

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

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| Committee: | Planning |
| Date: | 18 January 2022 |
| Site Location: | Kimberley Church End Lane Twyning |
| Application No: | 20/01061/FUL |
| Ward: | Tewkesbury North And Twyning |
| Parish: | Twyning |
| Proposal: | Erection of one dwelling and associated detached garage to replace existing mobile home and provision of associated vehicular access, parking and turning areas. |
| Report by: | Emma Dee |
| Appendices: | Location Plan Existing Site Plan Proposed Site Plan Proposed Block Plan Proposed Plans and Elevations Proposed Garage |
| Recommendation: | Permit |

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1** The application site is located immediately on the northern side of Church End Lane, in Twyning, and comprises an existing mobile home as well as associated outbuildings (See Location Plan and Existing Site Plan). The site is not subject to nor within the setting of any landscape or heritage designations, and is located within flood zone 1 as defined on the most up-to-date Environment Agency flood risk maps.
- 1.3** The detached two storey dwelling known as Brunsum is located to the east of the application site. The site known as Tree Tops is located immediately to the west of the application site. The submitted site plans shows the location of two dwellings by application 19/00689/FUL).
- 1.4** The application seeks planning permission for the erection of 1 no. two storey 3-bed detached dwelling and associated detached garage to replace the existing mobile home at Kimberley (**see Proposed Site Plan**). The submitted application advises that the dwelling would be designed to copy the scales of the dwellings approved on the adjacent site to the west. The proposed dwelling would have an L-shaped footprint and, at the longest points, would measure 10.65 metres in width (including the proposed chimney on the western side elevation) and 10.6 metres in depth. The dwelling would be designed with a dual-pitched roof, measuring 5.2 metres in height to eaves and 8 metres in height to ridge. The 2 no. dwellings approved on the adjacent site to the west would measure 7.9 metres in height to ridge. The proposed dwelling would have multi red clay facing brick and artificial slates or plain clay roof tiles, to match adjoining dwellings (**see Approved Plans and Elevations**).

- 1.5** The proposed detached double garage (measuring 5.5 metres in width and 5.75 metres in depth) would be designed with a dual-pitched roof and would be set back from the rear elevation of the proposed dwelling to its western side (See Proposed Garage). The application proposes the provision of a new vehicular access towards the western side of the front boundary. The application also proposes the provision of associated vehicular parking and turning areas. It is proposed that boundary treatments would remain as existing, with the exception of the removal of approximately 5m of the existing substantial roadside hedge to enable the construction of the new vehicular access.

2.0 RELEVANT PLANNING HISTORY

| Application Number | Proposal | Decision | Decision Date |
|---------------------------|--|---------------------------------|--------------------------|
| T.890 | Proposed erection of cottage and garage. [Brunsum, Church End Lane] | REF | 17.10.1950 |
| T.890/A | Proposed dwelling house and vehicular access. [Brunsum, Church End Lane] | PER | 21.02.1951 |
| T.2638/G | Erection of a detached dwelling with private car garage. Construction of a new vehicular access. Alteration of existing vehicular access. [Brackenwood Lodge, Church End Lane] | PER | 30.11.1982 |
| 02/0890/0409/FUL | Erection of replacement dwelling. Construction of new access and alteration to existing access. [Brunsum, Church End Lane] | REF | 24.05.2002 |
| 02/0890/1273/FUL | Erection of a replacement dwelling [Brunsum, Church End Lane] | PER | 24.01.2003 |
| 02/0890/1644/FUL | Siting of a temporary mobile home for 12 months [Brunsum, Church End Lane] | PERDEV | 28.01.2003 |
| 03/890/1698/FUL | Erection of a replacement dwelling (amended design). [Brunsum, Church End Lane] | RET | 31.03.2004 |
| 11/00360/FUL | Retention of mobile home pitches for the use by direct relatives of Mr & Mrs Webb. Change of use from residential curtilage to form 4 no. pitches for travellers together with facilities buildings. [Kimberley, Church End Lane] | PER | 03.08.2011 |
| 18/00934/FUL | Erection of 2 no. self-build two storey dwellings and associated detached garages, and provision of associated vehicular access and landscaping [Tree Tops, Church End Lane, Twyning] | Refused | 05.04.2019 |
| 19/00689/FUL | Erection of 2 no. self-build two storey dwellings and associated detached garages, and provision of associated vehicular access and landscaping (Revised scheme to reference 18/00934/FUL) [Tree Tops, Church End Lane, Twyning] | Refused by LPA – Appeal allowed | 15.10.2019 28.07.2020 |

