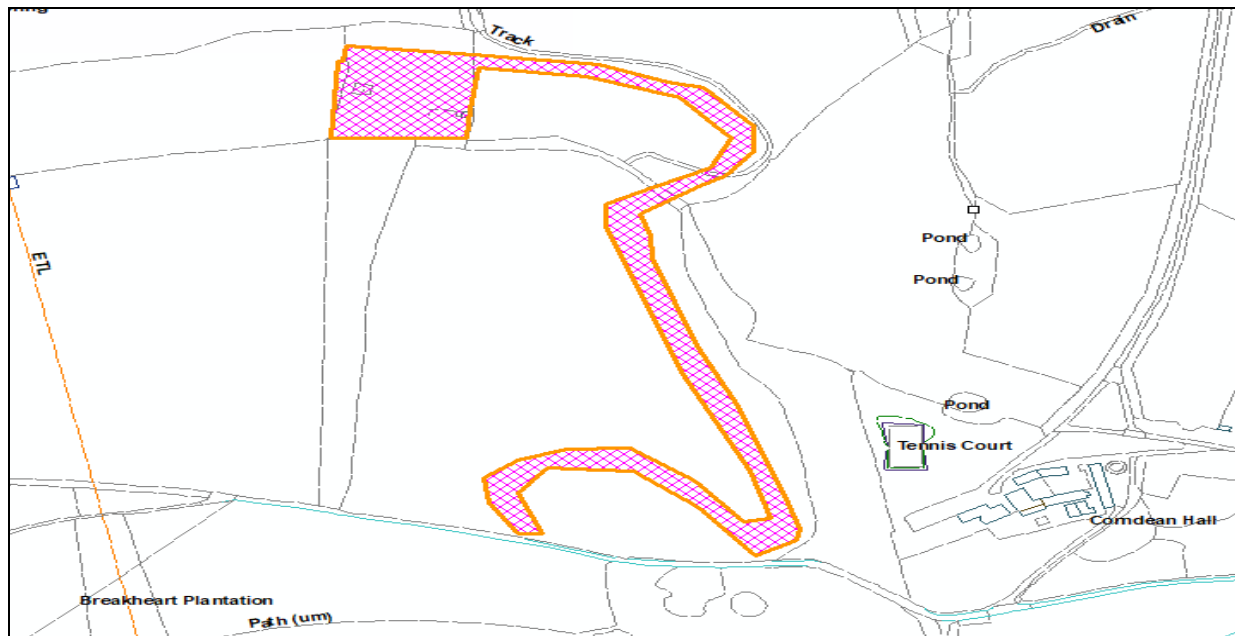


Planning Committee

Date	21 March 2023
Case Officer	Emily McKenzie
Application No.	22/00609/FUL
Site Location	Starvealls Cottage, Postlip, Winchcombe
Proposal	Construction of replacement dwelling and associated works, following demolition of existing dwelling. Change of use of additional areas of land to residential garden
Ward	Winchcombe
Parish	Winchcombe
Appendices	<p>Site Location Plan Site Plan Existing Elevations & Floorplans Proposed Elevations x2 Proposed Floor Plans x2 Proposed Reinstated Byre Elevations Landscape Master Plan Wider Site Landscape Master Plan Permitted Development Scheme (Elevations) Change of Use (curtilage) Plan</p>
Reason for Referral to Committee	<ol style="list-style-type: none"> 1. An appeal against non-determination has been submitted against the current application. 2. The Town Council have objected.
Recommendation	Minded to Permit

Site Location



1. The Proposal

- 1.1 Full application details are available to view online at:
<http://publicaccess.tewkesbury.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RC6K2KQDKAN00>
- 1.2 This application seeks planning permission for the demolition of the existing residential building and its replacement with a two-storey dwelling. The building would be constructed from natural materials such as stone and slate.
- 1.3 The application also seeks the change of use and conversion of an existing outbuilding to an ancillary poolhouse and the construction of an associated natural swimming pool and terrace. The application further seeks the change of use of several areas of agricultural land to residential curtilage and the creation of two attenuation ponds to serve the dwelling.
- 1.4 The dwelling would be accessed via an existing access from Corndean Lane that was granted permission on appeal. Off road parking and a garage would be provided, along with associated hard and soft landscaping.

2. Site Description

- 2.1 This application relates to Starvealls Cottage, a detached stone dwelling located to the north of Corndean Lane. The building was originally built as two farm labourers' cottages but has since been converted into a single dwelling. The dwelling occupies an isolated but prominent position on the hillside and is located within the Cotswolds Area of Outstanding Natural Beauty. The site is predominantly surrounded by open fields/pasture land and Public Rights of Ways (PRoW) run to the West and North of the site.
- 2.2 The site is accessed via a track that was granted planning permission at appeal in 2013; whilst the track has not yet been completed the permission was implemented and therefore the previous permission is extant.

