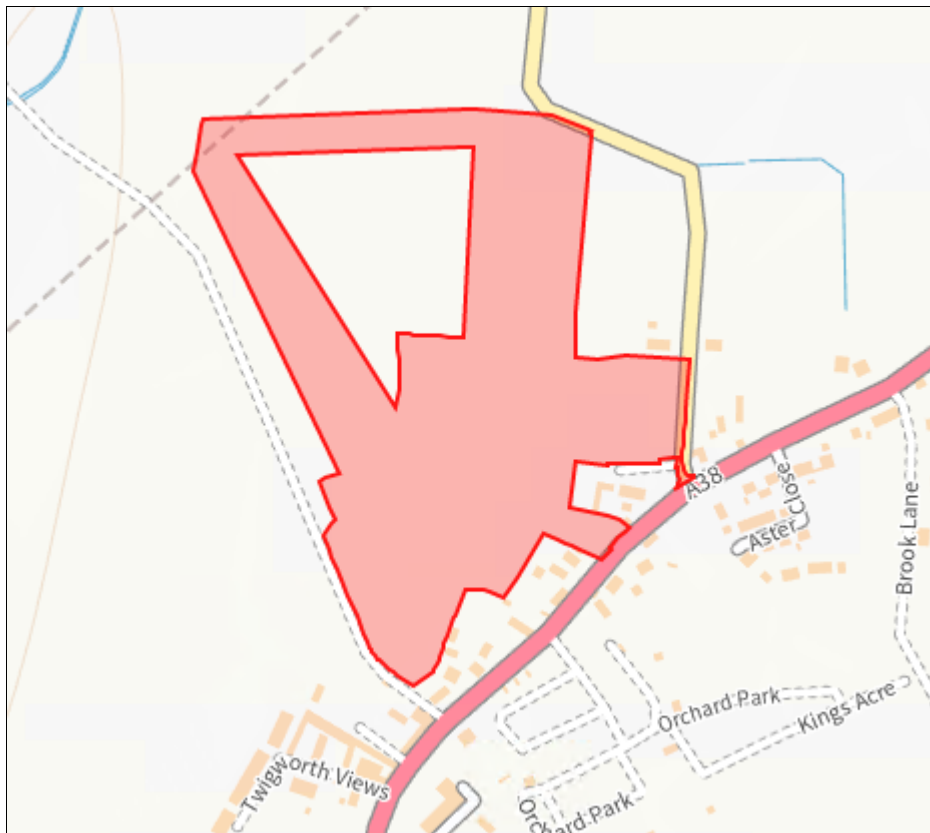


## Planning Committee

<b>Date</b>	19 September 2023
<b>Case Officer</b>	David Lowin
<b>Application No.</b>	22/01343/OUT
<b>Site Location</b>	Land At Chestnut Tree Farm Twigworth
<b>Proposal</b>	Erection of up to 85 dwellings with public open space, landscaping and sustainable drainage system (SuDS); all matters reserved except for means of vehicular and pedestrian access from Sandhurst Lane and a pedestrian access onto the A38.
<b>Ward</b>	Innsworth
<b>Parish</b>	Twigworth
<b>Appendices</b>	Site boundary plan 22-045-200 Illustrative Landscape Master Plan 22-43-PL-201 Rev A Proposed Site Access 3504-SK-05-REV E Proposed Pedestrian Crossing and Footway 3504-SK 12-REV D Historic Delegated report
<b>Reason for Referral to Committee</b>	Outline applications for the erection of 10 or more residential units.
<b>Recommendation</b>	Minded to Refuse

### Site Location



## 1. The Proposal

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Full application details are available to view online at:

<http://publicaccess.tewkesbury.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RMU780QDMSM00>

### *Purpose of Report*

- 1.1 The planning application was made to the Council on the 12 December 2022. Since that date Officers have engaged proactively with the applicants to assess the opportunities and impacts of the proposal. However, the applicants have subsequently registered an appeal by reason of non-determination on 24 July 2023. The council must therefore advise the Secretary of State of its views on the proposals should it have had the opportunity to determine this application to inform the non-determination appeal.

### *The Proposal*

- 1.2 The application seeks outline planning permission for the erection of up to 85 dwellings with public open space, landscaping, and sustainable drainage system (SuDS). All matters are reserved for future consideration except for means of access, comprising a vehicular and pedestrian access from Sandhurst Lane and a pedestrian access on to the A38. The application also proposes the provision of 40% affordable dwellings.

## 2. Site Description and Proposed Development

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- 2.1 The application site lies within the parish of Twigworth, which is located approximately 4km north of Gloucester City Centre. The settlement of Twigworth is similar to several along the A38, such as Longford and Norton, which generally comprise residential ribbon development with limited local facilities and business. These settlements have been the subject of recent development including the Innsworth & Twigworth strategic allocation on the southeastern side of the A38. The service provision of Twigworth has increased with the ongoing delivery of the JCS strategic allocation for 725 dwellings, including a new local centre which is fully operational and is accessed off a new roundabout junction in the south of the village.
- 2.2 The application site is located to the north and west of the A38 (Tewkesbury Road) and west of Sandhurst Lane. The application site is approximately 10.14ha in extent and is currently in use as agricultural land. The site comprises the 'core site' for development of 5.3ha and an area of land to the north of the main parcel to facilitate drainage. The eastern part of this main site includes a remnant orchard and an overgrown area containing an existing pond and mature trees adjacent to the A38 boundary.
- 2.3 Access to the site would be achieved via Sandhurst Lane leading to the A38. Existing residential properties on Tewkesbury Road (A38) and Sandhurst Lane border the main site to its southeastern boundary, while Orchard Park, a park homes development, is situated opposite the site on the other side of the A38.
- 2.4 The western boundary of the site is marked by a private access road leading to the 'Nature in Art' Gallery and Museum (which lies approximately 1km to the north). The site's northern boundary adjoins existing farmland beyond and to northeast corner of the site is an existing Telephone Exchange, with open countryside beyond.

- 2.5 The site does not fall within any national or local landscape designation. The site is not located within the Green Belt, nor within the AONB. The majority of the 'Main Site' is within Flood Zone 1 and so at the lowest risk of flooding. There is a small area at the southwest of the site which is within Flood Zone 2. No dwellings are proposed in this area. The northern linear tranches of land are included within the application redline area to accommodate surface water drainage outfall, but no buildings are shown on the illustrative Master Plan. This area is shown as 'land reserved for surface water drainage & Access Works,' along with the parts of Sandhurst Lane required to achieve site access. **(See Site Boundary Plan).**
- 2.6 A public right of way runs parallel and just beyond the northern boundary of the site, continuing across Sandhurst Lane in an easterly/south-easterly direction until it intersects with the A38.
- 2.7 A number of heritage assets lie in relatively close proximity to the site, among them Twigworth Court which lies to the western side of the Nature in Art access and the Manor House located towards the entrance to Sandhurst Lane on its eastern side.
- 2.8 Furthermore, several existing utilities either cross the site or are located in close proximity to it. A public sewer runs along the eastern site edge at the rear of the existing housing and a water main and low voltage cable run along the southern boundary to the 'Nature in Art' access/lane in addition, existing electricity and BT services run along the Sandhurst Lane frontage.
- 2.9 The 'core' area of the site proposed for development, some 5.3 ha, comprises 4.2 ha of the best and most versatile agricultural land. The agricultural classification of the development area comprises category Grade 2 for the Northern field, the southern field is a complex mixture of subgrades 3a and 3b with a small area of Grade 2. The land to the north (included in the application boundary to allow for drainage) would in the applicant's opinion be available for continued agricultural use once the drainage pipes are installed.
- 2.10 The submitted illustrative master plan together with the Design and Access statement show how residential blocks of development could be arranged in a loose grid separated by landscaped areas and a buffer of some 18m of 'landscape edge' wrapping around the application site's interface with the adjoining countryside. The Master Plan shows areas for a SUDS pond, locally equipped area of play (LEAP) together with an area for Orchard Trees and Allotments.
- 2.11 The application as summarised above comprises an indicative Master Plan, including the details of a new access from Sandhurst Lane. The applicant has also submitted the following documents in support of the proposal:
- Affordable housing statement
  - Air quality screening report
  - Landscape and Visual Impact Report
  - Agricultural land classification and considerations
  - Ecological Impact Assessment
  - Flood risk, drainage and water management
  - Arboricultural impact assessment
  - Archaeological desk based assessment.
  - Heritage Impact assessment
  - Statement of community involvement
  - Design and access and energy statement
  - Planning Statement