3.0 RELEVANT POLICY

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

3.2 National guidance

National Planning Policy Framework (NPPF); the Planning Policy for Traveller Sites 2015; and the National Planning Practice Guidance (NPPG)

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

Policies: SD4 (Design Requirements), SD6 (Landscape), SD9 (Biodiversity and Geodiversity), SD10 (Residential Development), SD11 (Housing mix and Standards), Policy SD13: Gypsies, Travellers and Travelling Showpeople, SD14 (Health and Environmental Quality), INF1 (Transport Network) and INF2 (Flood Risk Management).

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

Policies: HOU7 (Replacement Dwellings) and HOU12 (Mobile Homes)

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

Policies: RES3 (New Housing Outside Settlement Boundaries), RES4 (New Housing at Other Rural Settlements), RES5 (New Housing Development), RES9 (Replacement Dwellings), GTTS1: Site allocations for Gypsies and Travellers, DES1 (Housing Space Standards), NAT1 (Biodiversity, Geodiversity and Important Natural Features), ENV2 (Flood Risk and Water Management) and TRAC9 (Parking Provision).

3.6 Twynning Parish Neighbourhood Development Plan 2011- 2031 – January 2018 (NDP)

Policies: GD1 (Development Outside the Development Boundary), GD3 (Development Principles), GD4 (Landscape and Biodiversity), GD5 (Provision for Vehicles), GD6 (Effects on Nearby Occupants), H5 (Mobile Homes) and TP1 (Traffic).

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

3.8 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 Twynning Parish Council – Objection on the grounds that it is outside the NDP development boundary and permission would set a precedent for any land which has a current mobile home on it.

4.2 County Highways Officer – No objection subject to conditions

4.3 Environmental Health Officer – No objection in terms of road traffic noise adversely impacting future residents

4.4 Flood Risk Management Engineer – No objection and considers that the information supplied in the drainage strategy is such that there is no requirement for a drainage condition to be applied to any permission granted against this application.

4.5 Ecological Officer – No objection subject to conditions.

4.6 Tree Officer – No objection subject to condition.

5.0 PUBLICITY AND REPRESENTATIONS

5.1 The application has been publicised through the posting of a site notice for a period of 21 days and no letters of representation have been received.

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. The Twynning Parish NDP was adopted in 2018 following the adoption of the JCS.

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 Other material policy considerations include National Planning Guidance contained within the National Planning Policy Framework; 2019 (NPPF).

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

7.0 ANALYSIS

Principle of development

- 7.1** 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.
- 7.2** JCS Policy SD10 specifies that, on sites that are not allocated, housing development and conversions to dwellings 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. Whilst Twyning is identified as a 'Service Village' within Table SP2c ("Settlement hierarchy") of the JCS, Appendix A of the Twyning NDP defines the Twyning Residential Development Boundary (RDB), and the application site is located outside of this. Consequently, the application site is not considered to be located within the existing built-up area of a Service Village.
- 7.3** Criteria 4(ii) of JCS Policy SD10, above, relates to infilling within the existing built-up areas of towns and villages. The JCS sets out that infill development means the development of an under-developed plot well related to existing built development. In this respect reference is made to the recent appeal decision for the adjacent site to the west, known as Tree Tops (PINS reference APP/G1630/W/20/3250825, dated 28th July 2020). Within this appeal decision the Inspector considered that the area has the feel of a small hamlet and concluded that the proposal did not meet the requirements of JCS Policy SD10. Whilst it is considered that the proposed development would comprise infill development by virtue of its location between development immediately to the east and west, it would not be located within the existing built-up area of a town or village and, as such, would fail to comply with criteria 4(ii) of JCS Policy SD10.
- 7.4** Criterion 4 (iv) of JCS Policy SD10 allows for housing development where specific circumstances in district or neighbourhood plans allow for housing development. In terms of the adopted Twyning NDP, Policy GD1 relates to 'New Housing Development in the Open Countryside' and states that proposals for new housing outside the development boundary, and not on sites designated for residential development, will be supported if they meet one or more of the following criteria and comply with all other policies in the development plan:
- a) Replacement dwellings;
 - b) Rural exception housing to meet an identified Parish need in accordance with Tewkesbury Borough Council policy;
 - c) Agricultural and forestry dwellings;
 - d) Where proposals would involve the re-use or conversion of an existing building and accords with the relevant development principles set out at Policy GD3; or
 - e) The future Local Plan for Tewkesbury identifies an additional need for further housing in Twyning as a service village beyond the sites designated for residential development in this plan and the defined development boundary

