

## ADDITIONAL REPRESENTATIONS SHEET

Date: 18 August 2020

The following is a list of the additional representations received since the Planning Committee Agenda was published and includes background papers received up to and including the Monday before the meeting.

A general indication of the content is given but it may be necessary to elaborate at the meeting.

Item No	
5a	<p data-bbox="268 566 459 600"><b>19/00404/FUL</b></p> <p data-bbox="268 633 890 667"><b>Land rear of Grove View, Market Lane, Greet</b></p> <p data-bbox="268 701 1329 835">Paragraph 1.8 of the Officer's report identifies 'an area' of land that would not be included within the residential curtilage (annotated on the plan). This should read; 'Four areas of land that would not be included within the residential curtilage' (annotated and shaded in yellow on the plan).</p> <p data-bbox="268 869 603 902"><b>Further representations</b></p> <p data-bbox="268 936 1329 1003">A further report highlighting issues has been received from a neighbour. This has already been sent direct to Members. The report is attached in full.</p>
5b	<p data-bbox="268 1030 459 1064"><b>20/00504/FUL</b></p> <p data-bbox="268 1097 762 1131"><b>51 Cotswold Gardens, Tewkesbury</b></p> <p data-bbox="268 1164 1313 1265"><b>Three further letters of objection have been submitted.</b> One of the objectors has also submitted a series of annotated photographs - <b>all of which have been appended.</b></p> <p data-bbox="268 1299 1313 1400">Whilst the majority of the points raised have been covered in the Officer's report, one objector also references covenants and deeds which is not a matter for planning consideration.</p> <p data-bbox="268 1433 1345 1534">Likewise, a daylight and sunlight assessment is not necessary at this stage because Officers were able to assess the impact in sufficient detail and this impact is not considered sufficient to warrant a refusal.</p> <p data-bbox="268 1568 1345 1691">A flood risk assessment submitted with the application sets out mitigative steps to alleviate potential flooding issues which is in accordance with the advice set out by the Environment Agency. Flooding is therefore not considered to be a reason to warrant a refusal.</p> <p data-bbox="268 1724 1345 1960">Finally, whilst the objector references concern over the dwelling and annexe being utilised as a temporary holiday let on Air BnB, it is understood that the dwelling is the applicant's main place of residence and it is considered that such sporadic uses of the site would represent ancillary use in accordance with the suggested condition. If in the future it was considered that this was not the case, the Enforcement Team would reserve the right to investigate and enforce the condition as appropriate.</p>

5g

**20/00376/FUL**

**Land at The Coach House, Post Office Lane, Cleeve Hill**

**It is recommended conditions 2 and 3 are amended to the following and additional conditions 5 and 6 added to the decision notice.**

2. The materials implemented shall be in accordance with approved Drawing number Materials 45-401-C (Finishes Schedule) and retained thereafter unless otherwise approved in writing by the local planning authority. The window frames shall be powder coated aluminium grey in colour to match those previously approved under application 18/00563/FUL.

Reason: To ensure that the external appearance of the development is satisfactory.

3. The foul drainage and surface water drainage implemented shall be in accordance with the approved details and retained thereafter unless otherwise approved in writing by the local planning authority:

- Proposed Drainage plan 003 Rev P3
- Flood Exceedance plan 005 Rev P1
- Private Drainage Typical Details plans 010 Rev P1 and 011 Rev P1
- File Soakaway calculations - Micro Drainage

The foul and surface water drainage schemes shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site in accordance with the NPPF.

5. The works shall be implemented in accordance with the approved details Construction Managements Plan AJP Associates Drawing 7718-1A and Construction Management Plan Addendum (received 2nd January 2019) unless otherwise approved in writing by the local planning authority.

Reason: To protect the amenity of neighbouring properties and to protect the public highway.

6. The finished floor levels (only) shall be implemented in accordance with approved plans:

- Site Section Dwg No. 7728/4 Rev C.

For the avoidance of any doubt, the ceiling heights shall be in accordance with the email received on the 11th February 2019 from Andrew Jones

Reason: In order to ensure the satisfactory appearance of the development and its relationship to adjoining properties, in accordance with the NPPF.

**Additional comments have been received on 17 August 2020 from an objector - attached in full.**

5h	<p><b>20/00362/FUL</b></p> <p><b>St Petroc, Pirton Lane, Churchdown</b></p> <p><b>Further representations</b></p> <p><b>A further letter of objection has been received from Churchdown Parish Council</b>, which reiterates their earlier concerns. No further matters have been raised.</p>
5l	<p><b>19/00925/FUL</b></p> <p><b>Land Off Ash Lane, Ash Lane, Down Hatherley</b></p> <p><b>Officer Update –</b></p> <p>At the time of writing the Committee report there was a number of outstanding matters required to be resolved. An update on each is provided below:</p> <p><b>Highways</b></p> <p>At the time of writing the report no comments had been received from County Highways on the revised scheme. Since then, County Highways has confirmed it has no objections to the development. It is considered the proposal is unlikely to create a detrimental impact on the operation and safety of the highway.</p> <p>As set out in Paragraph 7.35 of the Committee report, a number of concerns have been raised from third parties regarding the potential use of the proposed pedestrian/cycle path to the wider strategic land to the west by vehicles. To address these concerns County Highways has confirmed traffic management measures to prevent the pathway from being used by vehicles could be secured via condition. A condition to secure this information is recommended below.</p> <p><b>Ecology</b></p> <p>At the time of writing the Committee report, the Council's Ecologist was in the process of reviewing an updated Biodiversity Enhancement and Construction Ecological Management Plan. Having reviewed these documents, the Council's Ecologist has confirmed the details in the reports are acceptable. Two conditions are recommended (see below); one to secure the mitigation works, the other requires details of any external lighting.</p> <p><b>Other Developer Contributions</b></p> <p>As set out in Paragraphs 7.32-7.34 of the Committee report, Gloucestershire County Council advised that the proposed development would require a financial contribution towards education and library provision. At the time of writing the report ongoing discussions were taking place with regard to the contributions requested. Since then, the applicant has indicated he is willing to pay the requested contributions to mitigate the impact of the development and has agreed to enter into a legal agreement to secure them.</p> <p>In addition, the applicant has agreed to enter into a legal agreement to secure a contribution of £73 per dwelling towards refuse and recycling. This contribution covers the cost of providing a dry recycling, food waste and refuse bin for each dwelling.</p>

**Additional conditions –**

Further to receipt of comments from County Highways and the Council's Ecologist the following additional conditions are recommended:

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 near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 22 metres north and 18 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.

The development hereby permitted shall not be first occupied until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and Manual for Gloucestershire Streets. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging points shall be of the same specification or a higher specification in terms of charging performance.

Reason: To promote sustainable travel and healthy communities.

The development hereby permitted shall not be brought into use until details of the pedestrian/cycleway access have been submitted to and agreed in writing by the Local Planning Authority. The details shall include traffic management measures to prevent the use of the pathway by vehicles. The approved details shall be thereafter maintained for the duration of the development.

Reason: In the interest of highway safety.

The development hereby permitted shall be carried out in strict accordance with the measures set out in the Preliminary Ecological Appraisal (2018 & 2019), the Biodiversity Enhancement (Version 2.0) Plan, dated 21.07.20 and the Construction Ecological Management Plan (Version 2.0), dated 21.07.20, all prepared by CTM Wildlife Ltd and submitted with this application.

Reason: To ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider area.

Before the development hereby permitted is first occupied details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include times when the external lighting will not be switched on. It is recommended that the lighting plan is devised following consultation with the project ecologists. Only external lighting in accordance with approved details shall be provided on the application site.

Reason - To ensure the proposed development does not have an adverse effect on biodiversity within the site and the wider area.

**Additional Informative Notes**

Further to receipt of comments from County Highways the following additional informative notes are recommended:

	<p>1. The Local Highway Authority has no objection to the above subject to the applicant obtaining a section 184 licence. The construction of a new access will require the extension of a verge and/or footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the</p> <p>Applicant is required to obtain the permission of Gloucestershire Highways on 08000 514 514 or highways@gloucestershire.gov.uk before commencing any works on the highway.</p> <p>2. You are advised that as a result of the proposed layout and construction of the internal access road, the internal access road will not be accepted for adoption by the Highway Authority under Section 38 of the Highways Act 1980.</p> <p>The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980, unless and until you agree to exempt the access road.</p> <p>The exemption from adoption will be held as a Land Charge against all properties within the application boundary.</p> <p><b>Revised Recommendation</b></p> <p>In light of the above updates the recommendation has been revised to the following:</p> <p><b>That authority be delegated to the Technical Planning Manager to permit the application, subject to the addition to/amendment of planning conditions as appropriate and the completion of a legal agreement to secure a financial contribution towards affordable housing and a developer contribution towards education, library provision and refuse and recycling.</b></p> <p><b>Further representations</b></p> <p>A further letter highlighting issues has been received from a neighbour. The letter is attached in full.</p>
5m	<p><b>19/01227/OUT</b></p> <p><b>Land Off Rectory Close, Ashleworth</b></p> <p><b>Further representations</b></p> <p><b>A further letter in support of the proposal has been received from the applicant. The letter is attached in full.</b></p>

**19/00404/FUL**

Land to rear of Grove View, Greet

Conversion of building to 1-bed dwelling, and change of use  
of land to residential. Cessation of use of site as builders yard.

Written Submission by member of the public  
to Planning Committee meeting of 18 August 2020

**“Against” the proposed development**

██████  
██████

██████  
████████████████████

Date:

16 August 2020

## 1.0 Summary

1.1 The case for this planning application is not clear-cut, even given the Housing Supply shortfall and a presumption in favour of permission. The tilted balance analysis and judgement made in the Case Officer's report is in my opinion insufficiently robust to support the recommendation it makes. Some important information is not included; it calls into question a significant element of the policy basis for the analysis. The proposal also fails to meet the sustainable development test required by NPPF para 11.

1.2 In this document I will explain why I believe :

1. The application should be **refused today**, or failing that
2. A decision should be **deferred**, until
  - a. the outcome of two open Enforcement cases at site are known and reported,
  - b. further land contamination testing has been conducted and reported,
  - c. action has been taken to require the removal and safe disposal of excavated contaminated soil that was spread across an area of the surrounding site (corresponding in size to the application site) during Covid-19 lockdown,
  - d. a site visit by committee members can be safely undertaken.
3. If nonetheless the committee is minded to grant approval, I provide arguments for the **addition and minor modification of some planning conditions**.

