

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

Committee:	Planning
Date:	19 October 2021
Site Location:	The Newtons School Road Apperley
Application No:	21/00559/OUT
Ward:	Severn Vale North
Parish:	Deerhurst
Proposal:	Outline application for the erection of one dwelling with all matters reserved for future consideration except for access
Report by:	Gemma Smith
Appendices:	Site Location Plan Existing Block Plan Indicative Site Layout
Recommendation:	Permit

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1** The application relates to a parcel of land on the western side of School Road in Apperley, immediately to the north of the detached dwelling known as The Newtons. To the north lies an agricultural track and beyond the rear boundaries of No's 1 and 2 Westview. There are a number of existing trees and shrubs on the application site and a hedgerow along the northern side and rear (western) boundaries. Land levels rise within the site from the front (eastern) boundary to the rear boundary. The application site is located within the Landscape Protection Zone (LPZ).
- 1.2** The application site is located within 50m of two Grade II Listed buildings known as Yew Tree Farmhouse and the roadside barn, which are each located on the western side of School Road to the south of the dwelling known as The Newtons.
- 1.3** The site is located within Flood Zone 1 as defined on the most up-to-date Environment Agency flood risk maps.

2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
T.1819	Erection of bungalow. Construction of vehicular access.	PERMIT	18.05.1954
T.1819/AP	Erection of bungalow. Construction of vehicular access.	APPROV	17.05.1955
T.1819/A	Garage and store shed. Vehicular access.	REFUSE	25.05.1964
T.1819/A/1	Garage. Vehicular access.	PERMIT	16.12.1964
T.1819/B	Outline application for residential development. Construction of estate roads and sewers.	REFUSE	19.12.1973
T.1819/B/1	Outline application for residential development. Construction of estate roads and sewers. Construction of new vehicular and pedestrian accesses.	REFUSE	25.03.1975
04/01622/AGR	Proposed Farm Track	Non-Intervention	08.02.2006
10/00388/FUL	Change of use of agricultural land to private equestrian use including construction of manege.	Per	1.06.2010
15/01286/FUL	Raising of roof to accommodate living accommodation at first floor level, erection of front extension, two storey rear and side extension, and alterations to fenestration	PER	15.03.2016
16/00086/CONDIS	Application for approval of details subject to condition 3 of planning application ref 15/01286/FUL.	DISCHA	24.03.2017
18/00434/FUL	New agricultural barn to store hay for cattle enterprise and apron.	Permit	26.06.20218
19/01166/PIP	Permission in Principle for the erection of 1no. dwelling	Refuse Appeal Dismissed	30.01.2020
19/01218/OUT	Outline application for the erection of 1 no. dwelling (all matters reserved)	CONSEN	08.06.2020

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) and the National Planning Practice Guidance (NPPG)

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

- SD4 (Design Requirements)
- SD6 (Landscape)
- SD8 (Historic Environment)
- 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)

3.3 Tewkesbury Borough Local Plan to 2011 – March 2006 (TBPL)

- LND3 (Landscape Protection Zone)

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

- RES3 (New Housing Outside Settlement Boundaries)
- RES4 (New Housing at Other Rural Settlements)
- RES5 (New Housing Development)
- RES13 (Housing Mix)
- DES1 (Housing Space Standards)
- HER2 (Listed Buildings)

- LAN2 (Landscape Protection Zone)
- NAT1 (Biodiversity, Geodiversity and Important Natural Features)
- ENV2 (Flood Risk and Water Management)
- TRAC1 (Pedestrian Accessibility)
- TRAC9 (Parking Provision)

3.5 Neighbourhood Plan

None

3.6 Other relevant policy

- Human Rights Act 19
- 98 - 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

The application seeks outline planning permission for the erection of 1 no. dwelling, with all matters reserved for future consideration except for access. An indicative Proposed Site Plan has been submitted to indicate the location of the dwelling and associated parking.

