

# TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

<b>Committee:</b>	Planning
<b>Date:</b>	21 September 2021
<b>Site Location:</b>	Land West Of Manor Cottage Walton Hill Deerhurst
<b>Application No:</b>	21/00411/FUL
<b>Ward:</b>	Severn Vale North
<b>Parish:</b>	Deerhurst
<b>Proposal:</b>	Erection of a single residential dwelling (C3) and associated operational development (Plot 1).
<b>Report by:</b>	Gemma Smith
<b>Appendices:</b>	BMS21.01-01 Location Plan PLS382 Topographical Survey BMS21.01-02 Rev A Proposed Site Layout BMS21.01-03 Proposed Floor Plans BMS21.01-04 Proposed Elevations BMS21.01-05 Proposed Garage Plan & Elevations BMS21.01-SK10 Street Elevation
<b>Recommendation:</b>	Minded to Permit

## 1.0 Application Site

- 1.1 The application site comprises a parcel of land (covering circa 0.15 hectares) located on the northern side of an unnamed road at Deerhurst Walton, between the dwellings known as Laurel Cottage to the west and Manor Cottage (an agricultural workers dwelling) to the east. The submitted Planning Statement advises that the application site is functionally associated with the dwelling known as Manor Cottage, although precise details of its use have not been provided. The parcel of land is characterised by dense hedgerow and trees bounding the front of the site with Walton Hill.
- 1.2 The application site is bounded by established trees/hedgerows and is located within the Landscape Protection Zone (LPZ). There is an existing agricultural access along the southern (front) boundary of the site, and there is an existing Public Right of Way (PROW), Deerhurst Footpath ADE89, passing through the site. There is a pending footpath diversion application (reference 20/01171/FTP).
- 1.3 Coombe Hill SSSI is located approximately 1km south of the site.

## 2.0 PLANNING HISTORY

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
88/91049/CND	Non-compliance with condition (C) of Planning Permission Ref T3601 dated 16 May 1961. (Agricultural occupancy).	REFUSE	
88/91050/FUL	Alterations to 1st floor of existing dwelling to provide a dwelling unit.	PERMIT	15.02.1989
93/01108/FUL	Erection of barn for the storage of farm implements	PER	14.04.1994
09/00103/OUT	Outline application for the erection of a detached agricultural workers dwelling with associated access and parking facilities (appearance, layout, scale and landscaping reserved for future consideration).	REF	20.04.2009
09/00205/FUL	Extension to dwelling.	WDN	29.04.2009
09/00590/OUT	Outline application for the erection of a detached agricultural workers dwelling with associated access and parking facilities (appearance, layout, scale and landscaping reserved for future consideration) - Revised application.	REF	11.08.2009
09/00742/FUL	Extension to dwelling.	PER	25.08.2009
17/00280/PDAD	Prior approval for change of use of agricultural building to a residential use (C3) of the use classes order and associated works.	ARPR	12.05.2017
18/00393/PDAD	Prior approval for change of use of agricultural building to a residential use (C3) of the use classes order and associated works.	AAPR	31.08.2018
20/00774/PIP	Permission in Principle for the erection of up to 2 no. dwellings	PER	26.10.2020
21/00412/FUL	The erection of a single residential dwelling (C3) and associated operational development (Plot 2).	Pending	

### **3.0 RELEVANT DEVELOPMENT PLAN POLICIES**

Planning (Listed Buildings and Conservation Areas) Act 1990

#### **National guidance**

National Planning Policy Framework and Planning Practice Guidance  
National Design Guide

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

- SD3 (Sustainable Design and Construction)
- SD4 (Design Requirements)
- SD5 (Green Belt)
- SD6 (Landscape)
- SD9 (Biodiversity and Geodiversity)
- SD10 (Residential Development)
- SD11 (Housing mix and Standards)
- SD14 (Health and Environmental Quality)
- INF1 (Transport Network)
- INF2 (Flood Risk Management)
- INF3 (Green Infrastructure)

**Tewkesbury Borough Local Plan to 2011- Adopted March 2006 (saved policies not replaced by the JCS)**

- LND3 (Landscape Protection Zone)

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

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).

- RES3 (New Housing Outside Settlement Boundaries)
- RES4 (New Housing at Other Rural Settlements)
- RES5 (New Housing Development)
- RES13 (Housing Mix)
- DES1 (Housing Space Standards)
- LAN2 (Landscape Protection Zone)
- NAT1 (Biodiversity, Geodiversity and Important Natural Features)
- NAT3 (Green Infrastructure: Building with Nature)
- ENV2 (Flood Risk and Water Management)
- TRAC1 (Pedestrian Accessibility)
- TRAC9 (Parking Provision)

**Neighbourhood Plan**

N/A

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

The First Protocol, Article 1 (Protection of Property)