## 2.0 Rationale

2.1 The headline reasoning is as follows:

- the application would be more correctly viewed as 'new build', rather than a 'conversion'; the current building is unapproved (2014 CLE decision was for site usage only, not the building fabric; the building itself was inadmissible to the CLE application, it had not existed for 10 years)
- it is not 'vacant or redundant' in the normal sense of these words (its contents remain close-by)
- SD10:5 applies to 're-use' of buildings; SD10:3 to "conversion to dwelling" (and offers no help)
- the application conflicts with every JCS and Local Plan policy for housing development due to its unallocated location, outside existing built-up areas and the rural service hierarchy, and not infill.
- the level of landscape impact on the sylvan setting, and the surrounding SLA, from the domestication that arises in a change to residential use, greatly outweighs the minimal economic, social and environmental benefits (cf the 2016 Appeal Inspector decision); the tilted balance test fails
- the location, away from any service facilities, renders the proposal unsustainable

2.2 There are other considerations. Ministerial guidance requires they be given weight. There are two on-going Enforcement actions. One concerns unapproved 'pre-commencement' activity, which has also given rise to the need for further land contamination testing; the other is spillage of the current usage and storage of building paraphernalia beyond the CLE area, thereby further evidencing the somewhat contrived nature of the claimed redundancy.

2.3 The proposal drawings suggest its boundary fencing will encroach beyond the shown redline area. Further care is needed with this and other planning conditions.

### 3.0 Context

3.1 I objected over 15 months ago to the original application (as well as the conversion, it included the building of a new 2-bay carport and storage unit), and again in July 2019 to the revised application. I will not repeat here the many policy arguments of those earlier letters.

3.2 Since then there have been further updates, and long-suspected contamination has been proven.

3.3 This document will instead concentrate on the key issues raised in the recently available Case Officer's report; it will also raise a number of omissions in that analysis. It is argued that when the material here presented is taken into account, it allows for a different conclusion to be drawn.

### 4.0 Outline of Argument

4.1 The Case Officer's analysis and resultant recommendation relies heavily on what is described as the existence of a "lawful" building, that is said to be "vacant and redundant" and thus ripe for "conversion". As such, it aims to invoke exceptional policy treatment under **JCS policy SD 10:5**.

4.2 We will examine these descriptive claims, and call into question the applicability of SD10:5 to this case. It relates to the "re-use" (as opposed to conversion to a new usage) of vacant and redundant buildings. We will show that the current storage building - which **remains unapproved** - is **neither vacant nor redundant in the normal sense of these words**. Its contents remain close-by, within the site. The building was only emptied, recently, so as not to be in blatant disregard of this requirement.

4.3 We shall further show that instead of SD10:5, it is policy SD10:3 that is relevant to "conversion to dwelling". However, this policy adds no support to the application as the site is not located within an existing built-up area, and the hamlet of Greet is not even a rural service village.

4.4 We will next analyse the **tilted balance** that must be judged for this application, given the housing supply shortfall. We concur with the Case Officer that small or no economic, environmental or social benefit will arise; also that little weight can attach to any gain, given the small-scale nature of this proposal. We will examine the impacts on the landscape and woodland setting of the site, were this proposal to proceed. Like the Appeal Inspector in 2016, we will show the level of impact to be both significant and important. And given the site lies also within the SLA, we will similarly conclude that any benefit is greatly outweighed by the harm that would arise.

4.5 Although the Officer's report accepts many of the impacts that would occur, it seeks to adopt a different conclusion to this judgement of balance. We disagree with the judgement it makes. We do not accept that the arguments it advances for the latest scheme being sufficiently different to, or better than, the last proposal, are sufficient to warrant a different outcome to that made by the Inspector last time.

4.6 We will show that the proposed residential development is **not sustainable**. A fundamental requirement of Paragraph 11D of the NPPF is thus not met. The presumption in favour of granting approval is thus invalidated, in addition to the failure of the tilted balance test.

4.7 **Other considerations.** There are two Enforcement cases underway concerning:

- a. usage and storage that has spilled beyond the CLE area, and
- b. recent groundworks undertaken during Covid-19 lockdown, in anticipation of planning approval.

4.8 The latter has also led to the significant disturbance of contaminated soil, and its surface dispersal elsewhere on site. Not only is this work entirely in conflict with the processes required by ground remediation strategy, it involves land beyond the perimeter of the planning site. Ground levels have been changed to the extent that a retaining wall has needed to be built.

4.9 Ministerial guidance issued in 2015 instructs that weight be given to such unapproved pre-emptive work when evaluating an application. It requires that any impact arising from such pre-emptive work must be taken into account, together with the impact that would arise from the application itself if given approval.

4.10 Last year a Contaminated Land Survey showed the presence inter alia of unacceptable levels of asbestos fibre. The survey report judged that contamination covers the entirety of both the planning site and the much larger surrounding site. A remediation strategy has been proposed, and expertly moderated, to mitigate the public health risk on the planning site. *There is currently no such agreement over the surrounding land, despite this being where the test sampling was actually conducted and where the contaminated spoil has recently been dumped.*

4.11 The Environmental Health Officer wrote in June that any material change to the land, since the survey, could give rise to the need for additional testing and require a formal reassessment of the risk profile. In turn, this could impact on the current proposal for mitigation.

4.12 The pre-emptive works done in April 2020 and earlier in November 2019 (20/00089/ENFA has the detailed evidence) result directly from this planning application. Any consequences of this work (such as further testing, wider application of remediation etc) must likewise fall due. It is evident that in order to follow the Ministerial guidance and take fully into account the impact of this pre-emptive work, **it is necessary first to await the outcome of both the Enforcement investigations and the further contamination testing.** Only when this information is known can the scale of impact from this activity be adequately assessed, and the appropriate weight be given. Due to Covid-19 restrictions, it was not possible until very recently for Council officials to visit site. This has now changed; an Enforcement Officer has recently attended.

4.13 Finally, due to its landscape sensitivity, it is suggested that the Planning Committee (or a group of its members) might wish to consider making a (suitably socially-distanced) **site visit**. It is felt this would assist the committee to better judge the character and landscape setting of the site, and its importance within the SLA. This in turn would facilitate assessing the significance of any impacts on that setting. Such a visit need not in itself cause further delay to consideration of the application. It could take place while awaiting the above investigations and reports.

## **5.0 Details of Analysis**

### **5.1 Site History, and the first appearance of the building**

5.1.1 The application sets great store in the claim that for the current scheme “the building and associated builder’s storage yard is already in situ as the current lawful use on site”. The is based on the CLE ruling made in 2014 (ref 14/00145/CLE Split Decision of 28 May 2014).

5.1.2 The use was certainly made lawful by this certificate, and is not contested. However, there is no mention of the building in this certificate. It could not form any part of the CLE application, due to it not having been in existence for 10 years. There is also no other planning history, or evidence of building control, for the building.

5.1.3 No building of any type has existed at this site before July 2006. This was true (as historical records can show) even during the period before WWII when the site was part of a larger parcel that operated as the Winchcombe Brick and Tile Company (often referred to as the Greet Brickworks), or later when the claypits of the now defunct brickworks were used as a landfill site. All buildings that supported these two industries, together with later residential development (see later), were further to the east, on the land that is now called Grove View, Greet.

5.1.4 The planning site is within a parcel known as Land to the Rear of Grove View. It has a separate UPRN 010067627236. It comprises a set-aside woodland.

5.1.5 The current usage dates from the late 1980s. From then until 2006, the (at the time unpermitted) use of a part of this woodland for the retention of excess building materials had been through ad hoc open-air loose storage, aided only by the introduction of drive-up aggregate scoop bins. Even the July 2006 building works did not result in the current building; it was a lower, open-fronted structure. The current building, with its increased wall height (evidenced in the internal photos supplied with the Officer's report) allowing for a new slightly pitched roof, and the addition of a fourth wall with three vehicular access points, did not appear until 2012/13. As such, there was no possibility of including this building under the "10-year continuous use" criteria of the 2014 CLE application.

5.1.6 Only the land use could be shown to qualify, not the building. As such, the storage unit that is now the subject of the present proposal, remains unapproved. This distinction is evident in the wording of the CLE Application Title and Spilt Decision Notices issued, and as confirmed by the LPA's Case Officer at the time. Even now, the current building is at best just 8 years old {i}.

5.1.7 Open source photography [Google Earth] showing site history of the last 20 years is available at Appendix 1. This clearly shows arrival of the first building between 2005 and 2007, and too young for the 2013 and 2014 CLE applications. It also evidences the later changes that resulted in the current building.

5.1.8 Because the building is without any planning approval, it is difficult to consider terms for it (again, as opposed to for the land on which the building stands) such as 'change of use', 'conversion' etc. In our opinion, it also means that the planning application should more correctly be viewed as if it were an application to create new residential development, where no prior (lawful) building exists.

## 5.2 Application of JCS policy SD10

5.2.1 The report recommends that this application be permitted. Its analysis relies heavily on the treatment of this case as an 'exception', under the terms of JCS policy SD10, section 5. This is because all other JCS (and lower level local plan) policies relevant to housing preclude identifying this application site as being a valid plan-driven proposal or a sustainable location. It is common ground that the application would fail unless a valid exception can be demonstrated.

5.2.2 Quite apart from the above argument concerning the lawfulness, or otherwise, of the existing building, we strongly contest the applicability of SD10:5. In our view, even were the existence of the current building fabric to be deemed lawful, this policy section cannot be used for cases such as this which require a different use to the current one. Instead it is Section 3 (SD10:3 "conversion to dwelling") that must be looked at. SD10:5 encourages the "re-use" (rather than change of use) of vacant or redundant

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Footnote {i} The Structural Survey submitted as part of this application has incorrectly stated that the current storage building has been standing for over 20 years. In the absence of building control, this is cited as evidence that the current building is structurally sound, and appropriate for conversion without significant remedial work. Even the original store would now only be 14 years old.

buildings; it is about bringing empty, dilapidated, damaged or out-of-date houses back into use as part of the housing supply. We will look at SD10:3 more later.

