

Planning Committee

Date	19 September 2023
Case Officer	Chloe Buckingham
Application No.	23/00477/FUL
Site Location	Land To South of Blacksmith Lane, East of Cyder Press Farmhouse, The Leigh
Proposal	Erection of a 1.5 storey, one bedroom, oak-framed dwelling.
Ward	Severn Vale North
Parish	Leigh
Appendices	Location Plan Existing Block Plan (88494/02) Proposed Block Plan (88494/03) Proposed Plans and Elevations (88494/04)
Reason for Referral to Committee	Cllr Heather McLain call in request to Planning Committee.
Recommendation	Refuse

Site Location



1. The Proposal

Full application details are available to view online at:
<https://publicaccess.tewkesbury.gov.uk/online-applications>

- 1.1 The application seeks full planning permission for the erection of a 1.5 Storey, One Bedroom, Oak Framed Dwelling.
- 1.2 This application is a resubmission of withdrawn planning application 22/00880/FUL for similar development.

2. Site Description

- 2.1 The application site relates to a parcel of land to the South of Blacksmith Lane, The Leigh.
- 2.2 The land has an existing access from Blacksmith Lane to the northeast of the site, and the site features many established trees and boundary hedgerow, as identified within the submitted tree survey.
- 2.3 To the west lies Cyder Press Farmhouse, which is a Grade II Listed Building. The land is separated from the main building by Mary's Cottage, a detached annex building within the curtilage of the listed building.

3. Relevant Planning History

Application Number	Proposal	Decision	Decision Date
01/01285/FUL	Demolition of existing store. Erection of new store/garaging	REFUSED	20.11.2001
01/01286/LBC	Demolition of existing store - Grade II Listed Building Ref: 3/77	PLAN	31.10.2001
02/00486/FUL	Erection of garage/store to replace existing	PERMIT	18.03.2003
88/91432/OUT	Outline application for the erection of a dwelling. New access	REFUSED	13.05.1988
89/91451/OUT	Outline application for the erection of a dwelling. New vehicular and pedestrian access.	REFUSED	27.09.1989
97/00149/LBC	Internal and external alterations to dwelling (Grade II Listed Building Ref: 3/77)	CONSENT	24.04.1997

97/00482/FUL	Proposed animal field shelter	PERMIT	22.07.1997
72/00220/OUT	Outline application for one bungalow. Outline application for the erection of a dwelling.	REFUSED	22.11.1972
87/00282/FUL	Alteration of existing vehicular and pedestrian access.	REFUSED	30.09.1987
88/00141/FUL	Alterations and extension to existing dwelling to provide enlarged living accommodation. Installation of two dormer windows.	PERMIT	05.02.1988
88/00142/FUL	Alterations and extension to an existing building to provide accommodation for a dependant relative.	PERMIT	17.02.1988
88/00143/LBC	Alterations and extension to an existing building to provide accommodation for a dependant relative. (Grade II Listed Building ref: 3/77)	PERMIT	17.02.1988
88/00144/LBC	Alterations and extension to existing dwelling to provide enlarged living accommodation. Installation of two dormer windows. (Grade II Listed Building Ref: 3/77)	PERMIT	19.02.1988
68/00140/FUL	Stationing of caravan for residential purposes.	PERMIT	16.10.1968
72/00226/OUT	Outline application for erection of one detached dwelling.	REFUSED	20.12.1972
84/00240/OUT	Outline application for the erection of a dwelling. Alteration of an existing vehicular and pedestrian access.	REFUSED	08.06.1984
13/00463/FUL	Proposed barn for the storage of hay.	PERMIT	03.10.2013
16/00741/FUL	Remove part link building and form porch to both buildings. Construction of new timber post and rail fences and access gates throughout the site.	PERMIT	19.10.2016
16/00742/LBC	Remove part link building and form porch to both buildings. Construction of new timber post and rail fences and access gates throughout the site.	CONSENT	19.10.2016

4. Consultation Responses

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

- 4.1 **Leigh Parish Council-** Comments received. These shall be addressed in the report.
- 4.2 **Ecology-** An updated PEA is required, subject to this being submitted and satisfactory there is no objection subject to 3 conditions.
- 4.3 **County Highways-** Objection.
- 4.4 **Tree Officer-** Further information required.
- 4.5 **Conservation Officer-** Objection.
- 4.6 **Drainage Engineer-** Further information required.
- 4.7 **Building Control-** The application will require Building Regulations approval.

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 Third Party Comments: The application has been publicised through the posting of a site notice and neighbour consultations for a period of 21 days and 3 objection comments have been received, 5 support comments and 1 comment from the applicant have been received. The main points being;

Support:

- Good design which will complement the surrounding dwellings and have no impact on the listed building.
- Little impact on surrounding area.
- Using existing access
- Good sized plot
- Trees and hedgerows shall be maintained.
- No light pollution issues
- No highway safety/access issues.
- Addressed issues previously raised- reduced the size of the dwelling.
- Infill plot
- Eco house.
- Provides for working from home which minimises car use.
- Low risk of flooding.

