilities serving the present number of houses.
- The increase in traffic will cause a significant increase in pollution levels.
- The access from Ashmead Drive would create a tight bend into the new development.
- The bus service is no longer viable and has been reduced again to only a two hourly service during the day.
- The crime rate in the area is soaring.
- There is already an argument about when and where a new school will be sited in Bishops Cleeve and no new residential developments should be considered until this issue is finalised.
- It is estimated that this development would add about 10-15% to the size of the village and there is no doubt it would alter the village character and identity for ever.
- These developments result in the destruction of communities.

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. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on the Council to have special regard to the desirability of preserving listed buildings, their setting or any features of special architectural or historic interest which they possess.
- 6.3. 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. Of direct relevant to this application is the Gotherington Neighbourhood Development Plan.
- 6.4. 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).
- 6.5. Other material policy considerations include the National Planning Policy Framework (NPPF) and its associated Planning Practice Guidance.

6.6. The relevant policies are set out in the appropriate sections of this report.

7.0 ANALYSIS

Principle of development

7.1. Policy SD10 of the JCS states that within the JCS area new housing will be planned in order to deliver the scale and distribution of housing development set out in Policies SP1 and SP2. Housing development will be permitted at sites allocated for housing through the development plan, including Strategic Allocations and allocations in district and neighbourhood plans. On sites that are not allocated, housing development and conversions to dwellings will be permitted on previously-developed land in the existing built-up areas of Gloucester City, the Principal Urban Area of Cheltenham and Tewkesbury town, rural service centres and service villages except where otherwise restricted by policies within District plans. Policy SD10 follows that housing development on other sites will only be permitted where:

- i. It is for affordable housing on a rural exception site in accordance with Policy SD12, or;
- ii. It is infilling within the existing built up areas of the City of Gloucester, the Principal Urban Area of Cheltenham or Tewkesbury Borough's towns and villages except where otherwise restricted by policies within District plans, or;
- iii. It is brought forward through Community Right to Build Orders, or;
- iv. There are other specific exceptions / circumstances defined in district or neighbourhood plans.

7.2. At a local level, Policy GNDP01 of the GNDP supports small infill housing development within existing built-up frontages when it is consistent with the scale and proposition of existing houses and gardens in the adjacent area. Outside of the defined settlement boundary, Policies GNDP03 and GNDP11 of the GNDP only permits, inter alia, replacement dwelling; rural exception housing to meet an identified local need; agricultural and forestry dwellings; and additional housing where evidenced need has been established through the development plan and cannot be met within the defined settlement boundary for Gotherington.

7.3. The application site is Greenfield land that lies outside of the defined settlement boundary for Gotherington as defined in the GNDP and is not allocated for housing development. The site does not represent previously developed land within the built up areas of a service village; is not a rural exception scheme; and does not represent 'infilling'. It has not been brought forward for development through a Community Right to Build Order and there are no policies in the existing Tewkesbury Borough Local Plan to 2011 which allow for the type of development proposed here. Moreover, additional housing need for Gotherington has not been established through the development plan. The proposal therefore conflicts with Policies SP2 and SD10 of the JCS and Policies GNDP01, GNDP03 and GNDP11 of the GNDP.

Council's 5 Year Housing Land Supply

7.4. Whilst the proposal is contrary to Policies SP2 and SD10 of the JCS and Policies GNDP01, GNDP03 and GNDP11 of the GNDP, it is also currently the case that the Council cannot demonstrate a 5-year supply of deliverable housing sites. It is the Council's current position that a 4.33 years supply of housing can be demonstrated. In this scenario, paragraph 11 of the NPPF states that where policies which are most important for determining the application are out of date, permission should be granted unless: i. the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development; or ii. 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.

- 7.5. The Framework clarifies that planning policies for housing will be judged out of date where, inter alia, the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Footnote 6 to paragraph 11 also clarifies which policies in the Framework provide a clear reason for refusing development and includes policies relating to heritage assets. As set out further in this report, it is considered that the proposed development would not harm the setting of any designated heritage assets and therefore that the presumption in favour of granting permission is engaged as per paragraph 11d of the Framework. This is also known as the 'tilted balance'.

Gotherington Neighbourhood Development Plan

- 7.6. Whilst the tilted balance is triggered in this instance, paragraph 14 of the Framework states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
 - c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
 - d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.
- 7.7. The GNDP was adopted as part of the development plan on the 19th September 2017. Whilst the GNDP does contain policies and allocations to meet its identified housing requirement, the Plan is now over two years old. As such, paragraph 14 of the Framework is not engaged.

Scale of development and social impacts

- 7.8. In refusing the previous scheme, the Council considered that the proposal would fail to maintain or enhance the vitality of Gotherington and would have a harmful impact on the social well-being of the local community, risking the erosion of social cohesion. The effect on the vitality and social well-being of Gotherington was a key consideration at appeal.
- 7.9. At appeal, all the main parties agreed that that the site was well located in relation to the settlement and that, in turn, there was a reasonable access to other settlements, which include higher order facilities. The Inspector noted that the issues between the parties, which was reflected in the wide range of representations made at the time, was whether the proposal development of up to 50 dwellings taken in conjunction with those already permitted in the area, and those proposed or allocated in the GNDP would sustain the cohesion of the local community. The Inspector noted that the 50 dwellings, on their own, would represent around an 11% increase in the size of Gotherington and, when considered in conjunction with allocated sites and permitted scheme, this would increase to about 31%. Accepting that Gotherington is identified as a Service Village in the JCS, and is the fourth largest such village, the Inspector reasoned that Gotherington would be expected to take a reasonable amount of new development over the JCS plan period. However, given the extent of approved and potential development around the settlement, he shared the concern of the Council and residents that the substantial number of new dwellings proposed would be hard to assimilate. Moreover, he had not been provided with persuasive evidence that current facilities would be

capable of expansion. He went on to note that whilst the GNDP envisages the expansion of the settlement, this would occur in a controlled and plan-led manner and the recently adopted plan at the time clearly envisaged a more limited expansion than what was proposed. In conclusion the Inspector was of the view that the proposal would harm the vitality and social well-being of Gotherington.

