

Planning Committee

Date	23 January 2024
Case Officer	Paul Instone
Application No.	22/00610/OUT
Site Location	Part Parcel 2352 Mythe Road Tewkesbury
Proposal	Residential Development (up to 165 dwellings), associated works, including infrastructure, open space, landscaping and pumping station. Construction of a new vehicular access from Mythe Road and demolition of existing structures.
Ward	Tewkesbury North And Twyning
Parish	Tewkesbury
Appendices	Site location plan Concept Masterplan
Reason for Referral to Committee	Full or outline application for the erection of 10 or more residential units
Recommendation	Minded To Refuse

Site Location



1. Purposes of the Report

- 1.1** This application was validated by the Council on 20th May 2022 and the Description of Development amended on 7th June 2023. Since the submission of the application the Council's officers and a number of consultees have tried to work proactively with the appellant, in accordance with guidance in the NPPF, so that the application could be put into an appropriate condition for presentation to this Committee. However the applicant has decided to lodge an appeal in respect of the application with the Secretary of State (a 'non-determination' appeal) before matters of concern could be fully discussed or resolved. The Council must therefore advise the Secretary of State of its views on the proposals.

2. The Proposal

Full application details are available to view online at:

<http://publicaccess.tewkesbury.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RC6SFVQDKAS00>

- 2.1** The proposal seeks outline planning permission for residential development of up to 165 dwellings, public open space, vehicular and pedestrian access from Mythe Road (A38), a pumping station and associated infrastructure. All other matters relating to access, appearance, landscaping, layout and scale reserved for subsequent approval.
- 2.2** The application has been amended during the determination of the application and a number of design amendments incorporated into the scheme, including the removal of proposed dwellings from the southern part of the original application site (to the north west of Mythe Farm). As a result of these amendments the number of proposed dwellings has reduced from up 'up to 235' to 'up to 165'.
- 2.3** The amended application site extends to 11.75 hectares and the application is supported by a Concept Masterplan and Design and Access Statement which shows how a scheme of up to 165 dwellings could be accommodated of which up to 40% would be affordable.
- 2.4** The Concept Masterplan and Design and Access Statement show a form of development with the following components:
- The provision of up to 165 dwellings of which 40% would be affordable dwellings.
 - The removal of the existing access to Mythe Farm.
 - The creation of a new vehicular and pedestrian access off the A38 (to the south of the existing access).
 - Dwellings located in northern part of the site with an average net density of 36dph.
 - The retention of the existing woodland in the south west corner of the application site which is protected by a Tree Preservation Order.
 - New woodland planting around the northern, eastern and southern boundaries to link into the existing woodland.
 - The creation of a communal green area to the north of the retained woodland which would also contain a LEAP.
 - The provision of a LAP in the north western corner of the site.
 - A footpath around the southern, northern and eastern perimeters of the built form which would connect to the existing PRoW on the eastern boundary of the site.
 - A SuDs attenuation basis on the north east corner of the site and a swale and smaller pond in the southern part of the site.

- Indicative off site scheme of works along the A38 towards Tewkesbury. This is located outside of the red line and predominately relates to widening of the footway to provide a combined walking and cycling route which is segregated from traffic into Tewkesbury.

3. Site Description

- 3.1** The site entrance is located at The Mythe approximately 1.2km north of Tewkesbury Town Centre (via the A38) and the proposed housing would be located approximately 1km to the north west of the defined settlement boundary of Tewkesbury (as the crow flies), as defined in the Proposals Map to TBLP. The site sits on an elevated spur of land, which lies between the river valleys of the Avon and Severn. The site extends to 11.75 ha of predominantly agricultural land, interspersed with a small area of existing woodland, bounded by hedgerows. The land slopes down towards the River Avon to the east and the current access into the site is gained off the A38 Mythe Road, located to the west, via the existing farm track which runs through the southern part of the site. This access also serves Mythe farmhouse and Mythe Farm Business Centre (See attached location plan). The site lies in Flood Zone 1
- 3.2** A public right of way (PRoW), Tewkesbury Footpath 6 (ZTE6) runs along the eastern boundary of the site and the application proposes a pedestrian connection onto this footpath.
- 3.3** The Council have also, in exercise of the powers conferred on them by Section 198 of the Town and Country Planning Act 1990, made a Tree Preservation Order (No.421) to protect the woodland within and around the site, including two individual Oak Trees at the existing entrance to the site. Tree Preservation Order 421 also includes an area of woodland in the location of the proposed new site access off the A38, which partially lies outside of the application site.

4. Relevant Planning History

Application Number	Proposal	Decision	Decision Date
15/01293/OUT	Residential development of up to 250 dwellings, public open space, vehicular and pedestrian access, and associated infrastructure. Detailed approval is sought for access arrangements from Mythe Road, with all other matters to be reserved	Withdrawn	11.04.2016
16/01138/OUT	Residential development of up to 205 dwellings, public open space, vehicular and pedestrian access, and associated infrastructure. Detailed approval is sought for access arrangements from Mythe Road, with all other matters to be reserved.	Refused	06.07.2017
21/00006/SCR	Proposed Construction of a Residential Development of up to 250 dwellings and associated infrastructure on land east of Mythe Road, The Mythe, Tewkesbury. Request for Screening Opinion under Regulation 6 of the Town and County Planning (Environmental Impact Assessment) Regulations 2017 (as amended)	EIA not Required	23.08.2021

Tree Presentation Order (No. 421)	Tree Presentation Order 421, Part Parcel 2352 and Land Adjacent Mythe Road, Tewkesbury	Sealed	21.12.2023
-----------------------------------	--	--------	------------

5. Consultation Responses

Full copies of all the consultation responses are available online at

<https://publicaccess.tewkesbury.gov.uk/online-applications/>.

5.1 Tewkesbury Town Council – Object as there is insufficient information to enable the Town Council to reach a conclusion. There is insufficient information on SUDS management and maintenance and properties downhill and downstream may be impacted by the development. Specifically, the Town Council have raised the following comments:

- Concerned that the location of this site will encourage suburban sprawl to the north of the town that would overwhelm the identity of Tewkesbury as a small market town with a built environment that is rich in historical heritage.
- The Town Council encourage the adoption of recreational facilities by the Borough Council.
- The energy plan lacks sufficient strategies for the reduction of energy use and carbon emissions. The Town Council would expect the developer to make a commitment to, for example, the provision of electric car charging points, the incorporation of solar panels, the use of heat pumps, or grey water recycling.
- The Town Council appreciates the reduction in houses and increase in the number of trees shown in the amended masterplan, which it hopes will lead to an increase in biodiversity over the site and surrounding fields.
- Concerned how Travel Plan will be implemented and that strategies to encourage active and sustainable travel will not be achieved.
- Ascending the hill to the site will be a challenge to many cyclists, people carrying shopping, very young, elderly, or disabled walkers, parents/grandparents pushing prams and pushchairs and also to users of mobility scooters.
- A safe crossing to the western side of the Mythe Road is a necessity, in order to create safe sustainable access to the Garden Centre and the Mythe Railway Nature Reserve.
- This development is likely to make the Mythe Road busier and visibility is already not good for people turning into the road from the garden centre.
- There is no bus service for the site and the County Council have indicated it is unlikely one will be achieved.
- Traffic from the development will exacerbate queuing at the Black Bear roundabout.
- The applicant's cycling plan is not plausible and due to the gradients future residents are unlikely to commute by bicycle.
- The proposal will result in a reduction in air quality.
- The proposal is not realistically accessible to Ashchurch Train Station.

5.2 Active Travel England - Active Travel England's statutory consultee remit applies only to qualifying consultations that were made valid by the local planning authority on or after 1st June 2023. As such, they have not provided a full assessment on this application but offer the following observations on the proposed development:

- There is an existing footway on the A38 that would connect the site to Tewksbury town centre. The footway appears around 1m in width around the site entrance before widening opposite the garden centre. The Transport Assessment (TA) describes this as narrowing again to 1.3m for 70m alongside the frontage wall of

Mythe Cottage. To improve pedestrian and cycle provision along the A38, the applicant has put forward proposals for a shared footway/cycleway by widening parts of the route towards the town centre. It is unclear at this stage whether the local highway authority is content with the proposed reduction in carriageway width and loss of highway verge along parts of the route, but we will nonetheless provide comments based on the applicant's proposal. With regard to walking and wheeling (e.g. those using wheelchairs and mobility scooters) provision, part 4.2 of Inclusive Mobility states that a footways should be at least 2m wide to enable two wheelchairs to pass. Where this is not feasible due to physical constraints, then Inclusive Mobility states that a width of 1.5m could be regarded as the minimum acceptable. On this basis, and where the LPA would be minded to grant planning permission for this development, the footway around Mythe Cottage should be widened to at least 1.5m, with all other sections being at least 2m wide. However, even at 1.5m the footway would allow very little clearance for passing alongside fast-moving traffic, and so advice should be taken from the local highway authority on whether a 1.5-metre width would be deemed safe in this location.

- Notwithstanding the above comments in terms of infrastructure provision for pedestrians, the site entrance is located some 1.2km from the edge of Tewkesbury town centre and 1.3km from the closest food shop. This represents a walking time of 15.5 minutes and a 4-minute cycling time as shown in Table 4.1 of the TA (this is based on a walking speed of 1.4 m/s taken from the CIHT's 'Providing for Journeys on Foot' and a cycling speed of 5.5 m/s taken from DMRB Volume 11 Section 3 Part 8). Table 4.1 of the TA also identifies several other local facilities and services within the site's vicinity. Of those which will benefit a broad range of users, none of the destinations can be reached from the site entrance by foot in less than 20 minutes. Furthermore, the above journey lengths would be further still when accounting for the internal access road and size of the site, with residents towards the northern end expected to have a further 500m+ added to their journeys depending on site layout. Additionally, there are currently no regular public transport options within a reasonable walking distance of the site, with the closest railway station being 4.8km from the site and the closest bus service operating on Mondays only. Subsequently, it is not considered that this situation offers a genuine and credible sustainable transport alternative to private motor vehicle use.
- The proposed shared footway/cycleway would require southbound cyclists to join the carriageway on two occasions between the site and town centre and would not cater for returning cyclists travelling north towards the site. As such, it is not considered that the proposed works would provide for a safe and attractive route for cyclists.

5.3 Communities Team – No objection subject to planning obligations

5.4 Conservation Officer – Object

To construct a modern housing development at the brow of the hill in this location and the associated highways requirements would, despite attempts to screen it, appear alien and discordant in relation to the historic rural character of the area and the setting of associated heritage assets.

