

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

Committee:	Planning
Date:	21 June 2022
Site Location:	Land South of Badgeworth Lane And West of Shurdington Road Shurdington
Application No:	21/01286/OUT
Ward:	Badgeworth
Parish:	Badgeworth
Proposal:	Residential development comprising up to 50 dwellings (50% affordable housing, 10% self/custom build) and associated engineering works. All matters are reserved except for vehicular access.
Report by:	Victoria Stone
Appendices:	Site Location Plan Illustrative Layout Plan Proposed Site Access Layout Plan
Recommendation:	Refuse

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 This application relates to a parcel of land located off Badgeworth Lane at the south-western edge of the village of Shurdington (**see attached Site Location Plan**).
- 1.2 The site is rectangular in shape, comprising a single field of agricultural land currently in use for pasture and extends to approximately 2.23 hectares. The land is currently enclosed by hedgerows and trees on three sides and metal estate-railings along Shurdington Road (A46).
- 1.3 The site is bound by Badgeworth Lane to the north, Shurdington Road to the east and existing residential properties to the west and south. Shurdington Church of England Primary School is directly opposite the site across Badgeworth Lane.
- 1.4 Topographically the land is flat, with only a very gentle fall in levels from a higher point against Shurdington Road at the eastern edge of the site.
- 1.5 The site lies within the designated Green Belt and is within close proximity to two Grade II listed buildings, The Greenway Hotel and its Lodge. The Cotswolds Area of Outstanding Natural Beauty is situated on the opposite side of Shurdington Road.

- 1.6** The application site was identified in the Pre-Submission version of the Tewkesbury Borough Plan as a potential housing site allocation with an indicative capacity of 50 dwellings and its removal from the Green Belt, under Policy RES1 (Housing Site Allocations). However, the Inspector recommended the Green Belt should be reinstated and the allocation should be deleted in his post hearings Main Modification letter, which was received on 16 June 2021. As such in accordance with the Inspector's proposed modification, the site has been deleted as an allocation and the Green Belt has been reinstated in the Tewkesbury Borough Plan.
- 1.7** This application is made in outline with all matters reserved for subsequent approval except access.
- 1.8** The proposed development seeks to provide up to 50 dwellings, associated vehicular access, public open space, landscaping and other associated works.
- 1.9** The proposed development would deliver a mix of open market and affordable housing, overall, 50% would be affordable housing. This equates to 25 dwellings being affordable. Further to this, 10% of the dwellings would be self-build units.
- 1.10** It is anticipated that buildings would generally be two storeys in height, with the potential use of a limited number of taller 2.5 storey dwellings appropriately located to add variety to the street scene and massing to landmark buildings. The development would provide a range of house sizes from one to four bedroom properties. Dwellings are likely to be detached, semi-detached and short terraced formats. The development density as shown on the Illustrative Layout would be 33.7 dwellings per hectare.
- 1.11** The proposed development would be served by a new vehicular and pedestrian access from Badgeworth Lane. Vehicular access takes the form of a new priority-controlled T-junction.
- 1.12** The revised Illustrative Layout Plan demonstrates the provision of 0.749 hectares of green open space, inclusive of a Locally Equipped Area of Play (LEAP), a surface water attenuation basin and the retained trees and hedgerows around the boundary of this site.
- 1.13** The application documents include an Illustrative Layout Plan which indicates how the quantum of development could be delivered and a Design and Access Statement (DAS) which sets out the rationale for the development.
- 1.14** Since the application was first submitted, the proposal has been subject to revisions which include a reduction in the number of dwellings proposed to address concerns raised by officers in terms of the level of appropriate public outdoor space. Following submission of the revised plans an additional consultation period has taken place.
- 1.15** The Development Plan currently comprises the Joint Core Strategy and a number of 'made' Neighbourhood Development Plans. The Tewkesbury Borough Plan 2011-2031 (TBP) was adopted at a special meeting of full Council on 8 June 2022. It is therefore now part of the Development Plan.

2.0 RELEVANT PLANNING HISTORY

- 2.1** There is no relevant planning history pertaining to the site.

3.0 RELEVANT POLICY

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

3.1 National guidance

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

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

- Policy SP1 (The Need for New Development)
- Policy SP2 (The Distribution of New Development)
- Policy SD3 (Sustainable Design and Construction)
- Policy SD4 (Design Requirements)
- Policy SD5 (Green Belt)
- Policy SD6 (Landscape)
- Policy SD7 (The Cotswolds Area of Outstanding Natural Beauty)
- Policy SD8 (Historic Environment)
- Policy SD9 (Biodiversity and Geodiversity)
- Policy SD10 (Residential Development)
- Policy SD11 (Housing Mix and Standards)
- Policy SD12 (Affordable Housing)
- Policy SD14 (Health and Environmental Quality)
- Policy INF1 (Transport Network)
- Policy INF3 (Green Infrastructure)
- Policy INF4 (Social and Community Infrastructure)
- Policy INF6 (Infrastructure Contributions)
- Policy INF7 (Developer Contributions)

3.3 Tewkesbury Borough Plan 2011-2031 (TBP)

- Policy RES3 (New Housing Outside Settlement Boundaries)
- Policy RES5 (Housing Development)
- Policy RES12 (Affordable Housing)
- Policy RES13 (Housing Mix)
- Policy GRB4 (Cheltenham – Gloucester Green Belt)
- Policy DES1 (Housing Space Standards)
- Policy HER1 (Listed Buildings)
- Policy LAN2 (Landscape Character)
- Policy NAT1 (Biodiversity, Geodiversity and Important Natural Features)
- Policy NAT3 (Green Infrastructure: Building with Nature)
- Policy NAT5 (Cotswolds Beechwoods)
- Policy ENV2 (Flood Risk and Water Management)
- Policy HEA1 (Healthy & Active Communities)
- Policy RCN1 (Public Outdoor Space, Sports Pitch and Sports Facility Provision)
- Policy RCN2 (New Sports and Recreational Facilities)
- Policy RCN3 (Allotments and Community Gardens)
- Policy COM2 (Broadband Provision)
- Policy TRAC1 (Pedestrian Accessibility)
- Policy TRAC9 (Parking Provision)

3.4 Neighbourhood Plan

None

3.5 Other relevant policies/legislation

- 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 **Badgeworth Parish Council** – Strongly object to the application for the following reasons:

- The proposed reduction from 57 to 50 dwellings, together with the consequential revised feasibility and illustrative layouts, do not change the opinion of the Parish Council.
- The principal reasons for objecting to the revised application remain exactly the same as those described in original response. These are:
 - Fully support the Planning Inspector’s findings and modifications who reached sound and expert decisions following a lengthy and detailed examination in public.
 - The Planning Inspector’s modification letter spelt out, in no uncertain terms, the need to limit development in Shurdington.
 - The Planning Inspector supported the revised settlement area for Shurdington which would allow some infill development over the plan period to 2031.
 - Development sites SHU2 and SHU3 were not affected by the modifications and will allow the development of 35 dwellings.
 - The JCS requirement to identify and allocate a prescribed level of housing for each service village will be achieved without the need to develop this site - a point also made by the Inspector.
 - The development of the site would add to the significant and increasing traffic problems along the A46 and Badgeworth Lane. The application site is sited on the busy junction of these two roads and access to the development would be directly opposite the gates of the Primary School.
 - The Parish Council does not share the views of the applicant that ‘very special circumstances’ exist to allow development in the Green Belt. Reasons for this are:
 - Development of affordable homes on the scale proposed would not outweigh the potential harm to the Green Belt. Increasing the percentage of affordable homes from 40% to 50% would not, in itself, create a very special circumstances case.
 - The strength of the Planning Inspector’s remarks regarding the protection of the Green Belt surrounding Shurdington cannot be ignored.
 - Other site allocations in Shurdington (SHU2 and SHU3) should realise 23 affordable homes and the proposed infill sites could result, over the Plan period, in further on/off site affordable dwellings/contributions.
 - Evidence at the Inquiry states that Shurdington has ‘contributed more than its fair share of rented affordable housing’ compared with other settlements. It also states

that Shurdington is 'not an area that is disproportionately highly sought after.'