## **4.0 APPLICATION DETAILS**

### **4.1 The Proposal**

- 4.1.1. Full planning permission is sought for the erection of a single residential dwelling (C3) and associated operational development (Plot 1). Plot 2 is considered under a separate planning application reference 21/00412/FUL.
- 4.1.2. The proposed two-storey detached dwelling would be accessed from an enhanced existing access that serves the existing field. The proposal also comprises a detached two-bay garage sited to the west of the dwellinghouse.
- 4.1.3. The maximum height of the proposed dwelling would be approx. 7.8m with eaves set at approx. 3.7m. The overall width of the dwelling would be approx. 13.9m. There would be a projecting gable detailing to the front elevation and dormer window with two velux roof lights set within the roof slope. The high-quality design incorporates a number of traditional features such as eaves detailing, timber canopy and chimneys. The rear elevation features a rear projecting gable with a balcony to first floor and overhanging canopy to ground floor.
- 4.1.4. During the course of the planning process details of the materials were submitted. The palette of materials would include Istock 'Beamish Blend 65mm' under Redland 'Medium Mixed Brindle' roof tile featuring Siberian Larch cladding to front and uPVC Grained Effect fenestration in 'Anthracite Grey'.
- 4.1.5. A close boarded fence is proposed as the boundary treatment.

### **4.2 Agents Submission**

- 4.2.1 The Application is supported by the following documents
- Planning Statement, Powells
  - Ecological Impact Assessment, January 2021, Swift Ecology
  - Transport Technical Note, Cotswold Transport Planning
  - Drainage Statement, Cotswold Transport Planning
  - Arboricultural Report
  - Topographical Survey

### **4.3 Amendments /Additional Information**

- 4.3.1 During the course of the planning process the following documents and plans were received:
- Updated Ecological Assessment and Great Crested Newt Non-Licensed Method
  - Statement/Reasonable Avoidance Measures (Swift Ecology, June 2021)
  - Rebuttal comments to Parish Council sent by letter dated 13th July, 2021
  - Proposed Site Plan was amended to introduce a staggered building line with Plot 1.

## **5.0 CONSULTATIONS**

**Deerhurst Parish Council** – Final comments in response to Agent letter 13.07.2021 – Objection with the following comments:

-Maintain that the scale of the development is unacceptable in relation to the illustrative plans within the PIP. The proposed development is not in-keeping with the scale and density of surrounding dwellings.

-The details shown within the FUL application cast doubt whether the rediverted footpath will remain open.

-Concerned with the amount of hedgerow and tree clearance would be required.

-Increased traffic from vehicles associated with larger properties

-Impact on LPZ seeking commissioning an assessment. No mitigation is offered if the landscape and visual sensitivities viewed from the A38 are adversely affected.

-Risk of flooding. Surface water runs off dwellings on higher ground into the gardens of dwellings on lower ground.

-If RES4 were applied, the max number of dwellings would be one additional house. The PC has sought not to be as restrictive, the key concern is with the scale of the dwellings proposed.

-Plot 1 is almost 50% larger (than the illustrative PIP) and much larger than houses in the locality.

**Initial Response** - Object on following grounds –

-The plans vary substantially to the illustrative plans in the PIP and have concerns in regards to the layout, scale, design, moving the PROW, substantial hedgerow removal, access arrangements onto the small lane and increased traffic from more vehicles associated with large properties of this type. -Additional negative impact of two properties of this size and design on the landscape protection zone and flooding for other properties in Deerhurst Walton downhill of the site.

**Gloucestershire County Council Highways Officer** – No Objection subject to relevant conditions relating to provision of vehicular visibility splays, gates set back within 5m of edge of carriageway, surface bound material within first 5m of carriageway. The Highways Officer notes the following:

*“Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on highway safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained”.*

**Conservation Officer** – No Objection.

**Environmental Health Officer** – No Objection in regards to noise/nuisance issues.

**Gloucestershire County Council Sustainable Drainage Engineer** – No objection - The information submitted with the planning application is suitable that there is no need for any drainage conditions to be applied to any permission granted against this application.

**Tree Officer** – No Objection subject to conditions relating to replacement trees/hedgerows and implementation of approved trees/hedgerow protection measures.

**Ecological Advisor** – No Objection subject to conditions relating to adherence of mitigation detailed within Ecology Assessment and Reasonable Avoidance Measures, specification and details of ecological enhancements together with details of external lighting.

**Newt Officer** – No objection subject to relevant conditions relating to adhere to the reasonable avoidance measures detailed within the supporting report.

**Natural England** – No Objection.

**Ramblers** – Objection - Concerns with footpath diversion particularly in regards to detail of public footpath, means of access, surfacing, maintenance obligations for trees etc.

**Building Control** – Comments – the application would require Building Regulations approval.

**Public Rights of Way Officer** - 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.

**Landscape Officer** – 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.

**Gloucestershire Wildlife Trust** – 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.

**Full copies of all the consultation responses are available online at:**

<https://publicaccess.tewkesbury.gov.uk/online-applications/>

## **6.0 PUBLICITY AND REPRESENTATIONS**

**Local Residents** – The application has been publicised through the posting of a site notice and press notice for a period of 21 days and no representations from interested parties have been received in response.

## **7.0 POLICY CONTEXT**

- 7.1 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.
- 7.2 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.
- 7.3 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).

