

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

Committee:	Planning
Date:	15 December 2020
Site Location:	1 Down Hatherley Lane Down Hatherley Gloucester Gloucestershire GL2 9PT
Application No:	19/00594/FUL
Ward:	Innsworth With Down Hatherley
Parish:	Down Hatherley
Proposal:	Variation of condition 2 (approved plan schedule) of application 19/00006/FUL for alterations to elevations and floor plans to allow for provision of a first floor and alterations to fenestration.
Report by:	Victoria Stone
Appendices:	Site Location Plan Proposed Block Plan Proposed Elevations & Floor Plans Approved Block Plan – 19/00006/FUL Approved Elevations & Floor Plan – 19/00006/FUL
Recommendation:	Permit

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1. The application relates to No.1 Down Hatherley Lane which is located along the southern side of the lane in Down Hatherley (**see attached location plan**).
- 1.2. The application site is rectangular in shape and measures approximately 0.09 hectares.
- 1.3. The site comprises a semi-detached two storey dwelling with a pitched roof. There is also a detached single storey outbuilding to the rear of the main dwelling. The site is bound by residential properties to the north, east and south. Currently, to the west of the site lies an open field however this land forms part of the Strategic Allocation A1 Innsworth and Twigworth in the Joint Core Strategy and is shown to be 'Housing and related Infrastructure' in the JCS Indicative Site Layout Proposal Map.
- 1.4. The site is located within an area of land safeguarded for future growth.
- 1.5. Planning permission was granted at Planning Committee in April 2019 for the erection of a detached dwelling and associated works, planning reference 19/00006/FUL. This permission has not been implemented but is still extant.

- 1.6. This current application proposes changes to the design and scale of the approved dwelling and has been submitted under Section 73 of the Town and Country Planning Act 1990 to vary condition 2 of the permission so as to amend the list of approved drawing numbers.
- 1.7. The principal change is the introduction of first floor accommodation to provide two bedrooms and a bathroom. To facilitate the first floor accommodation the ridge height of the eastern gable would increase by 0.9 metres and the depth of the gable would increase by 0.5 metres. In addition two pitched dormer windows are proposed in replace of two roof lights on the west facing roof slope.
- 1.8. The overall length and eaves height of the dwelling would remain as approved. In terms of siting, the dwelling would not be located any closer to the boundaries.
- 1.9. Like the approved scheme, the proposed dwelling would be 'L-shaped' with both gables having a pitched roof and would be constructed out of red brick and slate composite roof tiles to match the neighbouring properties. The application site would be accessed utilising the existing vehicular access from Down Hatherley Lane.
- 1.10. Since the application was first submitted, the proposal has been subject to revisions which primarily sought to improve the design approach in response to officer concerns. A new notification and consultation period has been carried out.

2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
19/00006/FUL	Erection of a detached dwelling and associated works.	PERMIT	18.04.2019

3.0 RELEVANT POLICY

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

National guidance

- 3.2. National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG) and National Design Guide (NDG)

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

- 3.3. Policies SP2, SD4, SD5, SD10, SD14, INF1, INF2

Tewkesbury Borough Plan 2011-2031 – Pre-Submission Version (October 2019)

- 3.4. Policies RES3, RES5, DES1, ENV2, TRAC9

Down Hatherley, Norton and Twigworth Neighbourhood Plan 2011-2031

- 3.5. Policies E3
- 3.6. Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)
- 3.7. The First Protocol, Article 1 (Protection of Property)

4.0 CONSULTATIONS

4.1. Down Hatherley Parish Council – Object for the following reasons:

- Maintain the position that it is inappropriate to address housing targets by eroding the greenspaces and gardens of the Parish;
- The plot has not been allocated for housing in the JCS;
- The ‘safeguarded land’ has not to date been triggered by a development plan change;
- Consider the plan is so substantively changed from the permission that it should be treated as a new distinct application;
- The height, mass and scale of the proposed development would amount to considerable cramming of the site and would be unsuitable for the plot;
- The height, scale and mass of the dwelling would have a severe impact on the amenities and privacy of immediate neighbouring properties;
- The height, scale and mass of the development impacts on the wider character of Down Hatherley.

