

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Tuesday, 19 December 2023 commencing  
at 9:30 am**

## **Present:**

Chair  
Vice Chair

Councillor P E Smith  
Councillor S Hands

## **and Councillors:**

H J Bowman (Substitute for M Dimond-Brown), M A Gore, D J Harwood, G C Madle,  
J R Mason, R J E Vines, P N Workman and I Yates

## **also present:**

Councillor C L J Carter

## **PL.47 ANNOUNCEMENTS**

- 47.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 47.2 The Chair gave a brief outline of the procedure for Planning Committee meetings, including public speaking.

## **PL.48 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

- 48.1 Apologies for absence were received from Councillors M Dimond-Brown, M L Jordan, G M Porter and R J G Smith. Councillor H J Bowman would be a substitute for the meeting.

## **PL.49 DECLARATIONS OF INTEREST**

- 49.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.
- 49.2 The following declarations were made:

<b>Councillor</b>	<b>Application No./Agenda Item</b>	<b>Nature of Interest (where disclosed)</b>	<b>Declared Action in respect of Disclosure</b>
D J Harwood	Item 5f – 23/00850/FUL – Pear Tree Cottage, Tumper View, Brockworth.	Is a Borough Councillor for the area.	Would speak and vote.

R J E Vines	Item 5e – 23/00874/FUL – Part Parcel 8019, Chargrove Lane.  Item 5f - 23/00850/FUL – Pear Tree Cottage, Tumper View, Brockworth.	Is a Gloucestershire County Councillor for the area.	Would speak and vote.
I Yates	Item 5b – 22/00777/OUT – Garages to the Rear of Properties 68-74 Yew Tree Way, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in Planning matters.	Would speak and vote.

49.3 There were no further declarations made on this occasion.

## **PL.50 MINUTES**

50.1 The Minutes of the meeting held on 21 November 2023, copies of which had been circulated, were approved as a correct record and signed by the Chair.

## **PL.51 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL**

51.1 The objections to, support for, and observations upon the various applications as referred to in Appendix 1 attached to these Minutes were presented to the Committee and duly taken into consideration by Members prior to decisions being made on those applications.

### **23/00661/FUL - Lunn Cottage, Aston Cross, Tewkesbury**

51.2 This application was for erection of 10 dwellings, garages, construction of internal estate road, formation of parking areas and gardens/amenity space.

51.3 The Principal Planning Officer advised that this was a full application for a development of 10 dwellings at Aston Cross. The site was located close to the A46 and immediately adjacent to a similarly designed, and now developed, residential scheme and would take its access through this site; a benefit of the proposal was that it would remove the existing private domestic access from the A46. The site was outside of the Tewkesbury Town area development boundary but close to it and consisted of the side and rear curtilage of Lunn Cottage which was partly laid to garden and partly open land including an orchard area adjacent to the Tirlle Brook. The proposed layout consisted of two sets of semi-detached dwellings on the northern part of the site facing the main road and six link detached dwellings on the remainder which sat behind the previously developed Queen's Head public house site. Members may recall that the proposal was refused by Planning Committee earlier this year on the main ground of its location being outside the settlement boundary, and therefore in conflict with the housing policies set out in the Tewkesbury Borough Plan; it should be noted that the applicant had appealed that decision. The current application had been submitted on the basis that the Local Planning Authority no longer could identify a five year housing land supply. The Council had agreed this position and, on that basis, taking into account that the site was located immediately adjacent to a residential development and in close proximity to the Tewkesbury Town area, there was no longer an in principle

objection to the proposed development. There were no clear refusal reasons arising from National Planning Policy Framework policies for the protection of areas, or assets of particular importance in this case, and matters of design, ecology, highways and drainage had been resolved subject to the conditions set out in the Committee report. Therefore, subject to the satisfactory completion of a legal agreement to secure the affordable housing mix on-site and off-site community infrastructure as explained in the Committee report, the Officer recommendation was for a delegated permit.

- 51.4 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to delegate authority to the Associate Director: Planning to permit the application, subject to the conditions set out in the report and satisfactory completion of a Section 106 Agreement to secure the affordable housing and community infrastructure with authority to amend the terms/wording of the conditions/Section 106 Agreement if appropriate to secure the necessary mitigation relevant to the development, and he sought a motion from the floor. A Member raised concern based on the location of the flood zone that water could go up to the edge of the properties and, as she could not see an attenuation pond in the plans, she asked how run-off would be dealt with. The Principal Planning Officer advised that the Lead Local Flood Authority had been consulted on the application and raised no objections based on the drainage strategy which had been submitted. There was attenuation within the driveway area which was not shown on the particular plan but was included within the drainage strategy. Page No. 39, Paragraph 8.22 of the Committee report confirmed that use of the land at risk of flooding as public open space was considered to be acceptable by the Council's Flood Risk Management Engineer. As such, there was no drainage reason to refuse the application. The Member expressed the view that residential amenity would be impacted and she continued to be concerned about the close proximity of the flood zone; her view was that properties should be moved away from the flood zone. The Principal Planning Officer reiterated that the statutory consultees had raised no concerns being as this was garden land or public open space. The Member went on to point out that at the other end of the site the houses were positioned directly onto the A46 which was a very busy road with a traffic lighted junction but she could find no comment from the Environmental Health Officer regarding noise. One of the proposed conditions talked about acoustics and she asked if that was in relation to those particular properties or another matter. She also questioned what mitigation would be put in place in relation to noise and residential amenity. In response, the Principal Planning Officer advised that a noise assessment had been carried out and the Environmental Health Officer had recommended that the noise mitigation measures as detailed in the assessment were carried out as reflected in proposed condition 15. She explained that the frontage of the dwellings had been designed so there was very little fenestration and with rear gardens on the opposite side. Another Member raised concern about air pollution given the slow moving traffic which often queued along the A46 as far as the Teddington Hands roundabout and questioned whether an assessment had been undertaken. The Principal Planning Officer advised that the Environmental Health Officer had not raised any concerns in relation to that issue and had not indicated that a noise assessment was necessary.
- 51.5 With regard to Page No. 42, Paragraph 8.40 of the Committee report, a Member noted that the Council's Housing Enabling Officer had stated a preference for social rent tenures for the four affordable homes and she asked how much weight that held. The Principal Planning Officer advised that she had spoken to the applicant's agent who confirmed the applicant was amenable to three social rent and one shared ownership unit as requested by the Housing Enabling Officer. A Member drew attention to Page No. 33, Paragraph 1.7 of the Committee report which stated that a planning obligation would be required to secure the affordable dwellings and asked whether that had been secured. In response, the Principal Planning Officer

