

## TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

<b>Committee:</b>	Planning
<b>Date:</b>	21 July 2020
<b>Site Location:</b>	Land West Of Persh Lane Maisemore Gloucester
<b>Application No:</b>	20/00212/OUT
<b>Ward:</b>	Highnam With Haw Bridge
<b>Parish:</b>	Maisemore
<b>Proposal:</b>	Outline planning application for the development of eight dwellings (including affordable housing contribution) together with open space, access, parking, landscaping, drainage and associated works. All matters reserved except for means of access and layout.
<b>Report by:</b>	Mr Adam White
<b>Appendices:</b>	Site location plan Site layout plan Access arrangement Drainage plan
<b>Recommendation:</b>	Permit

### 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1. The site forms part of a larger pastoral field located on the south western edge of Maisemore **(see attached site location plan)**. The site is located outside of the settlement boundary for Maisemore, as defined in the emerging Borough Plan. However, the site abuts the settlement boundary to the south east.
- 1.2. The site is generally level and featureless and is enclosed by a combination of fences and intermittent hedgerows. The main part of the site is bound to the north west and south east by existing residential property and to the north east by a small orchard with residential development beyond. The south west boundary is open with views out onto open countryside. The site is not subject to any formal or informal landscape designation.
- 1.3. The site is currently accessed off Persh Lane via a gravelled track although access can also be gained off Blacksmiths Lane. A public bridleway also runs to the north east of the site, which incorporates Blacksmith Lane. The site is mainly located in Flood Zone 1 although the extremity of the site where the drainage is proposed to terminate is located in Flood Zones 2 and 3.
- 1.4. The application proposes the erection of up to 8 dwellings. It is in outline form with access and layout proposed to be determined at outline stage **(see attached site layout plan)**. Appearance, scale and landscaping are proposed to be reserved for future consideration.

## **2.0 RELEVANT PLANNING HISTORY**

- 2.1. There is no planning history that is relevant to this current proposal.

## **3.0 RELEVANT POLICY**

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

### **National guidance**

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

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

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

### **Tewkesbury Borough Plan 2011-2031 Pre-submission Version (July 2019)**

- 3.4. Policies: RES1, RES2, RES3, RES4, RES5, RES12, RES13, DES1, HER2, HER4, NAT1, NAT2, NAT3, ENV2, RCN1, TRAC1, TRAC2, TRAC3, TRAC9
- 3.5. Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)
- 3.6. The First Protocol, Article 1 (Protection of Property)

## **4.0 CONSULTATIONS**

- 4.1. Maisemore Parish Council object for the following reasons:

- The proposal is an inappropriate overdevelopment for Maisemore, which is a small village with less than 230 homes in the main part. Planning permission has already been granted for an additional 47 houses in the village.
- Maisemore consists mainly of individual or small groups of houses generally constructed as small cul-de-sacs off the main road. Whilst this is a relatively small development, it is remote from the main village circulation in open countryside.
- The proposed layout shows that most gardens are provided at a much larger size than is generally the case for new housing developments nowadays. Even the plots for the two large 4-bed houses at the west end are generous, but the others are unrealistically large considering the small sizes of the houses presently proposed. This suggested that a revised scheme could come forward for more houses on the site if permission is granted.
- The speed limit would need to be reduced along Persh Lane.
- The visibility splay would result in the removal of a considerable length of existing mature hedgerow.
- The development does not provide a pedestrian route into the village on the most direct route along Persh Lane.
- The nearest bus stop is located on the A417 at the end of Persh Lane.
- There is no capacity in the existing sewer system and there should be no further connections in the village.

- There is a lack of services in the village with poor public transport and limited employment opportunities. There are no schools in Maisemore, and it appears that the local catchment schools are already full with waiting lists. There are also no healthcare facilities.
- The village hall, the Children's playground and the MUGA should not be noted as being public village facilities as they are administered by a private charitable trust and run by volunteers.