- Development site would not meet the housing needs of the Badgeworth local community.
- There is a need to balance the case for affordable housing with the adverse impact the development would have on the surrounding Green Belt/AONB.
- Over many years of plan preparation there does not appear to have been any detailed reference made to the fact that one of the principal reasons for removing the site from the Green Belt was in order to meet the need for affordable homes.
- In addition, on the 12 April 2022, the Planning Inspector submitted his Final Report on the Examination of the Tewkesbury Borough Local Plan 2011-2031. Once again, the Inspector made it quite clear that the proposed development site SHU1 should be removed from the Local Plan because of its critical position in maintaining the narrow area of Green Belt land between Gloucester and Cheltenham. No exceptional circumstances exist which would justify the development of SHU1.

4.2 Shurdington Parish Council – Strongly object to the application for the following reasons:

- Still the opinion of the Parish Council that the planning application, now proposing a reduction of dwellings to 50 should be refused.
- Fully support the Planning Inspector's findings and modifications who reached sound and expert decisions following a lengthy and detailed examination in public.
- The Planning Inspector's modification letter spelt out, in no uncertain terms, the need to limit development in Shurdington.
- The Planning Inspector supported the revised settlement area for Shurdington which would allow some infill development over the plan period to 2031.
- Development sites SHU2 and SHU3 were not affected by the modifications and will allow the development of 35 dwellings.
- The JCS requirement to identify and allocate a prescribed level of housing for each service village will be achieved without the need to develop this site - a point also made by the Inspector.
- The development of the site would add to the significant and increasing traffic problems along the A46 and Badgeworth Lane.
- The Parish Council does not share the views of the applicant that 'very special circumstances' exist to allow development in the Green Belt. Reasons for this are:
 - Development of affordable homes on the scale proposed would not outweigh the potential harm to the Green Belt. Increasing the percentage of affordable homes from 40% to 50% would not, in itself, create a very special circumstances case.
 - The strength of the Planning Inspector's remarks regarding the protection of the Green Belt surrounding Shurdington cannot be ignored.

- Other site allocations in Shurdington (SHU2 and SHU3) should realise 23 affordable homes and the proposed infill sites could result, over the Plan period, in further on/off site affordable dwellings/contributions.
- Smaller sites could be developed within the Shurdington settlement area to provide the ‘limited affordable housing for local community needs’ as opposed to the Applicant’s claim that ‘very special circumstances’ existing for development in the Green Belt.
- Have very significant concerns over the safety of both the A46 and Badgeworth Lane
 - increased volumes of traffic generate by the additional homes.
- Question the evidence submitted in terms of the speed observations.
- In addition, on the 12 April 2022, the Planning Inspector submitted his Final Report on the Examination of the Tewkesbury Borough Local Plan 2011-2031. Once again, the Inspector made it quite clear that the proposed development site SHU1 should be removed from the Local Plan because of its critical position in maintaining the narrow area of Green Belt land between Gloucester and Cheltenham. No exceptional circumstances exist which would justify the development of SHU1.

4.3 National Highways – Offer no objection.

4.4 Natural England – No objection subject to appropriate mitigation being secured.

4.5 Campaign to Protect Rural England (CPRE) – Objects to the application for the following reasons:

- The site lies in the Green Belt and no ‘very special circumstances’ apply in this case.
- Site is a greenfield site, part of the open countryside on the edge of Shurdington but outside the village boundary. Its development would therefore represent an unwarranted and damaging incursion into open unspoilt countryside.

4.6 Severn Trent Water – No objections subject to conditions.

4.7 Cotswold Conservation Board – Object to the application.

4.8 Local Highway Authority – Support the application.

4.9 County Archaeologist – No objection in principle, subject to a programme of investigation is undertaken, which can be secured via condition.

4.10 County Lead Local Flood Authority – No objection.

4.11 County Minerals and Waste Planning Policy Officer – Recommend condition to ensure the effective implementation of waste minimisation measures through the reserved matters stage.

4.12 County Developer Contributions Investment Team – Financial contributions towards library provision is required to make the development acceptable in planning terms. No contribution towards education provision is required.

- 4.13 Environmental Health Officer (Noise)** – No objection.
- 4.14 Environmental Health Officer (Air Quality)** – No adverse comments to make.
- 4.15 Community and Place Development Officer** – A contribution towards community facilities and sport facilities is required to make the development acceptable in planning terms.
- 4.16 Housing Strategy and Enabling Officer** – No objection.
- 4.17 Tree Officer** – Object to the removal of the hedgerow required to facilitate the new access.
- 4.18 Landscape Advisor** – No objection.
- 4.19 Ecological Advisor** – Requests further information/surveys prior to determination of the application.
- 4.20 Conservation Officer** – No objection.
- 4.21 Project Officer (Asset Management Team)** – Request a Local Equipped Area of Play (LEAP) is provided on the site.

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** Four representations objecting to the application have been received. The comments are summarised below:
- Development would compromise highway safety – both vehicular and pedestrian.
 - Lack of safe accesses, volumes of traffic and unsuitable surrounding road infrastructure.
 - Development would cause a danger to pupils and parents attending the school opposite.
 - Additional vehicles generated from development would exacerbate the existing traffic issues on the surrounding roads.
 - Increase in children living in the village may result in no spaces at the primary school for children living in the village elsewhere. How will the school expand to accommodate the additional children?
 - Overdevelopment of the site – would not be sustainable or sympathetic integration with the surroundings.
 - No amenities in the village to serve the occupiers, which would result in more traffic

travelling to the services/facilities elsewhere.

- Site is in the Green Belt and opposite the AONB – Inspector said the necessary exceptional circumstances to justify releasing the site from the Green Belt for housing are not present – been rejected by the Planning Inspector.
- Development would not meet the required exception to remove the land from Green Belt.
- No evidence to support the need for additional affordable housing within Shurdington village.
- Application not part of the approved plan for Gloucestershire.
- Development would reduce the gap between Cheltenham and Gloucester.
- Consideration should be given to neighbouring amenity.
- Quantum of development ridiculous – area is already overpopulated.
- Harm to local wildlife on the site.
- Development would severely diminish the quality of life of current residents of Badgeworth Lane and the village of Shurdington.