- 7.5 The current application proposes the replacement of 1 no. existing mobile home with 1 no. dwelling and therefore complies with criteria (a) of Policy GD1 above. Notwithstanding this, however, Policy H5 (Mobile Homes) of the Twyning NDP specifies that applications for the replacement of existing mobile homes/residential caravans by permanent dwellings on sites where residential development is inappropriate, will not be supported. In line with this, saved Policy HOU12 of the TBLP also specifies that permission will not be granted for the replacement of existing mobile homes/residential caravans by dwellings on sites where residential development is inappropriate.
- 7.6 Consequently the Adopted Twyning NDP and the TBLP are not supportive of the proposed replacement of the existing mobile home with 1 no. dwelling, and the application therefore does not comply with Criteria 4 (iv) of JCS Policy SD10. For these reasons, the proposal is judged to be entirely inconsistent with the spatial strategy of the development plan, as set out within Policy SD10 of the JCS, Policy H5 of the Twyning NDP and saved Policy HOU12 of the TBLP.

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

- 7.7 The PSTBP acknowledges that the JCS identifies a settlement hierarchy as the basis for the strategy for delivering growth targets, derived from the objectively assessed need for housing, in the most sustainable manner possible. It does, however, also acknowledge that, further to the planned growth at Tewkesbury town, the Rural Service Centre and Service Villages as defined within the JCS, some opportunities for small scale new housing will be necessary in order to support the vitality of communities at other rural settlements across the Borough, but that it is essential that the levels of rural housing growth are manageable and sustainable in order to protect existing communities and the rural landscape and avoid harmful over development.
- 7.8 The application site is not identified as a Housing Site Allocation within the PSTBP, and is not located within a settlement boundary as defined within the PSTBP Proposals Map. Emerging Policy RES3 of the PSTBP provides a set of 7 criteria in which the principle of new residential development outside of the defined settlement boundaries will be considered acceptable. The only criteria of possible relevance to this application are: (3) very small scale development at rural settlements in accordance with Policy RES4; and (4) a replacement dwelling.
- 7.9 In terms of criteria (4) above, whilst the proposal would comprise a replacement dwelling, the Reasoned Justification for emerging Policy RES9 of the PSTBP, which relates to 'Replacement dwellings', states that this policy does not apply to mobile homes. As such, the proposal is not considered to comply with criteria (4) of emerging Policy RES3 of the PSTBP.
- 7.10 In terms of criteria (3) of emerging Policy RES3 of the PSTBP (very small scale development at rural settlements in accordance with Policy RES4), the application would comprise very small scale development, consisting of only 1 no. dwelling in place of the existing mobile home. In terms of its location, reference is made to the appeal decision for the adjacent site to the west, known as Tree Tops (PINS reference APP/G1630/W/20/3250825, dated 28th July 2020). Within this appeal decision the Inspector considered that the area has the feel of a small hamlet and specified that, whilst they did not have a definition of 'rural settlement' in the context of emerging policy RES4 of the PSTBP before them, "*as the site is closely surrounded by a small community of other houses in a rural area, it could reasonably be interpreted as such.*" Notwithstanding this determination, however, emerging Policy RES4 of the PSTBP specifies that "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 compliance with a number of criteria [emphasis added]. Notwithstanding these criteria, however, Twyning is featured within the

settlement hierarchy and consequently the proposed development would not be within nor adjacent to the built-up area of an “other rural settlement”. For this reason, the principle of the proposed development is considered to conflict with emerging Policy RES4, and therefore Policy RES3, of the PSTBP, and the proposal is judged to be entirely inconsistent with the spatial strategy of the emerging development plan.

Loss of traveller sites

- 7.11** It is also material that the existing site benefits from planning permission (ref: 11/00360/FUL) for use of the site as a traveller site for 4 pitches (for use by direct relatives of the applicant). Condition 2 states “*The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.*”

Joint Core Strategy Policy SD13 states that existing permanent residential Traveller sites will be protected from development to alternative uses. This is echoed in Policy GTTS1 which states that existing and future permanent Gypsy, Traveller and Travelling Showpeople sites will be protected in line with JCS Policy SD13.