clarified that the Officer recommendation was for a delegated permit subject to a Section 106 Agreement to secure the affordable housing. The Legal Adviser confirmed that the Section 106 was currently in progress. A Member noted that this proposal had previously been refused by the Planning Committee and asked if there were any differences between the two applications. In response, the Principal Planning Officer confirmed that the layout was exactly the same but there were some small changes in terms of materials.

- 51.6 A Member indicated that it did not appear that the Environmental Health Officer had been consulted specifically in relation to the potential air pollution issue and sought confirmation it had been looked at. In response, the Principal Planning Officer indicated that, if the Environmental Health Officer had been concerned about air pollution in that location they would have brought this to the attention of Planning Officers in their response which they had not done on this occasion. Another Member reiterated that the A46 was one of the busiest roads in the borough, not only at rush hour, due to the series of traffic lights along the road and he was surprised no air quality check had been undertaken. As such, he asked if it was possible for the Committee to request that an air quality survey be carried out. The Development Management Team Manager (East) reminded Members there was an open appeal relating to this site which was due for determination imminently and the Council was required to deliver a response to the Planning Inspector which would include where it stood in relation to this application. There was an expectation that a suite of issues would be covered in the Council's consultation response including air quality, noise and residential amenity issues. He would be reluctant to defer the application on that basis and given that the statutory consultee had raised no further objection on that point. In response to a Member query regarding timescales for the appeal, the Principal Planning Officer advised that the Council's statement needed to be submitted in January and a decision on the appeal was anticipated in March albeit that was not within the Council's remit.
- 51.7 A Member noted that this application was being considered in a completely different set of circumstances to the earlier application which was now the subject of an appeal as the Council was no longer able to demonstrate a five year housing land supply. Whilst she recognised there was a development at the bottom of the site, none of those properties aside from the flats faced onto the A46 yet new residents were already complaining about noise from the A46. The Development Management Team Manager (East) explained that the application which had been refused by the Committee was identical to this in terms of design and layout so those issues would have been looked at by Members previously and had not been identified as reasons for refusal at that time.
- 51.8 It was proposed that the application be deferred in order to undertake an air quality assessment. The proposer of the motion indicated that he had no issue with the principle of residential development on the site but was unhappy with the proximity of the dwellings to the junction and the potential impact on residential amenity in terms of air pollution. The Development Management Manager (South) stressed that there was an appeal in relation to the site and no concerns had been raised regarding air quality in determining that application; if the Council was to amend its position it could be seen as creating additional reasons for refusal. He suggested delegating authority to the Associate Director: Planning to permit the application subject to the Environmental Health Officer not raising any concerns in respect of air quality and pointed out that it was possible that any issues could be resolved by ventilation and other technical means which could be secured by condition. The proposer of the motion indicated that he would like to see up-to-date data on air quality based on the proposed layout. The Development Management Manager (East) advised that the layout had been designed with the front of the development in mind and he was not sure what could be done to improve the situation for the properties fronting onto the A46 without a complete redesign; he reiterated that mitigation may be by internal measures as opposed to the design or layout of the

site. A Member clarified that, having looked at the previous application, it appeared that the Environmental Health Officer had been consulted on air quality and raised no concerns – she felt it would have been helpful for that information to have been included within the current Committee report. Notwithstanding this, she was unable to support the application. Another Member expressed the view that mechanical ventilation would be better than moving the properties away from the road and she asked if that could be made a condition. The Development Management Manager (South) advised that as there was no identified harm or issues in respect of air quality it would be unreasonable to include a requirement for mechanical ventilation.

51.9 A Member indicated that she would be happy to support a delegated permit subject to an up-to-date assessment of air quality by the Environmental Health Officer and the Development Management Manager (South) clarified that an assessment had been undertaken as part of the previous application. As such, he suggested a delegated permit subject to the Environmental Health Officer having no further concerns; should there be any concerns they would be dealt with in the appropriate manner but his advice was that it would be unreasonable to require an air quality survey at this stage. A Member found it hard to believe there was no issue with air quality given that this part of the A46 essentially became a car park with Heavy Goods Vehicles (HGVs) engines ticking over for the majority of the time. He understood it was necessary to accept the views of the statutory consultees but he questioned whether anyone had actually been to the site to assess it. With regard to the flood zone issue, he asked whether this included the percentage allowance for climate change and was advised that it was the Environment Agency's identified flood zone which took into account climate change for 1 in 100 year floods.

51.10 The proposer of the motion to defer the application indicated that, given that it had been identified that the Environmental Health Officer had no concerns regarding air pollution in relation to the previous application, a developer was likely to use that argument at an appeal and he did not want to be responsible for costing the Council, and the taxpayer, money and withdrew his motion on that basis. It was subsequently proposed and seconded that authority be delegated to the Associate Director: Planning to permit the application subject to the conditions set out in the report, satisfactory completion of a Section 106 Agreement to secure the affordable housing and community infrastructure with authority to amend the terms/wording of the conditions/Section 106 Agreement if appropriate to secure the necessary mitigation relevant to the development, and confirmation from the Environmental Health Officer there were no concerns regarding air quality. A Member indicated that she wished to put on record that, as a Ward Councillor for the area, she had major concerns in relation to properties 8, 9 and 10 regarding fumes and noise pollution from the A46. Upon being put to the vote, it was

**RESOLVED** That authority be **DELEGATED** to the Associate Director: Planning to **PERMIT** the application subject to the conditions set out in the report, satisfactory completion of a Section 106 Agreement to secure the affordable housing and community infrastructure with authority to amend the terms/wording of the conditions/Section 106 Agreement if appropriate to secure the necessary mitigation relevant to the development, and confirmation from the Environmental Health Officer there were no concerns regarding air quality.