Objection:

- Unsustainable location- too far from public transport.
- The Leigh has seen a number of new builds and large developments at Coombe Hill- this is significantly more than the 5% increase allowed in policy RES4.
- Negative impact on the listed building, Landscape Protection Zone and setting of the village.
- Increased traffic and highway safety issues.
- A previous application was refused opposite at 'The Lodge' and the reasons

- apply to this application.
- Light and noise pollution
- Impact on trees and hedgerows and wildlife.
- Cyder Press Farm and Mary's Cottage are used as a holiday let.
- If approved pd rights should be restricted.
- Flooding issues and concern over drainage- there is no indication of where the soakaways would be positioned.
- Application reference 20/00539/OUT was refused due to impact on landscape- this decision should be applied to this application.
- Concern this would be used as a commercial holiday let.

1 comment submitted by the applicant. The main points being:

- This is infill.
- The proposed dwelling is set back from the road and will only be partially visible during the winter months.
- Design and materials are in-keeping.
- Access is proven to be safe.
- The height and bulk of the dwelling has been reduced since the previous submission.
- There is a hidden flat roof on the proposed dwelling.
- The proposed dwelling is a sustainable eco house.
- The construction of the dwelling can be managed to ensure limited impacts.

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

SP1 (The Need for New Development)
 SP2 (The Distribution of New Development)
 SD3 (Sustainable Design and Construction)
 SD4 (Design Requirements)
 SD6 (Landscape)
 SD8 (Historic Environment)
 SD9 (Biodiversity and Geodiversity)
 SD10 (Residential Development)

SD11 (Housing mix and Standards)
SD14 (Health and Environmental Quality)
INF1 (Transport Network)
INF3 (Green Infrastructure)

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

RES3 New Housing Outside Settlement Boundaries
RES4 New Housing at Other Rural Settlements
RES5 New Housing Development
DES1 Housing Space Standards
ENV2 Flood Risk and Water Management
NAT1 Biodiversity, Geodiversity and Important Natural Features
NAT3 Green Infrastructure: Building with Nature
TRAC9 Parking Provision
LAN2 Landscape Character
COM4 Neighbourhood Development Plans
HER2 Listed Buildings

6.5 Neighbourhood Development Plan

The Leigh Parish Neighbourhood Development Plan 2020-2031

Policy E1: Landscape and countryside
Policy E2: Biodiversity
Policy E3: Historic Environment
Policy H1: Design for New Residential Development
Policy F1: Flooding

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) (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** In order to further sustainability objectives and in the interests of protecting the countryside Policy SP2 of the JCS sets out the distribution strategy for new housing across the Borough to 2031.
- 8.2** Criterion (vi) of Policy SP2 confirm that on sites that are not allocated within the plan for development, Policy SD10 will apply to proposals for residential development.
- 8.3** Criterion 3 of policy SD10 states that on sites that are not allocated, housing development and conversions to dwellings will be permitted on previously developed land in the existing built-up areas of Gloucester City, the Principal Urban Area of Cheltenham and Tewkesbury town, rural service centres and service villages except where otherwise restricted by policies within District plans.
- 8.4** Criterion 4 (ii) of Policy SD10 'Residential Development' of the JCS sets out that on sites that are neither allocated or previously developed land, housing development will be permitted, except where otherwise restricted by policies within district plans, where it would represent infill within the existing built-up areas of Tewkesbury Borough's towns and villages.
- 8.5** There is no settlement boundary for The Leigh and Policy RES3 of the TBLP states that residential development will be considered acceptable outside defined settlement boundaries where it is in accordance with Policy RES4 and for very small-scale development at other rural settlements.
- 8.6** Policy RES4 states that such schemes will be acceptable in principle within and adjacent to the built-up area of other rural settlements. The supporting text states this could include minor infilling. Infill development is defined as development of an under-developed plot well related to existing built development. For the purposes of this policy and SD10 it states that the built-up area of the settlement is its continuous built form and excludes individual buildings or groups of dispersed buildings which are clearly detached from the continuous built-up area of the settlement.
- 8.7** The Leigh is not identified within the hierarchy of settlements, and as such it can be described as 'other rural settlements' as defined in policy RES4. It is noted that the Parish Council have explained that The Leigh Neighbourhood Development Plan supports some infill development within the village. However, The Inspector explained in appeal reference; APP/G1630/W/21/3267323, for the site just across the road, that The Leigh is a dispersed settlement with occasional pockets, clusters or rows of generally linear development separated by often large areas of undeveloped land and open fields. Whilst the site in question is similarly not physically distant from other properties, the site is considered to be one of these areas of undeveloped land and cannot be described as previously developed land.