4.2 Agent's Submission

The application is supported by the following documents:

- Planning Statement, Carver Knowles
- Ecological Statement, March 2021 MPEcology
- Ecological Walkover Study, January 2020 Betts Ecology and Estates
- Arboricultural Impact Assessment, February 2020 Betts Ecology and Estates
- Tree Constraints Plan
- Tree Protection Plan

5.0 CONSULTATIONS

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

Deerhurst Parish Council – Objections with the following comments as summarised:

- The block diagram with the proposal shows a dwelling that does not respect the existing building line along School Road. Its location as shown ensures an incongruous pattern of development.
- The proposed plot would be larger than those along School Road.
- Concerns that a 'rear' boundary has been created by hedgerow creation enclosing former paddock land.
- Concerns about the impact on high values landscape protection zone and agricultural land.
- Concerned about the width of the proposed access which would be 6.0m.
- Concerned with conflict of shared access and impact on neighbouring amenity.
- Concerns with safety of access in regards to the manoeuvring large vehicles near to electricity sub-station, across a school safety zone and across a footway.
- Consideration of the removal of the farm access completely since it is cited to be in occasional use and there are other access points available along School Road to the agricultural land to the rear.
- The addition of the access would result in the 1-3 Westview being isolated between two roads.
- The proposal would be out of character with the surroundings.
- No local services to support the additional unit

Gloucestershire County Council (Highways Officer) -

Tree Officer – No comments received at the time of writing this report.

Flood Risk and Management Officer – No Objection subject to condition. Discrepancies with Application Form Section on Drainage and Flooding – no docs submitted to support SUDS proposed. As such a pre-commencement for Surface water drainage condition is proposed.

Ecological Advisor – No objection subject to conditions.

Newt Officer – No Objection

Conservation Officer – No Objection

Environmental Health Officer – No objection in relation to noise /nuisance issues.

Environmental Health Officer (air quality)- No adverse comments to make in regard to the proposal and local air quality.

Severn Trent Water Ltd. – No Objections and do not require a drainage condition, noting that the proposal would have minimal impact on the public sewerage system.

6.0 PUBLICITY AND REPRESENTATIONS

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

6.1 The application has been publicised through the posting of a site notice for a period of 21 days.

6.2 There have been 13 letters received in response comprising of nine representations objecting to the proposal and two in support.

The objections are summarised as follows:

- Concerns regarding the boundary and access changes against previously approved 19/01218/OUT.
- Unnecessary to widen the existing track and would set a precedent for further development of the access.
- Making the track into a road would invite further development of the fields behind.
- Concerns raised that the adjoining development would have three roads bounding the site which would lead to impacts on amenity.
- Concerns over highway safety particular in regards to the proposed widening of the access adjacent to a bus stop within the School Zone.
- The previously approved application would be more in keeping with the village building line and the tractor access would be retained for access to the field.
- Permission has not been sought for the change of use of agricultural land to garden land.
- Concerns with the scale of the proposal.
- Extension of development form into pasture land would be contrary to similar garden extension applications under reference 20/00869/FUL and 20/00644/FUL.
- The proposal would encroach on to agricultural land which has been subject to unsuccessful planning applications.
- Planning permission to change the land from agricultural land to garden land has not been sought or approved.

- Access to the pasture land can be reached by a number of other accesses.
- The proposal would not respect the existing building line.
- The land is higher than the gardens of the neighbouring properties Westview so have concerns with the reduction in drainage by increased road surfacing and car parking areas may lead to run-off into gardens.
- Concerns with amenity of future occupants and the large farm vehicles proposed to utilise the track.
- Concerns that there has been new landscaping and new boundaries put into the site recently.

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 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).

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

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

8.0 ANALYSIS

8.1 The application is brought before Members of the Planning Committee for determination as the Parish Council object to the proposal.