It is considered that the proposed development will give rise to a high degree of less than substantial harm to the setting of The Mythe and Uplands (all Grade II Listed). The Coach House to The Mythe (Grade II Listed) would experience a moderate degree of less than substantial harm to its setting and Mythe Farm and Mythe End (non-designated heritage assets) would experience a low degree of harm. Views into and out of Tewkesbury Town Conservation Area and the approach to the town would also experience a moderate degree of less than substantial harm.

As such the proposal is contrary to Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, Section 16 of the NPPF, JCS Policy SD8, and Local Plan Policies HER 1, 2 & 5.

- 5.5 County Archaeologist** – No objection - there is a low risk that archaeological remains will be adversely affected by this development proposal.
- 5.6 County Highways Authority** – No objection subject to conditions and financial obligations
- 5.7 County S106 Officer** – No objection subject to planning obligations to secure an obligation towards library infrastructure
- 5.8 Ecological Advisors** – No objection subject to conditions
- 5.9 Environment Agency** – No comments to make
- 5.10 Environmental Health** – No objection subject to conditions
- 5.11 Exolum Pipelines** – Exolum's apparatus will be affected by the proposals. The applicant must contact Exolum prior to the commencement of works
- 5.12 Gloucestershire Minerals and Waste** –. No objection, but concerns raised that the site will sterilise a sand and gravel resource as safeguarded in Policy MS01 of the Adopted Minerals Local Plan for Gloucestershire. The extent of any mineral sterilisation that could occur is unknown and this is potential harm of the development.
- 5.13 Historic England** – Concerned regarding the application as submitted (for 235 dwellings) on heritage grounds and assessment of visual impacts of the proposed development requested. Officers have sought the views of Historic England on the Verified Visual Images provided by the applicant at the end of November 2023 and an update will be provided at committee.
- 5.14 Housing Enabling Officer** – No objection
- 5.15 Landscape Advisor** – Concerns raised on landscape impact

The proposals are not considered in keeping with the surrounding landscape but rather in striking contrast to the existing rural character, the existing settlement form on the Mythe and creating an unconnected, contemporary housing area set well away from the settlement of Tewkesbury. There are no similar building arrangements in the local contextual landscape and their anticipated regular size, height and form are incongruous within this location. They are set on the top of a valued landscape feature that is clearly visible and contributes positively to existing local landscape character as well as the wider setting of Tewkesbury.

The illustrative landscape mitigation would have limited effect on this adverse landscape effect as there would still be the sense of major built development set on the top of the Mythe and a resulting degradation of the Mythe as an important landscape feature.

The Verified Visual Images suggest that the proposals can be screened from sight in certain views after 15 to 25 years but not being able to see something is not mitigation to the permanent change to a local landscape feature.

Even with the housing set some way from the A38 the new access point will introduce a highly urban road junction on a rural stretch of road changing its character as it approaches Tewkesbury. It would add to the sense of encroachment into the countryside given its appearance and the fact that it must lead to a development. The new access replaces one of more rural character that currently allows parkland to be seen beyond it. The placing of the new footpath and cycleway would be highly evident from the A38 and add to the sense of extending urban form along the rural road where at the moment there is a sense of rurality and disconnection from Tewkesbury.

The retention of the majority of mature trees appears to be readily achievable with the loss of an estimated 10m wide gap through the inter-field tree line for the development's main spine road to run. There would likely be a net gain in tree numbers with the indicated tree planting within both fields but these new trees would be read as subservient to the development that they were planted to complement and make little or no contribution to the existing wider landscape character. The Verified Visual Images suggest that the line of houses set behind the twin heritage properties at the southern end of the Mythe would still be visible urbanising their backdrop until years 15 to 25 when the southern tree planting would screen the presence of the houses.

The road passes in this area and vehicle movements, particularly of taller vehicles may still be evident on the south facing dipping edge of the Mythe landform. The Verified Visual Images model the presence of the road but from a non-public viewpoint and it does not show vehicles or street lights upon it to give a more accurate impression of its character within the local scene.

The Verified Visual Images illustrate the housing on the hill and indicate that there will be a Major-Moderate change to the character of the site itself and that the perception of this character change extends beyond the boundary of the site to the north, east and south to adversely affect the character the adjacent landscape. This adverse effect to the adjacent landscape is until the landscape screening takes full effect from years 15 to 25 onwards. The adverse effect on the Site is permanent.

In design terms there is still the perception that if a development has to be hidden by heavy screening from the surrounding landscape then it is in an inappropriate location.

The site is considered a 'valued landscape' and there is conflict with this particular part of the NPPF as the proposals neither conserve or enhance it. The application also conflicts with Policy SD6, Policy SD4 Part I and Part iv of the JCS and Policy LAN2 of the TBLP.

5.16 Lead Local Flood Authority – No objection subject to conditions

5.17 National Highways – No objections subject to conditions

5.18 Natural England - Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. In terms of Bredon Hill, to meet the requirements of the Habitats Regulations, we advise the LPA to record the decision that a likely significant effect can be ruled out.

5.19 Public Rights of Way Officer - No change to the surface of the public right of way can be approved without consultation with the County Council and there must be no interference with the public right of way, either during development or once it has been completed.

5.20 Urban Design Advisors – The application was amended further to comments from the Council’s Urban Design Advisors and it is advised that the design elements of the scheme are moving in a positive direction. Certain aspects could be developed further through more detailed development stages.

5.21 Severn Trent – Object

Severn Trent objects to this application due to concerns regarding the potential risk of flooding and pollution. Investigations are ongoing to better understand the impact of this proposal and to consider what improvement to the wastewater network may be required. At this moment in time, Severn Trent cannot provide a deadline for their investigations, but until this work is complete, they will not be able to comment further.

5.22 Sports England - The proposed development does not fall within their statutory remit and no detailed response provided. However, it is advised that the proposal may generate additional demand for sport and if existing sports facilities do not have the capacity to absorb the additional demand, then new and/or improved sports facilities should be secured and delivered in accordance with any approved local policy for social infrastructure, and priorities set out in any Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

It is also advised that in line with the NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities.

5.23 Tree Officer – Additional information required

The Council’s Tree Officer has reviewed the application and subsequently a Tree Preservation Order has been sealed on the site and it is advised that additional information is required regarding the proposed access and tree retention/removal.

The Officer advises that the proposed new access to the site has not had a tree survey carried out on the mature trees either side of the access that line the A38. This belt of trees is an important feature when entering and leaving Tewkesbury and the Officer requires additional information to see how the visibility splays will be achieved with minimal removal of these valuable trees.

In terms of the proposed housing, the Officer advises that the proposal indicated on the Concept Masterplan is acceptable and retains the mature woodland to the north of the access road.

6. Third Party Comments/Observations

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

- 6.1** The application has undergone two periods of consultation for the proposal as submitted and the amended application, and has been publicised through the posting of site notices for a period of 21 days, neighbour notification letters and the publication of a press notice.
- 6.2** 30 representations have been received in response. The comments raised are summarised below
- The application is contrary to the Development Plan and outside of Tewkesbury's settlement boundary.
 - The scale and nature of the proposal are inappropriate for this location.
 - The proposal is in an elevated prominent position and it will have a negative impact on the landscape, character of The Mythe area as well as negative impact on Tewkesbury Town.
 - The proposal would result in the loss of an historic landscape from The Abbey to Brendon Road.
 - The proposal will cause harm to the setting of numerous designated heritage assets.
 - The proposal will cause congestion including at A38/A438 junction.
 - The proposal will increase traffic noise.
 - Additional road traffic and construction vibrations could affect the structural integrity of the adjacent buildings including designated heritage assets (Grade II* King John's Castle).
 - The proposed site access is unsafe and road users do not abide by the speed limit.
 - The site is not served by public transport, there are no bus stops in the vicinity and the site is not easily accessible to the train station. The site is not sustainable.
 - The footpath into Tewkesbury is very dark at night and its narrow and unsafe for pedestrians.
 - The site is clearly located outside of a desirable walking distance to nearby amenities including schools, employment and retail. This is exacerbated by the gradient of Mythe Road.
 - The foul drainage connection point is unclear and there is no foul connection anywhere near.
 - Storage ponds will likely be discharged into the Avon which will exacerbate flooding.
 - The proposal will increase the risk of flooding elsewhere.
 - The proposal does not respect the local context and street pattern. The scale and proportions of the buildings would be alien to the character of the area.
 - The proposal would harm biodiversity, protected species and wildlife habitats.
 - Dwellings bordering the site would be severely overlooked and there would be an invasion of privacy. The Council should consider its responsibilities under the Human Rights Act.
 - There is insufficient capacity in existing services such as healthcare, child facilities and schools to accommodate the additional population.
 - Tewkesbury has already substantially expanded on three sides and the existing

- open countryside in proximity to the town should be retained.
- The proposal is not in keeping with the Garden Town aspirations and the enhancement of the natural environment.
- There has been inadequate public consultation.
- There are better locations around Tewkesbury to provide housing.
- The proposal will result in the loss of trees.
- The construction phase will damage infrastructure and property.
- The construction phase will impact on residential amenity.
- No allowance has been made for Self and Custom Build Housing plots.