- 7.12** Although the site is not allocated as a Traveller site in either the Tewkesbury Borough Local Plan (2011) or the emerging Brough Plan, it is nonetheless afforded some protection from a change of use under the above policies.
- 7.13** The agent argues that the application description of development prevents use of the site for use only by members of the applicant’s family. Whilst case law does not support this view, it was clearly the intention, and the applicant has made clear it would not be available for other (non-family members) travellers.
- 7.14** It is also the case that the needs of the occupiers of the site (currently residing in the mobile home on site), would be met by the new dwelling they would move into. They would not, therefore, be displaced creating additional need and the impact on need would therefore be neutral. Therefore whilst the proposal would technically conflict with Policy, for the reasons set out above, limited weight is afforded to this conflict.

Conclusions on Principle of Development

- 7.15** The site is located outside the outside of the Twyning RDB, as defined at Appendix A of the NDP and the proposal would also conflict with development plan policies in relation to the replacement of residential mobile homes with permanent dwellings. There would also be a conflict with JCS Policy SD13. Whilst the conflict with the development plan weighs against the proposal, its policies in relation to the provision of housing are out of date and the presumption is that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF’s policies as a whole.

The Council's 5 Year Housing Land Supply and the implications of the NPPF

- 7.16** Whilst the proposal is contrary to Policy SD10 of the JCS, Policy H5 of the Twyning NDP, saved Policy HOU12 of the TBLP and emerging policies RES3 and RES4 of the PSTBP, it is also currently the case that the Council cannot demonstrate a 5-year supply of deliverable housing sites. It is the Council's current position that a 4.39 years supply of housing can be demonstrated (as set out in the latest Five Year Housing Land Supply Statement published in November 2021). In this scenario, paragraph 11 of the NPPF states that where policies which are most important for determining the application are out of date (including policies for the provision of housing where a five year supply cannot be demonstrated), permission should be granted unless: (i) the application of policies in the NPPF 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.

- 7.17** Paragraph 14 of the NPPF states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all four of the stated criteria apply. One of those criteria is that any NDP was 'made within the last two years. However the Twynning NDP is more than two years old as it was adopted as part of the development plan on the 17th April 2018.

Self-Build Housing

- 7.18** The applicant's agent has advised within an email dated 23rd February 2021 that, whilst it may not have been made clear in the submitted application, the proposed dwelling should be considered as a "Self-Build". The submitted application form makes no reference to the proposed dwelling being a self-build development. The only reference to this is within the submitted Design and Access Statement.
- 7.19** JCS Policy SD11 states that housing development will be required to provide an appropriate mix of dwellings and that self-build housing will be encouraged as part of an appropriate mix. The policy does not set out any specific criteria against which a proposal for self-building housing can be assessed and paragraph 4.11.10 of the JCS indicates that more detailed policies will be provided in district plans to support the implementation of projects for self-build housing. There is no more detailed policy in the JCS and self-build is not identified as one of the exceptions permitted under JCS Policy SD10. Hence, although the JCS indicates general support for self-building housing, it does not do so in circumstances where the proposed development would conflict with JCS Policy SD10.
- 7.20** There are currently 132 entries on Part 1 of the Self-Build Register. In terms of current demand for Twynning; there are 5 on Part 1 and 1 on Part 2 who have specified Twynning as a location where they wish to build.
- 7.21** While the council needs to account for 'self-build' housing in its plan making function, the demand is relatively small in relation to the authority's overall housing need. Further, whilst it is acknowledged that the JCS indicates general support for self-building housing, the JCS does not do so in circumstances where housing would be in conflict with the development plan. Applications must continue to be considered in light of s38(6) of the 2004 Act.
- 7.22** The application has not provided evidence that the applicant has registered their interest in a self-build opportunity and consequently it is not demonstrated that any approval of planning permission would assist in meeting the demand for self-build plots from people who have added their names to the register. Nor has the applicant offered to complete a legal agreement to ensure that the development is brought forward on the basis of a self-build plot. It is therefore considered that very little weight can be given to this element of the proposal. This consideration does not justify a grant of planning permission contrary to the provisions of the development plan.