4.2. County Archaeologist – No objections.

4.3. County Public Rights of Way – No objections.

4.4. County Highways – No objections.

4.5. Lead Local Flood Authority – No objections.

4.6. Badger Trust – No objections.

## **5.0 PUBLICITY AND REPRESENTATIONS**

5.1. The application has been publicised through the posting of a site notice for a period of 21 days. The application has also been publicised in the press.

5.2. 16 letters of objection have been received. Their comments are summarised as follows:

- The site is outside of the settlement boundary for Maisemore.
- The gardens appear to be overly large, which suggests that more houses will be proposed if permission is granted
- The visibility down Persh Lane is not sufficient for increased traffic and there is no possibility of improving the access.
- Maisemore is already in excess of its JCS allocation.
- The bus service in Maisemore is insufficient to cater for people commuting to work.
- There are limited services in Maisemore.
- Access to the village is limited during flood events.
- There are not enough school places.
- The site and surrounding areas suffers from surface water flooding and the development would increase the risk of flooding to neighbouring property
- The proposal would result in a loss of light and privacy.
- The development would increase highway safety risks along Persh Lane.
- There is no demand for new housing in the village.

## **6.0 POLICY CONTEXT**

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.

6.2. The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), the saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans. However, there are no made Neighbourhood Development Plans that are relevant to Maisemore.

- 6.3. The Pre-Submission Tewkesbury Borough Plan was submitted to the Secretary of State for Housing, Communities and Local Government on 18 May 2020 for examination. On the basis of the stage of preparation it has reached it is considered that the plan can be afforded at least moderate weight. However, the weight to be attributed to individual policies will be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and their degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.4. Other material policy considerations include the National Planning Policy Framework (NPPF) and its associated Planning Practice Guidance.
- 6.5. 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. Policy RES2 of the emerging Borough Plan defines settlement boundaries for the Service Villages, which includes Maisemore. Within the defined settlement boundaries, the principle of residential development is acceptable. Policy RES3 relates to new housing outside of the defined settlement boundaries and supports development where it consists of:
1. The reuse of a redundant or disused permanent building.
  2. The sub-division of an existing dwelling into two or more self-contained residential units.
  3. Very small-scale development at rural settlements in accordance with Policy RES4.
  4. A replacement dwelling.
  5. A rural exception site for affordable housing.
  6. Dwellings essential for rural workers to live permanently at or near their place of work in the countryside.
  7. A site that has been allocated through the Development Plan or involves development through local initiatives including Community Right to Build Orders and Neighbourhood Development Orders.

- 7.3. The application site is Greenfield land that lies outside of the defined settlement boundary for Maisemore as defined in the emerging Borough Plan 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 Policy RES3 of the emerging Borough Plan.

### **Council's 5 Year Housing Land Supply**

- 7.4. Whilst the proposal is contrary to Policies SP2 and SD10 of the JCS and Policy RES3 of the emerging Borough Plan, 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. There are no such policies in the Framework that provide a clear reason for refusal in this case and therefore the presumption in favour of granting permission is engaged as per paragraph 11d of the Framework. This is also known as the 'tilted balance'.