### **22/00777/OUT - Garages to the Rear of Properties 68-74 Yew Tree Way, Churchdown**

51.11 This was an outline application for demolition of 10 existing garages and erection of three residential dwellings including details of access with all other matters (layout, scale, appearance and landscaping) to be reserved for future consideration.

- 51.12 The Development Management Manager (South) advised that the application site related to a parcel of land which comprised ten 'lock-up' garages and hardstanding to the rear of properties at Yew Tree Way and Hawthorn Drive in Churchdown. The application sought outline planning permission for three dwellings with all matters reserved except access. The indicative site layout plan submitted in support of the application showed how the site could be laid out with a terrace of three properties facing to the south-west, providing private gardens to the rear and a hard surface area to the front with two parking spaces for each property. The application site was within the built-up area of Churchdown and comprised previously developed land. The principle of development in this location was in accordance with relevant policies and considered acceptable. Concerns had been raised in respect of loss of parking, displacement of vehicles, loss of access to gardens and impact on amenity. It was noted that the application had been supported by a parking survey which demonstrated sufficient on-street spaces available to accommodate any displaced parking and the illustrative layout showed that sufficient separation from existing dwellings could be achieved so as not to impact living conditions of these occupiers. In terms of rights of access to the rear of existing properties, this was ultimately a civil matter; however, the applicant had demonstrated on the submitted plans that a pedestrian access could be accommodated within the site as part of this development to serve the adjacent houses. The proposal was therefore considered to be acceptable and it was recommended that the application be permitted subject to the conditions set out in the Committee report.
- 51.13 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. In response to a Member query regarding parking, the Development Management Team Manager (South) advised that the garage and parking court were in private ownership; whilst residents of Yew Tree Way parked there currently, use of the area could be restricted at any time by the landowner and there was no legal right for them to park there. A Member asked whether the parking area and garage were part of the original proposal when it was built and the Development Management Team Manager (South) confirmed that it would have been part of the development at the time. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. A Member expressed the view that the level of parking around Yew Tree Way was concerning with parallel parking on the main trunk road; although it was a wide road, there was an unwritten rule that cars would park next to one another forming two rows all along the bend turning into the road. Whilst she did not feel the application could be refused on that basis, she considered it would lead to more traffic issues.
- 51.14 Upon being put to the vote, it was
- RESOLVED** That the application be **PERMITTED** in accordance with the Officer recommendation.

**22/00857/PIP - Land to the Rear Cleeve Road, Gretton Road, Gotherington**

- 51.15 This was a permission in principle application for the erection of between one and six dwellings.
- 51.16 The Planning Officer advised that the site was located just outside of the defined housing development boundary, within a Special Landscape Area and a gap of local importance. As explained within the Committee report, the Council could not demonstrate a five year supply of deliverable housing land and therefore the most important policies for determining the application were deemed out of date. On that basis, the decision must be determined in accordance with paragraph 11(d) of the National Planning Policy Framework. There would be some harm arising from the development through conflict with development plan policies and the spatial strategy relating to housing and landscape harm; however, the site was considered to be

broadly sustainable and there would also be economic and social benefits as a result of the development. It was considered that the identified harms would not significantly and demonstrably outweigh the benefits, as such, the Officer recommendation was to permit the application.

- 51.17 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. A Member sought clarification as to the scope of a permission in principle application and was reminded it was limited to location, land use and amount. In response to a query as to whether the existing barns would be taken down, the Planning Officer advised as far as she was aware the corrugated metal structure would be removed as part of the development. A Member noted that this application required a Committee determination due to an objection from the Parish Council on the grounds of the dwellings being too tall compared to existing properties and not being in keeping with the character and appearance of the street; however, his understanding was that these matters could not be considered at this stage of the process. In response, the Development Management Team Manager (East) advised that these were not the exact comments made by the Parish Council in their entirety. As detailed in the Committee report, the application had originally been for a greater number of units and this had been reduced through negotiation following which the Parish Council had been reconsulted. It was possible to consider some elements of landscaping as part of the layout which was why it had been deemed appropriate to bring the application to Committee for determination. A Member noted that the site was allocated as a gap of local importance within the Tewkesbury Borough Local Plan; she was concerned that applications such as this were eating away at the gap between Gotherington and Bishops Cleeve and asked if that was a reasonable consideration in relation to this permission in principle application. The Development Management Team Manager (East) confirmed that the policy formed part of the development plan and had been taken into consideration in the planning judgement in relation to this application; in this instance, it was considered that the harm was outweighed by the benefits of bringing housing forward.

