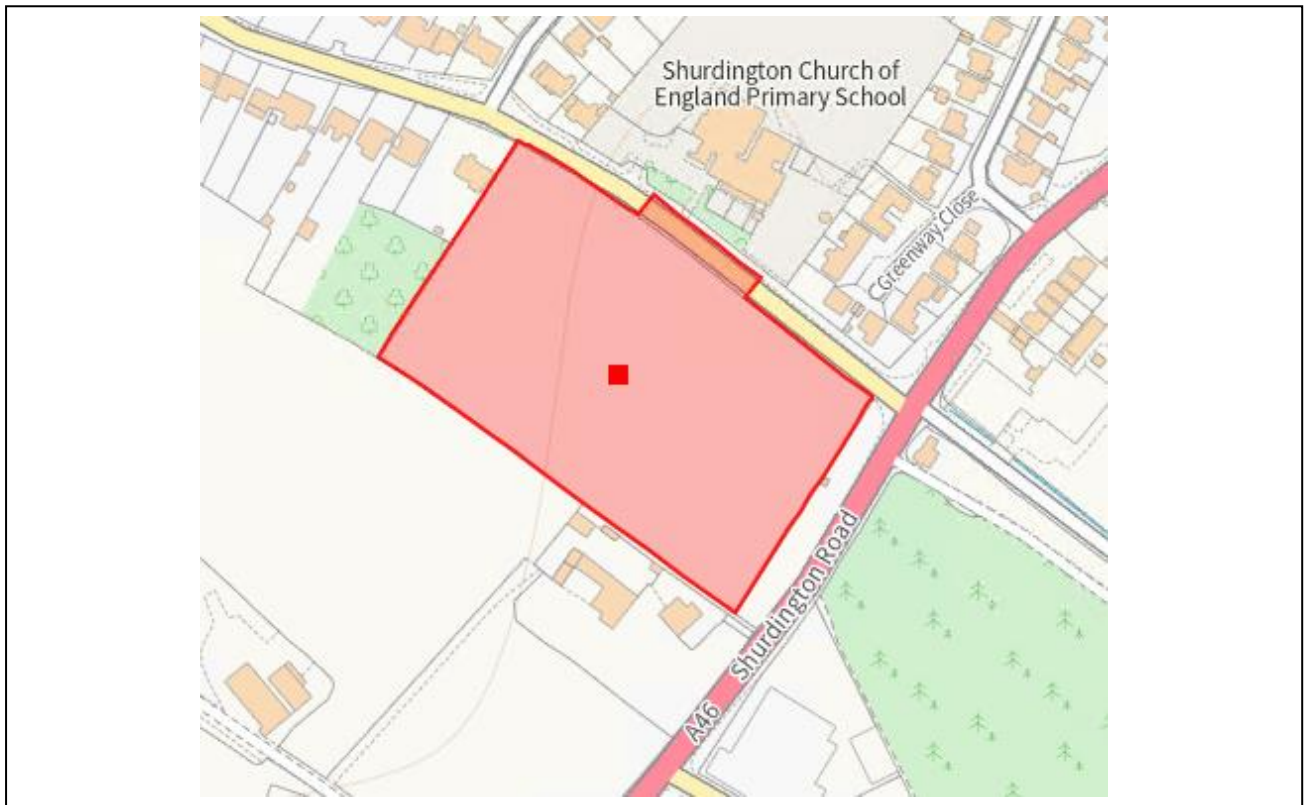


Planning Committee

Date	18 June 2024
Case Officer	Curtis McVeigh
Application No.	22/01137/OUT
Site Location	Land At Badgeworth Lane, Badgeworth
Proposal	A cross subsidy affordable/open market residential development comprising up to 50 dwellings (of which 50% will be affordable housing and a further 10% will be self/custom build), vehicular and pedestrian access, internal streets, drainage, landscaping and all other ancillary engineering works. All matters are reserved except for vehicular access onto Badgeworth Lane.
Ward	Badgeworth
Parish	Badgeworth
Appendices	Site location plan 001 Illustrative Layout Plan 006 Rev.G
Reason for Referral to Committee	Full or outline application for the erection of 10 or more residential units
Recommendation	Refuse

Site Location



1. The Proposal

Full application details are available to view online at:

[22/01137/OUT | A cross subsidy affordable/open market residential development comprising up to 50 dwellings \(of which 50% will be affordable housing and a further 10% will be self/custom build\), vehicular and pedestrian access, internal streets, drainage, landscaping and all other ancillary engineering works. All matters are reserved except for vehicular access onto Badgeworth Lane. | Land At Badgeworth Lane Badgeworth Lane Badgeworth Cheltenham Gloucestershire \(tewkesbury.gov.uk\)](#)

- 1.1 This application is made in outline with all matters reserved for subsequent approval except access.
- 1.2 The proposed development seeks to provide up to 50 dwellings, associated vehicular access, public open space, landscaping and other associated works.
- 1.3 The proposed development would deliver a mix of open market and affordable housing, overall, 50% would be affordable housing. This equates to 25 dwellings being affordable. Further to this, 10% of the dwellings would be self-build units.
- 1.4 It is anticipated that buildings would generally be two storeys in height, with the potential use of a limited number of taller 2.5 storey dwellings appropriately located to add variety to the street scene and massing to landmark buildings. The development would provide a range of house sizes from one to four bedroom properties. Dwellings are likely to be detached, semi-detached and short terraced formats. The development density as shown on the Illustrative Layout would be 34 dwellings per hectare.
- 1.5 The proposed development would be served by a new vehicular and pedestrian access from Badgeworth Lane. Vehicular access takes the form of a new priority-controlled T- junction.
- 1.6 The Illustrative Layout Plan demonstrates the provision of 0.749 hectares of green open space, inclusive of a Locally Equipped Area of Play (LEAP), a surface water attenuation basin and the retained trees and hedgerows around the boundary of the site.
- 1.7 The application documents include an Illustrative Layout Plan which indicates how the quantum of development could be delivered and a Design and Access Statement (DAS) which sets out the rationale for the development.

2. Site Description

- 2.1 The submitted application relates to a parcel of land located off Badgeworth Lane at the south- western edge of the village of Shurdington. **(see attached Site Location Plan).**
- 2.2 The site is rectangular in shape, comprising a single parcel of agricultural land currently in use for pasture and extends to approximately 2.29 hectares. The land is currently enclosed by hedgerows and trees on three sides and metal estate-railings along Shurdington Road (A46).
- 2.3 The site is bound by Badgeworth Lane to the north, Shurdington Road to the east and existing residential properties to the west and south. Shurdington Church of England Primary School is directly opposite the site across Badgeworth Lane.
- 2.4 Topographically the land is flat, with only a very gentle fall in levels from a higher point against

Shurdington Road at the eastern edge of the site.

- 2.5** The site lies within the designated Green Belt and in close proximity to two Grade II listed buildings, The Greenway Hotel and its Lodge, to the east of the site. The Cotswolds Area of Outstanding Natural Beauty is situated on the opposite side of Shurdington Road.
- 2.6** The application site was identified in the Pre-Submission version of the Tewkesbury Borough Plan as a potential housing site allocation with an indicative capacity of 50 dwellings and its removal from the Green Belt, under Policy RES1 (Housing Site Allocations). However, the Inspector recommended the Green Belt should be reinstated and the allocation should be deleted in his post hearings Main Modification letter, which was received on 16 June 2021. As such in accordance with the Inspector's proposed modification, the site has been deleted as an allocation and the Green Belt has been reinstated in the Adopted Tewkesbury Borough Plan (TBP).
- 2.7** The site therefore comprises an unallocated site on an area of agricultural land which is within the Green Belt and outside of any designated settlement boundary.

3. Relevant Planning History

Application Number	Proposal	Decision	Decision Date
21/01286/OUT	Residential development comprising up to 50 dwellings (50% will be affordable housing, 10% self/custom build) and associated engineering works. All matters are reserved except for vehicular access.	Withdrawn	20.06.2022

4. Consultation Responses

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

4.1 Badgeworth Parish Council Parish Council (Original comments received January 2023) – Objection on the following grounds:

The application site, known as SHU1, is in the Green Belt and directly adjacent to the AONB. It lies within Badgeworth Parish and outside the Shurdington village settlement boundary.

The application is a resubmission of a previous application 21/01286/OUT submitted on the 26 October 2021 and was withdrawn in June 2022 when it was recommended for refusal at the June 2022 meeting of the Borough Planning Committee.