- Statement of community involvement
- Transport assessment
- Waste minimisation strategy
- Geophysical Survey Report

### 3. Relevant Planning History

Application Number	Proposal	Decision	Decision Date
16/00008/SCR	EIA Screening Opinion Request Under Reg 5	EIANR	22.07.2016
16/00904/OUT	Outline proposal for up to 100 dwellings, together with associated public open space and equipped children's play space, landscaping, access and associated infrastructure. All matters reserved except for access.	REFCON	22.07.2020
23/00001/SCR	Screening Opinion	EIANR	07.06.2023

The recent planning history of the site as set out above comprises application ref 16/00904/OUT. That application for up to 100 dwellings and associated works was refused in 2020 for the following reasons:

- 1. The proposed development conflicts with Policies SP2 and SP10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 -2031 (December 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 of the scale proposed. Furthermore, the proposed development conflicts with Policy H2 of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan, which seeks to ensure that sustainable growth should be delivered steadily over the Plan period, through a series of modest developments and not on a single, large site delivered in a short space of time.*
- 2. The overall quantum of development and its resulting layout, as indicated by the proposed indicative Masterplan, would result in an unduly harmful encroachment into the landscape and contribute to the loss of the defining linear settlement pattern and open, semi-rural nature, which is characteristic of this part of Twigworth village. The proposed development therefore, fails to accord with Policy H2 of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan - 2011-2031 and Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS)(December 2017).*
- 3. The proposed development would result in the loss of Best and Most Versatile agricultural land and the loss of this valuable resource is not outweighed by economic or other benefits, contrary to paragraph 170 of the National Planning Policy Framework. (2019).*
- 4. In the absence of an appropriate planning obligation, the application does not provide housing that would be available to households who cannot afford to rent or buy houses available on the existing housing market. As such, the proposed development conflicts with*

*Policy SD12 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS)(December 2017).*

*5. In the absence of an appropriate planning obligation, the application does not make provision for the delivery of recycling/waste bins, education contributions for pre-school, primary and secondary education provision and library provision. The proposed development is therefore, contrary to Policies INF4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS)(December 2017).*

An EIA Screening opinion was requested by the applicant as set out above and resulted in a determination that whilst the development fell within Schedule 2 of the EIA Regulations, it did not fall to be considered as an EIA development.

#### **4. Consultation Responses**

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

##### **4.1 Longford Parish Council – Object to the proposal**

- Previous application was refused in 2020
- Refusal reasons are still valid and applicable to the current application
- Site is mainly in flood zone 1, but will impact to surface water drainage
- Surface water is intended to flow into Cox's Brook
- Horsbere Brook already annually floods onto Sandhurst Lane & homes
- Gloucester exit of Sandhurst Lane is even more severely flooded
- Traffic from the village will exit the Twigworth end rather than Gloucester end
- Area already very congested particularly at peak times
- Transport technical data collected for the previous application in 2016
- Updated information has not been provided.
- Technical dated 2019 noted Longford roundabout was near capacity
- Updated capacity information is required
- During peak hours, traffic queues through Longford from the roundabout up to Orchard Park at Twigworth

##### **4.2 Twigworth Parish Council – Object to the proposal**

- Development is outside the settlement boundary in NDP & TBP
- Contrary to Policy H2 (i) of the NDP
- Would be encroachment into the countryside
- Very little countryside remaining in the village
- Trial Pit Record concluded that the site is practically impervious
- Calculations show that SUDS will regularly surcharge and flood during winter
- Proposed pumping station would pump water into Cox's Brook, which feeds into Hatherley Brook and then into the River Severn.
- In times of river flooding, the gates at Hatherley Brook are closed, water backs up and causes the flooding of the fields which would be worsened
- Alternative proposed in the application is a gravity flow into a pond
- This would need to go under gas and oil pipelines
- Comes with huge risks to the environment and safety
- Environment Agency's surface water and fluvial flooding risk maps out of date
- Flood risk will only be exacerbated by additional housing
- Local drainage and sewer systems are unable to cope in times of flood

- Drains now also serve several new development
- Twigworth Green drainage overflowed during flood causing sewage spill
- Environmental impacts
- Transport Assessment is based on 2016 data
- Does not take into account current traffic flows or committed developments
- Rush hour traffic backs up from the Longford roundabout to Twigworth Green
- Residents at site will have difficulty exiting Sandhurst Lane
- Proposed widening of Sandhurst Lane will cause traffic disruption
- There are no local school places available or increase in doctors' surgeries

**4.3 Sandhurst Parish Council – Objection**

- The previous application was refused (16/00904/OUT) and the Council consider that those reasons for refusal still apply.

**4.4 Down Hatherley Parish Council – Objection**

- Endorse the views of Twigworth Parish Council

**4.5 Severn Trent Water – No Objection to foul waste being discharged to public foul network do would not support surface water discharge to the STW network**

**4.6 Lead Local Flood Authority – No Objection subject to recommended conditions**

**4.7 Local Highway Authority – No Objection subject to recommended conditions**

**4.8 Ecology advisor – No Objection subject to recommended conditions**

**4.9 County Archaeologist – No Objection subject to recommended condition.**

**4.10 Landscape Advisor – No Objection subject to conditions**

**4.11 Tree Officer – No Objection subject to conditions**

**4.12 Housing and Enabling Officer – No Objection**

- Proposal complies with the policy requirement of 40% affordable housing provision
- Specific mix not submitted or yet agreed.

**4.13 Health & Safety Executive - Do Not Advise Against the granting of planning permission in this case.**

**4.14 Conservation Officer – No objection**

**4.15 Natural England – No Objection**

**4.16 Historic England – No Objection**

- Application site sits at the northern periphery of the grounds historically associated with Wallsworth Hall a Grade II\* building
- Previous refusal did not include a heritage objection.
- Due to topography and distance from the hall impact is minimal.

**4.17 Environmental Health Officer – No Objection, subject to conditions.**

- 4.18 Police Architectural Liaison Officer – No Objections**
- Attention drawn to archived document 'Safer Places : The planning system and crime prevention, in particular the 7 attributes contained therein.
- 4.19 County Community Infrastructure Developments Contribution Officer – No objections**
- Contributions required via S.106 for Education and library provision
- 4.20 Landscape Advisor – No objections in principle**
- There appears to be more compliance, or potential to comply with applicable landscape planning policies than conflict with the same.

## **5. Third Party Comments/Observations**

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

- 5.1** The application has been publicised through the posting of a site notice for a period of 30 days and a newspaper advertisement.
- 5.2** Some 62 public representations have been received of which all but two, commenting generally are objections.

The expressed concerns are summarised as follows:

- Additional Highway impact and Highway safety concerns.
- Pavements on A38 is narrow.
- Insufficient existing community services and infrastructure
- 2.5 storey dwellings detrimental to residential amenity
- Increased flood risk.
- Existing sewage system inadequate.
- Noise pollution.
- Detrimental to local wildlife.
- Loss of grade 2 and 3a farmland.
- Poor local bus services.
- Increased flood risk, building on flood plain.
- Potential danger to adjoining protected trees.
- Over development.
- Outside of recognised settlement boundaries of neighbourhood plan Policy H2.
- No change in circumstances since previous application refused.
- Piecemeal ribbon development.
- Detriment to residential privacy
- No measurable public benefit.