3. Relevant Planning History

Previous Planning Application (20/00553/FUL)

- 3.1 A planning application was determined by Members of the Planning Committee in July 2020 seeking permission for a near-identical scheme to that currently under consideration.
- 3.2 The application was recommended for permit by Officers, subject to conditions however Members concluded to overturn Officer's recommendation and resolved to refuse the application for the following reason (verbatim):

"The proposed development, by reason of its bulk, mass and design would be an unsuitable addition in this prominent location and consequently would have an unacceptable impact on the Cotswolds Area of Outstanding Natural Beauty. Furthermore, the demolition of the existing building would result in the total loss of a non-designated heritage asset and there are no public benefits which would outweigh the substantial harm caused as a result of the loss of this asset. For these reasons the proposed development conflicts with policies SD7, SD8 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (December 2017), saved policies HOU7 and HOU10 of the Tewkesbury Borough Local Plan to 2011 (March

2006), Policies 1.1 & 5.1 of the Winchcombe and Sudeley Neighbourhood Development Plan 2011-2031 and policies RES5, RES9 and HER5 of the emerging Tewkesbury Borough Plan Pre-Submission version (October 2019) and advice in the National Planning Policy Framework.”

3.3 Following the Council’s refusal, a revised application was submitted, which was received in May 2022.

3.4 A decision was not reached upon the current application within the statutory timeframe and as such the applicant’s agent has submitted an appeal against non-determination. As such, the Council are now required to indicate how they would have determined the application, if they were still the decision-maker (a power which now defers to the Planning Inspectorate).

3.5 The further relevant planning history is set out within the below table:

Application Number	Proposal	Decision	Decision Date
13/00479/CLP	Proposed extensions and alterations	CLPREF – Allowed at Appeal	24.12.2013
13/00605/FUL	Formation of new access track to existing dwelling and agricultural barn.	REF – Allowed at Appeal	16.10.2013
15/00472/CLE	Use of land as garden/amenity space serving and within the curtilage of the dwelling house.	CLEREF – Allowed at Appeal	16.07.2015
16/00501/CLE	Certificate of Lawfulness to establish that a two-storey extension has been commenced off the east elevation of Starvealls Cottage and constitutes permitted development.	CLEREF – Allowed at Appeal	16.03.2017
20/00553/FUL	Construction of replacement dwelling and associated works, following demolition of existing dwelling. Change of use of additional areas of land to residential garden.	REF – As described above.	30.07.2021

4. Consultation Responses

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

4.1 Winchcombe Town Council – Objection on the following grounds:

- Impact upon the AONB
- The development sets a precedent for new country houses in the area.

4.2 Building Control – No objection – Building Regulations Approval required.

4.3 County Highways – No objection, subject to conditions.

4.4 Conservation Officer – Objection on the following grounds:

- Substantial harm via the total loss of Starvealls Cottage which is a non-designated heritage asset of moderate to low significance.

4.5 Flood Risk & Drainage Officer – A Flood Risk Assessment is required because there is a surface water flow route running directly through the site. Although this was not a necessity in 2020 and as such was not a statutory requirement as part of the former application, there has been a shift in policy by virtue of the Framework. Has this now been submitted and resolved? Can this just read No objection?

4.6 Tree Officer – No objection, subject to conditions.

4.7 Ecology – No objection.

4.8 Environmental Health – No adverse comments or objections to make in relation to noise/nuisance.

4.9 Severn Trent – No objection.

4.10 Landscape Officer - No objection, subject to conditions.

5. Third Party Comments/Observations

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 and via a neighbour notification letter allowing for a period of 21 days and 1 representation has been received. The contents are summarised below:

Objection

- The existing water supply is not capable of serving this dwelling and swimming pool(s)
- Concerns with construction traffic who should utilise the Mill access only.

Support

- No objection to the provision of a building

6. Relevant Planning Policies and Considerations

6.1 Statutory Duty

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise

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

Policy SP1 (The Need for New Development)
Policy SP2 (The Distribution of New Development)
Policy SD4 (Design Requirements)
Policy SD6 (Landscape)
Policy SD7 (Cotswolds Area of Outstanding Natural Beauty)
Policy SD8 (Historic Environment)
Policy SD9 (Biodiversity and Geodiversity)
Policy SD10 (Residential Development)
Policy SD14 (Health and Environmental Quality)
Policy INF1 (Transport Network)
Policy INF2 (Flood Risk Management)
Policy INF3 (Green Infrastructure)

