

# TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

<b>Committee:</b>	Planning
<b>Date:</b>	19 October 2021
<b>Site Location:</b>	Land Adjacent To The Bungalow Down Hatherley Lane Down Hatherley
<b>Application No:</b>	20/01179/FUL
<b>Ward:</b>	Severn Vale South
<b>Parish:</b>	Down Hatherley
<b>Proposal:</b>	Erection of two single storey dwellings
<b>Report by:</b>	Victoria Stone
<b>Appendices:</b>	Existing and Proposed Location Plan Site Plan as Proposed Floor Plans and Elevations as Proposed Inner Elevations and Garage Elevations as Proposed Landscaping Plan and Materials Schedule
<b>Recommendation:</b>	Permit

## 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 This application relates to a parcel of land associated with a property known as 'The Bungalow', which is located in a set-back position off Down Hatherley Lane (**see attached Location Plan**). The Bungalow is accessed via a private driveway from Down Hatherley Lane although there is a secondary gated access off Ash Lane.
- 1.2 The site is generally level, covers approximately 0.21 hectares (excluding Ash Lane) and laid to grass. The eastern boundary is formed by post and rail fencing, the southern boundary is formed by post and wire fencing. The northern boundary is currently open.
- 1.3 The site is not subject to any formal landscape designation but is located in an area of safeguarded land.
- 1.4 This application is submitted in full and seeks permission for the construction of a pair of semi-detached bungalows. Vehicular access to the development would be via the existing access off Ash Lane. Each property would benefit from at least two off-road parking spaces. In addition, one of the proposed dwellings would have an integral garage, while the other would benefit from a detached garage.
- 1.5 Permission in principle (PIP) was granted in May 2020 on the southern part of the site for the erection of a single dwelling, planning reference 20/00233/PIP. In doing so, the PIP established that the site subject to that application was suitable in principle for the erection of a single dwelling.

**1.6** Since the application was first submitted, the proposal has been subject to revisions to address concerns raised by officers which include a reduction in the site area and a subsequent reduction in the number of dwellings proposed from five to two. The revised site area is now the same as the site for the approved Permission in Principle; the proposed development under this application would not extend beyond the site already approved for housing development, albeit for one dwelling. A new notification and consultation period has been carried out.

## **2.0 RELEVANT PLANNING HISTORY**

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
20/00233/PIP	Erection of 1 No. infill dwelling.	PERMIT	28.05.2020

## **3.0 RELEVANT POLICY**

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

### **3.1 National guidance**

National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) and National Design Guide (NDG)

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

- Policy SP2 (Distribution of New Development)
- Policy SD3 (Sustainable Design and Construction)
- Policy SD4 (Design Requirements)
- Policy SD5 (Green Belt)
- Policy SD6 (Landscape)
- Policy SD9 (Biodiversity and Geodiversity)
- Policy SD10 (Residential Development)
- Policy SD14 (Health and Environmental Quality)
- Policy INF1 (Transport Network)
- Policy INF2 (Flood Risk Management)

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

- Policy RES4 (New Housing at other Rural Settlements)
- Policy RES5 (New Housing Development)
- Policy DES1 (Housing Space Standards)
- Policy ENV2 (Flood Risk and Water Management)
- Policy TRAC9 (Parking Provision)

### **3.4 Neighbourhood Plan**

Down Hatherley, Norton and Twigworth Neighbourhood Development Plan – 2011-2031

### **3.5 Other relevant policy**

- 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**

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

**4.1 Down Hatherley Parish Council** – The Parish Council are opposed to this application, as they were for the original PIP application for one dwelling and the original proposal for five dwellings. Although the numbers have been reduced to two, the arguments against the approval are as valid as ever. The Parish Council have also highlighted that since the previous comments were drafted, there has been a Resident's Petition against any further development on Ash Lane. The reasons for opposing the development are summarised below:

- No evidence to justify the additional dwellings.
- Over-development of the plot and Ash Lane.
- Any development on this site would not accord with the NDP.
- Drainage/sewerage infrastructure unable to cope with additional demand – adding more dwellings would add greater burden to an already broken system.
- Plot sits within an area designated under the JCS as Safeguarded Land – development cannot be approved without the specific support of a JCS Review.
- Development does not meet the criteria for 'very special circumstances'.
- Proposal would not represent infill development as the plot lies behind the linear street in a residential garden forming part of the open space which helps to promote the semi-rural nature of the local environment.

