



Planning Committee
18 October 2022

Application Reference	21/00655/FUL
Case Officer	Bob Ristic
Location	Windyridge, Tewkesbury Road, Coombe Hill
Development	Erection of one dwelling following demolition of the existing agricultural building and associated works.
Ward	Severn Vale North
Parish	Leigh
Expiry Date	11 August 2021 Agreed extension of time 21 October 2022

List of Appendices

Site Location/Block Plan
Existing elevations
Proposed elevations
Proposed Floor Plans
Previously approved block plan
Previously approved elevations
Previously approved floor plan

Scheme of Delegation

Applications where a Town or Parish Council has submitted a written objection raising substantive planning issues and it has not been addressed by discussion, amendment, or by written response.

Site Location



1. Recommendation

1.1 The application is recommended for **PERMIT** subject to conditions.

2. The Proposal

2.1 The application seeks full planning permission for the demolition of an existing agricultural building and replacement with 1 no. 2 storey house with associated facilities.

2.2 The application has been amended following discussions with officers. The principal changes are summarised below:

- Reduction in the size of the proposed curtilage
- A shared drive with Windyridge in place of a separate access
- Simplified linear barn design
- Simplified materials palette
- Terrace areas expressed inward of the portal frame

2.3 The proposed dwelling would incorporate solar panels to the roof and a ground source heat pump.

2.4 The site would be enclosed by 1.1 metre high timber posts upon which would be supported a 1 metre high stock proof fencing.

3. Site Description

- 3.1** The application site is located on the eastern side of Tewkesbury Road, at Coombe Hill, approximately 350 metres to the south of the junction with the A4019. The surrounding land slopes down to the east away from the A38.
- 3.2** The site presently comprises a concrete block-built agricultural building set to the northern side of the access drive which serves Windyridge, which is a detached dwellinghouse.
- 3.3** The site lies within the Green Belt and outside of any defined settlement boundary however Coombe Hill is defined as a Servcie Village in the JCS and TBP.

4. Relevant Planning History

Application Number	Proposal	Decision	Decision Date
50/00062/FUL	Use of land as small-holding and erection of house and agricultural buildings.	PERMIT	25.11.1950
54/00032/FUL	Erection of dwelling house to be used in connection with smallholding. New vehicular access.	PERMIT	19.01.1954
93/01087/FUL	Erection of replacement garage plus storage area	PERMIT	12.11.1993
11/00422/FUL	Single storey side extension and proposed garden room	PERMIT	01.07.2011
17/00756/PDAD	Prior approval for change of use of agricultural building to a residential use (C3) - new dwelling.	PRIOR APPROVAL REFUSED	24.10.2017
18/00711/FUL	Demolish redundant agricultural building and construct 5 bedroom 2 storey house.	REFUSE	08.04.2019
20/00588/PDAD	Prior approval for conversion of agricultural buildings into 1no. larger dwellinghouse (use class C3) and associated building operations.	PRIOR APPROVAL APPROVED	18.09.2020

5. Consultation Responses

- 5.1** The Leigh Parish Council – Object to the proposal. The comments raised are summarised below:
- Site is not in a designated area for development
 - In conflict with JCS, TBP and LNDP Policies
 - Could set a precedent for other barns in the area
 - Site is in the Green Belt
 - There are no 'very special circumstances'
 - Would not be infilling
 - Class Q is a legal loophole
 - pursued to establish a fall back
 - Previous proposal for a dwelling was refused

- 5.2 Land Drainage Officer – No objections
- 5.3 Gloucestershire Highways – No objections
- 5.4 Gloucestershire Wildlife Trust – Site is near Coombe Hill SSSI
- Recreational pressures pose a threat to the linked Severn Estuary Special protection Area (SPA)
 - Proposal is for a dwelling which could increase recreational pressure
 - Would have an in combination adverse effect with other development
 - Mitigation should be provided

5.5 Neighbours

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

The application has been publicised through the posting of a site notice for a period of 21 days. A further notice was posted upon receipt of amended drawing.

