

## TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

<b>Committee:</b>	Planning
<b>Date:</b>	17 August 2021
<b>Site Location:</b>	Elm Gardens Badgeworth Road Badgeworth
<b>Application No:</b>	21/00282/FUL
<b>Ward:</b>	Badgeworth
<b>Parish:</b>	Badgeworth
<b>Proposal:</b>	Erection of a two storey side extension, first floor extension, front porch extension and remodelling of bungalow (amended).
<b>Report by:</b>	Dawn Lloyd
<b>Appendices:</b>	Site location and block plan Existing floor plans and elevations Proposed elevations Proposed floor plans Permitted development plan
<b>Recommendation:</b>	Permit

### 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application relates to a detached bungalow known as 'elm gardens' which is located to the west of Badgeworth Road and to the north of A40. The dwelling was formerly an agricultural worker's dwelling to support a small market garden enterprise.
- 1.2 The site is located in the Green Belt. A footpath crosses the site from Badgeworth Road to the northwest.
- 1.3 The application submitted is for the erection of a two-storey side extension, first floor extension, double height porch extension and alterations to the external materials. The proposed alterations would alter the orientation of the dwelling for the principle elevation to face Badgeworth Road.

**Councillor Vines has called the application in for determination by the Planning Committee in order to assess the suitability of the proposal given its Green Belt location.**

## 2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
T.5349	Outline application for an agricultural bungalow.	PERMIT	19.06.1968
T.5349/AP	Erection of agricultural dwelling to be attached to 2 acre market garden.	PERMIT	20.11.1968
93/5349/0735/FUL	Erection of glasshouse	PER	21.09.1993
18/00981/CLE	Continued residential use of the dwelling in breach of agricultural occupancy condition (condition c of planning permission T.5349).	CLECER	12.04.2019
20/00977/FUL	Erection of a two storey side extension, first floor extension, front porch extension and remodelling of bungalow.	WDN	23.02.2021
21/00400/PDE	A stepped single storey extension which extends from 5 metres up to 8 metres at the rear.	CEGPD	04.05.2021
21/00428/PDEAS	Proposed first floor extension not exceeding 3.5m in height.	AAPR	07.06.2021
21/00512/PDE	A stepped single storey extension which extends from 5 metres up to 8 metres at the rear. Reconstituted stone walling to match will be used.	DUPAPP	23.04.2021

## 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

Policy SD4 (Design Requirements)

Policy SD5 (Green Belt)

Policy SD14 (Health and Environmental Quality)

Policy INF 1 (Transport Network)

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

Policy HOU8 (Domestic Extensions)

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

Policy RES10 (Alteration and Extension of Existing Dwellings)

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 Badgeworth Parish Council – comments (in summary)**

This application site is within the Green Belt and Permitted Development is sought to significantly enlarge and remodel an existing bungalow. It would appear that the proposed rear and side extensions, the porch and the additional storey all fall within the maximum measurements allowed for Permitted Development and the Parish Council, therefore, would raise no objection to the proposed changes on the grounds of its size.

- The parish council would have objected to an application for the erection of a new dwelling on the grounds of inappropriate development within the Green Belt. Similarly, the Council would have also objected if the application had been made simply seeking exceptional circumstances for an extension or alteration to the existing building within the Green Belt on the grounds that there would have been disproportionate additions over and above the size of the original building (Paragraph 145 (d) of the NPPF refers).

In the circumstances, the Parish Council requests that if the Permitted Development is approved then everything is done to ensure that conditions are considered which ensure that the overall design, external finishes and glazed areas are such that there is no adverse impact on the surrounding rural/agricultural Green Belt area. This is a large site with a proposed large dwelling and some sympathetic landscaping/tree planting may also need to be considered.

**Additional comments:**

Objection - the proposed development would obstruct footpath ABA5. The Parish Council notes that footpath ABA5 is already obstructed by a recently erected stone wall on the site.

The Case Officer provided clarification to the Parish Council that the proposed extensions were not permitted development and were being used as a fallback position.

Badgeworth Parish Council maintain their objection as the proposal blocks a public footpath.

**4.2 Staverton Parish Council – Objection**

The amendment as it takes the property from rural cottage to a house not in keeping with the original property. The council would like to suggest that a planning officer visits site before making any decisions on this application as they feel that the proposed and already made

alterations are not in keeping with rural aspects of the area and will have a detrimental effect on the green belt.

- 4.3 Gloucestershire County Highway Authority** – No objection, the proposed extensions form converting a three bedroomed bungalow to a 4 bedroomed two storey house would not be expected to result in a significant change in trips, the existing access and layout is considered sufficient. The proposal is considered acceptable in terms of safety and not have a serve impact on congestion.

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

## **5.0 PUBLICITY AND REPRESENTATIONS**

The application has been publicised through the posting of a site notice for a period of 21 days. No public representations have been received.