- 7.10. As pointed out by a number of objectors, this current scheme is essentially the same as what was previously dismissed at appeal. Other than the fact that a number of the larger GNDP allocations are nearly built out, the circumstances in Gotherington are more or less the same as when the previous appeal was dismissed, with the exception of the Council's current housing land supply position. The proposal along with other recent developments in Gotherington would still represent around a 31% increase in the size of Gotherington and local community infrastructure has not materially changed. The findings of the Inspector are therefore still highly relevant and material to the consideration of this current application.
- 7.11. The applicant sets out that at the time of determining the previous appeal scheme, the Council had recently approved the application for 50 dwellings at Malleson Road (Ref: 17/00922/APP). As such, if the appeal scheme had been approved, it would have delivered over the same time period as the scheme on Malleson Road. It is essentially argued that because the other housing schemes in Gotherington would be completed by time this site would start to deliver, there would have been an intervening period of a few years, which would allow time for the other households to be assimilated into the community. Whilst the percentage increase in Gotherington would be the same, the delivery would now be delivered over a nine year period. Whilst there is some merit in this argument, when taken together, this would still represent a considerable amount of growth in a relatively short period of time, especially when considered in the context of the historic growth rate of Gotherington over many years, this would inevitably have implications for the character of the settlement. It should however be noted that the indicative figures in the JCS for the distribution of housing to the various Service Villages is not an upper limit. Equally, the housing requirement set out in the GNDP is not an upper limit.
- 7.12. Whilst there has been a considerable level of local objection to this application, there have only been a handful of objections that make direct reference to matters of social cohesion. However, many respondents raise concerns over the level of facilities and services available in Gotherington, and to some extent Bishops Cleeve, and their ability to accommodate the increased population that would arise from this development. Indeed, as set out above, the Inspector previously stated that he had not been provided with persuasive evidence that current facilities would be capable of expansion. The applicant has sought to address some of these concerns with the provision of sport and recreation facilities on site, which would meet the needs of existing and future residents. There are clearly capacity issues with the primary schools in the area, although the applicant has agreed to a financial contribution to mitigate this impact (the matter of education is addressed in detail further in this report). It would also be the case that the Parish Council would benefit from 25% of the total CIL receipts that could also be spent on infrastructure within the Parish.
- 7.13. Whilst the impact on existing infrastructure would be mitigated to a degree, community cohesion goes beyond this in a relatively small rural settlement. Similarly, in considering an appeal at St Margaret's Drive in Alderton (Ref: APP/G1630/A/14/2222147), the Inspector felt that the rapid increase in growth would harm social cohesion despite there being no evidence to suggest that the local services and facilities could not cope with the increase. A further negative impact on social cohesion could also result from the local resentment arising from the perception that their recently adopted GNDP has been ignored.
- 7.14. In light of the above, it is considered that there would be a harmful impact on the social well-being and social cohesion within Gotherington. This matter weighs against the proposal

and must be considered in the overall planning balance in the context of the presumption in favour of sustainable development.

Landscape impact

- 7.15. JCS Policy SD6 states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. Proposals will have regard to local distinctiveness and historic character of different landscapes and proposals are required to demonstrate how the development will protect landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement area.
- 7.16. Saved Policy LND2 of the Local Plan requires special attention to be paid to the protection and enhancement of the special landscape character of the Special Landscape Area (SLA), which is of local significance. This is further reflected in Policy LAN1 of the emerging Borough Plan, which also sets out that where a proposal would result in harm to the Special Landscape Area, this harm should be weighed against the need for, and benefits from, the proposed development.
- 7.17. Similarly, Policy GNPD09 of the GNPD states that to protect and enhance the landscape of the Gotherington neighbourhood development plan area, where appropriate, development proposals will have to demonstrate, inter alia, that they would not have a detrimental impact on the views to and from surrounding hills (e.g. Crane Hill, Nottingham Hill, Prescott Hill and Cleeve Hill), or the Area of Outstanding Natural Beauty, and views of the Vale of Gloucester. The sense of enclosure found in Gotherington village should also be maintained along with the strong separation of Gotherington village from Bishop's Cleeve, Woolstone and the A435. It also states that existing settlement patterns should be preserved, including the strong east-west form of Gotherington, particularly by avoiding encroachment into open countryside, ridgeline development, or development that intrudes in to the foreground of surrounding features such as hills, and the Area of Outstanding Natural Beauty. Policy GNPD10 of the GNPD follows and sets out a number of significant views that will be given special consideration when assessing planning applications. Of particular relevant to this application are the views from Lawrence's Meadow.
- 7.18. Also of relevance to this application is Policy LAND3 of the emerging Borough Plan that seeks to protect the strategic gaps identified on the Policies Map to help retain the separate identity, character and/or landscape setting of settlements and prevent their coalescent. This proposal would affect the proposed strategic gap between Bishops Cleeve and Gotherington. The policy states that development within strategic gaps will only be permitted where the open or undeveloped character of the gap would not be significantly adversely affected; the separate identity and character of the settlements would not be harmed; and the landscape setting of the settlements would not be harmed.
- 7.19. The effect on the character and appearance of the landscape was a key consideration in the previous appeal and the findings of the Inspector in this regard is a significant material consideration. The Inspector noted that Gotherington is a broadly linear settlement running east to west along the road, with a limb extending southwards towards Bishops Cleeve. The settlement is generally horseshoe shaped and encloses the site on three side, with agricultural land to the south. At the time, all parties agreed that the site did not contain and landscape features of particular merit. The Inspector noted that the illustrative site layout showed that around 46% of the total site area would be developed. A proposed open space would include a range of uses, such as a play area, amenity open space, landscape buffers, SUDs and a range of pedestrian/cyclist links. A landscape buffer was also shown along the southern boundary.
- 7.20. In assessing the effect of the proposal on the character and appearance of the area, and in particular the surrounding landscape, the Inspector took careful note of the Landscape and

Visual Sensitivity Study undertaken by the Council in 2014. The report identified the site and the surrounding area as being of low landscape and visual sensitivity and referred to the site as receding into the existing settlement pattern. The Inspector agreed with that assessment. He also noted the appellants LVIA, which found generally minor effects in most respects with a moderate effect on the 'Perceptual and Sensory' dimension. He stated that any proposal to extend built form into the open countryside would have this effect, but this cannot preclude development in principle as this would prevent any expansion of existing settlements.