Accessibility

- 7.23** Policy INF1 of the JCS at criteria 1 requires developers to provide safe and accessible connections to the transport network to enable travel choice for residents and commuters.
- 7.24** Section 9 of the NPPF relates to “Promoting Sustainable Transport” and, at paragraph 102, specifies that transport issues should be considered from the earliest stages of plan-making and development proposals, so that:
- a) The potential impact of development on transport networks can be addressed;
 - b) Opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
 - c) Opportunities to promote walking, cycling and public transport use are identified and pursued;
 - d) The environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
 - e) Patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
- 7.25** Paragraph 103 of the NPPF specifies that the planning system should actively manage patterns of growth in support of these objectives. It further identifies that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in both plan-making and decision-making.
- 7.26** In addition, Paragraph 108 of the NPPF specifies that, in assessing specific applications for development, it should be ensured that, inter alia, appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.
- 7.27** Within the appeal decision for the adjacent site to the west, known as Tree Tops (PINS reference APP/G1630/W/20/3250825, dated 28th July 2020), the Inspector noted that, whilst the access towards Church End is single lane, cyclists were observed comfortably using it during their site visit. The Inspector noted that, whilst the road is not served by pavements or street lighting, the verges are wide for much of the short walk to the main road, on which there is a bus stop with a regular, if not frequent, bus service. In addition, the Inspector noted that the adjacent Public Right of Way allows people to access the wider footpath network. The Inspector was therefore satisfied that there would be a credible choice of transport and that the proposal met the requirements of JCS Policy INF1. Taking into consideration the conclusions of this recent appeal decision for the adjoining site, the application site is considered to be in a sustainable location for residential development, and the proposal would accord with the environmental dimension of sustainability.

Design and Impact on Visual Amenity and Landscape

- 7.28** The NPPF sets out that the Government attaches great importance to the design of the built environment. Policy SD4 of the JCS advises 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. At a local level, Policy GD3 of the Twynning NDP states that new development should reflect the historical growth that has shaped the distinctive character of Twynning Parish respecting the pattern of development, its grain, density and materials within the immediate area. 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.
- 7.29** In terms of the provision of off-road parking, Policy GD5 of the Twynning NDP specifies that, where possible, new residential development should include off-street parking, and specifies that car parking should be achieved in a way that does not detract from the character and appearance of the area. It states that parking provided within the residential curtilage of a residential dwelling should be to the side of dwellings and behind the building line, where possible.
- 7.30** The NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. JCS Policy SD6 states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. Proposals will have regard to local distinctiveness and historic character of different landscapes and proposals are required to demonstrate how the development will protect landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement area. Policy GD4 of the Twynning NDP requires development to respect the local landscape quality and ensure that important public views are maintained wherever possible.
- 7.31** There is some variation in the location of existing dwellings in this part of Church End Lane relative to the adjacent public highway. Whilst the proposed dwelling would be located in closer proximity of Church End Lane relative to the adjacent dwelling to the east known as Brunsum and the eastern-most dwelling on the adjacent site to the west known as Tree Tops, it would be set back from the adjacent highway to approximately the same distance as the existing mobile home on the application site and the western-most dwelling on the adjacent site known as Tree Tops. The overall scale, form and the height to ridge of the proposed dwelling would be approximately the same as the 2 no. dwellings recently approved on this adjacent site to the west, as well as the existing dwelling to the east known as Brunsum.
- 7.32** There would be a separation distance of approximately 7 metres between the proposed dwelling and the eastern-most dwelling on the adjacent site to the west, and some 8 metres between the proposed dwelling and the adjacent dwelling to the east known as Brunsum. By virtue of the scale and form of the proposed dwelling and its siting relative to existing adjacent dwellings, it is considered that this would complement the form of the settlement and be well related to existing buildings within the settlement, and would not result in a cramped form of development. The proposed development would be located in the close context of existing surrounding development on all sides and as such it is considered that this would protect the landscape character of the area.