### **Scale of development and social impacts**

- 7.6. Maisemore is a relatively tightly clustered settlement, which is a named service village in the JCS. The JCS recognises that the retention of services within the service villages is intrinsically linked to the size and distribution of the resident population and it is important that these services remain viable. In response to this, Policy SP2 of the JCS sets out that rural service centres and service villages will accommodate lower levels of development to be allocated through the Tewkesbury Borough Plan and Neighbourhood Plans, proportional to their size and function, and also reflecting their proximity and accessibility to Cheltenham and Gloucester and taking into account the environmental, economic and social impacts, including existing levels of growth over the plan period.
- 7.7. The Council's approach to the disaggregation of the residual housing requirement to the rural service centres and service villages is explained in the housing background paper (HBP) (October 2019), which forms part of the evidence base for the emerging Borough Plan to 2031. The HBP stresses that the disaggregation process is only the starting point for considering an appropriate level of development for each rural settlement. It follows that in addition to the 'top down' approach of the disaggregation process, there should also be a 'bottom up' element whereby the availability of sustainable sites at each settlement will also be a factor in determining the most appropriate distribution of development. For example, there may be situations where a settlement is unable to achieve its disaggregated requirement due to a lack of suitable, sustainable sites or due to constraints such as the Green Belt and AONB. Conversely, there may also be situations where a settlement can exceed its disaggregated requirement due to suitable, sustainable sites being available at the settlement. This will however need to be balanced alongside the size, function and accessibility of the settlement in order to achieve a sustainable pattern of development and avoid issues associated with social cohesion.

- 7.8. The HBP goes on to state that there will also be positive and negative social impacts from new development. Positive effects include meeting people's housing needs, supporting village services and shops and improving physical and mental health through creating a high quality built environment. Negative social impacts can however result where the number of dwellings in a settlement is substantially increased without proportionate increases in infrastructure, employment opportunities and other local services. This risks eroding community cohesion and is a material planning consideration.
- 7.9. The HBP sets out that the disaggregated indicative housing requirement for Maisemore is 41 dwellings, although 52 dwellings have already been committed in the village over the plan period. The dwellings already committed in the village represent a percentage increase of approximately 25% (based on a figure of 210 dwellings prior to these commitments). The cumulative impact of a further 8 dwellings would increase this growth to approximately 28%. It is also important to note that the indicative housing requirement does not place an 'upper limit' on development.
- 7.10. Whilst it is accepted that this increase is not insignificant for a rural village, it is considered that the cumulative housing number would not be disproportional to the role of Maisemore as a service village. The Parish Council's comments are noted in respect of the impact on local services and facilities. However, no evidence has been presented to suggest that these would be unable to cope with the modest number of dwellings proposed here. It is also the case that Maisemore is located in reasonably close proximity to Gloucester City. In light of this, it is considered that the cumulative scale of development in Maisemore would be acceptable and would not give rise to any unacceptable social impacts that would warrant a refusal in this instance. This is a neutral factor in the planning balance.

#### **Landscape impact**

- 7.11. 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.
- 7.12. The site is not subject to any formal or informal landscape designation although it is a Greenfield site on the edge of Maisemore where built form transitions into open countryside. In light of this, the application is supported by a Landscape and Visual Impact Assessment (LVIA) that considers the impact of the proposal in that context.
- 7.13. At a District level, the Gloucestershire Landscape Character Assessment shows that the site lies within the Woolridge Hill Landscape Character Area (LCA), which is part of the Vale Hillocks Landscape Character Type (LCT), with the Elmore Back and Minsterworth Ham LCA (within the Floodplain Farmland LCT) covering the floodplain to the south and Leadon Valley to the west. At a local level, the Joint Core Strategy Landscape Characterisation Assessment and Sensitivity Analysis shows that the site falls within the Maisemore Hillocks LCA. The sensitivity study assessed the area where the site is located as being of medium landscape and visual sensitivity. The landscape character of the area is summarised as being, inter alia, a small-scale pastoral landscape heavily influenced by the existing settlement edge and equestrian activity. In visual terms, the area is summarised as being well screened from local vantage points in the village by settlement and by mature and robust hedges. It is visible only from Persh Lane and adjoining properties. The area is overlooked from higher ground on Lassington Hill to the south west and views are available from the Wysis Way as it crosses Lassington Hill. It follows that the area does retain some visual tolerance to new development

if it were to respect the existing settlement form without appearing prominent, nor to intrude into open countryside.

