

Planning Committee

Date	21 November 2023
Case Officer	David Lowin
Application No.	22/01083/FUL
Site Location	Walnut Tree Farm, Norton
Proposal	Erection of 7 dwellings, including 4 market and 3 affordable discounted market sale dwellings and associated vehicular access.
Ward	Severn Vale South
Parish	Norton
Appendices	<p>Proposed Site Plan – Drawing No. 21027 10 PL3</p> <p>East and West Street Scenes – Drawing No. 21027 11 PL3</p> <p>Units 1-2 – East and West Elevations – Drawing No. 21027 12 PL2</p> <p>Units 1-3 – North and South Elevations – Drawing No. 21027 13 PL2</p> <p>Units 3-5 – East and West Elevations – Drawing No. 21027 14 PL2</p> <p>Units 4-6 – North and South Elevations – Drawing No. 21027 15 PL3</p> <p>Units 5-7 – East and West Elevations – Drawing No. 21027 16 PL3</p>
Reason for Referral to Committee	Unresolved Parish objection
Recommendation	Delegated permit subject to the concluding of a deed of variation

Site Location



1. The Proposal

Full application details are available to view online at:

<http://publicaccess.tewkesbury.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RJNB2AQDM0000>

- 1.1 The application seeks full planning permission for the erection of 7 dwellings, comprising 4 market and 3 affordable discounted market sale dwellings and associated vehicular access.
- 1.2 The current application is a revised scheme to one allowed at appeal in 2020 and has been submitted to avoid an easement for a high pressure gas main located to the South of the site which has necessitated revision to the site layout replacing a linear form of residential development fronting onto the access road with a more 'agricultural style' and courtyard layout.

2. Site Description

- 2.1 The site is currently a field laid to grass and was historically part of Walnut Tree Farm. The site extends to approximately 0.65 hectares and is situated immediately adjacent to the A38 on the southwestern edge of Norton. Access to the site is provided via the existing access off the A38 which serves the development to the north.
- 2.2 To the immediate north of the site is a recently completed development of 5 dwellings at Walnut Gardens which is arranged in a courtyard, which was permitted under permission reference 18/00073/FUL. To the south of the site is a single storey dwelling with caravan park behind known as Norton Lodge. To the west, the site is surrounded by open countryside.
- 2.3 The site is not subject to any formal or informal landscape designation and lies within Flood Zone 1 (lowest probability of flooding).

3. Relevant Planning History

Application Number	Proposal	Decision	Decision Date
15/00870/OUT	Outline application for 7 new dwellings and associated works (considering access only)	WDN	14.12.2015
19/00367/FUL	The erection of seven dwellings	REFUSED	26.02.2020
	Appeal	ALLOWED	07.12.2020

- 3.1 In respect of the application site, permission was refused in February 2020 for 'the erection of 7 dwellings comprising 2, 3, 4 and 5 bedroom homes (including 4 market and 3 affordable discount market sale dwellings) and associated vehicular access' (Ref: 19/00367/FUL) as set out above.
- 3.2 This application was subsequently allowed on appeal on the 7th of December 2020 (PINS Ref APP/G1630/W/20/3257279) and that permission remains extant and represents a material fallback position.

- 3.3 Whilst not directly related to the site, planning permission was granted on the adjacent land to the North of the application site in 2018 for the demolition of the existing agricultural buildings at Walnut Farm and the erection of 5 dwellings and associated works (Ref: 18/00073/FUL). That permission has been implemented and now fully built out.
- 3.4 Permission in Principle has also been granted for up to 9 dwellings on land to the west of the application site (Ref: 22/00106/PIP).

