

# TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

<b>Report to:</b>	Planning Committee
<b>Date:</b>	15 September 2020
<b>Site Location:</b>	Land at Fitzhamon Park Ashchurch Road Tewkesbury
<b>Application No:</b>	18/00043/OUT
<b>Ward:</b>	Isbourne
<b>Parish:</b>	Ashchurch Rural
<b>Proposal:</b>	Outline planning application for the erection of up to 90 houses, a care home, community land and associated works.
<b>Report of:</b>	Bob Ristic
<b>Appendices:</b>	Site location plan Illustrative master plan
<b>Recommendation:</b>	Delegated Permit

## Policies and Constraints

National Planning Policy Framework (2012)  
Planning Practice Guidance  
Joint Core Strategy (JCS) 2017 - SP1, SP2, SD4, SD6, SD9, SD10, SD11, SD12, SD14, INF1, INF2 ad INF4  
Tewkesbury Borough Local Plan to 2011 (March 2006) - TPT9,  
Tewkesbury Area Draft Concept Masterplan (2018)  
Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)  
Adjacent to a classified highway

## Consultations and Representations

**Ashchurch Rural Parish Council** - Object to the proposal for the following reasons:

- A46 heavily congested
- Highways England will not support further development
- Shops is not within walking distance
- Shops at Northway are unlikely to be used
- No retail within the development
- Details of proposed community building will need clarifying
- Linkages to adjoining development should be provided

**Strategic Housing and Enabling Officer** - No objections to a 40% provision of affordable housing.

**Environmental Health - Contamination** - No objections subject to condition

**Environmental Health - Environmental** - No objections subject to condition

**Highways England** - No objections subject to conditions

**Gloucestershire Highways** - No objections subject to conditions

**Gloucestershire Public Rights of Way Officer** - No objections

**Gloucestershire County Archaeologist** - No objections.

**Lead Local Flood Authority** - Further observations are awaited.

**Natural England** - No objections

**Urban Design Officer** - Site is well located for commuting and employment. No objections in principle. Further design analysis required.

**Sport England** - No objections, however residential development will increase demand for sports facilities.

**Gloucestershire Economic Development and Strategic Planning** - No objections subject to contributions towards local schools.

**Severn Trent Water** - No objections subject to condition.

**Wales and West Utilities** - draw applicant's attention to infrastructure in the area.

**Local Residents** - Three representations have been received from members of the public in response to the consultation process. The comments raised are summarised below:

- Ashchurch already provides proportion of housing for TBC
- More housing with no increase in employment
- Would provide depth of development beyond existing ribbon development
- Proposed access is via a small road
- Highway safety
- Would add to congestion
- Would reduce on street parking for existing residents
- No bus services
- No local amenities and 3 miles from Tewkesbury Town
- Risk of flooding

## **1.0 Application Site**

1.1 The application site comprises two field parcels located to the southern side of the A46 in Ashchurch. The site measures 5.7 hectares in area and lies to the south of Fitzhammon Park and Ashchurch View Care Home. **(See attached location plan)**

1.2 The site would be accessed from St Barbara's Close, a residential cul-de-sac and via Fitzhammon Park. To the north of the site is residential development at Fitzhammon Park, St Barbara's Close and Ashchurch View Care Home. To the west of the site is the playing field to Ashchurch Primary School, which is screened by existing tree and hedge planting. To the east are open fields and the Linden Homes development at Pamington. The Tirlle Brook runs along the

southern boundary of the site.

1.3 The site comprises two agricultural fields which are used as pasture and the land slopes gently down to the south before dropping down sharply around the northern bank of the Tirlle Brook.

1.4 The site is not subject to any landscape designations and the main body of the site lies within Flood Zone 1. The channel to the Tirlle Brook and land to the south, (outside of the site) lie within Flood Zone 3 as identified on the Gov.uk Flood Maps for Planning.

## **2.0 Relevant Planning History**

2.1 There is no relevant history at the application site, however the following developments have been permitted on land to the east and west of the application site.

### Land South Of A46 Pamington Lane

14/00972/OUT - Outline planning application for the proposed development of up to 150 dwellings including access, landscaping, open space, and associated infrastructure with all matters reserved other than access - Permitted April 2015. Reserved matters approval has been granted for the entire site and development is under way.

### Land behind Newton Cottages

14/00343/OUT - Outline permission granted for the erection of up to 45 dwellings to include open space and new vehicular access (appearance, landscaping, layout and scale to be reserved for future consideration). Reserved matters approval (18/00794/APP) has a resolution to approve subject to details to be addressed.

## **3.0 Current Application**

3.1 The current application seeks outline planning permission for erection of up to 90 houses, a 66 bed care home, community facility, public open space and associated works with all matters (Appearance, Landscaping, Layout and Scale) except means of access reserved for future consideration.

