

## TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

<b>Committee:</b>	Planning
<b>Date:</b>	20 April 2021
<b>Site Location:</b>	Unit 4 Redwood House Orchard Trading Estate Toddington Cheltenham Gloucestershire GL54 5EB
<b>Application No:</b>	20/01214/FUL
<b>Ward:</b>	Isbourne
<b>Parish:</b>	Toddington
<b>Proposal:</b>	Retrospective application for outside storage and security fencing.
<b>Report by:</b>	Emma Dee
<b>Appendices:</b>	Location Plan and Former Site/Block Plan Existing Site Plan and North-East Elevation, As Built Temporary Structures and Fencing Elevations and Plans, As Built Examples of Security Fencing and Outdoor Storage Tree Survey Plan Tree Survey Schedule Tree Preservation Order No. 272
<b>Recommendation:</b>	Refuse

### 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application relates to Unit 4 of Redwood House which is located towards the south-eastern corner of the Orchard Trading Estate in Toddington. The application advises that the building provides almost 980 square metres of secure storage and office space over 2 floors. Orchard Trading Estate covers approximately 6.5 hectares and is located to the north-east of the junction of the B4077 and B4078. It is designated as a Major Employment Site within the Tewkesbury Borough Local Plan to 2011 Proposals Map, and as an Existing Rural Business Centre within the Pre-Submission Version of the Tewkesbury Borough Plan 2011-2031 Proposals Map. There is a Public Right of Way (PROW) known as Toddington Footpath 25 to the north-east of the application site. The B4077 runs parallel to the south of the application site and the application advises that this is elevated approximately 1.4m above the site. The PROW known as Toddington Footpath 35 is located to the south of the B4077.
- 1.2 The application site is located within the Special Landscape Area and its eastern side boundary lies immediately adjacent to the Cotswolds Area of Outstanding Natural Beauty (AONB) as well as the Toddington Manor Registered Park and Garden (Grade II Listed). The application site further includes trees which are protected by Tree Preservation Order (TPO) 272. These trees consist of G1 which are mainly Wellingtonia some oak and pine. There are 6 individual oak trees and a woodland shown as W1 which is primarily oak.

- 1.3 The application explains that Unit 4 of Redwood House is currently occupied by Traveller's Finds; a fair-trade company which employs 5 full-time staff and which specialises in sourcing and importing artwork, sculptures, furniture and ornaments from Africa, Asia and Indonesia. It advises that the company relocated to the Orchard Industrial Estate in 2019 to accommodate its continued expansion and to provide improved security over their previous premises in Hailes. The application advises that an important part of the company's operation is the attendance of trade shows and exhibitions, which requires the company to maintain several large vans and trailers to transport stock. It confirms that the company currently possesses 5 large vans and 4 trailers and that this is likely to increase as the company expands. The application also states that the company works on a high turnover/low margin model, to ensure their suppliers receive the best price for their creations, and therefore the requirement for secure storage is paramount to the successful operation of the business.
- 1.4 The application seeks retrospective planning permission for the retention of the following structures:
- 40ft and 20ft shipping containers to the south of Unit 4 (4 no. shipping containers have been stacked 2 upon 2, and the overall height of this does not exceed the eaves height of Unit 4);
  - Temporary storage structure used as a marquee showroom, located towards the south-eastern corner of the site (measuring 15.3 metres in length by 9.15 metres in width, and 2.2 metres in height to eaves and 4.2 metres in height to ridge) – white in colour;
  - Temporary storage structure used as a storage tent, located towards the south-western corner of the site (measuring 12.2 metres in length by 6.1 metres in width, and 2.6 metres in height to eaves and 3.6 metres in height to ridge) – green in colour; and
  - Temporary storage structure used as a storage tent, located towards the south-western corner of the site (measuring 8.1 metres in length by 4.1 metres in width, and 2 metres in height to eaves and 3.2 metres in height to ridge) – green in colour.
- 1.5 The application advises that the main building is used to store the most valuable and rare stock, but that this is currently full. It confirms that lower value items are stored within the shipping containers, with the lowest value items stored within the 2 temporary storage structures and compound. It further states that an additional temporary structure has been erected to provide a showroom for visiting clients but that due to the reduced trading throughout the COVID-19 pandemic this structure is currently being used for storage. The application advises that the provision of a show room will become more important to the company's survival post-Covid-19 as events and trade shows are likely to be limited for the near future. It advises that, if clients can visit, this would create another income stream to safeguard the company's future and allow it to expand as anticipated.
- 1.6 The application further advises that the site was subject to a break-in in November 2019 which resulted in items of stock being stolen and broken. As a result of this break-in, 2.4m high galvanised palisade fencing was erected parallel with but set back from the northern, eastern and southern boundaries to form a secure compound, with 2 no. sets of palisade gates at the location of previous kerbs and access points to the north. The application therefore also seeks retrospective planning permission for the retention of this 2.4m high galvanised palisade fencing and 2 no. access gates. The previous timber fence along the western side boundary has been retained.