4. Consultation Responses

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

- 4.1 Norton Parish Council – **Object**
- Accepts that the principle of housing development has been established at appeal
 - Concerns relating to the design of the dwellings
 - Impact on residential amenity of adjoining owners by reason of overlooking
 - Should be refused on design grounds
 - Unit 1 and unit 3 should be reduced from three storey to two storey properties
- 4.2 Highway Authority – **No Objection**
- 4.3 Housing & Enabling Officer - **No Objection** subject to a deed of variation to secure an appropriate affordable housing contribution.
- 4.4 Flood and Drainage Engineer- **No Objection** subject to recommended conditions
- 4.5 Ecology advisor- **No Objection** subject to recommended conditions
- 4.6 Environmental Health – **No Objection** subject to recommended conditions.
- 4.7 County Archaeology- **No Objection**, no significant archaeology known at this location. The site was subject to archaeological trial trenching in 2018, with negative results. In my view there is a low risk that archaeological remains will be adversely affected by this development proposal. Therefore, recommend that no archaeological investigation or recording need be undertaken in connection with this scheme.
- 4.8 Ecological Advisor – **No Objection** subject to recommended conditions.
- 4.9 Tree Officer – **No Objection** subject to recommended conditions.

5. Third Party Comments/Observations

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

- 5.1 The application has been publicised through the posting of a site notice for a period of 21 days and undertaking neighbour notifications.

5.2 Three representations have been received in response. The comments raised are summarised below:

- Concern about presence of high-pressure gas main on site
- Loss of privacy and amenity
- Concern about ground disturbance
- Overbearing and contrived design

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

- SD3 (Sustainable Design and Construction)
- SD4 (Design Requirements)
- SD6 (Landscape)
- SD9 (Biodiversity and Geodiversity)
- SD10 (Residential Development)
- SD11 (Housing mix and Standards)
- SD12 (Affordable Housing)
- SD14 (Health and Environmental Quality)
- INF1 (Transport Network)
- INF2 (Flood Risk Management)
- INF3 (Green Infrastructure)
- INF7 (Developer Contributions)

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

- RES2 (Settlement Boundaries)
- RES3 (New Housing Outside Settlement Boundaries)
- RES5 (New Housing Development) RES12 (Affordable Housing)
- RES13 (Housing Mix)
- DES1 (Housing Space Standards)
- NAT1 (Biodiversity, Geodiversity and Important Natural Features)
- ENV2 (Flood Risk and Water Management)
- RCN1 (Public Outdoor Space, Sports Pitch and Sports Facility Provision)
- TRAC1 (Pedestrian Accessibility)
- TRAC9 (Parking Provision)

- 6.5** Neighbourhood Plan
Down Hatherley, Norton and Twigworth Neighbourhood Development Plan –
2011-2031 (NDP)
 Policy H1 (Housing Development in Norton Parish)

7. Policy Context

- 7.1** Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 7.2** The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011-2031 (June 2022) (TBLP), and the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan.
- 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

The main issues in the consideration of this application are:

- The principle of development
- Landscape Impact
- Access and highway safety
- Design, layout and residential amenity
- Housing mix
- Affordable housing
- Drainage and flood risk
- Biodiversity
- Section 106 obligations

Principle of development

- 8.1** Policy SP2 of the JCS sets out the strategy for the distribution of new development across the JCS area, and JCS Policy SD10 ('Residential Development') specifies that, new housing will be planned in order to deliver the scale and distribution of housing development set out in Policies SP1 and SP2.
- 8.2** 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.
- 8.3** Policy H1 of the NDP states that housing development should contribute to a sense of village character, both in the buildings and spaces themselves and in the way in which they integrate with their surroundings.

- 8.4** The previous appeal which was upheld is relevant to the determination of this application. In assessing the appropriateness of the site and its location the inspector set out that:

Policy SP2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS) which controls the distribution of development in the area. Under the policy, the proposal is not within the settlement boundary of a rural service centre or service village and is subject to Policy SD10 of the JCS, which applies to residential development in other rural areas. Under Policy H1 of the Down Hatherley, Norton and Twigworth Neighbourhood Plan 2019 (NDP) proposals outside defined settlement boundaries are allowed as exceptions under policies in the JCS and in particular, Policy SD10 of the JCS. Accordingly, Part ii of Policy SD10 of the JCS allows development where it would comprise infilling within existing built-up areas of towns and villages. For the purposes of the policy, infill development means development of an underdeveloped plot well related to existing built development.

- 8.5** The Inspector found that the now completed residential site to the North set the context for the development of the application site. A matter re-enforced by the development of ribbon development along this stretch of the A38.

