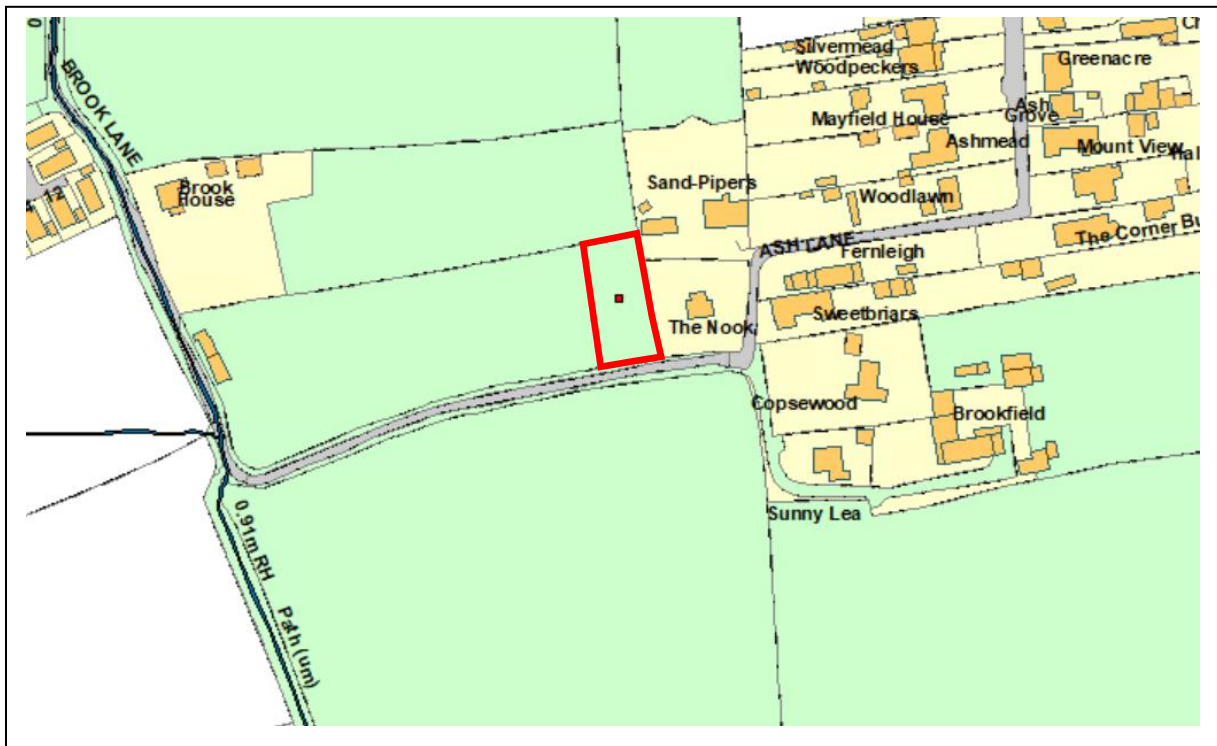


Planning Committee

| | |
|---|--|
| Date | 15 August 2023 |
| Case Officer | Frank Whitley |
| Application No. | 22/01367/PIP |
| Site Location | Field North of Brook Lane, Ash Lane, Down Hatherley |
| Proposal | Permission in principle for residential development of two dwellings |
| Ward | Severn Vale South |
| Parish | Down Hatherley |
| Appendix | Location Plan (amended) Dwg No.22.11.01 |
| Reason for Referral to Committee | Parish Objection |
| Recommendation | Permit |

Site Location



1. The Proposal

- 1.1 The application seeks permission in principle (PIP) for the erection of two dwellings.
- 1.2 Full application details are available to view online at:
<https://publicaccess.tewkesbury.gov.uk/online-applications/>

2. Site Description

- 2.1 The application site is a rectangular grassed field to the northern side of Brook Lane and measures approximately 26 metres x 48 metres. Immediately to the east is the dwelling and domestic curtilage of 'The Nook'. To the north and west are agricultural fields, bounded by established trees and hedgerow.
- 2.2 The site falls within the Innsworth and Twigworth Strategic allocation as defined on the proposals map to the JCS and is not subject to any landscape designation. Innsworth Meadow SSSI is 550 metres to the south west.
- 2.3 The site would be accessed from Brook Lane to the south and submitted illustrative plans show how two dwellings could be accommodated on the site in a 'side-by-side' layout. (See plan attached)