- 1.7 The application advises that the company have been offered a lucrative business opportunity that would allow it to employ another member of staff, but that this opportunity is reliant on the facility to store additional stock. Therefore, it has been unable to commit until suitable permission is obtained. In addition, the application sets out that the company could not afford the rent and business rates for an additional building and therefore, without the facility to utilise the site for outdoor storage, the company would be forced to move away from the area and leave the unit vacant.
- 1.8 The development approved under application reference 88T/0172/03/02 on 3<sup>rd</sup> August 1988, for the erection of a light industrial unit (2055 sqm), was subject to restrictive conditions pertaining to: (c) the erection or construction on this site of any extensions, gates, fences, walls, other means of enclosure, or structures of any kind; and (d) any outside storage whatsoever on this site. These conditions were required in order to ensure that the development would be visually attractive in the interests of amenity. The development approved under application reference 88T/0172/03/02 was also subject to a restrictive condition pertaining to (r) any industrial activity anywhere on the application site except within the authorised building, in order to ensure that the noise emitted from this industrial use would not be a source of nuisance to occupants on nearby residential properties. The development which has been carried out is in breach of these restrictive conditions.
- 1.9 In relation to mitigation of the potential impact, the applicant's agent has advised that a scheme of planting along the fence line had been commenced prior to the Enforcement Officer's visit but stopped on receipt of his message. This involved the planting of evergreen hedges to screen the fencing all year round. The applicant's agent advises that the planting scheme would be continued upon any approval of the fencing. The applicant's agent has also advised that the applicant has purchased a camouflage net which they propose to put over the white building.
- 1.10 The application is presented to the planning committee at the request of Councillor Mason, in order to assess the impact on the surrounding properties and countryside.

## 2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
T.172/S	Erection of warehouse units (A, B, C and D) of 17,750 sq.m layout of road and parking area.	REFUSED  Appeal dismissed	29.01.1975
T.172/1/C	Use of land for aluminium smelting including concrete yard, boundary walls and furnaces with 11m high chimney.	REFUSED	16.03.1988
88T/0172/02/01	Outline application for the erection of a general industrial building (Class B2).	WITHDRAWN	04.07.1988
88T/0172/03/02	Erection of a light industrial unit (2055 sqm)	PERMITTED	03.08.1988
02/0172/1725/FUL	Variation of condition (d) of planning reference 88T.0172/03/02 to allow retention of storage skips	PERMITTED	28.06.2004

### **3.0 RELEVANT POLICY**

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

#### **National guidance**

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

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

Policies: SD1 (Employment – Except Retail Development), SD4 (Design Requirements), SD6 (Landscape), SD7 (The Cotswolds Area of Outstanding Natural Beauty), SD8 (Historic Environment), SD14 (Health and Environmental Quality), INF1 (Transport Network) and INF3 (Green Infrastructure).

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

Policies: EMP1 (Major Employment Sites), LND2 (Special Landscape Area) and LND6 (Historic Parks and Gardens).

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

Emerging Policies: EMP2 (Rural Business Centres), EMP5 (New Employment Development (General)), EMP6 (Safeguarding of Employment Sites), HER3 (Historic Parks and Gardens), LAN1 (Special Landscape Areas), NAT3 (Green Infrastructure: Building with Nature), TRAC9 (Parking Provision).

Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life).

The First Protocol, Article 1 (Protection of Property).

### **4.0 CONSULTATIONS**

#### **4.1 Toddington Parish Council – requests that the following comments be taken into consideration:**

1. There are several trees on the land, some protected by TPOs. These would need to be protected from any existing or further development. The Tree Officer should be consulted prior to any permissions being granted.
2. The temporary structures are unsightly and do not conform to planning regulations.
3. The area is not designated for development and acts as a green space to soften the appearance of the surrounding industrial estate at its borders. This should be maintained where possible.