## **6. Relevant Planning Policies and Considerations**

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### **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 (JCS)**

- Policy SP1 (The need for new development)
- Policy SP2(Distribution of new development)
- Policy SD3 (Sustainable Design and Construction)
- Policy SD4(Design Requirements)
- Policy SD6(Landscape)
- Policy SD8 (Historic Environment)
- Policy SD 9 (Biodiversity and Geodiversity)
- Policy SD10 (Residential Development)
- Policy SD11(Housing Mix and Standards)
- Policy SD12(Affordable Housing)
- Policy SD14(Health and Environmental Quality)
- Policy INF1(Transport Network)
- Policy INF2(Flood risk Management)
- Policy INF3(Green Infrastructure)
- Policy INF4(Social and Community Infrastructure)
- Policy INF6(Infrastructure Delivery)
- Policy INF7(Developer Contributions)

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

- Policy RES3(New Housing Outside Settlement Boundaries)
- Policy RES4(New housing at other rural settlements)
- Policy RES5(New Housing Development)
- Policy RES12(Affordable Housing)
- Policy RES13(Housing Mix)
- Policy DES1(Housing Space Standards)
- Policy HER2(Listed Buildings)
- Policy LAN2(Landscape Character)
- Policy NAT1(Biodiversity, Geodiversity and important Natural Features)
- Policy NAT3(Green Infrastructure; Building with Nature)
- Policy ENV2(Flood Risk and Water Management)
- Policy HEA1(Healthy and Active Communities)
- Policy RCN1(Public Outdoor Space)
- Policy TRAC1(Pedestrian Accessibility)
- Policy TRAC2(Cycle Network and Infrastructure)
- Policy TRAC3(Parking provision)



## 6.5 Neighbourhood Plan

Down Hatherley, Norton and Twigworth Neighbourhood Development Plan – 2011-2031 (DHNTNDP)

- Policy E2 (Landscape protection in open countryside)
- Policy E3 (Landscape and new development)
- Policy H2(New Housing in Twigworth)
- Policy FP1(Demonstrating Effectiveness of water holding techniques their maintenance in perpetuity and of sewage capacity)

## 7. **Policy Context**

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- 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 of which the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan (2019) (DHNTNDP) is the relevant in this case.
- 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.
- 7.5 The relevant policies and guidance are set out in the appropriate sections of this report.

## 8. **Evaluation**

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- 8.1 The key issues for consideration in relation to this application are, the principle of development; landscape and visual impact; scale and layout, affordable housing provision; highway issues; residential amenity; flood risk and drainage; Heritage; ecology; public open space and infrastructure requirements.

### **Principle of development**

- 8.2 In order to further sustainability objectives and in the interests of protecting the countryside, the housing policies of the JCS set out the development strategy for the Borough. Strategic Policies SP1 and SP2 of the JCS set out the scale and distribution of development to be delivered across the JCS area in the period to 2031.
- 8.3 JCS and Policy SP2 sets out that to meet the needs of Tewkesbury Borough, none of which is being met by the urban extensions to Gloucester and Cheltenham, the JCS will make provision for at least 9,899 new homes. At least 7,445 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. Twigworth does not fall within any of these designated settlements.

**8.4** In this case, JCS Policy SD10 is the relevant starting point in considering the principle of development. Policy SD10 of the JCS states that within the JCS area new housing will be planned in order to deliver the scale and distribution of housing development set out in Policies SP1 and SP2. Housing development will be permitted at sites allocated for housing through the development plan, including Strategic Allocations and allocations in district and neighbourhood plans. 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. Policy SD10 follows that housing development on other sites will only be permitted where:

- i. It is for affordable housing on a rural exception site in accordance with Policy SD12, or;
- ii. It is infilling within the existing built-up areas of the City of Gloucester, the Principal Urban Area of Cheltenham or Tewkesbury Borough's towns and villages except where otherwise restricted by policies within District plans, or;
- iii. It is brought forward through Community Right to Build Orders, or;
- iv. There are other specific exceptions / circumstances defined in district or neighbourhood plans.

**8.5** The application site is greenfield land that lies outside of the defined settlement boundary for Twigworth as defined in the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan (DHNTNDP) and is not allocated for housing development. The site does not represent previously developed land; is not a rural exception scheme; and does not represent 'infilling'. It has not been brought forward for development through a Community Right to Build Order and there are no policies in the existing Tewkesbury Borough Local Plan to 2031 which allow for the type of development proposed here. Moreover, additional housing need for Twigworth has not been established through the development plan. The proposal therefore conflicts with Policies SP2 and SD10 of the JCS

#### **Tewkesbury Borough Plan (TBP)**

**8.6** The site adjoins but falls outside of the defined settlement boundary to Twigworth as identified within the Tewkesbury Borough Plan 2011 – 2031. In respect of new housing development outside defined settlement boundaries, Policy RES3 (criterion 3) of the TBP states that outside of the defined settlement boundaries, the principle of new residential development would be considered acceptable where development being proposed consists of 'very small-scale development at rural settlements in accordance with Policy RES4. The accompanying reasoned justification advises that within the rural areas (i.e. those parts of the Borough located outside of defined settlement boundaries) a restrictive approach is required to new residential development consistent with the advice at Paragraph 79 of the NPPF and Policy SD10 of the JCS, so to not undermine the JCS spatial strategy and its distribution of development.

**8.7** Policy RES4 (New Housing at other Rural Settlements) of the TBP seeks to support the vitality of rural communities and the continued availability of services and facilities in the rural areas by supporting the principle of very small-scale residential development within and adjacent to the built-up area of other rural settlements (i.e. those not featured within the settlement hierarchy) providing, amongst other things:

- a) it is of a scale that is proportionate to the size and function of the settlement and maintains or enhances sustainable patterns of development;
- b) it does not have an adverse cumulative impact on the settlement having regard to other developments permitted during the plan period; as a general indication no more than 5% growth will be allowed;
- c) it complements the form of the settlement and is well related to existing buildings within the settlement;
- d) the site of the proposed development is not of significant amenity value or makes a significant contribution to the character and setting of the settlement in its undeveloped state...

*In all cases development must comply with the relevant criteria set out at Policy RES5. Particular attention will be given to the effect of the development on the form, character and landscape setting of the settlement.*

- 8.8** The site lies outside of any defined settlement boundary. Furthermore, the proposed development of up to 85 dwellings would not constitute small scale development or any other exception for development in a rural location. The proposed development is therefore considered to be contrary to Policies RES3 and RES4 of the TBP.

### **Neighbourhood Development Plan**

- 8.9** The Down Hatherley, Norton and Twigworth Neighbourhood Plan (NDP) was 'made' on 28th May 2019 and, as such, comprises part of the Development Plan. Paragraph 47 of the NDP advises that the settlement boundary has been defined around the area of highest density with the intention of focusing future growth proposals to this part of Twigworth. The application site lies outside the settlement boundary although it does abut it at the southern and eastern extent of the site. Paragraph 47 further provides that, whilst some development can be accommodated within it, it is likely that some growth will be required alongside these boundaries.
- 8.10** However, Paragraph 50 of the NDP makes clear, the aspirations of the parish community over the plan period, in requiring steady delivery of new development '*through a series of modest developments and not on a single large site delivered in a short space of time*'. The NDP sets out clearly, that what is proposed is an organic approach to sustainable growth in Twigworth, in line with available infrastructure. Further, the Community Action Point (Design Statement) on page 21 of the NDP provides further evidence that the NDP only envisages small scale developments by referencing '*Developments of multiple dwellings should generally adopt a farmstead cluster form*'.
- 8.11** Based upon the above, NDP Policy H2 sets out a number of criteria for guiding new housing development within the village, including the requirement for development to be located within or immediately adjacent to the settlement boundary, forming a logical extension to settlement form without undue harmful encroachment into the countryside (criterion 1). Policy H2 also requires development to achieve a standard of design and appearance of an appropriate density, scale and layout, which is respectful of its surroundings, village vernacular and materials, topography and heritage assets.
- 8.12** In view of the Parish's stated aspirations for moderate growth over the plan period, through a series of modest developments, it is considered that the proposed development of some 85 dwellings, delivered within a single, large housing estate site as opposed to the NDP approach of organic, small scale 'farmstead clusters' of development, would be contrary to the Policy H2 of the NDP.