- The proposal would fail to maintain the rural character of the settlement.
- Parish Council does not support the concept of sub-dividing a planning unit.
- Cramming in unnecessary development to the detriment of the local environment.

**4.2 County Highway Authority** - No objection subject to conditions.

**4.3 Severn Trent** - No objections subject to a condition requiring details of the drainage plans for the disposal of foul and surface water flows.

**4.4 Flood Risk and Management Officer** - No objection.

**4.5 Ecological Advisor** - No objection.

**4.6 Urban Design Officer** – The revised proposal has addressed most of the concerns raised with the original proposal.

**4.7 Environmental Health Officer (Air Quality)** - No adverse comments with regard to air quality.

**4.8 Environmental Health Officer (Noise/Nuisance)** – No objection or adverse comments to make in relation to noise.

## **5.0 PUBLICITY AND REPRESENTATIONS**

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

**5.1** The receipt of amended plans has been publicised through the posting of a site notice for a period of 14 days. Ten representations objecting to the revised proposal have been received. The comments are summarised below:

- Exacerbate existing flooding issues along Ash Lane.
- Inadequate drainage/flood management.
- Foul sewerage infrastructure not fit for purpose – this is exacerbated by the piecemeal approach to planning and development on Ash Lane.
- Land suffers from surface water flooding.
- Too close to the pumping station access.
- Area should remain safeguarded land – it should not be built on.
- Development would not be infill.
- Development would be contrary to the NDP.
- Proposal would not protect the Green Belt.
- Development would fail to maintain the rural character of the settlement.

- Adverse impact upon neighbouring amenity.
- Insufficient parking spaces on site which will cause overflow parking along Ash Lane.
- Increased traffic movement along Ash Lane will compromise highway safety and the surrounding highway network.
- Access should be directly onto Down Hatherley Lane or the A38 in accordance with the JCS.
- Semi-detached dwellings not in keeping with the house types on Ash Lane (detached).
- Denser housing would not respect settlement pattern along Ash Lane.
- Impact upon ecology.
- Increase noise levels.
- Impact upon nature, ecology, and flow of water.
- Poor air quality – site smells.
- No legal access to use Ash Lane.
- Lead to further development on land surrounding the site.
- Ash Lane residents presented a petition with 165 signatures to the Council in June 2021 which raised concerns with overdevelopment on the Lane and the pressure that this was putting on the infrastructure including the high risk of flooding.
- Severn Trent require access to the pumping station – development would prevent this.
- Sewer pipe running under the proposed development – concerned building works will damage the pipe.

**5.2** In addition, the original application was publicised through the posting of a site notice for a period of 21 days. Thirty-four representations of objection and two general comments were received.

The objections are summarised below:

- No further development is needed along Ash Lane.
- Development would exacerbate existing drainage/flooding issues experienced locally – there is a very significant problem with drainage and sewage on Ash Lane.
- Proposed drainage scheme not acceptable – use of soakaways not suitable.
- Recent piecemeal development along Ash Lane needs to be seen as having a collective impact upon existing infrastructure – further piecemeal additions should not be permitted.
- Contrary to planning policy – NPD states no development for Down Hatherley and the land is safeguarded.

- JCS states access to any development need to be directly onto Down Hatherley Lane or the A38 not Ash Lane.
- Development by default is major due to other permissions along Ash Lane – as such will avoid the obligation of developer contributions towards social housing and local infrastructure.
- Increase in additional houses along Ash Lane – if all schemes are permitted this would result in an increase of over 55%.
- Ash Lane not designed to take the additional traffic generation and offers no safe passage for pedestrians.
- Insufficient parking spaces proposed.
- Construction vehicles would damage Ash Lane.
- Visibility splays not achievable.
- Development would impact on the tranquillity of the area.
- Loss of habitat for local wildlife.
- The land subject to the application is not a 'garden'.
- Layout would be out-of-keeping with the local environment, properties behind the built line along Ash Lane.
- Development would not be infill.
- Access required for the Severn Trent pumping station.
- Area was once semi-rural and greenbelt – the surrounding area has fundamentally changed the nature of the location.
- Harmful impact upon residential amenity – loss of privacy.

The general comments are summarised below:

- Some of the information set out by the objectors is not correct – only a small number of properties were affected by flooding/sewerage overflow.
- Ash Lane has been subject to construction upgrades and is still in excellent condition.
- Severn Trent commented that the pumping station were not saturation of their system.
- Ask for a hedge to be planted on the eastern boundary to prevent any overlooking.