- 7.21. The Inspector went on to reason that the site is heavily influenced by the surrounding settlement and is not prominent in views from any surrounding vantage points. He found the most notable view of the site from a distance is obtained from Nottingham Hill to the southeast, from which the settlement can be seen as generally horseshoe shaped with the site enclosed by existing buildings on three sides. Although the proposal would not entirely accord with the generally linear shape of the settlement, it would read as an infill development largely surrounded by existing buildings. Whilst recognising that the land was locally appreciated, the Inspector did not consider that the site was a valued landscape in the context of the Framework. He also found that the scheme would not cause direct visual harm to the AONB as when viewed from a distance, the development would recede into the form of the existing settlement.
- 7.22. In terms of the gap between Gotherington and Bishops Cleeve, the Inspector noted that the proposal would obviously extend part of the southern edge of Gotherington towards Bishops Cleeve and he agreed that the effect on the separation of the village is an important matter. However, given the way in which the existing built form wraps around much of the site and includes buildings that are closer to Bishops Cleeve than the southernmost parts of the site, he concluded that the overall effect would be that the separation would not be diminished.
- 7.23. With regard to local views, the Inspector also took account of the experience of receptors crossing the site on rights of way or viewing it from nearby. Whilst development on the land would substantially and irreversibly change the appearance of the site and local view, the Inspector reasoned that would be an inevitable consequence of any change from open countryside to built development. He went on to state that it cannot be regarded as a persuasive objection in principle to a scheme in a location with low landscape and visual sensitivity. The Inspector went on to conclude that the proposal would not cause significant harm to the intrinsic character of the countryside, and would not harm the character and appearance of the surrounding area within the SLA, including the gap between Gotherington and Bishops Cleeve.
- 7.24. As per the original scheme, this current application is also supported by a Landscape and Visual Appraisal (LVA), which assesses the impact of the proposals on the character and appearance of the landscape. The LVA concludes that the proposed development would result in a very limited number of material landscape or visual effects and it would not result in any policy contraventions. The effects of the proposed development stated as being generally minor or negligible upon the landscape resource (except for changes to the visual connectivity out towards the AONB) and minor and neutral on the SLA and the setting of the Cotswold AONB. The effects are also stated as being moderate/minor or below on visual amenity except for the effect on a view from Nottingham Hill within the AONB.
- 7.25. Following consultation with the Council's Landscape Consultant, it is advised that the gap between Gotherington and Bishops Cleeve has reduced substantially with the northwards extension of Bishops Cleeve and it is important to retain a sense of separation between the two settlements. The 'Gotherington Gap' is generally characterised by gently undulating open fields either side of Dean Brook and the Homelands development has gradually encroached

into this open landscape. Notwithstanding the encroachment of Homelands, the Landscape Consultant concludes that the proposed development would not appear as a conspicuous intrusion into the remaining gap, but an infilling of an embayment in the existing settlement. He also concludes that the generous landscape belt proposed to the south of the development would provide an opportunity to create a very robust and defensible green settlement boundary. This boundary and the retained open countryside between it, Dean Brook and Homelands Farm would preserve the separate identity of Gotherington and its separation from Bishops Cleeve. The Landscape Consultant goes on to advise that the development would be visible from some elevated vantages, however he does not believe it would cause material harm to the special qualities nor the enjoyment of the AONB. Furthermore, the development would exert very little visual influence on the A435 or Cleeve Road.

- 7.26. In light of the previous findings of the Inspector and the views of the Council's Landscape Consultant, it is considered that whilst there would be an impact on the character and appearance of the landscape, that impact would be limited. In terms of the strategic gap, the proposal would conflict with Policy LAN3 of the emerging Borough Plan. However, whilst the Borough Plan has been submitted for examination, it has not yet been examined and there are unresolved objections to this policy. Therefore, the weight that can currently be afforded to Policy LAN3 is limited. Again, given the findings of the Inspector and the views of the Council's Landscape Consultant, it is considered that the proposal would not adversely affect the gap between Gotherington and Bishops Cleeve.

Design and layout

- 7.27. The NPPF sets out that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. This is now reflected in the National Design Guide, which provides planning practice guidance for beautiful, enduring and successful places.
- 7.28. JCS Policy SD4 provides that new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting. Criterion 6 of Policy SD10 of the JCS states that residential development should seek to achieve maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network.
- 7.29. Policy GNDP07 of the GNDP sets out a number of design principles for development within Gotherington, which include:
- a) Preservation of the setting and separate identity of the village;
 - b) New boundary treatments should be appropriate to their immediate surroundings;
 - c) Existing routes including roads, lanes and footpaths should be retained and new links provided where appropriate and reasonable;
 - d) New buildings, by way of design, materials, height and layout should seek to enhance the distinctive village character of Gotherington;
 - e) Use of features to minimise light pollution and maintain the area's dark skies; and
 - f) All new development, where appropriate, should provide off-road car parking.

- 7.30. Whilst the application is in outline with all matters reserved for future consideration, the application is supported with a Design and Access Statement (DAS), which explains how the site could be developed. The DAS provides an overview of the site and its context and presents a design concept, which includes an illustrative site layout. The DAS explains that the movement structure is based on a central main loop that starts at the site access off Ashmead Drive. A number of side streets would then radiate from the main loop to the development edges. The existing PROW network would be fully integrated into the scheme with various access points along the site boundary enhanced to provide good pedestrian and cycle connectivity. The development would provide a substantial new Green Infrastructure framework to the northern and southern edges of the site, which would also accommodate amenity and play areas along with ecological and hydrological functions.
- 7.31. Following consultation with the Council's Urban Design Officer, it is advised that the site area is well related to the form of the existing settlement, being surrounded by existing built form on three sides. There are multiple opportunities for pedestrian and cycle access, so connectivity is good. There will be a good choice of pedestrian connections through the site, ensuring that this scheme would be well integrated into the existing settlement. It is further advised that the details in the design and access statement are sufficient for this outline stage and the illustrative layout demonstrates that this number of units can be accommodated while achieving the principles of good design. On that basis, the Urban Design Officer supports the proposals.
- 7.32. It is of note that the Council did not raise any objections to the previous scheme on the grounds of design and whilst the appeal was dismissed, the Inspector also found no harm in this respect. It is therefore considered that a suitable scheme could be provided at the detailed design stage, subject to being in general accordance with the principles and parameters described in the supporting Design and Access Statement and shown on the illustrative site layout. This could be secured by way of a planning condition.

Residential amenity

- 7.33. JCS Policy SD14 sets out that development should protect and seek to improve environmental quality and should not cause unacceptable harm to local amenity including the amenity of neighbouring occupants.
- 7.34. The site is bound to the north, east and west by existing residential properties. Whilst matters relating to layout and scale are reserved for future consideration, the illustrative site layout indicates large areas of public open space to the northern and western parts of the site, which would provide a substantial buffer area. The only area where the proposed housing is shown backing onto existing properties is where the site adjoins the properties in The Cobblers Close to the east. Given the context of the surrounding area, it is considered that the illustrative site layout demonstrates that a suitable layout could be achieved that has an acceptable impact on neighbouring property in terms of light, outlook and privacy.
- 7.35. Following consultation with the Council's Environmental Health consultant, it is advised that noise from MUGA's can be a cause of nuisance due to noise generated from their use. It was pointed out that the illustrative site layout indicated that the MUGA would be within 40m of existing residential property, which is contrary to guidance from Sport England. In response to these concerns, a revised illustrative site layout has been submitted that shows how a 40m standoff from residential property could be achieved. In light of this, it is considered that the MUGA would have an acceptable impact in terms of noise and disturbance.