5.2.3 Difficulties with the report's analysis and its use of SD10:5 do not stop there. As an immediate neighbour with daily visibility of site, we find ourselves in the privileged position of being able to question other qualifying matters that determine whether policy SD10:5 can properly apply to this case.

5.2.4 We question whether this builder's storage unit can be classed as "vacant or redundant", in any reasonable interpretation of those words. The building has continued in full use until recently. It was only emptied many months after the application was submitted. And only then, on the explicit advice {ii} of a Council officer, who offered that legal opinion had suggested that this would be a necessary - though not a sufficient - step to take. As the site photos submitted by the applicant amply demonstrate, there are copious amounts of building material and machinery scattered across site. Indeed, following the emptying out of this building, the level of such storage on site is probably at the highest it has been throughout the last 30+ years of use. Whether or not this situation were to change in the future, as has been suggested, it is unquestionably not the case now. Future redundancy is not the same as current dis-use.

5.2.5 We suggest this storage building can only be said to be "vacant or redundant" now, at the expense of its contents being moved elsewhere on site. There is other secure and covered storage on site: a shed, shipping container, caravan (aka "site office") etc. Have these been similarly emptied? If not, why has the one building that is the subject of this application been so selected? Are these other storage options available to provide over-capacity on site, such as to enable one of the options to be cleared out for now? In sum, we believe it evident the current situation at site has been created precisely in pursuit of looking for the admissibility of the crucial SD10:5 policy, rather than from any genuine redundancy or lack of requirement for this building. We find the present circumstances to be at best somewhat contrived.

5.2.6 Of further note is that the prescribed area of the builder's yard has again recently become so full of storage options, of building materials, of plant machinery and a caravan, that items frequently spill out into the surrounding site. This land was denied such use in the 2014 CLE Split Decision. This overspill is the subject of one of the on-going Enforcement cases (20/00089/ENFC), which seeks to return all such items back within the CLE limits.

5.2.7 Mindful of the earlier legal opinion that it is understood has been used by Council (albeit in a non-binding manner) to help the preparation of this application, we suggest the above information - regarding the true current on-the-ground status of site's continuing use, with its prevalence of scattered builder's paraphernalia across site at the same time as one particular store has been deliberately emptied - renders the genuine vacancy and redundancy of this building in doubt.

5.2.8 We ourselves are strongly of the opinion, based on our own regular observation of site, that the defining criteria for policy SD10:5 are not well met. We feel this policy is at least of genuinely questionable applicability to the current circumstances. Apart from the unapproved planning status of the building's fabric, as earlier shown, the claims made for its redundancy are too reliant on artificially stretched interpretations of this policy requirement. To demonstrate compliance with such terms as use, dis-use or redundancy elsewhere in planning policy requires typically (and sometimes explicitly) a number of years of such continuous or lapsed use. That is, without doubt whatsoever, not the case here.

5.2.9 We believe we have therefore shown that Section 5 of SD10 does not fit this case, both on the grounds that it is not for the return to use ("re-use") of a building, nor for one that is already genuinely of

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Footnote {ii} Email exchange with Agent, posted to TBC Planning website

no current further use or requirement (“vacant or redundant”). Instead, as earlier remarked, Section 3 on the other hand does fit the bill. SD10:3 appears perfectly straightforward in its applicability. Its defining criteria is “housing development and conversion to dwellings [at] sites that are not allocated”. That would seem to be an exact descriptor for the case at hand.

5.2.10 However, although being the correctly applicable policy, SD10:3 permits such unallocated development or conversion only in the built-up areas of our cities, towns, rural service centres and service villages, and where other policies would not so restrict. As such, it fails to offer any policy support to the current application, which is for a rural site lying outside the prescribed service hierarchy.

5.2.11 Taken together we see that neither Section 3 or 5 help the application. SD10 thus falls. As such, this application for development or conversion to residential use has no development policy support.

5.2.12 Not only does it lack policy support, it conflicts with a number of national and local plan policies. In addition to those already identified in the report, we suggest that TBLP saved policy HOU4 (to the extent that it has not been ruled as out-dated) and WSNDP policy 1.1 (as well as 3.1) might be added to the list.

5.2.13 We do not consider it would be difficult to provide a robust policy-based justification for rejecting the application, one that would fully stand up to inspection were such a decision to be appealed.

### 5.3 Tilted Balance

5.3.1 The Officer’s report (at para 7.11) draws attention to the lack of 5-year housing supply, and that paragraph 11 of the NPPF is thus key. The presumption is in favour of permission, unless significant and demonstrable impacts are judged to outweigh the benefits. The “tilted balance” must be applied.

5.3.2 That balance can only be tested if we first identify the benefits and the impacts.

5.3.3 Benefits. The only part of the Officer’s report that seems to address these is para 8.2.

- a. It states that *economic* benefits “would arise both during and post-construction”, though does not identify or quantify these any further.
- b. *Social* benefit (offsetting TBC’s housing shortfall by a single 1-bed dwelling) is acknowledged as small.
- c. No *environmental* benefit is identified.

5.3.4 Though not mentioned in the report, against these already minimal benefits might be added the economic and social (job) loss that would result from a conversion to residential, and cessation of the current business use. The possibility of an increase in outdoor recreational noise and any nightsky light pollution that could arise from residential use, in this otherwise quiet and dark natural setting, might also be seen as a minor environmental loss.

5.3.5 In any event, as the report registers, little weight can attract to these benefits (or losses) given the small-scale nature of the proposal. There is thus very little to put in this side of the balance.

5.3.6 Impacts. It is noticeable that the report needs to devote three pages and nineteen paragraphs to the impact on just landscape and trees. Assessing the scale and importance of any impact is a matter of judgement. We cannot agree with the judgements, and therefore the conclusion, reached by the report as far as these particular impacts are concerned. Instead, we align our view more closely with that of the 2016 Inspector when considering an earlier markedly similar application (15/00712/FUL). On that occasion it was for a timber-clad single-storey holiday let, set deeper into the same woodland site.

5.3.7 *Impact on landscape and rural character.* The site lies in a sylvan woodland setting, that is a key natural quiet characteristic, and amenity, of the surrounding Special Landscape Area (SLA). All previous applications for residential development within this woodland have been refused by the LPA, due in large part to the harm on the SLA it was decided would result.

5.3.8 This land area has never had any residential use in its history, as far as is known. For the last 60 of these years, the LPA has taken positive action to protect it from such, even when nearby residential development was permitted. Minimising any use of this site, but in particular avoiding residential use because of the recognised potential of land contamination (the site was not formally tested until last year), has been a factor ever since landfill operations ceased in the late 1950s. Both when 61/00099/FUL (for 6 social housing units, to be sited where the earlier brickworks and support buildings had stood) and 86/00345/FUL (for 6 replacement dwellings - the Grove View housing) received approval, the LPA restricted use and development to the land lying to the east of the current site, away from where the claypits of the brickworks had been. It was the claypit voids that had been used to create the opportunity for conversion to landfill.

5.3.9 Although nature had been encouraged to overwhelm this area from the early 1960s, when the landfill became full, it was the later Grove View approval that gave rise to the requirement to landscape the current application site and the wider site within which it sits, to vent and monitor it for gassing, and for it to be set-aside, as unused. The woodland was planted in 1994, following completion of the Grove View houses. It is understood that no endpoint was placed on the set-aside condition. It remains in effect.

5.3.10 The granting in 2014 of a retrospective CLE certificate, for only a part of this set-aside land, was the first and only breach of this set-aside status. Even then it was not a licence for residential use. Over the last quarter century, the saplings planted in 1994 have developed into the mature quiet woodland that exists today, and which has become such a striking part of both the local area, the surrounding SLA, and the lowland approach to the Cotswold AONB.

5.3.11 Every part of the planning framework, from national level (NPPF) right through to district and local plans, to include the adopted Neighbourhood Plan (WSNDP), highlights the importance placed on maintaining and where possible enhancing key characteristics of our natural environment for future generations. It would be a very significant departure for the LPA to turn away now from its continuing policy of not allowing residential use at this location.

5.3.12 We must ask: would such a reversal sit comfortably with those who follow us? Or with the Planning Inspectorate, who upheld the LPA's decision the last time this woodland was threatened with residential incursion? We must also ask: where is the policy justification for overturning these earlier judgements and planning decisions? If anything, policies that call for selected landscape protection have strengthened since 2016, not weakened. What too about the extant planning condition for set-aside status?

5.3.13 We take the view, as the Inspector did, that the harmful landscape impact of allowing residential use in this woodland location is too significant. We do not see the current application, when assessing its landscape impact, to be significantly different to that earlier scheme. The Officer points to the fact that for the current case a building and usage is already in situ. Notwithstanding that it is the use alone that is lawful, this building and yard usage were also present when the Inspector visited site, and determined dismissal of the 2016 Appeal. That situation remains the same as before.

5.3.14 Indeed their existence might then have been seen by the Inspector as lessening the *additional* impact that the 15/00712/FUL proposal (to add a second building to site rather than convert the existing structure) would have had. It did not. The Inspector placed considerable weight on visibility from offsite

locations, including from the Public Footpath AWB 55/1 that shares the access track to the site gate, and then passes to the southwest. While it is true this previous scheme was at a slightly higher elevation to the north of the site (as the report points out), the new building it would have added would have been further away from the footpath, and partly shielded by the continuing presence of the builder's store.

5.3.15 Nonetheless the Inspector still expressed real concern at the visual impact. The current proposal lies closer to such offsite viewpoints, and is located in a more open, cleared part of the site. As such, it will be more readily visible than the previous proposal examined by the Inspector.

5.3.16 The Inspector highlighted the inappropriateness to this rural sylvan setting, and its context within the SLA, of overt domestication. Such things as domestic planting (hanging baskets, flowerbeds), hard landscaping (patios, turning circle roundabouts), outside lighting (of the track, the building or the grounds), 7 x 24-hour use, TV antennae, washing lines, private cars are all matters that are already starting to creep into site, and which will only continue if the proposed change of use is permitted.