## **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 16 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.
- 6.5** Other material policy considerations include national planning guidance contained within the National Planning Policy Framework 2021 and the Tewkesbury Borough Plan 2011-2031 Pre-Submission Version (October 2019).

## **7.0 ANALYSIS**

### **Principle of development**

#### *Joint Core Strategy*

- 7.1** In order to further sustainability objectives and in the interests of protecting the countryside, the housing policies of the JCS set out a development strategy for the Borough.
- 7.2** The application site has not been allocated for housing in the JCS and therefore the criterion of Policy SD10 of the JCS applies. This policy advises that housing on sites which are not allocated for housing in district and neighbourhood plans will be permitted if it meets certain limited exceptions.
- 7.3** Of relevance is Criterion 4 (ii). This criterion states that development will only be permitted where it is infilling within the existing built-up areas 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. For the purposes of criterion 4(ii), the supporting text defines 'infill development' as "the development of an under-developed plot well related to existing built development."

- 7.4** The site is set back from the established building line of the properties which front onto Ash Lane. However, given the nature of the site, any dwelling would relate reasonably well to the existing properties along Ash Lane and the cluster of properties along Down Hatherley Lane, including the host dwelling, The Bungalow. In this respect the proposed dwellings would not extend beyond land associated with the properties along Down Hatherley Lane; neither would the dwellings extend beyond the established line of the gardens of the properties along Ash Lane. As such, it is considered that the development would be seen within the context of existing built form and would not appear divorced from the settlement. The proposal is therefore considered to represent infilling in the context of SD10.

*Neighbourhood Development Plan*

- 7.5** In response to the Parish Council's concerns that the proposal would be contrary to the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan 2011-2031 (NDP), there are no direct policies that relate to the provision of new housing in the Down Hatherley Parish. The NDP explains that no new housing growth is planned in Down Hatherley Parish and therefore no settlement boundaries are defined. It goes on to state that given the poor sustainability and the Green Belt designation over the majority of the Parish, it is not necessary for the NDP to replicate the national and Development Plan policies that preclude new housing development in the area. Similarly, in respect of landscape protection, whilst Policy E2 lists a number of vistas and landscape features to be protected, the policy reverts to the strategic policies of the JCS in respect of the protection of the landscape, ecology and water environment. Consequently, there is not considered to be any direct policy conflict with the NDP.

*Emerging Tewkesbury Borough Plan*

- 7.6** In terms of the Pre-Submission Tewkesbury Borough Plan 2011-2031 ("the emerging TBP") the application site has not been allocated for housing and Down Hatherley is not featured within the settlement hierarchy. However, Policy RES4 of the emerging TBP sets out 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, subject to the development complying with a number of criteria. For the reasons set out above, it is considered that the proposal would relate reasonably well to existing building and would be proportionate to the size and function of the settlement.

*Safeguarded Land*

- 7.7** The application site was removed from the designated Green Belt as part of the boundary review during the adoption of the JCS and now forms part of the wider 'safeguarded land'. The new boundaries identified on the Green Belt map have taken into account longer-term need by identifying safeguarded land which may be required beyond the JCS plan period to ensure that the Green Belt does not need an early review. Criterion 7 (iv) of Policy SD5 of the JCS sets out that safeguarded areas are not allocated for development at the present time and planning permission for the permanent development of safeguarded land (except for uses that would not be deemed inappropriate within the Green Belt) will only be granted if a future review of the JCS deems the release of the land necessary and appropriate and proposes the development.