3. Relevant Planning History

| Application Number | Proposal | Decision | Decision Date |
|--------------------|----------|----------|---------------|
| | None | | |

4. Consultation Responses

4.1 Down Hatherley Parish Council – Objection

Details of the Parish Council objection are summarised:

- The villages of Down Hatherley and Twigworth are completely saturated with new development. The argument trying to justify this application under the umbrella of the JCS (housing) initiative, or TBCs lack of a five-year housing supply, should be robustly opposed.
- Application site is green space and is neither in a village environment or is infill development.
- Contrary to Neighbourhood Development Plan which seeks to preserve open green spaces, Green Belt and the rural character of the settlements.
- Very significant risk of flooding
- Very significant sewerage infrastructure failure causing pollution to area, waterways, and harming neighbouring dwellings
- No housing need in area
- Unsuitable for traffic as unadopted road

4.2 Ecology – Objection

We would expect a Preliminary Ecological Appraisal (PEA) to be undertaken by suitably qualified ecologist, prior to determination to ensure that any ecological features associated with the site are identified, potential impacts from the proposed works are fully assessed and appropriate mitigation and enhancements are recommended.

4.3 County Council Highways – No objection

4.4 Land Drainage Comments – Objection

- Unclear if land has access to foul sewer or reliant on 3rd party permission.
- Ground conditions unsuitable for infiltration due to shallow strata and clay underneath. This causes water to move 'downstream' along strata affecting neighbouring properties and their ability to discharge also.
- Will not accept proposal to discharge surface water to foul sewer which is unmapped and in unknown condition.

4.5 Trees Officer – No comments received

4.6 Severn Trent Water – has not been consulted specifically on this application though general comments have been received about new residential development in the area regarding foul water disposal. Comments and discussions are set out in the Analysis section below.

5. Third Party Comments/Observations

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

5.2 The application has been publicised through direct neighbour notification and the posting of a site notice for 21 days. Seven objections have been received summarised as follows:

- Ash Lane and Brook Lane are unsuitable access tracks and no legal right of access
- Large vehicles will further damage access track
- There would be no responsibility to maintain track, unlike existing residents who currently pay for maintenance.
- Local flooding and very significant sewerage issues
- Rural area and not even a village character
- Environmental and wildlife damage to rural area
- No housing need and development is only in pursuit of financial gain
- Inadequate sewerage, electricity infrastructure- irresponsible and dangerous to build more homes
- Noise pollution
- Loss of trees and hedges

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 SP2 Distribution of New Development
Policy SD4 Design Requirements
Policy SD9 Biodiversity and Geodiversity
Policy SD10 Residential Development
Policy SD14 Health and Environmental Quality
Policy INF1 Transport Network
Policy INF2 Flood Risk Management
- 6.4** Tewkesbury Borough Local Plan to 2011-2031 (TBP) – Adopted 8 June 2022
Policy RES2 Settlement Boundaries
Policy RES5 New Housing Development
Policy ENV2 Flood Risk and Water management
Policy NAT1 Biodiversity, Geodiversity and Important Natural Features
- 6.5** Down Hatherley, Norton, and Twigworth Neighbourhood Development Plan 2011-2031
Policy FP1: Demonstrating effectiveness of water holding techniques, their maintenance in perpetuity, and of sewerage capacity

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), the Tewkesbury Borough Local Plan to 2011-2031 (June 2022) (TBP), 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** Planning guidance states that decisions for planning in principle must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the National Planning Policy Framework and national guidance, which indicate otherwise.

8.2 It should be noted however that only matters of location, amount of development and use are within the scope of consideration for a permission in principle application and the determination of this proposal.

8.3 The main issues in the consideration of this application are as follows:

- Location
- Land Use and Amount
- Other Matters

Location

8.4 The NPPF at Chapter 5 seeks to deliver a sufficient supply of homes. Paragraphs 78-80 deal with rural housing. Under Paragraph 74 of the NPPF Local Planning Authorities are required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies.