- 4.2 **Conservation Officer** – No objections in principle to the proposals, which would not harm the setting of the Registered Park and garden. The Conservation Officer advises that not being able to visit the site and inspect the situation due to Covid19 is a disadvantage in this case but raised concerns regarding the potential harmful visual impact of the fence from the B4077. Following these comments and the subsequent submission of photographs of the current unauthorised situation, the Conservation Officer acknowledged that it is apparent that there is some visual screening due to the existing hedge, but that it is still possible that the fence would have a negative impact. The Conservation Officer suggests that, if this is the case, this could be adequately mitigated by painting the fence in a recessive colour where it faces the B4077 and stocking up any gaps in the screening using native hedge species. The Conservation Officer notes that the planting of evergreen conifers in this regard would not be supported because this would appear alien in an English woodland setting.
- 4.3 **Tree Officer** – Objects to the retrospective application, noting that within the proximity of the outside storage are trees which are protected by TPO 272. The Tree Officer considers that the structures within the site are having a significant negative impact on the trees' visual amenity and advises that the storage of equipment and materials at or around the trees can also cause physical damage to the stem and surface roots, and that these actions all have the potential to bring about dysfunction and eventual decline of the trees. By virtue of the location of the stored items and temporary structures within the root protection areas of the trees, the Tree Officer advises that this will not only cause damage to the understory of the woodland but is also creating compaction, which results in lowering or even depleting oxygen in the soil and the structure then becomes anaerobic. The Tree Officer advises that this can be fatal to the tree roots and to the tree itself and could result in root death and also crown dieback. The Tree Officer further comments that, if the materials are relocated and positioned within the site via machinery (e.g. fork lift), there is a high risk that damage can be inflicted when moving across the site resulting in branches being snapped, the trunks of the trees being damaged etc. For the reasons above the Tree Officer objects to the proposed retrospective application for outside storage and comments that all items and structures should be removed and the woodland managed and restored to maintain its visual amenity value.
- 4.4 **Planning Ecological Advisor** – Has reviewed the Tree Officer's comments and the documents submitted for the application and advises that the continuous disturbance of the trees could disturb and displace nesting birds which are protected under the Wildlife and Countryside Act (as amended). The Ecological Advisor further comments that the trees could also support roosting bats, especially through the summer months, and that vibrations or damage to trees through the relocation of materials could disturb or even result in the death of bats. In addition the Ecological Advisor notes that there is also risk to other species that could be using the area for shelter, including great crested newts and other amphibians as there are waterbodies in close proximity to the site and small mammals. As such, the Ecological Advisor comments that they would want to see the storage of materials within this area removed and the habitat restored.
- 4.5 **County Highways Officer** – No objection
- 4.6 **Health and Safety Executive** – No comments to make, as this application does not fall within the Consultation Distance Zones of either a Major Hazard Site or Major Accident Hazard Pipeline.
- 4.7 **Government Oil Pipeline** – Has been consulted but has not provided comments within the 21 day statutory consultation period or since and has not requested further time for the submission of comments.
- 4.8 **Building Control** – The application may require Building Regulations approval.

## **5.0 PUBLICITY AND REPRESENTATIONS**

- 5.1 The application has been publicised through the posting of 2 site notices for a period of 21 days. No letters of representation have been received within the statutory publication period or since.

## **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.
- 6.3 The Pre-Submission Tewkesbury Borough Plan was submitted to the Secretary of State for Housing, Communities and Local Government on 18 May 2020 for examination. On the basis of the stage of preparation it has reached it is considered that the plan can be afforded at least moderate weight. However, the weight to be attributed to individual policies will be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and their degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.4 Other material policy considerations include National Planning Guidance contained within the National Planning Policy Framework; 2019 (NPPF).
- 6.5 The relevant policies are set out in the appropriate sections of this report.

## **7.0 ANALYSIS**

### **Principle of development**

- 7.1 JCS Policy SD1 specifies that employment-related development will be supported, inter alia, at locations allocated for employment use within the Development Plan. As detailed above, the application site is located within the Orchard Trading Estate, which is designated as a Major Employment Site within the TBLP Proposals Map, and as an Existing Rural Business Centre within the PSTBP Proposals Map.
- 7.2 Emerging Policy EMP2 of the PSTBP specifies that, at Rural Business Centres, the Borough Council will support in principle proposals for B-class employment development. It states that new development proposals at Rural Business Centres, including redevelopment, intensification and extensions, will be supported providing that they are of an appropriate scale and design having regard to the character of existing buildings on the site and the rural landscape of the area.

- 7.3 Emerging Policy EMP5 of the PSTBP specifies that proposals for new employment development that are acceptable in principle in accordance with policies EMP1 – EMP4 will be permitted, subject to the application of other plan policies, where the following criteria are satisfied:
1. Any increase in traffic can be accommodated by the existing transport network;
  2. There is provision for safe and convenient access by appropriate transport modes, commensurate with the scale and nature of the proposed development and the location of the site;
  3. Satisfactory vehicular access, parking sufficient to meet demand and manoeuvring space can be provided, including sufficient parking for heavy goods vehicles where necessary;
  4. The proposal would not result in an unacceptable adverse impact on the amenity of neighbouring uses, particularly residential properties;
  5. The scale and design of the proposal is compatible with the character of the existing location and its setting paying particular regard to Areas of Outstanding Natural Beauty, Special Landscape Areas and the Landscape Protection Zone;
  6. The proposal would not result in an unacceptable adverse environmental impact, for example by causing unacceptable levels of noise, air, water, soil or light pollution.
- 7.4 The proposed development will be assessed against the above criteria, and emerging Policy EMP2 of the PSTBP, within the relevant following sub-sections of this report.
- 7.5 Saved Policy EMP1 of the TBLP specifies that, within existing employment sites, the Borough Council will support proposals for business (Class B1), General Industrial (Class B2) or warehousing (Class B8) use. The Policy states that the sequential approach will be applied as appropriate to proposals for alternative uses, and that proposals for retailing will be resisted.
- 7.6 Emerging Policy EMP6 of the PSTBP specifies that employment sites will be safeguarded for B-class employment uses and the loss or change of use of a site to non B-class uses will generally be resisted. It states that the loss of B-class employment land will only be acceptable in principle where it can be demonstrated that:
1. The site is no longer fit for purpose or capable of meeting employment needs and the proposal would not adversely impact on the viability of adjacent employment uses; or
  2. The site is not appropriate for the continuation of its present, or any employment, use due to the detrimental impact on the environment or amenity of the surrounding area; or
  3. The proposal would provide significant benefits to either the local economy, the sustainability of the community and/or the rural environment that would outweigh the loss of employment land.
- 7.7 As detailed above, the application seeks planning permission for the retention of shipping containers, and 2 no. temporary storage structures. However, the application also seeks planning permission for the retention of an additional temporary structure currently being used for storage but proposed to be used as a marquee showroom for visiting clients, in order to create another income stream. The application does not clearly specify whether the marquee showroom would incorporate any retail element, nor has the sequential test been applied.