- 7.8** Given the above policy provision, it is necessary to first establish whether the development would not be deemed inappropriate within the Green Belt. Policy SD5 of the JCS sets out that, to ensure the Green Belt continues to serve its key functions, it will be protected from harmful development. Within its boundaries, development will be restricted to those limited types of development which are deemed appropriate by the NPPF, unless it can be demonstrated that very special circumstances exist to outweigh the harm automatically caused to the Green Belt by virtue of the development being inappropriate and any other harm actually caused.
- 7.9** The NPPF provides that, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF provides that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 7.10** Paragraph 149 of the NPPF sets out that the construction of new buildings in the Green Belt is inappropriate other than for a number of exceptions. One such exception (e) listed is limited infilling in villages.
- 7.11** The NPPF does not provide a definition of either what constitutes a "village" or "limited infilling". Likewise, Policy SD5 of the JCS similarly does not provide a definition in this context therefore a degree of judgement is necessary. In terms of whether Down Hatherley is a village, previous decisions in the immediate vicinity of the site have established that the settlement is considered to constitute a village in this context. In terms of 'limited infilling' whilst it is considered that the proposal would represent infilling in the context of Policy SD10, it does not necessarily follow that it represents infilling in a Green Belt context. Recent case law has established that it is necessary to consider whether, as a matter of fact on the ground, a site appears to be within a village and whether or not a site lies outside a village boundary as designated in a development plan should not be determinative of the point. In this instance, whilst the proposal would be reasonably well related to existing built development the application site is predominantly open to the east and part of the south and there is no real sense of enclosure from existing built development. Moreover, the proposal would not fill in any form of existing gap. It is therefore considered that the proposal would not represent infilling in a Green Belt context.
- 7.12** Given the above, as the application site has not been released for development to date and the proposal would be deemed inappropriate within the Green Belt context the development would be contrary to criterion 7iv of Policy SD5 of the JCS.

**7.13** However, it is worth considering whether the release of this parcel of land would prejudice the proper development of the safeguarded area when the land is eventually released. Criterion 7 (v) of Policy SD5 of the JCS sets out should any land be released in the safeguarded areas, development proposals would be assessed against the following criteria:

- Development must be well-integrated and planned as part of any urban extension of strategic scale, directly and substantially physically linked to the urban area of Cheltenham or Gloucester.
- Development must be well-related to public transport and other existing and planned infrastructure and where it makes a positive contribution to the setting of Cheltenham or Gloucester.
- Development must not lead to a piecemeal, isolated or inefficient use of land in this area.

In this case, given the scale of the proposed development, the proximity of the site to the existing properties in Ash Lane, and the intervening land to the east, which is in multiple ownership, it is difficult to see how the proposal would prejudice the purpose of the safeguarded area.

#### *Five Year Housing Land Supply*

**7.14** 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. The presumption is therefore that permission should be granted unless policies for protecting assets of particular importance provides a clear reason for refusing the development or any adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This will be assessed below.

**7.15** Members will be aware of the recent appeal decision at Ashmead Drive in which the Inspector concluded that the Council can demonstrate a 1.82 year supply. This is principally because the Inspector did not agree that 'previous oversupply', or 'advanced delivery' should be taken into account when calculating the five year supply. Appeal decisions are not binding precedents and officers are aware that other Inspectors have taken a different approach to previous advanced delivery/oversupply. Officers' firm view remains 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. On that basis, the Council have come to the view that there are robust grounds for a successful challenge and proceedings have now been issued in the High Court. Officer's advice is therefore that a 4.35 year supply can be demonstrated at this time.

- 7.16** Nevertheless, as set out above, as the Council cannot demonstrate a five year supply of deliverable housing sites, the presumption in favour of sustainable development is engaged in this case.

### **Access and Highway Safety**

- 7.17** The NPPF sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Further, development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development are severe. Policy TRAC9 of the emerging TBP state that proposals need to make provision for appropriate parking and access arrangements.
- 7.18** It is proposed to use an existing field access off Ash Lane to provide vehicular access to the site. In respect to the internal layout, each dwelling would be provided with sufficient off-road parking spaces with sufficient space within the application site for turning and manoeuvring in order to allow vehicles to enter the highway in a forward gear.
- 7.19** Gloucestershire County Council as Local Highway Authority (LHA) have been consulted and have raised no objections, subject to a number of conditions.
- 7.20** A number of local residents have raised concerns regarding the private nature of Ash Lane and rights of access. However, this is a civil matter and outside the scope of this application.

### **Design and Layout**

- 7.21** Section 12 of the NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It continues by stating that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning decisions should, amongst other things, ensure that developments will function well and add to the overall quality of the area and should be sympathetic to the local character, including the surrounding built environment. This is echoed in JCS policy SD4 and emerging policy RES5 of the Pre-submission Tewkesbury Borough Plan (2019) which states new development should respond positively to, and respect the character of, the site and its surroundings, enhance local distinctiveness and the grain of the locality.
- 7.22** The site forms part of the land associated with The Bungalow. The application site is described as garden land and is continuous with the substantial land that surrounds the property. Whilst the site may not represent the residential curtilage of The Bungalow, it has a well-kept appearance and has likely been used in incidental to the enjoyment of the residential property.
- 7.23** The application proposes a pair of semi-detached bungalows of a traditional design. The properties would demonstrate a simple shape and form. The dwellings would be constructed out of bricks (Weinerberger Terca Kempley Antique) and tiles (Marley Modern Interlocking Concrete in Smooth Grey). Ash Lane predominantly consists of bungalows and the host dwelling is also a bungalow and as such the design approach and the materials proposed to be used is considered acceptable.