8.5 Policy SP1 (The Need for New Development) of the JCS states that provision will be made for 35,175 new homes, within existing urban areas through District Plans, existing commitments, urban extensions, and strategic allocations. Policy SP2 (Distribution of New Development) amongst other requirements, states that dwellings will be provided through existing commitments, development at Tewkesbury town, in line with its role as a market town, smaller scale development meeting local needs at Rural Service Centres and Service Villages.

8.6 The application site lies within an area defined by Policy SA1 (Strategic Allocations Policy) and relates to land removed from the Green Belt. The policy sets out that development will be provided within Strategic Allocations to deliver the scale and distribution of development set out in Policies SP1 and SP2.

8.7 The application site lies to the eastern edge of the Innsworth and Twigworth Strategic Allocation and is subject to JCS Policy A1(Innsworth and Twigworth). The Policy broadly sets out a requirement for approximately 2,295 homes to be delivered in addition to an appropriate mix of community facilities, education, green infrastructure, protection of biodiversity, flood risk management and highway improvements.

8.8 The JCS Indicative site layout plan for the A1 allocation area defines the site and land to the north south and west as being appropriate for housing and related infrastructure. The principle and 'location' aspect of the application is therefore considered acceptable.

8.9 While there is no planning history for the application site, it should also be noted that immediate area has been subject to numerous applications for housing development including application no. 22/00364/APP for 340 dwellings on land extending immediately south of Brook Lane (opposite the application site).

8.10 Officers also refer to the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan 2011-2031, where it states that no new housing growth is planned in the Parish of Down Hatherley. Accordingly, there are no housing specific policies for the Parish and instead it relies on the national and Development Plan policies including JCS Policy A1 of the adopted JCS applies. The principle of development is therefore considered acceptable.

Land use

- 8.11** Planning guidance sets out that housing led development is an accepted land use for a permission in principle application. Whilst matters of detail remain a consideration for the Technical Matters stage it is noted that no fundamental objections have been raised in respect of the principle of development by the Local Highway Authority or Severn Trent Water in respect of the proposed land use and subject to further consideration at the technical details stage.

Amount

- 8.12** Illustrative drawings have been received and it is considered that two dwellings could physically be accommodated on the site, however it would be for the applicant to demonstrate at the technical details stage that the quantum dwellings could be accommodated on the site in accordance with the relevant planning policy requirements and the constraints of the site.

Other Matters

Drainage and Flood Risk

- 8.13** The Council's Land Drainage Officer initially expressed significant concerns about the site's ability to dispose of surface and foul water, even though located in Flood Zone 1 (the lowest risk). However further information was submitted through the application process to demonstrate that surface water could discharge to a ditch to the rear of the site. This has resolved officers' initial concerns in relation to drainage principles however detailed drainage designs would need to accompany any future application for technical details consent and is a matter to be assessed at that time.
- 8.14** Officers have discussed the drainage and foul sewer arrangements extensively with Severn Trent Water (STW) where the issue relates to ground conditions in the area. STW has been consulted specifically on this application, and their final opinion has been sought where common issues relate to three undetermined 'PIP' applications in the Down Hatherley area, including this application and:

22/01367/PIP Field North off Brook Lane, Ash Lane, Down Hatherley, Gloucester
22/01318/PIP Land at, Greenacre And Mount View, Ash Lane, Down Hatherley

- 8.15** STW reported on 29 March 2023 as follows:
'...we do have concerns within the area, and due to this we are carrying out a modelling exercise to determine the effects this development (and others) will have on our existing assets, pump stations and treatment works.

We anticipate the works will be carried out in due course (although I do not have an exact date for this) and would anticipate to provide further comment to the Local Planning Authority mid to late April 2023. Until this time we are unable to provide any further comment'

STW further reported on 12 May 2023:

'... we have now received and assessed the modelling report, which shows a high risk of flooding. Due to this, we are unable to accept any new flows until upgrades have been delivered.

I would please request a Grampian Condition is applied on this development to state that no dwelling is to connect to the public sewer (for foul sewage only) until upgrades have been carried out by STW. No Surface water is to be discharged into the public sewerage system, and alternative arrangements will need to be investigated’.