- 51.18 It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. The proposer of the motion recognised that the argument in respect of the strategic gap could not be relied on in terms of a reason for refusal but felt there were discussions to be had at the technical matters stage regarding design and layout given the need to be sensitive to the site and she asked that subsequent applications be brought to the Committee for determination. Upon being put to the vote, it was

**RESOLVED** That the application be **PERMITTED** in accordance with the Officer recommendation.

### **23/00280/FUL - Bushcombe House Farm, Bushcombe Lane, Woodmancote**

- 51.19 This application was for demolition of three existing barns and construction of three new buildings for use as holiday lets and conversion of an existing barn into a holiday let.
- 51.20 The Senior Planning Officer advised that this application related to Bushcombe House Farm; the land within the applicant's ownership was extensive including two operational holiday let businesses within its bounds: Bushcombe House Farm and Bushcombe House Lodge. The application had been brought to the Planning Committee for determination due to concerns raised by the Parish Council relating to principle, highways matters, impact on the Cotswold National Landscape and drainage. In terms of principle, this was the expansion of an existing rural business through the appropriate conversion of an existing stone building and the erection of three well-designed new buildings in the place of structures which were in poor

condition and of no architectural merit. Although it was beyond the settlement boundary, the location was considered to be sustainable for the purposes of tourism policy which was supported by the County Highways Officer. As such, the principle of development was acceptable. Turning to the remaining highway matters, the existing safe and suitable access was sufficient to serve the site and the parking would be accessible and proportionate, with capacity to accommodate the anticipated trip generation without resulting in highway safety issues. The County Highways Officer had visited the site and raised no objections. In terms of the impact on the National Landscape, the policy test required the development to conserve its scenic beauty and special qualities and it was considered that the development would achieve that. Planning conditions had been included to limit the impact of the development upon the surrounding landscape including restriction of materials, finished floor levels, external lighting, the removal of permitted development rights and the submission of a full landscaping scheme including boundary treatments. The comments made by a local Ward Councillor in his role as Flood Warden, as set out in the Additional Representations Sheet, attached at Appendix 1, were noted but did not change the recommendation. Officers wished to emphasise that the site was located within flood zone 1, as defined by the Environment Agency, indicating the lowest probability of risk for surface water flooding. A drainage condition had been suggested requiring the developer to submit detailed drainage information prior to the commencement of any development which the developer had agreed to. The Council's Flood Risk Management Engineer had reviewed the proposals along with the condition and was satisfied the development would result in an acceptable impact on drainage and flooding subject to that condition. Given that the application was in accordance with all relevant policies and comprised sustainable development, the Officer recommendation was to permit.

- 51.21 The Chair invited the applicant's agent to address the Committee. The applicant's agent advised that the National Planning Policy Framework, the Joint Core Strategy and Tewkesbury Borough Plan all contain policies that were heavily weighted towards supporting a vibrant rural economy and a strong rural tourism sector. In particular, the National Planning Policy Framework talked of support for the expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings; this included new tourist accommodation, echoed in Policy TOR2 of the Tewkesbury Borough Plan and the Council's Economic Development and Tourism Strategy which supported proposals for serviced or self-catering accommodation where it involved either the re-use of buildings or the expansion of existing tourist accommodation sites. As set out by Officers, this proposal fitted squarely with those policies. Bushcombe House Farm was already a very successful holiday let which was registered with the English Tourist Board. In 2019, Tewkesbury Borough Council granted permission for a new build holiday cabin on the opposite side of Bushcombe Lane, in association with the tourist accommodation offering at Bushcombe House Farm which had proven to be successful. The current proposal would extend the tourism offering of the site which was supported by policy. The current proposal sought to convert, and in some cases replace, existing disused buildings and outbuildings in the grounds of Bushcombe House Farm for further tourist accommodation. The buildings to be replaced were those of low architectural and structural merit with new buildings that would be set around a traditional farmyard complex layout with the design also mimicking a traditional range of barns. The opportunity to re-use and, where necessary, replace existing redundant and uncharacteristic buildings with higher quality design and appearance represented a substantial improvement to the character of the National Landscape. The enhancement to the Area of Outstanding Natural Beauty provided a significant sustainability benefit. All professional statutory consultees supported the application and there were no objections from County Highways, the Conservation Officer, Lead Local Flood Authority, Environmental Health or Ecology. In particular, County Highways acknowledged



that uses such as this were very low vehicle generating and had negligible impact on the local highway network. The applicant's agent recognised Woodmancote Parish Council had objected to this application; however, he suggested that Parish Councils ought to be supporting of rural tourism, particularly those with a duty of ensuring that the Cotswolds remained a strong tourist designation. Indeed, the Cotswold National Landscape Management Plan, a document that the Parish Council often referenced, stated that the natural beauty of the Cotswolds National Landscape was the foundation on which the tourism industry in the Cotswolds was based. Happily, nothing raised by the Parish Council caused substantive planning concerns, as confirmed by Officers. The applicant's agent hoped Members would feel able to lend their support to this proposal which would only improve the choice and availability of tourist accommodation in one of the country's most sought after tourist spots.

- 51.22 The Chair indicated that the Officer recommendation was to permit the application and he sought a motion from the floor. A Member sought confirmation that electric vehicle charging points would be provided given there would be high reliance on car use and the Senior Planning Officer confirmed that was required by building control legislation therefore a planning condition was unnecessary. A Member asked what the difference was between a residential property and a holiday let and whether there was a restriction on use. In response, the Senior Planning Officer explained they were both Class C3 use and the holiday let restriction was via planning condition. In this case, it was proposed that conditions 14 and 15 be imposed in order to restrict use to a holiday let and for the owners/operators of the holiday lets to maintain an up-to-date register of the names of all owners/occupiers of the accommodation in order to evidence use as a holiday let. Another Member drew attention to Page No. 96, Paragraph 8.22 of the Committee report which stated that the existing development equated to 188 square metres with the proposed development equating to a total of 263 square metres and, being mindful of the concerns raised by a local Ward Member in relation to flooding, she asked whether it was intended to improve the drainage. The Senior Planning Officer confirmed there would be an increase in the overall footprint but there was currently no formal drainage whatsoever on the site, therefore, there would be a betterment as a result of the development. The Member asked whether permeable surfaces were proposed and was advised that a landscaping condition was suggested in addition to a drainage condition requiring submission of a landscape strategy which would show which areas would be hardscape and softscape and that could be negotiated as part of that condition. In response to a query as to whether the amount of non-permeable surface would be reduced, the Senior Planning Officer indicated that was potentially the case but full details were not available at this stage; there would need to be some hardscaping but there was scope if Members felt that should be reduced. She pointed out that the nature of the development meant it was in the applicant's interest to make the site look appealing and hardscaping would not necessarily achieve that. A Member asked why the applicant had not submitted a drainage plan given the concern in that regard and was advised that this was not required given the site's location in flood zone one; however, the Flood Risk Management Engineer had been consulted on the application and had indicated the proposals were generally acceptable subject to the submission of a detailed drainage design which could be secured via planning condition.

