

## TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

<b>Committee:</b>	Planning
<b>Date:</b>	17 August 2021
<b>Site Location:</b>	Back Of Eldersfield Close Winchcombe
<b>Application No:</b>	21/00342/FUL
<b>Ward:</b>	Winchcombe
<b>Parish:</b>	Winchcombe
<b>Proposal:</b>	Removal condition 4 (electric vehicle charging point) of planning application number 20/01044/FUL.
<b>Report by:</b>	Pippa Brown
<b>Appendices:</b>	Plans as approved for 20/01044/FUL: Site location and block plan Proposed plan and elevations
<b>Recommendation:</b>	Permit

### 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1. This application relates land adjacent to a terraced row of four domestic garages to the rear of Eldersfield Close in Winchcombe. The site is located within a residential estate and is within the Cotswolds AONB.
- 1.2. Permission was granted in 2020 for the erection of a flat roof double garage on the southern end of the existing row of single bay garages, constructed using materials to match the existing (20/01044/FUL). A condition was applied to the permission, requiring an electric vehicle charging point be installed in/on the garage, prior to its occupation.
- 1.3. Condition 4 states: “The garage hereby permitted shall not be first occupied until the proposed garage has been fitted with an electric vehicle charging point. The charging point shall comply with BS EN62196 Mode 3 or 4 charging and BS EN 61851 (and Manual for Gloucestershire Streets). The electric vehicle charging point shall be retained for the lifetime of the development unless they need to be replaced, in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.”  
  
“Reason: To promote sustainable travel and healthy communities.”
- 1.4. This application seeks to remove Condition 4 on the basis that there is no power to the site and therefore the installation of a power source to the location would be unnecessary and would involve a significant cost to the applicant, warranting the erection of the garage infeasible and unviable.
- 1.5. A committee determination is required as Winchcombe Town Council have objected to the proposal on the basis of their strong support for Policy TRAC9 of the Pre-Submission Borough

Plan, which states that new development should incorporate facilities to enable the charging of plug-in or ultralow emission vehicles.

## 2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
20/01044/FUL	Erection of a garage on the end of the existing garage block.	PER	21.12.2020

## 3.0 RELEVANT POLICY

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

### National guidance

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

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

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

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

3.5. Policy SD4 (Design Requirements)

3.6. Policy SD7 (Cotswolds AONB)

3.7. Policy INF1 (Transport Network)

3.8. Policy SD14 (Health and Environmental Quality)

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

3.9. Policy HOU8 (Domestic Extensions)

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

3.10. Policy RES10 (Alteration and Extension of Existing Dwellings)

### Neighbourhood Plan - Winchcombe and Sudeley Neighbourhood Development Plan 2011- 2031

## 4.0 CONSULTATIONS

4.1. Gloucestershire County Council Highways – No objection.

4.2. Winchcombe Town Council – Objects to the proposal on the basis of their support of Policy TRAC9 of the Emerging Borough Plan. The Town Council were informally reconsulted following the submission of further information relating to the lack of power to the site, and agreed to remove their objection, subject to the implementation of a different condition, restricting the use

of the garage for the storage of vehicles, until an EV charging point is installed. Officers have considered this to be an objection to the proposal and that the implementation of a different condition would not be appropriate.

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

## **5.0 PUBLICITY AND REPRESENTATIONS**

- 5.1. The application has been publicised through the posting of a site notice for a period of 21 days and no letters of representation have been received, during or since this consultation period.

## **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. Policy TRAC9 of the Emerging Borough Plan (afforded significant weight at this stage of the plan making process) requires that new development should incorporate facilities to enable the charging of plug-in or ultra-low emission vehicles. Whilst Winchcombe Town Council have objected to the removal of Condition 4, based on the scheme's current compliance with this policy, it is the view of Officers that the condition does not meet all of the tests for planning conditions, outlined in Paragraph 55 of the NPPF, considering the scale of the development and nature of the site and its location.
- 7.2. Tewkesbury Borough Council supports the climate agenda and recognises the current climate emergency; however, it is necessary to consider the scale of each proposal and the practicalities of imposing conditions in relation to the public benefit.
- 7.3. An explanation of the six tests in relation to Condition 4 of planning application number 20/01044/FUL is outlined below.

- 7.4. **Necessary** – The proposed garage would not necessarily be used for the storage of a vehicle and is likely to be used for general domestic storage purposes. The nature of the garages in this location, including the garage approved, means they are not directly linked to residential properties, and the application site in particular has been sold off separately to the applicant's residential address. In addition, Policy TRAC9 recognises that garages cannot be considered as parking spaces when determining whether developments include relevant parking provision. Therefore, there is unlikely to be an overriding need for an electrical supply to the garage, warranting the condition unnecessary in this context.
- 7.5. **Relevant to planning** – The condition imposed is relevant to planning, as it conforms with the requirements planning policies at local and national level.
- 7.6. **Relevant to the development** – The condition would be considered relevant to the development in terms of it being related to parking provision and the site, being located within an existing parking area at the Back of Eldersfield Close. However, due to the scale of the development and the likelihood of the garage being used to store a vehicle the condition is only marginally relevant to the specific development.
- 7.7. **Enforceable** – Due to the nature of the garage being for private use, it would be extremely difficult for the condition to be enforced, as it would be unknown to officers or members of the public whether the charging point was installed or not and if the garage was occupied by a vehicle, without having access to the building.
- 7.8. **Precise** – The working of the condition is precise and was originally recommended by Gloucestershire County Highways, during the original application process. The condition specifies the type of charging point required and specifies it be applied prior to occupation.
- 7.9. **Reasonable in all other aspects** – Due to the simple construction of the garages within the vicinity, which the garage approved seeks to replicate and the fact that they are located removed from nearby residential properties, there are no utilities connected to the site. This would mean that the installation of an electric vehicle charging point, on the site would incur a significant financial cost to the applicant, in order to supply power to the building. It is considered that this cost would not outweigh the public benefits of the charging point and would render the construction of the garage unviable. It can be concluded that whilst the application of the condition is designed to have a positive environmental impact and promote the use of sustainable transport, in this context, it is considered unreasonable.
- 7.10. Further to information being provided by the applicant, relating to the lack of electricity supply to the garage, and email received on the 10.01.2021, by the case officer for the previous application, GCC Highways state that *“In light of Mr Clayton’s email below, the reasonableness of the condition is considered onerous and would not be proportionate to the scale of development and I would accept the justification that providing the level of infrastructure for the EV charging point would be unreasonable.”*

## 8.0 CONCLUSION AND RECOMMENDATION

- 8.1. It is considered that, as demonstrated in section 7 of this report, that condition 4 of planning application 20/01044/FUL does not meet all the required tests for a planning condition. Therefore, given the specific circumstances the removal of condition 4 is considered acceptable and would not result in substantial harm. Not implementing the electrical vehicle charging point would have a negligible impact on carbon emissions from the site when the scale of the development is considered.
- 8.2. It is therefore recommended that the removal of the condition be permitted.

## **CONDITIONS:**

1. The works hereby permitted shall be begun before the expiration of five years from 18<sup>th</sup> of December 2020, the date of permission 20/01044/FUL.

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

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

- Proposed elevations and floor plan: 12-2020-02A (received 30th October 2020)
- Proposed block plan: 12-2020-SLBP(A) (received 30th October 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. The materials to be used in the construction of the external surfaces of the proposed development shall match those used in the existing garage block.

Reason: To ensure that the proposed development is in keeping with the existing dwelling.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles and domestic storage without the grant of further specific planning permission from the Local Planning Authority.

Reason: To retain garage/car space for parking purposes.

## **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.