Immediately following the Local Plan Inquiry, the Parish Council had a preliminary and informal discussion with RPS Consulting, the developer's planning consultant. The discussion was undertaken on the 'assumption that there will be no proposed plan modifications which lead directly or indirectly to a change in the site allocations for Shurdington village'. However, modifications were in fact made by the Planning Inspector resulting in the removal of SHU1 as a site allocation. It will now remain in the Green Belt.

The Parish Council fully supports the findings and modifications proposed by the Planning

Inspector who reached sound and expert decisions following a lengthy and detailed examination in public. A whole day was devoted at the Inquiry to examining the position of Shurdington and housing development in this area. The Parish Council, for the reasons stated below, also considers that site SHU1 should remain undeveloped:

- a) The Planning Inspector fully recognised the unique position of Shurdington as being the only service village completely surrounded by the Green Belt and AONB. Paragraphs 7-10 of the Inspector's modifications letter to TBC dated 16 June 2021 spelt out the need to limit development in Shurdington. It is worth quoting, in particular, the Inspector's comments contained in paragraphs 9 and 10 of his modifications letter 'The undeveloped gap between Gloucester and Cheltenham is narrow and Shurdington lies astride the A46 between the two urban areas. The extent of the Green Belt has already been reduced by the JCS through strategic allocations and land safeguarded for longer term development and any further reduction, even limited in nature, requires strong justification. Whilst Shurdington has not grown like some other villages this is a consequence of its Green Belt location and there is no policy imperative for it to do so. Housing allocation SHU1 would significantly extend housing development along the A46, encroach into the countryside to the south of the village and breach the existing strong boundary formed by Badgeworth Lane. The LUC Green Belt Review underplays the rural character of the site and its contribution to the purposes of the Green Belt. As explained above, the JCS requirement to identify new housing in the TBP (Tewkesbury Borough Plan) and the service villages would be met without 50 houses on this site. Given this context the necessary exceptional circumstances to justify releasing the site from the Green Belt for housing purposes are not present'.
- b) However, the Planning Inspector supported the revised village settlement area for Shurdington which would allow some infill development e.g., the release of land along the eastern boundary of the A46 which could provide up to 35 homes over the plan period to 2031. Since the approval of the Local Plan, 5 homes have already been erected and a further planning application for 7 homes in Badgeworth Lane has recently been submitted and is waiting for a decision.
- c) Development sites SHU2 and SHU3 were not affected by the modifications made by the Inspector and will, therefore, allow the development of a further 40 dwellings (25 of which will be Affordable).
- d) There is now a realisation that the development of SHU1 would add to the significant and increasing traffic problems along the A46 and Badgeworth Lane. SHU1 is sited on the busy junction of these two roads and access to the development would be directly opposite the gates of Shurdington Primary School. Although the development may be welcomed by the School Governors on financial grounds etc. the Parish Council has to take a wider view on the impact of the development on matters such as the impact on the local and wider community, planning policy and the effect on the character and landscape of the surrounding Green Belt area. The proposed allocation of limited dedicated school parking spaces on the development site together with traffic signals at the junction of the A46 and Badgeworth Lane will not resolve the traffic and parking problems. In fact, the introduction of signals will cause congestion through extensive queuing, particularly at peak hours. Previous temporary lights for roadworks at the junction and along the A46 confirm that congestion will occur.
- e) The Parish Council does not consider that a case has been made that 'Very Special

Circumstances' exist (as required by the National Planning Policy Framework) for building 50 homes within the Green Belt. The Applicant has submitted 11 areas which are felt would support a 'Very Special Case' for developing SHU1. However, in the opinion of the Parish Council, none of the 11 areas submitted are compelling and some, such as financial contributions for local services, a school crossing, footpath improvements, an open space, funding traffic lights, dedicated parking, energy efficiency are matters which are required to achieve an appropriate development in terms of meeting planning policies and good housing development practice. They are features which one would expect whether the site was in the Green Belt or not.