Principle of development

- 8.2** The principle for a new dwelling on part of the site subject to this application has already been ascertained through planning reference 19/01218/OUT. The site in question however is larger to the rear and incorporates the existing agricultural track to the north of the site for shared access. Part of the site was considered for a new dwelling under 19/01166/PIP that was refused and a subsequent appeal was dismissed. The key issue in the determination of this application therefore is whether the additional plot to the rear is acceptable for development in principle.
- 8.3** Apperley comprises a small village which does not benefit from a defined settlement boundary in the JCS. However the application site is located within the previously defined Residential Development Boundary of Apperley as shown on the TBLP Proposals Map and is also in close proximity to the village primary school and local bus stops.
- 8.4** 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. Apperley is not identified as a 'Rural Service Centre' nor a 'Service Village' within Table SP2c ("Settlement hierarchy") of the JCS.
- 8.5** 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*
- 8.6** 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.
- 8.7** 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. The key issue here is whether the additional plot size to the west is considered acceptable.

- 8.8** The application site is adjoined on its southern side by the existing dwelling known as The Newtons and on its northern side by a rural access track and beyond the dwellings at no. 1 and 2 Westview. The application site is considered to be an under-developed plot which is well-related to existing built development that squares off the existing spatial pattern in the area, and is therefore judged to comply with JCS Policy SD10 criteria 4 (ii). As such, the proposed development is considered to be in accordance with the spatial strategy of the Development Plan.
- 8.9** Since the grant of the outline permission for one dwelling under 19/01218/OUT, 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.
- 8.10** 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.
- 8.11** 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.
- 8.12** 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.

Councils 5 Year Housing Land Supply

- 8.13** 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.

- 8.14** 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.
- 8.15** 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.

Landscape impact

- 8.16** Policy SD4 of the JCS 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.
- 8.17** Criterion 6 of JCS Policy SD10 'Residential Development' 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.
- 8.18** Emerging Policy RES4 of the PSTBP, as referred to above, specifies that very small- scale residential development will be acceptable in principle within and adjacent to the built-up area of other rural settlements providing, inter alia, it is of a scale that is proportionate to the size and function of the settlement and maintains or enhances sustainable patterns of development, providing it complements the form of the settlement and is well related to existing buildings within the settlement, and providing the site of the proposed development is not of significant amenity value or makes a significant contribution to the character and setting of the settlement in its undeveloped state.
- 8.19** In addition, emerging policy RES5 of the PSTBP specifies that proposals for new housing development should:
- Be of a design and layout that respects the character, appearance and amenity of the surrounding area and is capable of being well integrated within it;
 - Be of an appropriate scale having regard to the size, function and accessibility of the settlement and its character and amenity, unless otherwise directed by policies within the Development Plan;
 - Where an edge of settlement site is proposed, respect the form of the settlement and its landscape setting, not appear as an unacceptable intrusion into the countryside and retain a sense of transition between the settlement and open countryside;
 - Not cause the unacceptable reduction of any open space (including residential gardens) which is important to the character and amenity of the area; • Incorporate into the development any natural or built features on the site that are worthy of retention; and

- Address any other environmental or material planning constraints relating to the site.

