

## TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

<b>Committee:</b>	Planning
<b>Date:</b>	22 June 2021
<b>Site Location:</b>	Windy Farm Bentham Cheltenham Gloucestershire GL51 4TZ
<b>Application No:</b>	21/00178/FUL
<b>Ward:</b>	Badgeworth
<b>Parish:</b>	Badgeworth
<b>Proposal:</b>	Change of use to single dwelling of existing vacant/redundant outbuildings with link extensions; associated landscaping including green roofs and parking (revised scheme).
<b>Report by:</b>	Dawn Lloyd
<b>Appendices:</b>	Site Location Plan. Proposed Block Plan. Proposed Elevations. Proposed Floor Plans. Proposed Drainage Strategy.
<b>Recommendation:</b>	Refuse

***The application has been called in for committee determination by Councillor Vines the local Ward Member in order to assess the suitability of the proposal given it is Green Belt and AONB location.***

### **1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 The buildings to be converted are the agricultural buildings of Windy Farm situated to the north west of the dwellinghouse on Dog Lane. The dwelling had a previous agricultural occupancy condition; however, in 2002 a certificate was issued that this condition had not been complied with in excess of 10 years. The barns remain agricultural and utilitarian in their design and are situated on three side of a central yard. There is an existing shared access with the dwelling on to Dog Lane.
- 1.2 The site is located within the Cotswold Area of Outstanding Natural Beauty and the Green Belt.
- 1.3 The proposal would convert the existing buildings into a single five bedroomed dwelling. The three existing buildings would be joined by two timber framed glazed pergola link extensions situated around a central courtyard garden.

## Relevant planning history

Application Number	Proposal	Decision	Decision Date
T.4783	Use of farmyard and existing agricultural buildings for repair of caravans.	REFUSE	26.07.1965
T.4783/A	Outline application for a farm worker's dwelling with garage. Vehicular access.	PERMIT	21.03.1966
T.4783/A/AP	A farmworker's bungalow and garage.	APPROVE	26.03.1969
T.4783/B	Farm workers bungalow and garage.	REFUSE	18.12.1968
T.4783/C	Erection of poultry rearing house.	PERMIT	18.07.1973
T.4783/D	Erection of a double garage.	PERMIT	23.09.1975
T.4783/A/1	Use of dwelling without complying with condition (c) of planning permission ref: T.4783/A dated 21st March 1966 (agricultural occupancy).	REFUSE	03.09.1986
T.4783/A/2	Variation of agricultural occupancy condition. (Use for part time agricultural purposes.)	REFUSE	24.12.1986
T.4783/A/3	Variation of agricultural occupancy condition to include use in association with stable complex.	REFUSE	24.12.1986
95/01153/FUL	Removal of condition (c) of planning permission T4783/A/1 dated 21.3.66 (agricultural occupancy condition)	REF	09.01.1996
02/00622/CLE	Continued occupancy of dwelling without complying with condition c of planning [permission T4783/a dated 21.3.66	CONSENT	18.07.2002
04/01770/FUL	Retention of a manège/exercise area and a field shelter.	PERMIT	10.04.2006
13/00758/FUL	Proposed single storey domestic extension to the side and rear	PER	17.09.2013
20/00658/FUL	Change of use existing outbuildings to a dwelling with the erection of link extensions, associated landscaping and parking (as amended).	PER	04.12.2020

## 2.0 RELEVANT POLICY

2.1 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: SP2 SD10, SD5, SD6, SD7, SD4, SD14, INF1, INF2.

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

Policies: AGR 6, AGR7, HOU10.

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

Policies RES 3, RES4, RES5, RES7, RES11.

Neighbourhood Plan.

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

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

## **3.0 CONSULTATIONS**

**Badgeworth Parish Council** – Support the application.

**Land Drainage Officer** – No objection or comments to make.

**Highway Authority** – No objection, recommend conditions for electrical vehicle charging points and cycle storage facilities.

**Ecological Advisor**- As the scheme is very similar to the original scheme, there are no ecological objections and reference is to be made to the response 13/11/2020 and the latest ecology report (October 2020).

The conditions recommended for the previously approved scheme included for a lighting scheme and plan, works to be in accordance with the mitigation of the report, details of the installation of ecological enhancement measures. The mitigation measures shall be in accordance with the approved reports. An internal and external inspection of the garage to be demolished is required immediately prior to demolition.

Full copies of all the consultation responses are available online at <https://publicaccess.tewkesbury.gov.uk/online-applications/>

## 4.0 PUBLICITY AND REPRESENTATIONS

- 4.1 The application has been publicised through the posting of a site notice for a period of 21 days and 8 letters of support received (comments in summary).
- the proposal will improve the area with sympathetic conversion of the existing buildings.
  - provide additional housing.
  - not detrimental the Green Belt or AONB, the proposed development enhances it.
  - the design softens the harsh appearance of the current buildings.
  - will have a positive impact on the local biodiversity creating more green space that what already exists.