- f) Local Plan and JCS policies require that 40% of the proposed 50 dwellings should be 'Affordable Housing' i.e., 20 homes. The Applicant has proposed 50% Affordable Housing i.e., 25 homes. We do not consider that the additional 5 affordable homes in itself supports or makes a 'Very Special Circumstances' case. These additional homes together with the other measures mentioned in paragraph e. above do not outweigh the harm and adverse impact which would occur if the Green Belt land of SHU1 was developed. It is critical that the strong and permanent Green Belt boundary of Badgeworth Lane is not broken and there is no consequential encroachment into the rural countryside (please see references made by the Planning Inspector to this effect in paragraph a) above).
- g) One of the 11 areas claimed to create a 'Very Special Circumstances' case related to affordable homes. It should be mentioned that the approved sites for development SHU2 and SHU3 will realise 25 affordable homes (the same number as SHU1) and the infill sites now created within the new Shurdington settlement area could result in further on/ off site affordable dwellings/ contributions. Also, in recent times, affordable homes have been built or managed through a housing association in areas such as Witcombe, Bentham Green, Badgeworth Nurseries and the large development in Cold Pool Lane - these are all within the adjoining Parish of Badgeworth but close to Shurdington In a document produced by TBC at the Local Plan Inquiry it was stated that Shurdington has 'contributed more than its fair share of rented affordable housing' compared with other settlements and that 'Shurdington is not an area that is disproportionately highly sought after'. We understand that Shurdington Parish Council is aware of sites within its settlement area which could be considered for the development of affordable homes through the involvement of a housing association. The Parish Council does not believe the affordable homes argument creates a strong 'Very Special Circumstances' case for development and one which would clearly outweigh the harm which would occur through building on the SHU1 Green Belt site. There really is no requirement, in the opinion of the Parish Council, to develop SHU1 for affordable homes when these can be built on alternative non-Green Belt land as mentioned in g) above.
- h) Finally, both the Applicant and TBC have confirmed that the hedgerow which runs along the edge of the site bordering Badgeworth Lane should be classified as 'Important' under the Hedgerow Regulations. However, some 9.5 metres (approx.) of this hedgerow will be lost through the need to create an entrance road to the development site. In addition, the Applicant has stated that the height of the hedging should be reduced. It is the fear of the Parish Council that the 'Important' status of the hedgerow will be lost if development takes place.

4.2 Badgeworth Parish Council Parish Council (Further comments January 2023) -

Further to the comments of Badgeworth Parish Council submitted 18th January 2023 In point h) of the response, Badgeworth Parish Council stated that there would be a loss of 9.5 metres of hedgerow to create an entrance into this site. The Applicants planning consultant has now confirmed to TBC that the loss of hedging will be 19 metres. This is a significance difference so please take this as an amendment to point h).

- 4.3 Environmental Health** - No objection subject to conditions
- 4.4 Gloucester County Council Highways** - No objection subject to conditions
- 4.5 National Highways** - No objection
- 4.6 Lead Local Flood Authority** - No objection subject to conditions
- 4.7 GCC Developer Contributions Investment Team** - No objection subject to contributions for education secured through S106
- 4.8 Natural England** - No objection subject to mitigation being secured via condition or s106 agreement to ensure no adverse impact on the Beechwoods SAC and Cotswolds
- 4.9 Landscape Advisor** - No objection subject to suggested considerations to be submitted within subsequent reserved matters application
- 4.10 Cotswolds National Landscape** - No objection
- 4.11 Gloucester County Council Archaeology** – No objection subject to conditions
- 4.12 Housing Strategy and Enabling Officer** – No objection subject to affordable housing provision being secured through S106
- 4.13 Ecology** – No objections subject to conditions.
- 4.14 County Minerals and Waste Planning Policy Officer** – No objection subject to conditions
- 4.15 Building Control** - No objection
- 4.16 Severn Trent Water** – No objections subject to conditions
- 4.17 Conservation Officer** – No objection
- 4.18 Tree Officer** – Objects to the removal and alterations including reduction in height of the ‘important’ hedgerow required to facilitate the new access.