7.4 The relevant policies are set out in the appropriate sections of this report.

## **8.0 ANALYSIS**

8.1 The application is brought before Committee as the Parish Council object to the proposal.

8.2 The key issues in the determination of this planning proposal are:

- Principle of Development
- Design and Scale
- Impact on landscape and visual amenity
- Residential Amenity
- Impact on Trees
- Biodiversity Implications
- Highways and Parking
- Impact on the PROW
- Drainage
- Other Matters

### **8.3. Principle of the development**

8.3.1. The site has previously gained Planning in Principle for two new dwellings at the site (and adjacent site considered under planning reference 21/00412/FUL) for clarity this application is considered as a full planning application on its own merits.

8.3.2. Policy SP2 of the JCS sets out the strategy for the distribution of new development across the JCS area, and JCS Policy SD10 ('Residential Development') specifies that, within the JCS area, new housing will be planned in order to deliver the scale and distribution of housing development set out in Policies SP1 and SP2. It sets out that housing development will be permitted at sites allocated for housing through the development plan, including Strategic Allocations and allocations in district and neighbourhood plans. The application site is not allocated for housing through the development plan. Criterion 3 of JCS Policy SD10 specifies that, on sites that are not allocated, housing development will be permitted on previously developed land in the existing built-up areas of Gloucester City, the Principal Urban Area of Cheltenham and Tewkesbury town, rural service centres and service villages except where otherwise restricted by policies within District plans. Deerhurst Walton is not identified as a 'Service Village' or a 'Rural Service Centre' within Table SP2c ("Settlement hierarchy") of the JCS. As such, the proposed development fails to comply with criteria 3 of JCS Policy SD10.

8.3.3. Criterion 4 goes on to specify that housing development on other sites will only be permitted where:

- i. It is for affordable housing on a rural exception site in accordance with Policy SD12, or*
- ii. It is infilling within the existing built up area of the City of Gloucester, the Principal Urban Area of Cheltenham or Tewkesbury Borough's towns and villages except where otherwise restricted by policies within district plans; or*
- iii. It is brought forward through Community Right to Build Orders, or*
- iv. There are other specific exceptions/circumstances defined in district or neighbourhood plans.*

The proposed development is not for affordable housing on a rural exception site in accordance with Policy SD12 and is not brought forward through Community Right to Build Orders. As such, it does not comply with Criteria 4 (i), (iii) or (iv) of Policy SD10 of the JCS.

- 8.3.4. In terms of criteria 4 (ii) above, the JCS sets out that infill development means the development of an under-developed plot well related to existing built development. By virtue of the location of the application site, between the dwellings known as Laurel Cottage to the west and Manor Cottage to the east, it is considered that the proposal would fall within the JCS's definition of infill development. However, criteria 4(ii) further requires this infilling to be within the existing built up area of a village. The application site is located towards the south-eastern end of existing ribbon development, comprising a number of residential dwellings only which face onto the adjacent public highway. This linear form of development at Deerhurst Walton does not form part of the principal settlement of Deerhurst. In this context, and given the absence of local services and amenities, it is considered that the proposal cannot reasonably be regarded as constituting infilling within the existing built-up area of a village, in conflict with criteria 4(ii) of JCS Policy SD10.
- 8.3.5. The application site lies outside of any defined settlement boundary and is not allocated for housing development. The proposal is not for affordable housing on a rural exception site, and it does not represent infilling within the existing built-up area of a village. It has not been brought forward for development through a Community Right to Build Order and there are no policies in the existing development plan which allow for the type of development proposed here. The principle of the proposed development is therefore considered to be entirely inconsistent with the spatial strategy of the development plan, as set out within policies SP2 and SD10 of the JCS.
- 8.3.6. Since the grant of the Permission in Principle for two dwellings across the wider site, following the examination in public of the Local Plan, with the Tewkesbury Borough Plan (2011-2031) and the Inspector's post hearings Main Modifications letter. Those policies in the Pre-submission version of the PSTLP which are not listed as requiring any main modifications may now attract more weight in the consideration of applications.
- 8.3.7. Emerging Policy RES4 of the PSTBP specifies that, to support the vitality of rural communities and the continued availability of services and facilities in the rural areas, very small scale residential development will be acceptable in principle within and adjacent to the built up area of other rural settlements (i.e. those not featured within the settlement hierarchy), subject to a number of criteria. By virtue of the location of the application site, located towards the south-eastern end of this linear form of development, it is considered that the application proposes very small scale residential development adjacent to the built up area of this rural settlement. Emerging Policy RES4 of the PSTBP provides a set of criteria which such development should comply with. It further states that, in all cases, development must comply with the relevant criteria set out at Policy RES5, and specifies that particular attention will be given to the effect of the development on the form, character and landscape setting of the settlement.
- 8.3.8. One such criteria of emerging Policy RES4 of the PSTBP requires such very small-scale residential development within and adjacent to the built up area of other rural settlements to be of a scale that is proportionate to the size and function of the settlement and to maintain or enhance sustainable patterns of development (criteria (a)). In this regard emerging Policy RES5 similarly requires residential development to, inter alia, be of an appropriate scale having regard to the size, function and



accessibility of the settlement.