In addition, a representation from Stagecoach has been received. The comment is summarised below:

- The Council has determined that the site should be removed from the Green Belt and allocated for development.
- The Council remains in a challenged position with regard to a deliverable short term housing land supply and this adds a good deal more weight to the argument that facilitating the development should take place with minimal delay.
- Alternative is that sites in less sustainable locations will continue to be brought forward outside the plan-led system, where there are no credible opportunities to make journeys except by private car. This causes Stagecoach a high level of ongoing concern.
- Site has an extraordinarily high level of public transport provision.
- Proposal would ensure the potential to reduce reliance upon the private car would be facilitated by offering to provide a range of highway improvements. The package of works will optimise the convenience as well as safety of those wishing to take advantage of the high level of bus service.
- Satisfied with the submitted proposals.
- Support the application.

Further to this, a representation from Shurdington C of E Primary School has been received. The comment is summarised below:

- Applicant has engaged with the school from the start.
- The benefits of the scheme are more affordable housing for local residents, the delivery and funding of Traffic Lights at A46/Badgeworth Lane Junction, dedicated visitor school parking, signalised crossing between the site and the school, footpath improvements along Badgeworth Lane as well as financial contributions towards local services.
- Provision of family housing in Shurdington will directly benefit the school and help to continue to grow as a school family.
- Fully support the application.

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** At the time of writing this committee report 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 2011-2031 (TBP) was adopted at a special meeting of full Council on 8 June 2022. It is therefore now part of the Development Plan.
- 6.4** The relevant policies are set out in the appropriate sections of this report.
- 6.5** Other material policy considerations include national planning guidance contained within the National Planning Policy Framework 2021 and its associated Planning Practice Guidance (PPG), the National Design Guide (NDG) and National Model Design Code.

7.0 ANALYSIS

Principle of development

- 7.1** In order to further sustainability objectives and in the interests of protecting the countryside, the housing policies of the JCS set out a development strategy for the Borough. Strategic Policies SP1 and SP2 of the JCS set out the scale and distribution of development to be delivered across the JCS area in the period to 2031.
- 7.2** The JCS identifies a settlement hierarchy as the basis for the strategy for delivering growth targets. The JCS settlement hierarchy for Tewkesbury Borough includes Tewkesbury Town as the top tiered settlement followed by the two Rural Service Centres and then the twelve Service Villages. The Rural Service Centre and Service Village classification was informed by the JCS Settlement Audit.

- 7.3** Shurdington is defined as a Service Village in the JCS and is recognised as a settlement as having two or more primary services, two or more secondary services and benefitting from bus services and/or road access to a major employment area. JCS Policy SP2 sets out that Service Villages will accommodate lower levels of development to be allocated through the Borough Plan and Neighbourhood Development Plans (NDPs), proportional to their size and function, and also reflecting their proximity to Cheltenham and Gloucester and taking into account the environmental, economic and social impacts including existing levels of growth over the plan period.
- 7.4** The application site has not been allocated for housing in the JCS and therefore the criterion of Policy SD10 of the JCS applies. Policy SD10 sets out the Council's approach to housing development and sets out that proposals on unallocated sites will only be permitted under certain circumstances, none of which currently apply to the proposed development. The application is therefore in conflict with JCS Policy SD10.
- 7.5** As mentioned previously, the application site was identified in the Pre-Submission Tewkesbury Borough Plan 2011-2031 (2019) as a housing site allocation and to be removed from the Green Belt, under site specific policy SHU1 (Land at corner of Badgeworth Lane and A46, Shurdington). During the Examination in Public, a day was provided for discussion on the proposed allocations within/adjacent to the Shurdington settlement boundary. The Council provided a statement on the Green Belt release in its Housing Background Paper 2019 with regard to Shurdington, to evidence the exceptional circumstances for these allocations, and the associated land proposed to be removed from the Green Belt.
- 7.6** The Inspector's post-hearing Main Modifications letter in June 2016 set out that, inter alia, to make the Plan 'sound' housing site SHU1 should be deleted because the necessary exceptional circumstances to justify releasing the site from the Green Belt for housing purposes were not present.
- 7.7** As such, in accordance with the Inspector's proposed modifications, the site is has been deleted as a housing site allocation and the Green Belt reinstated in the adopted Tewkesbury Borough Plan (TBP).
- 7.8** Further, the application site is located outside of the defined settlement boundary for Shurdington in the Proposals Map of the TBP. Proposals on land outside the defined settlement boundaries will only be permitted under certain circumstances. None of which apply for this proposal.
- 7.9** Given the above the proposal for residential development would not meet the strategy for the distribution of new housing and thus would be in clear conflict with the adopted development plan.

Green Belt

- 7.10** The site is located in the Green Belt therefore the significance of the impact of the development upon the Green Belt must also be considered in assessing whether the principle of the development would be acceptable.

- 7.11** The Government attaches great importance to Green Belts. The NPPF provides that, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF sets out that when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 7.12** Policy SD5 of the JCS sets out that, to ensure the Green Belt continues to serve its key functions, it will be protected from harmful development. Within its boundaries, development will be restricted to those limited types of development which are deemed appropriate by the NPPF, unless it can be demonstrated that very special circumstances exist to outweigh the harm automatically caused to the Green Belt by virtue of the development being inappropriate and any other harm actually caused.
- 7.13** In terms of the TBP, Policy GRB4 states, inter alia, that development on land designated as Green Belt will be severely restricted to ensure it continues to fulfil the five purposes of the Green Belt and that substantial weight will be given to any harm to the Green Belt when assessing planning applications and will, in all such cases, require the submission of clear evidence of very special circumstances before approving development.
- 7.14** To achieve the objectives of Green Belt designation, the NPPF advises that Local Planning Authorities should, subject to certain exceptions, regard the construction of new buildings in the Green Belt as inappropriate development. The proposal does not represent any of the exceptions contained in paragraphs 149 and 150 of the revised NPPF.
- 7.15** It therefore follows that the proposed development would represent inappropriate development in the Green Belt, which by definition, is harmful to the Green Belt and should not be approved except in very special circumstances.

Openness of Green Belt

- 7.16** Openness, as highlighted in the NPPF, is an essential characteristic of Green Belts which is a separate issue from the character and appearance of an area. It is a matter of its physical presence rather than its visual qualities. The Planning Practice Guidance (PPG) advises that openness is capable of having both spatial and visual aspects.
- 7.17** The application site comprises an open parcel of pasture with established trees and hedgerows along three boundaries. The undeveloped, agricultural nature of the site and the open land beyond contribute significantly to the openness. The Inspector, when considering this site as part of the Examination in Public, highlighted the importance of rural character of the site and its contribution to the purposes of the Green Belt. The proposal would introduce residential development onto much of the site. Despite the proposed public open space and landscaping, the combined presence of the buildings, associated domestic paraphernalia, areas of hardstanding (roads and parking areas) and vehicles at the site would result in a considerable loss of openness. Moreover, given the rural character of the application site and its location beyond the edge of the village, the development would run counter to two of the five purposes of the Green Belt that is to check the unrestricted sprawl of large built-up areas and assist in safeguarding the countryside from encroachment.

7.18 Accordingly, the proposal would cause a permanent reduction in openness which, because of the site's location and appearance, coupled with the degree of built form, would have an adverse spatial and visual impact on the openness of the Green Belt. The degree of harm would be significant.