Housing mix

- 7.36. JCS Policy SD11 states that housing development will be required to provide an appropriate mix of dwelling sizes, types and tenures in order to contribute to mixed and balanced communities and a balanced housing market. Development should address the needs of the local area, including the needs of older people as set out in the local housing evidence base, including the most up to date Strategic Housing Market Assessment (SHMA). This is further reflected in Policy GNDP04 of the GNDP, which states that on sites of 5 or more dwellings a range of tenures, house types and sizes of dwellings will be required, including where the viability of development allows, a proportion of affordable housing.
- 7.37. No precise housing mix has been put forward as part of this application, although the planning statement suggests that a wide range of dwelling types would be provided. It is also evident from the illustrative site layout that the site would be capable of providing an appropriate mix of dwellings. It is considered that matters relating to the housing mix should be addressed at outline stage. Therefore, if Members are minded to grant planning permission, a planning condition is recommended to ensure that any housing mix proposed at the reserved matters stage is in accordance with the local housing evidence, including the most up-to-date Strategic Housing Market Assessment for the area at the time of submission. Subject to this condition, the proposal would accord with Policy SD11 of the JCS and Policy GNDP04 of the GNDP.

Affordable housing

- 7.38. JCS Policy SD12 sets out that on sites outside of strategic allocations, a minimum of 40% affordable housing will be sought. It follows that they should be provided on site and should be seamlessly integrated and distributed throughout the development scheme. Similarly, Policy GNDP04 of the GNDP requires a proportion of affordable housing where the viability of development allows.
- 7.39. The application as submitted proposed that 40% of the dwellings would be offered as affordable but no housing mix was provided. Following consultation with the Council's Strategic Housing and Enabling Officer, the following mix was recommended:
- 2 x 1 bedroom apartments/maisonettes – Social rent
 - 1 x 1 bedroom bungalow – Social rent
 - 1 x 2 bedroom bungalow – Social rent
 - 1 x 2 bedroom bungalow – Shared ownership
 - 5 x 2 bedroom houses – Social rent
 - 3 x 2 bedroom houses – Shared ownership
 - 4 x 3 bedroom houses – Social rent
 - 2 x 3 bedroom houses – Shared ownership
 - 1 x 4 bedroom house – Social rent
- 7.40. The applicant has indicated that the mix recommended by the Strategic Housing and Enabling Officer is acceptable, which would be secured through a S106 Agreement. In light of the Council's housing land supply position, the provision of affordable housing should be seen as a considerable benefit in the planning balance.

Biodiversity

- 7.41. JCS Policy SD9 seeks the protection and enhancement of biodiversity and geological resources of the JCS area in order to establish and reinforce ecological networks that are resilient to current and future pressures. Improved community access will be encouraged so far as is compatible with the conservation of special features and interest. In a similar vein, Policy GNDP12 of the GNDP states that development that is likely to have either a direct or indirect adverse impact upon areas of local biodiversity should be avoided. Where this is not possible adequate mitigation should be proposed or, as a last resort, compensation should be provided at a suitable location within the Parish. The protection and enhancement of

biodiversity by enhancing or creating new wildlife corridors and stepping stones, including hedgerows, ditches, strips of tree planting, green open spaces with trees and grass verges to roads, both within and adjacent to the borders of Gotherington parish will be supported.

- 7.42. The application is supported by an Ecological Appraisal that considers the impact of the proposed development in terms of biodiversity. The appraisal sets out that the site consists primarily of a larger arable field and a smaller area of semi-improved grassland. The baseline ecological investigations undertaken in September and October 2015 as part of the appraisal included a desk study, extended phase 1 survey and detailed Phase 2 surveys relating to bats and reptiles. Updated bat surveys were then undertaken in May 2016. Further update surveys were undertaken during September 2019, including an updated desk study, extended phase 1 survey and bat activity surveys.
- 7.43. The appraisal sets out that there are no statutory or non-statutory designated sites of nature conservation importance located within or immediately adjacent to the site that are likely to be negatively affected by development. In terms of protected species, the submitted surveys have identified a small number of habitat features and protected species that would need to be respected and embedded into any future reserved matters applications. Specific proposals for the avoidance, mitigation and compensation of any predicted impacts are considered and include:
- Retention and buffering of boundary hedgerow and tree habitat.
 - Briefing of site personnel and supervision of certain construction/enabling works by a suitably experienced ecologist;
 - Protection of retained habitats within EPZs where construction personnel, vehicles and materials are excluded;
 - Pre-commencement survey for badger setts and appropriate exclusion measures if required;
 - Sensitive timing and methods of vegetation clearance with particular regard to nesting birds, amphibians and reptiles;
 - New native tree/shrub/hedgerow planting to strengthen existing green corridor (notably along the southern boundary hedgerow) and enhance/create grassland habitats within public open space in the north of the site;
 - New permanent water features within SuDS provision;
 - Clear demarcation of public rights of way to minimise recreational impacts within newly created and retained habitats, including new wildflower grassland and ponds;
 - Bird boxes erected on suitable mature trees;
 - Bat roosting features incorporated into selected new dwellings and/or erected on boundary trees;
 - Wildlife-sensitive lighting scheme with particular regard to bats along the southern boundary;
 - Mowing and weed control in seeded grassland areas within first year around boundaries and public open space post-development to aid establishment;
 - Trimming of hedgerows, with selected hedgerows in informal open spaces cut on a 3-year rotation (with no more than one third cut any one year) to increase value to wildlife; and
 - Long-term annual hay-cut of the new wildflower grassland to promote botanical diversity.
- 7.44. Following initial consultation with the Council's Ecology Consultant, it was noted that the site had the potential to impact on the Dixton Wood Special Area of Conservation (SAC) and

Bredon Hill SAC, which are within 10km, due to increased recreational pressure. In response to this, additional information was submitted that sets out that both SACs are situated more than 200m from main roads likely to be used by residents of the proposed development and the predicted population increase associated with the development would only increase air quality impacts by a negligible amount. Consequently, it concluded that the proposal would be unlikely to give rise to any significant effects on either the Bredon Hill or Dixton Wood SACs, either in isolation or in combination with other allocated plans or projects. Additional information was also provided that quantified the biodiversity net gains that would arise from the development.