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

## **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 Tewkesbury Borough Plan (TBP) has reached an advanced stage. The Examination in Public was held in February/March 2021 and the Inspector's post hearings Main Modifications letter was received on 16th June 2021. In this letter the Inspector provided his current view as to what modifications are required to make the Plan 'sound'. Those policies in the Pre-submission version of the TBP which are not listed as requiring main modifications may now attract more weight in the consideration of applications, with those policies which do in the Inspector's view require main modifications attracting less weight depending on the extent of the changes required. The TBP remains an emerging plan and the weight that may be attributed to individual policies will still 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 the 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**

- 7.1 The application proposes substantial extensions to the existing bungalow (including the creation of a first floor) resulting in a much larger two storey dwelling (**see existing and proposed elevations**). The main issues for consideration are whether the resultant dwelling would comply with Green Belt Policy; would be of an acceptable design and appearance; and consideration of the permitted development 'fall-back' position.

## **Green Belt**

- 7.2 Policy SD5 of the Joint Core Strategy states that development will be restricted to the limited types of development which are deemed appropriate by the NPPF.
- 7.3 The National Planning Policy Framework (“NPPF”) makes it clear that development in the Green Belt is inappropriate other than for a limited number of defined purposes. For new buildings, these include (paragraph 149 of the NPPF):
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
  - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
    - not have a greater impact on the openness of the Green Belt than the existing development; or
    - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 7.4 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be given to any harm to the Green Belt and ‘very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 7.5 The application has been submitted on the basis that the shell of the existing bungalow would be retained, and very substantial extensions to it are proposed, to the side and above, resulting in a two-storey dwelling. Consequently, as the site is within the Green Belt, the extensions proposed would be considered as disproportionate additions to the original building.
- 7.6 Consideration has also been given to the proposal constituting a replacement building. However, the resultant building would be significantly materially larger than the existing bungalow and would similarly be inappropriate development.
- 7.7 The proposal would therefore represent inappropriate development for the purposes of national and development plan policy which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances.

## Openness

- 7.8 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. It is an essential characteristic of Green Belts that essentially depends on the amount of built development in an area.
- 7.9 By virtue of its increased size and height, the proposed two storey dwelling would have a materially greater impact on openness than the existing bungalow.

## Conclusion on Green Belt Matters

- 7.10 The proposal would represent inappropriate development in the Green Belt, which is harmful by definition. In addition, there would be an identified harm to the openness. This carries substantial weight against the proposal.
- 7.11 The applicant acknowledges this conflict and seeks to make a 'very special circumstances' case, relying on the permitted development 'fall-back' position. This, and other material considerations, are discussed below.

## Fallback position

- 7.12 Case law has established that permitted development (PD) rights can be taken into account as a fall-back position where some alternative form of development is then proposed. It must be demonstrated, however, that there is a realistic prospect of those permitted rights being implemented if permission was refused for the alternative proposal.
- 7.13 In this case, the applicant has received prior approval for an upwards extension under the relevant schedule of the General Permitted Development Order 2015. A plan has also been provided demonstrating how the existing bungalow could be extended under its existing permitted development rights (**see fall-back position elevations**). The applicant has also stated that should permission be granted that they would accept a planning condition to remove permitted development rights to enable the planning authority to consider any future development proposals should they occur.
- 7.14 Officers conclude that the extensions that could be implemented would result in a functional dwelling and that there is a reasonable prospect that the permitted development proposal would be implemented if this application were to be refused. The fallback proposal would be 28% larger in floor area and 32% larger in volume than this application proposal. The fallback proposal would result in a more sprawling form of development with the single-storey extensions which would be visually prominent.
- 7.15 The applicant's fall-back position is accepted and given considerable weight in terms of the 'very special circumstances' case.

## Design and Visual Amenity

- 7.16 JCS Policy SD4 of the Joint Core Strategy sets out requirements for high quality design. Policy SD6 development will seek to protect the landscape for its own intrinsic beauty, have regard to local distinctiveness and historic character of the different landscapes. Saved Local Plan Policy HOU8 and PTBP policy RES10 provides that development must respect the character, scale and proportion of the existing dwelling and the surrounding development.
- 7.17 The proposed extensions and alterations to the dwelling would obviously not respect the character and scale of the host dwelling and would result in a new dwelling of a completely different design. The proposal would not comply with HOU8 in this regard, therefore. However, there are dispersed dwellings of two storey and single storey in the vicinity of the site of various ages, type and design. The dwelling is situated in a large and isolated plot it would not be read as part of a streetscene with adjoining dwellings. In this context the proposed dwelling is considered of a suitable scale relative to the plot.
- 7.18 As set out above, the applicant's fall-back proposal would result in sprawling building of a contrived and consequently poor design. By contrast, the application proposal would have a relatively compact footprint and amended plans have reduced the mass of the roof and the size of the front gable extension to minimise its visual impact. The proposal would result in a reduced scale, more considered and consolidated design than the fallback position. The

application proposes a palette of materials including brick, smooth render, reconstituted stone sills, concrete interlocking roof tiles and black powder coated aluminium windows and doors, black PVC fascia and barge boards which are considered acceptable.