Applicant's Very Special Circumstances

7.19 As set out above, planning policy provides that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The applicant has advanced several considerations they believe constitute very special circumstances which would clearly outweigh the harm to the Green Belt. These are summarised below (see the submitted Planning Statement for full details):

- 50% affordable housing of which 10% would be First Homes
- An additional 10% of the dwellings to be custom/self-build properties available for residents to build their own home
- Delivery and funding of Traffic Lights at the A46/Badgeworth Lane Junction
- Dedicated visitor school parking on site in perpetuity
- Signalised crossing between the site and the primary school
- Footpath improvements along Badgeworth Lane and Bus Stop upgrades.
- Financial contributions to the primary school and other local services
- Publicly accessible open space and net gain in biodiversity
- Enhanced energy efficiency proposals exceeding building regulation requirements
- Provision of family housing growth at Shurdington, without which very limited opportunities exist for the village to sustainably grow and support local services and facilities.

Analysis of the Very Special Circumstances

7.20 There is no doubt the 'very special circumstances' advanced represent a range of benefits. The proposal offers a further 10% affordable housing above the policy requirement. It is recognised that there is a Borough wide need for affordable housing and therefore the proposed development would contribute to this need. In terms of the proposed 10% Self-Build and Custom Housebuilding properties, according to the latest Tewkesbury Borough Council Self Build and Custom Housebuilding Report, April 2021, the Council believe it has, as required by section 2A of the 2015 Self and Custom Housebuilding Act (as amended by the Housing and Planning Act 2016) granted sufficient planning permissions for suitable serviced plots to meet the demand of 12 identified on Part 1 of the register for Base Period 1 (01/10/2015 - 30/10/2016) and demand of 15 identified on Part 1 of the register for Base Period 2 (31/10/16 – 30/10/2017) and therefore the duty is considered to have been met. That said there is no upper limit and therefore the provision of 10% Self and Custom Build properties would be a benefit. The proposed development would also include highway infrastructure works, including to fully

fund and deliver a signalised scheme at the A46 junction, which would benefit the wider community. The development would provide family housing growth in Shurdington, which has been advanced by the applicant as a 'very special circumstance'. However in relation to this the examining Inspector of the TBP set out that whilst Shurdington has not grown like some other villages this is a consequence of its Green Belt location and there is no policy imperative for it to do so.

- 7.21** Having considered the 'very special circumstances' case advanced, whilst appreciating there would be clear benefits to the proposed development, officers consider none of these are truly special.
- 7.22** Further to this the Inspector in the examination of the TBP made his thoughts very clear on developing this site. He concluded that *"housing on this site would significantly extend housing development along the A46, encroach into the countryside to the south of the village and breach the existing strong boundary formed by Badgeworth Lane"*. The Inspector continued by setting out the Council's Green Belt Review underplayed the rural character of the site and its contribution to the purposes of the Green Belt and that as the *"JCS requirement to identify new housing in the TBP and the service villages would be met without 50 houses, given this context the necessary exceptional circumstances to justify releasing the site from the Green Belt for housing purposes are not present."* As a consequence, the proposed housing allocation was removed from the TBP and the site remains in the Green Belt.

Conclusion of Green Belt Matters

- 7.23** The proposed development would cause harm by reason of inappropriateness, loss of openness and conflict with the Green Belt purposes. In line with the NPPF, this harm attracts significant weight.
- 7.24** In this particular case, the applicant has advanced a range of benefits as very special circumstances. The development would contribute to future housing land supply and affordable housing delivery, highway infrastructure improvements and economic impacts. These benefits are not underestimated. These are material considerations that weigh in favour of the development and must be weighed against the harms that would be caused by the development.
- 7.25** However, officers do not consider the 'very special circumstances' case advanced by the applicant would amount to 'very special circumstances' and the recent comments from the examining Inspector of the TBP in relation to the contribution of this site to the Green Belt is a material consideration.
- 7.26** It will be necessary to weigh all material considerations in the overall balance to decide whether very special circumstances exist which clearly outweigh the harm to the Green Belt.

Five Year Housing Land Supply

- 7.27** As set out in the latest Tewkesbury Borough Five Year Housing Land Supply Statement published in January 2022 (April 2021 base), the Council can demonstrate a 3.83 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 8 of the NPPF and in accordance with Paragraph 11(d) 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: 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.
- 7.28** Members will be aware that the Council's approach to calculating housing land supply has been challenged in recent appeals and the courts. Significantly, however, the Inspector who recently decided the appeal relating to land the north west of Fiddington (2nd March 2022) confirmed the Council's five year housing land supply as outlined above. Importantly, in doing so he confirmed that past 'oversupply' arising from a surplus of historic housing completions is a matter which should be factored into the Council's supply calculation, despite the appellant's contention to the contrary.
- 7.29** With the adoption of the TBP there are a number of site allocations in the TBP which can be reasonably expected to deliver housing within the next five years and whilst the land supply position will need to be formally updated, officers fully expect to be able to report a housing land supply in excess of five years at that point, in compliance with NPPF paragraph 74. Notwithstanding this, until the position has been formally updated, the Council cannot currently demonstrate a five year supply.
- 7.30** Notwithstanding this, until the position has been formally updated, the Council cannot currently demonstrate a five year supply and the tilted balance is engaged in this case.

Accessibility and Highway Safety

- 7.31** Section 9 of the NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Paragraph 111 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.32** Policy INF1 of the JCS requires developers to provide safe and accessible connections to the transport network to enable travel choice for residents and commuters. All proposals should provide for safe and efficient access to the highway network for all transport modes; encourage maximum potential use of walking, cycling and passenger transport networks to ensure that credible travel choices are provided by sustainable modes. Planning permission will be granted only where the impact of development is not considered to be severe.

- 7.33** The application is supported by a Transport Statement (TS), a Travel Plan (TP) and a Stage 1 Road Safety Audit Report (RSAR). The TS establishes the suitability of proposed vehicular access to the site, which would be provided through a new priority-controlled T-junction with Badgeworth Lane. The assessment also considers the suitability of the existing highway network to accommodate the additional traffic generated by the development. The TS sets out that the application site is in a suitable location in transport terms, with local facilities within comfortable walking distance and suitable transport routes present. The site also benefits from being near bus stops, with the A46 served by a good level of bus service for the surrounding urban areas of Cheltenham and Gloucester. The TS concludes that the assessment work undertaken and detailed in the TS demonstrates that, in NPPF terms, the development would not have a severe impact on the operation of the local highway network, nor an unacceptable impact on highway safety.
- 7.34** The proposed development includes several mitigation/enhancement measures. The highway works include the signalisation of the Badgeworth Lane/Greenway Lane/A46 Shurdington Road crossroad junction and the provision of a traffic signal-controlled pedestrian crossing across Badgeworth Lane, improvements to the pedestrian infrastructure and the introduction of car parking restrictions along Badgeworth Lane. The proposed development would provide 16 additional visitor/community parking spaces within the site, to replace most on-street spaces lost due to the proposed parking restrictions. These mitigation/enhancement measures can be secured via a planning obligation. The applicant has indicated a willingness to enter into a legal agreement to secure the above infrastructure works however at this stage there is no such agreement in place.
- 7.35** In terms of the impact on the Strategic Transport Network, National Highways have been consulted on the application and offer no objection to the proposals.
- 7.36** Gloucestershire County Council have been consulted as Local Highway Authority (LHA). The LHA concluded that given the development would not generate a significant negative impact on the performance and scale of the surrounding highway network or its users.