3.2 The application has been accompanied by an illustrative masterplan which demonstrates how

the site could be accessed from the A46 via Fitzhamon Park and through St Barbara's Close. **(See attached Illustrative Master Plan)**

3.3 The submitted masterplan demonstrates how the proposal could be laid out with the development concentrated to the central part of the site with the provision of informal public open space along the boundaries of the site, additional planting throughout and opportunities to provide pedestrian linkages to adjoining developments.

#### **4.0 Planning Policy Context**

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

#### **Cheltenham, Gloucester and Tewkesbury Joint Core Strategy**

4.2 The Joint Core Strategy (JCS) was adopted in December 2017 and is part of the Development Plan for the area. Various policies in the JCS superseded some of the policies in the Tewkesbury Borough Local Plan to 2011 which had hitherto been saved by direction of the Secretary of State.

4.3 The JCS sets out the key spatial policies for the JCS area over the period of 2011-2031 and the preferred strategy to help meet the identified level of need. Policy SP1 sets out the overall strategy concerning the amount of development required, and Policy SP2 sets out the distribution of new development. These two policies, combined with Policy SD1 on the economy, provide the spatial strategy for the plan. This strategy, together with its aims, is expressed in relevant policies throughout the plan and will be supported by forthcoming district plans and neighbourhood plans.

4.4 Policy SP1 sets out that Tewkesbury Borough's needs (at least 9,899 new homes) will be provided through existing commitments, development at Tewkesbury Town in line with its role as a market town, smaller-scale development meeting local needs at Rural Service Centres and Service Villages, and sites covered by any Memoranda of Agreement. The Rural Service Centres are to accommodate in the order of 1,860 new homes and the Service Villages in the order of 880 new homes.

4.5 Policy SP2 also provides that in the remainder of the rural area, Policy SD10 will apply to proposals for residential development. Policy SD10 sets out that on sites that are not allocated, housing development and conversions to dwellings will be permitted on previously-developed land in the existing built-up areas of Gloucester City, the Principal Urban Area of Cheltenham and Tewkesbury Town, rural service centres and service villages except where otherwise restricted by policies within district plans. On other sites, housing development will only be permitted subject to

certain criteria, none of which are applicable in this case.

4.6 Other relevant JCS policies are referred to in the appropriate sections below.

### **National Planning Policy Framework and Planning Practice Guidance**

4.7 The NPPF aims to promote sustainable development and the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. The three dimensions to sustainable development: economic, social and environmental.

- the economic role should contribute to building a strong, responsive and competitive economy;
- the social role should support strong, vibrant and healthy communities; and
- the environmental role should protect and enhance the natural, built and historic environment.

4.8 Paragraph 11 of the NPPF includes a presumption in favour of sustainable development; this is discussed in detail in section 6 below. Paragraph 12 of the NPPF clarifies that it does not change the statutory status of the development plan as the starting point for decision-making. However, where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

### **5.0 Community Infrastructure Levy Regulations**

5.1 The Community Infrastructure Levy (CIL) Regulations allow local authorities to raise funds from developers undertaking new building projects in their area. The regulations stipulate that, where planning applications are capable of being charged the levy, they must comply with the tests set out in the CIL regulations. These tests are as follows:

- a) necessary to make the development acceptable in planning terms
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

5.2 As a result of these Regulations, local authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly related to the development.' As such, the

Regulations restrict local authorities' ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met.

5.3 Where planning obligations do not meet the above tests and restrictions, it is 'unlawful' for those obligations to be taken into account when determining an application.

5.4 From 6 April 2015 new rules have been introduced regarding the pooling of contributions secured by S106 agreements. The Planning Practice Guidance sets out that from that date, no more contributions may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy.

5.5 In October 2018 the Council adopted a CIL and implemented the levy on 1 January 2019. For CIL purposes the application site falls within a 'Generic Site' and is subject to the levy for residential development at £200 per square metre on all the market elements of the proposed development.

5.6 Infrastructure requirements specifically related to the impact of the development can be secured via a S106 legal agreement, which may include the provision of commuted sums. CIL would be collected in addition to any site specific S106 requirements.

5.7 It should be noted that CIL receipts are not a material planning consideration.

## **6.0 Analysis**

### Principle of Development

6.1 The application site lies to the south of the A46 at Ashchurch, which is characterised by commercial and residential development along its length. The proposed development would be set to the rear of existing residential development and in proximity to Ashchurch Primary School and Village Hall as well as being in proximity to employment and public transport - both bus and rail. The application site is not therefore considered isolated however other services such shops and leisure are limited.

6.2 JCS Policy SP2 sets out that development outside of Tewkesbury Town and Service Villages and within the remainder of the rural area will be subject to Policy SD10.