- 8.6** The application site is set between an existing built residential site to the North and existing development immediately to the South. The Inspector noted at Paragraph 12 of the appeal decision that Policy SD10 of the JCS does not require that the site has to be within the built-up area. Noting that:

‘Therefore, given the site’s close relationship with and position between development, it would seem reasonable that the proposal should be regarded as being within a built-up area, even if it is outside of the defined settlement boundary of Norton. Altogether, the proposal would comply with infill policy requirements under Part ii of Policy SD10 of the JCS’.

- 8.7** The Inspector found that the proposal for the development of the application site was in accordance with Policy SD10 and SP2 of the JCS, the proposal also meets the criteria under Policy H1 of the NDP.

- 8.8** Furthermore, Policy RES3 of the TBP allows very small-scale residential development in principle within and adjacent to the built up area in accordance with Policy RES 4 of the Plan which allows new development of a scale that is proportionate to the size and function of the settlement, and complements the form of the settlement.

- 8.9** It is noteworthy that the Parish Council do not object to the principle of the development of the site.

Five year Land Supply

- 8.10** The NPPF requires local planning authorities to demonstrate an up-to-date five year supply of deliverable housing sites. Where local authorities cannot demonstrate a five year supply of deliverable housing sites, paragraph 11 of the NPPF sets out that housing policies contained within development plans should not be considered up-to-date.

- 8.11** Further to the recent Trumans Farm, Gotherington Appeal decision (ref. 22/00650/FUL), and subsequently published Tewkesbury Borough Five Year Housing Land Supply Statement October 2023, the Council's position is that it cannot at this time demonstrate a five year supply of deliverable housing land. The published position is that the Council's five year supply of deliverable housing sites is, at best, 3.24 years supply of housing land and that this shortfall is significant. The Council's policies for the provision of housing should not therefore be considered up-to-date in accordance with footnote 8 of the NPPF.
- 8.12** Paragraph 11(d) of the NPPF therefore applies and states that where policies which are most important for determining the application are out of date, permission should be granted unless: i) the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion on the Principle of Development

- 8.13** 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.
- 8.14** The application site is not allocated for housing development however it is located in proximity to Norton which is defined as a Service Village in the JCS. Furthermore, in allowing the recent appeal at the site, the Inspectors concluded that the development of the site for residential purposes would constitute infill development which would accord with JCS Policy SD10. Furthermore, the proposal would broadly in accordance with Policy RES3 and RES4 of the TBP.
- 8.15** Furthermore, on the on that basis that the Council cannot at this time demonstrate a five year supply of deliverable housing land and therefore the most important policies for determining the application are deemed out of date, the application must be determined in accordance with paragraph 11(d)(ii) of the NPPF (the tilted balance), i.e. planning permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of NPPF as a whole.
- 8.16** Notwithstanding this and having considered the relevant policies, planning history (most notably the extant allowed appeal) and the now completed residential development to the North immediately adjoining the site, it is considered that the proposal is acceptable in principle particularly as the application is for the same quantum and nature of development as previously approved at appeal and that permission remains extant.

Landscape impact

- 8.17** Policy SD6 of the JCS states that applications for development will consider the landscape and visual sensitivity of the area in which they are to be located or which they may affect. This is in accordance with the core planning principle of the NPPF which specifies that planning should take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside.

- 8.18** In assessing the Landscape impact of the site, it is once again relevant to consider the Inspector's views on the landscape impact. The Inspector's decision notes the ribbon development along this part of the A38, and comments that the development of the site would provide a change to the previously undeveloped nature but notes that:

However, given the prevailing context this change would not be harmful to the character and appearance of the area. Consequently, the proposal would accord with policies SD4, SD6, SD10 ... of the JCS and Policy H1 of the NDP.

- 8.19** Having considered the proposed development and the Inspector's view in assessing a similar residential development at the site officers have concluded that the impact of the development is acceptable in landscape terms and compliant with relevant Development Plan policy.