Landscape and Visual Impact

- 7.37** The NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by, inter alia, protecting and enhancing valued landscapes, and by recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem service. Policy SD6 of the JCS 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 LAN2 of the TBP sets out that all development must, through sensitive design, siting, and landscaping, be appropriate to, and integrated into, their existing landscape setting.

- 7.38** The application site is not under any formal landscape designations, either statutory/national or non-statutory/local. The Cotswolds Area of Outstanding Natural Beauty (AONB) lies to the eastern edge of Shurdington Road, opposite the site. JCS Policy SD7 (The Cotswolds Area of Outstanding Natural Beauty) and the Cotswolds AONB Management Plan (2018-2023) seek to ensure that development proposals within the setting of the Cotswolds AONB will conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities.
- 7.39** A Landscape and Visual Appraisal (LVA) accompanies the application. The appraisal concluded that the overall effect on the landscape character and the landscape receptors would be neutral. The report continues by setting out that the design of the layout has sought to provide a type of development which responds to its local environment and incorporates locally characteristic features. In respect of views and the visual environment, the report concludes those people who will experience the largest change in the view are located to the immediate surroundings of the site. Generally, from the footpaths and publicly accessible land within the AONB escarpment, the site is visible in varying degrees nestled within the settlement of Shurdington. Neutral visual effects have been identified for all people, except for the local residents who will experience an adverse visual effect.
- 7.40** The Council's Landscape Advisor (LA) has reviewed the submitted LVA and has confirmed she is satisfied that it is an objective and unbiased appraisal and is appropriate and in proportion to the scale and nature of the proposed development. The LA accepts the conclusions of the LVA.
- 7.41** In respect of the impact upon the character and appearance of the site, the application comprises one rectangular shaped field in agricultural use, enclosed by hedgerows and trees on three sides. Badgeworth Lane in this location provides a very clear and stark definition between the built up area and the open countryside. The application site is very much rural in nature. As such, the proposal would be introducing built form into a location where currently there is none. As a result, the proposed development would encroach beyond the village edge, creating an urbanising effect which would not be in keeping with the character and appearance of the site and the village. The Inspector, in the Final Report on the Examination of the Tewkesbury Borough Plan, raised this concern. He set out that the proposed housing allocation '*would significantly extend housing development along the A46, encroach into the countryside to the south of the village and breach the existing strong boundary formed by Badgeworth Lane*' and that the LUC Green Belt Review '*underplays the rural character of the site*'.
- 7.42** In terms of the impact of the proposed development upon the setting of the Cotswolds AONB, as part of the evidence base for the proposed housing allocations in the Tewkesbury Borough Plan 2011-2031 an assessment was carried out in 2019 and evidenced in The Tewkesbury Borough Plan Assessment of Site Allocation Impacts on the Setting of the Cotswolds AONB. This report states that development at this site would have an imperceptible impact upon wide-open views across the Vale from elevated vantages in the AONB; that site accords with the established settlement pattern and is neither conspicuous nor prominent; that development on this site would not interrupt views to the Escarpment and roadside hedges currently prevent views from Badgeworth Lane access the site. The report concluded that development at this site would be consistent with the policies set out in the Cotswolds AONB Management Plan.

7.43 In conclusion, the introduction of the proposed development in this location would not respond positively to and respect the character of the site and its surroundings and would fail to add to the overall quality of the area. As such the proposal would harm the character and appearance of the area. This counts against the proposal.

'Important' Hedgerow

7.44 The proposed development would require the removal of a section of approximately 9.5 metres of hedgerow on the northern boundary adjacent Badgeworth Lane to facilitate the creation of the new vehicular and pedestrian access. A Hedgerow Survey was carried out which established that this hedgerow is classified as 'Important' under the Hedgerow Regulations, and thus, should be retained where practicable and protected to conform with the requirements of the Hedgerow Act 1997.

7.45 Policy NAT1 of the TBP states, inter alia, that development likely to result in the loss, deterioration or harm to features, habitats or species of importance to biodiversity, environmental quality or geological conservation, either directly or indirectly, will not be permitted unless:

a) the need for, and benefits of the development clearly outweigh its likely impact on the local environment, or the nature conservation value or scientific interest of the site.

b) it can be demonstrated that the development could not reasonably be located on an alternative site with less harmful impacts; and

c) measures can be provided (and secured through planning conditions or legal agreements), that would avoid, mitigate against or, as a last resort, compensate for the adverse effects likely to result from development.

Policy NAT1 automatically applies to hedgerows that meet the 'Important' hedgerow criteria in the Hedgerow Regulations.

7.46 The loss of this protected hedgerow would have an unacceptable harm on the local environment and given the Inspector in the Examination of the Tewkesbury Borough Plan confirmed there is no need for the development on this site its loss would be contrary to criterion a) of Policy NAT1. The Council's Tree Officer objects to the removal of this hedgerow for the reasons set out above.

Design and layout

7.47 Section 12 of the NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It continues by stating that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning decisions should, amongst other things, ensure that developments will function well and add to the overall quality of the area and should be sympathetic to the local character, including the surrounding built environment. Paragraph 134 of the NPPF makes it clear that planning permission should be refused for development of poor design that fails to reflect local design policies and government guidance on design contained in the National Design Guide and National Model Design Code.

- 7.48** 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 and that well-designed new development needs to be integrated into its wider surroundings, physically, socially and visually.
- 7.49** This advice is echoed in JCS policy SD4 which states 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.
- 7.50** Policy RES5 of the TBP 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.
- 7.51** All matters relating to the design and layout are reserved for future consideration. However, the application includes a detailed Illustrative Layout (IL), which indicates how the site could be developed. In addition, the submitted Design and Access Statement (DAS) sets out the development objectives. The purpose of the IL is to provide guidance for the detailed stage of future reserved matters applications. The DAS aims to detail how the proposal evolved, including an assessment of the site and its context, identification of the constraints and opportunities which lead to the key urban design principles for the development and an explanation of how the site is proposed to be developed in design terms.
- 7.52** The DAS provides an overview of the Illustrative Masterplan (IM). These include:
- 0.749 hectares of public open space is to be provided to the south and west, which provides a connection to the wider countryside beyond.
 - A Locally Equipped Area of Play (LEAP).
 - The vast majority of existing boundary vegetation would be retained on site.
 - Proposed development is shown that would front the A46, set behind a new landscaped boundary.
 - The surface water attenuation basin would be located to the west of the site.
 - Anticipated that buildings would be generally two storeys in height, with the potential use of a limited number of taller 2.5 storey dwellings located to add variety to the street scene and massing to landmark buildings. A limited number of bungalows could also be provided.
 - Development would comprise a range of house sizes from one to four bedrooms, predominantly in detached, semi-detached and terraced layouts.
 - The layout would define an internal “arrival” space, enhanced by the potential for a

landmark building at the end of the street.

- A simple hierarchy of streets can be used to define a legible movement framework within the site.
- Pedestrian connection to Shurdington Road.