7. Relevant Planning Policies and Considerations

7.1 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:

7.2 National guidance

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)

7.3 Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) – Adopted 11 December 2017

- Policy SP1 (The Need for New Development)
- Policy SP2 (The Distribution of New Development)
- Policy SD3 (Sustainable Design and Construction)
- Policy SD4 (Design Requirements)
- Policy SD6 (Landscape)
- Policy SD8 (Historic Environment)
- Policy SD9 (Biodiversity and Geodiversity)
- Policy SD10 (Residential Development)
- Policy SD11 (Housing Mix and Standards)
- Policy SD12 (Affordable Housing)
- Policy SD14 (Health and Environmental Quality)
- Policy INF1 (Transport Network)
- Policy INF2 (Flood Risk and Management)
- Policy INF3 (Green Infrastructure)
- Policy INF4 (Social and Community Infrastructure)
- Policy INF6 (Infrastructure Contributions)
- Policy INF7 (Developer Contributions)
- Policy REV1 (Gloucester and Tewkesbury Housing Supply Review)

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

- Policy RES2 (Settlement Boundaries)
- Policy RES3 (New Housing Outside Settlement Boundaries)
- Policy RES5 (New Housing Developments)
- Policy RES12 (Affordable Housing)
- Policy RES13 (Housing Mix)
- Policy DES1 (Housing Space Standards)

- Policy HER1 (Conservation Areas)
- Policy HER2 (Listed Buildings)
- Policy HER5 (Non-Designated Heritage Assets)
- Policy LAN2 (Landscape Character)
- Policy NAT1 (Biodiversity, Geodiversity and Important Natural Features)
- Policy NAT3 (Green Infrastructure: Building with Nature)
- Policy NAT5 (Cotswold Beechwoods)
- Policy ENV2 (Flood Risk and Water Management)
- Policy HEA1 (Healthy and Active Communities)
- Policy RCN1 (Public Outdoor Space, Sports Pitch and Sports Facility Provision)
- Policy COM2 (Broadband Provision)
- Policy TRAC1 (Pedestrian Accessibility)
- Policy TRAC2 (Cycle Network and Infrastructure)
- Policy TRAC3 (Bus Infrastructure)
- Policy TRAC9 (Parking Provision)

7.5 Neighbourhood Plan

None

7.6 Other relevant policies/legislation

- Human Rights Act 1998
- Article 8 (Right to Respect for Private and Family Life)
- The First Protocol – Article 1 (Protection of Property)
- Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

8. Policy Context

- 8.1** 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.
- 8.2** The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), policies of the Tewkesbury Borough Local Plan to 2011-2031 (June 2022) (TBLP), and a number of 'made' Neighbourhood Development Plans.
- 8.3** The relevant policies are set out in the appropriate sections of this report.
- 8.4** 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.

9. Evaluation

Town and Country Planning (Environmental Impact Assessment) (EIA) Regulations 2017

- 9.1** Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 the proposal constitutes Schedule 2 development under Column 2 (10b) of the EIA Regulations, as the size of the application site exceeds 5 hectares and the application proposes in excess of 150 dwellings. On the 23rd August 2021, the Local Planning Authority issued an adopted screening opinion in respect of the proposed development which was that the submission of an Environmental Statement in connection with this development was not required.

Five Year Housing Supply

- 9.2** The NPPF requires local planning authorities to demonstrate an up-to-date five year supply of deliverable housing sites (or a four year supply if applicable). 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.
- 9.3** 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 3.24 years supply of housing land. Officers consider this shortfall is significant. The Council's policies for the provision of housing are therefore out of date in accordance with footnote 8 of the NPPF.
- 9.4** 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

Principle of development

- 9.5** In order to further sustainability objectives and in the interests of protecting the countryside, the housing policies of the JCS set out a development strategy for the Borough. Strategic Policies SP1 and SP2 of the JCS set out the scale and distribution of development to be delivered across the JCS area in the period to 2031.
- 9.6** Tewkesbury is identified as a Market town in the JCS and Policy SP2 sets out that to meet the needs of Tewkesbury Borough, none of which is being met by the urban extensions to Gloucester and Cheltenham, the JCS will make provision for at least 9,899 new homes. At least 7,445 dwellings will be provided through existing commitments, development at Tewkesbury town in line with its role as a market town, smaller-scale development meeting local needs at Rural Service Centres and Service Villages.

- 9.7** The application site is located outside of the defined settlement boundary for Tewkesbury as defined in TBLP Proposals Map. The Concept Masterplan shows that the proposed housing would be located approximately 1km to the north west of the defined settlement boundary and is disconnected from the existing built up area of Tewkesbury by fields.
- 9.8** TBLP Policy RES3 states that outside of the defined settlement boundaries, the principle of new residential development will only be considered acceptable where development being proposed consists of one of the exceptions. None of the exceptions apply to the proposed development.
- 9.9** Policy SD10 confirms that housing development on other sites will only be permitted where it is previously developed land in the existing built-up areas of Tewkesbury town, service centres and service villages, or it is:
- i. It is for affordable housing on a rural exception site in accordance with Policy SD12, or;
 - ii. It is infilling within the existing built up areas of the City of Gloucester, the Principal Urban Area of Cheltenham or Tewkesbury Borough's towns and villages except where otherwise restricted by policies within District plans, or;
 - iii. It is brought forward through Community Right to Build Orders, or;
 - iv. There are other specific exceptions / circumstances defined in district or neighbourhood plans.
- 9.10** The application site is not allocated for housing development and does not meet any of the exceptions of Policy SD10 of the JCS or Policy RES3 of the TBLP. The application therefore conflicts with Policy SP2 and SD10 of the JCS and Policy RES3 of the TBLP and the conflict with these adopted development plan policies are the starting point for decision making.
- 9.11** The proposal is therefore unacceptable in principle due to its location outside of any defined settlement boundaries on undeveloped land. However, it is also the case that a 5-year supply of deliverable housing sites cannot currently be demonstrated. The NPPF states at paragraph 11 and footnote 8, that if a local authority cannot demonstrate that a 5-year housing land supply exists, then the policies which are most important for determining the application are deemed out of date.
- 9.12** Consequently, paragraph 11d of the NPPF sets out that in circumstances where the most important policies for determining an application are out of date (and this includes circumstances where the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites, as is the case here) there is a presumption that planning permission be granted unless:
- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 9.13** The protected areas or assets of particular importance referred to at (i) above are defined in footnote 7 of the NPPF and include 'designated heritage assets' which the Annex 2 Glossary of the NPPF confirms includes 'listed buildings' and 'Conservation Areas'.

- 9.14** The protected areas or assets of particular importance as defined by footnote 7 which are of relevance to this case are:
- The Mythe (Grade II Listed).
 - The Coach House to The Mythe (Grade II Listed)
 - Uplands (Grade II Listed)
 - Tewkesbury Town Conservation Area
- 9.15** Therefore as a starting point, the tilted balance and paragraph 11d of the NPPF would be engaged and the conflict with policies SP2, SD10 and RES3 must be weighed in the planning balance. However, careful consideration must also be given to whether the 'tilted balance' is disapplied insofar as paragraph 11di of the NPPF is engaged.
- 9.16** It is still necessary for the decision maker to have regard to all other relevant considerations which must be weighed in the overall planning balance.

Historic Environment (Designated Heritage Assets)

- 9.17** Section 66 of the Listed Buildings and Conservation Area Act places a statutory duty on LPAs to have special regard to the desirability of preserving the setting of listed buildings.
- 9.18** Paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 9.19** Paragraph 206 of the NPPF states that any harm to, or loss of, the significance of heritage assets (including from development within its setting) should require clear and convincing justification.
- 9.20** Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 9.21** Policy SD8 of the JCS sets out that development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment.
- 9.22** Policy HER1 of the Local Plan states that proposals for development in or within the setting of conservation area will need to have particular regard to the potential impact on its character and setting. New development will be expected to preserve or enhance the character and appearance of conservation areas through high quality design and use of appropriate materials. Proposals will be required to demonstrate a thorough understanding of the significance, character and setting of conservation areas and how this has informed proposals, to achieve high quality new design which is respectful of historic interest and local character.
- 9.23** Policy HER2 of the Local Plan states that alterations, extensions or changes of use to Listed Buildings, or development within their setting, will be expected to have no adverse impact on those elements which contribute to their special architectural or historic interest, including their settings.

- 9.24** Historic England have been consulted on this application and amongst other comments requested an assessment of the visual impacts of the proposed development on the setting of the Grade I listed Tewkesbury Abbey. Verified Visual Images were subsequently provided by the applicant and Historic England have been re-consulted on the application. Officers are awaiting a consultation response from Historic England and an update will be provided at Committee.
- 9.25** The Council's Conservation Officer has also been consulted on the planning application and reviewed the Verified Visual Images provides by the applicant. The Officer advises that the area of the proposal site is a substantial area of rising ground formed over time between the Rivers Avon and Severn. The word Mythe means 'a narrow strip of land between the confluence of two rivers'. This land formation has long had ancient and important significance to the area and the town. The 'Mythe Tute', which is south of Mythe Court is an ancient man made mound formed long before the route of the later turnpike and used throughout history as a look out and vantage point to survey the main river crossing and the land beyond. Such is the strategic nature of this ancient landscape that it is understood that during the early Roman period a section of Imperial Legions were camped at The Mythe during their suppression of the local Dubunni tribe. Due to its landscape and both tangible and intangible potential for heritage, the Mythe has a strong sense of history.
- 9.26** The proposal site is split into two elements, separated by a bank of trees and a new access formed to the South. The houses will populate the north section of the site and the southern section is currently proposed for landscape and drainage. The area of the site to the south and any views of new housing through the tree belt north of this point will be within the setting of a number of heritage assets. Most notably affected are The Mythe, its Coach House and Uplands (all Grade II Listed).
- 9.27** The significance and level of harm of the affected designated heritage assets, as identified by the Conservation Officer is set out below:
- The Mythe (Grade II listed)
- 9.28** The Mythe Grade II listed building's significance is that it is a red brick formal 18th Century house with 19th Century additions including stone gothic frontage. It stands prominently in an elevated parkland like landscape with far reaching views to and from the town. Built as a statement of relative affluence, significance is derived from age, architectural style and location and historic significance as an example of a large house associated with the town.
- 9.29** The building is prominent and is viewed against a backdrop of the rising ground to the north. The nature of the impact of the proposed development is that any development that remains visible to the south of the application site would have a very harmful impact upon the open pastural/park like setting of the listed building. The Conservation Officer has identified that the proposed development could not be successfully mitigated within a reasonable timeframe and would cause a high level of harm to the setting of the listed building. The impact will be particularly striking when looking straight up towards the building or standing at the rear of the building and also progressing along the track leading up to Uplands.
- 9.30** As such the Conservation Officer identifies that the proposal will have a high degree of less than substantial harm on this designated heritage asset.

The Mythe Coachhouse (Grade II Listed)

- 9.31** The 18th Century stables and carriage house, is contemporary with and ancillary to The Mythe. It's significance is derived from age, architectural style and location and historic significance.
- 9.32** The Conservation Officer has identified that the proposed development would give rise to a peripheral and cumulative negative impact upon the listed coach house. It will be possible to sense the encroachment of the development upon the coach house and its integral association with The Mythe
- 9.33** As such the Conservation Officer identifies that the proposal will give rise to a moderate degree of less than substantial harm on this designated heritage asset.