5.3.17 The current report acknowledges this, but aims to argue that these domestic features might be an improvement on the current situation at site. We do not hold the same opinion. Like the Inspector we see the inevitable consequences of a conversion to residential use as causing an unacceptable impact on the SD6/LND2 policy requirements to maintain and enhance the special rural character of this location. This is a judgement that applies irrespective of the location within the woodland that such development might be permitted. As such, we feel the Inspector's analysis and conclusion is as true today as it was in 2016, and as applicable to this scheme as to the earlier one.

5.3.18 Of course, it cannot be denied it would be welcome to see a tidying up of the current usage, a return of scattered items to the inside of the store, removal of other structures, and strict adherence to the 2014 CLE outcome requiring that all such use be confined to the lawful area. But throughout the some 30-year use as a builder's yard, vehicular access has at least been during daylight working hours only, and mostly only at an occasional frequency (sometimes with no use for weeks on end, and on average estimated at no more than 2-3 times a month). Conversion to residential use can be expected to greatly increase vehicular movements. We also judge there will likely be minor increases in noise, from outdoor recreational use, and in night sky light pollution from every day evening domestic use.

5.3.19 *Impact on trees.* We welcome the attention that this potential impact has received, and that steps are proposed to try to ensure as little further damage as possible is done to the tree cover. There has already been some loss since the original 1994 site-wide planting, occasioned by clearance activity done in anticipation that residential use would have been granted on earlier occasions (Appendix 1). It is noted that the 2016 Inspector placed little reliance on measures such as planning conditions in safeguarding the trees, especially in the longer-term. It was argued then that conversion to residential use (as opposed to continuing the current usage status quo) can only increase future irresistible pressures to cause additional loss or alteration to natural growth.

5.3.20 Summary of overall landscape and tree impact. Given that the impact on these two issues from both the current proposal and from the previous scheme would be essentially the same, we can do little better to sum this up than use the words the Inspector chose in 2016: *"The proposal would cause unacceptable harm to the character and appearance of the surrounding countryside and consequently, the SLA. Therefore, the proposal would not accord with saved Policy LND2 of the adopted Tewkesbury Local Plan (LP), as it would not protect the landscape character of the SLA and it would adversely affect the quality of the natural and built environment and its visual attractiveness. Moreover, because for the reasons explained above the proposal would not protect the existing trees, it would not accord with saved LP Policy NCN5."*

5.3.21 Since then, the JCS and the Winchcombe and Sudeley Neighbourhood Plan have been adopted. Both continue to place priority on the protection and enhancement of the countryside and local landscape character. Both contain policies (SD6 and 1.1) to this end, as too does the emerging pre-submission Tewkesbury Borough Plan. It is clear therefore that in the years between the 2016 Appeal and now, the policy context has not weakened in this regard; if anything, it now places further weight on critical landscape protection than when the Inspector wrote his words. It is hard therefore to see how a different conclusion could now be reached.

5.3.22 What then of the tilted balance? It is agreed that the economic, social and environmental benefit is small, and attracts little weight. On the other hand, the impact on the character and the appearance of both the woodland site itself, and its setting within the SLA, is seen as significant. Further erosion of the trees, especially over time, will also inevitably be harder to control if the application is approved. We see no justification, even allowing for any differences in the detail of the two proposals, to come to a different judgement of the balance this time: the impacts will greatly outweigh any small benefit.

#### **5.4 Sustainability**

5.4.1 It is the NPPF, at paragraph 7, that sets out the approach to achieving sustainable development. It indicates that all three mutually dependent objectives – economic, social and environmental – must be achieved in order for development to be sustainable.

5.4.2 As already mentioned, there is likely to be little if any net economic benefit from this proposal given that a business activity is lost in order to provide for a domestic dwelling. The proposal would not fully achieve the social role, as it would not create a high-quality built environment. The proposal would result in a single isolated converted dwelling, distant from all services and out-of-keeping in both its position and its style from other nearby housing. Moreover, the proposal would not achieve the environmental role, as it would not contribute to protecting and enhancing the natural environment. The proposal would therefore not achieve all of the three objectives required to accord with the principles of sustainable development as set out in the Framework. As a result, it would not amount to sustainable development.

5.4.3 The Inspector made the same determination for the previous application, which would nonetheless have resulted in more economic gain than the current scheme.

5.4.4 It might be felt that a successful removal or remediation of the land contamination issue would count as a sizeable environmental benefit. We would not disagree, but point out that there is nothing to prevent this work being done (indeed we feel it should be) without the application succeeding. In any event, such benefit would comprise just one of the pillars of the sustainability test.

5.4.5 A further consequence of the proposal failing to be sustainable is that the relevance of NPPF:11D is now in doubt for this application, and thus the applicability of the tilted balance approach. A fundamental requirement of Paragraph 11 of the Framework is that a development proposal must first and foremost be sustainable.

## **6.0 Other Considerations**

6.1 There are 2 Enforcement cases (20/00087/ENFA and 20/0089/ENFC) underway still. The first has been judged a severity level A case for investigation. It involves pre-emptive ground engineering works at site, and in the surrounding woodland site, which could potentially have an impact on the planning application itself.

6.2 It has also led to a potential further land contamination issue. Soil has been excavated which is known to be contaminated, due to its coincidence with the position of the 2019 sample boreholes. Furthermore, the contaminated spoil from these excavations has been spread across a significant part of the surrounding woodland site (approximately 10%, and roughly the same size as the planning site).

6.3 Even though a considerable volume of evidence has been provided by a member of the public, it has not been possible until very recently for Enforcement officials to visit site to collect their own evidence, commence investigation and make assessment. Because of the changed ground conditions since the land survey was conducted late last year, Environmental Health have advised that further testing, and sampling to cover a wider area, may now well be required. This is needed in order to be able to determine whether last year's assessment of the level of risk to public health remains valid, and whether and how any modification to the mitigation and remediation strategy might be required.

6.4 Ministerial guidance dating from 2015 requires that all pre-emptive work, directly attributable to or impacting on a planning application, be considered in parallel with the application itself. Even while acknowledging the inevitable further delay that would occur to this already protracted application, it would seem essential that the outcomes of both Enforcement cases - and of the further land contamination investigation - are available before a positive determination of the planning application could safely be made.

6.5 There would be no cause however for delaying a decision to refuse. Under either circumstance however, it is clear that action is required to remove or appropriately remediate the contaminated spoilage of the surrounding site. This has created new pathways to offsite receptors of the contamination.

## **7.0 Planning Conditions**

7.1 Despite our belief that the application can and should now be refused, or failing that deferred for later decision (when the outcome of the other considerations is known), we offer suggestions regarding the planning conditions that should attach to any approval the LPA might be minded to make.

7.2 The rationale for the recommended changes should be evident in the suggested new wordings.

7.3 The first of the proposed new conditions arises because there is an apparent conflict in some of the paperwork submitted with the application. The latest version of the Plan document, as used in the Case Officer's report, shows (via artist impression) that fencing to the north and east of the converted building is positioned at physical distance from it (see Appendix 2). This building lies at the precise extremity of the northeast corner of the current CLE-approved site, and thus also of the Change of Use site, as shown by the redlining elsewhere in the documentation. There is risk of boundary creep, whether by accident or not.

7.4 This discrepancy, as soon as it became apparent, was drawn to the attention of the Case Officer, who has recently responded that the redlining of site boundary must dominate. There is a long history of site spillage and inadequate delineation of perimeters; there are earlier examples of involvement by Enforcement, for example 14/00121/ENFC, to rectify incursions. So, we strongly support the application's intention to provide clear on-the-ground marking of the site perimeter through continuous fencing. This would also safeguard the position should there be future changes of ownership of the application site and/or of the surrounding site. However, this fencing needs to be erected in the correct locations.

7.5 The second new condition is recommended to ensure the current usage ceases, and all building paraphernalia is removed both from the site itself and where it has spilled onto the surrounding land. The surrounding woodland needs to be returned to its natural condition, and left unused.

**Additional wording to Condition 4**

The development shall not be occupied until further land contamination testing of the surrounding site (in the areas affected by the works undertaken in April 2020, and as identified by Council in the Enforcement Report 20/00087/ENFA) has been undertaken, an appropriate Remediation Strategy and Verification Plan agreed with Council, and the remedial works carried out and verified by the Local Planning Authority

Reason: (No change required. The current wording is sufficient to provide rationale for this addition.)

**Additional wording to Condition 13**

No installed external lighting shall be permitted to be used, except for essential reasons of safety, during the hours of darkness (one hour after sunset and before sunrise).

Reason: Add to the end of current wording: [comma] and to protect naturally dark local amenity.

**New Condition**

The perimeter of the development hereby permitted is clearly delineated by the redline of the approved Plan Documents, and fencing as agreed with the Local Planning Authority is to be erected on this perimeter and must not encroach onto the surrounding land.

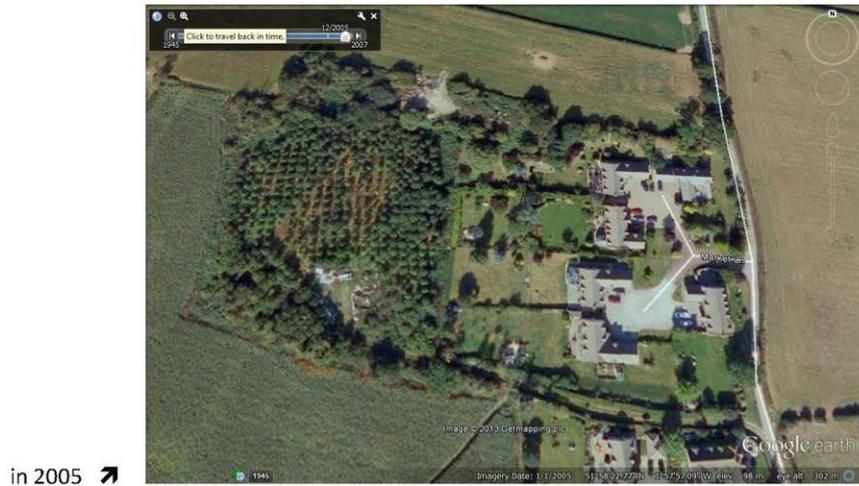
Reason: To provide clear demarcation between the permitted residential use and the surrounding land which is to remain as a set-aside woodland amenity.

**New Condition**

Within 6 months of occupation of the development hereby permitted, there must be a full cessation of the previous use of the site as a builder's yard, as verified by the Local Planning Authority, and all building materials, associated plant and storage facilities must be removed both from the site, and from the surrounding land.