- 7.8 In light of saved Policy EMP1 of the TBLP and emerging Policy EMP6 of the PSTBP, and the amendments which were made to the use class order in September 2020 and the implications of the new Class E (which encompasses and revokes former Use Classes A1 (retail), A2 (Financial and Professional Services), A3 (Restaurants and cafes) and B1 (Business)), it is recommended that any approval of planning permission be subject to a restrictive condition pertaining to the use of any part of the development for use class E(a), E(b), E(c), E(d), E(e) or E(f) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Uses Classes) (Amendment) (England) Regulations 2020), or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Amendment with or without modification. Such a condition would ensure the structures could not, for example, be used for retail purposes, which would not be considered appropriate in this location.

### **Impact on Heritage assets**

- 7.9 As detailed above, the eastern boundary of the site adjoins Toddington Manor Registered Park and Garden (Grade II Listed). The impact of the proposal upon the character of the registered parkland is a material consideration of this application. In this regard, the proposal will be assessed in relation to Section 16 of the NPPF, JCS Policy SD8, saved Policy LND6 of the TBLP and emerging Policy HER3 of the PSTBP.
- 7.10 JCS Policy SD8 specifies that development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment. It further states that designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance and for their important contribution to local character, distinctiveness and sense of place.
- 7.11 Saved Policy LND6 of the TBLP and emerging Policy HER3 of the PSTBP both specify that development that would destroy, damage or otherwise adversely affect the character, appearance or setting of historic parks and gardens (including those identified as being of special historic interest), or any of their features will not normally be permitted.
- 7.12 The Conservation Officer acknowledges that two of the buildings are finished in a recessive green colour but advises that the white showroom building may appear intrusive and discordant when viewed from the B4077 due to its colour. However, the Conservation Officer recognises that the building is in an area designated for industrial use with a backdrop of industrial buildings, the building is located within woodland and would be screened, the building will generate public benefit due to the provision of local employment and trade, and the building is temporary. As such the Conservation Officer concludes that there is no reason to consider that the proposed building would have an unacceptable visual impact on the Toddington Manor Registered Park and Garden.
- 7.13 The application also includes the erection of a galvanized palisade fence. The Conservation Officer acknowledges that such fences are common to industrial complexes but are stark and utilitarian in appearance and are visually inappropriate in historically sensitive areas.
- 7.14 In this case the fencing has been constructed along the Eastern boundary with the Registered Park and garden against the remnant estate fencing and replacing a modern timber fence topped with barbed wire. In this case the Conservation Officer considers that the visual impact of the installation of the fence on views from the registered parkland would not be harmful given the current context of the industrial buildings, the existing boundary features and the intervening vegetation.

- 7.15 The fence has also been constructed along the Southern boundary of the site which runs along the B4077. The Conservation Officer considers that in this location the fence could appear visually intrusive from the B4077 and have an adverse impact upon the rural and historic character and appearance of the approach to Toddington. The character prevails despite the presence of the industrial estate. This is largely due to soft landscaping of boundaries and a degree of woodland screening.
- 7.16 The Conservation Officer recommended that the applicant be given the opportunity to demonstrate the visual impact and/or any mitigation employed (such as painting of the fence) prior to the determination of the application. The applicant has been given this opportunity and photographs of this fencing were subsequently submitted, taken from the adjacent B4077. The Conservation Officer acknowledged that it is apparent that the fence is set behind a hedge verge and that there is some visual screening due to existing foliage, but that it is still possible that the fence would have a negative impact. The Conservation Officer suggests that, if this is the case, this could be adequately mitigated by painting the fence in a recessive colour where it faces the B4077 and stocking up any gaps in the screening using native hedge species. It is recommended that any approval of planning permission be subject to condition for the fence which faces the B4077 to be painted within 3 months of any approval date in a recessive colour to firstly be submitted to and approved in writing by the Local Planning Authority.
- 7.17 As detailed above, in relation to mitigation of the potential impact, the applicant's agent has advised that a scheme of planting along the fence line had been commenced prior to the Enforcement Officer's visit, involving the planting of evergreen hedges, which would be continued upon any approval of the fencing. However, the Conservation Officer notes that the planting of evergreen conifers in this regard would not be supported because this would appear alien in an English woodland setting. It is therefore recommended that any approval of planning permission is subject to condition for a proposed landscape scheme to be submitted to and approved in writing by the Local Planning Authority and for this to be implemented in accordance with the approved details within the next planting and seeding season, and for any trees or plants which within a period of five years die, are removed or become seriously damaged or diseased to 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.
- 7.18 Subject to compliance with the above conditions, it is considered that the development protects the character of the Toddington Manor Registered Park and Garden (Grade II Listed), in accordance with Section 16 of the NPPF, JCS Policy SD8, saved Policy LND6 of the TBLP and emerging Policy HER3 of the PSTBP.