Access and highway safety

- 8.20** Section 4 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. Policy INF1 'Transport Network' of the JCS states that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters. Policy TRAC1 of the TBP states that development should prioritise pedestrian movement over motorised vehicles in a way that promotes pedestrian safety and convenience and that accessibility must include the consideration of all potential users, including those with disabilities, to ensure high standards of inclusivity are achieved to ensure that all members of society can travel safely and easily.
- 8.21** Access to the proposed development would, as in the appeal scheme be made via A38 Tewkesbury Road, a Class A road subject to a sign posted limit of 50mph via the drive which also provide access to the development to the north. The County Highways Authority have been consulted on the application and advise that the proposed access arrangements are acceptable in respect to highway safety and visibility. The County Highways Authority also advise that swept path analysis confirms that refuse vehicles can service the site and leave in a forward gear and the application is acceptable in this regard.
- 8.22** The proposal also provides adequate provision of car parking spaces, with each plot providing a minimum car of two parking spaces.

The specific parking provision is as follows:

- The two-bed properties have two car-port spaces each.
 - The two four-bed properties have one and two garage spaces respectively and two additional designated spaces each.
 - The five bed properties have two garage spaces and two additional designated spaces each.
 - There are eight visitor parking spaces
- 8.23** The extant S.106 agreement in respect of the approved development signed by GCC and the Council on 2nd November 2020 proposes secured a bus shelter contribution of £10,000 towards the provision of a shelter in the vicinity of the site. This contribution is still deemed necessary and would need to be secured via a deed of variation to the original agreement.

- 8.24** Subject to compliance with conditions and completion of a deed of variation it is considered that the proposal would not result in an adverse impact upon the operation of the highway network or safety.

Design, layout and residential amenity

- 8.25** The NPPF states 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. The NPPF also states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. 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. JCS Policy SD10 states that residential development should seek good design compatible with the quality of the local environment.
- 8.26** Policy H1 of the NDP states that housing development should achieve a standard of design and appearance of an appropriate density, scale and layout which is respectful of its surroundings. 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.
- 8.27** The application proposes seven dwellings with a shared access road to the east which also serves the dwellings which are to the north of the site. The revision to the scheme occasioned by the gas main easement has produced a proposal of seven dwellings arranged to make them akin to the completed development to the immediate North. This form is consistent with an agricultural style of building and when clustered together appear to mirror a courtyard farm complex form rather than the previously approved linear suburban form and appearance.
- 8.28** This alternative design proposes a variety of house types and styles including 2 storey semi's and 2½ storey detached properties with rooms in the roof space and variety of garages / car ports. The proposed scale of buildings and palette of materials reflects those of the development immediately to the north. Given that the palette of materials, the form of the development on the site and the mix of dwellings bears a clear relationship to the developed site to the adjoining site to the North, it is considered that the proposal would be acceptable in design and appearance terms and would read as a natural continuation of this existing development.
- 8.29** The Parish Council and adjoining residents have raised concerns in respect of detriment to adjoining occupiers by reason of overlooking of gardens and property, a matter also raised by third parties.

- 8.30** The distances from the two existing dwelling units to the immediate North of the relevant proposed units is as follows:

Proposed unit 1A's gable end to rear elevation of nearest dwelling some 14.3 metres.
Proposed unit 3A's rear elevation to nearest rear elevation of existing dwelling to the North is 31.2 metres.

Unit 1a is a two storey dwelling with bedrooms in the roof space, the 'overlooking' gable end window is proposed to be obscured glazed with the remaining bedroom area served by roof lights. Similarly, unit 3A has roof lights facing North.

- 8.31** Officers consider that the distances between the proposed units and the adjoining residential development to the North are satisfactory such that no material detriment will be occasioned by those occupiers in terms of overlooking or any adverse overbearing impacts. However it is considered that to prevent any possible loss of privacy, the gable end of unit 1A facing the adjoining development should be obscured glazed and this can be secured by an appropriately worded condition. Subject to compliance with conditions, Officers consider the proposals to accord with relevant design and amenity policies.

Housing mix

- 8.32** The current proposal comprises 4 market and three affordable discounted market for sale dwellings. The mix of housing comprises 3 five bed, 2 four bed and 2 two bed homes. Policy RES 13 of the TBP requires that new housing proposals are expected in accordance with SD11 of the JCS to provide an appropriate mix of dwellings, in size and tenure. It is noteworthy that the Inspector determining the application that sets a precedent for the residential development of this site noted at Paragraph 21 of the appeal decision that:

The new dwellings would share the appearance of neighbouring development currently being constructed in the north, comprising a similar height and scale whilst including timber cladding to maintain a consistent vernacular in line with Paragraph 130 of the Framework and pursuant to the farmstead aesthetic brought forward by that development. Consequently, even though both developments have come forward at different times, they would read as having a coherent relationship within the wider landscape and the proposal in and of itself would not present as piecemeal development.