- 8.3.9. However, whilst the proposal is considered to be contrary to Policy SD10 and falls to be assessed against Policies RES3 and RES4, it is also currently the case that the Council cannot demonstrate a 5-year supply of deliverable housing sites.

#### **8.4. Councils 5 Year Housing Land Supply**

- 8.4.1. As set out in the latest Tewkesbury Borough Five Year Housing Land Supply Statement published in December 2020, the Council can demonstrate a 4.35 year supply of deliverable housing sites. On the basis therefore that the Council cannot at this time demonstrate a five year supply of deliverable housing land, the Council's policies for the provision of housing should not be considered up-to-date in accordance with footnote 7 of the NPPF and in accordance with Paragraph 11 of the NPPF the presumption in favour of sustainable development (the 'tilted balance') applies. Paragraph 11 of the NPPF states that where policies which are most important for determining the application are out of date, permission should be granted unless: d)i. the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development; or ii). any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This will be assessed below.
- 8.4.2. Members will be aware of the recent appeal decision at Ashmead Drive in which the Inspector concluded that the Council could demonstrate a 1.82 year supply. This is principally because the Council includes advanced delivery (or 'oversupply') against annual housing requirements in its five-year supply calculations. Appeal decisions are not binding precedents however. Officers consider that, in the context of the plan-led system, it is wrong not to take into account houses that have already been delivered during the plan period, essentially ahead of schedule, and which meet the needs being planned for in the area. Officer's advice is therefore that a 4.35 year supply can be demonstrated at this time.
- 8.4.3. Nevertheless, as set out above, as the Council cannot demonstrate a five-year supply of deliverable housing sites and the presumption in favour of sustainable development is therefore engaged in this case.

#### **8.5. Design and Scale**

- 8.5.1. The NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development. This is now reflected in the National Design Guide, which provides planning practice guidance for beautiful, enduring and successful places.
- 8.5.2. Emerging Policy RES4 of the PSTBP requires such very small-scale residential development within and adjacent to the built up area of other rural settlements to complement the form of the settlement and be well related to existing buildings within the settlement (criteria (c)). Emerging policy RES5 specifies that proposals for new housing development should be of an appropriate scale having regard to the character and amenity of the settlement.
- 8.5.3. JCS Policy SD4 provides 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.

- 8.5.4. Policy SD10 of the JCS states the residential development should seek to achieve maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network. This is similarly echoed in emerging Policy RES5 of the PSTBP.
- 8.5.5. The immediate settlement is characterised by a number of properties in a general linear building line set back from Walton Hill. The immediate dwellings all range in scale, materials and design. The dwellings set back on the northern side have larger linear plots to those on the southern side and have long frontages. The lane is characterised by hedgerows and high amenity value mature trees with few exceptions of open frontages. The dwellinghouses along the lane are predominantly modern, with the exceptions of the thatched Grade II listed building to the north of the site (Upper Farm) and a number of Grade II listed buildings to the east at Manor Farm. The lane decreases with a bend running east towards the application site. Presently the site is characterised by mature hedgerows along the southern boundary with the lane and along the western and northern corner of the application site. There is an existing site access that serves the land.
- 8.5.6. The maximum height of the proposed dwelling would be approx. 7.8m with eaves set at approx. 3.7m. The overall width of the dwelling would be approx. 13.9m. There would be a projecting gable detailing to the front elevation and dormer window with two velux roof lights set within the roof slope. The high-quality design incorporates a number of traditional features such as eaves detailing, timber canopy and chimneys. The rear elevation features a rear projecting gable with a balcony to first floor and overhanging canopy to ground floor. During the course of the planning process details of the materials were submitted. The palette of materials would include Ibstock 'Beamish Blend 65mm' under Redland 'Medium Mixed Brindle' roof tile featuring Siberian Larch cladding to front and uPVC Grained Effect fenestration in 'Anthracite Grey'.
- 8.5.7. During the course of the application, concerns were raised by your officers in regard to the levels of the site and finished floor levels of the proposed. It has been clarified that there would be no land engineering works, however given the differences across the site, it is expected that there would be a small amount of land levelling. To clarify the situation a condition for details of finished floor levels would be required on any recommendation for approval of the scheme.
- 8.5.8. Concerns have been raised in relation to the scale of the dwelling proposed in particular it being 5-bedroom and '50% increase'. It is considered that the proposed dwelling would be appropriately sited, would be commensurate to the plot available, represent small-scale development and be constructed out of materials in-keeping with the area.
- 8.5.9. Overall, it is considered that the proposed dwelling would comply with Policies SD4 and SD10 of the JCS together with the emerging Policy RES5 of the PSTBLP.

## **8.6. Impact on Landscape**

- 8.6.1. Saved Policy LND3 of the TBLP and Policy SD6 of the JCS together with emerging Policy LAN2 of the PSTBLP states that proposals within the landscape protection should not have a detrimental or ecological effect on the character of the river banks.