6.3 JCS Policy SD10 sets out the Council's approach to housing development and states that residential development will be permitted at sites allocated for housing through the development plan. Proposals on un-allocated sites will only be permitted under certain circumstances, none of which apply to the proposed development.

6.4 In terms of the emerging Development Plan, this comprises the Preferred Options Tewkesbury Borough Plan (POTBP) (2018). The consultation period on this draft version ended on 30th November 2018. While the application site was submitted for allocation within the plan, site allocations in Ashchurch were excluded in favour of pursuing the comprehensive development of the area through the Tewkesbury Area Draft Concept Masterplan (TADCM) (2018).

6.5 The TADCM has been subject to public consultation as part of the JCS Issues and Options Consultation between 12th November 2018 and 11th January 2019. While the application site is indicated as a 'potential residential area', the masterplan is in the early stages of adoption and cannot be afforded weight at this time.

6.6 While the application site is sustainably located in proximity to Tewkesbury Town, employment at Ashchurch and public transport routes, along with other benefits of the proposal including economic benefits arising both during and post construction and the social benefits associated with the delivery of market and affordable housing, public open space. These matters must be considered in the overall planning balance.

6.7 Nevertheless, in this instance the application is in conflict with JCS Policy SD10 and this weighs against the proposal.

6.8 Paragraph 11 of the NPPF sets out that plans and decisions should apply a presumption in favour of sustainable development. For decision making this means:

*(c) approving development proposals that accord with an up-to-date development plan without delay; or*

*(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date , granting permission unless:*

*(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

6.9 The NPPF clarifies (footnote 7) that planning policies for housing will be judged out of date, inter alia, where the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites.

6.10 The latest published evidence (the Tewkesbury Borough Five Year Housing Land Supply Statement - March 2018 Update) concludes that the Council can demonstrate a 5.22 year supply. A recent appeal decision relating to a land at Oakridge, Highnam, concluded that the Council could not demonstrate a five year supply of deliverable housing sites. The key reason for this was that the Council includes advanced delivery against annual housing requirements in its five year supply calculations. The Council's approach in this respect is considered appropriate and, as members are aware, the Council is judicially reviewing the Secretary of State's conclusions in this regard.

6.11 Nevertheless, work is progressing on the annual Authority Monitoring Report, which provides the evidence for the Five Year Land Supply Statement. Whilst this work is not yet complete it is now clear that in respect of the 31 March 2019 base date data, the Council cannot demonstrate a five year supply of deliverable housing sites. The latest available information indicates that the Council can demonstrate a 4.33 year supply of deliverable housing sites, amounting to a shortfall of approximately 223 dwellings.

6.12 In conclusion on this point, the Council cannot at this time demonstrate a deliverable five year supply of housing land and thus the Council's policies for the supply of housing are out of date. There are no NPPF policies for the protection of areas or assets of particular importance which apply in this case and therefore, it is clear that the decision-making process for the determination of this application is to assess whether there are adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits.

#### Accessibility and Highway Safety

6.13 Paragraph 103 of the NPPF sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Furthermore, development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts of development are severe. Policy INF1 of the JCS requires that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters.

6.14 The level of service provision in the immediate area is relatively limited in terms of retail and leisure, however the site is located in proximity to Tewkesbury Town and is within walking and cycling distance of employment uses at Ashchurch as well as bus stops and the Ashchurch railway station. This contributes to the sustainability of the site and is consistent with the requirement of Paragraph 103 of the NPPF for significant development to 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.



6.15 The application proposes improvements at the junction of Fitzhamon Park and the A46 to re-prioritise traffic onto St Barbara's Close. The proposed works would entail the widening of the access road and provision of a crossing point and central island. Within the site the proposal would provide parking bays and a 2 metre footway into the application site.

6.16 Paragraph 109 of the NPPF advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

6.17 Highways England (HE) have assessed the information submitted in support of this application and have concluded that the proposed development is unlikely to have a significant impact on the Strategic Road Network (SRN) in highway capacity terms at this location as well as potential safety implications associated with right turning traffic onto the A46.

6.18 It is considered that the A46 junction has been assessed and, subject to improvements, it has been demonstrated that the junction can safely accommodate the additional traffic demand as a result of the proposed development. Furthermore HE advise that the scheme proposed for the A46 / Fitzhamon Park junction would improve the junction layout and provide additional capacity for any vehicles wishing to turn right onto the A46 without material impact on the flow of traffic on the A46 and the principle of the development is acceptable in traffic terms.

6.19 The internal site access arrangements and routing through St Barbara's Close have been assessed by the Gloucestershire County Highways Officer (HO). The HO has advised that the submitted swept path plans have demonstrated suitable space for expected vehicles and movements which demonstrate the availability of suitable forward visibility and tracking space for expected vehicles on the bend adjacent to Tirlbrook Grange.