Uplands (Grade II Listed)

- 9.34** The Uplands is a 18th Century house with 19th Century additions standing prominently in an elevated parkland like landscape with far reaching views to and from the town. Built as the dower house to The Mythe as a statement of relative affluence. Significance is derived from age, architectural style and location and historic significance as the dower house on the Mythe estate.
- 9.35** The building is prominent and is viewed against a backdrop of the rising ground to the north. The nature of the impact of the proposed development is that any development on the brow to the north could not be successfully mitigated within a reasonable timeframe and would have a very harmful impact upon the open pastoral/park like setting of the listed building. Such development could not be successfully mitigated and would cause a high level of harm to the setting of the listed building. The impact will be particularly striking when looking towards the building from the south.
- 9.36** As such the Conservation Officer identifies that the proposal will give rise to a high degree of less than substantial harm on this designated heritage asset.

Tewkesbury Conservation Area

- 9.37** The Tewkesbury Conservation Area was adopted in 1969 and amended in 1987. It covers most of the town and a substantial area of water meadow between the River Severn and the Mill Avon known as The Ham. The boundary extends up to the line of the old railway just south of The Mythe and Uplands. The significance of the Conservation Area is broad and encompasses a number of factors including the medieval street pattern and surviving buildings, the Abbey and the surrounding water meadows. In regard to the area closest to the development site this significance represents the water meadows and the rural approach to the town via Beaufort and King John's bridge marking an abrupt beginning to the town.
- 9.38** The setting of the Conservation Area in this location includes the rural approach to the town down from the rising ground and across the water meadow. The Conservation Officer has identified that the imposition of a housing development on the high ground (even north of the current tree belt) would have a harmful visual impact upon the sense of rurality that is characteristic of the approach to the town and the sense of this place and would in turn have a negative impact upon the setting of the conservation area and views out of the conservation area. This impact would be most intense along the A38 between

Beaufort Bridge and the turning for Uplands. The impact upon views out of the Conservation Area also extend to areas of the Ham and tourist viewpoints such as the Abbey tower.

- 9.39** As such the Conservation Officer identifies that the proposed development would have a moderate degree of less than substantial harm on Tewkesbury Conservation Area.

Off-Site Impacts

- 9.40** In addition to the impacts set out above from the proposed development within the application site, the Conservation Officer also identifies that the off-site proposals to widen the footway on the A38 and install a wide suburban road up though the field would also have a negative urbanising impact upon the character of the area and the setting of the listed buildings.

Conclusion Designated Heritage Assets

- 9.41** In conclusion, the Conservation Officer concludes that in respect to designated heritage assets, to have a modern housing development at the brow of the hill in this location would appear alien and discordant in relation to the historic character of the area and the setting of The Mythe its Coach House, and Uplands.
- 9.42** It is considered that the proposed development will give rise to a high degree of less than substantial harm to the setting of The Mythe and Uplands (all Grade II Listed). The Coach House to The Mythe (Grade II Listed) would experience a moderate degree of less than substantial harm to its setting. Views into and out of Tewkesbury Town Conservation Area and the approach to the town would also experience a moderate degree of less than substantial harm.
- 9.43** As such the proposal is contrary to Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act and contrary to policies SD8 of the JCS and policies HER1 and HER2 of the TBLP.
- 9.44** In terms of the NPPF, the identified harms to designated heritage assets would be less than substantial. Nonetheless, the identified harms are a matter of considerable importance and weight for the planning balance. As such, these harms must be weighed against the public benefits of the proposed development in the overall planning balance in the context of paragraph 11di of the NPPF.

Historic Environment (Non-Designated Heritage Assets)

- 9.45** Paragraph 209 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage assets.
- 9.46** Policy SD8 of the JCS sets out designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance, and for their important contribution to local character, distinctiveness and sense of place.

- 9.47** Policy HER5 of the TBLP states that locally Important Heritage Assets will be conserved having regard to the significance of the asset and its contribution to the historic character of the area. Proposals affecting a Locally Important Heritage Asset and/or its setting will be expected to sustain or enhance the character, appearance and significance of the asset. Proposals that seek the preservation and/or enhancement of these assets will be encouraged. Historically important groups of farm buildings will be protected from proposals for destructive development or demolition.
- 9.48** In respect to non-designated heritage assets, the Council's Conservation Officer has identified that there are two assets impacted by the proposed development, being Mythe Farm and Mythe End.
- 9.49** Mythe Farm is a brick farmstead dating from 19th Century with a modest farmhouse and represents the home farm to The Mythe. Its significance is derived from its age construction, association with the hierarchy of the estate and the history of agriculture. The farm is not particularly prominent and is generally in an enclosed setting. The Conservation Officer has identified that it is unlikely that the development would have a direct negative impact upon the immediate setting however, from the east the farmstead would be seen in conjunction with the development and would no longer be seen as an isolated farmstead in wider views. As such a low degree of harm is identified to this non-designated heritage asset.
- 9.50** Mythe End is a late 19th Century villa in generous grounds located to the west of the application site. The rear of the house is in close proximity to the development site and the Conservation Officer consider that it will be possible to both see and to sense the encroachment of the development upon the setting of the property. As such a low degree of harm is identified to this non-designated heritage asset.
- 9.51** The identified harms to these non-designated heritage assets weighs moderately against the proposals and a balanced judgement must be afforded to this harm in the planning balance and decision making process. The identified harm also give rise to a conflict with Policy SD8 of the JCS and Policy HER5 of the TBLP.

Landscape and Visual Impact

- 9.52** Paragraph 180a of the NPPF sets out that the planning system should contribute to and enhance the local environment by, inter alia, protecting and enhancing Valued Landscapes in a manner commensurate with their statutory status or identified quality in the Development Plan. The Council appointed a Landscape Advisor to review the application and it is considered that the site is classified as a 'Valued Landscape' and has sufficient value across a wide range of factors and it is therefore the case that paragraph 180a of the NPPF applies to the development proposals
- 9.53** JCS Policy SD4(i) states that new development should respond positively to, and respect the character of, the site and its surroundings. Policy SD4(iv) states that new development should ensure that the design of landscaped areas, open space and public realm are of high quality, provide a clear structure and constitute an integral and cohesive element within the design.
- 9.54** JCS Policy SD6 states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. Proposals will have regard to local distinctiveness and historic character of different landscapes and proposals are required to demonstrate how the development will protect

landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement area.

- 9.55** Policy RES5 bullet point 3 of the TBLP states that new housing development should – where an edge of settlement is proposed – respect the form of the settlement and its landscape setting, not appear as unacceptable intrusion in to the countryside and retain a sense of transition between the settlement and the countryside.
- 9.56** Policy LAN2 of the TBP states that all development must, through sensitive design, siting, and landscaping, be appropriate to, and integrated into, their existing landscape setting.
- 9.57** The site is predominately two arable fields set to the top of the Mythe ridge with access proposed from the A38 to the south of the smaller southern field. The red line boundary also includes a small mature woodland and associated line of trees that separates the two fields. The Mythe is a local landmark in terms of its topographical form and position acting as a peninsula, or spur of high ground separating the two major rivers – The Avon and The Severn before their confluence approximately 700m south beyond the Severn Trent's Mythe Water Treatment Works.
- 9.58** Tewkesbury Footpath 6 (ZTE6) runs up from the Avon floodplain and traverses the slope of the Mythe to run along most of the Site's larger northern field's eastern edge. The views from this path are panoramic and attractive in nature taking in the Cotswold Escarpment to the east across the Avon floodplain. There are also views up to the Site's eastern boundary on the Mythe top from the paths that follow the west bank of the Avon.
- 9.59** The Mythe as a piece of ground is distinctive set as the backdrop to both the Avon and Severn flood plains and visible to the north of Tewkesbury. There is a definite sense of descending down to the floodplain on which Tewkesbury sits when using the A38 to access town. From the adjoining landscape it appears almost as a 'whale-back' breaching the adjacent flat floodplain form. The site is set on the upper flatter part of the Mythe rather than its steeper banks but also slopes down south towards Tewkesbury itself.
- 9.60** There are no large areas of contemporary residential development associated with the Mythe or this section of the A38. There is a distinct sense of separation between the area and the main settlement of Tewkesbury. The proximity of this distinctive landscape to Tewkesbury Town Centre and it's Conservation Area provides an important contribution to the rural character of the town and the landform is appreciated from important recreational and tourist areas including the River Avon, River Severn and The Severn Ham.
- 9.61** The applicant has submitted a Landscape and Visual Impact Appraisal and Verified Visual Images in support of the application which have been reviewed by the Council's Landscape Advisor.
- 9.62** The Council's Landscape Advisor identifies, inter alia, the following landscape and visual effects:
- The proposals are still not considered in keeping with the surrounding landscape but rather in striking contrast to the existing rural character, the existing settlement form on the Mythe
 - creating an unconnected, contemporary housing area set well away from the settlement

of Tewkesbury.

-There are no similar building arrangements in the local contextual landscape and the anticipated regular size, height and form of the dwellings will appear incongruous within this location.

-The dwellings are set on the top of a valued landscape feature that is clearly visible and contributes positively to existing local landscape character as well as the wider setting of Tewkesbury

- The illustrative landscape mitigation would have limited effect on this adverse landscape effect as there would still be the sense of major built development set on the top of the Mythe and a resulting degradation of the Mythe as an important landscape feature

-Even with the housing set some way from the A38 the new access point will introduce a highly urban road junction on a rural stretch of road changing its character as it approaches Tewkesbury. It would add to the sense of encroachment into the countryside given its appearance and the fact that it must lead to a development. The new access replaces one of more rural character that currently allows parkland to be seen beyond it.

-It is identified that the construction of the proposed new footpath and cycleway along the A38 would also be highly evident from the A38 and add to the sense of extending urban form along the rural road where at the moment there is a sense of rurality and disconnection from Tewkesbury

-The main visual effects arising from the revised proposals will occur for visual receptors to the south east and east for footpath users following the course of the River Avon, the immediate footpath ZTE6 as it runs by the Site and for users of the same path as they approach the site from the north. Further away there will be notable sight to the development from the residential street Hawser Road to the east of the River Avon that has the benefit of distance to judge the development in its wider context on the Mythe. There will also be the visual effect of the new road entrance from the Mythe (A38) road corridor near to the Tewkesbury Garden Centre. All visual effects are considered Adverse.

-The effects are considered Adverse because of the uncharacteristic nature of the development within its immediate visual context creating a sense of incongruous change. This insertion of a contemporary housing form and density within a rural location will extend the visual influence of urban form out into the open countryside.

9.63 In conclusion on landscape effects, the Advisor agrees with the applicant that the sites landscape character has a medium to high sensitivity. However, the Advisor disagrees with the applicant and considers that there will be a Major-Moderate change to the character of the Site itself and that the perception of this character change extends beyond the boundary of the Site to the north, east and south to adversely affect the character the adjacent landscape. This adverse effect to the adjacent landscape is until the landscape screening takes full effect from years 15 to 25 onwards. The adverse effect on the Site is permanent.