6.4 Tewkesbury Borough Local Plan to 2011-2031 (TBLP) – Adopted 8 June 2022

Policy RES3 (New Housing Outside Settlement Boundaries)
Policy RES5 (New Housing Development)
Policy RES9 (Replacement Dwellings)
Policy RES11 (Change of Use of Agricultural Land to Domestic Garden)
Policy LAN2 (Landscape Character)
Policy NAT1 (Biodiversity, Geodiversity and Important Natural Features)
Policy ENV2 (Flood Risk and Water Management)
Policy TRAC9 (Parking Provision)
Policy DES1 (Housing Space Standards)
Policy HER5 (Non-Designated Heritage Assets)
Policy COM4 (Neighbourhood Development Plans)

6.5 Winchcombe and Sudeley Neighbourhood Development Plan – 2011-2031

Policy 1.1 (Protecting the Distinctive Character of the Area)
Policy 5.1 (Design of New Development)
Policy 5.2 (Off Street Parking)
Policy 5.6 (Gardens)

7. Policy Context

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.

7.2 The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011-2031 (June 2022) (TBLP), and a number of 'made' Neighbourhood Development Plans.

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

8. Evaluation

Principle of development

- 8.1** The proposed development lies in an isolated location in the open countryside beyond any recognised residential settlement boundary.
- 8.2** Policy RES3 (New Housing Outside Settlement Boundaries) sets out that outside of the defined settlement boundaries (identified on the Policies Map) the principle of new residential development will be considered acceptable where development being proposed consists of (4) a replacement dwelling (subject to Policy RES9).
- 8.3** Policy RES9 (Replacement Dwellings) sets out that replacement dwellings outside of settlement boundaries will be permitted provided that the proposed dwelling respects the size of the plot, scale and character of existing characteristic property in the area and have no unacceptable adverse impact on the landscape.
- 8.4** The scheme proposes to replace an existing two storey dwelling with a larger two storey detached dwelling. The proposed new dwelling would be substantially larger and would include the redevelopment of an existing Byre building for residential use.
- 8.5** Although the new dwelling would be undoubtedly larger than that which it would replace, by virtue of the scale of the landscape in which it is situated, it would not result in an overdevelopment of the plot to the detriment of the local area. On the contrary, it is considered that the scale of the plot is sufficient to accommodate a larger dwelling as has been proposed without resulting in an unacceptable adverse impact upon the landscape.
- 8.6** As referenced above, notwithstanding the enlarged scale of the dwelling proposed, it is considered that the site is sufficient to accommodate the additional massing as proposed and as such the principle of the replacement of the existing dwelling would fully accord with Policy RES9, subject to the provisions of other Policies outlined in the report below.

Previous permission - Commencement of development of PD extension

- 8.7** The application site was granted a Lawful Development Certificate through application reference number reference number 16/00501/CLE on appeal (reference APP/G1630/X/17/3183950). This certificate determined that works to the building had lawfully started to extend the existing property under its permitted development rights. With this the building could be substantially extended and altered through the route of permitted development, which would result in a building 4 stories high, with a length of approximately 40m. Given this the building design would not reflect the Cotswold vernacular nor would it respond to the context or sensitivity of the site.

- 8.8** The proposed Permitted Development scheme would be deemed harmful to the AONB and would not respect the existing non-designated heritage asset as it would eradicate the vast majority of originality that the building has. As a result, the proposed Permitted Development scheme is considered to be a material consideration which attracts significant weight within the decision-making process.
- 8.9** Elevations of the proposed Permitted Development scheme can be seen at the appendix to this report, copies will also be shown on the Officers presentation.

Change of Use of Land

- 8.10** The residential curtilage of the site has been previously established through application 15/00472/CLE. However, the applicant intends to encompass additional surrounding land into the lawful residential curtilage (which is currently agricultural in nature), to facilitate the dwelling and its external ancillary facilities.
- 8.11** The facilities proposed include a small section to the west of the site to allow for turning, a larger area of land to the east that would encompass the existing Byre building and a projecting section of land to the East that would cover the attenuation ponds required for the drainage strategy. A plan to illustrate the change of use areas can be seen at the appendix to this report, copies will also be shown on the Officers presentation.
- 8.12** Policy RES11 (Change of Use of Agricultural Land to Domestic Garden) states that permission will be granted provided that: 1. there is no adverse environmental or visual impact on the form, character or setting of the settlement; 2. there is no significant encroachment into the surrounding countryside, 3. the form of the extension is not incongruous with the characteristic pattern of surrounding gardens; and, 4. the land-use change would not have a significant impact on local ecological networks or deliver a net loss of priority habitat.
- 8.13** The dwelling is located within an isolated location within the open countryside and as such criterion 1 and 3 are not directly relevant, given that there is no settlement or nearby gardens with which to compare.
- 8.14** The area of land to the west is small and would amalgamate well with the existing residential curtilage. The land to the east is much larger and given the topography of the site slopes downwards in a north easterly direction. This part of the site is highly visible when looking up the escarpment from the B4632 and further afield. The area of land immediately adjacent the existing curtilage would form part of the buildings landscaping, as well as the natural swimming pool and converted Byre building. This could be used for full residential use and would form the main 'frontage' to the property'. This change would alter the existing context of the site where the building is viewed in isolation with a discreet residential curtilage. However, the introduction of a larger domestic building would naturally seek a more formalised frontage and outside amenity space. The curtilage already forms part of this site and the additional parcel of land would be well located to that area of land. As such it is considered that the inclusion of this area of land would not result in an unacceptable level of encroachment into the surrounding countryside and would be read in the context of the wider site.
- 8.15** The area of land further to the east that would accommodate the attenuation ponds would be further into a more undisturbed area of agricultural land. However, the intended use is to site attenuation ponds that, with appropriate landscaping, could assimilate well into the rural surroundings and appear as natural ponds in accordance with criterion 2 of Policy RES11.