- 8.20** Policy SD6 (Landscape) of the JCS specifies that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. It also states that all applications for development will consider the landscape and visual sensitivity of the area in which they are to be located or which they may affect.
- 8.21** As noted above, the application site is located within the LPZ as defined on the TBLP Proposals Map. Saved Policy LND3 of the TBLP specifies that special protection is given to the ecology and visual amenity of the river environment within the LPZ, and that development will not be permitted which (a) has a detrimental visual or ecological effect on the character of the river banks or associated landscape setting of the Severn Vale, and/or (b) has an adverse impact on the water environment. No changes are proposed to the extent of the LPZ on the PSTBP Proposals Map, and emerging Policy LAN2 of the PSTBP also affords special protection to the ecology and visual amenity of the river environment within the LPZ.
- 8.22** The proposal would introduce development into an open parcel of land, and consequently there would be some extent of visual impact. However, the development would be viewed in the context of existing built-up development on either side of the application site and 'squaring off' of the developable plot. This is unlike the parcel to the west of the site, that part of this plot relates, that was refused for the development of 1 no. dwelling 19/01166/PIP. The decision was appealed and subsequently dismissed. It is not considered that the extended part of this proposed plot would result in detrimental intrusion into the countryside.
- 8.23** Whilst the proposed development would be fairly prominent from the adjacent public highway and would change the character of the site, the site itself sits in close proximity to existing residential development, and the illustrative site plan shows that the proposed dwelling would be set back within the site with parking orientated to the rear of the site. The amended indicative site plan shows that the dwelling could potentially respect the existing building line with the Newtons to the south of the site.
- 8.24** Any subsequent reserved matters application would need to demonstrate that the proposed development would not result in an overly prominent or cramped form of development and that the proposed site layout would respect the location and orientation of existing built development, particularly of that to the south of the site as the dwelling would most closely be viewed from public vantage points in the context of this. In addition, the reserved matters application would need to show that the scale, form and external materials of the proposed dwelling and its architectural appearance would be in-keeping with the local vernacular and would be sympathetic in design to existing adjacent dwellings.
- 8.25** It is recommended that any approval of outline planning permission is subject to condition requiring details of existing and proposed levels, including finished floor levels, a plan indicating the positions, design, materials and type of boundary treatments to be erected, precise details or samples of the external walling and roofing materials and hard surfacing materials proposed to be used, as well as a landscape scheme for the whole site to be submitted as part of the Reserved Matters application, in the interests of the visual amenity of the area, and to protect the visual amenity of the LPZ.

- 8.26** It is noted that the previous outline scheme approved on a smaller plot under planning reference 19/01218/OUT was served by the creation of a new access to the front of the site. It is considered that the utilisation of the existing agricultural track at the site would benefit the street scene as it would negate the additional access and would retain some of the trees at the front of the site.
- 8.27** It is considered that the wider access track would not result in particular intrusion into the landscape. The surfacing of the track/ access drive will be conditioned on any recommendation for approval to ensure assimilation within the landscape.
- 8.28** It is noted that supervised clearance of the site was carried out on 28th January 2021 as per 19/01218/OUT. It appears that the western boundary hedgerow will require removing. Any proposed development would need to bolster / replace the natural hedgerow boundaries at the site to help to blend the development into the landscape.

Highways and Access Implications

- 8.29** 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.
- 8.30** Emerging Policy RES5 of the PSTBLP states that proposals for new housing development should, inter alia, 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 PSTBLP states that proposals need to make provision for appropriate parking and access arrangements.
- 8.31** A key difference to the previously approved outline planning permission for a new dwelling is the widening of the existing agricultural track to be used to serve the dwelling negating the need for the creation of an additional access along the road.
- 8.32** The Local Highways Authority have been consulted on the proposal and have no objections to the proposal. The Local Highways Officer does not consider that the dual purpose access track would result in any safety concerns and considers that it would be a benefit when a car is accessing the site and one other egressing, thus avoiding an obstruction to oncoming traffic.
- 8.33** The Local Highway Authority recommends that any approval of planning permission is subject to condition requiring details of secure and covered cycle storage facilities to be made available prior to the occupation of the proposed dwelling in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The Local Highway Authority also recommends a condition requiring the proposed car parking spaces to be designed to enable charging of plug- in and other ultra-low emission vehicles in safe, accessible and convenient locations prior to the occupation of the proposed dwelling.

Impact on Heritage Assets

- 8.34** The application site is not located within a conservation area however, there are two Grade II listed buildings to the South; Yew Tree Farmhouse and the roadside barn. As such when determining planning applications this authority has a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have regard to the desirability of preserving listed buildings and their setting. The proposal will also be assessed against section 16 of the NPPF, Policy SD8 of the JCS.
- 8.35** The Conservation Officer has been consulted on the application and in regards to impact upon the setting of the listed buildings and has no objection to the principle of the proposal.