**8.13** The proposal is therefore considered to be in conflict with Policy H2 of the NDP.

### **Conclusion on the Principle of Development**

**8.14** The application site is not allocated for housing development and does not meet any of the exceptions of Policy SD10 of the JCS or Policy RES3 of the TBP. The application therefore conflicts with Policy SP2 and SD10 of the JCS and Policy RES3 of the TBP and Policy H2 of the NDP and the conflict with these adopted development plan policies are the starting point for decision making.

### **Five year Land Supply**

**8.15** 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.

**8.16** 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.

**8.17** 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.

- 8.18** A significant portion of the appellant's case for this proposal is predicated on the proposition that as the Council cannot demonstrate a five year supply of deliverable housing sites, or close to it, that the strategic policies of the JCS should be set aside in conformity to the requirements of Paragraph 11 of the NPPF 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. It is also noted that Paragraph 14 of the NPPF is not engaged, as the Neighbourhood Plan became part of development plan more than two years ago, does not contain policies and allocations to meet any identified housing requirement, and does not conflict with any relevant policies of the Development Plan in the JCS and TBP.

### **Landscape and visual impact**

- 8.19** The NPPF sets out that planning decisions should contribute to and enhance the natural and local environment. JCS Policy SD6 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 should 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.
- 8.20** Policy E2 of the NDP provides that development in the open countryside, outside settlements, should be in accordance with strategic development plan policies within the JCS relating to the protection of the visual amenities of the landscape. Furthermore, a number of vistas and landscape features have been identified for protection within the policy, from intrusive development, including the enclosed tree-lined drive to Wallsworth Hall, openness of sections of the A38 corridor and open green spaces between the built component of dispersed settlement pattern which help retain a sense of undeveloped and rural character.
- 8.21** Although, all matters except for access have been reserved for future consideration, the application has been accompanied by a suite of supporting information relating to landscape, which includes an indicative site layout, Design Statement, Design Statement Addendum and Landscape and Visual Impact Assessment (LVIA).
- 8.22** The LVIA notes that the site, as a single field, has a natural boundary defined by hedgerows and tree planting and that there are no hedgerows within the land parcel which could otherwise form a natural edge. The study further notes that there are no hedgerows proposed for removal to accommodate up to 85 homes except at required points of access. The scheme also proposes to set aside and retain the remnant orchard and an existing pond area as wildlife habitats which could be enhanced with managed accessibility for the wider community. The study concluded that:

*"This land assessment parcel is not prominent. It is well contained and screened from the local road network by vegetation and existing settlement. Neither is this land parcel conspicuous in long distance views."*

- 8.23** This assessment has found that the introduction of the proposed development would have no significant visual effects on views from the local landmark of Sandhurst Hill, and to visitors of the nearby Wallsworth Hall. The assessment found that the potential for significant effects is focused on the adjoining length of private lane leading up to Wallsworth Hall, and on users of the public footpath to the north and west of the site (footpaths ETW3 & ETW2 respectively).
- 8.24** In the short term, the effects on these two receptor groups is identified as ‘Substantial – Moderate adverse’ for the users of the lane and ‘Moderate adverse’ for the footpath alongside, and to the west of the site (ETW3). These significant adverse effects are not found in the viewpoints further away from the site as the coalescing, intervening vegetation continually and cumulatively filter and screens views to the site.
- 8.25** In consideration of the proposed housing areas’ visual and landscape interrelationship with the surrounding countryside, the development’s landscape strategy would provide a continuous 18 metre wide landscape edge around the site’s western and northern edges. This edge widens to approximately 45 metres for part of the development’s western edge with Wallsworth Hall Lane where the flood attenuation basin situated. The Illustrative Landscape Masterplan proposes that the 18 metre wide edge would comprise both screen/copse planting and gaps or ‘windows’ between the planting, so as to craft views into and out of the site. The ‘windows’ indicated have been positioned with the master planners to align with streets, buildings and their open spaces so residents can enjoy the village’s setting and views to Sandhurst Hill whilst at the same time providing an improved landscape-led edge and interface with the surrounding countryside.
- 8.26** The site forms in the main a large flat arable field to the rear of existing residential properties and within close proximity to the A38. The site and the surrounding landscape setting are not covered by any landscape designations although the character of the landscape is attractive with strong field boundaries and hedgerow trees.
- 8.27** The site provides an important undeveloped edge to the existing ‘ribbon’ character of the settlement and is in marked contrast to the land to the Eastern side of the A38 which is being developed for housing as part of the strategic residential site. While there are no formal landscape designations at the site or in the surrounding area the site is nevertheless an important part of the wider rural landscape despite not being considered a valued landscape under NPPF 174 a). However, this does not mean that the landscape of the site and its surroundings are without value and the good hedgerow set around the site is a positive, cohesive characteristic at odds with the significant and ongoing residential development of the East, beyond the A38.
- 8.28** Officers consider that whilst the proposal when considered in isolation is on balance acceptable in terms of landscape, the fact that the proposal is acceptable on that basis does not however overcome the in-principle objection to the location of the development in the open countryside, unrelated to the sporadic, ribbon character of development on this side of the A38.

- 8.29** Twigworth Parish Council have raised strong objections to the proposal on several grounds, including landscape harm. Their concerns on this matter relate to the suburbanisation of the village and resulting loss of its attractive, open nature. Down Hatherley Parish Council have raised similar concerns in respect of the potential loss of valued landscape character of this part of the vale. All the Parishes who have commented on the proposal have drawn attention to the relevant policies of the Neighbourhood Plan including that the site is situated beyond the settlement boundary and is development in the open countryside, is of an inappropriate design and scale and contrary to policy E2 of the NDP.
- 8.30** As set out above, JCS Policy SD6 requires development to seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental, and social well-being. Furthermore, Policy E2 (Landscape Protection in the Open Countryside) of the NDP notes the importance of retaining identified important vistas and landscape features. These include the Wallsworth Hall tree-lined drive which adjoins the south/south-west of the site and the built component of dispersed settlement pattern, which helps to retain a sense of the undeveloped and rural character of the area.
- 8.31** The Tewkesbury Borough Landscape and Visual Sensitivity Study (LVSS) of 2014 part of the evidence base for the JCS assessed the site as part of wider land parcel ('Twig – 01') and considered that there was potential to accommodate a level of residential development, should Twigworth have subsequently been taken forward as a Service Village within the JCS. However, the LVSS also advised that the visual sensitivity of this land assessment parcel, to new residential development, increases with distance from the settlement edge out onto the vale. Furthermore, the study noted the land parcel to be sensitive to the perception of sprawl, encroachment and to changes to the predominantly linear non ribbon development settlement form in the area west of the A38.
- 8.32** It is however considered that the overall quantum of residential development proposed within the current scheme, could not be satisfactorily integrated within the site without discernible visual encroachment into the rural landscape to the north. Furthermore, the quantum of units proposed would result in visual detriment to the existing dispersed settlement pattern of Twigworth village. The proposal is therefore, considered by Officers to be contrary to the landscape protection aims and objectives of Policy SD6 of the JCS and Policy E2 of the NDP. The suggestion from the applicant that the proposed development would provide an enhanced urban edge to the open countryside is not accepted. The A38 currently provides a strong and defensible boundary in accordance with the settlement boundary Policy for Twigworth.

### **Best and Most Versatile Land (BMV)**

- 8.33** The application is accompanied by an agricultural land classification assessment and considerations report. The site as described comprises some 5ha of agricultural land proposed for the development with 0.3 ha for non-agricultural uses. The site's agricultural land classification comprises, a complex mix of Grade 2, Subgrade 3a, Subgrade 3b and non-agricultural land. Within the site approximately 4.2 ha is of "best and most versatile" agricultural land quality, being land of Grades 2 and 3a. The previous application determination on the site included a refusal reason relating to loss of agricultural land.