### **Design and Landscape Impact**

- 7.19 The NPPF sets out that the Government attaches great importance to the design of the built environment and, at paragraph 127, specifies that planning policies and decisions should ensure that developments, inter alia: will function well and add to the overall quality of the area, not just for the short terms but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). JCS Policy SD4 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.

- 7.20 As detailed above, emerging Policy EMP2 of the PSTBP specifies that new development proposals at Rural Business Centres, including redevelopment, intensification and extensions, will be supported providing that they are of an appropriate scale and design having regard to the character of existing buildings on the site and the rural landscape of the area. In addition, emerging Policy EMP5 of the PSTBP specifies that proposals for new employment development that are acceptable in principle in accordance with policies EMP1 – EMP4 will be permitted providing, inter alia, the scale and design of the proposal is compatible with the character of the existing location and its setting paying particular regard to AONBs, SLAs and the Landscape Protection Zone.
- 7.21 The NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. JCS Policy SD6 states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. Proposals will have regard to local distinctiveness and historic character of different landscapes and proposals are required to demonstrate how the development will protect landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement area.
- 7.22 As detailed above, the application site is located within the SLA and its eastern side boundary lies immediately adjacent to the Cotswolds AONB.
- 7.23 Saved Policy LND2 of the TBLP specifies that, in the assessment of proposals for development, special attention will be accorded to the protection and enhancement of the landscape character of the SLA which are of local significance. It states that, within this area, proposals must demonstrate that they do not adversely affect the quality of the natural and built environment, its visual attractiveness, wildlife and ecology, or detract from the quiet enjoyment of the countryside.
- 7.24 Emerging Policy LAN1 of the PSTBP specifies that proposals for new development within SLAs will be permitted providing:
- The proposal would not cause harm to those features of the landscape character which are of significance;
  - The proposal maintains the quality of the natural and built environment and its visual attractiveness;
  - All reasonable opportunities for the enhancement of landscape character and the local environment are sought.
- 7.25 Emerging Policy LAN1 of the PSTBP further states that, where a proposal would result in harm to the SLA having regard to the above criteria, this harm should be weighed against the need for, and benefits from, the proposed development. It states that proposals causing harm to the SLA will only be permitted where the benefits from the development would clearly and demonstrably outweigh the identified harm.
- 7.26 In terms of the location of the application site immediately adjacent to the Cotswolds AONB, paragraph 172 of the NPPF specifies that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which, along with National Parks and the Broads, have the highest status of protection in relation to these issues. JCS Policy SD7 states that all development proposals in or within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities.

- 7.27 It is acknowledged that the application includes the submission of aerial photographs providing examples of security fencing and outdoor storage elsewhere within the Orchard Industrial Estate, as well as examples of security fencing and outdoor storage in other locations (including the Old Saw Mills, Cull Meadow and the Isbourne Industrial Estate) and examples of Marquees at the Beckford Arms, Beckford. Precise details of these examples have not been provided, and it is not clear whether planning permission was required and/or approved for these, nor whether any planning applications for these were considered in different planning policy circumstances. The context, position and relationship with surrounding development of these sites are materially different from the application site. For example, the majority of examples shown on the Orchard Industrial Estate photograph are located centrally within the business centre and not in the immediate setting of the AONB. In any event, the current application has been assessed on its individual merits.
- 7.28 As detailed above, the development approved under application reference 88T/0172/03/02 on 3<sup>rd</sup> August 1988, for the erection of a light industrial unit (2055 sqm), was subject to restrictive conditions pertaining to: (c) the erection or construction on this site of any extensions, gates, fences, walls, other means of enclosure, or structures of any kind; and (d) any outside storage whatsoever on this site. These conditions were required in order to ensure that the development would be visually attractive in the interests of amenity. The development which has been carried out is in breach of these restrictive conditions.
- 7.29 The site is within an industrial estate. This industrial estate is somewhat incongruous in this rural location but is well established. The shipping containers are located within close proximity of the principal building, towards the northern side of the site, and the visual impact of these is considered to be acceptable.
- 7.30 Notwithstanding the fact that the 3 no. storage structures towards the southern side of the site and the galvanized palisade fencing have been erected within a designated business centre with a backdrop of industrial and warehouse buildings, and are partly screened by woodland, these are not located in the immediate surroundings of the principal building and the submitted photographs demonstrate that these are visible from the adjacent public highway, particularly in winter months when there is less foliage on vegetation. It is considered that the conditions recommended by the Conservation Officer would not sufficiently mitigate their landscape impact. The palisade fencing is stark and utilitarian in appearance irrespective of its colour, particularly in such a prominent location adjacent to the public highway within the SLA and the immediate setting of the AONB. In addition, the 3 no. storage structures which have been erected are large in scale and located adjacent to this southern boundary. The applicant's agent has confirmed that the applicants have suggested covering the white building with camouflage netting. Precise details of this have not been submitted. However, this again is not considered to sufficiently mitigate any landscape impact, and it is considered likely that this netting would itself deteriorate over time and fail to provide the intended screening.
- 7.31 Whilst it is considered that any harm to the landscape and scenic beauty of the AONB would be limited by virtue of the partial screening from the existing woodland, and subject to the conditions recommended by the Conservation Officer (i.e. painting the fence in a recessive colour where it faces the B4077 and stocking up any gaps in the screening using native hedge species), the unauthorised development nevertheless fails to conserve the landscape and scenic beauty of the AONB, and is considered to adversely affect the rural landscape of the area and the visual amenity of the SLA, contrary to paragraph 127 and Section 15 of the NPPF, JCS Policies SD4, SD6 and SD7, saved Policy LND2 of the TBLP, and emerging Policies EMP2, EMP5 and LAN1 of the PSTBP.