- 8.8** It is also worth noting here, that the extent of (residential) 'curtilage' is a matter of fact and degree according to the facts of each case. Defining a curtilage is not an exact science, and various court cases have shed light on what constitutes a curtilage. In one such case (David McAlpine v SoS & Another 14/11/94), the High Court identified three relevant characteristics of a curtilage: (1) it was confined to a small area about a building; (2) an intimate association with land which was undoubtedly within the curtilage was required; and (3) it was not necessary for there to be physical enclosure of that land which was within the curtilage but the land in question needed to be regarded in law as part of one enclosure with the house. In terms of the parcel of land within which the proposed development would be constructed, it is acknowledged that planning permission was granted on 16th October 1968 for the stationing of a caravan for residential purposes here. However, this was subject to a condition that this use should cease, and the caravan removed from the site not later than 31st October 1970 (2 years). The reason for this condition was that the site was in a rural location where the stationing of a caravan on a permanent basis would be likely to detract from the amenities of the area.
- 8.9** Given the status of Cyder Press Farmhouse as 1 no. dwelling (plus authorised annexe), it is considered unlikely that the residential curtilage would have extended to this area. There is no evidence that this area of land forms the lawful residential garden area of Cyder Press Farmhouse, and there is no suggestion of an intimate relationship to the dwelling or that the land serves it in any useful function. It appears more likely that a smaller area of land would have been used intimately with the dwelling; most likely the land immediately to the north of Cyder Press Farmhouse and its associated annexe.
- 8.10** It is worth noting that the Inspector explained in appeal reference; APP/G1630/W/21/3267323, for the site just across the road *that the enclosing effect created by the narrow lane and tall vegetation results in the site appearing as part of the countryside, visually separate from any other dwellings and the settlement. While not physically distant from other properties, the site is visually separate and is not viewed as adjacent or well related to the built-up area of the settlement.* Furthermore, the Inspector in the appeal of the site just across the road also explained that... *even if I were to agree that the site formed part of the curtilage of The Lodge and was previously developed land, the site is not within or adjacent to the built-up area of the settlement and The Leigh is not a service village or rural service centre.*
- 8.11** It must also be highlighted that historic planning applications relating to development on this parcel of land all proposed the erection of 1 no. dwelling here (references T.5417/A, T.5417/B, 88T/5417/01/01, 89T/5417/02/01 and 89T/5417/01/01), with the site address identified on each application as "land adjacent Stonehouse Cottage". These planning applications for development on this parcel of land were all refused planning permission, with the exception of reference 89T/5417/01/01 which was withdrawn. The reasons for refusal for these applications were that the extension of hamlets and groups of dwellings which are located in rural areas of the Borough outside of recognised and established village settlements, would, if allowed to continue unchecked, result in the erosion of the open countryside, to the detriment of the environmental character of the area. These applications were further refused on the basis that the grant of planning permission would set a precedent for further development on land adjoining this site to the detriment of the existing rural character of the area, and also on the grounds that the road leading to the site was incapable of

accommodating safely the additional traffic which would result from the development by reason of its sub-standard access road, narrow width and poor alignment. Where appeals were made against these refusals of planning permission, these were dismissed (references T/APP/G1630/A/88/105727/P2 and T/APP/G.1630/A/89/141188/P4).

- 8.12** Therefore, the site is considered to be an undeveloped piece of land which is characteristic of the dispersed settlement pattern and as such the site cannot be considered to be within nor adjacent to the built-up area of the settlement and The Leigh is not a service village or rural service centre. Whilst there are dwellings to the east and southwest of the site, the site is a large green space containing vegetation and trees. Therefore, the proposal would not represent infilling in an existing built-up area and the proposal would conflict with JCS Policies SD10 and SP2 and policy RES4 of the TBLP.

Five Year Housing Land Supply

- 8.13** As set out in the latest Tewkesbury Borough (TBC) Housing land supply statement in March 2023 the Council considers that the Borough can demonstrate a five-year land supply using the standard method. The NPPF states that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.14** Under Paragraph 74 of the National Planning Policy Framework (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. The adopted JCS became five years old on 11th December 2022, therefore as required by paragraph 74 of the NPPF the Council's 5-year housing land supply position was reconsidered, based on the standard method of calculation. As a result of the move to the standard method TBC moved to a single district approach. This has resulted in the addition of the JCS allocations within the boundary of Tewkesbury Borough, where deemed deliverable, which had previously been attributed to meet the housing needs of Gloucester City Council under Policy SP2 of the JCS. On 7th March 2023, the Council's Interim Five-Year Housing Land Supply Statement was published which set out the position on the five-year housing land supply for Tewkesbury Borough as of 11th December 2022 (five years since the adoption of the JCS) and covers the five-year period between 1 April 2022 and 31 March 2027. The Interim Statement confirms that, when set against local housing need for Tewkesbury Borough calculated by the standard method, plus a 5% buffer, the Council can demonstrate a five-year housing land supply of 6.68 years. This is a position not accepted by the current applicants with respect to the subject site.
- 8.15** The Council's approach to calculating the five-year housing land supply under the standard method was considered by Inspectors appointed by the Secretary of State at two appeals earlier this year, Hill End Road, Twyning (January 2023) and St Margaret's Drive, Alderton (April 2023). In both appeals the Inspectors did not accept the Council's revised approach to calculating the five-year housing land supply following the introduction of the standard method. Consequently, in the opinions of the Inspectors, the Council could not demonstrate a five-year housing land supply. However, the Council maintained its approach to calculating its five-year housing land supply at the recent appeal at Trumans Farm, Gotherington where the Inspector's decision is awaited. The Council consider that currently a five-year land supply can be demonstrated, and the 'tilted balance' is not currently engaged, and as a result the adopted strategic policies of the JCS are still considered to carry full weight.