**8.34** The site has been in use for arable crop production for a considerable period as reported by the Council's landscape advisor. The applicants' agricultural advisors' case is that BMV land is not a rare resource, and that there is no research that seeks to analyse the economic effect of taking BMV land for development. The agricultural advisor notes that:

*'Paragraphs 170 and 171 (officer note now footnote to paragraph 175) of the NPPF consider whether poorer quality land is available, with the trigger for assessment being that the proposal involves "significant development of agricultural land". What is "significant development" is not defined in the NPPF'*

**8.35** The applicant's agricultural agent contends that the site's area is small and that the loss of BMV is not significant and its loss should not constrain non-agricultural development.

**8.36** However, footnote (58) of paragraph 175 the NPPF recognises the economic and other benefits of Best and Most Versatile Land (BMV) and advises that when considering development proposals, planning authorities should seek to use poorer quality land in Grades 3b, 4 and 5, in preference to higher quality land.

**8.37** The site itself falls within Grade 2, 3a and 3b agricultural land and as such, the development of this field parcel in Officers view would result in the loss of higher quality land, as set out within the NPPF. This weighs against the proposal in the overall planning balance.

#### **Highways and Access Matters**

**8.38** Paragraph 103 of the NPPF sets out that opportunities to maximise sustainable transport solutions 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 (paragraph 109).

**8.39** JCS Policy INF1 requires that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters. Paragraph 110 of the National Planning Policy Framework states 'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.'
- b) Safe and suitable access to the site can be achieved for all users;



**8.40** Paragraph 112 of the Framework states 'Within this context, applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

**8.41** Whilst the application is in outline form, means of access has been included for consideration as part of the current scheme. The application proposes a single point of access to serve the development off the single-track Sandhurst Lane, within the eastern boundary of the site. This access would utilise the existing agricultural access point which currently serves the site. The application has been supported by a Transport Assessment (TA) which identifies the proposed access as the most suitable location to serve the development. The A38 is a class 1 principal highway with footways of varying widths and street lighting. The A38 is subject to a 40mph speed restriction and provides a link between Gloucester (approx. 3km to the south) and Tewkesbury (approx. 12km to the north). Sandhurst Lane is a class 3 highway with no street lighting or footways.

**8.42** The vehicular access would be sited approximately 50m to the north of the existing A38 Tewkesbury Road/ Sandhurst Lane priority junction and would take the form of a simple priority 'T' junction. The Planning Statement advises that the principle of the proposed access has been agreed with Gloucestershire County Council's (GCC) Highways Officer. To improve access to the site, the Planning Statement advises that it is also proposed to widen Sandhurst Lane to 6m and 6.3m between its junction with the A38 Tewkesbury Road and the proposed site access. The access has been designed in accordance with GCC's Manual for Gloucestershire Streets document to include 2m footways along both sides, up to Sandhurst Lane, and a 5.5m carriageway width.

**8.43** The proposals also include a new pedestrian access point from the southern boundary of the site. The development proposals extend the existing pedestrian footway along the northern side of the A38 by approximately 10m to link with a new pedestrian access point. Provision for cycle access is also incorporated, via the proposed vehicular access point off Sandhurst Lane and/ or via the proposed pedestrian access point from the A38. The applicants also propose provision of a new uncontrolled pedestrian crossing point (with dropped tactical paving) across the A38 Tewkesbury Road to the south of the site. This included localised widening of the existing footway referred to above on the northern side of the A38 Tewkesbury Road between the proposed new crossing and new pedestrian access point to the site, and an upgraded existing uncontrolled crossing, on the north-eastern arm of the recently constructed roundabout to the southwest of the site, to a signal-controlled crossing.

**8.44** The TA advises that the proposal would not result in severe impacts on surrounding road networks and concludes that there are no highways or transportation reasons that would preclude the proposed development of up to 85 dwellings at this location. The application has also been supported by a Travel Plan which provides detail on how development at this location would help to encourage significant changes in the way people travel.

- 8.45** Local residents, Twigworth Parish Council and adjoining parish councils have raised highways concerns in respect of the proposal. Concerns relate to the potential for Sandhurst village to become a 'rat run' as new residents seek to avoid the A38, highway safety concerns and cumulative traffic impacts relating to volume of vehicles utilising the single point of access from Sandhurst Lane onto the A38.
- 8.46** The Local Highway Authority (LHA) having considered the applicant's proposals have raised no objection subject to consideration in respect of the provision of pedestrian and cycle linkages, improved footways, assessing the signalisation of an existing crossing over the A38 and financial obligation towards Home to school transport and Travel Plan monitoring. It is also noted that the consultation response from the LHA is similar to that set out in the previous application at this site and no highway objection was raised in respect of that larger proposal.
- 8.47** Officers note that whilst the LHA have some concerns relating to details of access to the site, the harms identified are not such that the application should be refused on the basis of highway danger or road safety for all users and it is considered that the concerns raised could be appropriately addressed through conditions recommended by the LHA and as a scheme (if permitted) evolves at the reserved matters stage. Officers therefore consider that the access arrangements put forward at this outline stage are acceptable in principle and would accord with relevant development plan policy.

### **Design and layout**

- 8.48** Section 12 of the NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It continues by stating that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning decisions should, amongst other things, ensure that developments will function well and add to the overall quality of the area and should be sympathetic to the local character, including the surrounding built environment. Paragraph 134 of the NPPF makes it clear that planning permission should be refused for development of poor design that fails to reflect local design policies and government guidance on design contained in the National Design Guide and National Model Design Code.
- 8.49** The National Design Guide (NDG) addresses the question of how we recognise well-designed places, by outlining and illustrating the government priorities for well-designed places in the form of ten characteristics; one of which is the context. The NDG provides that well-designed development should respond positively to the features of the site itself and the surrounding context beyond the site boundary and that well-designed new development needs to be integrated into its wider surroundings, physically, socially, and visually.
- 8.50** This advice is echoed in JCS policy SD4 which states new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass, and form. It should be of a scale, type, density, and materials appropriate to the site and its setting.

**8.51** Policy H2 of the NDP requires new development for housing within Twigworth settlement to achieve a standard of design and appearance of an appropriate density, scale and layout, which is respectful of its surroundings, the village vernacular and materials, local topography and any heritage assets.

**8.52** The applicants submitted Design and Access Statement seeks to respond to the second reason for refusal of the previously refused application at this site. That reason for refusal stated that:

*'The overall quantum of development and its resulting layout, as indicated by the proposed indicative Masterplan, would result in an unduly harmful encroachment into the landscape and contribute to the loss of the defining linear settlement pattern and open, semi-rural nature, which is characteristic of this part of Twigworth village. The proposed development therefore, fails to accord with Policy H2 of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan - 2011-2031 and Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011- 2031 (JCS)(December 2017).'*

**8.53** The applicant's argument is that the proposals will be a carefully integrated extension of Twigworth, carrying forward the best aspects of the local character, designed to the highest standards and incorporating progressive principles of sustainable development.

**8.54** It is noteworthy that the consultation response of the Urban Design Officer (UDO) when commenting on the previous similar proposal noted that the quantum of development proposed for this site would result in loss of the feel and character of the existing rural settlement. Furthermore, the UDO considered that the site's location to the rear of existing properties would result in very limited frontage development or connections to the existing street hierarchy. There would be an awkward relationship between the rear of existing properties and the proposed development and due to the scale of the development.

**8.55** The UDO considers that there would be a negative impact on the character of Twigworth. These concerns are pertinent to the consideration of this application and Officers continue to support this analysis and the associated adverse impacts of the proposed development.