- 7.14. In terms of landscape effects, the LVIA sets out that the proposal would result in the loss of approximately 1.25ha of grazing pasture, approximately 33m section of category C species poor hedgerow to accommodate the site access, and approximately 14m of category C hedgerow to accommodate the access road and swale. However, in mitigation, the proposal would create approximately 890m of new and restored field boundary hedges; approximately 1,280m<sup>2</sup> of new native tree and shrub planting within the open space; approximately 580m<sup>2</sup> of wildflower/species rich grassland; and a new pond and drainage swale, which would be designed to maximise biodiversity value. The development would change the character of the site, although the restoration and creation of new hedgerow would help to strengthen the existing field pattern on the edge of the settlement.
- 7.15. In visual terms, the LVIA states that due to the limited number of locations from which views toward the site may be obtained, the more significant visual effects would be limited to the immediate area and rights of way on Lassington Hill. The most significant adverse visual effect would be limited to views experienced by non-vehicle users of Persh Lane due to the construction of the new access, which would open up views along the access into the site. A significant adverse effect would also likely be experienced by the occupiers of Peartree Cottage, although this would be mitigated to a degree by the proposed planting, which would eventually screen views into the site. With regard to views experienced by users of the rights of way on the western part of Lassington Hill, the development would be visible. However, it would be viewed in the context of the existing settlement.
- 7.16. In summary, the LVIA concludes that any significant landscape and visual effects that would arise from the proposal would be limited and generally localised. Given the findings of the Joint Core Strategy Landscape Characterisation Assessment and Sensitivity Analysis, officers concur with the findings of the applicant's LVIA. Officers also agree that the landscape and visual effects that would occur would reduce over time with the mitigation measures outlined above. However, there would be an inevitable degree of harm as a result of building on a Greenfield site on the edge of the settlement, which would result in a degree of encroachment into the open countryside. That harm, albeit limited, needs to be weighed in the planning balance.

### **Design and layout**

- 7.17. 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.
- 7.18. 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. Policy RES5 of the emerging Borough Plan echoes this advice and also states that proposals on the edge of settlements should respect the form of the settlement and its landscape setting, not appear as an unacceptable intrusion into the countryside and retain a sense of transition between the settlement and open countryside.

- 7.19. Whilst the application is in outline form, access and layout are proposed to be determined at outline stage (**see attached layout plan**). In terms of layout, the developable part of the site has been arranged as an informal mix of different house types fronting onto a single access road with an undulating building line. Beyond the access road, the plans detail a substantial area of informal open space, which would incorporate new native tree and shrub planting along with new hedgerow planting along the site boundary. The access road would be taken off Persh Lane and is proposed to be a shared surface akin to a rural country lane. A further area of open space is proposed between Persh Lane and the access road, which would incorporate an attenuation pond.
- 7.20. Landscaping is proposed to be reserved for future consideration and is only illustrative at this stage. The Design and Access Statement states that that individual plots would be delineated through the use of post and rail fencing and hedgerows to provide privacy. Lower hedgerows are proposed to the front to provide a more open character whilst distinguishing between public and private space. The access road from Persh Lane is proposed to be screened by native hedging and hedgerow trees. In addition, it is proposed to include structural landscaping along the south western boundary of the development site to screen and filter views from the south west. A secondary landscape buffer is also proposed along the boundary of the adjoining field where the existing field boundary is to be restored.
- 7.21. Scale and appearance are also proposed to be reserved for future consideration. However, it is proposed that the individual dwellings would increase in scale from 1 storey, through to 1.5 and 2 storeys in height. This would provide a transition between the larger existing properties in Blacksmiths Lane and the smaller 1.5 storey properties to the south east of the site. Limited information is provided on appearance although it is anticipated that the dwellings would be primarily brick with plain clay or slate roof tiles.
- 7.22. It is considered that the proposed development would be reasonably well related to the existing settlement pattern given that it is effectively enclosed on 3 sides by residential development, save for the intervening orchard. The proposed layout is considered to be logical and the informal and undulating building line, along with the substantial area of informal open space, would provide an appropriate settlement edge, providing a good transition to the open countryside beyond. Whilst appearance, scale and landscaping are proposed to be reserved for future consideration, there is nothing to suggest that appropriate details could not be secured at the detailed design stage.
- 7.23. Concerns have been raised that the private gardens are unusually large and if permission was granted, a denser scheme could come forward on the site. Whilst that is a possibility, it is not the scheme being considered here. Moreover, any revised scheme would need to be assessed on its own merits. Whilst the scheme presented here is of a low density, it is considered appropriate for this edge of settlement location. The proposal is therefore considered to be acceptable in design terms, which is a neutral factor in the planning balance.