- 8.6.2. The landscape is rural with the River Severn approx. 3km west of the site and Coombe Hill SSSI. The surround farmland is arable and pastoral field with a network of hedgerows and hedgerow trees.
- 8.6.3. Given the intervening features from the application site, it is not considered that the proposal will result in a detrimental effect to the character of the river banks.
- 8.6.4. Whilst it is clear that the proposal would result in the introduction of built form into a field and that there would be views gained from public vantage points such as the diverted footpath, the development would be viewed in the context of the built up development on either side of the application site and the proposal pending on the adjacent site to the east.
- 8.6.5. In terms of massing, materials and detail, with regard to landscape impact, it is considered that the scheme would appear visually appropriate and sympathetic to the existing historic farmstead setting and the wider listed rural landscape.
- 8.6.6. The retention and inclusion of key landscape features would soften the development within the landscape. As such any recommendation for approval would seek a mitigating landscaping scheme together with the replanting of trees as compensatory measures for those that are sought to be removed.
- 8.6.7. Furthermore, given the extent of development that can be achieved under the The Town and Country Planning (General Permitted Development) (England) Order 2015, any recommendation for approval would seek to control future extensions, alterations, works to the roof and fencing/enclosures which can be achieved through the removal of permitted development rights for development falling within the provisions of Classes A to E of Part 1 of Schedule 2 together with Class A Schedule 2 Part 2 of the General Permitted Development Order (GPDO). This would ensure that any future development would respect the rural landscape character, the principle of 'small-scale' development for the purposes of emerging Policy RES4 and preserve the openness of this rural area.

## **8.7. Impact on Trees**

- 8.7.1. Policy INF3 of with JCS provides that existing green infrastructure, including trees should be protected. Developments that impact woodlands, hedges and trees should be justified and include acceptable measures to mitigate any loss and should incorporate measures acceptable to the Local Planning Authority to mitigate the loss.
- 8.7.2. Policy NAT1 relates to biodiversity, geodiversity and important natural features and provides that development likely to result in the loss, deterioration or harm to features of environmental quality will not be permitted unless the need/benefits for development outweigh the impact, the development cannot be located on a site with less harmful impacts and measures can avoid, mitigate or, as a last resort, compensate for the adverse effects. The explanatory paragraphs clarify that this policy automatically applies to trees protected by a preservation order or located within a conservation area. Other non-protected landscape features (including trees, woodlands and hedgerows) will be subject to this policy if they are of sufficient value to warrant their protection.
- 8.7.3. From the indicative plan with the accompanying Arboricultural Impact Assessment, it is stated within Paragraph 6.1 that there would be a lost hedgerow H1 in addition remedial works to parts of hedges 2, 3 (that run along the western boundary of the site) and 4 (northern corner) which will require pruning back or crown lifting to

accommodate the re-aligned PROW.

- 8.7.4. It is noted that outside of the application red line, in order to enable the necessary vision splay for the improvement works of the existing access, an 11m tall Ash tree (T3) together with a group of 4 no. field maple trees that bound the front of the adjacent plot within the hedgerow would also need removal.
- 8.7.5. Pertaining to the application site, the Agent has confirmed that the retention of the hedgerow bounding the front of the site (and adjacent) with only relatively minor cutting back along the visibility splays as shown on the revised proposed block plan. The visibility splays and hedgerows have been accurately plotted from topographical data and from the access/visibility splays as illustrated in the Transport Technical Note.
- 8.7.6. The Tree Officer has been consulted on the proposal and has no objection to the proposal subject to a planting scheme to mitigate for the loss of the removed trees and hedges.
- 8.7.7. Overall it is considered that, subject to conditions, the proposal would accord with Policies Policy INF3 of with JCS and emerging Policy NAT1 of the PSTBLP.

## **8.8. Residential Amenity**

- 8.8.1. Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.8.2. Policy SD4 part iii) Amenity and Space, considers new development should enhance comfort, convenience and enjoyment through assessment of opportunities for light, privacy and external space. Policy SD14 considers new development to cause no unacceptable harm to neighbouring occupants and result in no unacceptable levels of air, noise, water, light, soil pollution or odour.
- 8.8.3. Emerging Policy RES5 of the PSTBLP states that proposals for new housing development should provide an acceptable level of amenity for future occupiers of the proposed dwellings and cause no unacceptable harm to the amenity of existing dwellings.
- 8.8.4. There would not be any impact by way of overshadowing, loss of light or privacy on the nearest neighbouring property to the west 'Laurel Cottages' by way of proximity and site layout. In considering the amenity impact on the proposal Plot 2 adjacent to the east (considered under planning reference 21/00412/FUL), there would be no window openings between facing side elevations. The amended site layout with Plot 1 slightly staggered arrangement would not result in any loss of light or overshadowing to proposed primary windows to Plot 2.
- 8.8.5. There would be ample garden amenity of 481sq.m to serve the future occupants of the dwelling.
- 8.8.6. The Environmental Health Officer has been consulted in respect of the proposal and has raised no objection in regard to noise or nuisance.
- 8.8.7. Overall, subject to the imposition of conditions, it is considered that the proposed development would result in acceptable levels of amenity for existing and future residents in accordance with Policies SD4 and SD14 of the JCS together with the emerging Policy RES5 of the PSTBLP.