8.16 A significant portion of the applicants case for this proposal is predicated on the proposition that as the Council cannot demonstrate a five-year land supply, or close to it, that the strategic policies of the JCS should be set aside in conformity to the requirements of Paragraph 11 and the 'tilted balance' engaged. Where the 'tilted balance' is engaged paragraph 11(d) of the NPPF, requires that proposals are approved unless, the policies in the NPPF provide a clear reason for refusal, or the adverse impacts of approving the scheme would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. However as set out above, it is considered that the Council can demonstrate a five-year supply of deliverable housing sites notwithstanding the conclusions in the two recent Appeal Decisions.

Design and Visual Amenity

8.17 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.

8.18 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.

8.19 Policy RES5 states that in considering proposals for new housing development regard will be had to the following principles. Proposals should (amongst other criteria):

- 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;
- 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;
- where an edge of settlement site is proposed, respect the form of the settlement and its landscape setting, not appear as an unacceptable intrusion into the countryside and retain a sense of transition between the settlement and open countryside;
- not cause the unacceptable reduction of any open space (including residential gardens) which is important to the character and amenity of the area;
- incorporate into the development any natural or built features on the site that are worthy of retention;

8.20 Policy H1 of the Neighbourhood Plan states that housing development will take the following considerations into account:

- A. Generic urban design will not be supported. Design and Access Statements should demonstrate how the locally distinctive character of the area has been accounted for using the Positive Local Design Features identified in Table 1.
- B. Biodiversity net gain will be required in relevant development. Natural landscape features such as hedgerows, hedges, orchard and mature trees, wildflower areas and habitats, should be retained and protected wherever possible and where not possible, should be replaced onsite or offsite with a feature of equivalent or better quality.
- C. Proposals should relate to the adjacent and nearby local character in massing, scale and use of outdoor landscaping, particularly in the village. Developments of multiple dwellings other than on allocated development sites should generally adopt a farmstead cluster to reflect the local rural character. Proposals that would lead to the creation of linear formed development alongside roads will be resisted.
- D. Proposals will consider the local foot and cycle network and demonstrate that provision has been made to link the new development to the network in order to create attractive walking and cycling opportunities. Standards should conform to those in Local Transport Note 1/20.
- E. A range of housing types, including housing appropriate to the elderly, and small houses for younger people, will be supported.
- F. All development will be highly sustainable, including energy efficiency measures and energy generation. Adequate refuse and recycling storage that is not visible from the public sphere will be incorporated into all schemes. Superfast broadband will be provided for all developments.
- G. Lighting schemes will reflect local character and be restricted to that necessary for public safety. Light pollution into the countryside will be avoided.

8.21 The dwelling shall be positioned within the orchard adjacent to the grade II listed Cyder Press Farmhouse. The site is considered to be an undeveloped piece of land which is characteristic of the dispersed settlement pattern. Therefore, the erection of a dwelling in this location is considered to be out of keeping with the character and pattern of development of the dispersed settlement.

8.22 It is noted that the proposed dwelling is smaller in size than the previously withdrawn application. The structure is now a 1.5 storey dwelling measuring 5.8m to the ridge, 2.5m to the eaves, 5.8m in width and 10.8m in length with a flat roof element coming out from the eaves and projecting by 2m across the complete length of the Northwest elevation. The dwelling would have a bedroom and bathroom in the loft and would be constructed with an oak frame painted black with brick and weatherboard (painted black) walls, slate roof tiles and oak-framed windows and doors.

- 8.23** The building is in the form of a traditional timber weatherboarded building but with a flat roofed extension down one side. Officers agree that the main body of the building is generally acceptable albeit taller than expected, however, the flat roofed side addition is incongruous. The location of the building is at a diagonal angle across the orchard and officers agree that this configuration has no design relationship to the setting of the Listed Building as a farmstead and appears discordant. Officers also consider that the configuration of the driveway spur and parking area crosses the centre of the orchard and encroaches on the green space.
- 8.24** The design, scale and layout are prominent and dominant and do not assimilate sympathetically with the existing buildings.
- 8.25** Overall, the proposal, by virtue of its size, scale, layout and design is not in-keeping with the character and appearance of neighbouring properties and the wider streetscene. Therefore, the scheme is considered to be contrary to policies SD4 and SD10 of the JCS, policy RES5 of the TBLP, as well as policy H1 of the Neighbourhood Plan.

Impact on Heritage Assets

- 8.26** In accordance with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, the LPA shall have special regards to the desirability of preserving the building or its setting or any features of special architectural historic interest which it possesses.
- 8.27** Paragraph 199 of the NPPF states that: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 of the NPPF states that: Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 8.28** Policy SD8 seeks to ensure that designated heritage assets and their settings will be conserved and enhanced as appropriate to their significance.
- 8.29** Policy HER2 states that alterations, extensions or changes of use to Listed Buildings, or development within their settings, will be expected to have no adverse impact on those elements which contribute to their special architectural or historic interest, including their settings. Any proposals which adversely affect such elements or result in the significant loss of historic fabric will not be permitted.
- 8.30** Policy E3 of the Neighbourhood Plan states that development will be supported where it will: A. Make provision for interpretation of and access to the historic environment to enable new residents to understand their historic context. Development at local plan housing allocation sites should provide interpretation of any historic context. B. Respect the historic features of neighbouring development as well as the wider character of the parish.