One letter has been received in response, and the comments raised are summarised below:

- The location is in greenbelt
- The proposed building is large and unattractive
- Will be visible from a long distance as it is on a ridge
- Out of keeping with the agricultural environment and other properties
- There is little landscaping on the site
- Windyridge sits incongruously.
- Proposed building, significantly larger
- Will dominate the vista in this area
- The site is within the LPZ
- Approval was finally given for `Class Q` conversion
- Ignores previous planning decisions made.
- The proposal to demolish a substantial and sound agricultural building

6. Relevant Planning Policies and Considerations

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

6.2 National guidance

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)

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

- SP1 (The Need for Development)
- SP2 (Distribution of New Development)
- SD3 (Sustainable Design and Construction)

- SD4 (Design Requirements)
- SD5 (Green Belt)
- SD6 (Landscape)
- SD9 (Biodiversity and Geodiversity)
- SD10 (Housing Development)
- SD14 (Health and Environmental Quality)
- INF1 (Transport Network)
- INF2 (Flood Risk Management)

6.4 Tewkesbury Borough Local Plan to 2011-2031 (TBPL)

- Policy RES1 (Housing Site Allocations)
- Policy RES3 (Housing outside Settlement Boundaries)
- Policy RES4 (New housing at other rural settlements)
- Policy RES5 (New Housing Development)
- Policy RES12 (Affordable Housing)
- Policy RES13 (Housing Mix)
- Policy DES1 (Housing Space Standards)
- Policy ENV2 (Flood Risk and Water Management)
- Policy LAN2 (Landscape Character)

6.5 Neighbourhood Plan

The Leigh Neighbourhood Development Plan 2020-2031

- Policy E1 (Landscape and countryside)
- Policy E2 (Biodiversity)
- Policy H1 (Design for new residential development)
- Policy H4 (Parking in new residential development)

7. **Evaluation**

7.1 **Principle of Development**

7.1.1 Coombe Hill is principally a linear, dispersed, settlement adjacent to the A38. The application site is located approximately 350 metres from the Swan Inn and convenience store which provide a focus of facilities in the village.

7.1.2 While Coombe Hill is a named Service Village, it does not benefit from a defined settlement boundary and the application site is not allocated in the plan. JCS Policy SP2 states that service villages will accommodate lower levels of development, to be allocated through the Borough Plan and NDPs, proportional to their size and function, and reflecting their proximity to Tewkesbury, Cheltenham and Gloucester.

7.1.3 The application site is not allocated in the plan and lies outside of the built-up area of the village. Criteria 4(ii) of JCS Policy SD10 sets out that housing development on other sites (those not allocated within the plan or comprising previously developed land) will be permitted where *'It is infilling within the existing built-up areas'* of, (and amongst other areas), Tewkesbury Borough's villages (except where otherwise restricted by policies within district plans). The supporting commentary states that *'For the purposes of this policy (4 ii), infill development means the development of an under-developed plot well related to existing built development.'*

- 7.1.4** Other than being sited in proximity to Windy Ridge, the proposed dwelling would be set a significant distance away from any other residential development and clearly outside of the built-up area of the village, the proposal would therefore not constitute infill development or any other form of appropriate development and would be contrary to Policy SD10 of the JCS.
- 7.1.5** Policy RES3 of the Tewkesbury Borough Local Plan sets out criteria in which new housing outside of settlement boundaries would be supported. While the proposal could be considered to be a *‘very small scale development at a rural settlement’* in accordance with criteria 3, this would also need to comply with Policy RES4 which sets out at paragraph b) that development should not have an adverse cumulative impact on the settlement having regard to other permitted development during the plan period and as a general indication no more than 5% growth will be allowed. While the proposal in itself would not have a discernible or adverse effect it is noted that permitted housing developments at Coombe Hill have considerably exceeded the 5% growth through allocated sites.
- 7.1.6** In view of the above, the principle of development is considered unacceptable however this would need to be balanced against any other material considerations.