- 7.45. Based on the additional information, the Council's Ecology Consultant is satisfied that the development would not have a significant impact on either the Bredon Hill SAC or the Dixton Wood SAC. It is also confirmed that through a sympathetic planting scheme a +17.11% net gain for habitat areas and +83.38% net gain for linear features could be achieved. This would thereby satisfy the requirement for a positive net gain. The Council's Ecology Consultant therefore raises no objections to the scheme subject to conditions to secure a Construction Ecological Management Plan (CEMP) and a Landscape and Ecology Management Plan (LEMP), which would incorporate the migration measures set out above. Further conditions are also recommended to secure details of external lighting and the provision of a homeowners information pack. Subject to these condition, the proposal is considered to be acceptable in this context.

Arboricultural implications

- 7.46. Policy GNDP09 of the GNDP sets out that to protect and enhance the landscape, where appropriate, development proposal will have to demonstrate, inter alia, that they preserve and enhance areas of woodland, hedgerows, mature trees, and the differing types of field patterns found across the area.
- 7.47. The application is supported by an Arboricultural Baseline Assessment, incorporating Arboricultural Impact Assessment and Tree Protection. The assessment sets out that the main body of the site contains very few trees, with the exception of one category U tree. The trees that are present are generally located along the perimeter of the site and do not adversely constrain the development proposals. It is stated that the masterplanning of the development has sought to retain all trees where possible although it is evident that a small group of low quality trees (Category C) would be removed to facilitate access to the development.
- 7.48. Whilst matters relating to layout are proposed to be reserved for future consideration, it is considered that the illustrative site layout demonstrates that the trees present on site do not pose an overriding constraint to development provided that the recommended tree protection measures are adhered to.

Drainage and flood risk

- 7.49. JCS Policy INF2 advises that development proposals must avoid areas at risk of flooding and must not increase the level of risk to the safety of occupiers of a site and that the risk of flooding should be minimised by providing resilience and taking into account climate change. It also requires new development to incorporate Sustainable Urban Drainage Systems (SuDS) where appropriate to manage surface water drainage. This is reflected in Policy ENV2 of the emerging Borough Plan.
- 7.50. The site is located within Flood Zone 1 and is therefore at a low risk from flooding. However, due to the size of the site, the application is supported by a Flood Risk Assessment (FRA). The FRA demonstrates that flooding is unlikely to affect the site from fluvial and/or tidal sources and

is at a low risk from pluvial flooding. The site is not identified as being at risk of groundwater flooding or reservoir flooding or flooding from any other sources. In light of this, it is considered that the site is not at an unacceptable risk of flooding and is acceptable in this regard.

- 7.51. In terms of foul drainage, it is proposed that a new network would collect and convey foul water from the development to a connection point on the existing Severn Trent network. Severn Trent have confirmed that the new foul network can connect into the existing 150mm diameter foul network location within the north east corner of the site. Due to the topography of the site, it may be necessary to pump foul flows via a pump station to the connection points. It is stated that Severn Trent have previously confirmed that the existing sewerage network in the vicinity has sufficient capacity to accommodate the additional flows from the new development. Following consultation with Severn Trent, no objections are raised subject to a condition to secure detailed drainage information.
- 7.52. With regard to surface water drainage, the Lead Local Flood Authority (LLFA) initially raised concerns in respect of the proposal to discharge via the Severn Trent surface water sewer that runs along Malleson Road, which discharges into the Tirlle Brook. Given the fall of the land to the south west, the LLFA felt that it would make more sense to discharge the surface water into the Dean Brook rather than potentially increasing flows to the Tirlle Brook. In response to this, a revised drainage has been submitted, which proposes to collect and convey flows from the proposed development to the south west corner of the site. Flows would then be attenuated onsite via a basin before being discharged at a restricted Greenfield rate into the Dean Brook. The land to the south of the application site is within the same ownership as the application site and the application red line has been amended to incorporate the proposed connection into the Dean Brook. The LLFA have confirmed that the revised drainage strategy is acceptable and no objections are raised subject to a condition to secure detailed drainage information.

Access and highway safety

- 7.53. The Framework sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Furthermore, development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts of development are severe. JCS Policy INF1 requires that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters.
- 7.54. With regard to accessibility, Gotherington is considered to have reasonably good access to both primary and secondary services, including a shop, a village hall, a primary school, a church and recreational facilities. Furthermore, Gotherington has some public transport provision with links to the surrounding areas and with bus stops located within reasonable walking distance of the site. Indeed, Gotherington is identified as a 'Service Village' in the JCS on the basis of its availability of services. It is therefore considered that the proposed development would have reasonably good access to local services and facilities proportional to its rural location. The proposal is therefore considered to be consistent with the accessibility related provisions of the relevant transport policies.
- 7.55. With regard to traffic and highway safety impacts, it is important to note that whilst the previous application was dismissed at appeal, no objection was raised by the Local Highway Authority and the scheme was found to be acceptable in this context. Notwithstanding this, the application is supported by a Transport Assessment (TA) and a Travel Plan (TP). The TA describes the road network within the proximity of the site as a mixture of residential access and local distributor roads. The site would be accessed by a single point of vehicular access that would be taken directly off Ashmead Drive, which is currently a cul-de-sac serving approximately 16 dwellings (**see attached site access plan**). It states that Ashmead Drive

has reasonable forward visibility and is subject to a 30mph speed limit. Non-vehicular accesses would also be provided off Aggs Lane and Aggs Close and suitable connections to the existing network of public rights of way that cross the site would also be facilitated to maximise the site permeability.

- 7.56. In terms of trip generation, the TA states that the development would generate an additional 44 vehicle trips in the AM peak hour and an additional 35 vehicle trips in the PM peak hour. Based on the junction capacity modelling that was undertaken, the TA concludes that the junctions would continue to operate within capacity in both the AM and PM peak hours. As such, the additional traffic generated by the proposed development is not anticipated to result in a severe residual cumulative impact.
- 7.57. Following consultation with the Highways Officer, it is advised that the proposed access has been subject to vehicle tracking, which demonstrates that the access can suitably accommodate a range of vehicles. The existing public rights of way would allow convenient access to the surrounding area although a condition is recommended to upgrade footpath AGO19 within the site to a minimum of 2m width with suitable bound surfacing. In terms of the traffic impact, the Highways Officer concurs with the findings of the transport modelling within the TA and is satisfied that there would be no capacity issues with the operation of the Ashmead Drive and Malleson Road junction and therefore the residual cumulative impact would not be severe.
- 7.58. In terms of the Malleson Road arm of the Gotherington Cross junction, whilst the flow volume would be low, the Highways Officer points out that there are safety concerns with this junction. In the AM peak hour the development would generate an additional 28 movements through the Malleson Road arm; a 25.2% increase. Likewise, in the PM peak hour the development would generate an additional 9 movements through the Malleson Road arm resulting in a 10.1% increase. It is stated that the percentage increases are significant and therefore the development would be required to mitigate this impact. A condition is therefore recommended to secure details of a highway safety improvement scheme on the Gotherington Cross junction. On that basis, the Highways Officer does not object to the proposal. The applicant has queried the need for this condition as a number of safety improvement works to this junction were secured as part of the Malleson Road scheme (Ref: 16/00965/OUT). **Clarification has been sought from the Highways Officer and an update will be provided at Committee.** Subject to clarification on that matter and subject to appropriate planning conditions, it is considered that the site would be served by a safe and suitable access and the residential cumulative impact on the highway network would not be severe.