- 7.33** The proposed detached garage would be set back from the rear elevation of the proposed dwelling to its western side. By virtue of its scale, form and position within the site relative to the proposed principal dwelling, it is considered that this would appear ancillary to the principal dwelling, in compliance with Policy GD5 of the Twyning NDP.
- 7.34** The proposed development would have multi red clay facing brick and artificial slates or plain clay roof tiles, to match adjoining dwellings. Subject to any approval of planning permission being subject to conditions requiring a sample of all materials proposed to be used for the external walls and the roofs of the proposed development (the principal dwelling and detached garage) to be submitted to and approved in writing by the Local Planning Authority prior to their construction, it is considered that the design of the proposed development would be sympathetic in scale, form and materials to existing adjacent dwellings and that it would respect the character and appearance of the area.
- 7.35** The proposal seeks to remove a section of hedge at the front to implement the vehicular access. To mitigate for the loss of the hedge, the Tree Officer advises that there would need to be some proposed planting elsewhere within the site, and comments that this could be in the form of one or two small native or even ornamental trees at the rear of the proposed property. As such, it is recommended that any approval of planning permission is subject to condition for details of proposed tree planting to be submitted to and approved in writing by the Local Planning Authority, to include confirmation of location, species and sizes.

Residential amenity

- 7.36** 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. Policy GD6 of the Twyning NDP specifies that development proposals will need to demonstrate that they will not lead to unacceptable levels of noise, general disturbance, smell, fumes, loss of daylight or sunlight, loss of privacy or have an overbearing effect on neighbouring properties. In addition, emerging Policy RES5 of the PSTBP specifies that proposals for new housing development should, inter alia, provide an acceptable level of amenity for the future occupiers of the proposed dwellings and cause no unacceptable harm to the amenity of existing dwellings.
- 7.37** As detailed above, there would be a separation distance of approximately 7 metres between the proposed dwelling and the eastern-most dwelling on the adjacent site to the west, and some 8 metres between the proposed dwelling and the adjacent dwelling to the east known as Brunsum. The vehicular access driveway serving the mobile homes to the rear of the site would be located within this intervening gap to the east. The rear elevation of the proposed dwelling would be set back at its closest point some 11 metres from the rear site boundary, which backs onto an existing mobile home and its associated vehicular parking area. By virtue of the scale and form of the proposed dwelling and its position within the site relative to adjacent dwellings/mobile homes, it is considered that there would be no significant adverse effect on adjoining occupiers in terms of overshadowing or overbearing impact.
- 7.38** There would be first floor windows in the rear elevation facing the mobile home to the north. However, there would be a distance of 11m to the intervening boundary and would not unreasonably affect the amenity of adjoining occupiers to the north of the site in terms of overlooking or loss of privacy. First floor windows in the western side elevation would serve bathrooms and be obscure glazed. There would also be a first floor level window in the eastern side elevation of the proposed dwelling (to serve a home office/study). There are no first floor level windows within the side elevation of the adjacent dwelling known as Brunsum and, by virtue of the obscure angle, the proposed home office/study window would not directly overlook any fenestration on the front elevation of this adjacent dwelling. As such, it

is considered that there would be no significant adverse effect on adjoining occupiers at Brunsum in terms of overlooking or loss of privacy.

- 7.39** In terms of the impact on the residential amenity of any future occupiers of the proposed dwelling, the Environmental Health Officer has been consulted on the application and raises no objection in terms of road traffic noise adversely impacting future residents. By virtue of the scale and location of the proposed dwelling and its associated external amenity space, it is considered that an acceptable living environment would be provided for any future occupiers.

Access and highway safety

- 7.40** 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. JCS Policy INF1 states that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters. In addition, emerging Policy RES5 of the PSTBP specifies 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 PSTBP states that proposals need to make provision for appropriate parking and access arrangements. Policy TP1 of the Twynning NDP echoes this and states that development will only be permitted where it will not cause a severe adverse traffic impact and increase in the volume of traffic within Twynning Parish that cannot be acceptably mitigated, particularly where the road network is narrow and pedestrian facilities inadequate.
- 7.41** The County Highway Authority has undertaken a robust assessment of the planning application and, based on the analysis of the information submitted, concludes that there would not be an unacceptable impact on highway safety or a severe impact on congestion. Therefore the Highway Authority advises that there are no justifiable grounds on which an objection could be maintained. Conditions requiring vehicular access, parking/driveway and visibility splays are recommended.

Biodiversity

- 7.42** 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. Emerging Policy NAT1 of the emerging PSTBP states that development proposals that will conserve, and where possible restore and/or enhance, biodiversity will be permitted. In addition, Policy GD4 of the Twynning NDP specifies that development will normally be expected to protect and enhance existing ecological corridors and landscape features for their biodiversity value.
- 7.43** The Council's Planning Ecological Advisor has been consulted on the application and raises no objection subject to conditions requiring details of any additional external lighting (in order not to deter foraging/commuting bats) and installation of a bird box. An advisory note is recommended in relation to the potential for bat roosts .