7.2 Fallback Position

- 7.2.1** While the proposed development would fail to comply with policies in respect of the location of new housing set out above, the applicant argues that the site benefits from a fallback position, notably an extant prior approval for approval for conversion of the existing agricultural buildings at the site into a single dwellinghouse.
- 7.2.2** The courts have held and of particular relevance to this appeal (in *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314) that a “fallback” position can be an important material consideration in the determination of planning application. In addition, it is widely accepted that the “fallback” position should be afforded more weight if there is a realistic prospect of it coming into being.
- 7.2.3** In this case the applicant sets out that they would have no alternative but to pursue the extant permission (although less preferable) to the current proposal in the event that the current application were to be refused. It is therefore considered that significant weight should be afforded to the “fallback” position.
- 7.2.4** Furthermore, in the case *Mansell*, the LPA had granted planning permission in this case for the demolition of an existing agricultural barn and of a bungalow on the application site and to construct four detached dwellings, with garages and gardens. The LPA concluded that, in practical terms, the permitted development rights under Class Q meant that the existing agricultural barn could be converted into three residential units up to a limit of 450 sq m in addition to a replacement dwelling. The LPA concluded that this provided a realistic fallback position in terms of how the site could be developed. This position was challenged in the courts by a local objector.
- 7.2.5** The courts concluded that the LPA was entitled to conclude that there was a “realistic” fallback. There was a clear intention to develop the site and it was deemed unrealistic to imagine that, were all such proposals to be turned down, the owner of the site would not take advantage of the permitted development provided for by Class Q to the fullest extent possible. It was not even a precondition to the LPA’s consideration of the fallback option that the owner had made an application indicating intention to take advantage of Class Q.

- 7.2.6** As set out above and in this case the site benefits from an extant prior approval for the conversion of the existing agricultural building to a dwelling under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 7.2.7** Also of note is that permitted development right for Class Q does not apply a test in relation to sustainability of location or the impact upon the Green Belt, factors material to the consideration of this application.
- 7.2.8** While the proposal conflicts with policies set out above it is considered that the site benefits from a viable fallback which if this permission were to be refused would likely be implemented and this represents a realistic alternative to the current proposal.
- 7.2.9** In view of this it is considered that the principle of a new dwelling at the site acceptable, given the presence of a valid fall back for a comparable dwelling at the site, subject to compliance with other policies in the plan and no other harms.

7.3 Green Belt

- 7.3.1** 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.
- 7.3.2** The NPPF provides that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF provides that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 7.3.3** Paragraph 149 of the NPPF sets out that development in the Green Belt is inappropriate other than for several exceptions. The replacement of existing buildings with development in a different use and the erection of new open market dwellings are not a listed as exceptions. Furthermore, the proposed development would be located outside of the built-up area of a village (focused around the Swann Inn) and does not constitute infilling.
- 7.3.4** As such the proposal would represent inappropriate development within the Green Belt which by definition would be harmful to the Green Belt and should not be approved except in very special circumstances.

Very Special Circumstances

- 7.3.5** Paragraph 148 of the NPPF sets out 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.

- 7.3.6** The applicant proposes that very special circumstances exist in this instance as the site benefits from prior approval for the conversion of an existing agricultural building to a dwellinghouse. While this is the case in terms of the principle, the impacts of the development in respect of the purpose of the Green Belt, namely preserving openness, checking unrestricted sprawl and safeguarding the countryside need to be assessed.
- 7.3.7** In this regard the proposed new dwelling would have a considerably reduced footprint when compared to the previously approved conversion. While the new building would be slightly higher than the existing structure, it would however result in the removal of the existing sprawling structure, which was previously proposed to be converted. It is considered that this demolition and replacement would offset the increase in height by increasing openness around the proposed building. **See proposed elevations and site plans** with the outline of the existing building marked on for comparison.
- 7.3.8** Furthermore, because of the reduced footprint, the proposed garden area would be comparable to the building and associated curtilage of the previously approved scheme save for a small extension to provide a parking and turning area and addition of land between Windyridge and the proposed dwelling which given its siting and extent would not impact openness particularly when balanced against the removal of the extensive existing structure.