6.20 A continuous pedestrian 2m width footway has been illustrated from the A46 along St Barbara's Close with suitable visibility at pedestrian crossings as well as reconfigured parking arrangement to serve the existing dwellings. Due to the length of the straight section of St Barbara's Close into the site, traffic calming into the site access would need to be provided and a priority narrowing scheme has been indicated on the submitted drawings.

6.21 The detailed access and layout arrangements into the site would be considered at reserved matters stage however these should provide forward and emerging visibility along roads and at junctions calculated by design speed to be stated. Swept path two-way tracking for largest regularly expected refuse vehicles passing a box van on the main arterial road and estate car on other roads in both directions and inter-visible passing will be required with clearance to carriageway edges and between vehicles. Pedestrian protected footways would be required to all dwellings and other building entrances and parking spaces throughout the development.

6.22 Accordingly and subject to compliance with conditions set out below it is considered that safe

and suitable access can be provided to the site and the development and the residual cumulative impacts on the highway network would not be severe.

## **Drainage and Flood Risk**

6.23 JCS Policy INF2 advises that development proposals must avoid areas at risk of flooding and must not increase the level of risk to the safety of occupiers of a site and that the risk of flooding should be minimised by providing resilience and taking into account climate change.

6.24 The application site is located within Flood Zone 1 and is in a location that would be least at risk from flooding. The application has been accompanied by a flood risk assessment. This has been reviewed by the LLFA who have requested further details with regards to the proposed surface water drainage proposals to ensure that the development would not exacerbate the risk of flooding.

6.25 Further information in the form of a revised Flood Risk Assessment which includes relevant drainage calculations has been submitted by the applicant and this is being reviewed by the LLFA. **An update will be provided at committee.**

## **Landscape**

6.26 Policy SD6 of the JCS states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. Proposals will have regard to local distinctiveness and historic character of different landscapes and proposals are required to demonstrate how the development will protect landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement area.

6.27 The JCS Landscape and Visual Sensitivity Study Addendum (Nov 2014) defines landscape and visual sensitivity for the area. The site lies within area 'Ash-05' and the landscape and visual sensitivity is described as 'low'.

6.28 The application has been accompanied by a Landscape and Visual Appraisal (LVA) which advises that the site is not subject to any landscape designation and is in pastoral use. The eastern and western boundaries are defined by hedgerow, while the northern boundary comprises a post and wire fence and planting. The LVA concludes that the proposals would be visible from localised viewpoints and the visual harm would be low. Furthermore the LVA sets out measures including landscaping and planting which would minimise the impact on the area.

6.29 It is considered that the introduction of built development upon an existing agricultural field

would result in landscape harm however the scale of the development would be restrained and it would be located adjacent to existing built development to the north and new residential development to the east and west. While no public footpaths cross the site, Ashchurch Footpath 40 AAS40 runs to the eastern boundary of the site before turning westwards some way to the south. While the development would exert some presence, views from the east would be screened to a significant degree by existing tree and hedge planting as well as the provision of a landscape buffer within the site which would provide significant screening. It is also relevant that the site is identified in the TADCM as a location for future development.

6.30 Views from the south are more open however the development would be set back from the edge of the site behind a landscaped buffer and would be viewed in the context of existing development at Fitzhammon Park and St Barbara's Close which exert an influence upon the area and the overall landscape impact is not considered significant.

6.31 In conclusion, the proposed development would result in landscape harm at a site specific scale by introducing new development into the open, agricultural fields. Nevertheless the LVA demonstrates that the development, subject to appropriate landscaping and design, would not lead to any significant landscape effects. Consequently, it is not considered that there would be significant and demonstrable harm arising from the proposed development on landscape and visual grounds which would justify refusal of planning permission. It is also noteworthy in this context that the site is identified for future development in the TADCM.

## **Biodiversity**

6.32 Policy SD9 of the JCS reflects NPPF guidance and seeks the protection and enhancement of biodiversity and geological resources of the JCS area. In terms of ecology, the site presently comprises made-up land used as pasture. The submitted ecological report advises that the site is of limited ecological value due to the managed nature of the land.

6.33 The report advises that there was no evidence of roosting bats within the site however it is recommend that light spill along the site boundaries is controlled. The report identifies evidence of a small population of Great Crested newts within the area of the pond to the eastern part of the site. The application proposes the retention if existing trees and planting in this area as a 'stand-off' and the report advises that the favourable conservation of the newts can be achieved through trapping or exclusion from the development area for the duration of the construction period and this will be subject of Natural England Licencing. Further habitat enhancement is proposed through the provision of a further pond and habitat improvements to the existing.

6.34 The report also sets out a series recommendations and measures to protect and enhance biodiversity during the construction phase and post development and this could be controlled by condition.