## **8.9. Biodiversity**

8.9.1. Paragraph 180 of the NPPF states if significant harm to biodiversity resulting from a development cannot be avoided through locating on an alternative site with less harmful impacts, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and proving net gains to biodiversity.

8.9.2. Policy SD9 of the JCS seeks for the protection and enhancement of biodiversity and to establish and reinforce ecological networks. This includes ensuring that those European Species and Protected Species are protected in accordance with the law. Emerging Policy NAT1 of the PSTBLP states that proposals, where applicable will be required to deliver biodiversity net gains. Emerging Policy NAT3 of the PSTBLP seeks for development to contribute towards the provision, protection and enhancement of the wider green infrastructure network.

8.9.3. The planning submission is accompanied by an Ecological Impact Assessment. The Assessment concludes that the habitats on site provide limited commuting and foraging habitats for bats. No badger setts were found during the survey, however it is noted that there is potential for sett building on site with embankments on the eastern, western and southern roadside boundary. The trees and hedgerows on the site are considered to have some potential to support nesting birds.

8.9.4. The Assessment identified that Great Crested Newts (GCN) use habitats within 500m of breeding ponds. It was identified that there is a pond approx. 190m south of the site. Although the boundary hedgerows may offer some limited cover, refuge or foraging opportunities for GCNs it is considered that the nearest newts population are relatively isolated from the application site by a large arable field which is considered to form a partial barrier to newt movement. The Newt Officer concludes the summary of the report with the potential low potential risk of impacts and legal offences as a result of the proposed development and would not significantly impact the local distribution of the species.

8.9.5. An Ecological Mitigation and Enhancement Scheme is presented as compensatory measures. The Ecological Advisor has no objection to the proposal subject to the imposition of conditions to secure the Ecological Mitigation and Enhancement Schemes and to control external lighting. The proposal would accord with Policy SD9 of the JCS together with the emerging Policies NAT1 and NAT3 of the PSTBLP. It is therefore considered that the application is acceptable in relation to ecological impacts.

## **8.10. Access and Highway Safety**

8.10.1. The NPPF sets out 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. Policy INF1 of the JCS considers that developers provide safe and efficient access to the highway network and permission be granted only where the impact of the development is considered not to be severe. It further states that safe and efficient access to the highway network should be provided for all transport means.

8.10.2. Emerging Policy RES5 of the PSTBP states that proposals for new housing development should 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. Emerging Policy TRAC9 of the PSTBP states that proposals need to make provision for appropriate parking and access arrangements.

- 8.10.3. The application is accompanied by a Transport Technical Note by Cotswold Transport Planning. The Technical Note provides access visibility plans and swept path analysis. The access splays indicates that eastbound traffic 85 percentile speeds are at 27.1 mph, with westbound traffic averaging 26.4 mph. The required visibility splays of 40.5m and 39m respectively, which can be achieved without causing undue landscape harm.
- 8.10.4. The Local Highways Authority have been consulted on the application and raise no objection subject to the imposition of conditions relating to the necessary provision of visibility splays, inclusion of electric vehicle charging point in order to encourage sustainable transport, set back of gates from the edge of the carriageway and to ensure that the driveway is surfaced in a bound material.
- 8.10.5. Concerns have been raised by objectors regarding the safety of the access and the increased vehicular movements from the access. The Local Highways Authority has undertaken a robust assessment and analysis of the information submitted within the Transport Technical Note. The Local Highways Authority concludes that there would not be an unacceptable impact on highway safety or a severe impact on congestion. On this basis there is no justifiable grounds to warrant a refusal on the basis of highway safety.
- 8.10.6. As such, officers consider that the proposal is compliant with Policy INF1 and emerging Policies RES5 and TRAC9 of the PSTBLP and thus the proposal is acceptable on access and highway safety grounds.

## **8.11 Impact on the PROW**

- 8.11.1 A Public Right of Way (PROW) runs perpendicular through the application site. The development cannot be carried out without affecting this PROW. There is a Section 257 footpath diversion application pending. For clarification any grant of planning permission does not entitle developers to obstruct the existing PROW.
- 8.11.2 However, it is material consideration in that should the footway not be able to be diverted. It is unnecessary to seek a condition that the order is completed prior to the development commencing as it duplicates the statutory procedure. The revised block plan indicates that the proposed diverted footpath would run along the western boundary of the site with the neighbouring property at Laurel Cottage. Given that the PiP was approved which would have resulted in a footpath diversion, together with the previous PROW Officer response of no objection at that time, it is considered that the proposal would be acceptable.

## **8.12 Drainage and Flood Risk**

- 8.12.1 Policy INF2 of the JCS and Emerging Policy ENV2 of the PSTBLP sets out that development proposals must avoid areas at risk of flooding. Proposals must not increase the level of risk to the safety or occupiers of a site, the local community or the wider environment either on the site or elsewhere.
- 8.12.2 The site falls within Flood Zone 1 as shown on the Environment Agency's indicative flood map indicating that it has a low probability of river or sea flooding. The EA's

updated Flood Map for Surface Water identifies part of the site as having either a very low or low risk of surface water flooding.