- 8.16** Further to the above, the change of use of land would provide in excess of 100% of biodiversity net gains which is a significant enhancement in terms of available habitats and as such would accord with the ethos delivered through criterion 4 of Policy RES11.

Principle of development - summary

- 8.17** As demonstrated above, the principle of a replacement dwelling and the extension of the existing curtilage is considered to be fully in accordance with Policies RES9 and RES11.

Impact upon the Historic Environment

- 8.18** Policy SD8 (Historic Environment) concerns the historic environment, stating that development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment. The policy also states that: Designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance, and for their important contribution to local character, distinctiveness and sense of place.
- 8.19** Policy HER5 (Non-Designated Heritage Assets) states that: Non-Designated Heritage Assets will be conserved having regard to the significance of the asset and its contribution to the historic character of the area. Proposals affecting a Non-Designated Heritage Asset and/or its setting will be expected to sustain or enhance the character, appearance, and significance of the asset.
- 8.20** The existing dwelling, 'Starvealls Cottage', is not listed and neither is the site located within or adjacent to a Conservation Area. However, the Conservation Officer considers the building to be a non-designated heritage asset of moderate to low significance.
- 8.21** The NPPF defines a heritage asset (note: not specifically a non-designated heritage asset) as "*A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest*". Principles of selection for heritage assets and assessment of significance are set out in Historic England's publication 'Conservation Principles, Policies and Guidance' (2008) and 'British Standard BS 7913: Guide to the Conservation of Historic Buildings'.
- 8.23** The National Planning Practice Guidance (NPPG) states that planning authorities may identify non-designated heritage assets as part of the decision-making process on planning applications. Irrespective of how they are identified, it is important that the decisions to identify them as non-designated heritage assets are based on sound evidence.
- 8.24** The Conservation Officer reports that the affected pair of cottages are of sufficient local historic and architectural interest to be considered a non-designated heritage asset. The cottages are indicative of a past narrative of country workers living in an isolated location within an estate setting. For over one hundred years these solitary cottages have stood on the hillside as a minor landmark to passers-by. Their location and design are functional and testament to the closing days of pre mechanised countryside management.
- 8.25** In regard to the constraints identified above, Section 16 of the NPPF and JCS Policy SD8 are relevant.

- 8.26 Paragraph 197 of the NPPF states that: *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."*
- 8.27 Policy SD8 states that: *"Development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment. The policy also states that: Designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance, and for their important contribution to local character, distinctiveness and sense of place."*
- 8.28 The Conservation Officer considers that Starvealls Cottage is a non-designated heritage asset of moderate to low significance however its total loss through demolition would result in substantial harm. As such, a balanced judgement is required to determine whether the substantial harm identified is outweighed by benefits. This balancing exercise is set out in the final section of this report, having regard to the basket of policies as a whole.
- 8.29 It is pertinent to note that the correct test to assess harm to a non-designated heritage asset is a "**balanced judgement**", as set out in Paragraph 197 – and not "public benefit" which is a test only applicable to designated heritage assets. Essentially, this test is less rigorous, and is proportionate to the significance of each type of heritage asset.

Design & Impact upon the Landscape (Cotswolds AONB)

- 8.30 Policy SD4 (Design Requirements) provides that new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting.
- 8.31 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. The policy goes on to state that residential development should seek to achieve maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network.
- 8.32 Policy RES5 (New Housing Development) specifies that new housing development proposals should, inter alia: 1) 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; 2) 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; 3) not cause the unacceptable reduction of any open space (including residential gardens) which is important to the character and amenity of the area; 4) incorporate into the development any natural or built features on the site that are worthy of retention; 5) address any other environmental or material planning constraints relating to the site.