- 8.31** According to historic mapping (1884 - 1923) the main house was part of a complex which appeared to include a range of outbuildings forming a yard to the South which have now disappeared. This collection included an Icehouse marked on the 1884 map suggesting a dwelling of some status. The proposal site lies to the East of the listed house and a cottage known as The Barn (thought to be modern). This area of land is indicated as an extensive orchard until very recently. As such this land is not considered to be within the curtilage of the listed building. However, the development would be within the setting of the listed building.
- 8.32** The significance of Cyder Press Farmhouse is its age, form and historic features and fabric as an example of a 17th Century and later timber framed building. Also of significance is its purpose as a farmhouse in a rural setting representing the emergence of pre-mechanised agriculture from the medieval period to the agricultural revolution of the 18th Century. The farmhouse is surrounded on all sides by a buffer of undeveloped countryside, preserving a sense of the farmhouse being at the centre of the agricultural enterprise and former farmstead.
- 8.33** The proposal site lies to the East of the listed house and a cottage known as The Barn (thought to be modern). This area of land is indicated as an extensive orchard until very recently. As such this land is not considered to be within the curtilage of the listed building. However, the development would be within the setting of the listed building.
- 8.34** The building is in the form of a traditional timber weatherboarded building but with a flat roofed extension down one side. Officers consider that the main body of the building is generally acceptable albeit a bit tall, however, the flat roofed side addition is incongruous. The location of the building is at a diagonal angle across the orchard. Officers consider that this configuration has no design relationship to the setting of the Listed Building as a farmstead and appears discordant. Officers also consider that the configuration of the driveway spur and parking area crosses the centre of the orchard and encroaches on the green space.
- 8.35** The design, scale and layout is prominent and dominant and does not assimilate sympathetically with the existing buildings.
- 8.36** It is noted that the Parish Council have also explained that whilst they are sympathetic to the building materials proposed for this new dwelling, they agree that the design is not right for this location and agree with the Conservation Officers comments. The Parish Council also picked up that the plans show a first floor with a bedroom and washroom. Therefore, during the course of the application, the applicant changed the description to a 1.5 storey dwelling.
- 8.37** Overall, the proposal, by virtue of its size, scale, layout and design shall have a harmful impact on the setting of the listed building, contrary to Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy SD8 of the JCS, Policy HER2 of the TBLP and policy E3 of the Neighbourhood Plan.

Landscape

- 8.38** Policy SD6 of the JCS states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. Proposals will have regard to local distinctiveness and historic character of different landscapes and proposals are required to demonstrate how the development will protect landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement area.
- 8.39** Policy LAN2 of the TBLP states that development must, through sensitive design, siting, and landscaping, be appropriate to, and integrated into, their existing landscape setting. In doing so, relevant landscape features and characteristics must be conserved and where possible enhanced, having regard to the Gloucestershire Landscape Character Assessment 2006 and the Cotswolds AONB Landscape Character Assessment 2003. All proposals which have potential for significant landscape and visual effects should be accompanied and informed by a Landscape and Visual Impact Assessment (LVIA) to identify the sensitivity of the landscape, and the magnitude and significance of landscape and visual effects resulting from the development, using a suitably robust methodology.
- 8.40** Neighbourhood Plan Policy E1 states that development in The Leigh Parish will be supported where it will:
- A. Have a positive impact on the ecology and visual amenity of the area. Development schemes will demonstrate that they have improved biodiversity on the site and have where possible linked these improvements to adjacent corridors or natural features.
 - B. Improve access to the valued landscapes and natural countryside features by ensuring that new development links to the existing public rights of way network where possible to promote better access to the countryside.
 - C. Protect, maintain and enhance those current public rights of way in the parish that are significantly affected by the development.
- 8.41** The site is considered to be an undeveloped piece of land which is characteristic of the dispersed settlement pattern. Therefore, the erection of a dwelling in this location is considered to be out of keeping with the character and pattern of development of the dispersed settlement. It is considered that the scheme would result in the erosion of the open, undeveloped green spaces separating the houses to the detriment of the environmental character and the wider landscape when looking into the settlement from wider views in the landscape.
- 8.42** The scheme would fail policy SD6 of the JCS, policy LAN2 of the TBLP and policy E1 of the Neighbourhood Plan.

Residential Amenity

- 8.43** JCS policies SD4 and SD14 require development to enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space. Development should have no detrimental impact on the amenity of existing or new residents or occupants.

8.44 Policy DES1 explains that Tewkesbury Borough Council adopts the Government's nationally described space standards. All new residential development will be expected to meet these standards as a minimum. Any departure from the standards, whether for viability of physical achievability reasons, will need to be fully justified at planning application stage. New residential development will be expected to make adequate provision for private outdoor amenity space appropriate to the size and potential occupancy of the dwellings proposed.