- 7.24** The proposed dwellings would be arranged in a linear layout sited to the south-east of the host dwelling, The Bungalow. The properties would benefit from a front garden area and a private rear garden. It is noted that the properties along Ash Lane are detached however the introduction of a pair of semi-detached properties would not be harmful given there are other semi-detached properties within Down Hatherley and as it would help add some variety of house types in the locality. There is no dispute that the site is set back from the established building line of the properties that front onto Ash Lane and is essentially back-land development. However, as set out previously, the dwellings would relate reasonably well to the existing properties along Ash Lane and the cluster of properties along Down Hatherley Lane, including the host dwelling. In this respect the dwellings would not extend beyond land associated with the properties along Down Hatherley Lane and beyond the established gardens of the properties along Ash Lane. As such, it is considered that the development would be seen within the context of existing built form and would not appear divorced from the settlement.
- 7.25** As mentioned in paragraph 1.6 the proposed dwelling would be located within the same site area as the extant Permission in Principle (PIP), planning reference 20/00233/PIP. As such the location and size of the site has been accepted as being suitable for housing development. Whilst the approved PIP was for one dwelling, no details of how the site could be developed was required to be submitted as part of the PIP application. Given the size of the site it's not unreasonable to conceive that a similar sized dwelling could have come forward under the Technical Consent.
- 7.26** In light of the above, the site is considered capable of accommodating this level of development without appearing cramped and without detriment to the prevailing settlement pattern and therefore no objections are raised in respect of the design and layout. The proposal is considered to accord with JCS Policy SD4 and guidance set out in the NPPF and NDG in this regard.

### **Drainage and Flooding**

- 7.27** The NPPF states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Policy INF2 of the JCS seeks to prevent development that would be at risk of flooding. Proposals must avoid areas at risk of flooding and must not increase the level of risk to the safety of occupiers of a site and that the risk of flooding should be minimised by providing resilience and taking into account climate change.
- 7.28** The site is located within Flood Zone 1, an area identified by the Environment Agency at a low risk of flooding from rivers and the sea.
- 7.29** In terms of the surface water drainage strategy, it is proposed that roof runoff is conveyed by pipes to a private geo-cellular 'crate' soakaway in the back garden of each plot, and runoff from the driveways will infiltrate at source through a permeable surfacing material with a granular sub-base storage layer underneath. The Council's Flood Risk and Management Officer has considered the proposed drainage strategy and has no objection.

- 7.30** In terms of foul water disposal, it is proposed to discharge to the public main sewer. Severn Trent Water (STW) have been consulted as the relevant statutory undertaker for foul sewerage in the area and have raised no objections subject to a condition requiring the specific foul water drainage details is recommended. A Drainage Plan has been submitted as part of the application therefore this plan has been forwarded to STW to establish whether a condition is required given the detail on the plan. **An update will be provided at Planning Committee.**
- 7.31** There is a Sewage Pumping Station (SPS) close to the site. STW have confirmed that any new development must not restrict access to the SPS. An informative note is recommended to set out this out. Further to this, STW have advised that due to the close proximity of the proposed new development to the SPS the occupants may experience noise and/or smell pollution. In order to minimise the disruption to any future occupants, STW recommend that all habitable buildings are constructed 15 metres from the curtilage of the SPS compound. The proposed dwellings would be located more than 15 metres of the curtilage of the SPS compound therefore the development could be accommodated on site without unacceptable harm to the future occupier's amenity, in terms of noise and smell. The Council's Environmental Health Officers have raised no objection in this respect.
- 7.32** The comments from the Parish Council and local residents regarding the drainage/flooding issues experienced along Ash Lane are noted. As mentioned above the Council's Flood Risk and Management Officer has assessed the proposed drainage strategy and has raised no objections to the proposal and therefore on that basis it is considered the proposed development should not cause or exacerbate flooding on the site or elsewhere.