## Arboricultural Implications

- 7.32 Within the close proximity of the outside storage are trees which are protected by TPO 272. These trees consist of G1 which are mainly Wellingtonia some oak and pine. There are 6 individual oak trees and a woodland shown as W1 which is primarily oak.
- 7.33 JCS Policy INF3 specifies that existing green infrastructure will be protected in a manner that reflects its contribution to ecosystem services (including biodiversity, landscape/townscape quality, the historic environment, public access, recreation and play) and the connectivity of the green infrastructure network. It further states that development proposals which will have an impact on woodlands, hedges and trees will need to include a justification for why this impact cannot be avoided and should incorporate measures acceptable to the Local Planning Authority to mitigate the loss. Mitigation should be provided on-site or, where this is not possible, in the immediate environs of the site. Emerging Policy NAT3 of the PSTBP requires development to contribute, where appropriate to do so and at a scale commensurate to the proposal, towards the provision, protection and enhancement of the wider green infrastructure network.
- 7.34 Further, as detailed above, saved Policy LND2 of the TBLP specifies that, within the SLA, proposals must demonstrate that they do not adversely affect, inter alia, the quality of the natural environment, or its visual attractiveness. Emerging Policy LAN1 of the PSTBP specifies that proposals for new development within SLAs will be permitted providing:
- The proposal would not cause harm to those features of the landscape character which are of significance;
  - The proposal maintains the quality of the natural and built environment and its visual attractiveness;
  - All reasonable opportunities for the enhancement of landscape character and the local environment are sought.
- 7.35 In addition, as detailed above, JCS Policy SD7 states that all development proposals in or within the setting of the Cotswolds AONB will be required to, inter alia, conserve and, where appropriate, enhance its landscape, scenic beauty, and other special qualities.
- 7.36 TPO 272, as referred to above, was made in 2008 after a review of the original TPO175 that was made in 1992. TPO 272 was made to safeguard the trees with amenity value and the reason for the order was:
- The trees provide an important amenity feature for the entrance to Toddington village: Trees 1 to 6 and Woodland 1 line the encroaching road (B4077) from the west into Toddington screening the industrial estate and group 1 conceals the estate from the village.*
- The Woodland consists mainly of Mature Oaks which are in good condition, form a valuable visual amenity to local residents of the village and workers on the industrial estate and is also an important wildlife habitat.*
- 7.37 The tree preservation order is to give the woodland, group and individual trees maximum protection for its amenity value to the local environment and from the site photographs the Tree Officer has seen the structures within the site are having a significant negative impact on the trees' visual amenity.

- 7.38 The application includes the submission of an Arboriculture Survey. This advises that the applicant has put large concrete blocks around the root areas of the trees to give protection to the trees, and that most of the trees inside the fences areas have historical low level stem damage, which appears to have been caused by vehicles from when the area was used as a parking site. The Survey advises that most of the trees surveyed would benefit from a dead wood and a climbing assessment to maintain a safe working environment underneath.
- 7.39 The Tree Officer acknowledges that there are items being stored and temporary structures erected within the root protection area of the trees. The Tree Officer comments that the structures and storage will not only cause damage to the understory of the woodland but is also creating compaction. Soil compaction results in lowering or even depleting oxygen in the soil and the structure then becomes anaerobic. This can be fatal to the tree roots and to the tree itself and could result in root death and also crown dieback.
- 7.40 The Tree Officer notes that it is unknown how the materials are relocated and positioned within the site, but advises that if it is by machinery (e.g. fork lift) there is a high risk that damage can be inflicted when moving across the site resulting in branches being snapped, the trunks of the trees being damaged etc. Storage of equipment and materials at or around the tree can also cause physical damage to the stem and surface roots. These actions all have the potential to bring about dysfunction and eventual decline of the trees.
- 7.41 For the reasons above the Tree Officer objects to the proposed retrospective application for outside storage and comments that all items and structures should be removed and the woodland managed and restored to maintain its visual amenity value.