8.45 Policy RES5 states that in considering proposals for new housing development regard will be had to the following principles. Proposals should (amongst other criteria):

- provide an acceptable level of amenity for the future occupiers of the proposed dwelling(s) and cause no unacceptable harm to the amenity of existing dwellings;

8.46 Due to the distances that the proposed dwelling is away from neighbouring dwellings and due to the orientation of windows and doors on the dwelling, there are not considered to be any significant negative residential amenity impacts for neighbouring occupiers nor any future occupiers of the proposed dwelling. The scheme also retains a sufficient amount of outdoor amenity space to serve the new dwelling, and the size of the rooms also accords with the Nationally Described Space Standards. The scheme is broadly compliant with policies SD4 and SD14 of the JCS and policies DES1 and RES5 of the TBLP in this respect.

Highways

8.47 Policy INF1 of the JCS sets out that permission shall only be granted where the impact of development is not considered to be severe. It further states that safe and efficient access to the highway network should be provided for all transport means.

8.48 Policy TRAC9 of the TBLP states that proposals for new development that generate a demand for car parking space should be accompanied by appropriate evidence which demonstrates that the level of parking provided will be sufficient. The appropriate level of parking required should be considered on the basis of the following:

- 1) the accessibility of the development;
- 2) the type, mix and use of development;
- 3) the availability of and opportunities for public transport;
- 4) local car ownership levels;
- 5) an overall need to reduce the use of high emission vehicles; and
- 6) a comparison of the forecast trip generation and resultant accumulation with the proposed parking provision.

8.49 Policy RES5 states that in considering proposals for new housing development regard will be had to the following principles. Proposals should (amongst other criteria):

- make provision for appropriate parking and access arrangements and not result in the loss or reduction of existing parking areas to the detriment of highway safety;

- 8.50** The Inspector explained in the previously dismissed appeal (APP/G1630/W/21/3267323) that there is generally a greater reliance on private cars in more rural areas. The Inspector also explained that the roads near the site comprise unlit rural lanes, with no pedestrian footway, in some instances where the shape and narrowness of the road limits forward visibility and parts with no natural surveillance. Although such lanes may be lightly trafficked, these circumstances do not lend themselves to safe use by pedestrians and would be unlikely to encourage cycling to services and facilities, in particular at times of darkness or adverse weather conditions.
- 8.51** It was also considered that whilst there were bus stops along the A38 which would provide services to other settlements with a range of services and facilities, occupiers would need to travel along the often narrow lanes to reach them which would not make buses an attractive or probable option. Furthermore, the Inspector explained that being for a single dwelling, there would be minimal contribution to the vitality or viability of any local services. As also explained in the previously dismissed appeal, the proposed development would not be in a suitable location for housing, having regard to the local development strategy for the area, accessibility to services and reliance on private motor vehicle.
- 8.52** Vehicular access to the site will be made via Blacksmith Lane which is subject to a sign posted limit of 30mph at the vicinity of the site. Manual for Streets recommends a minimum of 43m visibility splay either side the edge of the carriageway measured from a point 2.4m setback from the edge of the carriageway along the centre of the access. The information collected informs that this requirement is not achievable to the right of the access due to the presence of an existing building. The extent of available visibility appears to be some 23m, which would correspond to an 85th%ile recorded speed of 19mph. Based on the information submitted and collected, the Highway Authority is unable to determine whether this level of visibility would be appropriate for Blacksmith Lane. The concern in this instance is that in the absence of the appropriate visibility, there is a risk to road safety should a vehicle leave the site and not allow a vehicle on the main road adequate time to stop. The calculations of visibility within MFS have a direct correlation to the required sight stopping distances based on vehicle speeds on the main road.
- 8.53** Whilst the Parish Council have explained that the highways assessment seems very harsh as the site is only a lane and not a major highway, considering the comments from highways regarding the access, it is considered that the development fails to accord with Policy INF1 of the JCS, Policies 110(b) and 112(c) of the NPPF. The implications of the additional demands on the substandard access and junctions will have an unacceptable impact on highway safety which would also conflict with paragraph 111.
- 8.54** The proposal would fail to accord with the location strategy and accessibility elements of Policies INF1, SD10 and SP2 of the JCS and Policies TRAC1, RES3, RES4 and RES5 of the TBLP and Policy H1 of The Leigh Neighbourhood Development Plan (2020-2031).

Trees

- 8.55** Policy INF3 of with JCS provides that existing green infrastructure, including trees should be protected. Developments that impact woodlands, hedges and trees should be justified and include acceptable measures to mitigate any loss and should incorporate measures acceptable to the Local Planning Authority to mitigate the loss.
- 8.56** Policy NAT3 of the TBLP seeks for development to contribute towards the provision, protection and enhancement of the wider green infrastructure network.
- 8.57** A revised tree survey and an arboriculture impact assessment is required to be submitted. Whilst officers note that this was submitted in a previous application in 2022 the siting of the proposed dwelling and carparking area has been repositioned, and therefore an updated report will be required so an informed assessment with regards to the impact of the trees can be carried out by the Local Authority. At present there is insufficient information to fully assess the proposal under policy INF3 of the JCS and policy NAT3 of the TBLP.

