

# TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

<b>Committee:</b>	Planning
<b>Date:</b>	21 December 2021
<b>Site Location:</b>	Caerleon Tewkesbury Road Twigworth
<b>Application No:</b>	21/00903/FUL
<b>Ward:</b>	Severn Vale South
<b>Parish:</b>	Down Hatherley
<b>Proposal:</b>	Erection of two detached dwellings including associated car parking
<b>Report by:</b>	Dawn Lloyd
<b>Appendices:</b>	Site location plan Proposed site plan Proposed elevations plot 2 Proposed elevations plot 3 Proposed floor and roof plans plot 2 Proposed floor and roof plans plot 3
<b>Recommendation:</b>	Permit

## 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1** This application relates to Caerleon, a detached dwelling located in a ribbon form of development along the A38 in Down Hatherley. There are fields to the north of the site and garden centre to the south. Listed buildings are located across the A38 to the north of the site.
- 1.2** The application site is rectangular in shape and measures approximately 1236 sq m 0.05 hectares.
- 1.3** The site is within the area of the JCS Strategic Allocations (Policy SA1).
- 1.4** The site does not lie within the Green Belt and is not affected by any restrictive landscape designations.

## 2.0 RELEVANT PLANNING

Application Number	Proposal	Decision	Decision Date
19/00191/FUL	Installation of new front access gate, fence and hardstanding (retrospective).	PER	11.06.2019
19/00669/FUL	Demolition of existing garage and construction of replacement dwelling	NOTPRO	01.07.2019
19/00674/FUL	Demolition of Garage and Construction of one Residential Dwelling (amendment to scale and curtilage).	PER	21.11.2019
19/00951/FUL	Amendments to the height of the front brick access with timber rolling gate.	PER	17.04.2020
20/01133/FUL	Variation of Condition 2 (drawing schedule) of the planning application ref number 19/00674/FUL to allow for amendments to the elevations, floor plans and external materials.	PER	30.04.2021

## 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**

- SP2 (Distribution of New Development)
- SD4 (Design Requirements)
- SD6 (Landscape)
- SD10 (Residential Development)
- SD11 (Housing mix and Standards)
- SD14 (Health and Environment Quality)
- INF1 (Transport Network)
- INF2 (Flood Risk Management)

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

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

- Policy RES2 (Settlement Boundaries)
- RES5 (New Housing Development)
- DES1 (Housing Space Standards)
- ENV2 (Flood Risk and Water Management)
- TRAC9 (Parking Provision)

### **3.5 Neighbourhood Plan**

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

### **3.6 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 – Objection ( in summary)

- serious concerns over the cumulative effects of multiple developments across Twigworth/Down Hatherley villages and NDP area.

- The area is groaning under the weight of new development and can not sustain anymore.

- Contrary to the submitted planning statement the site lies wholly within the Parish of Down Hatherley of Twigworth. No local need that has not been met by the planned major developments. Proposal is contrary to the Neighbour Development Plan to provide sustainable moderate growth to meet the needs of local communities in line with the wishes of the residents of the area or to restrict unnecessary development.

- Over development of the site.

- the site lies adjacent to the strategic allocation but goes not lie within it.

- Drainage infrastructure of the area can not cope with more development.

- No local need for the development.

### 4.2 County Highways Officer – No objection in terms of highway safety or impact on the highway network. Recommends a condition for electric vehicle charging points and cycle storage.

### 4.3 Flood Risk & Management Officer – The details submitted are inadequate for a drainage strategy. Given the scale of the development and awareness of the suitability of the site from a drainage perspective from reports from other nearby developments there is no objection to the proposal subject to condition for surface water drainage works to be submitted and agreed with the local planning authority.

### 4.4 Conservation Officer – No objection.

The development site is opposite Grade II Listed Court Farmhouse and Barn. However, the separation of the main road and the fact that most of that side of the road is to be developed for housing means that this development would not be out of character in principle and would not have a negative impact upon the setting of the Listed Buildings. The house designs are aesthetically poor, featuring large expanses of blank walls and flat roofs but they have been contrived to fit into the limited space available whilst maximising habitable floor space.