5.0 PUBLICITY AND REPRESENTATIONS

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

5.2. Four separate responses objecting to the application have been received from one local resident. The comments are summarised as follows:

- Application should be a new application as it is different situation for the immediate environment and neighbouring properties;
- Property would be out of character with its surrounds;
- Application site is outside the Neighbourhood Plan – no point in the Plan if the Council ignores it;
- The two storey building would cause adverse harm to neighbouring residential amenity – it would be overbearing, would overlook the entirety of The Haven, close all views to the north windows, take away all privacy and substantially reduce the natural light into kitchen;
- Front of the property would be alongside the rear of The Haven;
- Plans are inaccurate and bear no relationship to the actual property footprint;
- Impact upon public drainage and sewage pipe which runs across the application site;
- Development would cause a nuisance (noise and dust) to residents during construction – would expect mitigation measures to be secured via condition such as restricting hours of construction and the installation of acoustic screening.

6.0 POLICY CONTEXT

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.2. The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans. Of direct relevance to this application is the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan 2011-2031.
- 6.3. The Pre-Submission Tewkesbury Borough Plan was submitted to the Secretary of State for Housing, Communities and Local Government on 18 May 2020 for examination. On the basis of the stage of preparation it has reached it is considered that the plan's policies can be afforded at least moderate weight. However, the weight to be attributed to individual policies will be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and their degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.4. The relevant policies are set out in the appropriate sections of this report.

7.0 ANALYSIS

Principle of development

- 7.1. It is noted that concerns have been raised by the Parish Council and local residents regarding the principle of development. Nevertheless, the principle of one dwelling at the site, which includes the impact upon the safeguarded land, has already been established through the grant of full planning permission, planning reference 19/00006/FUL. This application seeks permission for an amendment to the design and scale of the approved dwelling therefore the main material considerations are the impact of the changes in relation to the design, visual impact and residential amenity.

Design and layout

- 7.2. Section 12 of the NPPF sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It continues by stating that good design is a key aspect of sustainable development, creating better places in which to live and work and helps make development acceptable to communities. Planning decisions should, amongst other things, ensure that developments will function well and add to the overall quality of the area and should be sympathetic to the local character, including the surrounding built environment.
- 7.3. This advice is echoed in JCS policy SD4 which states 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.

- 7.4. Policy RES5 of the Pre-submission Tewkesbury Borough Plan (2019) states proposals for new housing development should, inter alia, be of a design and layout that respects the character, appearance and amenity of the surrounding area and is capable of being well integrated within it and be of an appropriate scale having regard to the size, function and accessibility of the settlement and its character and amenity, unless otherwise directed by policies within the Development Plan.
- 7.5. The simple shape and form of the proposed building and the design features such as the incorporation of a pitched roof and the use of matching materials and finish to the neighbouring properties would be similar to the approved scheme. The eaves height of the proposed dwelling would remain the same however the ridge height would be increased by 0.9 metres. It is considered that the change in the ridge height of the dwelling would result in a well-proportioned dwelling which would be enhanced by the introduction of the two pitched dormer windows.
- 7.6. In terms of layout, the proposed dwelling, access drive, parking provision and amenity space would be in the same position as the approved scheme.
- 7.7. In light of the above, it is considered that the proposed changes to the appearance of the dwelling would be acceptable and, as like the approved scheme, the development would be appropriate to the site and its setting.