**8.56** The site currently under construction to the south-east is also of relevance here. The development of 725 new homes, together with its associated facilities and infrastructure, will undoubtedly alter the settlement character on the eastern side of the A38. The parish's aspirations in seeking to protect the remaining form and settlement pattern by seeking a series of organic, modest developments throughout the course of the plan period are expressed within Policy H2 of the Neighbourhood Development Plan. The proposed development would introduce a quantum and form of development which would erode the remaining linear form and historic character of the settlement.

**8.57** Paragraph 50 of the NDP sets out the following;

*'A matter of profound importance to Twigworth is that, whatever growth level is ultimately determined, it should be delivered steadily over the plan's period through a series of modest developments and not on a large site delivered in a short space of time. The NDP proposes an organic, piece by piece, approach to support sustainable growth in Twigworth in line with the available infrastructure.'*

- 8.58** Notwithstanding the applicant's attempts to argue that the submitted revised proposal overcomes the previous reason for refusal, as set out above, Officers consider that the quantum, non-linear character, layout and location of the development remain contrary to JCS Policy SD4, Policies RES3 and RES 4 of the TBP and Policy H2 of the Down Hatherley, Norton and Twigworth NDP with regard to the location and character of development in the area.

### **Residential Amenity Including Impact on Amenity of Existing Occupiers**

- 8.59** JCS Policy SD14 sets out that development should protect and seek to improve environmental quality and should not cause unacceptable harm to local amenity including the amenity of neighbouring occupants. Although the application has been submitted in outline form, with all matters relating to layout and design reserved for future consideration, an indicative layout has been submitted in support of the proposal.
- 8.60** The indicative layout illustrates that the development would largely sit behind the existing linear run of properties which front onto the A38. The indicative Masterplan demonstrates that a distance of some 11 metres would be maintained between the closest existing dwelling to the site and new dwellings. This is considered acceptable in view of the oblique angle and orientation of the two buildings, relative to one another, as indicated by the indicative scheme. Back-to-back distances of 20 metres or more, could be provided between the new dwellings and all other existing properties. Furthermore, a landscaped buffer would be provided between existing and new properties which would serve to further protect the residential amenity of both existing and proposed houses from overlooking, overbearing or loss of light. The specific relationships to these existing, adjoining dwellings and the relationships of new properties within the development itself, would be considered at the reserved matters stage, should the outline application be approved.
- 8.61** Officers consider that the indicative masterplan illustrates that a level of residential development could be accommodated within the site, without detriment to the residential amenity of existing adjoining occupiers within the village.

### **Housing Mix**

- 8.62** JCS Policy SD11 states that housing development will be required to provide an appropriate mix of dwelling sizes, types and tenures in order to contribute to mixed and balanced communities and a balanced housing market. Development should address the needs of the local area, including the needs of older people as set out in the local housing evidence base, including the most up to date Strategic Housing Market Assessment (SHMA). No precise housing mix has been put forward as part of this application, although the DAS advises that a development of up to 85 homes is sufficient in size to be able to offer a breadth of housing typologies, sizes and affordability for occupation, which would complement the existing older properties and the nearby over 50's park homes.
- 8.63** A condition could be required (should the proposal be considered acceptable) to secure an appropriate housing mix for consideration as part of any future reserved matters application in order that the development meets the needs of the Borough and as evidenced by the latest SHMA at the time of the reserved matters application.

## **Biodiversity**

- 8.64** The NPPF sets out that when determining planning applications, Local Planning Authorities should aim to conserve and enhance biodiversity by encouraging opportunities to incorporate biodiversity in and around developments, especially where this can secure measurable gains for biodiversity. Policy SD9 of the JCS seeks to protect and, wherever possible enhance biodiversity, including wildlife and habitats. Policy NAT1 of the TBP states that development proposals that will conserve, and where possible restore and/or enhance, biodiversity will be permitted.
- 8.65** The application has been supported by an Ecological Appraisal which is based upon standard Phase 1 methodology. The Appraisal also includes an appraisal of faunal species and recording of the potential presence of any rare, or notable species, with specific surveys undertaken in respect of bats, Badger, Great Crested Newt and reptiles.
- 8.66** The site itself is not subject to any statutory or non-statutory ecological designations. The closest designation to the site is Innsworth Meadow SSSI, located approximately 0.75km south of the site. The submitted appraisal notes that the site comprises an arable field, along with boundary hedgerows, tree lines, scrub, semi-improved grassland, an orchard, a pond and a small area of hardstanding.
- 8.67** The habitats within the site are noted within the appraisal to be largely of low ecological value at the local level, with the hedgerows, tree lines, trees and orchard considered to be of elevated value in the context of the site. These habitats are largely retained and enhanced under the proposals.
- 8.68** With regards to protected species, the report concludes that no statutory or non-statutory nature conservation designations are present within the site, whilst no significant adverse effects on any designations within the site surrounds are anticipated. The Phase 1 habitat survey concluded that the site is dominated by habitats of negligible to low ecological value and noted that the proposals have sought to retain the features of elevated value. Where it has not been practicable to avoid loss of habitats, new habitat creation has been proposed to compensate losses, in conjunction with the landscape proposals. The habitats within the site have been recorded to support a range of species, including Badger, a modest assemblage of bats, birds and single/small numbers of Grass Snake, whilst a number of trees have been assessed to be of potential for roosting bats (albeit no evidence for the presence of roosting bats was recorded). In addition, a single onsite pond and two offsite ponds were recorded to support a metapopulation (population of spatially separated populations of the same species which interact at some level) of Great Crested Newt.
- 8.69** In light of these findings, the report proposes a number of mitigation measures in order to minimise the risk of harm to these and any other notable species that could be present or colonise from the local area. The report further advises that the development would incorporate significant enhancements in the form of native tree and wildflower planting, creation of SuDS and swales and the provision of specific faunal enhancements, including bat, bird and insect boxes, hedgehog domes and hibernaculum/log piles for amphibians and reptiles. The report concludes that it is considered unlikely that the proposed development would result in significant harm to biodiversity and that the opportunity exists to provide several net gains for biodiversity as part of the proposals.

- 8.70** The Biodiversity net gain metric presented by the applicants shows a net gain of Habitat of some 89% and hedgerow of 57%. Both results being compliant with policy NAT1 of the TBP. Natural England has been consulted in respect of the current proposal and is satisfied that, subject to the development being carried out in strict accordance with the details of the application submitted, and the submission of a Habitat Regulations Assessment prior to determination of any reserved matter, there would be no damage or destruction to the interest features for which the Innsworth SSSI has been notified. NE confirm that the SSSI does not represent a constraint in determining this application.
- 8.71** The Council's Ecological Consultant (EC) has also been consulted in respect of the scheme and has raised no objections, subject to strict adherence to the mitigation and enhancement measures included within the submitted Ecological Appraisal, and where necessary submission, prior to approval of the first reserved matters application updated surveys where necessary. The EC has also advised that a License would be required from Natural England in light of the identified presence of great crested newts.
- 8.72** The applicants have submitted a shadow Habitat Regulations Assessment (HRA) that without mitigation recreational impacts on the Cotswolds Beechwoods Special Area of Conservation (SAC) are likely to result, contrary to TBP Policy NAT5. The applicants have proposed in their HRA that this matter be addressed via S106 obligation of some £193 per dwelling, via Strategic Access Management and Monitoring requirement (SAMM).
- 8.73** The EC has also recommended appropriate planning conditions relating to the proposed ecological enhancements, including suitable tree planting species within the new wildlife areas and orchard areas, maintenance of the semi-improved grassland, the erection of wildlife information boards to aid new residents appropriate creation and management of the new SuDS and swales in order to maximise their wildlife benefits. Having regard to the above, subject to the imposition of the identified planning conditions and the SAMM planning obligation officers consider that the proposal would accord with paragraph 175 of the NPPF and Policy SD9 of the JCS and Policy Nat 5 of the TBP.