#### **Residential amenity**

- 7.24. 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.

- 7.25. An objection has been raised by a local resident on the grounds that the proposal would result in a loss of light and privacy to properties in Persh Way. Whilst matters relating to scale and appearance are proposed to be reserved for future consideration, the layout is proposed to be determined at outline stage. The layout shows that there would be good separation distances between the proposed dwellings and the existing properties in Persh Way. Moreover, the submitted plans suggest that the dwellings to the south east of the site would be single storey. It is therefore considered that the layout would not lead to any undue loss of light or privacy subject to ensuring that the scale and appearance of the dwellings is acceptable at the reserved matters stage.

### **Housing mix**

- 7.26. 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 RES13 of the emerging Borough Plan.
- 7.27. Although the matter of scale is proposed to be reserved for future consideration, the application indicates that the scheme would provide a mix of 2, 3 and 4 bedroom properties. 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 RES13 of the emerging Borough Plan.

### **Affordable housing**

- 7.28. 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. This is also reflected in Policy RES12 of the emerging Borough Plan.
- 7.29. The application as originally submitted proposed an off-site contribution towards affordable housing. However, following consultation with the Council's Strategic Housing and Enabling Officer, it was advised that an off-site contribution should not be sought on this site as there is a need for rural affordable housing across the Borough and people shouldn't be expected to move to areas where social housing is present or delivered on larger sites. Furthermore, in many cases, there would not be any other local sites that would deliver affordable housing. It is also a policy requirement to be delivered on site.
- 7.30. In light of this, the Council's Strategic Housing and Enabling Officer has advised that the following affordable housing mix should be provided on site:
- 1 x 2-bedroom house – Social rent
  - 1 x 2-bedroom house – Shared ownership
  - 1 x 3-bedroom house – Social rent

- 7.31. In addition, a part off-site financial contribution equivalent to 0.2 of a house would be required to meet the minimum 40% affordable housing requirement. This would equate to £24,640.
- 7.32. The applicant has indicated that they are willing to provide the requested affordable housing on site and pay the off-site financial contribution. This would be secured through a Section 106 Agreement.