## Design, Layout and Amenity

6.35 The NPPF sets out that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Policy SD4 of the JCS advises that new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting.

6.36 The submitted indicative layout plan shows how the development would be set to the central part of the site with landscaped buffers and public open space provided to the southern, eastern and western margins of the site. Furthermore, the submitted details indicate how pedestrian connections could be provided to adjoining developments and the wider area.

6.37 Design and Access Statement (DAS) identifies a mix of dwelling sizes, and styles within the surrounding area, ranging from small rendered cottages to more substantial 3 storey apartment blocks. The DAS sets out that the proposed design of the dwellings would draw upon traditional features found on existing development in the area, such as half eaves dormers, with a mix of brick and render facing materials.

6.38 Whilst the application is in outline form, it is considered that the proposals as indicated would result in a suitable design approach and layout which would respond to the character of the area and minimise the impacts upon the landscape, however the detailed design would be subject to further consideration at the reserved matters stage.

6.39 JCS Policy SD14 sets out that development should protect and seek to improve environmental quality and should not cause unacceptable harm to local amenity including the amenity of neighbouring occupants.

6.40 The proposed development would be set a significant distance away from existing residential development at Fitzhammon Park and St Barbara's Close and would not result in any harm from overlooking. While the proposal would result in increased traffic movements along St Barbara's Close, this would not result in demonstrable harm to the occupiers of those properties in terms of noise or disturbance given the low speeds of vehicles using the estate road.

6.41 It is considered that it has been demonstrated that the site can deliver a suitably high quality development without demonstrable harm to the living conditions of the occupiers of adjoining properties.

## Affordable housing/Housing mix

6.42 JCS Policy SD12 sets out that on sites outside of strategic allocations, a minimum of 40% affordable housing will be sought, should be provided on site and should be seamlessly integrated and distributed throughout the development scheme.

6.43 The proposed development would provide 36 affordable houses which represents a 40% proportion of the 90 dwellings proposed at the site. The specific type, mix and tenure will need to reflect the requirements highlighted by the 2016 Housing Needs Survey and this provision would need to be secured by way of a S.106 agreement.

6.44 The application proposes a 66 bed care home. It is understood that while discussions with prospective operators have taken place the precise details of the accommodation and occupation are still to be agreed.

6.45 It is noted that bullet 2 of Policy SD12 requires the provision of affordable housing within residential institutions (use Class C2). Whilst the application proposes a care home no specific details have been provided at this stage with regards to the nature of the accommodation. If self-contained units are provided an affordable housing of 40% would be due and provision would need to be made within any S.106 agreement to allow for this to be secured should such units be proposed at the reserved matters stage.

6.46 In terms of housing mix, policy SD11 of the JCS sets out that the market housing mix of new development should reflect the identified local housing need, to ensure the delivery of a mix of dwelling sizes to meet existing need and the creation of a mixed and balanced community going forward. Development should address the needs of the local area and should be based on the most up-to-date Strategic Housing Market Assessment (SHMA). The application makes no reference to the mix of market dwellings however this is a matter that can be properly controlled via a suitably worded planning condition.

## Other matters

6.47 Following the implementation of CIL, infrastructure requirements specifically related to the impact of the development will continue to be secured via a S106 legal agreement. This application would require as.106 agreement to secure the following contributions:

- Affordable Housing - 40%
- Recycling & waste bins - £73 per dwelling
- Public open space & maintenance

6.48 It is noted that the County Council's S.106 Officer has requested contributions towards provision of facilities at local schools in Tewkesbury however, this would not meet the prescribed tests and cannot be delivered through S.106. Nevertheless, this would be an infrastructure project capable of being delivered through CIL.

6.49 JCS Policy INF4 advises that new community facility provision should be of an appropriate type, standard and size and new provision should meet the needs of the community that it will serve. The application proposes a community building however details at this outline stage are limited.

6.50 While the proposed development is not of a scale which would generate the need for a community building to be provided to mitigate the impacts of the development, the Parish Council have advised that the existing village hall is at capacity and there are no opportunities to extend the building at the existing site and the principle of a new community building is welcome. However further details of the proposal will be required before the Parish Council can support the proposal. Further clarification has been sought from the applicant and an update will be provided at committee.

6.51 It should also be noted that the community building would not meet the tests for planning obligations set out at Paragraph 56 of the NPPF in that it would not be necessary to make the development acceptable in planning terms or fairly and reasonably related in scale and kind to the development and can-not be required by this application.

6.52 With regards to the proposed care home, the applicant has advised that the proposed facility could provide up to 50 new jobs, based on other similar facilities. This facility and associated employment would provide a social and economic benefit.