5. Third Party Comments/Observations

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

- 5.1** The application has been publicised through the posting of a site notice for a period of 21 days and 27 representations have been received, 26 objecting and 1 supporting the proposed development. The contents of these are summarised below:
- 5.2** Objection

- Increased traffic and congestion within the area, increased danger to pedestrians and road users due to increase in vehicles
- No parking for school drop offs for the school located opposite the site
- Lack of parking available during school months and highway obstruction
- Removal of hedgerows will have adverse impacts on exiting wildlife
- Introduction of traffic lights will cause delays to travel times, especially during rush hour
- Site removed from TBP by Inspector and remains in the Green Belt
- Children of residents will have to attend small village school
- Shurdington has limited amenities
- The site is located opposite the AONB
- Adverse impacts on the amenities of the existing neighbouring dwellings
- The submitted Road Safety Audit was conducted over school holidays
- Exceptional Circumstances for development has not been met
- Impact on existing gas supplies and water pressure
- No material difference to previous application that was withdrawn
- Would remove existing farming land from an area of the AONB
- Unsympathetic design plan for the proposed houses
- Tree officer has stated hedgerows along Badgeworth Lane should not be altered
- Use of public transport will not be utilised, reliance on private vehicles
- The Inspector instructed that the land shall not be developed

5.3 Support

- Adequate drop off and collection provision should be made for the school opposite
- Existing settlement boundary should be moved to include the development within it

6. Relevant Planning Policies and Considerations

6.1 Statutory Duty

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise

The following planning guidance and policies are relevant to the consideration of this application:

6.2 National guidance

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

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

Policy SP1 (The Need for New Development)
 Policy SP2 (The Distribution of New Development)
 Policy SD4 (Design Requirements)
 Policy SD6 (Landscape)
 Policy SD9 (Biodiversity and Geodiversity)
 Policy SD10 (Residential Development)
 Policy SD12 (Affordable Housing)
 Policy SD14 (Health and Environmental Quality)

Policy INF1 (Transport Network)
Policy INF2 (Flood Risk Management)
Policy INF3 (Green Infrastructure)

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

Policy RES1 (Housing Site Allocations)
Policy RES2 (Settlement Boundaries)
Policy RES3 (New Housing Outside Settlement Boundaries)
Policy RES5 (New Housing Development)
Policy LAN1 (Special Landscape Area)
Policy LAN2 (Landscape Character)
Policy NAT1 (Biodiversity, Geodiversity and Important Natural Features)
Policy ENV2 (Flood Risk and Water Management)
Policy TRAC9 (Parking Provision)
Policy HER5 (Locally Important Heritage Assets)

6.5 Neighbourhood Plan

None

7. Policy Context

- 7.1** Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 7.2** The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011-2031 (June 2022) (TBLP), and a number of 'made' Neighbourhood Development Plans.
- 7.3** The relevant policies are set out in the appropriate sections of this report.
- 7.4** Other material policy considerations include national planning guidance contained within the National Planning Policy Framework 2021 and its associated Planning Practice Guidance (PPG), the National Design Guide (NDG) and National Model Design Code.

8. Evaluation

Principle of development

- 8.1** In order to further sustainability objectives and in the interests of protecting the countryside, 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.
- 8.2** The JCS identifies a settlement hierarchy as the basis for the strategy for delivering growth targets. The JCS settlement hierarchy for Tewkesbury Borough includes Tewkesbury Town as the top tiered settlement followed by the two Rural Service Centres and then the twelve Service Villages. The Rural Service Centre and Service Village classification was informed by the JCS Settlement Audit.