Full copies of all the representations responses are available online at Insert text  
<https://publicaccess.tewkesbury.gov.uk/online-applications/>

## 5.0 POLICY CONTEXT

- 5.1 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.
- 5.2 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.
- 5.3 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).
- 5.4 The relevant policies are set out in the appropriate sections of this report.

## 6.0 ANALYSIS

### Background

- 6.1 It is relevant that planning permission (20/00658/FUL) was granted in December last year for the change of use of the buildings to a dwelling. The approval was subject to a number of revisions which limited the number of extensions to the existing building to a minimum in order to make the proposal compliant with the Councils rural buildings conversions policies, and also Green Belt policies. **See previously approved elevations and floor plans.**

### Principle of development

- 7.1 In order to further sustainability objectives and in the interests of protecting the countryside, the housing policies of the Gloucestershire, Cheltenham, and Tewkesbury Joint Core Strategy (JCS) set out a development strategy for the borough.

- 7.2 The site is located outside of the identified rural service centres or service villages in the JCS and outside of any defined residential development boundary shown in the housing maps of the Emerging Tewkesbury Borough Plan. The application site has not been allocated for housing in the JCS and therefore policy SD10 of the JCS applies.
- 7.3 Policy SD10 of the JCS advises that housing on sites which are not allocated for housing in district and neighbourhood plans will be permitted if it meets certain limited exceptions. One of those exceptions at criterion 5 sets out that proposals involving the sensitive, adaptive re-use of vacant or redundant buildings will be encouraged subject to the requirements of other policies in the JCS.
- 7.4 As set out above, planning permission has recently been granted for the residential conversion of the existing buildings and the principle of this change of use has therefore been established. The main considerations relevant to this application are therefore: whether the current proposal remains compliant with the Council's rural buildings conversion policies; and also whether it remains acceptable in terms Green Belt policy.

### **Rural Building conversion policies**

- 7.5 Saved policies AGR6 and AGR7 of the Tewkesbury Borough Local Plan are directly relevant to this proposal as it provides for the re-use and adaption of rural buildings. These two policies require buildings to be of a permanent and substantial construction and in all cases the scale, form and general design of the building must be in-keeping with their surroundings (AGR6). In addition, they should be capable of conversion to the proposed use without substantial alteration or extension to their original structure. The essential scale, form, and character of the original building and as much as possible of the original structure and essential features be retained. New works should be of a scale, form, type, and materials compatible with the character of the original building and the surrounding area (AGR7).
- 7.6 Whilst saved Policy AGR6 states that residential re-use will only be permitted where the applicant has made every reasonable attempt to secure suitable business re-use or where residential conversion is a subordinate part of a scheme for business use, it is accepted that this policy position has been superseded by the more recent policy guidance set out in the adopted JCS and in the NPPF. This is also recognised in the emerging TBP, which proposes a specific policy for the re-use of rural buildings for residential use, Policy RES7 (Re-use of rural buildings for residential use). This policy states that the re-use and conversion of redundant buildings in the rural areas (the areas located outside of defined settlement boundaries) for residential use will be permitted subject to a number of provisions.
- 7.7 Of relevance to the current proposal is the requirement that the buildings must be of a substantial construction, structurally sound and capable of conversion without the need for significant new building works and/or extensions; the proposal does not result in the requirement for another building to fulfil the function of the original building to be converted and the proposal preserves or enhances the landscape setting of the site and respects the rural character of the area. In addition, paragraph 79 of the NPPF supports the re-use of redundant or disused buildings which would enhance its immediate setting.
- 7.8 As such the key policy requirements when establishing whether the principle of the development would be acceptable is to establish if the building is of a substantial construction, is structurally sound and capable of conversion without the need for significant new building works and/or extensions and that the proposed works would enhance the immediate setting and respect the scale, form, and character of the original building.

- 7.9 The previously approved scheme limited extensions to a very small 'link' allowing circulation between two of the building that were to provide main living accommodation. A further building was to be utilised for ancillary accommodation including an office and gym (**see previously approved plans**). By contrast, the current proposal proposes two much larger extensions that would link all three buildings, all of which would be used for primary accommodation (**see proposed plans**).
- 7.10 It is clear that significant extensions are required to link the buildings in order to provide the uses within. As a consequence, much of the character and appearance of the existing buildings would be lost and the proposal would therefore be contrary to Local Plan Policies AGR6 and 7, and emerging TBP Policy RES7 in this regard.