- 8.33** Section 15 of the NPPF relates to “Conserving and enhancing the natural environment” and, at paragraph 170, specifies that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and protecting and enhancing valued landscapes.
- 8.34** Policy SD6 (Landscape) specifies that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. It also states that all applications for development will consider the landscape and visual sensitivity of the area in which they are to be located or which they may affect.
- 8.35** Paragraph 172 of the NPPF specifies that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which, along with National Parks and the Broads, have the highest status of protection in relation to these issues.
- 8.36** Policy SD7 (Cotswold Area of Outstanding Natural Beauty) specifies that all development proposals in or within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities.
- 8.37** The site is located on the hillside of an escarpment, at a locally high elevation, overlooking a gently rolling landscape. The site occupies approximately 1.7 acres (0.7 ha) of scrub and rough grassland on sloping ground which contains the cottage, the remains of a barn and a copse of mature trees. The plot is enclosed by a post and wire fence and remnants of dry-stone walling. Beyond this the Applicant owns some 40 acres (16 ha) of farmland around the site, divided into three fields; this constitutes a substantial area over which they have control.
- 8.38** The site itself slopes sharply towards the north and east from a high point along the western boundary where the existing cottage is located at a level of around 171 m AOD. The copse and other mature trees provide a valuable visual framework and windbreak to the site, and a fairly effective screen to views from the north. Neither the site, nor the wider land holding, contains any designated features of historic, ecological or conservation value, although as set out above, Starvealls Cottage is considered by the Council to be a non-designated heritage asset.
- 8.39** An updated / more detailed Landscape Visual Assessment (LVA) has been submitted with the application, further to that which accompanied the predecessor application. The LVA advises that nine public viewpoints have been chosen as representative of potential views of the application site and that survey fieldwork was carried out during clear weather in February 2022 when trees and hedges were leafless and visual conditions at their most open. Given its elevated and isolated hillside location, the application site can be seen from a number of locations across the Cotswolds AONB to the north, west and east. Viewpoints range between intermittent views from nearby roads and public footpaths to sustained, distant views from surrounding hillsides.
- 8.40** The conclusion of the LVA states that the potential impacts of the proposal on the landscape character resulting from the built development would not be material; a view which is shared by Officers.

- 8.41** In addition, although the impact of the development upon the landscape and AONB landscape is considered to be acceptable, additional landscape planting and mitigation measures are proposed as a significant enhancement over and above that of the existing landscape; concurrently contributing to Biodiversity Net Gains through the provision of priority habitats, specifically hedgerows.
- 8.42** The Council's Landscape Advisor has been consulted who confirms: "*The proposed planting measures would reduce the visual impact of the views and would also enhance the landscape quality and biodiversity of the locality. Furthermore, the Farm Landscape Enhancements Plan sets out the proposed mitigation measures which is a suitable baseline, subject to the submission of detailed hard and soft landscaping plans which can be secured by virtue of a planning condition.*"
- 8.43** Notwithstanding that it has been found that there would be non-material harm to the landscape by virtue of the replacement dwelling, it is necessary to consider the extant Permitted Development proposals which would otherwise be constructed if the existing proposal is refused. This 'fall-back' position would be of significant detriment to the landscape, by introducing an alien and dominant feature into the landscape; a development which could not be controlled by conditions or restrictions and thus would be of low-quality design.
- 8.44** In view of the above, overall, it is considered that whilst the current proposal marks a significant departure from the existing building and the landscape impacts would be more significant, however on balance the proposed scheme would be far less harmful than the Permitted Development scheme to the character and appearance of the AONB as is confirmed by the Landscape Advisor.
- 8.45** In terms of design, the application proposes a building to be constructed of natural stone with a slate roof. The design and access statement advises that the building has been influenced by the formality of the Queen Anne-style and by the English re-interpretations of classicism found in later Cotswold country houses.
- 8.46** The Conservation Officer raises no objections in terms of the design of the building, however, points out that it is more prominent given its larger scale which would result in a competing hierarchically with its neighbours. However, the style and materials and its surrounding structures and landscaping are non-controversial with the Cotswold setting.
- 8.47** While the proposed dwelling would result in change to the existing landscape this would be tempered through the considered design and proposed muted materials pallet. With this in mind, it is considered that, on balance, the proposed dwelling design would be of an appropriate scale and high-quality design which would respond to the site and context and conserve the character and appearance of the AONB. It is noted however that the precise details of the external finishes to the materials and architectural detailing to the building would need to be controlled by condition to ensure a suitably high-quality finish.

Residential amenity

- 8.48** Policies SD4 (Design Requirements) and SD14 (Health and Environmental Quality) 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.

- 8.49** The proposed new dwelling would be located in an isolated position with the nearest residential property situated some 300m away. The proposal would also offer an acceptable level of amenity space for future residents. It is therefore considered that the proposed development would result in acceptable levels of amenity for existing and future residents in accordance with JCS policies.