- 9.64** Overall, Officers have carefully considered the landscape effects and visual impacts of the proposed development and conclude that the proposed development, including the cycle path on the A38 would, in officer's opinion, result in significant local landscape harm to a Valued Landscape. This is exacerbated by the number of viewpoints which the development would be visible from. It is also considered that the landscape impacts at night, in relation to light spill in an otherwise dark rural setting, would be particularly pronounced. Furthermore, the development would fail to respond to its rural landscape context and the delivery of an urban housing estate in this location, however well designed, would considerably change the rural character of the area.
- 9.65** It is considered that the proposal fails to protect or conserve a Valued Landscape contrary to paragraph 180a of the NPPF and that the landscape harms arising from the proposed development also give rise to a conflict with policies SD4 and SD6 of the JCS and policies RES5 and LAN2 of the TBLP.
- 9.66** Overall the proposed development and associated work would result in substantial landscape harm which weighs substantially against the development in the planning balance.

Access, Connectivity and Highway Safety

- 9.67** The NPPF sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Furthermore, development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts of development are severe. JCS Policy INF1 requires that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters.

Walking, Cycling and Connectivity

- 9.68** Active Travel England have been consulted on this application and have advised that their statutory consultee remit does not apply to this application as it was made valid after 1st June 2023. Notwithstanding this matter, Active Travel England have observed that in terms of infrastructure provision for pedestrians, the site entrance is, this located some 1.2km from the edge of Tewkesbury town centre and 1.3km from the closest food shop. This represents a walking time of 15.5 minutes and a 4-minute cycling time. It is also noted that several other local facilities and services within the site's vicinity, but none of the destinations can be reached from the site entrance by foot in less than 20 minutes. It is also noted that residents towards the northern end of the application site could be expected to have a further 500m+ added to their journeys depending on site layout. Additionally, there are currently no regular public transport options within a reasonable walking distance of the site, with the closest railway station being 4.8km from the site and the closest bus service operating on Mondays only. Consequentially, Active Travel England advise that it is not considered that this situation offers a genuine and credible sustainable transport alternative to private motor vehicle use.
- 9.69** The County Highways Authority have also been consulted on the application and initially raised concerns in respect of the connectivity of this site, and the walking route along the A38 towards facilities within Tewkesbury. The Industry Standard practice is that walking distances of up to 2km is considered a reasonable distance for future occupiers to walk to access day to day services, and cycling has the potential to replace many trips up to

5km in length. It is recognised that the development site is located on the cusp of what would be considered an acceptable walking distance to services and facilities, with the northern periphery of the site likely to be close to, if not slightly exceeding this 2km distance when the walking route is taking into consideration.

- 9.70** Following the concerns raised by the Highway Authority in respect of the walking route along the A38 towards Tewkesbury, the Applicant's Transport Consultant have produced an indicative scheme of works along the A38 towards Tewkesbury. This predominately relates to widening of the footway to provide a combined walking and cycling route which is segregated from traffic into Tewkesbury. Cycling Infrastructure standards are set out within LTN/120 "Cycling Infrastructure Design". This states that shared use walking and cycling facilities can be considered adequate on interurban routes with few building frontages. Any works on the A38 in this location would be subject to detailed design work, and would be subject to a S278. Part of this process would require the inclusion of a Road Safety Audit. The Highway Authority are satisfied that there is adequate highway land available for a scheme to be delivered here which would have tangible benefits to walking and cycling in the area. These improvements would provide benefit beyond this development alone, providing wider benefits for pedestrians and cyclists who currently use the footway alongside the A38.
- 9.71** Consequently, the Highways Authority considered that whilst the development is located on the fringe of what they consider an acceptable distance from services and facilities, the proposed improvement works along the A38 would provide mitigation to help encourage walking and cycling in the area. Therefore, based on the evidence presented, the Highway Authority do not consider there is merit or grounds to object to the application on locational sustainability, and would be unable to support a recommendation of refusal on these grounds.
- 9.72** The requirement to provide the walking and cycling improvements along the A38 will need to be secured via a planning condition as the drawings submitted at this time are only indicative. This is usual practice and gives the Highway Authority the confidence that a scheme can be secured in this location. However, as set out elsewhere in this Report, whilst the benefits the benefits of a segregated walking/cycling route are acknowledged, Officers do have concerns that the route in itself would appear as an urbanising feature, extending urban form along the rural road where at the moment there is a sense of rurality on one of the principal approaches to the town from the M50

Public Transport

- 9.73** The Highways Authority recognise that the nearest bus stops which future residents could use to access bus routes are located within Tewkesbury approximately a 15 minute walking distance from the development site. Bus stops here provide a half hourly frequency, and there is a desire to increase the frequency of public transport services in this area. The Highways Authority do not object to the application on the grounds of connectivity to public transport, but consider it reasonable that this development provides a contribution towards public transport improvements in this area. Based on contributions secured for other developments in this area, it is considered that a S106 contribution of £133,650 is provided by this development towards the improvements of the services within the town.

Travel Plan

- 9.74** The Highways Authority advise that there is a requirement for a development of this scale to provide a Travel Plan. The purpose of this document is to ensure that all opportunities for sustainable transport are taken up by future residents. In this instance the Applicant have offered to provide a S106 contribution to GCC as Highway Authority to enable the implementation of a Travel Plan. The cost of this S106 has been calculated and at £54,790 and has been agreed with the Applicant and it would be responsibility of the Highways Authority to implement the Travel Plan.

Access

- 9.75** The application is submitted in outline with all matters reserved, and as such access is not a matter for determination at this time. However, the red line location plan shows where vehicular access would be obtained to the A38 and the applicant's Planning Statement advises that access will be provided by way of a priority junction from Mythe Road.
- 9.76** The Highway Authority have advised that they are satisfied that should the site be granted consent, it would be possible and feasible for the site to provide a safe and suitable access to the highway. The Highways Authority also confirms the site can connect to the highway network, and the plans submitted by the applicant gives the Highway Authority confidence that safe and suitable access can be achieved in this location. The Applicant has suggested that in order to facilitate safe access in this location the extent of the 40MPH speed limit will need altering. This will require changes to the Traffic Regulation order and there is a S106 cost relating to this.
- 9.77** Whilst the Highways Authority are satisfied that a safe and suitable access can be achieved to the site, the Planning Authority separately have concerns that this access will be urban in nature and would necessitate the loss of trees which are subject to Group TPO. These concerns are addressed elsewhere in this Report.

Highway Impact

- 9.78** With regard to vehicle movements and highway impact, the applicant has provided data on base conditions, and the traffic generation of the proposed development. As a sense check of this data, the Highway Authority has completed a number of spot checks of traffic flows in the locality of the application site, and are content that the baseline position within the applicant's Transport Assessment is broadly comparable with on site traffic conditions.
- 9.79** The Highway Authority has reviewed the baseline position and the expected traffic flows arising from the proposed development and conclude that the development will not have a severe impact on the operation of the Highway Network, subject to conditions and planning obligations towards sustainable initiatives. As such, the Highways Authority advise that they would not be able to support a recommendation of refusal on the grounds of highway impact.

Strategic Road Network

- 9.80** National Highways have been consulted on the application and considered the traffic data, committed developments, growth and modelling, and consider that there would be no severe adverse impact on the operation of the Strategic Road Network as a result of the proposed development, subject to the imposition of appropriate planning conditions.

Highways Impact and Locational Sustainability Conclusion

- 9.81** Overall it is concluded that whilst the proposed development is outside of settlement boundary and detached from the existing built form and service infrastructure of the settlement there is not merit or grounds to refuse the application on locational sustainability, connectivity to public transport, subject to securing mitigation measures including a contribution towards public transport improvements, a segregated walking/cycling route along the A38 and contributions towards securing a Travel Plan.
- 9.82** Whilst access is a reserved matters, it is also concluded that it would be possible and feasible for the site to provide a safe and suitable access to the highway and it is also concluded that the traffic generation arising from the development would not have a severe impact on the operation of the Highway Network, subject to conditions and planning obligations towards sustainable initiatives.
- 9.83** The proposal is therefore considered acceptable in regard to highway safety and locational sustainability subject to the imposition of planning conditions and securing the planning obligations requested by the County Highways Authority.

Design and layout

- 9.84** Section 12 of the NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It continues by stating that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning decisions should, amongst other things, ensure that developments will function well and add to the overall quality of the area and should be sympathetic to the local character, including the surrounding built environment. Paragraph 135 of the NPPF makes it clear that planning permission should be refused for development of poor design that fails to reflect local design policies and government guidance on design contained in the National Design Guide and National Model Design Code
- 9.85** The National Design Guide (NDG) addresses the question of how we recognise well-designed places, by outlining and illustrating the government priorities for well-design places in the form of ten characteristics; one of which is the context. The NDG provides that well-designed development should respond positively to the features of the site itself and the surrounding context beyond the site boundary and that well-designed new development needs to be integrated into its wider surroundings, physically, socially and visually.
- 9.86** 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. Criterion 6 of Policy SD10 of the JCS states that residential

development should seek to achieve maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network.

- 9.87** This advice is echoed in JCS policy SD4 which states new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting.
- 9.88** All matters relating to design and layout are reserved for future consideration. However, the application has been supported by a Concept Masterplan and a Design and Access Statement. Both of these plans/documents have been revised during the determination of the application following comments from Officers which resulted in the applicant reducing the number of proposed dwellings from 'up to 235' to 'up to 165'. The Revised Concept Masterplan and Design and Access Statement show how the site could be developed at reserved matters stage.
- 9.89** The application has been reviewed by urban design consultants who have advised in regard to the illustrative internal layout of the scheme that:
- The proposed density of the scheme has been lowered to 36dph, as a result of the reduction of the number of dwellings from 235 to 165.
 - The expanded and formalised public open space (POS) is a welcomed amendment to the Concept Masterplan, where this has potential to create a green focal point for the local community.
 - Previous comments were raised in regard to the poorer connectivity towards the northern blocks of development, due to a restriction of movement along the north-western boundary with dwellings backing onto existing properties. The proposed extension of the spine road has helped to provide a more direct access to the northern blocks, which will enhance the connectivity strategy for both pedestrians and vehicles towards the southern POS and entrance/exit.
 - The integration of the LEAP within this space, along with the relocation of the LAP to the northern boundary of the scheme connected via a looped pedestrian route will encourage walking and cycling between the proposed open spaces. It is positive to see proposals for a high-quality trim trail with naturalistic features providing play on the way opportunities. This is a positive feature of the site's health and wellbeing contribution. It appears that dwellings will be fronting onto these key public spaces, which will be important to provide a sense of enclosure, formality, and active frontage onto the green and play spaces.
 - It is positive that the updated layout has found a way to integrate the existing pond which is an ecological valuable feature into the central green, ensuring that biodiversity and visual amenity is provided at this location of the scheme.
 - The level of analysis and consideration of the surrounding built context within the updated Design and Access Statement is hugely encouraging, which demonstrates a much clearer understanding and appreciation of the farmstead characteristics. As the site's previous use is a farm, there is clear potential to reflect these characteristics through farmstead typologies and supported design

features which have been listed within the Design and Assessment Statement.