7.53 In relation specifically to the layout, the revised indicative layout as shown on the submitted IL, with the reduction in the number of units, is a welcome improvement on the previous indicative layout. It is noted that the proposed surface water attenuation basin would still be a dominant feature in the public open space so there would have to be careful consideration given to the design of this, to ensure that the open space has dual function, for both recreation as well as formal drainage. However, officers consider the layout as shown demonstrates that up to 50 dwellings could be accommodated on the application site in accordance with local/national design policies. Although, as mentioned in the 'Landscape and Visual Amenity' section above, officers consider the development of this site would cause unacceptable harm upon the character and appearance.

Historic Environment

7.54 Section 66 of the Listed Buildings and Conservation Area Act places a statutory duty on LPAs to have special regard to the desirability of preserving the setting of listed buildings. The NPPF sets out that heritage assets range from sites and buildings of local historic value to those of the highest significance and that these assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Policy SD8 of the JCS sets out that development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment.

7.55 In terms of built heritage, the Built Heritage Statement (BHS) identified The Greenway Hotel and its Lodge, both are Grade II Listed, as being sensitive to the proposed development. The BHS concluded that the site is considered to comprise a minor part of the setting of the Lodge and makes a slight contribution to its significance. However, the heritage significance of the Lodge is principally vested in its built fabric and the elements of its setting that make the most important contribution to its significance will not be affected by the development. The proposed development of the site would result in a minor visual change within the wider setting of the Lodge and the loss of part of its remaining historic undeveloped setting will cause less than substantial harm to its significance. However, as the site has been established to provide only a slight contribution to the Lodge and the proposed approach to the layout and appearance of the development would incorporate a number of mitigation measures, the impact of the development on the significance of the Lodge would be negligible. The significance of The Greenway Hotel would not be harmed by the development of the site.

7.56 The Council's Conservation Officer agrees with the conclusions of this report and therefore raises no objection on built heritage grounds.

- 7.57** In terms of archaeology, the application is supported by an Archaeological Desk-Based Assessment and a Geophysical Survey Report. The desk-based assessment indicates that the site is located in an area of archaeological interest due to the location of numerous known sites of several periods in the vicinity, and also the previous recording of an archaeological cropmark within the site. The geophysical survey did not confirm the presence of any archaeological remains within the application site. The County Archaeologist (CA) has reviewed the survey reports and advises that he has no objection in principle to the development of the site. However, should permission be granted a condition should be included to secure a programme of investigation is undertaken to identify and record any archaeological remains which may be adversely affected by ground works required for the construction of this scheme.
- 7.58** In conclusion, it is considered that the proposed development would not have an unacceptable harm on designated and non-designated heritage assets.

Residential amenity

- 7.59** In respect of the impact of the development upon residential amenity, 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 advice is reflected in JCS policies SD4 and SD14 which require development to enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space. Development should have no detrimental impact on the amenity of existing or new residents or occupants. Policy RES5 of the TBP also sets out the proposals should 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.
- 7.60** The application is in outline and seeks permission for up to 50 dwellings. The specific relationship between the proposed development and the surrounding built form on the site boundaries will need careful consideration as part of any future reserved matters application. As the proposals seeks consent for up to 50 dwellings this is a maximum value and could be reduced should it be necessary to achieve a satisfactory scheme in respect of the overall design and amenity.
- 7.61** Policy SD11 of the JCS states that new housing should meet and where possible exceed appropriate minimum space standards. Policy DES1 (Housing Space Standards) of the TBP requires all new residential development to meet the Government's nationally described space standards as a minimum, to ensure that high quality homes are delivered that provide a sufficient amount of internal space appropriate for occupancy of the dwelling. The applicant has confirmed that all house types would achieve the nationally described space standards.

Housing mix

- 7.62** Policy SD11 of the JCS and RES13 of the TBP requires all new housing development to provide an appropriate mix of dwellings sizes, types and tenures in order to contribute to mixed and balanced communities and a balanced housing market. Housing mix should be based on the most up to date evidence of local housing need and market demand.

- 7.63** The Gloucestershire Local Housing Needs Assessment 2019 – Final Report and Summary (September 2020) (LHNA) provides the most up to date evidence based to inform the housing mix on residential applications. This report states that in Tewkesbury 3% of new market dwellings should be one bedroom properties, with 13% having two bedrooms, 54% containing three bedrooms and 29% having four bedrooms or more.
- 7.64** A Feasibility Layout plan has been submitted which sets out that the proposed housing would include a variety and range of dwelling types that includes 1 bed – 4 bed properties. Given the proposal is in outline, should permission be granted a condition is recommended to secure the market housing mix so that the schedule of accommodation would be in broad accordance with the most up to date evidence of the local housing need and market demand at the time the first reserved matters application is submitted.

Affordable housing

- 7.65** The NPPF sets out that Local Planning Authorities should set policies for meeting affordable housing need on development sites. Policy SD12 of the JCS and Policy RES12 of the TBP requires a minimum of 40% affordable housing on site outside of the Strategic Allocations sites.
- 7.66** The development proposes 50% affordable housing on the site, this equates to 25 dwellings. The proposed quantum of provision exceeds the policy requirement. There would be a mixture of tenures, including social rented, intermediate rented, shared ownership and First Homes. The Council's Housing Strategy and Enabling Officer has confirmed the proposal would be acceptable, subject to a Section 106 Legal Agreement.

Drainage and flood risk

- 7.67** The NPPF states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Policy INF2 of the JCS seeks to prevent development that would be at risk of flooding. Proposals must avoid areas at risk of flooding and must not increase the level of risk to the safety of occupiers of a site and that the risk of flooding should be minimised by providing resilience and taking into account climate change. For sites of strategic scale, the cumulative impact of the proposed development on flood risk in relation to existing settlements, communities or allocated sites must be assessed and effectively mitigated. It also requires new development to incorporate Sustainable Urban Drainage Systems (SUDS) where appropriate to manage surface water drainage. This is reflected in Policy ENV2 of the TBP.
- 7.68** The application site is located entirely in Flood Zone 1, an area identified by the Environment Agency at a low probability of flooding from rivers and seas. However, as the site is over 1 hectare, in accordance with the requirements of the NPPF, the application is supported by a Site-specific Flood Risk Assessment (FRA) and Sustainable Drainage Strategy (SDS).
- 7.69** In terms of surface water drainage, it is proposed that surface water will be captured by gullies, channel drains and downpipes before being conveyed by an underground pipe network towards the attenuation basin and swale feature where it will be stored prior to discharge via a vortex flow control to a new connection to the existing culverted watercourse.

- 7.70** Gloucestershire County Council as Lead Local Flood Authority (LLFA) have reviewed the FRA and Drainage Strategy and raise no objection to this proposal, subject to a condition requiring the detailed drainage design to be submitted and approved prior to the commencement of any building works.
- 7.71** In terms of foul water disposal, it is proposed to drain used water from the development to the existing foul sewer. Severn Trent Water have confirmed they have no objections to the proposals, subject to a condition securing detailed plans.