### **Biodiversity**

- 7.33. 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.
- 7.34. The application is supported by an Extended Phase I Ecological Assessment, which provides an ecological assessment of the habitats on the site. It consists of a desk study of ecological data in relation to the site and an ecological assessment of the land within the application site. The assessment notes that hedgerows are present around the boundaries of the site, which qualify as UKBAP habitat, and an orchard is situated to the north of the site. A badger sett was identified along the southern boundary of the site, which is outside of the proposed works area. The site provides limited foraging opportunities for bats with most of the site comprising grazed pastureland. A pond is located to the south of the site within 250m and has been assessed as having excellent suitability to support Great Crested Newts and may support breeding populations, which are then likely to be present on the site. The grassland on the site is currently grazed by sheep and maintained at a uniform sward height which lacks the structural diversity required by species of reptiles.
- 7.35. In terms of the potential impacts of the proposed development on habitats, the data search revealed one national statutory designated site within 2km and eight non-statutory designated sites with 2km. Due to the scope of the development and the distance to these sites, the assessment concludes that there would be no adverse impacts as a result of this proposal. There would be a loss of some hedgerow, primarily to accommodate the new access. The hedgerow to be lost has been assessed as being species poor, however, it is proposed to mitigate the loss through the planting of new hedgerow within the site, in excess of the volume that is proposed to be removed.
- 7.36. Regarding protected species, the Badger setts that has been identified are located outside of the proposed works area and would not be directly impacted by the development. It is stated that a 20m buffer will be established around the setts and informed by an update survey by an ecologist. No heavy plant, excavations or fires would be permitted within this buffer area, which would be marked out with fencing. During the works any trenches will either be backfilled nightly or a ramp would be provided to ensure that no badgers become trapped in any excavations. Badger proof fencing would also be used to ensure that there are no conflicts between residential gardens and badgers where appropriate. In respect of bats, the scheme is relatively low density and provides scope to maintain and enhance boundary features to benefit the local bat populations. The development would include an ecological buffer of between three and five metres, which would provide a dark corridor around the boundary of the site. It is also recommended that integral bat boxes should be fitted into the buildings to provide additional roosting opportunities.
- 7.37. As set out above, the site provides potential habitat for Great Crested Newts. There are also suitable ponds within the area and therefore Great Crested Newts may be present on the site, which may be impacted by the proposed development. To address this, the applicant has applied to register under the District Licencing Scheme held by the Council and run in partnership with NatureSpace. This assumes the presence of Great Crested Newts on site and provides a mechanism whereby a financial payment is made to cover the cost of

compensation measures. NatureSpace has confirmed that the proposal can be dealt with under the District Licence if permission is granted. To secure this, NatureSpace requires a number of planning conditions to be imposed. The first condition requires the development to take place in accordance with the terms and conditions of the Council's organisational license. The second condition restricts development until a certificate from NatureSpace, confirming that all necessary measures in regard to Great Crested Newt compensation have been appropriately dealt with, has been submitted to the Council for approval (this will also require a financial contribution towards the delivery of strategic Great Crested Newt conservation). The third condition imposes some working restrictions and on-site mitigation measures. Subject to adhering to these conditions, the proposal would have an acceptable impact on Great Crested Newts.

- 7.38. Following consultation with the Council's ecology consultants, planning conditions are also recommended to secure a lighting details for the development, along with a Landscape and Ecological Management Plan (LEMP). The Badger Trust also raise no objections to the proposal subject to adhering to the proposed mitigation outlined in the submitted ecological assessment. These mitigation measures should be carried forward in any LEMP. Subject to confirming that appropriate mitigation can be secured for Great Crested Newts, the proposal is acceptable in terms of biodiversity. This is a neutral factor in the planning balance.

#### **Arboricultural implications**

- 7.39. The application is supported by a Tree Survey and Arboricultural Impact Assessment (AIA), which considers the existing trees on and adjoining the site. Of the trees and groups of trees that were surveyed, 6 were classed as Category B (moderate quality), 13 were classified as Category C (low quality) and 1 classified as Category U (not suitable for retention). A number of trees are proposed for removal as they cannot be effectively retained as part of the development proposal. One tree is also deemed to be in an unsafe condition. Of the trees proposed to be removed, all are Category C and U trees and are relatively insignificant. Their removal would therefore not significantly impact on the local or wider landscape. The AIA demonstrates that the principal arboricultural features within the site can be retained and adequately protected during the construction period. Whilst some hedgerow removal is required to create the new access, significant new tree and hedgerow planting within the site would mitigate this loss. This is a neutral factor in the planning balance.

#### **Drainage and flood risk**

- 7.40. 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.
- 7.41. 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.