- 51.23 It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

**RESOLVED** That the application be **PERMITTED** in accordance with the Officer recommendation.

**23/00874/FUL - Part Parcel 8019, Chargrove Lane**

- 51.24 This application was for agricultural access onto Chargrove Lane – revision to application ref: 22/01375/FUL. The Planning Committee had visited the application site in relation to the previous application in June 2023.
- 51.25 The Senior Planning Officer drew attention to the Additional Representations Sheet, attached at Appendix 1, which referenced representations from a member of the public, the local Ward Councillor for the area and the applicant's agent - the latter pointed out an error in the report in that the applicant accepted the visibility splay would be 60 metres in total but there was not currently 60 metres of hedge within the visibility splay due to extensive gaps, as such, reinstatement, albeit in a different position, would result in a net gain of hedgerow. Furthermore, the Additional Representations Sheet set out that an additional condition had been proposed by County Highways which would be added to the decision notice should Members be minded to permit the application. The Senior Planning Officer indicated that Members would recall a previous version of this scheme was refused by the Planning Committee in June of this year. That application included a more substantial access suitable for articulated cattle trucks and a hard surfaced turning circle inside the field. The turning circle was no longer proposed and the access was to be used by tractor and trailer only, hence a smaller and less conspicuous field opening. That said, there remained significant opposition, largely due to the creation of a 60 metre visibility; Chargrove Lane was also a popular walking route in an attractive landscape setting. Officers acknowledged the recommendation to permit the application was perhaps finely balanced, though adequate mitigation in favour included realignment of the hedge and more targeted strengthening of the existing hedge outside of the visibility splay. Furthermore, the historic estate railings on the edge of Chargrove Lane were to be retained. Overall, Officers considered landscape harm was adequately reduced and mitigation was appropriate, to the extent that principal reasons for refusal of the last scheme had been overcome.
- 51.26 The Chair invited the applicant's agent to address the Committee. The applicant's agent indicated that Members may recall the previous application for an access in this location as confirmed by the Senior Planning Officer and advised that the previous access design was to provide entry and egress for an articulated cattle truck to allow the farmer entrance to the field for loading and off-loading; that application was refused due principally to landscape concerns. The application before Members was a revised scheme for a new agricultural access reduced and scaled back for tractor and trailer access only. As before, this would allow for safe entry and egress on to the lane by farm vehicles and machinery. The location of the access had been chosen for functional and safety reasons. The vehicles and machinery using the access would be for grass cutting in summer months, off-loading of cattle feed, animals, and transportation of portable cattle handling pens. As such, there was a very real need for this access. The revised design proposed landscape mitigation, including additional tree/copse planting to the south and north, and hedgerow reinstatement along the field boundaries. The hedgerow planting would add to the existing using diverse native species and he reiterated this would result in a net gain as confirmed by Officers. Natural crushed stone would be used for the access area, sourced from local quarries to reflect the muted tones and palette of the local landscape character. This access would be no different to any other agricultural access, being consistent with others present within the countryside. As such, the applicant's agent disagreed with objectors when stating it would be visually harmful. It was noted that no objections had been raised by the Council's Ecology Officer or County Highways. In summary, this was simply an application for an agricultural access into an agricultural field and Officers correctly acknowledged that it was not inappropriate development within the Green Belt; the

positive recommendation and detailed assessment in the Committee report was welcomed and he urged Members to permit the application and support a local farmer and his business.

- 51.27 The Chair indicated that the Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. The proposer of the motion expressed the view that it was important to support the effective operation of an agricultural business in the area. In response to a Member query, the Senior Planning Officer advised there was an existing access; however, it tended to be blocked by cars on the other side of the road. In response to a further query regarding tree planting, Members were informed that the landscaping plan suggested there was one Oak tree and several Maple trees.
- 51.28 Upon being put to the vote, it was
- RESOLVED** That the applicant be **PERMITTED** in accordance with the Officer recommendation.

### **23/00850/FUL - Pear Tree Cottage, Tumper View, Brockworth**

- 51.29 This application was for incorporation of buffer land into residential garden of Pear Tree Cottage, Tumper View, Brockworth (retrospective application).
- 51.30 The Planning Assistant advised that the application required a Committee determination due to an objection from Brockworth Parish Council based on harm to the Cotswold National Landscape. The site was a triangular piece of land, located south of the existing garden of Pear Tree Cottage and north of Green Street which passed the southern boundary of the site, with the Cotswold National Landscape falling south of Green Steet. The land would be used as garden space for Pear Tree Cottage, resulting in no harm to neighbouring residential amenity and no adverse impact to the highway network. The site itself was of very limited landscape value, being surrounded by, and therefore well related to, existing residential development, preventing any unacceptable encroachment into the wider landscape with views being dominated by the backdrop of the Brockworth settlement when viewed from Coopers Hill. As the proposal would be an appropriate use, respecting the form, character and setting of the settlement and with no adverse impacts upon residential amenity or highway safety, the Officer recommendation was to permit the application.
- 51.31 The Chair invited a local Ward Councillor for the area to address the Committee. The local Ward Councillor indicated that the land was directly adjacent to the Green Belt and Cotswold National Landscape and was previously part of two fields that were also designated but had been removed with the new line moved towards Watermead Lane. A buffer strip had been created as a mitigation between high density housing and beautiful countryside as part of an application for a development of 80 dwellings to ensure there was appropriate green infrastructure due to future loss of green space brought about by the development. Other green space, including two strips of land behind houses The Lodge and Castle Park down to Kennel Lane, approximately 20 metres by 100 metres, had also been taken into account as part of local green infrastructure when permission was given for the development. That green infrastructure had also been subject to a planning application for an additional 13 or so houses, as such, a great proportion of that had also been lost. Although he could see no reference to it in the Additional Representations Sheet, attached at Appendix 1, he believed that loss of green space was relevant to this application in terms of the protection given by the buffer. Housing density directly next to this site had not changed since planning permission was granted for development and designation of this small field as a buffer zone - Hillsgate Cottage, Watermead House, Pear Tree Cottage and Arlingham Cottage,