### **Affordable housing**

- 8.74** JCS Policy SD12 sets out that on sites outside of strategic allocations, a minimum of 40% affordable housing will be sought, should be provided on site and should be seamlessly integrated and distributed throughout the development scheme. Paragraph 53 of the NDP reflects this requirement for new residential development to provide an appropriate quantum of affordable housing to meet objectively identified need.
- 8.75** The applicants affordable Housing statement submitted as a supporting document to the application confirms that of the maximum 85 dwellings it is proposed that 40% (34 dwellings) will be delivered as affordable units.
- 8.76** The Council's housing and enabling officer accepts that the proposal in terms of the percentage of affordable housing is compliant with relevant Policy. However, the Officer requires the tenure mix be determined at outline stage. The required tenure mix is set out below:

	Social rent	AHO	Total
1 bed	6	2	8
2 bed	8	5	13
3 bed	6	4	11
4+ bed	3	0	2
Totals	23	11	34

- 8.77** In terms of accessibility, 50% of the affordable units should be M4(2) and a minimum of 7no: units M4(3)b -Wheelchair ready for use. These matters are supported by the 2020 Local Housing Needs Assessment. (LHNA)
- 8.78** The Council requires that all 1 and 2 bed units should be double bed standard. Hence 1 bed 2 person, 2 bed 4 persons. 3 beds and 4 beds can be a mix of sizes but at least 50% should be double bed sizes to maximise the affordable housing opportunity.
- 8.79** Officers conclude that the proposals in terms of affordable housing are policy compliant in principle and that the detailed requirements in respect of housing type and mix could be secured via Section 106 obligation.

#### **Drainage and flood risk**

- 8.80** 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.
- 8.81** The application is supported by a Flood risk Assessment, Drainage Strategy and water management plan(FRA) submitted by the applicants. The site is situated primarily in Flood Zone 1 with part of the site situated in Zone 2 & 3. All the proposed built development is situated in Flood Zone 1.
- 8.82** An attenuation led conceptual surface water drainage strategy has been proposed to manage the surface water runoff from the site. Attenuation will be provided in detention basin, which would limit runoff to a heavily restricted greenfield rate before discharging into a nearby pond. The basin is likely to be supplemented with a series of filter drains, tree pits and area of permeable paving, but would be subject to more detailed design considerations once outline planning permission were to be approved. Foul water is proposed to be disposed to a Severn Trent Water foul network at the east boundary of the site.

- 8.83** The initial consultation response from Severn Trent Water (STW) expressed concern that there was currently a capacity issue with respect to the disposal of foul sewage to their system that warranted further investigation. Following modelling STW confirmed that foul flows from the development could be accommodated onto their system within which there is adequate capacity to serve the development and other currently planned developments in the area.
- 8.84** Considerable concerns from the Parishes and local residents have been expressed concerning flood risk. All sources of flood risk for the area proposed for built development have been identified to be low or very low, and specific flood risk mitigation measures are not required. Nevertheless, finished floor levels are proposed to be raised 150 mm above surrounding ground levels in accordance with building regulations. This will help to ensure protection against shallow ponding of water which may follow periods of heavy or prolonged rainfall.
- 8.85** The FRA prepared for the previous planning application (ref 16/00904/OUT) proposed a pumped outfall into the watercourse to the north, along with some watercourse improvements. An alternative option has also been identified by the applicants. Further west (i.e. downstream), the watercourse discharges into a small pond. The pond is located approximately 4m below that of the development area. This presents the opportunity to explore a gravity outfall solution from the development. However, the applicants are aware of two services crossing the field parcel that the gravity outfall would run across. The applicants consider that further detailed investigation needs to take place to understand the precise depths and specific locations of those services to understand if a gravity system can be designed to effectively drain to the pond. Whilst preliminary investigations have suggested that it will be possible to pass beneath these services, if this is later found to be incorrect, the drainage outfall solution would need to revert to the pumped solution that was proposed under the previous planning application.
- 8.86** The Lead Local Flood Authority in their consultation response have raised no objection to the principles of the proposals subject to conditions requiring at a reserved matter stage the submission and approval of detailed proposals for surface water disposal.
- 8.87** The Council's drainage advisor has raised no objections to the proposals as submitted at this outline stage and officers consider that the proposals accord with the principles set out in TBP policy ENV2.

### **Heritage Assets and Archaeology**

- 8.88** When determining planning applications, the Local Authority should pay particular attention to the Planning (Listed Buildings and Conservation Areas) Act 1990, section 66 (1) in which "the local authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
- 8.89** Paragraph 189 of the NPPF advises that, in determining planning applications, Local Planning Authorities should require applicants to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance. This advice is reflected within Policy SD8 (Historic Environment) of the JCS, which requires both designated and undesignated heritage assets and their settings to be conserved and enhanced, as appropriate to their significance.



- 8.90** The site lies in relatively close proximity to a number of Grade II and one Grade II\* listed buildings, including; Wallsworth Hall (Country House) (Grade II\*), the main access for which is the private road along the southern site boundary and the following Grade II properties; 'The Manor House'; Yew Tree Cottage; Twigworth Lawn; Twigworth Court and its associated stable block.
- 8.91** Historic England has also been consulted in view of the site's proximity to the Grade II\* Wallsworth Hall. Historic England note that the relationship between Wallsworth Hall and the wider settlement of Twigworth is still legible, in the form of the two main drives, associated lodge, and Twigworth Court Farm and Farmhouse (Grade II) immediately adjacent to the southern entrance. Historic England advises that, whilst the importance of preserving key views from Wallsworth Hall towards Gloucester and the significance that this open countryside affords the hall is highlighted, they consider this proposal unlikely to impact its historic setting.
- 8.92** Whilst Historic England do not object to this proposal, they stress the necessity to screen development along this drive to preserve this experience of the approach to Wallsworth hall and recommend a green buffer. The indicative Masterplan illustrates that an appropriate landscaped buffer could be incorporated within the scheme and would be a matter for detailed consideration at the reserved matters stage in order to conserve the significance of the asset, along the extent of the western boundary should outline permission be granted.
- 8.93** The applicant has submitted a Heritage assessment and an archaeological impact study together with a desk-based analysis of archaeological remains and a geophysical survey. Following careful consideration of the applicants submitted supporting statement together with reference to the previous application the Conservation Officer of this Council, together with Historic England and the County archaeologist raise no in principle objections to the submitted proposals subject to the imposition of conditions.
- 8.94** Officers having considered the consultation responses on heritage impact and the submitted representations of the applicants conclude that the proposal, subject to compliance with conditions would conserve the historic significance of nearby heritage assets and the proposal would comply with Policy SD8 of the JCS.

### **Section 106 obligations**

- 8.95** The Community Infrastructure Levy (CIL) Regulations allow local authorities to raise funds from developers undertaking new building projects in their area. Whilst the Council does have a CIL in place, infrastructure requirements specifically related to the impact of the development will continue to be secured via a Section 106 legal agreement. The CIL regulations stipulate that, where planning obligations do not meet the tests, it is 'unlawful' for those obligations to be taken into account when determining an application.
- 8.96** These tests are as follows:
- a) necessary to make the development acceptable in planning terms.
  - b) directly related to the development; and
  - c) fairly and reasonable related in scale and kind to the development.

**8.97** JCS Policy INF6 relates directly to infrastructure delivery and states that any infrastructure requirements generated as a result of individual site proposals and/or having regard to the cumulative impacts, should be served and supported by adequate and appropriate on/off-site infrastructure and services. The Local Planning Authority will seek to secure appropriate infrastructure, which is necessary, directly related, and fairly and reasonably related to the scale and kind of the development proposal. Policy INF4 of the JCS requires appropriate social and community infrastructure to be delivered where development creates a need for it. JCS Policy INF7 states the arrangements for direct implementation or financial contributions towards the provision of infrastructure and services should be negotiated with developers before the grant of planning permission. Financial contributions will be sought through S106 and CIL mechanisms as appropriate. TBP policy NAT5 provides for protection of the Cotswold Beechwoods via appropriate mitigation.