### **Residential Amenity**

- 7.33** In respect of the impact of the development upon residential amenity, paragraph 127 of the NPPF specifies that planning decisions should ensure development creates places with a high standard of amenity for existing and future users. This advice is reflected in JCS policies SD4 and SD14 which require development to enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space. Development should have no detrimental impact on the amenity of existing or new residents or occupants.
- 7.34** Based on the linear position, the satisfactory separation distance between the proposed dwellings and neighbouring properties and as the proposed dwellings would be single storey the new dwellings would be able to be accommodated on the site without unacceptable harm to neighbouring amenity.
- 7.35** On this basis, it is considered the proposed development would result in acceptable levels of amenity being maintained for the existing residents surrounding the site and secured for future residents of the development.

## **Ecology**

- 7.36** The NPPF sets out, inter alia, that when determining planning applications, Local Planning Authorities should aim to conserve and enhance biodiversity by encouraging opportunities to incorporate biodiversity in and around developments, especially where this can secure measurable gains for biodiversity. Policy SD9 of the JCS seeks to protect and, wherever possible enhance biodiversity, including wildlife and habitats. Policy NAT1 of the emerging NAT1 states that development proposals that will conserve, and where possible restore and/or enhance, biodiversity will be permitted.
- 7.37** An Ecological Assessment (EA) accompanies the application. This identified that the habitats present on site are of low to negligible ecological value in terms of their vegetation and have limited potential to support nesting birds, foraging bats, invertebrates and small mammals. The potential for the site to support amphibians was considered low; however, Great Crested Newts are known to be present in the local area and precautionary methods of working are advised. The EA has been reviewed by the Council's Ecology Advisor who has raised no objections subject to conditions.

## **Other Matters**

- 7.38** Comments have been received from local residents about the piecemeal approach of development in area and about the 'phased' future development of land immediately to the north and east of the current application site. Should any future application come forward for the development of this parcel of land consideration will be given as to whether affordable housing would be required, in accordance with policy SD12 of the JCS. This policy sets out that where a development site has been divided into parts, or is being delivered in phases, the site will be considered as a whole for the purpose of determining the appropriate affordable housing requirement, though this will be dependent on the circumstances of the application.
- 7.39** Concerns have also been raised that the appropriate notices have not been served on all interested parties. Officers contacted the agent for the application who confirmed notices were served to those listed on the Ownership Certificate.

## **8.0 CONCLUSION AND RECOMMENDATION**

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

8.2 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. As the application site is not within the designated Green Belt there are no clear reasons for refusal arising from NPPF policies for the protection of areas or assets of particular importance in this case and therefore, it is clear that the decision-making process for the determination of this application is to assess whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

### ***Benefits***

8.3 The development would contribute towards the supply of housing to help meet the objectively assessed need for housing in the Borough, albeit in a limited way given the scale of the proposed development. However, given the fact that the Council cannot currently demonstrate a deliverable supply of housing, this weighs in favour of the application.

8.4 In terms of economic benefits, as with any new residential development, the construction of new dwellings brings benefits during the construction phase and following construction through additional spending power in the local economy as a result of the increased population. Again, this would be a modest benefit.

### ***Harms***

8.5 The application site is located within a safeguarded area and therefore as the land has not been released for future development and because the development would be deemed inappropriate within the Green Belt the proposal would conflict with Policy SD5 of the JCS. However, the site is no longer within a Green Belt and therefore the application of policies in the NPPF that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed.

### ***Neutral***

8.6 The design and layout of the proposed development is considered acceptable.

8.7 The proposal, should subject to satisfactory details and the imposition of appropriate planning conditions, be acceptable in regard to highway safety and ecological impact.

8.8 There should be no undue impact in terms of residential amenity.

### ***Overall conclusion***

8.9 The harm by virtue of the conflict with Policy SD5 of the JCS is not underestimated. However, when taking account of all the material considerations, which includes the fact that this site benefits from a Permission in Principle for one dwelling, it is considered that the identified harm would not significantly and demonstrably outweigh the benefits in the overall planning balance.

**8.10** It is therefore considered that the proposed development would constitute sustainable development in the context of the NPPF as a whole and the recommendation is to **Permit** the application, subject to the conditions below.