- 7.42. Regarding drainage, Severn Trent sewer records indicate no surface water sewers located in or in the vicinity of the site. The submitted Flood Risk Assessment (FRA) sets out that the drainage strategy for the northern part of the site would rely on infiltration drainage techniques with run-off from buildings discharging into garden soakaways. The access road in this location would also drain by infiltration to ground, either directly or via pervious surfacing. To the southern part of the site where the soils are impermeable and groundwater is present, it is proposed to discharge into the watercourse to the west of the site, which in turn eventually flows into the River Leadon. To achieve this, a swale is incorporated into the layout that would feed into an off-line attenuation basin to the south east of the site prior to discharging into the watercourse at a restricted rate (**see attached drainage strategy**).
- 7.43. Foul water is proposed to be discharged into an existing public foul sewer to the north east of the site under the A417 via a gravity sewer along Persh Lane. The objections regarding the capacity of the sewer network in Maisemore is noted. However, Severn Trent have confirmed that a connection to their system is acceptable in principle and the foul flows from the development would not have an adverse hydraulic impact on the existing sewer network in the A417.
- 7.44. Following consultation with the Lead Local Flood Authority (LLFA) no objections are raised on the basis of a planning condition to secure surface water drainage details prior to the commencement of development. Subject to this condition, the proposal is considered to be acceptable in this respect. This is a neutral factor in the planning balance.

#### **Access and highway safety**

- 7.45. 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.
- 7.46. Regarding accessibility, Maisemore contains a reasonably good level of primary and secondary services, which include a public house, village hall, church, play and sports facilities and limited local employment opportunities. Maisemore also has some public transport provision with links to the surrounding areas and with bus stops located within reasonable walking distance of the site. Indeed, Maisemore 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.
- 7.47. In terms of access, this is proposed to be dealt with at outline stage. The proposed development would be served via a junction arrangement directly off Persh Lane, which itself is a rural lane accessed off the A417 (**see attached access arrangements**). The access would also incorporate a new passing place on Persh Lane, adjacent to the new access. A speed survey undertaken along Persh Lane recorded 85<sup>th</sup> percentile speeds of 25.2mph northbound and 22.8mph southbound. Based on these speeds, the visibility splays required are 32m to the north and 37m to the south. The submitted plans show that these can be achieved and would be secured by way of a planning condition. In terms of the layout, the Highways Officer advises that whilst the spine road is physically constrained in terms of width, sufficient levels of forward visibility and number of passing places are proposed to allow for vehicles to safely access and egress the site.

- 7.48. Regarding the suitability of Persh Lane to accommodate the proposed development, highway safety concerns have been raised due to the nature of the road. Objectors point out that Persh Lane is narrow and has limited footways. Presently, the nearest footway provision is located approximately 130m north of the proposed access. In response to this, the Automatic Traffic Count (ATC) report that measured the volume of the traffic vehicle types and speed, indicates that the average traffic volumes on Persh Lane is currently very low with only 10 two-way trips in the AM and PM peak hours (07:00 to 08:00 & 17:00 to 18:00 respectively). Furthermore, the proposal is only forecast to generate an additional 4 vehicular trips in each peak hour, which equates to a single two-way trip every 15 minutes. Based on this, the Highways Officer advises that given the overall scale of the proposals and the anticipated volume of pedestrian movements from the site, the inclusion of a footway would not only erode the rural character of Persh Lane, it would also be perceived as an excessive level of mitigation. It should also be noted that a separate pedestrian access is proposed to the north west of the site, which would connect to the existing Public Right of Way running along Blacksmiths Lane. The Highways Officer is therefore of the view that a safe and suitable access can be achieved and the residual cumulative impact on the highway network would not be severe. This is a neutral factor in the planning balance.

### **Heritage assets**

- 7.49. Paragraph 189 of the NPPF states that 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.
- 7.50. The County Archaeologist advises that there is no significant archaeology known at this location or in the immediate vicinity. He is therefore of the view that there is a low risk that archaeological remains would be affected by this proposal and no archaeological investigation or recording is required.

### **Community Infrastructure Levy/Section 106 obligations**

- 7.51. 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.
- 7.52. 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.
- 7.53. 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.
- 7.54. Infrastructure requirements specifically related to the impact of the development will continue to be secured via a Section 106 legal agreement. In this case, this would only apply to the provision of affordable housing and the related off-site financial contribution as set out previously.