- The indicative elevations also provide good examples of this built typology, and the Advisor would support similar proposals reflected in the house types for the rural edges of this scheme. It is considered the farmstead typologies would significantly enhance the quality and appearance of the development, by integrating it much more successfully within its agricultural context, and there is potential to create memorable house types for residents to enjoy living in.
- At this stage of the application, the principles surrounding the approach to creating well-defined streets and spaces in the scheme are supported, and it is positive to see that each area will have a clearly defined character relating to the site's context and its surroundings, with their own individual design components to make them distinct.
- The principles in different approaches to the materials, building typologies, landscape strategies and relationship to the street between each character area will enhance the variety across the development, therefore making it easier to distinguish between streets and maximising legibility for residents.
- It is positive that the proposed development is set within open space and landscaping as this presents an opportunity to ensure the health and well-being benefits of open space and nature are provided. The increase in size of the central green, with the inclusion of the LEAP, creates a more formal space and community function for the new development and existing residents along Mythe Road.

9.90 In conclusion, the Urban Design Advisor concludes that the inner workings of the layout, built form, site character and distinctiveness, and open space strategies are acceptable.

9.91 Therefore, overall, notwithstanding the concerns raised in respect of landscape impact and impact on designated heritage assets, it is considered that the Concept Masterplan and Design and Access Statement demonstrate that an acceptable standard of design could be achieved on the site for the development proposed at reserved matters stage. Officers consider that if permission is granted, a condition should be imposed requiring the reserved matters to accord with the principles set out within the Design and Access Statement and Concept Masterplan.

Residential amenity

9.92 In respect of the impact of the development upon residential amenity, paragraph 135 of the NPPF specifies that planning decisions should ensure development creates places with a high standard of amenity for existing and future users. This advice is reflected in JCS policies SD4 and SD14 which 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. Policy RES5 of the TBLP also sets out the proposals should provide an acceptable level of amenity for the future occupiers of the proposed dwellings and cause no unacceptable harm to the amenity of existing dwellings,

- 9.93** Policy DES1 (Housing Space Standards) of the TBP requires all new residential development to meet the Government's national space standards as a minimum, to ensure that high quality homes are delivered that provide a sufficient amount of internal space appropriate for occupancy of the dwelling. These space standards will be secured as part of any future reserved matters application.
- 9.94** The application is in outline and therefore the specific internal relationship of the dwellings, as well as the relationship of the proposed development with the surrounding built form on the site boundaries will need careful consideration as part of any future reserved matters application. However, officers consider that ,subject to the approval of details at reserved matters stage, the residential amenity of existing and future occupiers would be acceptable.

Housing mix

- 9.95** Policy SD11 of the JCS and RES13 of the TBLP requires all new housing development to provide an appropriate mix of dwellings sizes, types and tenures in order to contribute to mixed and balanced communities and a balanced housing market. Housing mix should be based on the most up to date evidence of local housing need and market demand.
- 9.96** The Gloucestershire Local Housing Needs Assessment 2019 – Final Report and Summary (September 2020) (LHNA) provides the most up to date evidence based to inform the housing mix on residential applications. This report states that in Tewkesbury 3% of new market dwellings should be one bedroom properties, with 13% having two bedrooms, 54% containing three bedrooms and 29% having four bedrooms or more
- 9.97** The DAS sets out the proposals allow for a range of dwellings across the site with varying sizes and tenures to accommodate a variety of household types. Given the proposal is in outline, should planning permission be granted, a condition is recommended to secure the market housing mix so that the schedule of accommodation would be in broad accordance with the most up to date evidence of the local housing market need and market demand at the time the first reserved matters application for the residential development is submitted

Affordable housing

- 9.98** Paragraph 8 of the NPPF states that the planning system needs to perform a number of roles, including a social role in supporting strong, vibrant and healthy communities, by providing a supply of housing required to meet the needs of present and future generations.
- 9.99** Policy SD12 of the JCS and Policy RES12 of the TBLP requires 40% of the proposed houses to be secured as affordable housing. Negotiations have taken place throughout the application process in order to secure the optimum tenure and mix of affordable units for the development.
- 9.100** The applicant has engaged with officers during the determination of the application and has provided an affordable mix which would contribute towards the Borough's needs. The proposed mix is:

Social Rent – 40 units
1 bed 2 person – 11 units
2 bed 4 person – 13 units
3 bed 5 person – 5 units
3 bed 6 person – 5 units
4 bed 7 person – 2 units
4 bed 8 person – 2 units
5 bed 7 person – 1 unit
5 bed 8 person – 1 unit

Shared Ownership – 26 units
1 bed 2 person – 4 units
2 bed 4 person – 11 units
3 bed 5 person – 5 units
3 bed 6 person – 5 units
4 bed 7 person – 1 units

- 9.101** The provision of affordable housing, particularly the provision of social rent units of a larger size, is considered to be a significant benefit of the proposals to be weighed in the planning balance.
- 9.102** The Council's Housing Strategy and Enabling Officer considers the proposed scheme would be policy compliant and therefore acceptable. The applicant has indicated that the affordable housing would be secured through a S106 Agreement, albeit there is currently no signed planning obligation.

Surface Water Drainage and flood risk

- 9.103** JCS Policy INF2 advises that development proposals must avoid areas at risk of flooding and must not increase the level of risk to the safety of occupiers of a site and that the risk of flooding should be minimised by providing resilience and taking into account climate change. It also requires new development to incorporate Sustainable Urban Drainage Systems (SuDS) where appropriate to manage surface water drainage. This is reflected in Policy ENV2 of the TBP and the NPPF.
- 9.104** The application site is located in Flood Zone 1 and has a low probability of fluvial flooding. A ordinary watercourse exists along the northern boundary of the site and a further ordinary watercourse exists to the south of the site.
- 9.105** The application is accompanied by a Flood Risk Assessment and a surface water drainage strategy has been produced for the site. It is proposed that on site attenuation is provided up to the 1 in 100-year plus 40% climate change event, using sustainable drainage systems where appropriate with a network of pipes and ponds to provide suitable flow transmittance and attenuation. Positive outfalls to the adjacent watercourses and to the existing network within Mythe Road are proposed and detailed within the proposed drainage strategy.

- 9.106** Evidence has been obtained on site identifying the watercourses and their routes between the site and their outfalls, confirming that they ultimately discharge to the River Avon (EA Main River). These are ordinary watercourses and are therefore subject to the Land Drainage Act 1991.
- 9.107** The Lead Local Flood Authority, the statutory consultee for surface water flood risk and management, have been consulted on the application and raise no objection to this proposal subject to appropriate planning conditions to secure a detailed Sustainable Drainage System Strategy in accordance with principles of the Drainage Strategy submitted as part of the outline application.
- 9.108** In light of the above, it is considered that the site is at a low risk of flooding and would not increase the risk of flooding to third parties.

Foul Drainage

- 9.109** At the time of preparing this Committee Report, Severn Trent has advised that they object to this application as their investigations predict that the additional foul flow poses a risk of pollution.
- 9.110** Severn Trent advise that they are committed to reduce such risks and are currently formulating plans to invest in improvements to their network that will reduce the risk of future pollutions across our region. It is advised that whilst this work is a very high priority for Severn Trent, they have not yet determined where this particular area will fit into their plans, other than they hope to undertake improvements before 2030.
- 9.111** Severn Trent advise that they need more time to better understand the issues and determine what improvements may be required. Officers are continuing to liaise with Severn Trent on this matter and will provide an update to Members at Committee.

Biodiversity

- 9.112** The NPPF sets out, inter alia, that when determining planning applications, Local Planning Authorities should aim to conserve and enhance biodiversity by encouraging opportunities to incorporate biodiversity in and around developments, especially where this can secure measurable gains for biodiversity. Policy SD9 of the JCS seeks to protect and, wherever possible enhance biodiversity, including wildlife and habitats. Policy NAT1 of the TBLP states that development proposals that will conserve, and where possible restore and/or enhance, biodiversity will be permitted.
- 9.113** The application is supported by an Ecological Assessment which identifies that the site predominantly comprises arable fields with narrow grassland margins and hedgerows with trees, together with part of an adjacent wider semi-improved grassland field bounded by hedgerows, woodland and associated rough grassland margins, an allotment area associated with mown amenity grassland (lawn), pond, and hardstanding. Habitat surveys have been carried out in order to ascertain the general ecological value of the site and to identify the main habitats and associated plant species.
- 9.114** The Assessment identifies that the majority of habitats within the site are considered to be of low ecological importance being dominated by arable land, semi-improved grassland (of no particular botanical note) and amenity grassland. The woodland, hedgerows and trees and pond are of some relatively greater ecological value in the context of the site.