- 8.33** The present proposals have amended that layout to depart from a linear form responding to the Planning Inspectors paragraph 22 of the appeal decision:

It is acknowledged that the NDP may encourage farmstead cluster layouts. However, the existing mature hedgerow would mitigate the appearance of linear development along the roadside frontage. Furthermore, the proposal's consistent vernacular with the existing cluster in the north means it would not appear as an isolated linear form of development, but a coherent and interesting part of the wider whole.

- 8.34** Whilst the appeal was upheld the present application departs from a linear form which is considered by officers to be acceptable and is consistent with the Inspectors assessment above. The proposed development is to re-configure the dwellings, to make them more akin to the properties to the north. The approach is to arrange the properties around a courtyard space, to make it more like a traditional complex of barns. The mix of housing comprises 3 five bed, 2 four bed and 2 two bed homes and is considered acceptable.

Affordable housing

- 8.35** The existing upheld appeal decision has an associated executed S106. That agreement remains extant but the current section 78 application will require a deed of variation so that the extant agreement applies to the currently submitted proposal should it be approved.
- 8.36** Policy SD12 of the JCS states that on sites of 10 dwellings or less, no contributions towards affordable housing will be sought. However, after changes to the NPPF Framework in respect of affordable housing following the adoption of the JCS, the Council sought affordable housing on sites in excess of 0.5ha. It was on that basis that an element of affordable housing was secured previously on the site at appeal. That requirement for affordable housing remains.
- 8.37** The changes to the Framework in respect of affordable housing are now reflected in policy RES12 of the Borough Plan. This application proposes that 3 of the dwellings will be affordable (43%), which represents a policy compliant scheme in that regard. In accordance with the Appeal application, it is proposed that the affordable dwellings will be discount market dwelling that would be sold at a discount of 20% below market value. That discount would be secured in perpetuity and meets the definition of affordable housing set out in the Framework.
- 8.38** The Borough's housing officer has offered no objection to the proposals subject to the applicants entering into a deed of variation to reflect the changes necessary to schedule 2 of the extant Section 106 to reflect the current proposal.

Drainage and flood risk

- 8.39** JCS Policy INF2 requires new development to incorporate sustainable drainage systems, manage surface water drainage, to avoid increase in discharge to the public sewer, ensure flood risk is not increased elsewhere and to protect the quality of the receiving watercourse and groundwater. Policy ENV2 of the TBP echoes these requirements.
- 8.40** The applicants have submitted a phase 2 flood risk assessment which details the proposed drainage strategy and flood mitigation measures. The site is located in Flood Zone 1, an area shown to be at low risk of river flooding. The Surface Water (Pluvial) Flood map of the Environment Agency indicate that the majority of the site is at very low risk with areas of medium to low risk along the southern boundary. These areas are not proposed for any development. The applicants submitted study as referenced above finds that the site is identified to be at negligible to low risk of all forms of flooding.
- 8.41** The applicant's surface water study envisages discharge surface water generated by the proposal to Cox's Brook. This is in view of the identified low potential for the use of soakaway drainage on adjacent land as part of the approved and constructed phase 1 development. It is proposed to provide a new gravity stormwater system with attenuation and a controlled discharge for up to a 1 in 100 year event plus 40% climate change allowance, which will reduce risk of flooding downstream. The overall discharge rate from site will be restricted to the QBAR rate (annual average) of 2.9 l/s for all return period storms.

- 8.42** The proposed strategy utilises a detention basin to accommodate the necessary storm water storage prior to discharge to the adjacent Cox's Brook. The final layout and design of the surface water drainage network could be controlled by planning condition. Foul water will be sent to a wastewater treatment plant, with treated foul being discharged to Cox's Brook bordering the southern boundary of the site.
- 8.43** The Councils Drainage Engineer has confirmed that no objection is raised subject to recommended conditions. Therefore, Officers consider that the drainage proposals are acceptable and comply with relevant policy.