**8.98** Requests have been made by consultees and the applicants submissions to secure the following contributions which could be secured via a S106 agreement obligations:

#### Local Highway Authority

- Specific Purpose – Home to School Transport Contribution  
Contribution - £161,703.43  
Trigger – Prior to First Occupation  
Retention Period – 10 years from first occupation.
- Specific Purpose – Travel Plan Contribution  
Contribution - £45,120.00  
Trigger – Prior to First Occupation  
Retention Period –5 years from first occupation.
- Specific Purpose – Travel Plan Monitoring  
Contribution - £5,000.00  
Trigger – Prior to First Occupation  
Retention Period – Non-refundable

#### Community facilities

##### Education

- Primary school place per dwelling £18,133
- Secondary school places (ages 11 to 16) per dwelling £23,775
- Secondary school places (ages 16 to 18) per dwelling £23,775

##### Library

- For improved access to services through refurbishment of the library building, improvements to stock, IT and digital technology, and increased services.  
£196 per dwelling.

##### Affordable Housing

- As set out above to provide for 40% the tenure and numbers to be agreed.

##### Amenity space

- Arrangements for the provision within the site for the laying out and future management of amenity space including play areas (LEAP) and equipment, including community orchard provision.

## Waste

- The provision of household waste collection £73 per dwelling to be used for refuse and re-cycling bins.

## Strategic Access management and monitoring (SAMM)

- The provision £193 per dwelling to protect the Cotswold Beechwoods

## **9. Conclusion**

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- 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** The application site lies outside of the settlement boundary for Twigworth, as defined within Proposal Map M3 of the Down Hatherley, Norton and Twigworth NDP and is not allocated for housing development. The site does not represent previously developed land within the built up areas of the village; is not a rural exception scheme; and does not represent 'infilling'. It has not been brought forward for development through a Community Right to Build Order and there are no policies in the adopted Tewkesbury Borough Local Plan to 2031 which allow for the type of development proposed. The proposal therefore conflicts with Policies SP2 and SD10 of the JCS Policies RES3 and RES 4 of the Borough Plan and Policy H2 of the NDP.
- 9.3** Furthermore, the Council can currently demonstrate a five year land supply of deliverable sites, even if the applicant's contention that this is not the case and a five year land supply is not demonstrated, the context of the site and the proposed development is such that the weight to be applied to the negative material planning factors in this case clearly outweigh any benefits in the assessment of the planning balance.

### ***Benefits***

- 9.4** The delivery of market and affordable housing would provide a considerable social benefit. Furthermore, there would be economic benefits both during and post construction through the creation of new jobs and the support to existing local services and the local economy. Overall, given the scale of development, these benefits would attract substantial weight in favour of granting permission.
- 9.5** The provision of public open space would be a social benefit which would serve the needs of the existing community as well as new residents. This is recognised as a very minimal limited benefit in support of development as this element would be required in any event, to mitigate the impacts of the development itself.

### ***Harms***

- 9.6** Harm arises from the conflict with development plan policies relating to housing, particularly JCS Policy SD10 and TBP policies RES3 and RES4 and Policy H2 of the DHNTNDP.

- 9.7** Harm would also arise to the landscape by virtue of the loss of a green field and the encroachment of built form into the open countryside. The quantum of development proposed would also result in very significant harm to the existing form and settlement pattern, evidenced within the western side of Twigworth and the resulting loss of its open, rural character and the creation of a non-defensible boundary which the A38 currently provides.
- 9.8** The loss of higher quality agricultural land, the best and most versatile, falling within Grades 2, 3a and 3b, because of the development, this issue would represent significant harm in contravention of national planning policy.

***Neutral***

- 9.9** Whilst the application is in outline with all matters reserved for future consideration, save for access, the supporting DAS and illustrative site layout does is unlikely to raise any residential amenity issues in terms of a loss of light, outlook and privacy. The development would not be at an unacceptable risk of flooding and appropriate drainage infrastructure could be provided. The proposal would not materially harm the setting of any designated heritage assets and there would be an acceptable impact in terms of archaeology.
- 9.10** Subject to compliance with conditions, the proposal could be served by a safe and suitable access and the residual cumulative impact on the highway network would not be severe. The proposal would also be acceptable in terms of its impact on biodiversity. Therefore, subject to compliance with recommended conditions, the proposal would result in neutral impact on residential amenity, flood risk and drainage, heritage assets, highways and ecology.

**Overall Conclusion**

- 9.11** The Council can currently demonstrate a five year supply of deliverable housing sites and the proposal falls to be considered in terms of relevant Development Plan policies which the development is contrary to as set out above.
- 9.12** However, the applicant's proposition within their appeal submission is that the Council cannot demonstrate a five year supply of deliverable housing sites and as such permission should be granted in accordance with the 'tilted balance' in paragraph 11 of the NPPF. The Council disagrees with this proposition. Nevertheless, if the Council cannot currently demonstrate a five-year supply of deliverable housing sites and as such, the settlement/housing policies in the Development Plan (JCS and TBP) are deemed to be out-of-date as per footnote 8 to paragraph 11 of the NPPF, then the Council consider that the adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Development Plan and the NPPF taken as a whole. The NDP is now in excess of two years old since becoming part of the Development Plan, but still carries some weight. Although the weight that can be afforded to the relevant Development Plan settlement/housing policies would be reduced if the 'tilted balance' is applied as they are considered to be out of date, this does not mean that they carry no weight. They remain relevant.

**9.13** Nevertheless, the weight of local community views and from the Parishes opposing the proposals together with the overriding conflict with policies in respect of the location of new development together with the conflict with other Development Plan policies mean that, in the event that the tilted balance applies, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the application, when considered against the Development Plan policies and the NPPF when read as a whole.

## **10. Recommendation**

**10.1** That the application be **REFUSED**.

## **11. Reasons for Refusal**

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- 1** The proposed development conflicts with Policies SP2 and SP10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 -2031 (December 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 of the scale proposed. The site lies outside of any settlement boundary as defined by the adopted Tewkesbury Borough Plan 2011 -2031 and is contrary to Policies RES 3 and RES 4 of that Plan. Furthermore, the proposed development conflicts with Policy H2 of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan, which seeks to ensure that sustainable growth should be delivered steadily over the Plan period, through a series of modest developments and not on a single, large site delivered in a short space of time.
- 2** The overall quantum of development and its resulting layout, as indicated by the proposed indicative Masterplan, would result in an unduly harmful encroachment into the landscape and contribute to the loss of the defining linear settlement pattern and open, semi-rural nature, which is characteristic of this part of Twigworth village. The proposed development therefore, fails to accord with Policy H2 of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan – 2011-2031, Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS)(December 2017) and Policies RES3 and RES 4 of the Tewkesbury Borough Plan 2011-20131.
- 3** The proposed development would result in the loss of Best and Most Versatile agricultural land, the loss of this valuable resource is not outweighed by economic or other benefits, contrary to paragraphs, 174 and 175 footnote 58 of the National Planning Policy Framework. (2019).
- 4** In the absence of an appropriate planning obligation, the application does not provide housing that would be available to households who cannot afford to rent or buy houses available on the existing housing market. As such, the proposed development conflicts with Policy SD12 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS)(December 2017)and Policy RES12 of the Tewkesbury Borough Plan 2011-20131

- 5 In the absence of an appropriate planning obligation, the application does not make provision for the delivery of recycling/waste bins, education contributions for pre-school, primary and secondary education provision, library provision, public open space and SAC strategic access management and monitoring (SAMM) contribution. The application also makes no provision for the Home to school transport plan, Travel Plan or monitoring of that Plan. The proposed development is therefore, contrary to Policies INF4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS)(December 2017) and NAT5 of the Tewkesbury Borough Plan 2011-2031(June 2022)

## **11. Informatives**

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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 seek solutions to overcome planning objections and the conflict with Development Plan policy by seeking to negotiate with the applicant to address identified issues of concern and providing on the council's website details of consultation responses and representations received. However, negotiations have failed to achieve sustainable development that would improve the economic, social and environmental conditions of the area.