- 8.16** Officers share the concerns of STW about the ability of new dwellings to dispose of foul water and the availability of a suitable connection at this location and note Policy FP1 in respect of surface water storage.
- 8.17** The suggestion from STW was that a Grampian Condition could be imposed (such as that suggested above), which would prevent development taking place until upgrades to the sewerage system had taken place are noted. However, Officers have concluded that such a condition cannot lawfully be applied to the decision notice for a ‘PIP’ application as PIP proposals cannot be conditioned. For that reason, STW have reviewed their position and reported on 6 June 2023 as set out in the consultation responses reported above as follows:
- ‘If this application progresses, we would request the submission of drainage proposals are provided for our comment at the earliest opportunity. It is important to note that we would not permit a surface water discharge into the public combined sewer or the public foul sewer, and recommend the applicant seeks alternative arrangements.*
- 8.18** STW’s latest position means that foul and surface water is no longer a locational issue which can reasonably be used to preclude ‘planning permission in principle’ being granted and is a matter for consideration at the technical Details Consent stage. The matters raised by Severn Trent can however be recorded as an informative attached to the decision.
- 8.19** While it is noted that there are concerns in respect of surface water drainage and possible associated flood risk, it should be noted that such matters (amongst others) are not a detail for consideration at this time and fall within the scope of any subsequent Technical Details Consent (TDC) application. In the event a TDC application is submitted, the LPA would have the ability to refuse planning permission if a satisfactory solution to drainage and other matters could not be secured.
- 8.20** It should also be noted that the site will not benefit from planning permission until (and if) the TDC application has been granted. Further controls could be imposed at the TDC stage by way of conditions. Other technical matters to be addressed at the planning application stage would include (though are not limited to) design, highway safety, amenity and ecology and appropriate assessments and mitigation will be required at that stage.

Parish Council Concerns

- 8.21** In response to the Parish Council’s concerns that the proposal would be contrary to the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan 2011-2031 (NDP), it should be noted that there are no direct policies that relate to the provision of new housing sites in Down Hatherley Parish. The NDP explains that no new housing growth is planned in Down Hatherley Parish and therefore no settlement boundaries are defined. It goes on to state that given the poor sustainability and the Green Belt designation over the majority of the Parish, it is not necessary for the NDP to replicate the national and Development Plan policies that preclude new housing development in the area. Accordingly, there are no housing specific policies for the Parish and instead it relies on the national and Development Plan policies. Consequently, there is not considered to be any direct policy conflict with the NDP at this first stage of the permission in principle.

9. Conclusion

- 9.1** This application for planning in principle is limited to consideration of Location, Use and Amount and on this basis it is considered that the proposal complies with the NPPF, Policies SP1, SP2, SA1 and A1 of the adopted Joint Core Strategy 2011-2031 and so far as can be considered under a PIP application the Tewkesbury Borough Plan 2011 to 2031 and the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan 2011 to 2031.
- 9.2** It is therefore recommended that Permission in Principle be granted.

10. Recommendation

- 10.1** The proposal accords with relevant policies as outlined above; it is therefore recommended permission in principle is granted. No conditions are recommended in accordance with the determination requirements of Planning in Principle proposals; however the following informatives are recommended.

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.
- 2** In accordance with the requirements of the NPPF the Local Planning Authority has
Should this application progress to technical approval, Severn Trent request the submission of drainage proposals are provided for their comment at the earliest opportunity. It is important to note that ST would not permit a surface water discharge into the public combined sewer or the public foul sewer, and recommend the applicant seeks alternative arrangements. Severn Trent Water advise that there is a public 1800mm combined sewer, and a public pressurised foul sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.
Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required, there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert Severn Trent assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

There is also a pumping station close to the site and any new development must not restrict Severn Trent's access to the Sewage Pumping Station (SPS). Severn Trent will require free access to the SPS at all times in order to complete any programmed routine maintenance tasks and also for any emergency reactive visits in case of failure. Please note that due to the close proximity of the proposed new development the occupant may experience noise and/or smell pollution. In order to minimise disruption to any future occupant(s), we would advise that all habitable buildings are constructed a minimum of 15metres from the curtilage of the SPS compound.