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

**5.2** Local Residents – 3 representations of objection (in summary)

- Not part of the NDP area.
- Create a new access onto the A38 in an area known for traffic accidents, therefore would increase risk to road users.
- Create at least 4 extra cars and will create excess traffic on the bend on its own and in combination with other recent developments.
- The site is an area of flood risk and will put further pressure on this.
- Over development of the site.

## **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 Pre-Submission TBP was submitted for examination in May 2020. Examination in Public (EiP) took place over five weeks during February and March 2021. The examining Inspector's post hearings Main Modifications letter was received on 16th June 2021. In this letter the Inspector provided his current view as to what modifications are required to make the Plan 'sound'.

**6.4** A schedule of Main Modifications to the Pre-submission TBP were approved at the meeting of the Council on 20th October 2021 and is now published for consultation as the Main Modifications Tewkesbury Borough Plan (MMTBP).

**6.5** Those policies in the MMTBP which were not listed as requiring main modifications may now attract more weight in the consideration of applications, with those policies which are subject to 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 (including as with modifications as published for consultation) 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).

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

6.7 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).

## 7.0 ANALYSIS

7.1 The main issues to be considered in this application are the principle of the development, the design, scale and layout of the new dwelling, the visual impact, the impact upon highway safety; and upon residential amenity.

### Principle of Development

7.2 The JCS was adopted in December 2017 and includes a number of Strategic Housing Allocations.

Strategic Policy SA1 - Innsworth and Twigworth

7.3 The Innsworth and Twigworth Strategic Allocation includes the current application site within its boundaries (redline of JCS map). The principle of residential development within this site is therefore acceptable - subject to the requirements of that Policy and other material considerations.

Policy (SA1) requires amongst other things, that development proposals must be accompanied by a comprehensive masterplan for the entire Strategic Allocation. It also requires that proposals must be accompanied by a comprehensive masterplan for the entire Strategic Allocation. Policy A1 provides further detailed guidance on the development of the allocation. The proposals plan in support of A1 provides an indicative distribution of land uses within the development - which envisages housing for the majority of the site.

7.4 Whilst the A1 Policy is clearly intended to inform large scale development proposals and to ensure a comprehensive approach to the development of the whole allocation, it is nonetheless relevant insofar as any proposal should not prejudice comprehensive development of the SA or otherwise sterilise parts of it.

7.5 Given the peripheral location of the application site on the edge of the development area within the garden of an existing dwelling, it is not considered that the current (and small-scale) proposal would prejudice the delivery of the Strategic Allocation.

7.6 Down Hatherley is not a service village and has no defined settlement boundary. The NDP does not contain specific policies with regard to housing development in Down Hatherley. It expects such development to be limited given the recognised sustainability issues and the Green Belt designation of much of the Parish. Affordable housing to meet local needs would form an exception to development in the open rural area.

7.7 Part of part of the strategic allocation of Innsworth and Twigworth lies within the Down Hatherley. Para 78 of the NPPF allows for sustainable development in rural areas and as the site would be on an existing residential plot adjacent to an allocated site it would be considered sustainable development.

7.8 The principle of development is therefore acceptable subject satisfying the requirements of SA1 and all other material considerations.