Biodiversity

- 8.44** Policy SD9 of the JCS seeks to protect and enhance the biodiversity of the JCS area, Policy NAT 1 of the TBP seeks to protect habitat and produce biodiversity net gain. The application has been supported by a Preliminary Ecological Appraisal (PEA) and Ecological Impact Assessment (EclA) which has been assessed by the council's ecological advisors who have confirmed that the proposal is acceptable subject to the imposition of recommended planning conditions in respect of enhanced mitigation measures, implementation of badger mitigation measures and an external lighting strategy.
- 8.45** Subject to compliance with conditions it is considered that the proposal would have an acceptable impact on ecology and biodiversity.

Section 106 obligations

- 8.46** 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.

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.
- 8.47** 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.

8.48 Requests have been made by consultees to secure the following contributions:

- £10,000 for a bus shelter in the vicinity of the site
- Provision of three affordable homes

These obligations could be secured by a deed of variation to the extant S106 agreement in respect of the permitted scheme at the site.

9. Conclusion

9.1 On the basis that the Council cannot at this time demonstrate a five year supply of deliverable housing sites, the Council's policies for the supply of housing are out of date. In accordance with Paragraph 11 of the NPPF, the presumption in favour of sustainable development indicates that permission should be granted unless policies for protecting areas of assets of particular importance in the NPPF provide a clear reason for refusing the development proposed, or any adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. There are no NPPF policies for the protection of areas or assets of particular importance which apply in this case and therefore, it is clear that the decision-making process for the determination of this application is to assess whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

9.2 Furthermore, the application benefits from an existing fallback provision gained at appeal where the Inspector considered that the site is an appropriate location for residential development and that permission remains extant.

Benefits

9.3 The benefit of the proposal arises from the delivery of four market dwellings and three discount market sale dwellings, although it is accepted that those benefits are limited by virtue of the small scale of the development proposed. In terms of economic benefits it is now widely accepted that new housing developments bring benefits during the construction phase through additional spending power in the local economy as a result of the increased population, although these economic benefits are similarly limited relative to the scale of the proposed development.

Harms

9.4 The development would have some landscape harm in that it would introduce buildings upon an existing field parcel, however, given the scale of the proposal and the existing extant consent for the use of the site for housing development these harms are very limited.

Neutral

9.5 Subject to compliance with conditions it is considered that the proposed development would have no undue impact in terms of design, residential amenity, ecology and flooding.

- 9.6 In the absence of a signed deed of variation obligation, the highways authority have advised that the application fails to provide sufficient measures to promote sustainable transport modes. Similarly in the absence of a signed planning obligation the application would fail to deliver affordable housing and would not meet the needs of groups with specific housing requirements. However, the applicant has indicated that they would enter into a planning obligation to secure these terms should planning permission be granted.

10. Recommendation

- 10.1 Taking into account all of the above, it is considered that the proposal when considered against relevant planning policy, read as a whole, and the identified benefits is acceptable. It is recommended that **authority be delegated to the Development Manager to permit the application subject to the completion of a deed of variation to secure a bus shelter contribution, affordable housing and subject to the conditions set out below:**

11. Conditions

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

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

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

- Proposed Site Plan – Drawing No. 21027 10 PL3
- East and West Street Scenes – Drawing No. 21027 11 PL3
- Units 1-2 – East and West Elevations – Drawing No. 21027 12 PL2
- Units 1-3 – North and South Elevations – Drawing No. 21027 13 PL2
- Units 3-5 – East and West Elevations – Drawing No. 21027 14 PL2
- Units 4-6 – North and South Elevations – Drawing No. 21027 15 PL3
- Units 5-7 – East and West Elevations – Drawing No. 21027 16 PL3
- Type A – Floor Plans – Drawing No. 21027 19 PL1
- Types B and C – Floor Plans – Drawing No. 21027 20 PL1
- Garage & Garden Room Elevations – Drawing No. 21027 21 PL2
- Proposed Levels – Drawing No. 21027 22 PL1
- Existing Levels – Drawing No. 21027 23 PL1
- Design & Access Statement – Sutton Cox Architects – June 2022
- Landscape Strategy – Drawing No. 21053.101 Rev C
- Preliminary Ecological Appraisal Report - WWE19029/PEA/REV_B
- Ecological Impact Assessment Report (Badger Survey) – WWE22010 ECIA Rev A
- Flood Risk Assessment – October 2022
- Water Management Statement – 27th September 2022
- Storm Sewer Design by Cotswold Transport Planning dated 30/03/2023

Except where these may be modified by any other conditions attached to this permission.