### **Change of use of Agricultural Land to Residential Curtilage.**

- 7.11 Saved local plan policy HOU 10 considers that the change of use of agricultural land to residential curtilage will not be permitted unless there is no adverse environmental or visual impact on the form, character or setting of the settlement, no significant encroachment into the surrounding countryside and the form of the extension is not incongruous with the characteristic pattern of surrounding gardens. Policy RES11 of the Emerging Tewkesbury Borough Local Plan in the justification goes on to say that within the Green Belt and Area of Outstanding Natural Beauty such proposals will not normally be permitted given the objectives of these designations.
- 7.12 The redline of the site location plan includes land rear of the existing buildings which is mowed and the central yard. The principle of this area as residential curtilage has been established with the granting of permission of application 20/00658/FUL.

### **8.0 IMPACT UPON THE GREEN BELT**

- 8.1 Policy SD5 of the JCS sets out that, to ensure the Green Belt continues to serve its key functions, it will be protected from harmful development. Within its boundaries, development will be restricted to those limited types of development which are deemed appropriate by the NPPF, unless it can be demonstrated that very special circumstances exist to outweigh the harm automatically caused to the Green Belt by virtue of the development being inappropriate and any other harm actually caused.
- 8.2 The NPPF provides that, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Paragraph 144 of the NPPF provides that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the green belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 8.3 Paragraph 146 of the NPPF sets out that the re-use of buildings provided they are of permanent and substantial construction would not be inappropriate development, subject to the provision that the development should preserve its openness and not conflict with the purposes of including land within it. As such the structural state of the building, the harm to the openness and the purposes of including land as green belt must be considered to establish if the development would be harmful by reason of inappropriateness.

## **9.0 Structural State of the Building**

- 9.1 No structural survey has accompanied the application however, from the site visit the buildings did appear of substantial construction and in a good state of repair.

## **10.0 Preservation of openness**

- 10.1 Openness, as highlighted in the NPPF, is an essential characteristic of the Green Belt which is a separate issue from the character and appearance of an area. It is a matter of its physical presence rather than its visual qualities.
- 10.1 In *Lee Valley Regional Park Authority v Epping Forest dc* [2016] ewca civ 404 Lindblom LJ said "*the concept of "openness" here means the state of being free from built development, the absence of buildings - as distinct from the absence of visual impact*". Further, in the *Hampstead Heath Case*, Sullivan LJ (as he was then) said "*while it may not be possible to demonstrate harm by reason of visual intrusion as a result of an individual - possibly very modest - proposal, the cumulative effect of a number of such proposals, each very modest in itself, could be very damaging to the essential quality of openness of the green belt*" - it is here that the "death of a thousand cuts" analogy was introduced.
- 10.2 Recent case law, *R (Samuel Smith Old Brewery (Tadcaster) & Ors) v North Yorkshire County Council* [2020], has examined the concept of openness in great detail. It is asserted that determining the impact on openness is a matter of planning judgement rather than law and while recognised as the counterpart to urban sprawl, openness should not be taken to imply freedom from all forms of development.
- 10.4 In contrast to the approved scheme, the current application proposes two large extensions that would link all three buildings to enable them to function as a single dwellinghouse. The design has sought to address the visual impact of dwelling with sedum roofs and planting; however, openness is not just visual but spatial and a matter of physical presence. The length, footprint and volume of the proposed extensions would be significant, and joining the buildings together would increase the physical presence of the building and therefore impact openness. As such, the proposal would comprise inappropriate development in the Green Belt and "very special circumstances" are required to justify the development.
- 10.5 The supporting Planning Statement makes clear that the applicant considers the proposal to constitute appropriate development in the Green Belt and no case has therefore been made for 'very special circumstances' to justify the development. Given the above, it is concluded that very special circumstances have not been demonstrated.

## **OTHER MATERIAL CONSIDERATIONS**

### **11.0 IMPACT ON AONB AND LANDSCAPE CHARACTER**

- 11.1 The site lies with the Cotswold AONB policy SD7 considers that development within the AONB should conserve and where appropriate enhance its landscape and scenic beauty, wildlife, cultural heritage and other special qualities.
- 11.2 A landscape and visual appraisal of the site by LVA LTD was submitted with the application. The report considers the choice of materials would fit with the local vernacular. The built form alongside the proposed addition planting would integrate the development with the surrounding landscape. The LVA considers that the surrounding built form and well vegetative nature of the landscape provides very little change in views from even close-range locations.