Heritage assets

- 7.59. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on the Council to have special regard to the desirability of preserving listed buildings, their setting or any features of special architectural or historic interest which they possess.
- 7.60. Paragraph 189 of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 7.61. There are a number of listed buildings in the vicinity of the application site; the closest being The Holt (18 Cleeve Road), which is a Grade II listed building that adjoins the south east corner

of the site. The impact on the setting of these listed buildings was considered at the previous appeal and it was determined that the proposed development would have no harmful impact on their setting. Following consultation with the Council's Conservation Officer, given that the circumstances of the site have not materially changed since the appeal, it is advised that it is still the case. Furthermore, given that there would be no harm to the setting of any designated heritage assets, the tilted balance would still apply.

- 7.62. In terms of archaeology, following consultation with the County Archaeologist, it is advised that whilst archaeology is present on the site, it is not of the highest significance and does not merit preservation in situ. Nonetheless, the archaeological deposits on the site have the potential to make an important contribution to our understanding of the archaeology of the locality and the wider region. On that basis, no objections are raised subject to a condition to secure the implementation of a programme of archaeological work.

Open space and play facilities

- 7.63. The Framework sets out that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. JCS Policy INF4 provides that where new residential development will create or add to, a need for community facilities, it will be fully met as on-site provision and/or as a contribution to facilities or services off-site. JCS Policies INF6 and INF7 support this requirement. Saved Local Plan Policy RCN1 requires the provision of easily accessible outdoor playing space at a standard of 2.43ha per 1000 population on sites of 10 dwellings or more.
- 7.64. As the application is outline form with all matters reserved for future consideration, the layout is not fixed at this stage. However, the illustrative site layout details a considerable amount of open space provision that includes a large multi-use parkland, incorporating a Multi-Use Games Area (MUGA) and a formal play area. The open space also includes substantial landscape buffers and a wetland park. In total, that proposed quantum of open space amounts to 2.88 hectares, which is well in excess of the requirements set out in Policy RCN1 of the Local Plan to 2011. Subject to the scheme being in general accordance with the principles and parameters set out in the Design and Access Statement and subject to securing the MUGA and play facilities through a Section 106 Agreement, the proposal is considered to be acceptable in terms of open space and play/recreational facilities.

Education and libraries

- 7.65. JCS Policy INF6 relates directly to infrastructure delivery and states that any infrastructure requirements generated as a result of individual site proposals and/or having regard to cumulative impact, new development should be served and supported by adequate and appropriate on/off-site infrastructure and services. The Local Planning Authority will seek to secure appropriate infrastructure which is necessary, directly related, and fairly and reasonably related to the scale and kind of the development proposal. JCS Policy INF7 states the arrangements for direct implementation or financial contributions towards the provision of infrastructure and services should be negotiated with developers before the grant of planning permission. Financial contributions will be sought through s106 and CIL mechanisms as appropriate.
- 7.66. Following consultation with the County Council, it has been advised that the proposed development would give rise to the following pupil yields and would require the following contributions to mitigate the impact:

- Pre-school: 15.00 = **£226,365.00**
- Primary: 20.5 = **£309365.50**

- Secondary: 15.50 = **£321,466.00**

- 7.67. The County Council previously stated that Gotherington is the closest primary school to this development. It is on a small site and not able to accommodate more children. Consequently, an objection was raised until a school site becomes available in the Bishops Cleeve Primary Planning Area. This matter has previously been raised on a number of other applications for housing in the Bishops Cleeve Primary Planning Area; notably at Homelands Farm on Gotherington Lane, which was considered by Members at the March Committee (Ref: 19/00758/OUT). In that case, following Counsel Opinion obtained by the applicant, it was determined that the absence of capacity to meet the needs of primary school children arising from the development was no longer recognised as an identified harm on the basis that the issue is resolvable by securing the requested monetary sum through a S106 agreement.
- 7.68. On that basis, whilst the concerns of the local residents are noted in respect of the capacity of Gotherington Primary school, the applicant has indicated that they are willing to pay the requested contributions to mitigate the impact of the development in this regard. The current lack of primary school provision within the Bishops Cleeve Primary Planning Area would therefore not constitute a reason for refusal in this instance, subject to securing the requisite contributions through a Section 106 Agreement. However, notwithstanding this, the County Council has not at this stage provided sufficient evidence to justify the contributions requested in the context of the CIL regulations (Regulation 122). **An update will therefore be provided at Committee.**
- 7.69. In terms of libraries, the County Council have advised that the scheme would generate a need for library resources and a contribution of £9,800 has been sought. Again, the County Council has not at this stage provided sufficient evidence to justify the contribution requested in the context of the CIL regulations (Regulation 122). **An update will therefore be provided at Committee.**

Community Infrastructure Levy/Section 106 obligations

- 7.70. The Community Infrastructure Levy (CIL) Regulations allow local authorities to raise funds from developers undertaking new building projects in their area. The regulations stipulate that, where planning applications are capable of being charged the levy, they must comply with the tests set out in the CIL regulations. These tests are as follows:
- a) necessary to make the development acceptable in planning terms
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.
- 7.71. As a result of these Regulations, local authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly related to the development.' As such, the Regulations restrict local authorities' ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests and restrictions, it is 'unlawful' for those obligations to be taken into account when determining an application.
- 7.72. In October 2018 the Council adopted CIL and implemented the levy on the 1st January 2019. For CIL purposes the application site falls within a 'Generic Site' and is subject to the levy for residential development currently at £207.46 per square metre on all the market elements of the proposed development.
- 7.73. Infrastructure requirements specifically related to the impact of the development will continue to be secured via a Section 106 legal agreement. Requests have been made by consultees to secure the following contributions:

- Affordable housing
- MUGA and LEAP
- Pre-school education = £226,365.00
- Primary school education = £309,365.50
- Secondary school education = £321,466.00
- Libraries = £9,800.00

8.0 CONCLUSION AND RECOMMENDATION

8.1. Section 38(6) of the Town and Country Planning Act 1990 provides that, if regard is to be had to the development plan, the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. Section 70 (2) of the Act 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.