Conclusion on Green Belt Matters

- 7.3.9** While the proposal would comprise inappropriate development in the Green Belt which is harmful by definition, it is considered that in this instance very special circumstances exist in the form of a fallback dwellinghouse. The current proposal while a new build would result in a significant reduction in built form when compared to the previously approved scheme which in turn would increase the openness of the site and wider Green Belt.
- 7.3.10** As an identified benefit of the scheme is the increase in openness, I consider it reasonable to restrict permitted development rights for additional extensions to the building, outbuildings and means of enclosure (other than those approved by this permission) which would otherwise stand to harm the Green Belt if left unchecked.

7.3 Design

- 7.3.1** JCS Policy SD4 provides that new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting.
- 7.3.2** Criterion 6 of Policy SD10 'Residential Development' of the JCS states the residential development should seek to achieve maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network.
- 7.3.3** The proposed design has been revised following discussions with officers. The proposed form is now of a simple linear building reflective of a contemporary agricultural building which would be in keeping with the rural character of the site and a considerable improvement over the previously approved scheme in design terms.

7.3.4 Concerns have been raised with regards to the extent of glazing and light pollution. It should be noted that the windows at first floor level are not unduly large and that the doors to the terrace areas either end of the building are set back from the rear elevation and recesses behind the structural framework of the building and would not therefore be unduly prominent or intrusive. Furthermore, the proposed building would be finished in dark cladding which would have a more recessive appearance when compared to the present light grey blockwork of the existing structure.

7.3.5 Given the rural location, and 'unlit' character of Coombe Hill I consider it reasonable to require a condition to restrict external lighting to the building which could otherwise impact the character of the area. In addition, conditions in respect of materials and levels would be required to ensure a high-quality appearance to the development.

7.3.6 Subject to compliance with conditions, it is considered that the proposed development would be of an appropriately high-quality design which would be sensitive to its rural setting.

7.4 Access and Parking

7.4.1 Policy INF1 'Transport Network' states that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters.

7.4.2 The proposed development would share an existing access with Windyridge and would provide off street parking upon an area of hardstanding to the front of the property. It is considered that this arrangement is acceptable and would not result in any adverse impact upon the highway network.

7.4.3 Furthermore, the application site is considered to be in a sustainable location, within walking distance of bus stops serving Tewkesbury, Cheltenham and Gloucester and in proximity to local services such as the convenience store and pub.

7.4.4 The access and parking arrangements are considered to be acceptable however it is recommended that provision for electric vehicle charging is made in order to promote sustainable transport, this could be secured by condition.

7.5 Ecology

7.5.1 Policy SD9 of the JCS sets out that biodiversity and ecological resources in the JCS area will be protected and enhanced in order to establish and reinforce ecological networks.

7.5.2 The application has been accompanied by a Preliminary Ecological Assessment which has assessed the presence of protected species and any associated impacts. The report sets out that there is no evidence of bats and the nature of the site is not suited to amphibians. The report also sets out a precautionary approach to be followed during the course of construction. Furthermore, the report sets out a series of proposed ecological enhancements including bat boxes, hedgehog and insect 'houses' and native pollinator planting. Compliance with these recommendations could be secured by condition.

7.5.3 Concerns have been raised with regards to the impact of the dwelling upon the Coombe Hill Canal SSSI however as set out above, the site benefits from an extant approval for a dwelling at the site and the impacts of the current proposal would be no greater than that of the approved scheme in terms of possible footfall or recreational pressures.