## **7.0 Overall Balancing Exercise and Conclusion**

7.1 Section 38(6) of the Town and Country Planning Act 1990 provides that, if regard is to be had to the development plan, the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. Section 70(2) of the Act provides that the Local Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

7.2 On the basis that the Council cannot at this time demonstrate a five year supply of deliverable housing sites, the Council's policies for the supply of housing are out of date. In accordance with paragraph 11 of the NPPF, the presumption in favour of sustainable development indicates that permission should be granted unless policies for protecting areas of assets of particular importance in the NPPF provide a clear reason for refusing the development proposed, or any adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

7.3 There are no NPPF policies for the protection of areas or assets of particular importance which apply in this case and therefore, it is clear that the decision-making process for the determination of this application is to assess whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

## **Benefits**

7.4 The delivery of market and social housing and a care facility in a sustainable and accessible location with good links to Tewkesbury and local employment and services is a social benefit arising from the proposal. Given the scale of the proposal, these benefits are given moderate weight.

7.5 There would be economic benefit during the construction phase and employment generated by the proposed care facility. Further economic benefits would arise from the additional population which would benefit local services. These economic benefits, along with the economic benefits arising from the construction phase, are given some weight.

7.6 Furthermore, the provision of a community facility (subject to further clarification) and public open space would be a social benefit which would serve the existing community as well as new residents although these benefits are given some weight, as they are required in any event to mitigate the impacts of development.

## **Harms**

7.7 Harm arises from the conflict with the development plan and in particular policies SP2 and SD10. Notwithstanding the conflict with the development plan, the Council cannot demonstrate a five year supply of deliverable housing sites and this must be weighed in the overall planning balance.

7.8 Further, landscape harm will arise from the loss of part of the existing field parcels, however the site is not subject to a landscape designation and its sensitivity has been defined as 'low'. The proposal would have an urbanising effect upon the area however it is considered that this visual harm can be mitigated through appropriate design and landscaping as part of any reserved matters applications. The site's identification for future development in the Tewkesbury Area Draft Concept Masterplan is also noteworthy in this respect.

## Neutral

7.9 It is considered that the proposal would result in a neutral impact on ecology and geodiversity and subject to compliance with conditions the development would not have an unacceptable impact the operation of the highway or highway safety.

## Conclusion

7.10 On the basis that the Council cannot demonstrate a five year supply of deliverable housing sites, the planning balance must be struck having regard to the presumption in favour of sustainable development at paragraph 11 of the NPPF. Whilst there is conflict with the development plan housing policies, these policies are considered out of date. There would also be harm to the landscape.

7.10 However in the absence of policies in the NPPF which would provide a clear reason for refusal, it is not considered that these harms would significantly and demonstrably outweigh the benefits set out above and it is therefore recommended that **permission is DELEGATED to the Technical Planning Manager subject to resolution of outstanding surface water drainage matters; imposition of/amendments to appropriate planning conditions; and the completion of a section 106 legal agreement to secure the following:**

- Affordable Housing - 40%
- On site Public Open Space
- Recycling & waste bins - £73 per dwelling

## Update Report

At the July 2019 Planning Committee, it was resolved to delegate permission to the Technical Planning Manager subject to a number of matters including the completion of a Section 106 legal agreement to secure the following contributions:

- Affordable Housing - 40%
- On site Public Open Space including a LEAP
- Off site playing pitch contribution of £74,925
- Serviced land for community use
- Recycling & waste bins - £73 per dwelling}



Paragraph 6.48 of the officer report noted that the County Council's S.106 Officer had requested contributions towards provision of facilities at local schools in Tewkesbury, but it was considered that these would not meet the prescribed tests (as set out in paragraph 5.1 of the report).

The drafting of the S106 agreement is well advanced however the County Council has since provided further evidence to justify meeting the prescribed tests to provide the contributions towards education and libraries, as set out below.

In respect of education, it has been advised that the proposed development would give rise to the following pupil yields and would require the following contributions to mitigate the impact of the development:

- Pre-school: 27.00 = £407,457.00
- Primary: 36.9 = £556,857.90
- Secondary: 27.90 = £578,638.80

The officer has advised that the early year's provision would be for the Tewkesbury Primary Planning area, the Primary contribution would be towards Ashchurch Primary School and Tewkesbury Primary Planning Areas, and Secondary Provision at Tewkesbury School and the Tewkesbury Secondary Planning Area.

In terms of libraries, the County Council has advised that the scheme would generate a need for library resources and a contribution of £17,640 has been sought towards resources at Tewkesbury Library.

It is considered that the additional contributions sought are acceptable in the context of the CIL Regulations (Regulation 122). Officers are satisfied that the requested contributions are justified and the applicant has indicated that they are willing to pay the requested contributions, which would be secured through a Section 106 Agreement in addition to the contributions agreed previously.