#### **Impact on Ecology/Biodiversity**

- 7.42 As detailed above, the Woodland consists mainly of Mature Oaks, which are in good condition, and are an important wildlife habitat. The NPPF sets out that when determining planning applications, Local Planning Authorities should aim to conserve and enhance biodiversity by encouraging opportunities to incorporate biodiversity in and around developments, especially where this can secure measurable gains for biodiversity. Policy SD9 of the JCS seeks to protect and, wherever possible enhance biodiversity, including wildlife and habitats. Emerging Policy NAT1 of the PSTBP states that development proposals that will conserve, and where possible restore and/or enhance, biodiversity will be permitted. In addition, as set out above, JCS Policy INF3 specifies that existing green infrastructure will be protected in a manner that reflects its contribution to ecosystem services including, inter alia, biodiversity.
- 7.43 Further, as detailed above, saved Policy LND2 of the TBLP specifies that, within the SLA, proposals must demonstrate that they do not adversely affect, inter alia, the quality of the natural environment, or its wildlife and ecology. In addition, JCS Policy SD7 states that all development proposals in or within the setting of the Cotswolds AONB will be required to, inter alia, conserve and, where appropriate, enhance its wildlife, and other special qualities.
- 7.44 The Council's Ecological Advisor has reviewed the Tree Officer's comments and the documents submitted for the application and advises that the continuous disturbance of the trees could disturb and displace nesting birds which are protected under the Wildlife and Countryside Act (as amended). The Ecological Advisor further comments that the trees could also support roosting bats, especially through the summer months, and that vibrations or damage to trees through the relocation of materials could disturb or even result in the death of bats. In addition the Ecological Advisor notes that there is also risk to other species that could be using the area for shelter, including great crested newts and other amphibians as there are waterbodies in close proximity to the site and small mammals. As such, the

Ecological Advisor comments that they would want to see the storage of materials within this area removed and the habitat restored.

### **Access and highway safety**

- 7.45 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. Further, development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts of development are severe. JCS Policy INF1 states that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters. Emerging Policy TRAC9 of the PSTBP states that proposals need to make provision for appropriate parking and access arrangements. In addition emerging Policy EMP5 of the PSTBP specifies that proposals for new employment development that are acceptable in principle in accordance with policies EMP1 – EMP4 will be permitted providing, inter alia: (1) any increase in traffic can be accommodated by the existing transport network; (2) there is provision for safe and convenient access by appropriate transport modes commensurate with the scale and nature of the proposed development and the location of the site; and (3) satisfactory vehicular access, parking sufficient to meet demand and manoeuvring space can be provided, including sufficient parking for heavy goods vehicles where necessary.
- 7.46 Gloucestershire County Council as Highway Authority has undertaken a robust assessment of the planning application and advises that the security fencing and storage within the existing commercial site would not create any additional undue highway safety risks.
- 7.47 The Highway Authority acknowledges the showroom marquee on the submitted plans, and raises concern that this may be in retail use and would therefore require separate permission if this is beyond the authorised land use (assumed to be light industrial; Class E). The Highway Authority advises that the location for a retail element to the existing industrial use is not ideal in an out-of-town location. However, if this is linked to the existing industrial use and activity permitted on the site, which could be a condition of permission or confirmed with a temporary timescale, the Highway Authority considers that this would not be significant in highway terms. As detailed above, it is recommended that any approval of planning permission be subject to a restrictive condition pertaining to the use of any part of the development for use class E(a), E(b), E(c), E(d), E(e) or E(f) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Uses Classes) (Amendment) (England) Regulations 2020), or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Amendment with or without modification. Such a condition would ensure the structures could not, for example, be used for retail purposes, which would not be considered appropriate in this location.
- 7.48 The Highway Authority concludes that there would not be an unacceptable impact on highway safety or a severe impact on congestion, and that there are no justifiable grounds on which an objection could be maintained.

## **Impact on Amenity of Existing and Future Occupiers**

- 7.49 JCS policies SD4 and SD14 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. Emerging Policy EMP5 of the PSTBP specifies that proposals for new employment development that are acceptable in principle in accordance with policies EMP1 – EMP4 will be permitted providing, inter alia: (1) the proposal would not result in an unacceptable adverse impact on the amenity of neighbouring uses, particularly residential properties; and (2) the proposal would not result in an unacceptable adverse environmental impact, for example causing unacceptable levels of noise, air, water, soil or light pollution.
- 7.50 The application site is located within the context of the Orchard Trading Estate which is occupied by other industrial and warehouse units. It is apparent that the closest residential premises to the application site is the dwelling known as Five Points, located approximately 125 metres to the east of the application site. By virtue of the scale and form of the development, the use of the structures and land subject to this retrospective application for outside storage, the location of the application site within the Orchard Trading Estate, and its proximity to the nearest residential premises, it is considered that there would be no significant adverse effect on adjoining occupiers in terms of overshadowing, overbearing impact, loss of privacy, noise levels or general disturbances.