Reason: In order to ensure the approved Change of Use is carried out, and the current usage ceases.

**Appendix 1 : Site History - Aerial photography, the last 20 years**





in 2013 ↗



in 2017 ↗

#### Points to Note

The 1994 site-wide grid planting of trees is already evident by 1999, with later maturity.

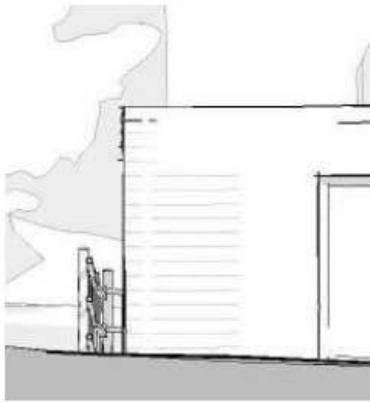
The 2005 picture shows aggregate hoppers; storage prior to that was open-air and ad hoc. The 2007 picture is the first to show evidence of the July 2006 building works to roof these open-fronted scoop bins. All activity at this time remained confined to a small area.

2013 shows evidence of tree removal, landscape scarring and encroachment into the surrounding site. This is the result of "pre-commencement" works, including septic tank installation, done in anticipation of planning approval (3 times refused) for residential use of northern part of site.

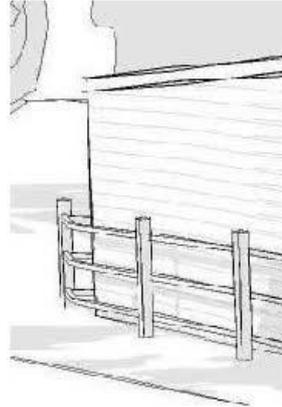
2017 shows conversion of the track from grass to hardcore, the gate and the building revision.

No later photography is available from this open source, to illustrate further changes at site in preparation of the current application. Nor of the recent cluttering of site, and the April 2020 spreading of contaminated soil with changed ground levels.

**Appendix 2 : Enlarged details from 19/00404/FUL elevation drawings -  
showing physical gap between building and proposed fencing**



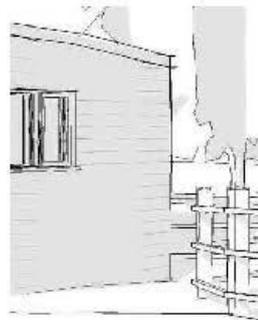
East Elevation



Perspective



North Elevation



Perspective



## Appeal Decision

Site visit made on 1 November 2016

by **Stephen Hawkins MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13<sup>th</sup> December 2016

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**Appeal Ref: APP/G1630/W/16/3155357**

**Land rear of Grove View, Market Lane, Greet GL54 5BL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr David Cornwell against the decision of Tewkesbury Borough Council.
  - The application Ref 16/00397/FUL, dated 4 April 2016, was refused by notice dated 1 June 2016.
  - The development proposed is erection of single storey detached building for holiday let.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. These are:
  - The effect of the proposal on the character and appearance of the area.
  - Whether having regard to the form of development proposed, the Development Plan and the National Planning Policy Framework, the proposal would accord with the principles of sustainable development.

### Reasons

#### *Character and appearance*

3. The appeal site is in a sylvan setting, being largely surrounded by maturing trees of mixed deciduous species, making up a small woodland. I understand that the appeal site historically formed part of a brickworks. However, that use appears to have long ceased and the land has since been assimilated into its natural surroundings. Overall, the appeal site therefore has a secluded and rural character.
  4. The appeal site is accessed from Market Lane by a long track, which serves land and buildings used as a builder's store and also follows the route of a public footpath. Although for the most part the track runs between the gardens of existing houses, its informal surface and the presence of mature planting enclosing it on both sides, gives users of the track a sense of being led out of the built-up area into more rural surroundings.
-

5. Part of the woodland separates the appeal site from the back gardens of houses in Grove View. These houses form the northern edge of the village, the main built-up part of which lies further south along Market Lane. There is only sporadic residential development to the north and the woodland is surrounded on three sides by open land. This land forms part of a wider area of undulating countryside, which together with the appeal site and the surrounding woodland is within a Special Landscape Area (SLA). Consequently in my view, for all the above reasons, in both visual as well as physical terms the appeal site relates more to the surrounding countryside than the built-up part of the village.
6. The proposed building would be sited in the centre of a cleared, levelled area in the woodland and it would mostly be surrounded by mature trees. It is proposed to retain all of the trees, which would be protected during construction works, although there would be crown lifting works to some of them. The proposed building would have a shallow roof pitch which, together with the natural finish of the external wall and roof materials, would reduce its overall visual impact.
7. Even so, the proposed building would be sited in a location unrelated to any existing buildings. Due to its significant overall size and bulk, the proposed building would be seen as the dominant feature in relation to the surrounding woodland, as opposed to being assimilated into its sylvan setting. Although the proposed building has been designed to resemble a log cabin, it would have an obviously residential appearance. Overall therefore, the proposed building would be viewed as an incongruous feature, at odds with and substantially eroding the currently secluded, rural setting and giving the appeal site and its immediate environs a more urbanised appearance. The presence of features surrounding the proposed building incidental to its intended use, such as private cars and domestic paraphernalia would, in my experience, further emphasise the alien appearance of the proposal in relation to its setting.
8. A visual assessment (VA) submitted with the application concluded that the proposed building would not adversely affect the character of the landscape. As well as visiting the appeal site itself, I viewed it from various locations along local roads and public footpaths. In doing so, I visited most of the viewpoints referred to in the VA. Overall, I found that the density of trees in the woodland surrounding the appeal site would largely tend to limit close-up or longer distance views of the proposed building in the surrounding landscape. However, when I visited, most of the trees were still in leaf. In my estimation it is likely that at least some of the screening effects provided by the woodland would be significantly diminished during the winter and early spring, in particular from the public footpath to the south of the appeal site. Consequently, the proposed building would be open to at least partial views from its surroundings for substantial parts of the year, thus extending the more localised visual harm identified above over a wider area.
9. In my view, the proximity of the woodland trees to the proposed building and the area around it shown on the submitted plans would also lead to future pressures to fell and thin out the woodland. This would be in order to provide more light, to create more of an outlook and to provide more useable amenity space for the future occupiers, as well as to deal with other matters such as remediation measures, leaf drop or building maintenance. I accept that some holidaymakers would be attracted by the appeal site's woodland setting. They might also accept limitations in terms of the outlook and amenity space

available, as they would only be occupying the proposed building for short periods. However, the proximity of the existing tree cover provided by the surrounding woodland is likely to cause problems of light levels both within the proposed building and for the use of the external amenity space. Moreover, there would be a very limited outlook from the proposed building, notwithstanding the proximity of expansive open countryside beyond the edges of the woodland.

10. The pressure to remove trees from the woodland would in turn exacerbate the harmful appearance of the proposed building in its wider surroundings. I appreciate that the appellant intends to undertake further screen planting in the woodland. However, in the longer term the future of the existing trees or proposed planting could not be secured by imposing conditions. Moreover, imposing conditions to require further screen planting would not address the above objections, not least because attempting to 'hide' the proposed building from the otherwise generally open surrounding landscape is more likely to draw greater attention to its presence.
11. For all of the above reasons, I find that the proposal would cause unacceptable harm to the character and appearance of the surrounding countryside and consequently, the SLA. Therefore, the proposal would not accord with saved Policy LND2 of the adopted Tewkesbury Local Plan (LP), as it would not protect the landscape character of the SLA and it would adversely affect the quality of the natural and built environment and its visual attractiveness. Moreover, because for the reasons explained above the proposal would not protect the existing trees, it would not accord with saved LP Policy NCN5.
12. Although not referred to in the Council's reason for refusal, the appellant has also made reference to saved LP Policy TOR4 concerning log cabin sites. However, the proposal would also not accord with this Policy, as it would not protect the natural landscape of the SLA with regard to its siting and landscape design and impact on local amenity.
13. Therefore, the proposal would be inconsistent with the National Planning Policy Framework (the Framework) core principles at paragraph 17, as it would not secure a high quality design or contribute to conserving and enhancing the natural environment. It would also be inconsistent with the more detailed advice in sections 7 and 11 of the Framework concerning the requirement for good design and conserving and enhancing the natural environment.

#### *Sustainability*

14. The village of Greet does not have a defined residential development boundary in the LP, but my findings above are sufficient to conclude that it lies outside of the boundary of the village. The proposed building is intended to be used by holidaymakers and it would not be used for permanent residential accommodation. I have taken the appellant's willingness to accept conditions restricting the use of the proposed building into account. Even so, the proposal would not accord with saved LP Policy TOR2, as it would involve the development of serviced and self-catering accommodation outside of a residential development boundary and it does not entail the renovation and improved use of existing buildings.
15. Nevertheless, the location of the appeal site outside of any residential development boundary is not, in itself, an indication as to whether the proposal

would be sustainable. In this respect, the LP does not fully reflect the Framework advice in section 3 of supporting economic growth in rural areas in order to create jobs and prosperity by amongst other matters, supporting sustainable rural tourism. In relation to this matter I shall therefore afford more weight to the Framework, which sets out the approach to achieving sustainable development at paragraph 7. This indicates that all three, mutually dependent objectives-economic, social and environmental-must be achieved in order for development to be sustainable.

16. I accept that the proposal would provide some economic benefits. The proposal would be likely to generate and sustain jobs, some in the construction sector in the short term, as well as others in the management and maintenance of the holiday let in the medium and longer term. It would also bring wealth from holidaymakers into the local economy in the medium to longer term, supporting other local businesses. The increased local employment would also provide a social benefit.
17. However, those benefits would all be small-scale. The proposal would not fully achieve the social role, as it would not create a high quality built environment. Moreover, the proposal would not achieve the environmental role, as it would not contribute to protecting and enhancing the natural environment. Therefore, the proposal would not achieve all of the three objectives required to accord with the principles of sustainable development set out in the Framework. As a result, it would not amount to sustainable rural tourism.