Reason: To ensure that the development is carried out in accordance with the approved plans.

- 3 Notwithstanding the elevation of unit 1 as detailed on drawing number 2107-13PL2 the second-floor window of the northern gable elevation shall be obscured glazed and be similarly maintained thereafter.

Reason: To protect the amenity of adjoining occupiers.

- 4 No development including demolition, site clearance, materials delivery or erection of site buildings, shall start on the site until measures to protect trees/hedgerows on and adjacent to the site have been installed in accordance with details that have been submitted to and approved in writing by the local planning authority. These measures shall include:

1. Temporary fencing for the protection of all retained trees/hedgerows on and adjacent to the site whose Root Protection Areas (RPA) fall within the site to be erected in accordance with BS 5837(2012) or subsequent revisions (Trees in Relation to Design, Demolition and Construction). Any alternative fencing type or position not strictly in accordance with BS 5837 (2012) shall be agreed in writing by the local planning authority prior to the start of development. The RPA is defined in BS5837(2012).

2. Construction Exclusion Zone (CEZ): The area around trees and hedgerows enclosed on site by protective fencing shall be deemed the CEZ. Excavations of any kind, alterations in soil levels, storage of any materials, soil, equipment, fuel, machinery or plant, site compounds, cabins or other temporary buildings, vehicle parking and delivery areas, fires and any other activities liable to be harmful to trees and hedgerows are prohibited within the CEZ, unless agreed in writing with the local planning authority.

The approved tree protection measures shall remain in place until the completion of development or unless otherwise agreed in writing with the local planning authority.

Reason: To ensure adequate protection measures for existing trees/hedgerows to be retained, in the interests of visual amenity and the character and appearance of the area

- 5 Prior to commencement of any development within a Construction (and demolition) Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include (but is not limited to):
- a. Site access/egress
 - b. Staff/contractor facilities and travel arrangements
 - c. Dust mitigation
 - d. Noise and vibration mitigation (Including whether piling or power floating is required and please note white noise sounders will be required for plant operating onsite to minimise noise when in operation/moving/ reversing)
 - e. Mitigation of the impacts of lighting proposed for the construction phase
 - f. Measures for controlling leaks and spillages, managing silt and pollutants
 - g. Plans for the disposal and recycling of waste
- Development shall take place only in accordance with the approved CEMP.

Reason: To protect existing and proposed properties from the impacts of short-term exposure to noise, vibration, light and dust nuisance.

- 6** Prior to development a noise assessment shall be undertaken to ascertain any potential impact of the following.

- Road traffic noise from the A38
- Noise associated with Heat pumps if installed (Both individual and cumulative impact)

The noise should be assessed in accordance with BS 8233:2014, BS4142:2019 (or any amended or superseding standard) and any other relevant British Standards. The report shall include the following;

- A baseline noise survey
- An assessment of likely impact.
- Predicted modelled noise levels at the site.
- Where appropriate, mitigation measures to reduce the noise to within acceptable levels at the proposed development and/or existing properties.

The report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect proposed future occupiers from the impacts of medium and long-term exposure to noise

- 7** No dwelling hereby permitted shall be occupied until a scheme to protect the proposed development from traffic noise from the A38 has been implemented in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the indoor ambient noise levels in living rooms and bedrooms and external amenity areas meet the standards in BS 8233:2014 for the appropriate time period. The development shall be carried out in strict accordance with the details so approved.

Reason: To protect proposed future occupiers from the impacts of medium and long-term exposure to noise

- 8** No development shall take place until an Ecological Mitigation, Enhancement and Management Plan expanding on the measures details set out in the Ecological Impact Assessment and Preliminary Ecological Appraisal have been submitted to and approved in writing by the Local Planning Authority. This plan should also include precautionary mitigation for otters, amphibians and reptiles, and recommendations for. It should include the location and specification of ecological enhancement features and details of their implementation.