- 9.115** The Assessment sets out that the majority of hedgerows and trees are to be retained within the development proposals and concludes that the hedgerows to be lost are of low quality and mitigation planting is proposed. It is also identified that arable land is to be lost to the development. The amenity grassland is to be incorporated into an area of open space whilst the majority of the semi-improved grassland within the site boundary is to be retained within proposed development, with small areas being lost in the south of the site to facilitate new access road and associated landscaping. It is recommended that the losses to these habitats be offset by the creation of new species-rich grassland within areas of open space, which could be sown with a native, species-rich seed mixture.
- 9.116** The woodlands within the site are of greater ecological value in the context of the site. These areas offer suitable nesting and foraging opportunities for birds, shelter and refuge for reptiles and amphibians (including Great Crested Newts) and foraging and dispersal/navigational opportunities for wildlife, e.g. bats and badgers. The majority of the woodland is to be retained within the development proposals, although as set out elsewhere in the Report some woodland would be lost to facilitate the new access roads. To mitigate the loss the Assessment recommends new tree planting of an area greater than that lost is to be included within the proposed development. It is also recommended that the existing retained woodland be brought into favourable management to maximise its ecological value, e.g. removal of non-native trees, selective thinning as required to create a varied age structure, and establishment of a more varied woodland ground flora.
- 9.117** The pond within the site is identified of being of greater ecological value in the context of the site as it provides habitat for a range of wildlife including Great Crested Newts and Grass Snakes. This pond is shown to be retained in the Concept Masterplan. In addition two new attenuation features are proposed to be created as part of the proposals. These would be designed to hold areas of permanent water, suitable for Great Crested Newts and of a greater overall surface area than existing pond.
- 9.118** In terms of species, a small population of Great Crested Newts was recorded within pond P1 within the site during surveys undertaken by EDP in 2015, so a Natural England European Protected Species licence will be required prior to any works commencing.
- 9.119** A low population of Grass Snake was recorded within the grass field margins in the north of the site in 2021 and a small population was recorded in the south west of the site in 2015. Small areas of rough grassland are to be lost to facilitate access and will be subject to a small-scale translocation and habitat manipulation exercise prior to any removal of this habitat. The provision of wildflower / rough grassland within areas of open space together with the provision of log piles / refuges will retain opportunities for reptiles.
- 9.120** Bat activity has also been identified within the site and several trees within the site were identified as having potential to support roosting bats. These trees are all to be retained as part of the proposals and would be unaffected by the proposed development. The existing woodland will be retained and maintain east-west links for bats and connect to other new open spaces. These features will also provide habitat for birds which are present within the site.
- 9.121** In regard to impact on habitats and species, the Council's Ecological Advisors have been consulted on the application and advise that the mitigation proposed during site clearance and construction is appropriate. This includes the protection of all retained trees and other retained habitats, and measures to protect badgers, reptiles and nesting birds. It is also advised that a sensitive lighting scheme should be adopted during the

construction phase to prevent light spill onto retained habitats, thus avoiding potential impacts on foraging / commuting bats. With respect to Great Crested Newts, it is identified that a mitigation strategy would need to be developed and presented in a GCN Mitigation Method Statement following the updated surveys and impact assessment and that a Natural England European Protected Species licence would be required.

- 9.122** The Biodiversity Net Gain (BNG) calculation included in the Ecological Assessment identifies that there would be a +28.47% increase in biodiversity units and a +40.15% increase in hedgerow units. This is considered acceptable.
- 9.123** In terms of off site ecological impacts, Natural England has been consulted on the application and consider that the proposed development will not have significant adverse impacts on designated sites and has no objection.
- 9.124** Overall, and subject to the imposition of conditions to secure ecological mitigation strategies, it is considered that the proposed development is acceptable in terms of ecological and biodiversity matters and is in accordance with development plan policies and the NPPF

Arboricultural Impacts

- 9.125** Paragraph 136 of the NPPF states that trees make an important contribution to the character and quality of urban environment and can also mitigate and adapt to climate change.
- 9.126** Policy INF3 of the JCS states that existing green infrastructure will be protected in a manner that reflects its contribution to ecosystem services including biodiversity, landscape/townscape quality and the connectivity of the green infrastructure network. Development proposals that will have an impact on hedges and trees need to include a justification for why this impact cannot be avoided and should incorporate measures acceptable to the Local Planning Authority to mitigate the loss.
- 9.127** The planning application is supported by a Tree Survey, Impact Assessment and Protection Plan. The principal group of trees within the application site comprises a mature woodland in the south west corner. The woodland area has been categorised as B2 for it's quality but within this area there are some Category A specimens. There are also some other notable tree groups throughout the site.
- 9.128** The proposed masterplan shows a form of development which shows the retention of the principal trees and woodland within the site boundary and the Council's Tree Officer has been consulted on the application and raises no objection to the layout of the proposed housing and open space as shown in the Concept Masterplan subject to the imposition of appropriate planning conditions to protect the retained trees and woodlands.
- 9.129** The Council have also, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990, made a Tree Preservation Order (No.421) to protect the woodland within around the site, including two individual Oak Trees at the existing entrance to the site.
- 9.130** Tree Preservation Order 421 also includes an area of woodland in the location of the proposed new site access off the A38, which partially lies outside of the application site. This area of woodland was not surveyed in the Tree Survey/Impact Assessment

submitted in support of the application, and whilst access is a reserved matter, it is inevitable that the proposed access and associated visibility splays would necessitate the removal of trees within this area of woodland adjacent to the A38 which is subject to the protect via the Tree Preservation Order.

- 9.131** Officers are continuing to liaise with the Council's Tree Officer, the County Highways Authority and the applicant in respect to the likely impacts of the proposed access on this area of woodland which is protected by a TPO. Officers will be provide an update on this position at the Planning Committee and advise whether Officers consider that the impact on these protected trees, gives rise to a 'putative reason to refusal'.

Loss of Agricultural Land and Soils

- 9.132** The NPPF sets out that planning decisions should contribute to and enhance the natural environment by, inter alia, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. This aims to protect the best and most versatile (BMV) agricultural land and soils in England from significant, inappropriate and unsustainable development proposals.
- 9.133** The Agricultural Land Classification (ALC) assesses the quality of farmland to enable informed choices to be made about its future use within the planning system. There are five grades of agricultural land, with Grade 3 subdivided into 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a.
- 9.134** The site has an overall grading of 3 and the Council are seeking to confirm the exact grade of the land with the applicant. The loss of agricultural land is a matter which counts against the proposal in the planning balance and the extent of harm is dependent on the grade of the agricultural land.

Archaeology

- 9.135** Paragraph 200 of the NPPF states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 9.136** The County Archaeologist has been consulted on the application and advises that the proposed development area has been checked against the Gloucestershire Historic Environment Record, and the area was thought to be of potential archaeological interest due to its location and known archaeology nearby, and therefore a geophysical survey and trial trenching were undertaken in 2015, in relation to previous development proposals, with largely negative results.
- 9.137** As such the County Archaeologist advises that there is a low risk that archaeological remains will be adversely affected by this development proposal and it is recommend that no archaeological investigation or recording need be undertaken in connection with this scheme.
- 9.138** In light of this, the application is considered acceptable in regard to archaeology.

Mineral Resource Safeguarding

- 9.139** Policy MS01 of the Minerals Local Plan for Gloucestershire states that development proposals within a Mineral Safeguarded Area (MSA) will be permitted provided: that i. they are exempt from safeguarding requirements, or ii. needless sterilisation of mineral resources will not occur; or iii. the mineral resources of concern are not economically valuable; or iv. it is appropriate and practicable to extract minerals prior to development taking place; or v. the overriding need for development outweighs the desirability to safeguard mineral resources.
- 9.140** The Gloucestershire Minerals and Waste Authority have been consulted on the application and advise that the application site lies within an area where 'Sand and Gravel' is named safeguarded mineral resource. As such the Minerals Authority requested a full Minerals Resource Assessment be undertaken prior to the determination of the application.
- 9.141** An Assessment was subsequently provided by the applicant and the Minerals Authority advised that the level of detail contained within the report is a broad level desk exercise and is designed to dismiss the potential of prior extraction without fully exploring the options. They advise that it relies upon geological maps and does not include any physical information relating to ground survey work that the operator might have undertaken as part of the preparatory work for house building. They also advise that the Report dismisses the notion of prior extraction based upon broad assumptions of mineral working without any mitigation measures put into place and the Report does not make reference to anything other than prior extraction, such as whether mineral underlying the site could be incorporated into the development project thereby saving expense and carbon emissions on importing aggregates into the site.
- 9.142** In conclusion the Minerals Authority advise that they are disappointed with the content of the Report and there is a potential harm arising from the development as they do not know the extent of any mineral sterilisation that could occur, albeit it is recognised it may be minimal. The Minerals Authority advise that it is a matter for the case officer to determine whether they are satisfied that sufficient information has been supplied or if further details are required.

Open Space, Outdoor Recreation and Sports Facilities

- 9.143** The NPPF sets out that planning decisions should aim to achieve healthy inclusive and safe communities including promoting social interaction and creating healthy, inclusive communities. Planning decisions should enable and support healthy lifestyles including through the provision of safe and accessible green infrastructure and sports facilities.
- 9.144** JCS Policy INF4 provides where new residential will create or add to, a need for community facilities, it will be fully met as on site provision and/or as a contribution to facilities or services off-site. JCS Policies INF6 and INF7 support this requirement.
- 9.145** Policy RCN1 of the TBP requires that new development shall provide appropriate public open space, sports pitches and built sports facilities to meet the needs of local communities and that provision should be informed by the most up to date evidence base.

- 9.146** The proposed site layout as shown in the Concept Masterplan and in the Design and Access Statement incorporates informal open space, an 'informal kickabout area', retention of woodland and connecting pathways. Formal play space is also proposed in the form of a LEAP and a LAP. The on-site formal and informal open space provision, as indicated in the application submission, is considered acceptable and can be secured by s106 agreements, reserved matters applications and planning conditions.
- 9.147** In terms of off-site provision, the Council's Communities Team have been consulted on the application and request the following contributions:
- £55,000 playing pitches
 - £150,000 changing room costs
 - £75,027 Community Centres contribution - Watson Hall, Tewkesbury
 - Artificial Grass Pitch £11,753 - Tewkesbury Sports Centre
 - Indoor Bowls £3,124 - indoor bowls equipment for community centre usage
 - Sports Hall £77,560 - Tewkesbury Sports Centre
 - Swimming Pool £86,146 - Tewkesbury Leisure Centre
- 9.148** There is currently no signed agreement to secure these contribution requests, but they are capable of being resolved through the signing of an appropriate planning obligation.