## **8.0 CONCLUSION AND RECOMMENDATION**

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

### **Benefits**

- 8.2 It is acknowledged that the unauthorised development has been carried out to allow for the expansion of an existing business. Paragraph 80 of the NPPF specifies that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt, and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 83 of the NPPF specifies that planning policies and decisions should enable, inter alia, the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.
- 8.3 The application site is located within the Orchard Trading Estate, which is designated as a Major Employment Site within the TBLP Proposals Map, and as an Existing Rural Business Centre within the PSTBP Proposals Map, and therefore the principle of the proposed development is considered to be acceptable subject to compliance with the relevant Development Plan policies. These include emerging policies EMP2 and EMP5 of the PSTBP, which require, inter alia, proposals to be of an appropriate scale and design having regard to the rural landscape of the area and for the scale and design of the proposal to be compatible with the character of the existing location and its setting paying particular regard to AONBs, SLAs and the Landscape Protection Zone.

## Harms

- 8.4 The palisade fencing which has been erected is stark and utilitarian in appearance, particularly in such a prominent location adjacent to the public highway within the SLA and the immediate setting of the AONB. In addition, the 3 no. storage structures which have been erected are large in scale and located adjacent to this southern boundary. It is considered that this unauthorised development fails to conserve the landscape and scenic beauty of the AONB, and that it adversely affects the rural landscape of the area and the visual amenity of the SLA, contrary to paragraph 127 and Section 15 of the NPPF, JCS Policies SD4, SD6 and SD7, saved Policy LND2 of the TBLP, and emerging Policies EMP2, EMP5 and LAN1 of the PSTBP.
- 8.5 Furthermore, it is considered that the development causes harm to those features of the landscape character which are of significance, including the woodland and trees which are protected by Tree Preservation Order 272, which provide an important amenity feature for the entrance to Toddington village. The structures within the site have a significant negative impact on the trees' visual amenity and the erection of structures and the storage and relocation of items within their root protection areas will result in the dysfunction and eventual decline of the trees. The development therefore fails to protect existing green infrastructure, the quality of the natural environment and its visual attractiveness, and fails to conserve the landscape character of the Special Landscape Area or the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty. The development therefore conflicts with Section 15 of the NPPF, Policies SD6, SD7 and INF3 of the JCS, saved Policy LND2 of the TBLP, and emerging Policies EMP2, LAN1 and NAT3 of the PSTBP.
- 8.6 In addition, the application fails to demonstrate that biodiversity and wildlife, including protected species, would be conserved, in conflict with Section 15 of the NPPF, Policies SD7, SD9 and INF3 of the JCS, saved Policy LND2 of the TBLP and emerging Policy NAT1 of the PSTBP.

## Neutral

- 8.7 Having regard to the policies of the development plan and the responses of technical consultees, subject to the imposition of suitable planning conditions, there are no objections in respect of impact on the Toddington Manor Registered Park and Garden, the impact on the amenity of existing and future occupiers, or highways impact.

## Conclusion

- 8.8 For the reasons given above, it is concluded that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. It is therefore recommended that **planning permission be refused.**

## Reasons for Refusal

1. The palisade fencing and storage structures fail to conserve the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty, and adversely affect the rural landscape of the area and the visual amenity of the Special Landscape Area, in conflict with Paragraph 127 and Section 15 of the National Planning Policy Framework (2019), Policies SD4, SD6 and SD7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017), saved Policy LND2 of the Tewkesbury Borough Local Plan to 2011 (March 2006), and emerging Policies EMP2, EMP5 and LAN1 of the Pre-Submission Tewkesbury Borough Plan 2011-2031 (2019).

2. The development causes harm to those features of the landscape character which are of significance, including the woodland and trees which are protected by Tree Preservation Order 272, which provide an important amenity feature at the entrance to Toddington village. The structures within the site have a significant negative impact on the trees' visual amenity and the erection of structures and the storage and relocation of items within their root protection areas will result in the dysfunction and eventual decline of the trees. The development therefore fails to protect existing green infrastructure, the quality of the natural environment and its visual attractiveness, and fails to conserve the landscape character of the Special Landscape Area or the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty. The development therefore conflicts with Section 15 of the National Planning Policy Framework (2019), Policies SD6, SD7 and INF3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017), saved Policy LND2 of the Tewkesbury Borough Local Plan to 2011 (March 2006), and emerging Policies EMP2, LAN1 and NAT3 of the Pre-Submission Tewkesbury Borough Plan 2011-2031 (2019).
3. The application fails to demonstrate that biodiversity and wildlife, including protected species, would be conserved, in conflict with Section 15 of the National Planning Policy Framework (2019), Policies SD7, SD9 and INF3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017), saved Policy LND2 of the Tewkesbury Borough Local Plan to 2011 (March 2006) and emerging Policy NAT1 of the Pre-Submission Tewkesbury Borough Plan 2011-2031 (2019).

#### **INFORMATIVES:**

1. In accordance with the requirements of the National Planning Policy Framework (2019) 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. However, as a consequence of the clear conflict with relevant Development Plan Policies no direct negotiation during the consideration of the application has taken place.