*Other matters*

18. On the decision notice the Council also refers to the proposal failing to accord with its saved LP Policy TPT1, which sets out criteria for access for development. The Council did not object to the proposal on highway safety grounds. I made my own assessment of the levels of visibility from the track where it joins Market Lane, the levels of traffic on the lane and the levels of traffic that would be generated by a holiday let. I have not found any reason to conclude other than that the proposal would not cause any unacceptable harm to highway safety.
19. I accept that the proposal would not have any unacceptable adverse effect on any wildlife interests. I have also taken account of the matters raised by interested parties, in particular those in support of the proposal. I acknowledge that the proposal would not unacceptably harm the privacy of occupiers of neighbouring properties and that it would contribute to an increase in the number of holiday lets in the area.

*Planning balance*

20. There would be some small-scale economic and social benefits arising from the proposal. However, the adverse social and environmental impacts of the proposal would significantly and demonstrably outweigh any benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the proposal would not amount to sustainable development as defined in the Framework and the presumption in paragraph 14 would not apply.

**Conclusion**

21. The proposal would fail to accord with the Development Plan and the Framework.

22. For the reasons given above I conclude that the appeal should be dismissed.

*Stephen Hawkins*

INSPECTOR

Objection letter [REDACTED]

[REDACTED]  
[REDACTED] I wish to object to the proposal as I have concerns that it will:

Have a negative impact on our property in terms of the proposal feeling squashed in, out of place and the site feeling over developed. We are not allowed to extend any part of our house as our deeds state this would cause over development of the road. Why should this proposal be allowed to go ahead? The location of the proposal projects past the back build line of ours and neighbouring properties. Our house had to be moved forward on the plans before it could be built. Can this property be built in the proposed location?

Reduce the amount of natural light [REDACTED] and overshadow [REDACTED] due to the proposed annex being two storeys, positioned past the rear of our property and along our boundary fence. [REDACTED]

[REDACTED] I would like to request a daylight and sunlight assessment be carried out.

Overload an already struggling drainage system that has had problems in the past. Residents were forced to unblock drains just last week after drain water entered properties in Cotswold Gardens causing damage. We already have repeat issues with our drainage and are concerned that this proposal will cause adverse effects and increased problems for us. Ourselves and our neighbours have already written to the council to complain about the drains in our road. They have also expressed fears that an extra dwelling would cause future problems should the road flood again and are worried that the dwelling will prevent flood water draining away effectively and lead to the devastation they experienced back in 2007.

Generate an increase in traffic and raise concerns for highway safety on the road and compromise the adequacy of parking/loading/turning. The turning bay is already being used to park cars outside of no.51 making it harder to access the road from our drive and increases the risk of hitting parked vehicles.

Cause noise and disturbance from use as there are current issues due to the property being used as an Airbnb. If the proposal was to go ahead there is concern the noise levels would increase due to more occupants.

We would need to remove a tree to make way for the proposal as it will be situated directly along the boundary fence of our house where there are already well-established trees.

I would like to know if there is any covenant in place for the boundary fence [REDACTED]. When the owner of no.51 sold the land to allow our property to be built [REDACTED] I understand there was a covenant in place regarding the boundary and fences.

I would like to finish by saying that I have always tried to be open and honest [REDACTED] and have encouraged [REDACTED] to talk and work together to make this work for him and us. I am deeply concerned that the issues I have raised with him seem to have gone ignored and no attempt has been made to address the concerns I and others have.

Thank you for your time and listening to what I have to say and I look forward to hearing your thoughts and comments.

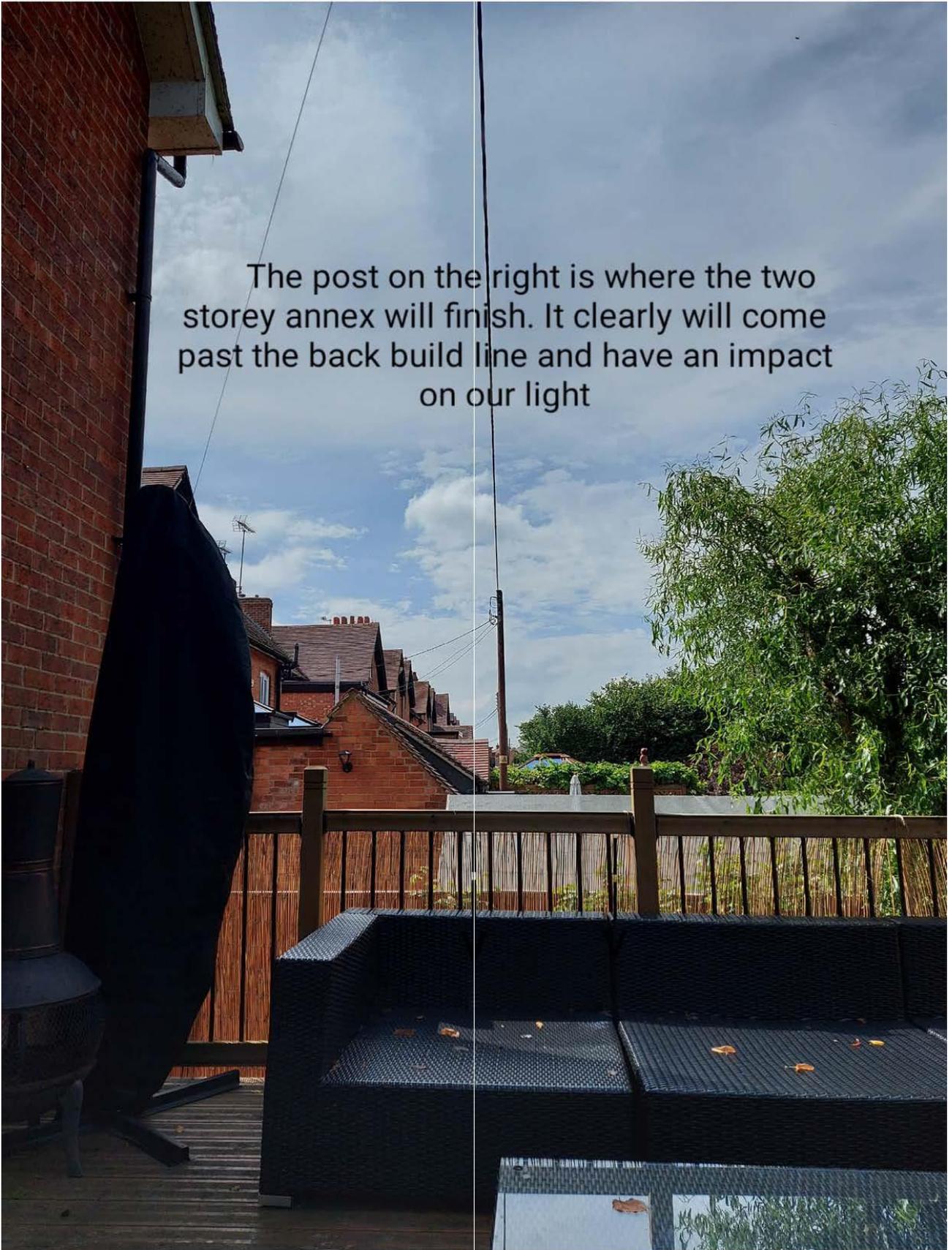


drive and turning bay 15th  
Aug 2020



**Cotswold Gardens at around 12am  
Thursday 13th Aug 2020**

The post on the right is where the two storey annex will finish. It clearly will come past the back build line and have an impact on our light





Our kitchen with  
bi-folds we fitted to  
allow more light.



Our kitchen with  
bi-folds we fitted to  
allow more light.

No. 47 - reasons for objection:-

- o One large detached house has already been built on the garden of No. 51. Squashing another 2 storey building into the garden, plus a single storey building is too dense, unacceptable and not in keeping with the area. (also will the single storey building be turned into another dwelling at a later date?)
- o The adverse effect on water and drainage systems currently serving existing houses. The sewerage system is already overloaded
- o Flooding - in 1998 and until 2007, the only garden to flood in Cotswood Gardens was No. 51
- o The increase in traffic movement and congestion in the cul de sac will become hazardous. Particularly at the turning point, which is directly outside no. 51



1 / 26

## Lovely Victorian town house

2 reviews · Superhost

Gloucestershire, England, United Kingdom

Entire townhouse

hosted by [REDACTED]



6 guests · 3 bedrooms · 3 beds · 2 bathrooms

Currently house is

being used as an

Add dates for prices

2 reviews

Airbnb. [REDACTED] has said

Check availability

he intends to do the

same with the

proposal



Points that should be taken into consideration relating to the construction of an annexe at 51.

1. During 2007, 53, 51, 49 & 47 Cotswold Gardens were severely hit by flooding with at least 2 1/2 feet of water within these houses. Therefore we are concerned that the construction of this building will cause more displacement of water and impact even more when this happens again. Due to the height of the road and to the rear of the properties the old railway embankment this places these properties within a basin.
2. The construction of the two storey part of the annexe exceeds the build line of existing properties.
3. Cotswold Gardens very often has high levels of vehicles parked from residents and also those who choose to use it for free parking to shop or go to work.

Very nervous about the repercussions that may follow!

## 5g – 20/00376/FUL - Land at The Coach House, Post Office Lane, Cleeve Hill Further representation

### Planning Committee – 18/8/20 . Statement of Objection to 20/00376/FUL Coach House

#### Background

I am representing myself and a number of other Post Office Lane residents who object to the above development.

We are not happy that the detailed evidence including pictures, presented by 4 local residents and Woodmancote PC in their objections, have been adequately represented in the Planning Officer's report, analysis and presentation.

#### History of Planning Creep and Obfuscation

In May 2018, the owner applied for a variation in the Planning Inspector approved drawings to move the garage and relocation of the front wall to allow increased parking. On close inspection of the drawings by concerned residents, it became clear that the footprint had significantly increased the floor area of parts of the building by circa 40% with the addition of extra rooms. This under-described "minor" variation was approved by TBC in October 2018.

In May 2019 piling machines arrived and work on the site started

In January 2020 various different local residents became concerned that the building orientation and relationship to other properties might not be as drawn and approved by TBC in October 2018. On 7 February a phone call was made to planning enforcement to ask if they would check out these concerns. Over the next two months the full extent of the changes was revealed by the applicant to TBC. This application arises because of the intervention of the TBC enforcement team.