### Other Matters

Following the July 2019 Committee resolution, the Local Planning Authority received a further representation advising that the area indicated as a 'disused rifle range' on the Illustrative Masterplan is used by Tewkesbury Sports Shooting Club.

The Gloucestershire Constabulary Firearms & Explosives Licensing Officer has advised that the club does not appear to be a Home Office registered for firearms range, however they could be a miniature rifle range (max .22rf calibre), air rifle or bb/airsoft range which falls outside of licensing.

The Council's Environmental Health Officer has reviewed the submitted details and has raised no objections to the planning application subject to additional conditions in respect of noise levels/measures.

The requirement for any further restrictions to working hours, (beyond those set out in Condition 23 below) are being discussed with the Council's Environmental Health Officer in order to assess whether there any requirements or further restrictions necessary due to the site access being via St Barbara's Close.

An update from the highways officer regarding the latest Gloucestershire Highways requirements for electric vehicle charging points is awaited.

### Conclusions

Further to the above, it is considered that there are no material changes in circumstances since the previous resolution to justify an alternative recommendation.

Subsequent to the details referred to above it is therefore recommended that authority be **DELEGATED to the Development Manager to PERMIT the application, subject to the resolution of outstanding surface water drainage matters; imposition of/amendments to appropriate planning conditions including a condition requiring electric charging points to be provided throughout the development, a condition in respect of noise levels/mitigation and construction hours and completion of a Section 106 Agreement to secure the following:**

- **Affordable Housing - 40%**
- **On site Public Open Space including a LEAP**
- **Off site playing pitch contribution of £74,925**
- **Serviced land for community use**
- **Recycling & waste bins - £73 per dwelling**
- **Pre-school contribution £407,457.00**
- **Primary education contribution £556,857.90**
- **Secondary education contribution £578,638.80**
- **Libraries £17,640**

## Conditions

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

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

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

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

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

4. The details to be submitted as part of the Reserved Matters application in accordance with Condition 1 shall include existing and proposed levels, including finished floor levels and a datum point outside of the site. All development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the area.

5. The details to be submitted as part of the Reserved Matters application (s) for appearance and layout pursuant to Condition 1 shall include precise details or samples of the external facing and roofing materials, and hard surfacing materials proposed to be used. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenity of the area.

6. The details to be submitted as part of the Reserved Matters application(s) pursuant to Condition 1 shall include a plan indicating the positions, design, materials and type of boundary treatments to be erected. The boundary treatments shall be completed in accordance with the approved details before the buildings are occupied.

Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenity of the area.

7. The details of landscaping to be submitted as part of the Reserved Matters application in accordance with Condition 1 shall include a landscape scheme for the whole site. The submitted design shall be accompanied by a written specification clearly describing the species, sizes, densities and planting numbers. The submitted drawings shall also include accurate details of all existing trees and hedgerows with their location, species, size, condition, any proposed tree surgery and which are to be removed and how those to be retained are to be protected during the course of development. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory and well planned development in the interest of visual amenity.

8. All planting, seeding or turfing in the approval of reserved matters for landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory and well planned development in the interest of visual amenity.

9. The details to be submitted as part of the Reserved Matter(s) application for layout, appearance and scale, pursuant to Condition 1 shall accord with principles set out within the Fitzhamon Park, Ashchurch Design and Access Statement (June 2019) received on 28th June 2019 and Illustrative masterplan RHIN160211 IMP-01 Rev.K received on 15th July 2019 and any other conditions attached to this permission.

Reason: To ensure a satisfactory appearance to the development.

10. The development hereby permitted shall not begin until a scheme to deal with contamination of land, ground gas and controlled waters has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:

i. A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites - Code of Practice.

ii. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites - Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.

iii. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.

iv. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to the development being brought into use.

V. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria , together with the necessary documentation detailing what waste materials have been removed from the site.

If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

11. The first reserved matters application submitted pursuant to Condition 1 above shall include a detailed design for the A46/Fitzhamon Park junction scheme in accordance with drawing reference W162192\_A01-Rev I. The scheme shall comply with the design requirements and procedures of the Design Manual for Roads and Bridges as required by Highways England, including those relating to Road Safety Audit and Walking, Cycling and Horse-Riding Assessment and Review (WCHAR). The junction scheme shall be implemented and completed in full, in accordance with the approved detailed design, prior to first occupation of any building/dwelling on the development.

Reason

In order to ensure the safety of users on the A46 and enable it to continue to be an effective part of the Strategic Road Network.

12. Prior to the commencement of development a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Plan.

Reason

In order to ensure the safety of users on the A46 and enable it to continue to be an effective part of the Strategic Road Network.

13. No works shall commence on site until the footway illustrated on the submitted plans has been provided into the site from the A46 in general accordance with plan W162192\_A01 Rev I.