Ecology

- 8.58** Policy SD9 of the JCS seeks for the protection and enhancement of biodiversity and to establish and reinforce ecological networks. This includes ensuring that those European Species and Protected Species are protected in accordance with the law.
- 8.59** Policy NAT1 of the TBLP states that proposals, where applicable will be required to deliver biodiversity net gains.
- 8.60** Policy E2 of the Neighbourhood Plan states that development in The Leigh Parish will be supported where it will:
- A. Enhance local biodiversity or ecological networks on site, or where this is not possible, off-site. Suitable considerations for off-site improvements are to improve the SSSI, canal, local woodlands, trees and hedgerows, and improvements to grazing habitats.
 - B. Schemes that reinstate orchards or re-introduce orchard trees will be encouraged.
 - C. Significant loss of existing natural features such as habitats, woodland, hedgerows, remnant orchards and veteran trees will be resisted.
 - D. Where loss of natural features has occurred in the five years prior to the application, or unavoidably as a result of the proposal, appropriate compensatory replacements will be required. Replacement can either be on-site or as part of an improvement scheme off-site in accordance with A above where it may be necessary to provide a commuted sum.
- 8.61** An updated Preliminary Ecological Assessment (PEA) is required due to the length of time elapsed since the initial PEA survey date. Therefore, there is insufficient information to fully assess the scheme against policy SD9 of the JCS, policies NAT1 and NAT3 of the TBLP, and policy E2 of the Neighbourhood Plan.

Drainage and Flood Risk

- 8.62** JCS Policy INF2 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 advice is reflected within the council's Flood Risk and Water Management SPD.
- 8.63** Policy ENV2 of the TBLP states that (inter alia) all proposals will be expected to incorporate sustainable drainage systems where appropriate and proportionate to the scale and nature of development proposed. The policy goes on to explain that proposals must demonstrate that development is designed to use and manage water efficiently, including rainwater harvesting and greywater recycling where possible. Surface water drainage proposals should, where appropriate, achieve significant betterment on existing discharge rates for all corresponding storm events. Sustainable drainage systems should be designed to achieve multifunctional benefits. Priority should be given to green/soft solutions and the integration of sustainable drainage systems with green infrastructure and street networks.
- 8.64** Policy F1 of the Neighbourhood Plan explains that flooding proposals that require a Water Management Statement (WMS) should take the following into consideration: A. Early engagement with the Parish Council (but not excluding the Lead Local Flood Authority) is required to inform the WMS so that local flooding issues and experiences can be referenced in the design of schemes. B. Sustainable Drainage schemes should include a 'Service and Maintenance Plan' as part of the planning application. A 'Service and Maintenance Plan' would be expected to include: a. details of how the scheme will be professionally serviced in perpetuity; b. what resources will be required and how these will be provided to maintain flood defence infrastructure, water storage facilities, enhancements to the landscape, including space for appropriate wildlife habitats, and opportunities where appropriate, for people's safe access during a flooding incident; c. awareness raising so that emergency measures are well understood and can be implemented when an incident occurs.
- 8.65** Insufficient information has been submitted as drainage plans, including the point of discharge is required. However, if the scheme were acceptable a condition could be attached to ensure that a detailed drainage design is submitted prior to commencement of development. This condition is considered necessary to ensure compliance with policy INF1 of the JCS and policy ENV2 of the TBLP.

Community Infrastructure Levy (CIL)

- 8.66** The applicants have submitted the relevant CIL forms claiming self-build exemption from CIL. It is however, noted that the applicant is not listed on the self-build register at the time of writing this report.

9. Conclusion

Conclusion and Planning Balance

- 9.1** In light of the above, it is considered that the proposed development conflicts with the housing policies of the Joint Core Strategy, Tewkesbury Borough Local Plan and the NPPF. The Council can currently demonstrate a five-year supply of housing. The planning balance in this case is a balance of benefits against harm. In accordance with Section 38(6) of the of the Planning and Compulsory Purchase Act 2004, and section 70(2) of The Town and Country Planning Act 1990, the applications must be determined in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'.

Benefits

- 9.2** The provision of one dwelling would result in some economic and social benefit; however, these are considered minor benefits. The applicant has advised that the proposal would be a self-build project. However, it must be noted that the applicant is not listed on the self-build register. Even if the applicant were on the self-build register, this would not override all other policies.