Residential Amenity

- 8.36** Paragraph 127 of the NPPF specifies that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. JCS policies SD4 and SD14 require development to enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space. Development should have no detrimental impact on the amenity of existing or new residents or occupants. In this respect, emerging policy RES5 of the Tewkesbury Borough Local Plan 2011-2031 Pre-Submission Version (2019) is also relevant.
- 8.37** In terms of the impact on the residential amenity of adjacent neighbouring properties, whilst there is potential for some overlooking as a result of the proposed development, it is considered that careful design and orientation of windows would ensure that the development could be accompanied in an acceptable manner and these matters would be addressed through any subsequent reserved matters applications. It is recommended that any approval of outline planning permission is subject to condition requiring details of existing and proposed levels, including finished floor levels, as well as a plan indicating the positions, design, materials and type of boundary treatments to be erected, to be submitted as part of the Reserved Matters application, in order to ensure the amenities of the occupiers of neighbouring properties would be protected.
- 8.38** The Environmental Health Officer raises no objection to the application in terms of noise / nuisance adversely impacting on future residents, and it is considered that the residential amenity of existing and future occupiers would not be unreasonably affected in terms of noise, odour or pollution levels or general disturbances.
- 8.39** Policy DES1 of the Tewkesbury Borough Local Plan 2011-2031 Pre-Submission Version (2019) which specifies that Tewkesbury Borough Council adopts the Government's nationally described space standards and expects all new residential development to meet these standards as a minimum. It also specifies that new residential development will be expected to make adequate provision for private outdoor amenity space appropriate to the size and potential occupancy of the dwellings proposed. Any subsequent reserved matters application would need to show that the proposed dwelling and associated external amenity area(s) would provide an acceptable living environment for future occupiers.

Impact on Trees

- 8.40** 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.
- 8.41** 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.
- 8.42** An Arboricultural Impact Assessment has been submitted as part of the proposal. It is noted that the constraints plan has not been updated since the 19/01218/OUT however the trees subject to the site are the same.
- 8.43** The Tree Officer is yet to provide comments on this outline scheme at the time of writing this report. Whilst the siting of the development is not ascertained, it is identified that the hedgerows to the northern and western boundaries would be removed together with three trees T5, T6 and T7. The tree officer previously comments that the hedgerow that surrounds the site is of poor quality and it would be beneficial to remove them and replace with native hedgerows and to include some fruit trees within it (such as apple, pear, cherry, etc.). This would mitigate for the proposed loss of the trees and would over time become a source of food for wildlife but also screening around the proposed dwelling without causing shading issues to surrounding properties. It is recommended that any approval of outline permission is subject to condition requiring full details of proposed tree and hedgerow planting to be submitted as part of the Reserved Matters application.
- 8.44** The Tree Officer previously comments that it will be important that trees T1, T2 and T3 are protected throughout the development and that protective fencing must be in place before development starts. In addition, there must be no level changes within the root protection areas of these retained trees. No details have been provided at the outline stage with regards to the driveway installation, underground and above ground services or specification of tree protection barriers. Details will need to be submitted as part of the Reserved Matters application.

Biodiversity

- 8.45** 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.

- 8.46** 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.
- 8.47** The application is supported by an updated Ecological Statement, dated March 2021 MPEcology together with an Ecological Walkover Study dated January 2020 undertaken by Betts Ecology and Estates.
- 8.48** It was noted that the Council's Ecological Advisor requested on grant of the previous outline permission that any approval of planning permission be subject to condition for all works to strictly adhere to the mitigation set out within the ecological report, which includes but is not limited to mitigation for stag beetles, replacement planting for the removed orchard trees and permeable fencing. A suitably qualified ecologist was recommended to be present during the site clearance as well as carrying out a pre-construction check due to the pond not being able to be assessed close to the site.
- 8.49** Since the approval of the previous outline consent site clearance activities were undertaken in January 2021 under the supervision of an ecologist, following pre-clearance check for vulnerable fauna, as previously recommended in the Ecological Walkover Survey report. The Ecological Advisor notes that no protected or notable fauna were discovered during those site clearance works. A further site visit was undertaken in February 2021, during which habitat creation for stag beetles was undertaken, following the recommendations of the Ecological Walkover Survey report.
- 8.50** The Ecological Advisor notes that the site demonstrates foraging and commuting habitat for bats, and that there is an opportunity for enhancements. The Ecology Advisor notes that a bat box (e.g. Schwegler 1FF) should be installed onto the new development, at least 3m from the ground and preferably in a south-easterly to south-westerly facing direction. It is important that it is installed away from artificial lighting. The Ecology Advisor recommends that any approval of outline planning permission is subject to condition requiring details of the type and location of the bat box to be submitted to the Local Planning Authority for approval prior to occupation.
- 8.51** In addition, the Ecology Advisor recommends that any approval of outline planning permission is subject to condition requiring details of any artificial lighting to be submitted to the Local Planning Authority for approval prior to its installation, to ensure light spill is minimised onto corridors and vegetation used by mammals and commuting/ foraging bats. The details should include the locations of any external artificial lighting and light spill onto surrounding habitats detailing the lux.
- 8.52** Subject to the above recommended conditions, it is considered that biodiversity would be protected and enhanced