## **Five Year Housing Land Supply**

- 7.9** As set out in the latest Tewkesbury Borough Five Year Housing Land Supply Statement published in December 2020, the Council can demonstrate a 4.39 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.
- 7.10** Members will be aware of the appeal decision at Ashmead Drive in which the Inspector concluded that the Council could demonstrate a 1.82 year supply and the subsequent High Court judgment. The Judge found that the Gotherington Inspector had not erred in law in arriving at that conclusion not to take previous oversupply into account in determining that appeal.
- 7.11** Appeal decisions are not binding precedents however. That the Council includes advanced delivery (or 'oversupply') against annual housing requirements in its five-year supply calculations is, in officers view, in the context of the plan-led system, is the correct approach. This is because not taking into account those 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 would serve to artificially increase the plan-led housing requirement.
- 7.12** It is noteworthy that, in his judgment, the Judge made it clear that it was not for him to make policy, "The question of whether or not to take into account past oversupply in the circumstances of the present case is... a question of planning judgment which is not addressed by the Framework or the PPG and for which therefore there is no policy". He went on- 'No doubt in at least most cases the question of oversupply will need to be considered in assessing housing needs and requirements'.
- 7.13** More recently the Council has received two appeal decisions following public inquiries where the issue of 'oversupply was also debated. In an appeal at Coombe Hill, the Inspector noted that taking into account 'past performance exceeding the annual average of the plan's requirement... seems to me to be a just approach, because it reflects reality, not a theoretical formula applied without consideration of actual outturns.'
- 7.14** In another appeal decision for a scheme at Alderton, the Inspector arrived at a similar conclusion, saying that 'Nonetheless, in my judgement, the Council's method of taking account of an over-supply against the annual requirement is not be [sic] an unreasonable one.... To continue to require 495 homes a year when the past over-supply would indicate a lesser requirement, would, it seems to me, be to 'artificially inflate' the housing requirement. I am not convinced, having accepted this position, that the appellants' argument that the supply is as low as 2.08 years is robust.'

- 7.15** Officer's advice is therefore that a 4.39-year supply can be demonstrated at this time. 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
- 7.16** Criterion 4 (ii) of Policy SD10 'Residential Development' of the JCS sets out that on sites that are neither allocated or previously-developed land, housing development will be permitted, except where otherwise restricted by policies within district plans, where it would represent infill within the existing built up areas of Tewkesbury Borough's towns and villages. As the site is bordered by development on three boundaries, it would represent infill and as such the principle of housing in this location would be acceptable. However, whilst the principle of a new dwelling in this location may be acceptable there are other material planning considerations to be taken into account as set out below

### **Design and Visual Amenity**

- 7.17** JCS Policy SD4 provides that new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting.
- 7.18** Criterion 6 of 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.
- 7.19** The National Design Guide (NDG) addresses the question of how we recognise well-designed places, by outlining and illustrating the government priorities for well-design places in the form of ten characteristics; one of which is the context. The NDG provides that well-designed development should respond positively to the features of the site itself and the surrounding context beyond the site boundary.
- 7.20** Policy RES5 of the Main Modifications and Tewkesbury Borough Plan (2019) states proposals for new housing development should, inter alia, 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 and 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.
- 7.21** The surrounding area consists dispersed ribbon form of development along the A38. The properties are predominately detached and semi-detached properties of different age, type and design in reasonable sized plots set back from the front boundary.
- 7.22** The proposed site is triangular in shape and forms part of the residential curtilage of Caerleon. The proposal is for a two storey dwelling Plot 2 which is similar in design and materials to that of the new dwelling which is under construction. Plot 3 would be a one and a half storey dwelling would be sited sideways on towards the front boundary. Although most properties in the immediate vicinity are set back from the road, this form of development is evident within the wider area. Plot 3 would be of a simple form and use the same palette of materials. The materials are indicated on the proposed plans and it is considered that the development would integrate with the existing built form and be appropriate to the character of the area.



- 7.23** The subdivision of the plot would result in smaller plots however, there are other plots in Down Hatherley and Twigworth of a similar size and the dwellings would have satisfactory garden space.
- 7.24** The Parish council consider that the proposal would represent over development of the site which would compromise the visual amenity of the area. However, it is considered the site layout presents an acceptable arrangement without the site appearing too constrained. The use of similar design features and material pallet would ensure the development would be integrated with the local character.

### **Landscape and Visual Impact**

- 7.25** The proposed dwellings would be site on an existing residential plot, viewed within the context of existing development and therefore would be acceptable in terms of the visual quality of the locality.
- 7.26** The submitted plans show a boundary hedge adjacent to the highway. However, at the site visit the hedge had been replaced with a timber fence which is contrary to the semi-rural character of the area. Therefore, a condition would be required for a hedge to be planted on the front boundary of the facing the A38 to soften the development and for the boundary treatment to be more in keeping with the character of the area.