Drainage

- 7.44** 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 and there is a requirement for the application to demonstrate that the proposed development would not lead to an adverse impact on surface water drainage infrastructure, in accordance with JCS Policy INF2, emerging Policy ENV2 of the PSTBP and the Tewkesbury Borough Council Flood and Water Management Supplementary Planning Document (SPD).
- 7.45** The application includes the submission of a Drainage Strategy, which advises that, as the proposed dwelling would have a reduced footprint when compared to the existing structure (mobile home) the proposal would offer a reduction in surface water collection. It further acknowledges that the site is currently finished in impermeable tarmac with a small gravel area to the north, and that the approximate split in porous and non-porous area is 15%-85%. The Drainage Strategy confirms that the proposed split would be approximately 50-50%, and that the new impermeable area can be constructed using water permeable materials such as gravel, brick paviours for parking areas etc. if required. It further states that the proposed dwelling would include 2 no. surface water collection tanks located to receive rainwater from the dwelling/garage's downpipes and that these tanks would be used to re-cycle rainwater for residential amenity use. Any excess would overflow into the existing surface water drainage arrangement by way of attenuation.
- 7.46** The submitted Water Management Statement confirms that the application site is served by an existing public foul drainage system, and that any increase created by the proposal can be accommodated within the existing system.
- 7.47** The County Council Sustainable Drainage Engineer has been consulted on the application and raises no objection, advising that the information supplied in the drainage strategy is such that there is no requirement for a drainage condition to be applied to any permission granted against this application.

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** In respect of housing policy, the proposed development conflicts with the development plan in so far as it is not in an area allocated for housing development and does not meet any of the exceptions set out in JCS Policy SD10. There is also conflict with the Twynning NDP as the site is outside the development boundary and again, does not meet any of the criteria for new housing in such areas. There would also be the loss of a traveller pitch, in conflict with JCS Policy SD13.
- 8.3** Nevertheless, as set out above the Council cannot demonstrate a five year supply of deliverable housing sites. In such circumstances, in accordance with paragraph 11 (and footnote 7) of the NPPF, the above policies relating to the provision of housing are considered to be out of date and the presumption is that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF's policies as a whole.

Benefits

- 8.4** The application proposes the replacement of an existing mobile home with 1 no. dwelling and, as such, would result in no net increase in the number of dwellings in the Borough nor any increase in the support to existing local services and the local economy. There would, however, be economic benefits during construction through the creation of new jobs. The economic benefits which would be derived from the development would, however, be limited by the scale of the development proposed.
- 8.5** The application is promoted as a self-build dwelling. However, for the reasons given above it is considered that very little weight can be given to this within the overall planning balance.
- 8.6** In addition there would be some ecological enhancement as a result of the proposed development, through the installation of a swift nest box or suitable alternative onto the new building, as required by the recommended condition.

Harms

- 8.7** Other than the harm by reason of conflict with the development plan (which must assume lesser weight in the context of the five-year supply position), it is not considered that the proposal would result in any other significant harm.

Neutral

- 8.8** Having regard to the policies of the development plan and the responses of technical consultees, subject to the imposition of suitable planning conditions, there are no objections in respect of design, impact on visual amenity and landscape, impact on residential amenity, traffic and transport, drainage or biodiversity. Whilst there would be the loss of a traveller pitch, it is also the case that the needs of the occupiers of the site (currently residing in the mobile home on site), would be met by the new dwelling they would move into. They would not, therefore, be displaced creating additional need and the impact on need would therefore be neutral.

Conclusion

- 8.9** As set out above, the Council cannot demonstrate a five-year supply of deliverable housing sites. The conflict with the development plan, including the NDP, is a serious matter. However the policies for the provision of housing are out of date in the context of paragraph 11 of the NPPF and must necessarily attract less weight.
- 8.10** It is concluded that there would be no significant and demonstrable harms arising from the proposed development which would outweigh the benefits when read against the NPPF as a whole. It is therefore recommended that **planning permission be granted, 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. The development hereby permitted shall be carried out in accordance with approved drawing no. 705/10 Rev A (Proposed Plans and Elevations) and details within the application form received by the Local Planning Authority on 30th October 2020, and approved drawing nos. 651/02 Rev A (Location Plan), 651/03 Rev G (Proposed Site Plan) and 705/04 (Proposed Garage) and details within the Drainage Strategy and Water Management Statement received by the Local Planning Authority on 15th December 2020, except where these may be modified by any other conditions attached to this permission.