Drainage and Flood Risk

- 8.53** Whilst the proposed development is located within Flood Zone 1 as defined by the most up-to-date Environment Agency flood risk maps, the proposed development would have surface water implications. In accordance with JCS Policy INF2, emerging Policy ENV2 of the Tewkesbury Borough Local Plan 2011-2031 Pre-Submission Version (2019) and the Tewkesbury Borough Council Flood and Water Management Supplementary Planning Document, there is a requirement for the application to demonstrate that the proposal would not lead to an adverse impact on the surface water drainage infrastructure, foul water drainage infrastructure or sewage treatment systems.
- 8.54** The supporting planning statement makes reference in Section 5.5 that a Sustainable Drainage System shall be used however there is no detail to show how this may work or what is intended to achieve this.
- 8.55** The Flood Risk and Drainage Management Officer has been consulted on the application and acknowledges that the overall flood risk at the site is documented as low, and that Severn Trent Water has raised no objection to the outline application.
- 8.56** Notwithstanding this, given the acute problems with the cumulative effect of numerous minor developments, the Flood Risk and Drainage Management Officer recommends that any approval of planning permission be subject to condition requiring a detailed design, maintenance and management strategy and timetable of implementation for the surface water drainage strategy (e.g. Sustainable Drainage System – SuDS) presented in the Drainage Statement to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Community Infrastructure Levy (CIL)

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

9.0 CONCLUSION AND RECOMMENDATION

- 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:

1. The development for which permission is hereby granted shall not be begun before detailed plans thereof showing the access, appearance, landscaping, layout and scale (hereinafter referred to as "the reserved matters") have been submitted to and approved by the Local Planning Authority.

Reason: The application is in outline only and the reserved matters referred to in the foregoing condition will require further consideration.

2. Applications for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

4. The detailed plans to be submitted as part of the Reserved Matters application in accordance with Condition 1 shall include details of existing and proposed site sections and finished floor and site levels. All development shall be carried out in accordance with the approved details.

Reason: In the interests of the amenities of the occupiers of neighbouring properties and to protect the visual amenity of the Landscape Protection Zone.

5. The detailed plans to be submitted as part of the Reserved Matters application in accordance with Condition 1 shall show the positions, design, materials and type of boundary treatments to be erected. The boundary treatments shall be completed in accordance with the approved details before the dwelling hereby permitted is occupied.

Reason: In the interests of the amenities of the occupiers of neighbouring properties and to protect the visual amenity of the Landscape Protection Zone.

6. The details to be submitted as part of the Reserved Matters application in accordance with Condition 1 shall include precise details and/or samples of the external walling and roofing materials and the hard surfacing materials proposed to be used. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with its surroundings, and to protect the visual amenity of the Landscape Protection Zone.

7. The details of landscaping to be submitted as part of the Reserved Matters application in accordance with Condition 1 shall include full details of proposed tree and hedge planting. This shall include planting and maintenance specifications, use of guards or other protective measures and confirmation of location, species and sizes. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory and well planned development, to preserve and enhance the quality of the environment, and to protect the visual amenity of the Landscape Protection Zone.