Biodiversity

Survey Requirements

- 8.50** The application is accompanied by a series of surveys and reports. It is noteworthy that the first survey was undertaken in 2019; which identified a lesser horseshoe bat as well as evidence of a brown long-eared bat. These findings triggered the requirement for two additional surveys which were undertaken in 2021 (the most recent of which, in June 2021). During the course of the application, these surveys became out of date and thus the applicant undertook additional, further surveys.
- 8.51** Each of the surveys found no further evidence of bats and therefore advise that no additional action is required in this regard. The Council's Ecological Advisors have been consulted who advise that the surveys and reports as presented are of sufficient detail and they are satisfied in this regard.

Biodiversity Net Gain

- 8.52** Further to the above, there are noteworthy benefits to the proposal by virtue of the significant provision of Biodiversity Net Gains; which is perhaps the biggest enhancement over and above the original (refused) scheme.
- 8.53** Section 15 of the NPPF seeks to, inter alia, protect and enhance, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan), and minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 8.54** Policy SD9 (Biodiversity and Geodiversity) states that the biodiversity resource of the area will be protected and enhanced in order to establish and reinforce resilient ecological networks, including the safeguarding of protected species in accordance with the law. This is reiterated in Policy NAT1 (Biodiversity, Geodiversity and Important Natural Features), which also seeks proposals to deliver a biodiversity net gain.
- 8.55** Biodiversity net gain ("BNG") delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development. Policies SD14 and NAT1 do not quantify or numerate the level of and are relatively broad in terms of their requirement.
- 8.56** However, The Environment Act gained royal ascent in 2021 and The Act is expected to become legally binding within the coming months via emerging legislation which will require all developments (within a specific threshold) to provide a biodiversity net gain of at least 10% which will be secured by condition, for at least 30 years and likely in perpetuity. Furthermore, it is noteworthy that the provision of BNG is a public benefit.

- 8.57** The current application (unlike to former application) is accompanied by a recognised tool known as 'The Biodiversity Metric 3.0' – which is a calculation tool to demonstrate existing (or 'baseline') habitat versus proposed habitat. Given the use of the existing site as grassland, there are significant opportunities to enhance the habitats on site which as demonstrated by the applicant, would result in an overall improvement to habitats of 104.7% and hedgerows of 100%. Thus clearly exceeds the baseline (currently guidance) rate of 10% and thus the development offers significant Biodiversity Net Gains which should attract substantial weight within the decision-making process.
- 8.58** In summary, there are significant benefits in terms of Biodiversity Net Gains which would exceed the requirements set out within Policy SD9 of the JCS and Section 15 of the NPPF.

Drainage and flood risk

- 8.59** Policy INF2 (Flood Risk Management) advises that development 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. 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 (Flood Risk and Water Management).
- 8.60** The Council's Flood Risk Officer has been consulted on the application who initially advised that a Flood Risk Assessment is required because there is a surface water flow route running directly through the site. Although this was not a necessity in 2020 and as such was not a statutory requirement as part of the former application, there has been a shift in policy by virtue of the Framework. The applicant endeavoured to provide this during the course of the application which provides an accurate assessment pertaining to the associated flood risks on site; and as such the Flood Risk Officer is satisfied with the proposals as presented; subject to a detailed drainage condition.
- 8.61** In light of this advice, it is considered that the proposal fully accords with Policy INF2.

Access and highway safety

- 8.62** Paragraph 103 of the NPPF sets out that opportunities to maximise sustainable transport solutions which will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Furthermore, development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development are severe.
- 8.63** Policy INF1 (Transport Network) requires that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters.
- 8.64** The application site would be accessed via an existing field opening leading to a track which was granted planning permission in 2013 (13/00605/FUL). Whilst the works to the track of not been completed the Council is satisfied that the permission has been implemented and is therefore extant.
- 8.65** The proposed manoeuvring and parking provisions have been assessed by the Local Highway Authority and no objections have been raised.

Overall Balancing Exercise

- 8.66** As set out above, Paragraph 197 of the NPPF states that: *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."*
- 8.67** As such, the purpose of this section is to weigh the benefits of the proposal against the substantial harm identified to the non-designated heritage asset. In order to effectively conduct this exercise, it is important to understand the weight that each consideration attracts which is solely a matter for the decision maker.

Benefits

Permitted Development 'Fall-Back'

- 8.68** As set out within the earlier sections of this report, the Permitted Development extensions which have already been lawfully commenced and thus are extant, are a material consideration.
- 8.69** Thus, given that the fall-back option as set out by the planning history has a more than probable chance of being carried out (a principle which is widely supported by case law – see *Mansell v Tonbridge & Malling BC*: *"For a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice."*), this forms a material consideration which is considered to attract substantial weight in the decision making process.
- 8.70** The scheme as presented is far preferable to the fall-back development, given that it offers significant benefits in terms of design, landscape impact, biodiversity net gain and the opportunity for control by virtue of planning condition.