Biodiversity

- 7.72** The NPPF sets out, inter alia, that when determining planning applications, Local Planning Authorities should aim to conserve and enhance biodiversity by encouraging opportunities to incorporate biodiversity in and around developments, especially where this can secure measurable gains for biodiversity. Policy SD9 of the JCS seeks to protect and, wherever possible enhance biodiversity, including wildlife and habitats. Policy NAT1 of the TBP states that development proposals that will conserve, and where possible restore and/or enhance, biodiversity will be permitted.
- 7.73** An Ecological Impact Assessment, and a subsequent updated version, which includes a hedgerow survey, informs this application. The report concluded that overall the proposed development of the site would likely result in the direct loss of an area of species-poor grassland identified as low ecological value. The hedgerows around the site are considered to be of medium and high ecological value and it is therefore recommended that, where possible, these are retained during works. The report revealed that the hedgerow along the north boundary was 'Important', so the proposed access road along this feature should aim to retain as much of the hedgerow as is practical to maintain the functionality as a potential commuting route for bats and birds and provide replacement planting elsewhere on the site to compensate for any lengths removed. Additional, optional mitigation and enhancement measures have been suggested. The Council's Ecological Advisor has reviewed the reports and has raised no objections to the development, subject to several conditions.
- 7.74** The site lies within the impact risk zone for the Cotswolds Beechwoods Special Area of Conservation (SAC). Policy NAT1 of the TBP states that proposals that are likely to have a significant effect on an internationally designated habitats site (either alone or in combination with other plans or projects) will not be permitted unless a Habitats Regulations Assessment (HRA) has concluded that the proposal will not adversely affect the integrity of the habitats site. The submitted Ecological Impact Assessment includes a brief shadow HRA, which considers the impact of the development in terms of recreational pressures on the nearby Cotswolds Beechwood SAC as well as consideration to other sites of nature conservation concern. The shadow HRA sets out that the development is unlikely to generate significant numbers of recreational trips to the Cotswolds Beechwood SAC. Nonetheless, certainty can be provided by the applicant's willingness to provide Homeowners Information Packs (HIP) to new residents, the details of which can be secured by way of planning condition should permission be granted. Both Natural England and the Council's Ecological Advisor have reviewed the assessment and concur with the assessment conclusions.

7.75 In addition to the above, Policy NAT1 of the TBP states, inter alia, that proposals will, where applicable, be required to deliver a biodiversity net gain (BNG) across local and landscape scales, including designing wildlife into development proposals, the connection of sites and large-scale habitat restoration, enhancement and habitat re-creation. Locally defined ecological networks identified in Local Nature Recovery Strategies will be the primary focus for landscape scale net gain delivery. The reasoned justification sets out that the Council will expect all development to deliver a minimum net gain of 10% calculated using the DEFRA Biodiversity Metric (or any updated or replacement metric used as the industry standard). **Members will be provided with an update on this at Planning Committee.**

Loss of Agricultural Land & Soils

7.76 The NPPF sets out that planning decisions should contribute to and enhance the natural environment by, inter alia, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. This aims to protect the best and most versatile (BMV) agricultural land and soils in England from significant, inappropriate and unsustainable development proposals.

7.77 The Agricultural Land Classification (ALC) assesses the quality of farmland to enable informed choices to be made about its future use within the planning system. There are five grades of agricultural land, with Grade 3 subdivided into 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a.

7.78 Based on the ALC the application site is Grade 3, land with moderate limitations that affect choice of crops, timing and type of cultivation, harvesting or the level of yield. Given this, the agricultural land is not considered to be the best and most versatile.

Minerals and Waste

7.79 One of the key sustainable development objectives of the NPPF is the prudent use of natural resources, including minimising waste and pollution. The NPPF also advises on the sustainable use of minerals and resources and states that policies as far as practicable should take account of the contribution that substitute or secondary and recycled materials and minerals would make to the supply of materials, before considering extraction of primary materials. It further confirms that locations of specific minerals resources of local and national significance should be safeguarded, and development avoided in such areas. Policy SD3 of the JCS, Policy WCS2 of the Gloucestershire Waste Core Strategy (GWCS) and Policy MS01 of the Minerals Local Plan for Gloucestershire (MLPG) accord with these objectives.

7.80 The application site falls within a Mineral Consultations Area (MCA). The submitted Geophysical Survey Report records the presence of Cheltenham sand and gravel at the site. As such, a Mineral Resource Safeguarding Technical Note has been submitted and is currently being reviewed by officers of Gloucestershire County Council Strategic Infrastructure (Minerals and Waste) Team in their capacity as Mineral and Waste Planning Authority (MWPA). **An update on this matter will be provided to Members.**

- 7.81** The application is supported by a Waste Minimisation Statement which has been reviewed by officers of Gloucestershire County Council Strategic Infrastructure (Minerals and Waste) Team in their capacity as Mineral and Waste Planning Authority (MWPA). The MWPA acknowledged the details submitted and notes it does not raise any fundamental issues that demand an immediate response prior to a decision being made. Consequently, planning conditions are recommended to ensure the matter is afforded appropriate consideration at the reserved matters stage.

Open Space, Outdoor Recreation and Sports Facilities

- 7.82** The NPPF sets out that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. JCS Policy INF4 provides where new residential development will create or add to, a need for community facilities, it will be fully met as on-site provision and/or as a contribution to facilities or services off-site. JCS Policies INF6 and INF7 support this requirement. Policy RCN1 of the TBP requires the provision of appropriate public outdoor space, sports pitches and built sports facilities to meet the needs of local communities. In order to ensure that development is making appropriate contributions a Developer Contributions Toolkit provides a tailored and evidence based approach to determine the right level of provision.
- 7.83** On this basis, assuming that the 50 dwellings would have an average 2.3 persons per dwelling, the population increase would be 115 persons. Based on the Developer Contributions Toolkit, there would be a resulting requirement for the provision of 0.49 hectares of appropriate public outdoor space. The indicative layout demonstrates 0.749 hectares of public outdoor space, which exceeds the policy requirement. However, as detailed previously, the proposed surface water attenuation basin would be a dominant feature in the public open space so there would have to be careful consideration given to the design of this, to ensure that the open space has dual function, for both recreation as well as formal drainage.
- 7.84** In terms of sports facilities, the Council's Community and Place Development Officer has requested a contribution of **£9,713.15** towards the extension and/or improvement of the sports facilities at Deer Park Archery Club or towards the extension and/or improvement of the sports facilities at King George V Playing Fields.

Education, Library and Community Provision

- 7.85** JCS Policy INF6 relates directly to infrastructure delivery and states that any infrastructure requirements generated as a result of individual site proposals and/or having regard to the cumulative impacts, should be served and supported by adequate and appropriate on/off-site infrastructure and services. The Local Planning Authority will seek to secure appropriate infrastructure, which is necessary, directly related, and fairly and reasonably related to the scale and kind of the development proposal. Policy INF4 of the JCS requires appropriate social and community infrastructure to be delivered where development creates a need for it. JCS Policy INF7 states the arrangements for direct implementation or financial contributions towards the provision of infrastructure and services should be negotiated with developers before the grant of planning permission. Policy SA1 sets out that infrastructure should be provided comprehensively across the site taking into account the needs of the whole Strategic Allocation. Financial contributions will be sought through S106 and CIL mechanisms as appropriate.

- 7.86** Gloucestershire County Council as Local Education Authority (LEA) have been consulted and have confirmed a contribution towards education provision is not required.
- 7.87** In terms of libraries, Gloucestershire County Council have advised that the scheme would generate a need to improve the services at the nearest library which is Up Hatherley Library. As such a contribution of **£9,800** is required to make the application acceptable in planning terms.
- 7.88** The Council's Community and Place Development Officer has confirmed that a contribution of **£22,735.08** towards the extension and/or improvement of Badgeworth Village Hall and/or the extension and/or the improvement of the community space at Deer Park Archery Club is required.