## **12.0 DESIGN AND VISUAL AMENITY**

- 12.1 Section 12 of the NPPF sets out that the creation of high quality buildings and places. 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. This advice is echoed in JSC policy SD4 which states new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness. It should be of a scale, type, density and materials appropriate to the site and its setting.
- 12.2 Saved Local Plan Policies AGR 6 and 7 state that the scale, form and general design of the building must be in-keeping with their surroundings. The existing buildings are typical of modern agricultural buildings and are appropriate in their context. The previously approved scheme was subject to a number of revisions and proposed only a modest linking extension. Furthermore, the scheme utilised many of the existing openings and retained existing materials.
- 12.3 Whilst the current proposal would also utilise existing openings, it also proposes two substantial glazed extensions to enable the converted buildings to function as a single dwelling. In addition, further changes to the external elevations (including faux oak framing), changes to the windows (proposed crittall style) and the addition of sedum roof to the buildings (to replace the approved profiled metal).
- 12.4 As a consequence of these proposed changes, combined with the addition of the substantial oak framed glazed links, the rural / agricultural character and appearance of the existing buildings would be lost and the resultant development would appear more residential in character, and would consequently conflict with the Council's rural building conversion policies and aims of the NPPF in this regard.

## **13.0 RESIDENTIAL AMENITY**

- 13.1 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.
- 13.2 Due to the distance to the adjacent bungalow and proposed boundary hedge the proposal would not cause any harm upon the amenities of the neighbouring residents.

## **14.0 HIGHWAY MATTERS**

- 14.1 Section 9 of the NPPF relates to the promotion of sustainable transport and specifies that in assessing specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Policy INF 1 of the JCS reiterates this advice. Policy trac9 of the Pre-submission Tewkesbury Borough Plan (PTBP) states that proposals need to make provision for appropriate parking and access arrangements and not result in the loss or reduction of existing parking areas to the detriment of highway safety.
- 14.2 The existing access which currently serves the Windy farm would be utilised. There is room on site for the parking of vehicles and associated turning and manoeuvring. The Highway Authority have no objection to the proposal with regard to highway safety and recommend conditions for vehicle electrical charging points and cycle storage.

## **15.0 DRAINAGE**

- 15.1 Policy INF 2 of the JCS seeks to prevent development that would be at risk of flooding and increase flood risk elsewhere. The application site is location within flood zone 1 (low risk) given the nature of the proposal, conversion of an existing building with linking extensions and a reduction in hardstanding area, it is reasonable to conclude that the development is unlikely to be at risk of flooding or increase the risk of flooding to the local community or the wider environment.
- 15.2 Drainage plans have been submitted which indicate the discharge of surface water and a private treatment plant to be installed for foul sewage disposal. Our Land Drainage Advisor was consulted and had no adverse comments on the drainage arrangements.

## **16.0 ECOLOGY**

- 16.1 The NPPF sets out, inter alia, that planning decisions should minimise impact on and providing net gains for biodiversity. Policy SD9 of the JCS seeks to protect and enhance biodiversity in considering development proposals.
- 16.2 A Dusk Emergence and Pre-Dawn Re-Entry Surveys for bats dated July 2020 by All Ecology. This survey is only for one of the buildings to be converted (the building to the north west) and bats were found emerging from this building, mitigation and enhancement were measures proposed. Further ecological reports have been undertaken which were submitted with application 20/00658/FUL. These reports were submitted on 8<sup>th</sup> June 2020 and the Ecological Advisor has no objection to the proposal subject to the recommendations and mitigation measures of the ecological reports dated October 2020 and conditions as recommended for the previously approved application.

## **17.0 COMMUNITY INFRASTRUCTURE LEVY (CIL)**

- 17.1 The development is CIL liable because it creates new dwelling.

## **18.0 CONCLUSION AND RECOMMENDATION**

- 18.1 The proposal constitutes inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. Policy SD 5 of the JCS and the NPPF make clear that inappropriate development should not be approved except in very special circumstances. In this particular case, there is not considered to be very special circumstances and the harm to the Green Belt by reason of its inappropriateness is not clearly outweighed by other considerations.
- 18.2 The proposal conflicts with policies AGR6 and AGR7 of the local plan. The existing agricultural buildings are not capable of conversion without substantial alteration and extension, and the proposed development is not in keeping with local character residential properties in the area in terms of mass and design. Therefore, the recommendation to **REFUSE**.

## **Reason**

- 1 The proposal would represent inappropriate development in the Green Belt that would cause both harm by definition, and harm to the openness of the Green Belt contrary to Policy SD5 of the Joint Core Strategy (2017) and advice within the National Planning Policy Framework 2019.
2. The proposed development conflicts with Policy AGR7 of the Tewkesbury Borough Local Plan (2011) and Policy RES7 of the Tewkesbury Borough Plan 2011-2031 Pre-Submission Version (October 2019) in that it would involve significant extensions to the original structure and would be detrimental to the rural character and appearance of the buildings.