Biodiversity Net Gain 'BNG'

- 8.71** The development would result in an overall improvement to habitats of 104.7% and to hedgerows of 100%. This would result in significant benefit to biodiversity and attracts substantial weight within the decision-making process.

Economic

- 8.72** The development would result in the creation of medium-term employment for dozens, if not, hundreds of local construction workers and contractors. Given the scale of the dwelling, 30 workers are expected to be at the site at any one time (depending on the build stage) for around 2 years until final completion.
- 8.73** Furthermore, once complete, given scale of the dwelling as a country house, the applicant anticipates the employment of several permanent staff (gardener, cleaners, general housekeeper, nanny and chef) who would be employed on a long-term basis.
- 8.74** Both medium- and long-term opportunities for employment would provide a boost to the local economy. This is considered to attract moderate weight within the decision-making process.

Neutral

- 8.75** As referenced within the earlier sections of this report, the scheme as presented has been found to be acceptable in terms of design, landscape, residential amenity, drainage, flood risk, access and highway safety. Thereby, the development as proposed would have a neutral impact upon those elements of consideration.

Harms

- 8.76** This report has identified a single harm as a result of the development; substantial harm caused by the total loss of a non-designated heritage asset.

Balancing Exercise Conclusions

- 8.77** As demonstrated above, when the basket of policies are considered as a whole, it is considered that the many benefits of the proposed development would clearly outweigh the harms.
- 8.78** As such, there would be no conflict with Paragraph 197 of the NPPF and no reason for refusal on the grounds of harm to the historic environment.

Previous Refusal

- 8.79** Although Members previously refused a *similar* proposal due to concerns pertaining to landscape and heritage harms, it is considered that the existing application overcomes the previous refusal reasons for three reasons: 1) through the submission of additional, more detailed landscape information; 2) by virtue of the fall-back position; and 3) due to the significant biodiversity net gains proposed.
- 8.80** As such, when weighed within the planning balance, Members are advised that the previous refusal reasons have been sufficiently overcome and the proposals as presented are, on balance, acceptable.

9. Conclusion

- 9.1** Section 38(6) of the Town and Country Planning Act 1990 provides that, if regard is to be had to the development plan, the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. Section 70 (2) of the Act provides that the Local Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.
- 9.2** It is considered that the principle of the proposal is consistent with the general ethos of the NPPF which supports the enhancement and improvement of the places in which people live their lives, whilst conserving the natural environment and the landscape protection emphasis of Policy RES9.
- 9.3** As further detailed above the building is identified as a non-designated heritage asset. However, the applicant has demonstrated that there is a Permitted Development scheme that whilst it would retain some of the fabric of the building it would eradicate the important features creating a large ill planned building in a prominent setting within the AONB.

- 9.4 Officers consider that the permitted development scheme (which has been implemented) would cause unacceptable harm to the AONB that would neither protect nor enhance the valued landscape. However, Officers have no jurisdiction to control this development by virtue of a condition or any other means.
- 9.5 Whilst the new building is much larger than the existing building and would become more visible in the landscape, it is of an acceptable design that would utilise a high quality materials pallet and an appropriate landscaping scheme can be achieved by way of conditions.
- 9.6 The revised proposals would offer significant Biodiversity Net Gains which would enhance habitats locally and is supported by the policies of the Development Plan as well as emerging legislation.
- 9.7 It is concluded that, on balance, the benefit of establishing a high quality designed building in this sensitive location would clearly outweigh the loss of the non-designated heritage asset. The impact on the AONB would not result in a clear reason for refusal given the lawfully commenced and therefore, extant, Permitted Development Scheme that could be achieved.

10. Recommendation

- 10.1 Given the above, Members are reminded that an appeal against non-determination has been lodged and as such the recommendation is **MINDED TO PERMIT** subject to conditions outlined below.

11. 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 approved documents:
- Site Location Plan (PL-001 REV C)
 - Site Plan (Drg No.2 Rev B)
 - Proposed Elevations (PL-004 Rev B & PL005 Rev A)
 - Proposed Bay Window Elevation (PL-008 REV A)
 - Proposed Garden Entrance Elevation (PL-009 REV A)
 - Proposed Front Entrance Elevation (PL-010 REV A)
 - Proposed Floor Plans (PL-002 REV B & PL-003 REV A)
 - Proposed Reinstated Byre Elevations (PL-007 REV B)
 - Landscape Master Plan (1641 L1 REV B)
 - Landscape Enhancement Plan (1641.L.4)
 - Proposed Curtilage Plan (PL-021 REV B)
 - Arboricultural Impact Assessment (TWC-1295-R-001 – dated August 2020)
 - Proposed Drainage Strategy Rev V1 Dated 10 August 2020
 - Addendum to Drainage Strategy Calculations and Drainage Layout
- ; 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** Notwithstanding the submitted details, no construction works shall take place above slab level until precise details and, where appropriate, samples have been submitted to and approved in writing by the Local Planning Authority (to include materials for the Byre reinstatement) of the following:
- Samples of all proposed facing and roofing materials
 - Details of coursing, jointing, texture and relief
 - Details of design and colour of the window frames and doors and their reveals including section drawings at a scale of no less than 1:10
 - Details of any colour tinting to glazing
 - Details of external rainwater goods, flues and vents, including colour and material
 - Details of gates, walls and fences, including scaled elevations.