Recently released Google Earth imagery of the site (Picture 1) taken on 18 September 2019 shows the building foundations in place on that date. These clearly show the building rotation was in place on 18 September 2019 too. This leads to the conclusion that the building foot print was not built to the approved plans from the start - over a year ago.

I note in passing that the unauthorised orientation and the blank wall design of the east elevation are now significantly different from the original plan approved on appeal.

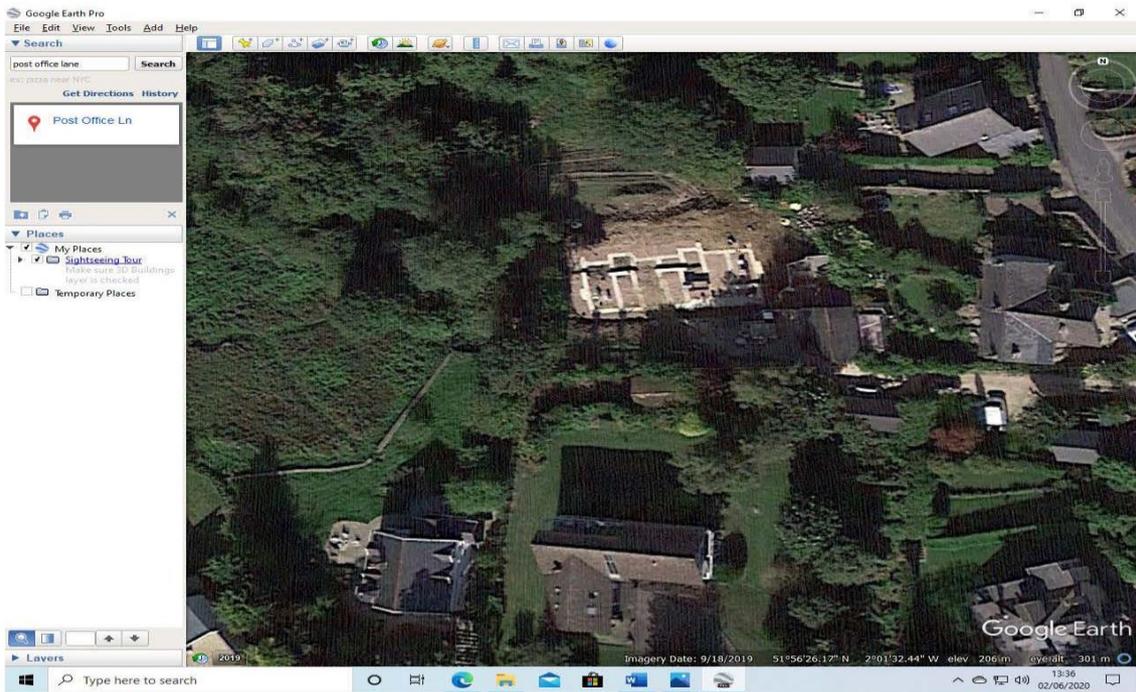
#### Effect on the Residential Amenity of Neighbouring Properties

We, the local residents wish to argue that effect on the Residential Amenity of Neighbouring Properties is unacceptable. Pictures 2,3 and 5 show how the cold, stark and tall east curtain wall overbears on neighbouring properties. This is much more visible because of the rotation of the east end of the property out from scarp as a result of NOT being built to the approved plans. The visual impact of the end wall of the new development from the bedrooms of the Manse and Ivydene is particularly significant and unacceptable (picture 2)

#### Landscape impact

We, the local residents, walk far and wide on the front face of the Cleeve Hill AONB on most days. That is why we live on Cleeve Hill to enjoy its splendour and beauty. We and Woodmancote PC strongly disagree with the assertion in paragraph 7.9 of the planning officer's report that the rotation of the building outwards from the hill on the east end is not perceptually more harmful. Near continuous views of this property with the occasional obscuration are significant over a continuous walk of over 350 metres of the Cotswold Way, despite full summer leaf cover. Pictures 3 and 4 show the views at the beginning and end of this 350-metre walk. In addition, the natural westerly view point above the entrance of the Rolling Bank Quarry Site of Special Scientific Interest (SSSI), is marred by this development looking highly out of place within the group of traditional houses around the top of Post Office Lane (Picture 5)

We believe that this application detracts significantly from the views from the above sensitive locations within the AONB. The areas above are the heart of the Cleeve Hill AONB and in a normal year are visited by many locals, UK and foreign visitors. This is a nationally significant area. I urge TBC to firmly reject this application or impose some serious mitigation. Thank you.



Picture 1 Google Earth image of foundations dated 18 September 2019



Picture 2 - The visual impact of the end wall of the new development from the bedrooms of the Manse



**Picture 3 – View from the Cotswold Way above the Cleeve Hill Hotel Date 17 July 2020**



**Picture 4 – View from the Cotswold Way beyond the Tee for the 18th Hole in the direction of the Golf Club House. Date 14 July 2020**



**Picture 5 - View from just in front of the Rolling Bank Quarry SSSI site above the Cotswold Way and the 18th Tee on Cleeve Hill 17th July 2020**

## 5I – 20/00925/FUL – Land off Ash Lane, Down Hatherley - Further representation

I note that the Planning Officer has failed to highlight a number of significant issues regarding this development and wish to ensure that the committee is fully aware of ALL the issues not just the edited version:

1. Ash Lane is a PRIVATE lane and each owner facing onto the lane has responsibility for their section of the lane to the middle line (off the old 12 foot lane). Thus I am responsible for 3/4 of the top end of Ash Lane. These additional houses, which are offset from the lane (and thus not in keeping) do not have a frontage and will thus not be liable for the upkeep - how can the committee levy extra costs on the owners of a private lane ?
2. Ash Lane does not have any pedestrian access (indeed it is a private lane and NOT a public right of way). Permitting the 5.5m wide proposed "pedestrian/cycle" access would effectively make the lane a public right of way ? How can that be right ?
3. There is also a safety aspect to this additional pedestrian access. Since the lane has no pedestrian access any increased footfall would lead to more risk to the lane's users, particularly with the proposed and already permitted developments (5 houses plus the proposed 6 in the current plan PLUS however many are crammed onto the plot which has just obtained outline planning permission for ONE bungalow).
4. Finally, the decision should be deferred until the committee are able to make a site visit to see for themselves.

Regards,

A large black rectangular redaction box covering the signature area.

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**Introduction**

We listened intently to the members' debate when the above application was considered at the Planning Committee meeting on 21<sup>st</sup> July 2020 and have prepared this supporting statement to assist officers and members in their reconsideration of the application.

The main points raised during the discussion were: -

1. Drainage
2. Highways
3. Disproportionate Development

Each of these points will now be assessed.

**1. Drainage**

The main concerns raised with regards to drainage were those which were raised by the Parish Council. Firstly, it should be noted that there are no objections to the development from either the Local Lead Flood Authority or from Severn Trent Water. However to assist officers/members, the below table has reviewed the Parish Council comments and the applicant's drainage consultants, Phoenix, has provided their response.

<b>Parish Council Comment</b>	<b>Phoenix Response</b>
<b>The village network is unable to cope with existing demand. This is recent evidence (February 2020) of raw sewage running over a public highway in the village outside of the pumping station at St. Andrews and this happens every time there is heavy rain.</b>	<b>Surface Water from the development is proposed to connect to a surface water sewer and not the foul sewer. See Severn Trent records can be seen on Page 17 of the FRA.</b>  <b>Therefore, the surface water from the development will not increase risk to the foul sewer in St Andrews road as is not connected to this network.</b>  <b>As the flooding in foul sewer in St Andrew road occurs during storm events then it's likely to be because of existing storm drains connecting into the foul network not because of insufficient capacity in the foul network to accommodate foul flows. As Severn</b>

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	<p>Trent have confirmed capacity to connect the foul also it can reasonably be concluded that foul drainage from the network will not increase flood risk.</p>
<p>The Parish Council and local residents have many other photos of the drains that simply do not cope with demand. One of the main routes affected is the main route from the centre of the village to the local school and The Boat Inn. The holes in the road left by drain covers raised as a result of this flooding constitutes a severe risk to the many walkers, cyclists and horse riders who frequent the village. These are existing problems that have been exacerbated by the recent development of 35 homes. The situation has not been mitigated in the Slightest by any measures taken as a result of the development and is now WHOLLY UNACCEPTABLE.</p>	<p>The Surface Water and Foul sewers to which the site connects do not travel through the centre of village, near the school or the Boat Inn therefore surface water and foul discharge from the site will not impact on these areas.</p> <p>See Severn Trent records can be seen on Page 17 of the FRA.</p>
<p>This wholly unacceptable situation would become even worse if a further development were allowed. Unfortunately, the Flood Risk Assessment (FRA) provided as part of the application does nothing whatsoever to reassure the Parish Council as it is totally flawed, inaccurate and appears to be designed to mislead and mis-inform. The FRA completely fails to identify or recognise the:-</p> <ul style="list-style-type: none"> <li>• Existing ditch network</li> <li>• Existence of a pond on the development site</li> <li>• Existing ditch network that discharges directly onto the development site</li> <li>• Ditches dug by Goodrich Hill residents to deflect water run-off from their properties.</li> </ul>	<p>Overland / existing flows are considered within the FRA section 4.5, page 32.</p> <p>Existing ditch is reviewed on Page 17 with land drain shown on proposed drainage strategy to manage this.</p> <p>A pond within the site boundary in not identified on the survey.</p>
<p>The illustrative Drainage Strategy for</p>	<p>Drawing 499-070 is the proposed</p>

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<p>Flood Risk Assessment Drawing 499-070 is misleading and bears no resemblance to actual surface water movement. The water from the proposed site currently discharges into Waggon's Lane, a local historic feature, and photographed recently:</p>	<p>drainage strategy.</p> <p>Existing drainage can be found within the FRA section 4.5, page 32.</p> <p>The proposed drainage strategy will significantly reduce overland flow onto Waggon's Lane as overland flow will be collected within the sewers, attenuation pond and filter drain. Therefore, there will be significant betterment</p>
<p>The FRA proposes an attenuation pond located at the lowest part of the field (29.66) then details that excess water from the pond will flow into the existing drain network from phase 1 - with overflow spilling water onto highway near Sawyers rise. This implies that water will flow uphill by 1.5 meters?! A more feasible interpretation is that excess water will flow downhill into Goodrich Hill, Crudens Farm and Waggon's Lane endangering properties in those locations.</p>	<p>The proposed bank level of the pond is 30.80 with attenuation for the 100 year event plus 50% climate change allowance at 30.1. Therefore, for events up to the 100 year these would be managed on site.</p> <p>In the unlikely event of a local failure or blockage the proposed adjacent road level is approx. 30.70 therefore any exceedance flows would travel along the proposed road.</p>
<p>The FRA conclusion states that the site will NOT be at risk of flooding from pluvial, sewers, surface water, groundwater and artificial sources. It is completely disingenuous to make this assertion without identifying any of the extant water features. This work of fiction is further compounded by yet another survey being taken at a "convenient" time of year - July 2015 in this case.</p>	<p>Phoenix make every endeavour to ensure all reports are accurate and honest</p> <p>Having reviewed the comments we stand by our conclusion that the site will not be at risk of flooding from pluvial, sewers, surface water, groundwater and artificial source</p>

**2. Highways**

Concerns were raised during discussions regarding the access arrangements and the highway implications of the proposed development. Firstly, it is worth noting that Gloucester County Council Highways has raised no highway objections to the proposals. There is no recorded highway safety problem in the village or its access roads. Therefore, it is considered that refusal on transport grounds would not meet the tests in NPPF, i.e. unacceptable impact on highway safety or severe residual cumulative highway impacts.