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

14. The access hereby permitted shall not be brought into use for the development until the existing roadside frontage boundaries have been set back to provide visibility splays as illustrated on plan W162192\_A01 Rev I with splays of 20m or to road ends from the back edge of the pedestrian crossing on the west side of Fitzhamon Park to the nearside carriageway edges, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level.

Reason: To avoid an unacceptable impact on highway safety by ensuring that adequate pedestrian visibility is provided and maintained and to ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians.

15. No works shall commence on site on the development hereby permitted until details of the site access have been submitted to and approved in writing by the Local Planning Authority including traffic calming and no dwelling, building or land use occupied or beneficially used until the approved works have been completed and are open to the public.

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

16. Throughout the construction phase of the development hereby permitted provision shall be made within the site (and thereafter retained for the duration of construction works) that is sufficient to accommodate the likely demand generated for the following:

- i. parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. wheel washing facilities

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

17. No part of the development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority, setting out;

- i. objectives and targets for promoting sustainable travel,
- ii. appointment and funding of a travel plan coordinator,
- iii. details of an annual monitoring and review process,
- iv. means of funding of the travel plan, and;
- v. an implementation timetable including the responsible body for each action.

The approved Travel Plan shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter.

Reason: The development will generate a significant amount of movement and to ensure that the appropriate opportunities to promote sustainable transport modes are taken up.

18. Prior to the first occupation of the development hereby permitted details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

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

19. No part of the development shall be occupied until fire hydrants (served by mains water supply) to serve that part of the development have been provided in accordance with a scheme which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to access and tackle any property fire.

20. Prior to first occupation of the proposed development hereby permitted the first 15m of the proposed access road, including the junction with the existing public road, shall be completed to at least binder course level.

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

21. The layout details required pursuant to condition 1 above shall include details of secure and covered cycle storage facilities for a minimum of 1 bicycle per dwelling and such facilities based on evidenced demand for non-residential uses. No dwelling/building shall be first occupied until the covered cycle storage facilities have been provided for that dwelling/building in accordance with the details so approved.

Reason: To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the appropriate opportunities for sustainable transport modes have been taken up.

22. The first application for reserved matters pursuant to condition 1 above shall include details of the mix of houses proposed. Those details shall be broadly in accordance with the most up to date version of the JCS SHMA at the time of the first reserved matters application unless an alternative local need can be demonstrated.

Reason: To ensure appropriate mix and range of dwellings within the housing market area.

23. No demolition, construction works or machinery (audible beyond the application site) shall be operated, or process carried out and no deliveries taken at or despatched from the site outside the following times 07.30 hours to 18.00 hours Mondays to Fridays and 08.00 hours to 13.00 hours on Saturdays nor at any time on Sundays, Bank or Public Holidays.



Reason: In order to protect the amenity of occupiers of nearby properties.

24. The development hereby permitted shall be carried out in accordance with the landscape and ecological mitigation measures as set out within the BSG Ecology Ecological Assessment 6973-R-APPR-24-08-2017 and B.J Unwin Forestry Consultancy report BJU/MMI and any other conditions attached to this permission.

Reason: To ensure the development does not adversely impact the natural environment.

### **Informative**

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

2. Wales and West Utilities advises that it has pipes in the area, and that their apparatus may be affected and at risk during construction works. Wales and West Utilities require the promoter of these works to contact them directly to discuss their requirements in detail before any works commence on site. Should diversion works be required, Wales and West Utilities advise that these will be fully chargeable. Wales and West Utilities state that you must not build over any of their plant or enclose their apparatus.

3. In order to minimise any nuisance during the construction phase, the applicant should refer to the Worcestershire Regulatory Services Demolition & Construction Guidance and ensure its recommendations are complied with.

4. The highway scheme associated with this consent involves works within the public highway, which is land over which you have no control. Highways England therefore requires you to enter into a suitable legal Section 278 agreement to cover the design check, construction and supervision of the works. Contact should be made with the Highways England Section 278 Business Manager Nigel Wilkins to discuss these matters on [nigel.wilkins@highwaysengland.co.uk](mailto:nigel.wilkins@highwaysengland.co.uk).

5. The proposed development will involve works to be carried out on the public highway and the Applicant/Developer is required to enter into a legally binding Highway Works Agreement (including an appropriate bond) with the County Council before commencing those works.

6. The applicant is advised that to discharge the street management and maintenance condition that the local planning authority requires a copy of a completed dedication agreement between the

applicant and the local highway authority or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

7. The developer will be expected to meet the full costs of supplying and installing the fire hydrants and associated infrastructure.

#### Statement of Positive and Proactive Engagement

In accordance with the requirements of the National Planning Policy Framework (2018) the Local Planning Authority has sought to determine the application in a positive and proactive manner offering pre-application advice, detailed published guidance to assist the applicant and published to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.