Reason: To safeguard wildlife.

- 9** No work above floor plate level shall be carried out until details or where appropriate samples of the facing and roofing materials, including timber cladding, windows, doors and their reveals have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- 10** No above ground works shall take place until a lighting strategy scheme covering both construction and occupation phases has been submitted to and approved in writing by the Local Planning Authority detailing location and specification of the lighting supported by contouring plans demonstrating any light spill into adjacent habitats. This plan shall be completed in conjunction with advice from the project ecologist. And works implemented and maintained in accordance with the approved details.

Reason: To mitigate the impacts of light pollution.

- 11** During the construction phase (including demolition and preparatory groundworks), no machinery shall be operated, no process shall be carried out and no deliveries shall be taken at or dispatched from the site outside the following times: Monday-Friday 8.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the noise climate and amenity of local residents.

- 12** No development above damp course level shall take place until there has been submitted to and approved by the local planning authority in writing, a comprehensive scheme of hard and soft landscaping, including boundary fencing and hard surfacing materials, which shall include indications of all existing trees (including spread and species) and hedgerows on the land and details of any to be retained together with measures for their protection during the course of development.

Reason: to create a high-quality environment in the interests of visual amenity and privacy

- 13** All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building(s) or completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species

Reason: In the interests of visual amenity and privacy.

- 14** If, during development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved measures.

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

- 15** No above ground development shall start apart from site clearance until a detailed design, maintenance and management strategy and timetable of implementation for the surface water drainage strategy presented in the Flood Risk Assessment – October 2022 and Water Management Statement – 27th September 2022 has been submitted to and approved in writing by the Local Planning Authority. The submitted details must demonstrate the technical feasibility and viability of the proposed drainage system through the use of SuDS to manage the flood risk to the site and elsewhere and the measures taken to manage the water quality for the lifetime of the development. The scheme for the surface water drainage shall be implemented in accordance with the approved details and timetable and shall be fully operational before the development is first put in to use/occupied.

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

- 16** No above ground development shall start apart from site clearance until the detailed design proposals for the attenuation basin have been submitted to and approved in writing by the Local Planning Authority. The details submitted shall include a safety risk assessment, levels, profile, sections, inlet and outlet structures and safety benches. The details shall include a SuDS management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The attenuation basin shall be constructed in accordance with the approved detailed design proposals before the development is first brought into use. The approved SuDS management and maintenance plan shall be implemented in full in accordance with the approved details for the lifetime of the development.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution. The details need to be submitted prior to the commencement of any works to ensure that the ability to implement a satisfactory drainage system is not compromised.

- 17** The development hereby permitted shall not be occupied until a SuDS management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime, has been submitted to and approved in writing by the Local Planning Authority. The approved SuDS maintenance plan shall be implemented in full in accordance with the approved details for the lifetime of the development.

Reason: To provide for the continued operation and maintenance of sustainable drainage features serving the site and to ensure that the development does not result in pollution or flooding, to improve water quality at point of discharge.

- 18** No building hereby permitted shall be occupied until details of the design, implementation, maintenance and management of foul water drainage works package sewage treatment plant have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out, and the drainage maintained/managed, in accordance with the approved details.

Reason: To ensure development would not result in unacceptable risk of pollution or harm to the environment.

- 19** No building hereby permitted shall be occupied until the vehicular parking and turning facilities have been provided in accordance with the submitted plan drawing no. PL19-290-14B, and those facilities shall be maintained available for those purposes thereafter.

Reason: In the interest of highway safety.

- 20** Prior to first occupation/use of the site, a report prepared by an appropriately qualified and experienced Ecological Clerk of Works demonstrating implementation of the badger mitigation/enhancement measures as set out in the Ecological Mitigation, Enhancement and Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard protected species.

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 by offering pre-application advice, publishing guidance to assist the applicant, and publishing the to the Council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.
- 2** The applicant is advised of the presence of a high-pressure gas main within the application site which is categorised as a Major Hazard Pipeline. The applicant is advised to contact the Health and Safety Executive prior to commencement of development on site to ensure that safety measures and put in place for site operatives, and nearby residence.