Residential amenity

- 7.8. In respect of the impact of the development upon residential amenity, paragraph 127 of the NPPF specifies that planning decisions should ensure development creates places with a high standard of amenity for existing and future users. This advice is reflected in JCS policies SD4 and SD14 which require development to enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space. Development should have no detrimental impact on the amenity of existing or new residents or occupants.
- 7.9. The proposed dwelling would be sandwiched between residential properties on three boundaries. As detailed previously the main difference between the revised scheme and the approved scheme relates to the increase in the ridge height of the proposed dwelling to accommodate the provision of first floor accommodation.
- 7.10. It should be noted that the proposed dwelling would not be sited any closer to any of the boundaries of the site. The dwelling would be located a sufficient distance from the properties to the north (No.1 and No.2 Down Hatherley Lane) and to the east (Applegarth). Further, the eaves height would remain as approved, 3.5 metres in height, with the roof sloping away from the boundary with the neighbouring property, Applegarth. The proposal does include the addition of two roof lights on the east facing roof slope, one to serve the bathroom, the other the landing. Whilst these aren't habitable rooms, given the close proximity of the proposed dwelling to the rear garden of the property to the east, Applegarth, to prevent any overlooking issues a condition is recommended to secure obscure glazing in the roof lights with limited opening unless the roof light would be above 1.7 metres from the floor in which the roof light would be installed. Given this it is considered that there should be no appreciable impact upon the amenity of the occupiers of the properties to the north and east.
- 7.11. The neighbouring property to the south (The Haven) is a bungalow and has two windows on the north facing elevation which serve a kitchen, one of which is obscure glazed. The kitchen also benefits from double doors on the west facing rear elevation and two roof lanterns. The south facing gable end of the proposed dwelling would sit beside the north facing side elevation of The Haven. The submitted plans demonstrate the new dwelling would not extend beyond the rear elevation of The Haven. The proposed dwelling would not be sited any closer to the boundary than the approved dwelling and whilst the increase in height of the

proposed dwelling would result in the new dwelling having a greater presence, it is considered the changes to the height would not cause any undue harm to the amenities of the neighbouring property. This is because the kitchen has a number of openings which allow light into the room, the proposed dwelling would be sited alongside the side elevation of The Haven, plus the proposed dwelling would be located to the north of The Haven, thus this favourable orientation would ensure the proposed dwelling would not cause any overshadowing to the neighbouring property or the rear garden.

- 7.12. In terms of the amenity of the future occupiers of the proposed dwelling, a sufficient distance would be maintained from the surrounding two storey properties (No.1 & 2 Down Hatherley Lane) and all other buildings close to the site boundaries are single storey. This coupled with adequate boundary treatment would ensure there should not be an unacceptable overlooking or overbearing impact upon the occupiers of the proposed dwelling. Further, the orientation of the dwelling is favourable which would ensure the main garden area would not be overshadowed.
- 7.13. The concerns raised in respect to the impact upon neighbouring amenity are noted however in light of the above assessment it is considered that the amendments to the proposed dwelling could be accommodated on site without compromising the amenity of the neighbouring properties.

Impact upon visual amenity

- 7.14. The amended proposal proposes no changes to the siting of the proposed dwelling, which would be set back approximately 50 metres from the roadside and therefore would not be seen readily from Down Hatherley Lane as you approach the site from the east. Given the land to the west is currently undeveloped the site is visible from the west and there are glimpses of the site from the A38. However, the building would be viewed in the context of the surrounding built form and once the adjacent land has been developed it is unlikely the site would be visible from the public domain. As such, the revised proposal should not cause an unduly detrimental impact upon the visual amenity of the locality, particularly when taking into account the previously approved scheme.

Other Matters

- 7.15. The Parish Council and local resident have raised concerns over the level of changes proposed and the application type submitted. The National Planning Practice Guidance (PPG) sets out that any modifications that are fundamental or substantial would require a new planning application however where less substantial changes are proposed, an application can be made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with the planning permission. In this instance the changes to the design and scale of the dwelling are not fundamental or substantial, nor would it result in a change to the description of the development therefore this application can properly be determined under Section 73 of the Town and Country Planning Act 1990.