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

- 7.27** Paragraph 130 of the NPPF specifies that planning decisions should ensure development creates places with a high standard of amenity for existing and future users. This 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, external space and noise. The development should have no detrimental impact on the amenity of new or existing residents.
- 7.28** There would be no direct overlooking of windows of habitable rooms or impact in terms of light. The site is a residential garden adjacent to the A38 which is subject to noise from the main road. To safeguard the new development in terms of acceptable levels of noise, conditions are recommended for noise mitigation measures to include triple glazing to windows and doors and a boarded fence to surround the site behind the proposed hedge on the front boundary.

### **Highway Safety**

- 7.29** Section 9 of the NPPF relates to promotion of sustainable transport and specifies that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Policy INF 1 of the JCS reiterates this advice and policy TRAC9 of the MMTBP considers parking provision. The Highway authority have considered the proposal and have no objection in terms of highway safety or serve impact on congestion of the highway network. Conditions are recommended with regard to provision of electric vehicle charging points and provision of cycle storage. However, given the location and nature of the road it is unlikely that people would travel by bike and therefore no cycle storage is to be conditioned.

## **Flood Risk and Management**

- 7.30** Policy INF2 seeks to minimise flood risk and provide resilience to flooding. The site lies within flood zone 1 of the Environment Agency Flood risk maps which is development of lowest river or sea flooding. Our Land Drainage Advisor has assessed the proposal and given that there is a suitable point to discharge attenuated surface water to if soakaways prove unsuitable, has no objection subject to a condition for details of surface water drainage to be submitted and agreed prior to the commencement of works on the site.

## **8.0 CONCLUSION AND RECOMMENDATION**

- 8.1** The proposal is acceptable in principle as it would constitute infilling within the built-up area of the strategic allocation of Twigworth in accordance with JCS SD 10. The design, layout and scale of the proposed dwellings are considered appropriate and no other harm, in respect to amenity and highway safety has been identified. In view of this the application is recommended for Permit.

### **CONDITIONS:**

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

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

2. The development hereby permitted shall be carried out in accordance with the following documents:
  - Location Plan Drawing Number 3056 P (0) 01 Rev A
  - Proposed Site Plan Drawing Number 3056 P(2) 05 Rev A
    - Plot 2 Proposed Elevations Drawing Number 3056 P(2) 08 Rev A
    - Plot 2 Proposed Floor and Roof Plans Drawing Number 3056 P(2) 06 Rev A
    - Plot 3 Proposed Elevations Drawing Number 3056 P(2) 09 Rev A
    - Plot 3 Proposed Floor and Roof Plans Drawing Number 3056 P(2) 07 Rev A

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

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

3. The construction work on the dwelling hereby approved shall not be commenced until the precise slab level of the new buildings, relative to the existing development boundary of the application site have been submitted to and approved in writing by the local planning authority. Thereafter the new dwellings shall be constructed at the approved floor level.

Reason: To ensure that the proposed development does not have an adverse effect on the character and appearance of the area or upon residential amenity.

4. No development shall take place above dampcourse level until details of the boundary treatments have been submitted and approved in writing by the Local Planning Authority. The boundary treatment facing onto the A38 shall include a hedge to the front boundary with a boarded fence behind the hedge. The hedge shall be implemented within the first planting season prior to occupation of the dwellings. The boundary treatments shall be implemented in accordance with the approved details and maintained thereafter.

Reason: In the interests of visual amenity and noise level protection.

5. All glazing for external windows and doors shall be triple glazed the details submitted and approved by the Local Planning authority prior to occupation and implemented and maintained thereafter.

Reason In order to minimise noise levels from the highway.

6. The electric vehicle charging point shall be implemented in accordance with the submitted plans and shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and Manual for Gloucestershire Streets. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point shall be of the same specification or a higher specification in terms of charging performance.

Reason: To promote sustainable travel and healthy communities

7. 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. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. 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; and
  - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

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.

**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.