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

3. No construction of the external walls of the development hereby permitted shall commence until a sample of all materials proposed to be used for the external walls have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the samples so approved.

Reason: In the interests of the appearance of the development and the visual amenities of the surrounding area.

4. No construction of the roofs of the development hereby permitted shall commence until a sample of the roofing materials proposed to be used have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the samples so approved.

Reason: In the interests of the appearance of the development and the visual amenities of the surrounding area.

5. The dwelling hereby permitted shall not be occupied until gates, walls, fences, and other means of enclosure have been constructed in full accordance with a hard landscape scheme to be submitted to and approved in writing by the Local Planning Authority. The hard landscape scheme shall detail the type, height and location of all existing and proposed gates, walls, fences, and other means of enclosure.

Reason: In order to protect the residential amenity of adjoining occupiers and the visual amenity of the area.

6. The dwelling hereby permitted shall not be occupied until the vehicular access, parking/driveway has been laid out and constructed in accordance with the submitted plan drawing no. 651/03 rev G with the area within at least 5.0m of the carriageway edge of the public road 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 in accordance with paragraph 108 and 110 of the National Planning Policy Framework.

7. Development shall not begin until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 54 metres in each direction measured along the nearside edge of the adjoining carriageway edge as shown on the submitted plan ref: 651/03 rev G. Nothing shall be planted, erected and/or allowed to grow on the triangular area of the land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety.

8. The development hereby permitted shall not be first occupied until the proposed garage has been fitted with an electric vehicle charging point. The charging point shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. The electric vehicle charging point shall be retained for the lifetime of the development unless it needs 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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property and ancillary domestic storage without the grant of further specific planning permission from the Local Planning Authority.

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

10. Full details of all proposed tree planting (to include confirmation of location, species and sizes) shall be submitted to and approved in writing by the Local Planning Authority. All planting in the approved details shall be carried out in the first planting and seeding season following the occupation of the building or completion of the development, whichever is the sooner, and any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later) shall be replaced in the next planting season by specimens of similar size and species. 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 by specimens of similar size and species in the first suitable planting season.

Reason: In order to protect the rural setting of the site and the visual amenities of the area.

11. No additional external lighting shall be installed in connection with the development hereby permitted other than in accordance with details (including specification and location of lighting) that shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to minimise light pollution and in order not to deter foraging/commuting bats.

12. Prior to the occupation of the development hereby permitted, evidence of the installation of a bird box (including its specification and location) shall be submitted to and approved in writing by the Local Planning Authority. The swift nest box or suitable alternative shall be installed onto the dwellinghouse hereby permitted, at least five metres above the ground, ensuring that there is unobstructed access for birds entering and leaving and, if possible, the box shall be sited under the shelter of eaves or overhanging roofs.

Reason: In order to protect and enhance ecology and biodiversity.

13. The 2 no. first floor level windows on the western side elevation of the dwelling hereby permitted shall be constructed so that no part of the framework less than 1.7 metres above finished floor level shall be openable. Any part of the window below that level shall be fitted with, and retained in, obscure glazing (Pilkington Level 4 or equivalent).

Reason: To safeguard the residential amenity of adjoining occupiers from overlooking and loss of privacy.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, roof lights or openings, other than those shown on the plans hereby approved, shall be formed at upper floor level in the northern, eastern or western elevations of the dwelling hereby permitted at any time unless a further planning permission has been granted.

Reason: To safeguard the residential amenity of adjoining occupiers from overlooking and loss of privacy.

INFORMATIVES:

1. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.
2. The Local Highway Authority has no objection to the above subject to the applicant obtaining a section 184 licence. The construction of a new access will require the extension of a verge and/or footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the Applicant is required to obtain the permission of Gloucestershire Highways on 08000 514 514 or highways@gloucestershire.gov.uk before commencing any works on the highway.
3. Demolition of the existing buildings should be undertaken cautiously and tiles should be lifted by hand instead of slid in order not to disturb any bats if present. If bats are recorded during any part of the demolition, works are to cease immediately and a suitably qualified ecologist is to be consulted. Failing to do so will result in fines or imprisonment.
4. A fee is payable where written confirmation is required that one or more conditions imposed on this permission have been complied with. The fee is currently £116 per request. The fee must be paid when the request is made.