Harms

- 9.3** In terms of the harms, the proposal for a new dwelling in this location would conflict with national guidance and development plan housing policy. The site is considered to be an undeveloped piece of land which is characteristic of the dispersed settlement pattern and as such the site cannot be considered to be within nor adjacent to the built-up area of the settlement and The Leigh is not a service village or rural service centre. Whilst there are dwellings to the east and southwest of the site, the site is a large green space containing vegetation and trees. Therefore, the proposal would not be within or adjacent to the built-up settlement and would not represent infilling in an existing built-up area and the proposal would conflict with JCS Policies SD10 and SP2 and policy RES4 of the TBLP. The scheme would also fail to respect the undeveloped nature of the settlement, contrary to policy SD6 of the JCS, policy LAN2 of the TBLP and policy E1 of the Neighbourhood Plan.
- 9.4** The proposed dwelling, by virtue of its size, scale, layout and design, would be out of keeping with the character and appearance of the neighbouring dwellings. The scheme is considered to be contrary to policies SD4 and SD10 of the JCS, policy RES5 of the TBLP, as well as policy H1 of the Neighbourhood Plan.
- 9.5** The proposal, by virtue of its size, scale, layout and design shall have a harmful impact on the setting of the listed building, contrary to Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy SD8 of the JCS, Policy HER2 of the TBLP and policy E3 of the Neighbourhood Plan. There are not considered to be any public benefits to overcome these issues.

- 9.6** The proposed access would have a substandard visibility splay which would have an unacceptable impact on highway safety, and the site would not be in a suitable location for housing, having regard to the local development strategy for the area, accessibility to services and reliance on private motor vehicle. It would fail to accord with the location strategy and accessibility elements of Policies INF1, SD10 and SP2 of the JCS and Policies TRAC1, RES3, RES4 and RES5 of the TBLP and Policy H1 of The Leigh Neighbourhood Development Plan (2020-2031).
- 9.7** There is insufficient information submitted regarding ecology and as such a full assessment against policy SD9 of the JCS, policy NAT1 of the TBLP and policy E2 of The NP cannot be made.
- 9.8** There is insufficient information submitted regarding trees and as such a full assessment against policy INF3 of the JCS, policy NAT3 of the TBLP cannot be made.

Neutral

- 9.9** The impact upon residential amenity and flood risk/drainage are deemed to be acceptable, subject to conditions.

Conclusion

- 9.10** It is concluded that the planning balance falls against the proposal. The proposal would be contrary to the provisions of the development plan taken as a whole and is not supported by the Framework. The proposal for a self-building dwelling holds moderate weight, however, it is considered that this weight is limited and would not outweigh the conflict with the Councils housing policies and the judged harm to the Listed Building. Therefore, there are no material considerations which indicate that the determination of the application should be other than in accordance with the development plan.

10. Recommendation

- 10.1** It is recommended that the application should be **Refused** for the following reasons set out below.

11. Refusal Reasons

- 1.** The site does not lie within or adjacent to the built-up area of the settlement of The Leigh, and as such the proposal does not represent infilling within the existing built-up area of a town or village, does not meet any of the other criteria within Policy SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017), and there are no other specific exceptions/circumstances defined in district or neighbourhood plans which indicate that permission should be granted. The proposed development therefore conflicts with policy RES4 of the Tewkesbury Borough Local Plan 2011-2031 (adopted June 2022), and policies SP2 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017) in that the proposed development does not meet the strategy for the distribution of new development in Tewkesbury Borough and the application site is not an appropriate location for new residential development.

2. The proposal, by virtue of its siting, size, scale, layout and design would have a harmful impact on the character and the setting of the listed building, contrary to Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies SD4, SD8 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017), Policies RES5 and HER2 of the Tewkesbury Borough Local Plan 2011-2031 (2022) and policies H1 and E3 of The Leigh Parish Neighbourhood Plan 2020-2031 (2022).
3. The scheme would result in the erosion of the open, undeveloped green spaces separating the dwellings to the detriment of the environmental character and the wider landscape when looking into the settlement from wider views. Therefore, the scheme is contrary to policy SD6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017), policy LAN2 of the Tewkesbury Borough Local Plan 2011-2031 (2022) and policy E1 of The Leigh Parish Neighbourhood Plan 2020-2031 (2022).
4. The proposed access would have a substandard visibility splay which would have an unacceptable impact on highway safety, and the proposed development would not be in a suitable location for housing, having regard to the local development strategy for the area, accessibility to services and reliance on private motor vehicle. It would fail to accord with the location strategy and accessibility elements of Policies INF1, SD10 and SP2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017) and Policies TRAC1, RES3, RES4 and RES5 of the Tewkesbury Borough Local Plan 2011-2031 (2022) and Policy H1 of The Leigh Neighbourhood Development Plan 2020-2031 (2022).
5. The submitted Preliminary Ecological Assessment is considered out of date and therefore insufficient information has been submitted, an updated PEA is required in order to assess the impact of the development on protected species. Accordingly, the proposal is contrary to policy SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017), policy NAT1 of the Tewkesbury Borough Local Plan 2011-2031 (2022) and policy E2 of The Leigh Neighbourhood Development Plan 2020-2031 (2022).
6. Insufficient information has been submitted with the application relating to the impact of the proposal upon the existing trees. A tree survey and an arboricultural impact assessment is required to demonstrate the impact of the proposal. Accordingly, the proposal is contrary to policy INF3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017), and policy NAT3 of the Tewkesbury Borough Local Plan 2011-2031 (2022).

12. 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 offering pre-application advice, detailed published guidance to assist the applicant and published 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. However, as a consequence of the clear conflict with Development Plan Policy no direct negotiation during the consideration of the application has taken place.