7.6 Other matters

7.6.1 JCS Policy SD14 sets out that development should not create or exacerbate conditions that could impact human health.

7.6.2 The site was formerly occupied for agricultural purposes and there is potential for contamination to be present. Accordingly an investigation/remediation condition is recommended to ensure that the development is safe for future occupiers.

7.7 Community Infrastructure Levy (CIL)

7.7.1 The development is CIL liable because it creates new dwelling(s). The relevant CIL forms have been submitted.

8. Conclusion

8.1 While the proposal would conflict with policies in respect of the location of new residential development and protection of the Green Belt, it is considered that a fallback position exists and that this represents a material planning consideration sufficient to outweigh this conflict. Furthermore, the proposed development would be of acceptable and high-quality design which would represent a betterment over the previously approved scheme and would not result in any other harms which would otherwise warrant refusal of planning permission.

9. Recommendation

9.1 On balance and subject to compliance with conditions it is considered that the proposed development would not adversely impact the openness of the Green Belt and would result in a development of a high-quality appearance. It is therefore recommended that the application is **permitted** subject to the following conditions:

10. Conditions

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

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

2 The development hereby permitted shall be carried out in accordance with the following drawings:

- 200 01 D – Location and Block Plan
- 200 03 C – Ground and upper floor plans
- 200 04 C – Elevations
- 200 05 D – Proposed site plan
- 200 09 A – Proposed landscaping plan
- 200 10 – Typical fencing plan

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 above ground works shall take place until a site investigation of the nature and extent of any contamination on site has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 4 No work above ground level shall take place until a detailed plan, showing the levels of the existing site, the proposed levels of the site, the proposed slab levels of the dwelling approved and a datum point outside of the site, has been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason In order to define the permission and ensure that the development is of a scale and height appropriate to the site.

- 5 No work above floor plate level shall be carried out until samples of the external facing and roofing materials, including all window doors including their colour and profile, proposed to be used have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that materials are in keeping with the surrounding area and to provide for high quality design.

- 6 Notwithstanding the submitted details, the dwelling hereby permitted shall not be occupied until precise details of the landscaping to development have been submitted to and approved in writing by the Local Planning Authority. The Landscaping shall be implemented in accordance with the approved details no later than the first planting season following the completion of the development. The landscaping shall thereafter be maintained for a period of 5 years. If during this time any trees, shrubs or other plants are removed, die, or are seriously diseased these shall be replaced during the next planting season with others of similar size and species unless the local planning authority gives

written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year maintenance period.

Reason: Interest of the visual amenity of the area.

- 7** The dwelling hereby permitted shall not be occupied until provision has been made for an Electric Vehicle Charging Point (EVCP). 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 they need to be replaced in which case the replacement charging point shall be of the same specification or a higher specification in terms of charging performance.

Reason: To promote sustainable travel and healthy communities.

- 8** The development hereby permitted shall be undertaken in accordance with the recommendations of the Wilder Ecology Preliminary ecological appraisal dated 7 May 2021.

Reason: to ensure then proposed development does not adversely impact wildlife.

- 9** The dwelling hereby permitted shall not be occupied until the ecological enhancements have been implemented in accordance with the Wilder Ecology Preliminary Ecological Appraisal dated 7 May 2021.

Reason: To protect and enhance biodiversity.

- 10** No external lighting shall be installed at the site until details have first been submitted to and approved in writing by the local Planning Authority. The lighting shall installed in accordance with the approved details and thereafter be similarly maintained.

Reason: To protect the dark skies and rural character of the area.

- 11** Notwithstanding the provisions of Schedule 2, Part 1, Classes A, AA, B, C, E and F and Part 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no development shall take place other than that expressly authorised by this permission.

Reason: In order to maintain the openness of the Green Belt and in the interests of visual amenity and the character and appearance of the area.

11 **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.