**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. Unless where required or allowed by other conditions attached to this permission/consent, the development hereby approved shall be carried out in accordance with the information provided on the application form and the following plans/drawings/documents:

- 22031/12B - Existing and Proposed Location Plans
- 22031/13 – Site Plan as Proposed
- 22031/14 – Floor Plans & Elevations as Proposed
- 22031/15 – Inner Elevations and Garage Elevations as Proposed
- 22031/16 – Drainage Plan as Proposed
- 22031/17 – Landscaping Plan & Materials Schedule as Proposed
- 22031/18 – Construction Management Plan

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

3. The construction of the external surfaces of the dwellings hereby approved shall be carried out in accordance with the materials as detailed in the Building Material Schedule as shown on the approved drawing no.22031/017(Landscaping Plan & Materials Schedule as Proposed).

Reason: To ensure the new materials are in keeping with the surroundings and represent quality design.

4. All soft and hard landscaping of the site shall be carried out in accordance with the approved landscape scheme as demonstrated on the approved drawing no.22031/17 (Landscaping Plan & Materials Schedule as Proposed).

The hard landscaping of the site shall be completed before any dwelling hereby permitted is first occupied.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing season following the occupation of any dwelling hereby permitted.

The planting shall be maintained in accordance with the 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 protect the amenities of properties and ensure the proposed development does not have an adverse effect on the character and appearance of the area.

5. Prior to the first occupation of any dwelling hereby permitted the boundary treatment shall be erected/planted, including those to be installed between the plots, in accordance with the details shown on the approved drawing no.22031/17 (Landscaping Plan & Materials Schedule as Proposed)

Reason: To protect the amenities of properties and ensure the proposed development does not have an adverse effect on the character and appearance of the area.

6. Each new dwelling shall be constructed at the floor slab levels as shown on the approved drawing no. 22031/17 (Landscaping Plan & Materials Schedule as Proposed).

Reason: To protect the amenities of neighbouring properties and to ensure the development does not have an adverse effect on the character and appearance of the area.

7. The development hereby permitted shall not be occupied until the cycle storage facilities have been made available for use in accordance with the approved drawing no.22031/13 (Site Plan as Proposed) and those facilities shall be maintained for the duration of the development.

Reason: To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the appropriate opportunities for sustainable transport modes have been taken up.

8. The dwellings hereby permitted shall not be brought into use until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. 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.

9. The dwellings hereby permitted shall not be occupied until the vehicular parking and turning facilities including driveways have been laid out and constructed in accordance with the submitted plan drawing no.22031/13, with the area of driveway surfaced in bound material, and shall be drained so that no surface water flows onto the adjoining highway and shall be maintained thereafter.

Reason: To reduce potential highway safety impact by ensuring that a safe and suitable access is laid out and constructed that minimises the conflict between pedestrians, cyclists and vehicles.

10. Prior to the occupation of the development hereby permitted, the vehicular access shall be laid out and constructed in accordance with the submitted plan drawing no. 22031/13 with the area within at least 5.0m of the carriageway edge of the private road surfaced in bound material and shall be maintained thereafter.

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

11. The development, including construction and any works of demolition, shall only take place whilst running concurrently in accordance with the submitted Construction Method Statement (CTP Tech Note Section 5.) and Construction Management Plan, drawing number 22031/18, and shall be adhered to throughout the construction period.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.

12. Before the development hereby permitted is first occupied details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include times when the external lighting will not be switched on. It is recommended that the lighting plan is devised following consultation with the project ecologists. Only external lighting in accordance with approved details shall be provided on the application site.

Reason: To ensure the proposed development does not have an adverse effect on biodiversity within the site and the wider area.

13. Prior to the commencement of works a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall expand on the recommendations set out in the Ecological Appraisal, prepared by All Ecology (November 2020) for site wide enhancements for these species and should include enhancement for bats. The LEMP should also detail timescales for implementation, persons responsible for managing and monitoring the site.

The works shall thereafter be carried out in accordance with the approved LEMP and timetable.

Reason: To ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider area.

14. Prior to the commencement of works, a Great Crested Newt Mitigation Strategy (GCN Mitigation Strategy) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall expand on the recommendations set out in the Ecological Appraisal, prepared by All Ecology (November 2020). It shall also include supervision of ground clearance works such as soil trips and suggest timings for vegetation removal and other works.

The works shall therefore be carried out in accordance with the approved GCN Mitigation Strategy and timetable.

Reason: To ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider 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 the 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. Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required, there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.
3. There is a pumping station close to the site and any new development must not restrict our access to the Sewage Pumping Station (SPS). Severn Trent Water require free access to the SPS at all times in order to complete any programmed routine maintenance tasks and also for any emergency reactive visits in case of failure.