- 7.19 In terms of landscape impact, the larger and taller building would obviously appear more prominent in this rural setting. However, for the reasons set out above, it would be more acceptable than the fall-back proposal. A condition for additional soft landscaping on the eastern and north eastern boundaries would assist in assimilating the proposal into the landscape which would reduce the visual impact.
- 7.20 Officers conclude the design (as revised) to be acceptable and that the proposal would not result in discernible harm to the landscape (as compared to the fall-back position) and is considered to accord with development plan and the NPPF in this regard.

### **Effect on the Living Conditions of Neighbouring Dwellings**

- 7.21 Policy SD14 of the JCS requires that new development must cause no harm to local amenity including the amenity of neighbouring occupants. Saved Local Plan Policy HOU8 and PTBP policy RES10 provides that extensions to existing dwellings should not have an unacceptable impact on adjacent property and residential amenity.
- 7.22 There are no nearby dwellings which would be impacted by the proposed development in regard to overlooking, overbearing or over dominating impact. In respect to the amenity of future residents, it is considered that the dwelling would provide high quality accommodation and the amenity of future residents would be acceptable.

### **Highways Impact**

- 7.23 Policy INF1 of the JCS sets out that permission shall only be granted where the impact of development is not considered to be severe. It further states that safe and efficient access to the highway network should be provided for all transport means. The NPPF echoes these requirements.
- 7.24 The County Highways Authority has been consulted on the application and advise that the proposed alterations to convert a two bedroomed bungalow to a 4 bedroomed two-storey house have no objection to the proposal as it would not be expected to result in significant change in trips and the use of the existing vehicle access and layout is considered sufficient.

### **Biodiversity**

- 7.25 The report by Cotswold Environmental and Bat surveys undertaken on the site found there was no evidence for bats entering or emerging from the existing building or evidence of nesting birds. Evidence of bats was recorded, utilising the surrounding habitats of Elm Drive Gardens and the report makes recommendations for the construction phase.

### **Public Right of Way**

- 7.26 A public right of way crosses the site from Badgeworth Road to the rear of the bungalow along the northern boundary. The boundary wall prevents access to the public right from Badgeworth Road. The Parish Council have objected to the proposal as it would prevent access to the footpath. However, it is not permitted to obstruct or build over a public right of way and diverting a public right of way is control by separate legislation. The applicant would need to seek consent from the County Highway Authority in this regard.

## **8.0 CONCLUSION AND RECOMMENDATION**

- 8.1 The proposed development is inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. However, in this instance, it is considered that there is a realistic prospect that extensions to the existing bungalow would be implemented as a fall-back in the event this application was refused. The fall-back position would result in a larger dwelling of poor design that would have a more harmful impact on the openness of the Green Belt, and rural landscape than the application proposal.
- 8.2 This fall-back position is therefore considered to constitute very special circumstances which clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm arising from the proposal.
- 8.3 Therefore, it is recommended that planning permission be granted subject to conditions

### **CONDITIONS:**

1. The works hereby permitted shall be begun before the expiration of five years from the date of this consent.

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. The development hereby permitted shall be carried out in accordance with the following approved documents:

- Site location Plan submitted 15 Jul 2021
- Proposed Elevations RMS21.01 Drawing Number 02 15 submitted 15 Jul 2021
- Proposed Floor Plans RMS21.01 Drawing Number 01 submitted 15 Jul 2021
- Protected Species Report for Bats and Nesting Birds by Cotswold Environmental dated August 2020

Except where these may be modified by any other conditions attached to this permission.

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

3. No work above floor plate level shall be carried out until samples and details of the materials for the external walls, roof and window frames, windowsills, doors proposed to be used have 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 ensure that materials are in keeping with the surrounding area and to provide for high quality design

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences/gates/walls/ garages/buildings/extensions/dormer windows shall be erected other than those expressly authorised by this permission.

Reason: In order to safeguard the openness of the green belt.

5. Before the first occupation of the development hereby permitted, full details of the proposed soft landscaping/tree/hedgerow planting shall be submitted to and approved in writing by the Local

Planning Authority. The details shall include location, species and sizes, planting specifications, maintenance schedule, provision for guards or other protective measures.

6. All planting shall be carried out in accordance with the approved details in the first planting season following the completion or first occupation of the development, whichever is the sooner. The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure adequate provision for trees/hedgerows, in the interests of visual amenity and the character and appearance of the area.

**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.