## **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 settlement boundary for Maisemore as defined in the emerging Borough Plan 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 Policy RES3 of the emerging Borough Plan. 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 an important 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, although it is accepted that the Council's housing policies are currently out of date and full weight cannot yet be afforded to Policy RES3 of the emerging Borough Plan. There would also be an inevitable degree of harm to the landscape given that it is proposed to develop a Greenfield site on the edge of the settlement.

### **Neutral**

- 8.5. Whilst the application is in outline with scale, appearance and landscaping reserved for future consideration, the site layout demonstrates that the proposed quantum of development can be accommodated on the site in an acceptable manner. Furthermore, the layout does not raise any residential amenity issues. 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. Subject to confirming that appropriate mitigation can be secured for Great Crested Newts, the proposal is also acceptable in terms of biodiversity.

## **Conclusion**

- 8.6. Harm would arise though conflict with the Council's development plan policies in respect of the distribution of housing. However, whilst the site is outside of the built-up area of Maisemore, it is located on the edge of the settlement and would have access to the services and facilities available in this location. In any event, the Council's housing policies are currently out of date and the weight that can be afforded to them is reduced. There would be a degree of harm to the landscape, however, the level of harm is considered to be limited and can be mitigated with appropriate landscaping that would be secured at the reserved matters stage. Given the application of the tilted balance, it is considered that the harms identified do not significantly and demonstrably outweigh the benefits in this case. The application is therefore recommended for delegated consent subject to securing the appropriate mitigation for Great Crested Newts and subject to the completion of a Section 106 Agreement to secure the affordable housing.

## **CONDITIONS:**

1. The development for which permission is hereby granted shall not be begun before detailed plans thereof showing the scale and external appearance of the buildings, 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. 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.

5. 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.

6. 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.

7. 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.

8. 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**

9. 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.

10. 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

11. Development shall not begin until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly), for a distance of 32 metres north and 37 metres south measured along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of the land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety.

12. 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 include but not restricted to:
- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
  - Routes for construction traffic;
  - Any temporary access to the site;
  - Locations for loading/unloading and storage of plant, waste and construction materials;
  - Method of preventing mud and dust being carried onto the highway;
  - Arrangements for turning vehicles;
  - Arrangements to receive abnormal loads or unusually large vehicles; and
  - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

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

13. 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.

## **Drainage**

14. No development shall take place until comprehensive evidence based surface water and foul drainage details, including a SuDS/drainage management plan, have been submitted 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. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, 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

In addition, unless foul water is to be treated via a package treatment plant, the sewerage authority must first take any steps necessary to ensure that the public sewer will be able to cope with the increased load and there being in place adequate and appropriate sewerage facilities to cater for the requirements of the development without increase of flood risk or ecological damage. The scheme shall be implemented in accordance with the approved details before the development is finished and put into use, and subsequently maintained to the required standard.

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.

## **Ecology**

15. The development hereby permitted shall take place strictly in accordance with the terms and conditions of the Council's organisational licence (WML-OR43-2019-1) and with the proposals detailed on plan 'Maisemore 2 Impact Map 25th June 2020'.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the organisational licence WML-OR43-2019-1.

16. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR43-2019-1), confirming that all necessary measures in regard to great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the local planning authority and the local authority has provided authorisation for the development to proceed under the district newt licence. The Delivery Partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.

Reason: In order to adequately compensate for negative impacts to great crested newts.

17. The development hereby permitted shall take place strictly in accordance with Part 1 of the GCN Mitigation Principles, as set out in the District Licence WML-OR43-2019-1 and in compliance with the following:
- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
  - Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e. hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).

Reason: In order to adequately mitigate impacts on great crested newts.

18. 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.

19. 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 and in the interests of amenity 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.