and surrounding houses, were still as per the plan with their associated gardens, as such, he questioned why there was now a change in view regarding the importance and designation of this land. Changing the site's designation set a precedent and he asked what would be stopping him from buying buffer zone land from developers, cutting down trees and seeking change of use for 10 or more houses some years later. The Council had declared a climate emergency and buffer zones were one of the tools to encourage green infrastructure, therefore, he felt Members should be supportive of retaining that land as a buffer zone.

- 51.32 The Chair indicated that the Officer recommendation was to permit the application and he sought a motion from the floor. A Member asked whether the owners of Pear Tree Cottage also owned this land and the Planning Assistant advised that the application form stated they were the only interested party which indicated they were the landowners. A Member queried whether it would be possible to remove permitted development rights due to the sensitivity of the land closest to the Green Belt and Cotswold National Landscape, should Members be minded to permit the application, and the Development Management Team Manager (East) confirmed that a condition could be included as Members saw fit but reminded them they were looking at a change of use in its entirety to residential use and what would come with that so it would be necessary to state specifically what would be restricted. The Member indicated that she would wish to restrict large structures such as home offices on that piece of land.
- 51.33 A Member indicated that she was concerned about visual impact of the proposal which she felt would be considerable and asked if this had been considered. The land had been allocated as a buffer zone and allowing this application would set a precedent which meant it would be impossible to say no to other applications which may come forward. Another Member asked if buffer zones had any legal protection and the Development Management Team Manager (East) advised that the buffer zone was included on the edge of the housing estate in 2008 and formed part of a condition only, it was not designated in the Tewkesbury Borough Plan and was different to a locally important space. The Legal Adviser confirmed that it was part of the landscaping scheme for that housing estate and was not legally designated in the same way as Green Belt or Cotswold National Landscape so it did not have that legal status and was not protected into the future – anyone could submit an application on that land at any point and it would be down to whether the Committee, or relevant Officers, felt it was appropriate when assessed against policy at that particular time. The Member asked whether the Council had any specific policies regarding buffer zones and the Development Management Team Manager (East) clarified that, whilst there were policies in relation to important gaps, Green Belt and important open spaces, there was no policy in relation to buffer zones specifically.
- 51.34 A Member sought clarification as to the percentage of 'greening' for the housing estate given there had previously been ancient hedgerow and Perry Pear Trees but nothing remained and allowing this application would take away the only buffer zone. The Development Management Team Manager (East) advised that it was difficult for Officers to give a percentage but the landscape plan associated with the development would direct where green space was located. The Member asked how others would be prevented from doing the same, should this application be permitted, and the Development Management Team Manager (East) explained that when the housing development to the north of the site was approved it had not included this section as there was a gap between the two; the original application was for 80 houses but subsequent dwellings had been approved therefore the context of the site had changed from the initial consent. A Member questioned whether the fencing had been up since 2014, assuming it had been used as a garden since that time, as she agreed this hardened the edge of the lane which had greenery on the other side. The Development Management Team Manager (East) confirmed the fence had been erected for over four years, albeit there was no

planning history. In response to a query as to whether the land was being used by the public or whether it was enclosed when the site was developed, Members were informed that the land had not been used by the public whilst in the current ownership but Officers did not have information prior to that. A Member noted that, if the land had been included within the residential boundary from the outset it would not have become wild and overgrown as it was now and he asked whether the applicant's name was on the land registry. The Legal Adviser explained that, in order to complete certificate A of the application form, the applicant must be the legal owner of the land; when it was informal open space such as this, where land was not transferred to the local authority or to a management company, some developers transferred plots to housing units and imposed restrictions on how it could be used in order to ensure there were no plots without ownership. The Development Management Team Manager (East) displayed the landscaping plan for the application and pointed out that the current site was marked as "existing tree, shrub and scrub area". A Member indicated that, if that was the case, she would want to protect the edge against the lane with more wild planting. In her view it needed to stay as a buffer zone – it had already been eaten into by the house next to it and, given the climate change emergency, she felt all plots of wild planting should be saved. A Member questioned whether scrub land could be a buffer zone and was advised that there were still parts of the buffer zone on the landscaping plan but this particular site was scrub land. Another Member queried whether it was possible to include a condition that the existing fencing had to be open so there was no harsh edge and was advised that fencing did not form part of the planning application which was for change of use of the site. It was within Members' gift to add conditions but they should bear in mind the test of reasonableness; the fence may well have consent due to the passing of time and it would be difficult to remove what was there already by way of condition. If the application was refused, a Member asked whether the land would remain as it was i.e. an enclosed piece of land with the fence still in place and the Development Management Team Manager (East) confirmed that would be the case. The Member questioned if the applicant could be asked to replant it as wild planting as they had removed it without permission, resulting in no conservation for the rest of the area, and the Development Management Team Manager (South) reiterated that the buffer zone was not a statutory designation and there was no condition requiring it to be retained as would be the case with a landscaping condition which may reference a period of five years after the implementation of the planning permission – in any case, five years had passed since the development was commenced so the trees could be removed without any recourse and it would be unreasonable to require the land to be reinstated.