8.0 CONCLUSION AND RECOMMENDATION

- 8.1. The principle of the erection of a single dwelling at the site has already been established through the grant of full planning permission, reference 19/00006/FUL. The proposed changes to the design and scale of the proposed dwelling, in terms of the design, visual impact and impact upon residential amenity are considered acceptable. In view of this, it is therefore recommended that planning permission is **PERMITTED** subject to the conditions set out below:

CONDITIONS:

1. The development hereby permitted shall be begun before the expiration of five years from the 18th April 2019, the date of permission 19/00006/FUL.

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

2. Unless where required or allowed by other conditions attached to this permission/consent, the development hereby approved shall be carried out in accordance with the information provided on the application form and the following plans/drawings/documents:

Location Plan

002 – Proposed Block Plan (Received 21.11.20)

002 – Proposed Elevation, Floor Plan & Roof Plan (Received 23.11.20)

001 – Visibility Plan

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

3. Prior to its/their installation as part of the development hereby approved, a specification of the materials and finish for the external walls and roofing proposed to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the materials as approved.

Reason: To ensure that the new materials are in keeping with the surroundings and/or represent quality design.

4. Prior to the first occupation of the dwelling hereby permitted the roof lights on the east facing roof slope shall be fitted with obscure glass (at a minimum of Pilkington Level 4 or equivalent) and fitted with 'DGS Egree Friction Stays with inbuilt child restrictors' to restrict the opening of the windows to a maximum of 150mm unless the part of the roof light which opens would be above 1.7 metres from the floor of the room in which the roof light is installed. The roof lights shall thereafter be retained as such and not altered without the prior consent of the Local Planning Authority.

Reason – To protect the amenities of adjoining/nearby properties from unacceptable overlooking.

5. The dwelling hereby permitted shall not be occupied until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 120m distance in both directions (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.26m and 2.0m at the Y point above the adjacent carriageway level.

Reason: To avoid an unacceptable impact on highway safety by ensuring that adequate visibility is provided and maintained 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 is provided.

6. The development hereby permitted shall not be occupied until the car parking associated with the proposed dwelling and the host dwelling has been provided in accordance with the submitted plans and shall be maintained available for that purpose thereafter.

Reason: To ensure that sufficient off-road parking provision is provided for the occupiers of the new dwelling and the host dwelling.

7. Throughout the construction period of the development hereby permitted provision shall be within the site 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. provide for wheel washing facilities.

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

8. The development hereby permitted shall not be occupied until details of secure and covered cycle storage facilities have been made available in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be retained for the parking of cycles only.

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.

9. Before the first occupation of the dwelling hereby permitted a plan indicating the positions, design, materials and type of boundary treatment to be erected (or to be retained) shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the first occupation of the development hereby permitted.

Reason: To protect the amenities of properties and ensure the proposed development does not have an adverse effect on the character and appearance of the area.

10. The construction work on the building hereby approved shall not be commenced until details of existing and proposed ground levels across the site and relative to the adjoining land, together with the finished floor levels of the dwelling relative to Ordnance Datum Newlyn has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect the amenities of properties and ensure the proposed development does not have an adverse effect on the character and appearance of the area.

11. Temporary fencing for the protection of all retained trees/hedges on site and trees outside the site whose Root Protection Areas fall within the site shall be erected in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) before development of any type commences, including site clearance, demolition, materials delivery, vehicular movement and erection of site huts.

Any alternative fencing type or position not strictly in accordance with BS 5837 (2012) must be agreed in writing by the local planning authority prior to the commencement of development.

This protective fencing shall remain in place until the completion of development or unless otherwise agreed in writing with the local planning authority. Nothing should be stored or placed (including soil), nor shall any ground levels altered, within the fenced area without the prior written consent of the local planning authority. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.

Reason: To prevent existing trees/hedges from being damaged during construction work.

INFORMATIVES:

1. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.
2. There may be a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the proposed dwelling.