8.2. The application site lies outside of the defined settlement boundary for Gotherington and is not allocated for housing development. The site does not represent previously developed land within the built up areas of a service village; is not a rural exception scheme; and does not represent 'infilling'. It has not been brought forward for development through a Community Right to Build Order and there are no policies in the existing Tewkesbury Borough Local Plan to 2011 which allow for the type of development proposed here. The proposal therefore conflicts with Policies SP2 and SD10 of the JCS and Policies GNDP01, GNDP03 and GNDP11 of the GNDP. However, the Council cannot currently demonstrate a five year supply of deliverable housing sites and therefore the Council's policies for the supply of housing are out of date, in accordance with paragraph 11 of the Framework. There are also no policies in the Framework that protect assets of particular importance which provide a clear reason for refusing the development in this instance and the 'tilted balance' applies.

Benefits

8.3. The delivery of market and affordable housing would provide a considerable social benefit; especially in the context of a housing supply shortfall. Furthermore, there would be economic benefits both during and post construction through the creation of new jobs and the support to existing local services and the local economy. Overall, given the scale of development, these benefits would attract substantial weight in favour of granting permission in light of the Council's housing land supply position.

Harms

8.4. Harm arises from the conflict with development plan policies relating to housing, particularly JCS Policy SD10 and Policies GNDP01, GNDP03 and GNDP11 of the GNDP, although it is accepted that the Council's housing policies are currently out of date. Harm would also arise from the cumulative growth in Gotherington in such a relatively short period of time, which would have a negative impact on social cohesion and social well-being.

Neutral

8.5. Whilst the application is in outline with all matters reserved for future consideration, save for access, the supporting DAS and illustrative site layout demonstrates that the proposed quantum of development can be accommodated on the site in an acceptable manner. Furthermore, the illustrative layout does not raise any residential amenity issues in terms of a loss of light, outlook and privacy. The development would not be at an acceptable risk of flooding and appropriate drainage infrastructure can be provided. The proposal would not harm the setting of any designated heritage assets and there would be an acceptable impact in

terms of archaeology. The proposal would be served by a safe and suitable access and the residual cumulative impact on the highway network would not be severe. There would be an inevitable impact on the landscape by virtue of building on a Greenfield site. However, the impact is not considered to be unduly harmful, particularly having regard to the previous appeal decision on the site. The proposal would also be acceptable in terms of its impact on biodiversity.

Conclusion

- 8.6. As pointed out by the Parish and a number of local residents, this proposal is essentially the same as what was previously dismissed at appeal in 2018. Whilst the scheme is more or less the same, there has since been a material change in circumstances.
- 8.7. At the previous appeal, the Inspector ultimately concluded that the benefits of the proposal were significantly and demonstrably outweighed by the adverse impacts of the proposal – particularly the conflict with the then recently adopted development plan locational policies and the conflict with the social role of sustainable development. At the time of the appeal, the Council was also able to demonstrate a 5-year supply of deliverable housing sites and as such, the housing policies contained within the JCS and GNDP attracted full weight in decision-taking. In contrast to the situation in 2018, as set out above, the Council cannot currently demonstrate a five year supply of deliverable housing sites and as such, the housing policies in the JCS are deemed to be out-of-date as per footnote 7 to paragraph 11 of the Framework. This also applies to the housing policies contained in the GNDP. The weight that can be afforded to the relevant housing policies is therefore reduced.
- 8.8. It is also the case that given the time that has elapsed since the GNDP was made (19th September 2017), it no longer benefits from the ‘protection’ afforded by paragraph 14 of the Framework. As previously set out, paragraph 14 of the Framework states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. This is subject to certain criteria; one of which specifies that the neighbourhood plan must have become part of the development plan two years or less before the date on which the decision is made. As the GNDP is now older than two years, paragraph 14 of the Framework does not apply.
- 8.9. Similar to the position at the 2018 appeal, there are no technical matters that would represent a reason for refusal in this instance and the only harm that has been identified is the impact on social cohesion and social well-being as a result of the scale of growth in a relatively short period of time. This harm weighs against the proposals but in the absence of any other reasons for refusal and given the application of the ‘tilted balance’, that harm is no longer considered to significantly and demonstrably outweigh the benefits of the scheme. The application is therefore recommended for **delegated consent** subject to finalising a Section 106 Agreement to secure the required affordable housing, MUGA, LEAP, education and libraries contributions (where justified).

CONDITIONS:

1. The development for which permission is hereby granted shall not be begun before detailed plans thereof showing the layout, scale and external appearance of the building(s), and landscaping (hereinafter referred to as "the reserved matters") have been submitted to and approved by the Local Planning Authority.

Reason: The application is in outline only and the reserved matters referred to in the foregoing condition will require further consideration.

2. Application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun either before:
 - (i) the expiration of five years from the date of this permission, or
 - (ii) before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

Design and layout

4. Applications for the approval of the reserved matters shall be generally in accordance with the principles and parameters described in the approved Design and Access Statement dated October 2019 and the Illustrative Site Layout BM-M-01 Rev A.

Reason: In order to define the permission.

5. The first reserved matters application submitted pursuant to condition 1 shall include the submission of a Housing Mix Statement to the Local Planning Authority for its written approval setting out how an appropriate mix of dwelling sizes, types and tenures will be provided in order to contribute to a mixed and balanced housing market to address the needs of the local area, including the needs of older people, as set out in the local housing evidence base, including the most up-to-date Strategic Housing Market Assessment for the area at the time of the submission of the relevant reserved matters. The development shall be implemented in accordance with the approved Housing Mix Statement.

Reason: To ensure that an appropriate housing mix is delivered to contribute to the creation of mixed and balanced communities.

6. The reserved matters submitted pursuant to condition 1 above shall include details of existing and proposed ground levels and finished floor levels of the buildings relative to Ordnance Datum Newlyn. The development shall be carried out in accordance with the approved details.

Reason: In the interests of amenity.

7. The details submitted for the approval of reserved matters shall include a plan indicating the positions, design, materials and type of boundary treatments to be erected. The boundary treatments shall be completed in accordance with the approved details before the buildings are occupied.

Reason: To ensure a satisfactory appearance to the development.

8. The reserved matters submitted pursuant to condition 1 shall include samples/details of the materials proposed to be used on the external surfaces of the development. The development shall be carried out using the approved materials unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development.

9. The reserved matters submitted pursuant to condition 1 shall include details of the materials proposed to be used on the surfaces of the roads, footpaths & driveways. The development shall be carried out using the approved materials unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development.