8. The details of landscaping to be submitted as part of the Reserved Matters application in accordance with Condition 1 shall include a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a Tree Protection Plan(s) (TPP) and an Arboricultural Method Statement (AMS). The specific issues to be dealt with in the TPP and AMS shall be as follows:
 - a) The location and installation of services/utilities/drainage
 - b) Details of any construction within the RPA or that may impact on the retained trees
 - c) A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
 - d) A specification for protective fencing to safeguard trees during construction phases and a plan indicating the alignment of the protective fencing.

Reason: To ensure a satisfactory and well planned development, to preserve and enhance the quality of the environment, and to protect the visual amenity of the Landscape Protection Zone.

9. Prior to the commencement of the development hereby permitted (including all preparatory work), tree protection must be in place for the retained trees, in accordance with BS 5837:2012, to safeguard trees during the construction phases and to ensure no storage of materials is in proximity of the trees.

Reason: To ensure a satisfactory and well planned development, to preserve and enhance the quality of the environment, and to protect the visual amenity of the Landscape Protection Zone.

10. Any trees or plants which within a period of 5 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. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.

Reason: To ensure a satisfactory and well planned development, to preserve and enhance the quality of the environment, and to protect the visual amenity of the Landscape Protection Zone.

11. The detailed plans to be submitted as part of the Reserved Matters application in accordance with Condition 1 shall show the layout, vehicular access, parking and turning facilities and surface water drainage within the site, and the dwelling hereby permitted shall not be occupied until those facilities have been provided in accordance with the approved plans and those facilities shall be maintained available for those purposes for the duration of the development.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians is provided in accordance with paragraphs 108 and 110 of the National Planning Policy Framework.

12. No building works hereby permitted shall be commenced until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution for the lifetime of the development.

13. No development shall take place, including any demolition works, until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall provide for:
- 24 hour emergency contact number;
 - Hours of operation;
 - Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Routes for construction traffic;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Method of preventing mud being carried onto the highway;
 - Measures to protect vulnerable road users (cyclists and pedestrians)
 - Any necessary temporary traffic management measures;

- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

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.

14. The development hereby approved shall not be occupied until details of secure and covered cycle storage facilities for a minimum of 2 bicycles has been made available in accordance with details to be submitted to and approved in writing by the LPA.

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 in accordance with paragraph 108 of the National Planning Policy Framework.

15. Prior to the occupation of the dwelling hereby permitted, the proposed car parking spaces shall be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Reason: To ensure that the development incorporates facilities for charging plug-in and other ultra-low emission vehicles in accordance with paragraph 110 of the National Planning Policy Framework.

16. All works shall strictly adhere to the mitigation set out within the Ecological Walkover Survey Report and subsequent Ecology comments, including the recommendation for removal of bramble scrub and the conifer hedge to be undertaken outside of main nesting bird season, generally considered to be between March and August.

Reason: In order to protect and enhance biodiversity.

17. Should any undisturbed scrubby vegetation become re-established on the site, prior to any construction activities taking place, a pre-clearance check for vulnerable fauna, including Great Crested Newts is recommended. Tall vegetation should be removed in a phased approach and managed in advance of any works, to reduce the suitable habitat on site for Great Crested Newts. Waste materials should be removed off site immediately or stored in skips where possible and working areas should be managed.

Reason: To safeguard protected species.

18. If Great Crested Newts are discovered during site preparation, enabling or construction phases, then all works must be stop and the advice of a suitable qualified ecologist be sought.

Reason: To ensure the protection of protected species.

19. Prior to the occupation of the dwelling hereby permitted, details of the type and location of a bat box (e.g. Schwegler 1FF) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In order to protect and enhance biodiversity.

20. Prior to its installation, details of any artificial lighting (including the lux, position and height) and any external artificial lighting (including the location and the lux) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure light spill is minimised onto corridors and vegetation used by mammals and commuting/ foraging bats, in order to protect biodiversity.

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 their 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 Severn Trent Water's 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 Severn Trent Water at the earliest opportunity to discuss the implications of its 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.