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In a similar way to the drainage, the main concerns raised with regards to highways were those which were raised by the Parish Council. Therefore, the below table has reviewed the Parish Council comments and the applicant’s highway consultants, Key Transport Consultants (KTC), has provided their response accordingly.

Parish Council Comment	KTC Response
<p><b>NPPF paragraph 34 states that “...decisions should ensure that developments that generate significant movement are located where the need to travel can be minimised and that the use of public transport modes can be maximised.” Public transport connections in Ashleworth are minimal and the local bus service is inadequate to reliably convey most people to their place of employment assuming this to be in the environs of Gloucester, Cheltenham or Tewkesbury. It could be assumed that this might most affect occupants of affordable housing. With the recent closure of the A417 for three weeks, those people would have probably lost their jobs by now. This proposed development can only make matters worse.</b></p>	<p><b>APC appear to be referring to an out of date copy of NPPF as paragraph 34 they have quoted is incorrect. NPPF says in paragraph 103 “...Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, 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.”</b></p> <p><b>The framework therefore recognises that rural areas cannot be expected to have the same level of public transport provision or other sustainable transport solutions. It is worth noting that a greater number of people travelling from a village as a result of more homes could increase the likelihood of car sharing being a viable option for some. Furthermore, the ongoing Covid-19 pandemic has highlighted the fact that many people can successfully work from home, meaning that a commute into a town for work every day is not necessarily required.</b></p> <p><b>Transport sustainability was considered by the Inspector at the appeal in to the adjoining site (Appeal Decision APP/G1630/W/16/3150236) and found to be acceptable.</b></p>

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Ashleworth has three main access roads, two from the A417 and the Ham Road alongside Ashleworth Ham. In addition, access to the village can be gained via Wickeridge Street but this is probably mainly used only by residents of that area. The Ham Road regularly floods and is closed. Both access routes from the A417 are narrow with acute, blind bends and space for only one vehicle at several points. Both routes also suffer badly from pot-holes and verge erosion, partly as a result of the drainage and flooding issues described above.

There are few footpaths in the village and even less street lighting. So although movement by vehicle is difficult, it is even more dangerous for pedestrians, cyclists and horse-riders, of which there are many in the village.

The planning application refers to the "national TRICS database" to provide some estimates of the additional journeys to be generated by the proposed development. These alleged data are utterly spurious and unbelievable. Firstly, TRICS is not a national database but run primarily by six southern counties, although it does conduct a national survey annually. Secondly, it is virtually impossible to translate national data into the rural village of Ashleworth bearing in mind the need to use private vehicles to get to the nearest employment centres of Gloucester, Tewkesbury and Cheltenham. Thirdly, it would have been more helpful to have started with common sense rather than trying to blind the reader with spurious statistics.

Common sense would say - 42 multi-bedroom dwellings (47 households) are probably going to have at least two adult occupants in employment and needing to commute to work. This would result in an additional four journeys per household per day, 188 journeys per day

Highway maintenance is an issue for Gloucestershire County Council as local highway authority.

There are footways linking the proposed development to the local services such as the primary school, Memorial Hall, Post Office and shop and bus stops.

TRICS is the recognised industry standard database for trip generation used for planning applications throughout the country and used in countless planning inquiries as a means of estimating trips from development.

The Transport Statement has used industry standard means of calculating vehicular trips.

It is standard practice in assessing the impact of development to consider the peak periods when the maximum generated development traffic coincides with the maximum traffic flows on the highway network, i.e. the worst-case scenario is assessed. Other trips throughout the day are infrequent and therefore less likely to impact on the existing network.

As set out in the Transport Statement, the trip rates were compared and found broadly similar to those used for the planning application on the adjoining site. The Transport Statement for the adjoining development dated July 2015 reported on a traffic survey undertaken at St Andrews in the village which recorded lower trip rates. The trip rates used in this application are therefore considered appropriate and robust. This was accepted by Gloucestershire County Council highways for the adjoining development and supported by the planning appeal Inspector.

Highways safety has to be supported by factual data. There is no factual data to

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once all dwellings were occupied and circa 940 additional journeys per working week. We can revise this number down if we assume that some new households will be retired, some will not have the two adults in employment and some will work from home. Reducing it by 25% leaves around 700 additional commuting journeys. This ignores the increase in general traffic such as household deliveries.

The transport report that accompanies the application refers to a potential for 45 additional journeys BUT:

- This only refers to journeys between 08:00 — 09:00 and 17:00 — 18:00
- It therefore largely excludes household deliveries and other such journeys
- It is based on national estimates where many people may use public transport to get to work, which is virtually impossible to do in Ashleworth! As someone once said, "There are lies, damned lies and statistics!"

The road infrastructure in Ashleworth cannot cope with traffic as it currently stands, that is, without the 35 new homes being all occupied, and this is clearly evidenced by the state of the roads and the increasing number of near misses anecdotally reported. We should not have to wait for the first fatal accident before improvements are made.

The application should be refused on these grounds alone.

suggest that the local roads are unsafe. Paragraph 109 of the NPPF states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". The Transport Statement confirms that these tests have been met and, it is pertinent to note that the slightly more stringent tests in the previous version of the NPPF were deemed to have been met by the local highway authority and planning Inspector at the appeal into the adjoining site, referred to above.

### **3. Disproportionate Development**

During the debate, the Parish Council raised concerns regarding the proposed development representing a disproportionate increase to the size of Ashleworth. There was mention of other appeal decisions in the Borough by members, most notably appeals decisions in Alderton (decision issued in March 2015) and Gotherington (decision issued in April 2018).

**D2**

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In terms of the weight and relevance of any previous appeal decisions, firstly it should be noted that the findings of previous appeal decisions which concern different developments, in entirely different villages, from 5 years ago should be applied with extreme caution. Each application should be considered on its own merit. The Planning Officer's report assesses the issue and concludes that there are no adverse impacts on the settlement.

In terms of the weight given to the Alderton decision, which was issued in March 2015, the appeal was also dismissed on the ground of harm to the AONB, which is obviously not applicable in the case at Ashleworth. No harm has been identified in regards to any other matters on the site. The impact on the landscape is considered to be localised and not unduly harmful. The development would not harm the setting of any designated heritage assets and there would be an acceptable impact in terms of archaeology. The development would not be at an acceptable risk of flooding and appropriate drainage infrastructure can be provided.

It should also be noted that there was a later appeal decision in Alderton at Willow Bank Road which subsequently accepted a proportion of growth in the village and was allowed in July 2015. Here, the Inspector stated that 'no substantive evidence has been provided to show that these facilities or infrastructure in the area could not accommodate the proposal'. It is clear that in the Ashleworth case, no evidence has been provided to show that harm would be caused to the facilities and infrastructure in the village.

It is considered that the findings of the Gotherington appeal, decision issued in April 2018, can be given limited weight given that this decision was made at a time the Council could demonstrate a 5 year supply of housing land. That is not the case now as acknowledged by officers.

With regards to the 'proportionately' of the proposed development, at the committee meeting, the Planning Officer advised that the baseline of 208 dwellings in Ashleworth was based on the 2011 census. The adjacent development was for 35 dwellings which was a 17% increase; if this application was permitted, the additional 42 houses would increase this to 37%. In terms of the social impact, there was no evidence to show how services and facilities within the village would be affected by the development – the additional population generated could

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assist in maintaining those facilities. As such, the Officer's view was that the increase was acceptable in this case. The lack of evidence regarding any 'harm' was also the view shared by the Inspector at the Willow Bank Road, Alderton appeal as stated above.

Accordingly, there is no evidence to demonstrate that the proposals would adversely impact on the services and facilities in the village. There are no objections from the Education or Health Authority or indeed by other services provided. The additional population will assist in sustaining facilities and services.

Therefore, in view of the above assessment of the relevant appeal decisions in the Borough, an assessment of particular impact of the proposed development at Ashleworth and the lack of harm that would be caused by the proposed development, it is therefore considered that the original advice of the planning officer should be followed and that the level of increase that the proposed development would result in would be acceptable.

**Summary**

We trust this statement assists officers and members in their reconsideration of the application and we hope that this it helps to alleviate any concerns members raised under the debate at the Planning Committee meeting held on 21<sup>st</sup> July 2020. We trust that members will now be supportive of their officers' recommendation and approve a scheme which will deliver up to 42 dwellings in the 5 year period, assisting the Council in making up the current shortfall in housing land supply. The site proposes not only 40% of the dwellings (17 units) to be affordable but will also provide a high number of open market starter homes. The mix of the 25 open market housing would be as follows:-

- 9 one or two bedroom homes
- 11 three bedroom homes
- 5 four or five bedroom homes

Redcliffe Homes, the housing developer who will deliver the proposed housing on the site, are currently already building out the adjacent site. Their intention, should outline consent be granted, would be to prepare and submit a reserved matters application ASAP. The original recommendation of the planning officer to approve the development should therefore be endorsed.

**D2**