- 8.3** Shurdington is defined as a Service Village in the JCS and is recognised as a settlement as having two or more primary services, two or more secondary services and benefitting from bus services and/or road access to a major employment area. JCS Policy SP2 sets out that Service Villages will accommodate lower levels of development to be allocated through the Borough Plan and Neighbourhood Development Plans (NDPs), proportional to their size and function, and also reflecting their proximity to Cheltenham and Gloucester and taking into account the environmental, economic and social impacts including existing levels of growth over the plan period.
- 8.4** The application site has not been allocated for housing in the JCS and therefore the criterion of Policy SD10 of the JCS applies. Policy SD10 sets out the Council's approach to housing development and sets out that proposals on unallocated sites will only be permitted under certain circumstances, none of which currently apply to the proposed development. The application is therefore in conflict with JCS Policy SD10.
- 8.5** As mentioned previously, the application site was identified in the Pre-Submission Tewkesbury Borough Plan 2011-2031 (2019) as a housing site allocation and to be removed from the Green Belt, under site specific policy SHU1 (Land at corner of Badgeworth Lane and A46, Shurdington). During the Examination in Public, a day was provided for discussion on the proposed allocations within/adjacent to the Shurdington settlement boundary. The Council provided a statement on the Green Belt release in its Housing Background Paper 2019 with regard to Shurdington, to evidence the exceptional circumstances for these allocations, and the associated land proposed to be removed from the Green Belt.
- 8.6** The Inspector's post-hearing Main Modifications letter in June 2021 set out that, inter alia, to make the Plan 'sound' housing site SHU1 should be deleted because the necessary exceptional circumstances to justify releasing the site from the Green Belt for housing purposes were not present.
- 8.7** As such, in accordance with the Inspector's proposed modifications, the site is has been deleted as a housing site allocation and the Green Belt reinstated in the adopted Tewkesbury Borough Plan (TBP).
- 8.8** Further, the application site is located outside of the defined settlement boundary for Shurdington in the Proposals Map of the TBP. Proposals on land outside the defined settlement boundaries will only be permitted under certain circumstances as outlined within Policy RES3 of the TBP. None of which apply for this proposal.
- 8.9** Given the above the proposal for residential development would not meet the strategy for the distribution of new housing and thus would be in clear conflict with the adopted development plan.

Green Belt

- 8.10** The site is located in the Green Belt therefore the significance of the impact of the development upon the Green Belt must also be considered in assessing whether the principle of the development would be acceptable.
- 8.11** The Government attaches great importance to Green Belts. The NPPF provides that, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the NPPF sets out that when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt.

'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 8.12** Policy SD5 of the JCS sets out that, to ensure the Green Belt continues to serve its key functions, it will be protected from harmful development. Within its boundaries, development will be restricted to those limited types of development which are deemed appropriate by the NPPF, unless it can be demonstrated that very special circumstances exist to outweigh the harm automatically caused to the Green Belt by virtue of the development being inappropriate and any other harm actually caused.
- 8.13** In terms of the TBP, Policy GRB4 states, inter alia, that development on land designated as Green Belt will be severely restricted to ensure it continues to fulfil the five purposes of the Green Belt and that substantial weight will be given to any harm to the Green Belt when assessing planning applications and will, in all such cases, require the submission of clear evidence of very special circumstances before approving development.
- 8.14** To achieve the objectives of Green Belt designation, the NPPF advises that Local Planning Authorities should, subject to certain exceptions, regard the construction of new buildings in the Green Belt as inappropriate development. The proposal does not represent any of the exceptions contained in paragraphs 154 and 155 of the NPPF.
- 8.15** It therefore follows that the proposed development would represent inappropriate development in the Green Belt, which by definition, is harmful to the Green Belt and should not be approved except in very special circumstances.

Openness of Green Belt

- 8.16** Openness, as highlighted in the NPPF, is an essential characteristic of Green Belts which is a separate issue from the character and appearance of an area. It is a matter of its physical presence rather than its visual qualities. The Planning Practice Guidance (PPG) advises that openness is capable of having both spatial and visual aspects.
- 8.17** The application site comprises an open parcel of pasture with established trees and hedgerows along three boundaries. The undeveloped, agricultural nature of the site and the open land beyond contribute significantly to the openness and significance of the Green belt and rural setting of Shurdington. The Inspector, when considering this site as part of the Examination in Public, highlighted the importance of the rural character of the site and its contribution to the purposes of the Green Belt. The proposal would introduce residential development onto much of the site. Despite the proposed public open space and landscaping, the combined presence of the buildings, associated domestic paraphernalia, areas of hardstanding (roads and parking areas) and vehicles at the site would result in a considerable loss of openness. Moreover, given the rural character of the application site and its location beyond the edge of the village, the development would run counter to two of the five purposes of the Green Belt that is to check the unrestricted sprawl of large built-up areas and assist in safeguarding the countryside from encroachment.
- 8.18** Accordingly, the proposal would cause a permanent reduction in openness which, because of the site's location and appearance, coupled with the degree of built form, would have an adverse spatial and visual impact on the openness of the Green Belt. The degree of harm would be considerable.