- 51.35 It was proposed and seconded that the application be deferred for a Planning Committee Site Visit in order to assess the status of the land as a buffer zone and the impact on the Cotswold National Landscape, residential amenity and the view from the lane. The seconder of the motion indicated that a site visit had been requested prior to the Committee but had been refused by Officers. A Member asked on what grounds this had been refused and was informed that the process had not been followed correctly in terms of the request with no material planning reason for the visit provided until after the deadline. A Member expressed the view that, given the Officer's explanation regarding the buffer zone, it appeared there were no grounds for refusing the application and she questioned what the point was of calling something a buffer zone if it was potentially only in place for five years or less. The Development Management Team Manager (East) advised there would generally be a landscape impact reason for implementing a buffer zone. In terms of setting a precedent, this was not a material planning consideration and each case would be considered on its own merits – it may be there would be a different impact if other parts of the buffer zone were removed. In this instance, the original condition attached to the planning permission did not require the buffer zone to remain in perpetuity for the lifetime of the development and the site was within the

residential development boundary. The fencing could be looked into and, assuming there were enforcement cases open, Members could be updated as to progress. A Member agreed these were two separate issues and, provided there was a condition included on the planning permission to prevent the garden being developed, she could not support a deferral for a site visit as it was not possible to change what was there now. Upon being put to the vote, the motion was lost.

- 51.36 It was proposed and seconded that the application be refused in order to protect the buffer zone. The seconder of the motion indicated that Brockworth had taken a substantial amount of development and the buffer zone had been included to soften the edges and should be protected. A Member questioned what impact a refusal would have in terms of improving the current situation and the Development Management Team Manager (South) confirmed it would effectively be the status quo - the land would eventually become overgrown but the fence would remain. In response to a query, the Legal Adviser explained that enforcement action would be the most likely option regarding the fence but that would not stop residential use of the land and it would become lawful if it had been in use for 10 years; in this instance, the fence was considered to have been in place for nine years. A Member queried where the nine year figure had come from given that the images on Google maps showed the area being wild and overgrown. The Planning Assistant indicated the applicant's submission stated that the land had been used without planning consent as a garden since 2014 and no application had been made for a Certificate of Lawful Existing Use. The Enforcement team had prompted the application to be submitted. The most recent images were from 2012 and it was possible the fence had been erected at some point since that time, most likely in 2014 when it had been used as a garden. A Member questioned whether an application for residential development on that land would have been more favourable if the land was garden as opposed to scrub land and was advised that, although there would possibly be some support in terms of principle, land use was not particularly important as a decision would be based on a judgement of the landscaping impact of any new dwelling on a piece of land. The Legal Adviser reminded Members this was not relevant to the determination of the application today.
- 51.37 A Member expressed the view that the soft edge had already been lost with the erection of fencing which could not be rectified through refusal of this application. Upon being put to the vote, the motion to refuse the application was lost. It was subsequently proposed that the application be permitted in accordance with the Officer recommendation, subject to inclusion of a condition to remove the permitted development rights under Class E Schedule 2 Part 1. A Member felt that lessons needed to be learnt from this in terms of notifying the Enforcement team immediately of any unauthorised development, such as the erection of fencing. The Development Management Team Manager (East) confirmed the team was currently wholly reliant on people reporting unauthorised development. It should be borne in mind that there were permitted development rights for fencing so not everyone would require planning permission to erect them; however, this one was adjacent to a highway and therefore did require permission.
- 51.38 Upon being put to the vote, it was
- RESOLVED** That the application be **PERMITTED** subject to the inclusion of a condition to remove the permitted development rights under Class E Schedule 2 Part 1.

**PL.52 CURRENT APPEALS AND APPEAL DECISIONS UPDATE**

52.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Pages No. 134-136. Members were asked to consider the current planning and enforcement appeals received and the Department for Levelling Up, Housing and Communities appeal decisions issued.

52.2 A Member noted that the appeal in relation to 9B Beckford Road, Alderton had been dismissed by the Planning Inspector who had agreed with the Planning Committee's decision to refuse the application. The Development Management Team Manager (East) pointed out that, although it had been dismissed, the Inspector had raised the point there was not enough clarity in the refusal reason put forward by Members so whilst it was a positive result there were lessons to be learnt.

52.3 It was

**RESOLVED** That the current appeals and appeal decisions update be  
**NOTED.**

The meeting closed at 12:20 pm

## Appendix 1

**ADDITIONAL REPRESENTATIONS SHEET**

Date: 19 December 2023

The following is a list of the additional representations received since the Planning Committee Agenda was published and includes background papers received up to and including the Monday before the meeting.

A general indication of the content is given but it may be necessary to elaborate at the meeting.

Agenda Item No	
5c	<p><b>22/00857/PIP - Land To The Rear Of Cleeve Road, Gretton Road, Gotherington,</b></p> <p><b>Committee Update</b></p> <p>Within Paragraph 9.1 of the conclusion of the report it states 'the appeal' must be determined in accordance with paragraph 11 (d) (ii) of the NPPF, this should say 'the decision' rather than 'the appeal'.</p>
5d	<p><b>23/00280/FUL- Bushcombe House Farm , Bushcombe Lane, Woodmancote</b></p> <p><b>1.0 Late Representation from Councillor Adcock</b></p> <p>Comment on Water Management Plan for 23/00280/FUL Bushcombe House Farm, Woodmancote - Written by Nigel Adcock as Woodmancote Flood Warden.</p> <p>As of this morning I cannot open the water management part of the plan on the portal.</p> <p>I am becoming increasingly concerned over the cumulative impact of development on the lanes that lead from Cleeve Hill into Woodmancote. Each and every application states that we are not in flood zone 1, insinuating that flooding is not an issue for the village. We are a very long way from a river so in this sense that is correct. However, our particular geology and topography do lead to surface water flooding generated by big rainfall events. These are becoming more common. I have noticed that periods of prolonged rainfall are more frequent, meaning that the limestone hill and the clay upon which much of Woodmancote is built is saturated for longer. Any heavy rainfall event will therefore have a greater impact on the village.</p> <p>Developers often quote the drainage hierarchy in their plans. Often choosing the lowest rungs on the hierarchy as their plan to deal with excess water. The best option for excess water is to let it infiltrate the ground. More paved surface area including rooftops, patios, roads, driveways, paths etc will obviously inhibit this process. So there is more mention of attenuation tanks and hydro brakes with the assumption that they will replicate the behaviour of open ground. This is often followed by the suggestion that any excess water not dealt with by attenuation tanks and hydro brakes will then be allowed to follow our small and often inundated local watercourses. They also site the use of Severn Trent's combined sewer infrastructure as being a possibility. I know from Severn Trent that they do not want storm water entering their already struggling ( 225mm or 300mm) combined sewers. These sewers often "lock out " in terms of high rainfall meaning they cannot accept any more water. This weekend we have had raw sewage entering gardens in nearby Chapel Lane. The cause of this hasn't been found yet. It is still being investigated. Excess rainwater must contribute towards this</p>