Education, Library and Community Provision

- 9.149** 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. Policy SA1 sets out that infrastructure should be provided comprehensively across the site taking into account the needs of the whole Strategic Allocation. Financial contributions will be sought through S106 and CIL mechanisms as appropriate.
- 9.150** Gloucestershire County Council as Local Education Authority (LEA) has been consulted on the application and advise that that there are sufficient school places in the primary planning area to accommodate this development and no primary or secondary education contributions are sought.
- 9.151** In terms of libraries, Gloucestershire County Council have advised that the scheme would generate a need to improving customer access to services through refurbishment and upgrades, improvements to stock, IT and digital technology and increased services at Tewkesbury Library. As such a contribution of £32,340 is requested to make the application acceptable in planning terms

Section 106 obligations

- 9.152** 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.
- 9.153** 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.
- 9.154** 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.
- 9.155** Requests have been made by consultees to secure the following contributions:
- 40% affordable housing and the mix specified in this Report
 - £55,000 playing pitches
 - £150,000 changing room costs
 - £75,027 Community Centres contribution - Watson Hall, Tewkesbury
 - Artificial Grass Pitch £11,753 - Tewkesbury Sports Centre
 - Indoor Bowls £3,124 - indoor bowls equipment for community centre usage
 - Sports Hall £77,560 - Tewkesbury Sports Centre
 - Swimming Pool £86,146 - Tewkesbury Leisure Centre
 - A contribution of £73 per dwelling towards recycling and waste bin facilities is also required.
 - Provision on an on-site LEAP and LAP
 - A contribution of £32,340 to Tewkesbury Library
 - £54,790 Travel Plan Contribution
 - £5,000 Travel Plan Monitoring fee
 - £133,650 towards public transport improvement
 - £15,000 Traffic Regulation Order Contribution
- 9.156** There is currently no signed agreement to secure these contribution requests, but they are capable of being resolved through the signing of an appropriate planning obligation and legal agreement.

10. Conclusion

- 10.1** Section 38(6) of the Town and Country Planning Act 1990 provides that, if regard is to be had to the development plan, the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. Section 70(2) of the Act provides that the Local Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.
- 10.2** The application site is not allocated for housing development and does not meet any of the exceptions of Policy SD10 of the JCS or Policy RES3 of the TBLP. The application therefore conflicts with Policy SP2 and SD10 of the JCS and Policy RES3 of the TBLP and the conflict with these adopted development plan policies is the starting point for decision making.
- 10.3** However, on the basis that the Council cannot at this time demonstrate a five-year supply of deliverable housing sites, having a significant shortfall at 3.24 years of deliverable supply, the most important policies for determining the application are deemed to be out of date and less weight can be given to them. Paragraph 11(d) of the NPPF therefore applies.
- 10.4** Paragraph 11 of the NPPF, the presumption in favour of sustainable development indicates that permission should be granted unless policies for protecting areas or 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.
- 10.5** Footnote 7 of the NPPF confirms that policies in the Framework that protect areas or assets of particular importance include designated heritage assets.

Heritage Harm

- 10.6** The proposal would result in harm to the significance of designated heritage assets through development in their setting. Notwithstanding that the level of harm would be considered "less than substantial" in the terms set out in the NPPF, this does not mean that the harm would be unimportant. The NPPF requires that great weight should be given to the conservation of designated heritage assets.
- 10.7** The public benefits of the proposal relate to, amongst others, the delivery of up to 165 dwellings houses, new pedestrian and cycle links, new public open space, new construction jobs, increased economically active population, and the associated social and economic benefits, bio-diversity net gain and tree planting.
- 10.8** Officers do not consider that the public benefits would outweigh the identified harm to designated heritage assets. As such, the proposal would conflict with Policy SD8 of the JCS and Policies HER1 and HER2 of the TBLP and those policies of the NPPF relating to the historic environment and designated heritage assets as defined in Annex 2 of the Framework.
- 10.9** This is considered a clear reason to refuse the application in accordance with paragraph 11di and footnote 7 of the NPPF. The tilted balance is therefore not engaged.

Benefits

- 10.10** The application would give rise to a number of benefits.
- 10.11** The development would contribute towards the supply of housing, both market and affordable housing to help meet the need for housing in the Borough in an area. The provision of affordable housing and particularly the provision of social rent units of a larger size is considered to be a significant benefit of the proposals to be weighed in the planning balance.
- 10.12** Further economic benefits that would arise from the proposal both during and post construction, including the economic benefits arising from additional residents, supporting local businesses.
- 10.13** The provision of new cycle route and pedestrian access along the A38 is also a benefit of the proposal as well as securing biodiversity net gain and the proposed tree planting
- 10.14** There are also benefits arising directly from the proposals including the provision of a LEAP/LAP, publicly accessible open space and off-site planning obligations. Given that these benefits are directly related to the development, to make the proposal acceptable in planning terms, officers afford these benefits limited weight.

Harms

- 10.15** Harm arises from the conflict with development plan policies and the spatial strategy relating to housing, particularly Policies SP2 and SD10 of the JCS and Policy RES3 of the TBLP.
- 10.16** Harm also arises as the proposal fails to protect or conserve a Valued Landscape contrary to paragraph 180a of the NPPF and that the landscape harms arising from the proposed development also give rise to a conflict with policies SD4 and SD6 of the JCS and Policy LAN2 of the TBLP. Overall the proposed development and associated work would result in substantial landscape harm which weighs substantially against the development in the planning balance.
- 10.17** The proposed development will give rise to a high degree of less than substantial harm to the setting of The Mythe and Uplands (all Grade II Listed). The Coach House to The Mythe (Grade II Listed) would experience a moderate degree of less than substantial harm to its setting and Mythe Farm. Views into and out of Tewkesbury Town Conservation Area and the approach to the town would also experience a moderate degree of less than substantial harm. As such the proposal is contrary to Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act and contrary to policies SD8 of the JCS and policies HER1 and HER2 of the TBLP.
- 10.18** The proposal would also give rise to a low degree of harm to Mythe Farm and Mythe End non-designated heritage assets. The identified harm give rise to a conflict with Policy SD8 of the JCS and Policy HER5 of the TBLP.
- 10.19** The proposal would also result in the loss of agricultural land. Officers are seeking to clarify the BMV categorisation of the land. However, notwithstanding the BMV categorisation, the loss of agricultural land is harm arising from the proposal.

- 10.20** A further harm is also identified as indications are that the proposal will result in the loss of 'Sand and Gravel' which is a named safeguarded mineral resource.
- 10.21** At this stage there is no signed S106 Agreement to secure affordable housing; nor is there a signed Agreement to provide for financial contributions required towards libraries, off-site recreational facilities, recycling facilities, or transport mitigation measures. Albeit these matters are capable of being resolved in terms of the planning balance

Unresolved Harms

- 10.22** This officer report has also identified potential harms arising from the loss of trees which are protected by a Group TPO at the location of the proposed vehicular entrance.
- 10.23** Severn Trent also currently objects to this application due to concerns regarding the potential risk of flooding and pollution.
- 10.24** Officers are continuing to liaise with consultees regarding these unresolved harms and an update will be provided at Committee. These harms may give rise to additional putative reasons for refusal.

Neutral

- 10.25** It has been established through the submission documents that subject to securing satisfactory measures as part of any future reserved matters, and the imposition of appropriate planning conditions, the development would not give rise to unacceptable impacts in terms of, design and layout, highway safety, ecology, residential amenity and archaeology.

Overall Conclusion

- 10.26** As the Council cannot demonstrate a 5-year housing land supply as such the approach to decision making, the 'tilted balance' set out in paragraph 11 of the Framework would be engaged as a starting point. However, this is a case where the policies of the Framework relating to Designated Heritage Assets provide clear reasons for refusing the proposal. It would therefore follow that paragraph 11 of the Framework would not weigh in favour of the proposal.
- 10.27** Having regard to paragraph 11(d)(i) of the NPPF and having applied the policies in the NPPF that protect areas or assets of particular importance, there is a clear reason for refusing the development. The 'tilted balance' is not therefore engaged. However, even if paragraph 11(d)(i) was considered not to apply in this instance, it has been demonstrated that the adverse impacts of granting planning permission would significantly outweigh the benefits, in accordance with paragraph 11(d)(ii).
- 10.28** For the above reasons, the proposal would not accord with the development plan when considered as a whole and, having regard to all material considerations including the NPPF, there are clear reasons for refusing the development proposed, and as such it would not constitute sustainable development and is therefore recommended for refusal.

11. Recommendation

- 11.1** In view of the foregoing report and in the context of the current appeal. Members are requested to consider a recommendation of Minded to Refuse which, along with this report, will be submitted to the Planning Inspectorate to inform the Appeal.

12. Reasons for Refusal

- 1** The proposed development conflicts with Policies SP2 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 and Policy RES3 of the Tewkesbury Borough Plan 2011-2031 in that the proposed development does not meet the strategy for the distribution of new development in Tewkesbury Borough and the application site is not an appropriate location for new residential development.
- 2** The application site lies within the setting of The Mythe (Grade II listed), The Mythe Coachhouse (Grade II Listed), Uplands (Grade II Listed) and Tewkesbury Conservation Area designated heritage assets. The proposals would have an unacceptable harmful impact on the setting of these designated heritage assets. As such, the proposed works are considered not to sustain or enhance the designated heritage assets and would cause harm to the significance of the affected designated heritage assets. In weighing this harm against the public benefits of the proposal, through the provision of housing and other public benefits, the public benefits of the proposals are not considered to outweigh the harm caused to the significance of the affected heritage assets. The proposed development is therefore contrary to Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Area) Act 1990, Policy SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031, Policies HER1 and HER2 of the Tewkesbury Borough Plan 2011-2031 and Chapter 16 of the National Planning Policy Framework.
- 3** Whilst all matters relating to design, layout and landscaping are reserved for future consideration, the proposal would result in a conspicuous and severely harmful encroachment into open countryside. The development would be conspicuous in views from the south and east and in prolonged views from the Avon Way and River Avon itself on the approaches to the town. The effects at night would be particularly pronounced and the effects would be exacerbated by the fact that the development is physically separated from the town. The proposed development would also have a harmful impact upon the character and appearance of a Valued Landscape. As such, the proposal conflicts with Policies SD4 and SD6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031, policies RES5 and LAN2 of the Tewkesbury Borough Plan 2011-2031 and the National Planning Policy Framework.
- 4** In the absence of an appropriate planning obligation, the application does not provide housing that would be available to households who cannot afford to rent or buy houses available on the existing housing market. As such, the proposed development conflicts with Policy SD11 and Policy SD12 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 and the National Planning Policy Framework.
- 5** In the absence of a completed planning obligation the proposed development does not adequately provide for community, outdoor recreation and sports facilities, and refuse and recycling facilities and conflicts with Policies INF4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031 and the National Planning Policy Framework.

- 6 In the absence of a completed planning obligation to secure a library contribution, the development fails to provide appropriate provisions towards libraries infrastructure. This is contrary to Policies INF4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031, the Gloucestershire County Council's Library Strategy 2012 and the National Planning Policy Framework.
- 7 In the absence of completed planning obligations to secure improvements to public transport, and highway improvement measures, the development proposals would fail to provide safe and suitable access and the site could not be considered sustainable. This is contrary to the provisions of Policy INF1 of the Joint Core Strategy 2011-2031 and the National Planning Policy Framework.

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.