8.12.3 Concerns have been received in relation to the risk of flooding. Surface water runs off dwellings on higher ground into the gardens of dwellings on lower ground in the area.

8.12.4 The accompanying Drainage Statement, sets out that the dwelling would have a permeable driveway discharging stormwater directly to ground as per existing. The new positive stormwater drainage system will flow to the north east of the proposed dwelling boundary to a new 'Wavin Aquacell' (or similar) crate soakaway. Soakaway testing and infiltration rates are provided.

8.12.5 In regards to foul water drainage, the hierarchy of foul drainage disposal in the Planning Practice Guidance is to the public sewerage system, when that is not available a private treatment plant. There are no public assets and thus it is proposed to drain foul water to an on-site wastewater treatment plant before discharge to a drainage field.

8.12.6 The Lead Local Flood Authority have been consulted on this application and advises that the information submitted is suitable and that there is no need for a drainage condition to be applied to against any grant of permission.

8.12.7 As such it is considered that the proposal would accord with Policy INF2 of the JCS and Emerging Policy ENV2 of the PSTBLP.

### **8.13 Community Infrastructure Levy (CIL)**

8.13.1 The development is CIL liable because it creates a new dwelling. The relevant CIL forms have been submitted.

### **8.14 Other Matters**

#### **Pre-Commencement Conditions**

8.14.1 The recommendation below includes the use of pre-commencement conditions for the submission and agreement of a landscaping scheme and biodiversity enhancement together with pre-occupation highways conditions and controlling conditions to the Local Planning Authority prior to the commencement of development. The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 provide that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the agent to the terms of the condition. In this instance, the Agent has been notified in writing.

## **9.0 Conclusions**

9.1 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.

- 9.2 On the basis the Council cannot at this time demonstrate a five year supply of deliverable housing land, the Council's policies for the supply of housing are out of date. In accordance with paragraph 11 of the NPPF, the presumption in favour of sustainable development indicates that permission should be granted unless policies for protecting areas of assets of particular importance in the NPPF provide a clear reason for refusing the development proposed, or any adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
- 9.3 Whilst the benefit derived from the development would be a contribution towards the housing shortfall, albeit in a small way, towards providing housing in the Borough. Having regard to those policies of the development plan, no harms have been identified in respect of the proposal. Subject to appropriate conditions, the development would not give rise to unacceptable impacts in regards to ecology, trees, flood risk and drainage, highway safety, residential and visual amenity.
- 9.4 It is therefore considered that the proposed development would constitute sustainable development in the context of the NPPF as a whole and it is therefore recommended that planning permission is PERMITTED subject to the conditions set out below.

## **CONDITIONS & REASON**

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:

Drainage Statement CTP-20-625, Cotswold Transport Planning received by the Local Planning Authority dated 29<sup>th</sup> March 2021

Ecological Impact Assessment, Swift Ecology received by the Local Authority dated 29<sup>th</sup> March 2021

BMS21.01-01 Location Plan received by the Local Planning Authority dated 29<sup>th</sup> March 2021

PLS382 Topographical Survey received by the Local Planning Authority dated 9<sup>th</sup> April 2021

BMS21.01-03 Proposed Floor Plans received by the Local Planning Authority dated 29<sup>th</sup> March 2021

BMS21.01-04 Proposed Elevations received by the Local Planning Authority dated 29<sup>th</sup> March 2021

BMS21.01-05 Proposed Garage Plan & Elevations received by the Local Planning Authority dated 29<sup>th</sup> March 2021

BMS21.01-SK10 Street Elevation received by the Local Planning Authority dated 13<sup>th</sup> August 2021

BMS21.01-02 Rev A Proposed Site Layout received by the Local Planning Authority dated 13<sup>th</sup> August 2021

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 proposed dwelling will be constructed out of Ibstock 'Beamish Blend 65mm'



under Redland 'Medium Mixed Brindle' roof tile featuring Siberian Larch cladding to front with uPVC Grained Effect windows in 'Anthracite Grey' unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to ensure the satisfactory appearance of the development in relation to the rural landscape character and to safeguard the visual amenities of the area.

4. No development shall take place until details of the existing and proposed levels across the site and relative to adjoining land, together with the finished floor levels of the dwelling hereby permitted, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to ensure the satisfactory appearance of the development within the rural context.

5. All works shall strictly adhere to the mitigation detailed within the Ecological Impact Assessment (Swift Ecology, January 2021) and Updated survey (Swift Ecology, June 2021) including but not limited to the Reasonable Avoidance Measures (RAMs) for GCN, sensitive timing of works and safety measures on site during development in order to safeguard wildlife.

Reason: In order to protect any protected species on the site.

6. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details specified in the Tree Removal & Retention Plan Drawing Number: 210325-MC-TRRP-NB&AM contained within the Tree Report dated March 2021 before any development including demolition, site clearance, materials delivery or erection of site buildings, starts on the site. The approved tree protection measures shall remain in place until the completion of development or unless otherwise agreed in writing with the Local Planning Authority. Excavations of any kind, alterations in soil levels, storage of any materials, soil, equipment, fuel, machinery or plant, site compounds, latrines, vehicle parking and delivery areas, fires and any other activities liable to be harmful to trees and hedgerows are prohibited within any fenced area, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure adequate protection measures for existing trees/hedgerows to be retained, in the interests of visual amenity and the character and appearance of the area.