Section 106 obligations

- 7.89** The Community Infrastructure Levy (CIL) Regulations allow local authorities to raise funds from developers undertaking new building projects in their area. Whilst the Council does have a CIL in place, infrastructure requirements specifically related to the impact of the development will continue to be secured via a Section 106 legal agreement. The CIL regulations stipulate that, where planning obligations do not meet the tests, it is 'unlawful' for those obligations to be taken into account when determining an application.
- 7.90** These tests are as follows:
- a) necessary to make the development acceptable in planning terms.
 - b) directly related to the development; and
 - c) fairly and reasonable related in scale and kind to the development.
- 7.91** JCS Policy INF6 relates directly to infrastructure delivery and states that any infrastructure requirements generated as a result of individual site proposals and/or having regard to the cumulative impacts, should be served and supported by adequate and appropriate on/off-site infrastructure and services. The Local Planning Authority will seek to secure appropriate infrastructure which is necessary, directly related, and fairly and reasonably related to the scale and kind of the development proposal. Policy INF4 of the JCS requires appropriate social and community infrastructure to be delivered where development creates a need for it. JCS Policy INF7 states the arrangements for direct implementation or financial contributions towards the provision of infrastructure and services should be negotiated with developers before the grant of planning permission. Financial contributions will be sought through S106 and CIL mechanisms as appropriate

7.92 Requests have been made by consultees to secure the following contributions:

- 40% affordable housing and policy compliant tenure mix
- £9,800 towards Up Hatherley Library.
- £5,000 monitoring fee for travel plan.
- £22,735.08 towards the extension and/or improvement of Badgeworth Village Hall and/or the extension and/or the improvement of the community space at Deer Park Archery Club.
- £9,713.15 towards the extension and/or improvement of the sports facilities at Deer Park Archery Club or towards the extension and/or improvement of the sports facilities at King George V Playing Fields.
- £3,650 towards recycling and waste bin facilities.
- Provision of a LEAP on-site.

7.93 Whilst the applicant has indicated a willingness to enter into a legal agreement to secure the planning obligations outlined currently there is no signed agreement in place. That said, this is a matter which could be resolved prior to the decision being issued, should permission be granted.

8.0 CONCLUSION AND RECOMMENDATION

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

8.2 On the basis the Council cannot at this time demonstrate a five year supply of deliverable housing land, the Council's policies for the supply of housing are out of date. In accordance with paragraph 11 of the NPPF, the presumption in favour of sustainable development indicates that permission should be granted unless policies for protecting areas of assets of particular importance in the NPPF provide a clear reason for refusing the development proposed, or any adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. In this case, and having regard to footnote 7 of paragraph 11, such a policy includes those concerning development in the Green Belt.

8.3 In this case applying the NPPF policies for the protection of areas or assets of particular importance would provide a clear reason for refusing the application.

Benefits

8.4 The development would contribute towards the supply of housing in the form of market, self-build and affordable housing to meet the objectively assessed need for housing in the Borough.

- 8.5 Economic benefits would also arise from the proposal both during and post construction, including the economic benefits arising from additional residents supporting local businesses.
- 8.6 The development would provide highway infrastructure improvements which would benefit the wider community.

Harms

- 8.7 Harm would arise as a result of the direct conflict with the settlement strategy in the development plan, which is an important part of the delivery of sustainable development in the area.
- 8.8 The proposed development would represent inappropriate development in the Green Belt that is harmful by definition, would cause harm to the openness of the Green Belt and conflict with the purposes of the Green Belt. This attracts substantial weight.
- 8.9 The proposed development would encroach beyond the village edge which would represent an incongruous and urbanising intrusion into the rural landscape and open countryside.
- 8.10 The proposal would require the removal of at least 9.5 metre section of 'important' hedgerow which would result in an unacceptable harm to the local environment.
- 8.11 Whilst the applicant has indicated a willingness to enter into an agreement, there is currently no signed agreement in place to secure the planning obligations outlined in paragraph 7.92 of the committee report.

Neutral

- 8.12 It has been established through the submission documents that subject to securing satisfactory measures as part of any future reserved matters, the imposition of appropriate planning conditions and planning obligations, the development would not give rise to unacceptable impacts in relation to flood risk and drainage, design and layout, residential amenity, ecology and the historic environment. In addition, the development would provide an acceptable affordable housing tenure mix.

Overall conclusion

- 8.13 The development would contribute towards the supply of housing in the form of market, self-build and affordable housing, would provide economic benefits and highway infrastructure improvements which would benefit the wider community. However, the proposed development would be inappropriate development in the Green Belt and would unacceptably reduce its openness and conflict with the purposes of the Green Belt. This harm carries significant weight against the proposal. In addition, the proposal would be contrary to the strategic housing policies in the development plan; would represent an urbanising intrusion into the rural landscape and would cause unacceptable harm to an 'Important' hedgerow. In light of this it is considered that the benefits of the proposal are not sufficient to outweigh the significant harms identified. This indicates a clear reason for refusing the application and it also means that the very special circumstances necessary to justify the proposal do not exist. As such, it is recommended that the application should be **REFUSED**.

REFUSAL REASONS:

1. The proposed development does not accord with the strategy for the distribution of new housing development in Tewkesbury Borough as it conflicts with Policies SP2 and SP10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policy RES3 of the Tewkesbury Borough Plan 2011-2031 (June 2022).
2. The proposed development represents inappropriate development in the Green Belt and would unacceptably reduce its openness and conflict with the purposes of the Green Belt. Consequently, the development would be contrary to advice set out in the National Planning Policy Framework, Policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policy GRB4 of the Tewkesbury Borough Plan 2011-2031 (June 2022).
3. The proposed development would encroach beyond the village edge and therefore would appear as an unacceptable urbanising intrusion into the rural landscape and open countryside. As such, the introduction of the proposed dwellings in this location would fail to respond positively to and respect the character of the site and its surroundings and would fail to add to the overall quality of the area. Accordingly, the proposed development is contrary to advice set out in the National Planning Policy Framework, Policy SD4 and SD6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policy RES5 and LAN2 of the Tewkesbury Borough Plan 2011-2031 (June 2022).
4. The proposed development would require the removal of a section of an 'Important' hedgerow, as classified under the Hedgerow Regulations, to facilitate the creation of the new vehicular and pedestrian access. The loss of this section of the hedgerow would have an unacceptable harmful impact on the local environment. As such, this would be contrary to advice set out in the National Planning Policy Framework, Policy SD6 and SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policy NAT1 of the Tewkesbury Borough Plan 2011-2031 (June 2022).
5. In the absence of a completed planning obligation, there are no arrangements for the direct implementation or financial contribution towards education and library, affordable housing, recycling and waste bin facilities, a Travel Plan, highway infrastructure improvements, community and sports facilities and the provision of a LEAP on-site, all of which are required as a consequence of the proposed development. This is contrary to Policies SD12, IN4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policies RES12 and RCN1 of the Tewkesbury Borough Plan 2011-2031 (June 2022).

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.