Landscaping

10. The details of landscaping required to be submitted to and approved by the Local Planning Authority in accordance with condition 1 above shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection during the course of development.

Reason: In the interests of visual amenity.

11. All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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.

Reason: In the interests of visual amenity.

Highways

12. No works shall commence on site until the site access has been provided broadly in accordance with the submitted plan W15183_SK_006, with the first 20m of the access road from Ashmead Drive surfaced in a bound material and the access shall be retained and maintained in that form until and unless adopted as highway maintainable at public expense.

Reason: To ensure that there is safe access to the site for construction works and thereafter and to ensure that the access is maintained in that form.

13. 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 approved statement shall be adhered to throughout the construction period. The statement shall:
 - i. specify the type and number of vehicles;
 - ii. provide for the parking of vehicles of site operatives and visitors;
 - iii. provide for the loading and unloading of plant and materials;
 - iv. provide for the storage of plant and materials used in constructing the development;
 - v. provide for wheel washing facilities;
 - vi. specify the intended hours of construction operations;
 - vii. measures to control the emission of dust and dirt during construction

Reason: To reduce the potential impact on the public highway and accommodate the efficient delivery of goods and supplies.

14. No dwelling on the development shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public Highway to that dwelling have been completed to at least binder course

level and the footway(s) to surface course level.

Reason: To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians.

15. The details to be submitted for the approval of reserved matters shall include vehicular parking and turning facilities within the site, and the buildings hereby permitted shall not be occupied until those facilities have been provided in accordance with the approved plans and shall be maintained available for those purposes for the duration of the development.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided.

16. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

Reason: To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the conflict between traffic and cyclists and pedestrians

17. No works shall commence on site until details of a highway safety improvement scheme on the Gotherington Cross junction (A435/Malleson Road) has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the highway safety scheme has been completed in accordance with the approved plan.

Reason: To reduce potential highway impact by ensuring cost effective improvements are provided.

18. Prior to works commencing on site details of upgraded bus stop facilities on Malleson Road to the west of Ashmead Drive shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be completed prior to occupation of any dwelling on the development.

Reason: To ensure that the opportunities for sustainable transport modes have been taken up and access to high quality public transport facilities is provided.

19. Prior to works commencing on site, details of an uncontrolled pedestrian tactile crossing point on Malleson Road and improvements to the existing pedestrian crossing facilities at Ashmead Drive and Aggs Lane to facilitate pedestrian access to the bus stops west of Ashmead Drive shall be submitted to and approved in writing by the Local Highway Authority and the crossing points shall be constructed in accordance with the approved details prior to first occupation.

Reason: To ensure that the opportunities for sustainable transport modes have been taken up.

20. The approved Travel Plan shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter unless otherwise agreed in writing by the Local Planning Authority with the exception that the Travel Plan monitoring period shall be a minimum of 10 years.

Reason: To ensure that the opportunities for sustainable transport modes are taken up.

21. Prior to first occupation, each dwelling hereby permitted shall be provided with an outside electrical socket to enable ease of installation of an electric vehicle charging point. All sockets shall comply with BS1363 (or other document which may replace or modify it), and shall be provided with a lockable weatherproof cover if located externally to the building.

Reason: To provide adequate provision for charging plug-in and other ultra-low emission vehicles.

22. Prior to first occupation the footpaths on the site shall be provided to a minimum of 2m wide with bound surfacing and the footpath connecting to Aggs Close and Ashmead Drive.

Reason: To ensure that the opportunities for sustainable transport modes are taken up with safe and suitable access.

Archaeology

23. No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason: It is important to agree a programme of archaeological work in advance of the commencement of development, so as to make provision for the investigation and recording of any archaeological remains that may be destroyed by ground works required for the scheme. The archaeological programme will advance understanding of any heritage assets which will be lost, in accordance with paragraph 199 of the National Planning Policy Framework.

Drainage

24. No building works hereby permitted shall be commenced until detailed plans for surface water and foul water drainage works have been submitted to and approved in writing by the local planning authority. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. The submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution for the lifetime of the development.

25. Prior to the occupation of any building surface water drainage works shall have been implemented in accordance with details that have been approved in writing by the local planning authority. Implementation will include the provision of a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure the continued operation and maintenance of drainage features serving the site and avoid flooding for the lifetime of the development.

Waste

26. No above ground development shall commence until a detailed Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall identify the main waste materials expected to be generated by the development during the construction phase and set out measures for dealing with such materials so as to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy. The detailed Site Waste Management Plan must include:

- i) Information on the type and amount of waste likely to be generated during the construction phase;
- ii) Details of the site-specific practical arrangements for managing waste generated during the construction phase in accordance with the principles of waste minimisation; and
- iii) Details of the measures for ensuring the delivery of waste minimisation during the construction phase.

The Site Waste Management Plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: To ensure the effective implementation of waste minimisation.

Ecology

27. No development shall take place until a Construction Ecological Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not limited to the following:

- a) Risk assessment of potentially damaging construction activities including provisions for protected species;
- b) Identification of 'biodiversity protection zones' including (but not exclusively) hedgerows and mature trees;
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The locations and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour after sunset);
- e) The times during construction when ecological or environmental specialists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similar person;
- h) Use of protective fences, exclusion barriers and warning signs;
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works;

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure proper provision is made to safeguard protected species and their habitats, in accordance with the guidance set out in the NPPF.

28. No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall cover the first ten years of management following the commencement of construction and enabling works. Enhancement measures should be included for existing natural habitats and created habitats, as well as those for protected species. All Ecological enhancements outlined in the LEMP will be implemented as recommended in the LEMP and the number and location of ecological features to be installed should be specified.

Reason: To ensure proper provision is made to safeguard protected species and their habitats, in accordance with the guidance set out in the NPPF.

29. Prior to first occupation, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall clearly demonstrate that lighting will not cause excessive light pollution or disturb or prevent bat species using key corridors, forage habitat features or accessing roost sites. The details shall include, but not be limited to, the following:
- i. A drawing showing sensitive areas and/or dark corridor safeguarding areas.
 - ii. Description, design or specification of external lighting to be installed including shields, cowls or blinds where appropriate.
 - iii. A description of the luminosity of lights and their light colour including a lux contour map
 - iv. A drawing(s) showing the location and where appropriate the elevation of the light fixings.
 - v. Methods to control lighting control (e.g. timer operation, passive infrared sensor (PIR)).
- All external lighting shall be installed in accordance with the specifications and locations set out in the approved details. These shall be maintained thereafter in accordance with these details.

Reason: To ensure proper provision is made to safeguard protected species and their habitats, in accordance with the guidance set out in the NPPF.

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.