7. Prior to the commencement of the development, a plan detailing the location and specification of the ecological enhancements including but not limited to hedgerow enhancements, new native planting, bat and bird boxes recommended in the Ecological Impact Assessment (Swift Ecology, January 2021) and Updated Survey (Swift Ecology, June 2021) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To provide adequate biodiversity enhancements and ensure the protection of habitats.

8. Development shall not begin until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4m back from the near side edge of the adjoining carriageway (measured perpendicularly), for a distance of 36.6m to the east and 38.1m to the west measured along the nearside edge of the adjoining carriageway and offset a distance of 1 no. metres from the edge of the carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area

of the land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety.

9. Prior to occupation of the development hereby approved, a plan shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatments to be erected, which include details to allow the continuous movement of wildlife through the site. The boundary treatments shall be completed in accordance with the approved details and maintained in that condition at all times

Reason: To safeguard the visual amenity of the area and ensure the development has regard to biodiversity.

10. Prior to the occupation of the development hereby permitted, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall clearly demonstrate that lighting will not cause excessive light pollution or disturb or prevent bat species using key corridors, forage habitat features or accessing roost sites (to be informed by results of bat activity surveys). The details shall include, but not limited to, the following:

- i. A drawing showing sensitive areas and/or dark corridor safeguarding areas
- ii. Description, design or specification of external lighting to be installed including shields, cowls or blinds where appropriate.
- iii. A description of the luminosity of lights and their light colour including a lux contour map
- iv. A drawing(s) showing the location and where appropriate the elevation of the light fixings.
- v. Methods to control lighting control (e.g. timer operation, passive infrared sensor (PIR)).

All external lighting shall be installed in accordance with the specifications and locations set out in the approved details. These shall be maintained thereafter in accordance with these details. Under no circumstances shall any other external lighting be installed.

Reason: In order to protect ecology and biodiversity.

11. The development hereby permitted shall not be first occupied until the proposed dwelling has been fitted with one electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and Manual of Gloucestershire Streets. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point shall be of the same specification or a higher specification in terms of charging performance.

Reason: To promote sustainable travel and healthy communities.

12. Prior to the occupation of the development, the area of driveway within at least 5.0m of the carriageway edge of the public road shall be surfaced and thereafter maintained in a bound material.

Reason: In the interests of highway safety.

13. The trees/hedgerows to be removed as specified in Paragraph 4.4 of the Tree Removal and Retention Plan contained within the Tree report dated March 2021 shall be replaced during the first planting season following removal, by trees/hedgerows of a species, size and

in locations that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity, the character and appearance of the area and biodiversity.

14. All planting, seeding, or turfing in the approved details of landscaping for the residential development shall be carried out in the first planting and seeding season following the occupation of the respective building(s) or completion of the respective developments, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall 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.

Reason: In the interests of visual amenity, the character and appearance of the area and biodiversity.

15. The vehicular access shall be laid out and constructed with any gates situated at least 5.0m back from the carriageway edge of the public road and hung so as not to open outwards towards the public highway and shall be maintained thereafter.

Reason: In the interest of highway safety and to ensure that vehicles are able to pull clear for the adopted highway and avoid becoming an obstruction to oncoming traffic.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any other subsequent equivalent order, no development within the following classes of development shall be carried out to the new dwellings hereby approved, without the prior approval of the Local Planning Authority:

- a. Schedule 2, Part 1, Class A - enlargement, improvement or other alterations
- b. Schedule 2 Class AA - enlargement of a dwellinghouse by construction of additional storeys
- c. Schedule 2, Part 20, Class AD - new dwellinghouses on detached buildings in use as dwellinghouses.
- d. Schedule 2, Part 1, Class B - addition or alteration to the roof
- e. Schedule 2, Part 1, Class C - any other alteration to the roof
- f. Schedule 2, Part 1, Class E - garden buildings, enclosures, pool, oil or gas storage container.
- g. Schedule 2, Part 2, Class A - gate, wall, fence or other means of enclosure
- h. Schedule 2, Part 2, Class B - means of access

Reason: To enable the Local Planning Authority to safeguard the visual amenity of the rural landscape character and ensure that development is compliant with small-scale rural development in accordance with emerging Policy RES4.

### **Informative**

1. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

2. The grant of planning permission does not entitle developers to obstruct a public right of way. The diversion or stopping up of footpaths, bridleways and restricted byways is a

separate process which must be carried out before the paths are affected by the development. It cannot be assumed that because planning permission has been granted that an Order under section 257 will invariably be made or confirmed. Development, in so far as it affects a right of way, must not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect.

3. All wild birds are protected under the Wildlife and Countryside Act 1981 (as amended) while they are breeding. Works to any trees, hedgerows and scrub which are to be removed or pruned should be carried out on site outside of the bird breeding season which runs from 1<sup>st</sup> March and 31<sup>st</sup> August inclusive.