The works shall thereafter be carried out in accordance with the approved details and shall be similarly maintained thereafter.

Reason: To ensure that the external appearance of the proposed development will be of an acceptably high standard.

- 4** No above ground development shall take place until a sample panel of the materials to be used in the construction of the external surfaces has been prepared on site for inspection and approved in writing by the Local Planning Authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique, Corner construction and palette of materials (including roofing and cladding) to be used in the development. The works shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.

Reason: To ensure that the external appearance of the proposed development will be of an acceptably high standard.

- 5** Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C, E, F and G 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 the interests of visual amenity and the character and appearance of the area.

- 6** Notwithstanding the submitted details on the landscape master plan, no development shall take place until a full landscape strategy for the site has been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The landscape strategy shall include, inter alia, proposed finished levels or contours; means of enclosure; hard surfacing materials; planting plans, specifications and schedules, the wider landscape proposals (including details regarding the natural swimming pool and attenuation ponds) and details of tree and hedgerow protection for existing planting, to be retained, in accordance with BS5837: 2012 (as shown within the Arboricultural Impact Assessment by The Tree and Woodland Company Ref TWC-1295-R-001 dated August 2020) Trees in relation to construction. If the landscape strategy is to be phased over several years a phasing plan shall be provided as an integral part of the plan, to include proposed planting dates. All approved tree and hedge protection measures shall be in place prior to the commencement of the development shall be retained thereafter until the development is complete. Any trees or plants that, within a period of five years after

planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of visual amenity and the character and appearance of the area

- 7** No external lighting whatsoever shall be erected at the site without the express prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and the character of the area and to ensure proper provision is made to safeguard protected species and their habitats.

- 8** Notwithstanding the submitted details, no development shall be carried out above floor plate level until the existing and proposed levels across the site and relative to adjoining land, together with the finished floor levels and ridge levels of the proposed dwelling hereby approved have been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of residential and visual amenity

- 9** No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall:

- i. Specify the type and number of vehicles;
- ii. Provide for the parking of vehicles of site operatives and visitors;
- iii. Provide for the loading and unloading of plant and materials;
- iv. Provide for the storage of plant and materials used in constructing the development;
- v. Provide for wheel washing facilities;
- vi. Specify the intended hours of construction operations;
- vii. Specify measures to control the emission of dust and dirt during construction.

Reason: To reduce the potential impact on the public highway and accommodate the efficient delivery of goods and supplies.

- 10** All works in connection with the development hereby approved shall strictly adhere to the mitigation detailed within Bat Survey Report (CWS, September 2019) and updated Bat Survey Report (CWS, June 2021).

Reason: To ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider area.

- 11** No development shall take place until a plan detailing ecological enhancements as detailed within Bat Survey Report (CWS, September 2019), updated Bat Survey Report (CWS, June 2021), further updated Bat Survey Report (CWS, August 2022), and biodiversity net gain metric (dated 11th February 2022) has been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details and shall be retained as such in perpetuity.

Reason: To ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider area.

- 12** Prior to the first use/occupation of the development hereby approved, bird nesting sites/boxes shall be installed in accordance with details that have first been approved in writing by the Local Planning Authority.

Reason: To ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider area.

- 13** Notwithstanding the information submitted, no development shall commence until a detailed design, maintenance and management strategy and timetable of implementation for the surface water drainage strategy presented in the Flood Risk Assessment and Drainage Strategy has been submitted to and approved in writing by the Local Planning Authority. The submitted details must demonstrate the technical feasibility and viability of the proposed drainage system through the use of SuDS to manage the flood risk to the site and elsewhere, and the measures taken to manage the water quality for the lifetime of the development. The details shall account for climate change (at 40%) and provide additional discharge to the pond. The scheme for the surface water drainage shall be implemented in accordance with the approved details and timetable and shall be fully operational before the development is first put in to use/occupied.

Reason: To ensure the development is provided with a satisfactory means of drainage and thereby reducing the risk of flooding. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage, flood risk and water quality in the locality.

12. Informatives

- 1** In accordance with the requirements of the NPPF the Local Planning Authority has worked with the applicant in a positive and proactive manner in order to secure sustainable development which will improve the economic, social and environmental conditions of the area by negotiating amendments and additional information to support the proposal.