	<p>situation amongst a variety of other reasons.</p> <p>I also have concerns over Riparian rights. Surely there is a responsibility not to pass excess water on to roads or downstream neighbours. On Thursday 8th December 2023 significant water was flowing rapidly down both sides and across Bushcombe Lane. This will only be added to by another development in this location.</p> <p>The slope of the lanes also needs to be considered given the steepness and potential instability of soils. I fear this might lead to land slips under certain conditions.</p> <p>Nigel Adcock (Flood Warden, Parish and Borough Councillor) 10th December 2003.</p> <p><b>2.0 Officer Comments</b></p> <p>Officers have checked and can assure that all documents are available to view via public access. The site is located within Flood Zone 1 and as such, there are no policy requirements for site-specific flood risk assessments.</p> <p>Officers have suggested a drainage condition (Condition 13) which requires the developer to submit detailed drainage information prior to the commencement of any development on the site. The developer is aware of, and has agreed to, this condition. Therefore, notwithstanding Councillor Adcock's comments, it is considered that the development can be made to be acceptable subject to the suggested detailed condition.</p>
5e	<p><b>23/00874/FUL - Part Parcel 8019, Chargrove Lane, Up Hatherley</b></p> <p><b>Four additional representations received</b></p> <p><b>1. Member of the Public:</b></p> <p>Existing field gate should continue to be used and widened if necessary</p> <p>Use of existing access will not harm setting of historic South Park gates</p> <p>Complete map of applicant's land has not been supplied</p> <p>Chargrove Lane is a low traffic recreational lane</p> <p>Agricultural justification not established.</p> <p><b>2. Councillor G M Porter:</b></p> <p>This application has come before the Committee a third time having had the benefit of a deferment to seek revisions which were still considered unacceptable. This present application has, it is admitted, reduced the size and scale which before were grossly out of proportion; however I still believe this proposed access is unduly harmful without the outweighing benefits which would justify it.</p> <p>It must first be recognised that access to this piece of land already exists and has been used for many years without incident. The applicant refers to the moving of cattle and fodder which is apparently difficult with the existing access. I think this is somewhat exaggerated as a key part of this proposal is that the large vehicles which had been proposed on the previous occasion are no longer going to be used.</p> <p>Adding more access from Chargrove Lane to a piece of land which is already accessible is in my submission severely detrimental to the character of the lane, and detracts from its undeveloped and rural nature. It is true that the applicant has found it difficult to use the existing access when cars have been parked on the lay-by (although how often there are cars parked there is debatable, as I am a frequent walker and only rarely see cars parked there); it is also true that the applicant can and has used the existing access in the past, with surely only minor</p>

inconvenience - perhaps the vehicle had to reverse onto the drive at South Park farm. I fail to see how the access proposed will be any easier than what they already do, especially when the majority of their business will be moving hay to and from the site.

I am prepared to admit the applicant suffers some inconvenience and I might be persuaded that this inconvenience will be ameliorated by the proposed access; however, I think far too little weight has been placed to the 60m of well established - indeed ancient - hedgerow which forms the attractive and much loved periphery of this well used road. Chargrove Lane, although lacking formal designation, is a valued walking route which, it is admitted in the report, will suffer from the granting of this application. I do not think the applicant has submitted compelling enough reasons for the destruction of the hedgerow - although replanting is proposed as a condition, we must acknowledge the time it takes for hedges to grow and establish themselves and the possibility that they may fail after the five year maintenance period cannot be ignored. The benefits to the rural economy - which under any reading surely must be considered minor - are, in my view, not sufficient to outweigh these concerns.

I should also point out that the piece of land directly adjacent to this parcel is a designated nature reserve, and one which both Shurdington and Up Hatherley Parish Councils are proud of and are working to improve and preserve. The impact of the works themselves, as well as the intended use of this large access route, will doubtless have a deleterious effect on that reserve, which though dormant for many years has now become a cherished part of the lane.

### **3. Agent for the applicant:**

The agent has highlighted an error in the Committee report. The applicant accepts the visibility splay would be 60m in total; however there is not currently 60m of hedge within the visibility splay, (as the report describes) due to extensive gaps. The Case Officer agrees that reinstatement (albeit in a different position) would result in a net gain of hedge, according to the landscaping plan.

### **4. Gloucestershire County Council Highways:**

The Highways Officer has no objection but requested a condition to secure a highway cleaning management plan, in the event mud is transferred from the field onto the highway.

#### **An additional condition is proposed:**

Prior to first use of the access proposed, a highway cleaning management plan shall be submitted to and approved by the Local Planning Authority. The access shall not be used other than in accordance with the approved highway cleaning management plan.

Reason: In the interests of maintaining highway safety.