Applicant's Very Special Circumstances

8.19 As set out above, planning policy provides that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The applicant has advanced several considerations they believe constitute very special circumstances which would clearly outweigh the harm to the Green Belt. These are summarised below (see the submitted Planning Statement and Planning Statement Addendum for full details):

- 50% affordable housing of which 10% would be First Homes
- An additional 10% of the dwellings to be custom/self-build properties available for residents to build their own home
- Funding and delivery of Traffic Lights at the A46/Badgeworth Lane Junction
- Dedicated visitor school parking on site in perpetuity (16 spaces)
- Signalised crossing between the site and the primary school
- Footpath improvements along Badgeworth Lane and Bus Stop upgrades
- Financial contributions to the primary school and other local services
- Publicly accessible open space and net gain in biodiversity
- Enhanced energy efficiency proposals exceeding building regulation requirements
- Provision of family housing growth at Shurdington, without which very limited opportunities exist for the village to sustainably grow and support local services and facilities

Analysis of the Very Special Circumstances

8.20 There is no doubt the 'very special circumstances' advanced represent a range of benefits. The proposal offers a further 10% affordable housing above the policy requirement. It is recognised that there is a Borough wide need for affordable housing and therefore the proposed development would contribute to this need.

8.21 In terms of the proposed 10% Self-Build and Custom Housebuilding properties, according to the latest Tewkesbury Borough Council Self Build and Custom Housebuilding Report, May 2022, the Council believe it has, as required by section 2A of the 2015 Self and Custom Housebuilding Act (as amended by the Housing and Planning Act 2016) granted sufficient planning permissions for suitable serviced plots to meet the demand of 12 identified on Part 1 of the register for Base Period 1 (01/10/2015 - 30/10/2016) and demand of 15 identified on Part 1 of the register for Base Period 2 (31/10/16 – 30/10/2017) and therefore the duty is considered to have been met. That said there is no upper limit and therefore the provision of 10% Self and Custom Build properties would be a benefit.

8.22 The proposed development would also include highway infrastructure works, including to fully fund and deliver a signalised scheme at the A46 junction, which would benefit the wider community. The development would provide family housing growth in Shurdington, which has been advanced by the applicant as a 'very special circumstance'.

- 8.23** However, in relation to this the examining Inspector of the TBP set out that whilst Shurdington has not grown like some other villages this is a consequence of its Green Belt location and there is no policy imperative for it to do so.
- 8.24** Having considered the ‘very special circumstances’ case advanced, whilst appreciating there would be clear benefits to the proposed development, officers consider none of these are truly special such as to constitute Very Special Circumstances either individually or in combination.
- 8.25** Further to this the Inspector in the examination of the TBP made his thoughts very clear on developing this site. He concluded that *“housing on this site would significantly extend housing development along the A46, encroach into the countryside to the south of the village and breach the existing strong boundary formed by Badgeworth Lane”*. The Inspector continued by setting out the Council’s Green Belt Review underplayed the rural character of the site and its contribution to the purposes of the Green Belt and that as the *“JCS requirement to identify new housing in the TBP and the service villages would be met without 50 houses, given this context the necessary exceptional circumstances to justify releasing the site from the Green Belt for housing purposes are not present.”* As a consequence, the proposed housing allocation was removed from the TBP and the site remains in the Green Belt.

Conclusion of Green Belt Matters

- 8.26** The proposed development would cause harm by reason of inappropriateness, loss of openness and conflict with the Green Belt purposes. In line with the NPPF, this harm attracts significant weight.
- 8.27** In this particular case, the applicant has advanced a range of benefits as very special circumstances. The development would contribute to future housing land supply and affordable housing delivery, highway infrastructure improvements and economic impacts. These benefits are not underestimated. These are material considerations that weigh in favour of the development and must be weighed against the harms that would be caused by the development.
- 8.28** However, officers do not consider the case advanced by the applicant would amount to ‘very special circumstances’ and the recent comments from the examining Inspector of the TBP in relation to the contribution of this site to the Green Belt is a significant material consideration.
- 8.29** It will therefore be necessary to weigh all material considerations in the overall balance to decide whether very special circumstances exist which clearly outweigh the harm to the Green Belt.

Five Year Housing Land Supply

- 8.30** The NPPF requires local planning authorities to demonstrate an up-to-date five year supply of deliverable housing sites. Where local authorities cannot demonstrate a five year supply of deliverable housing sites, paragraph 11 of the NPPF sets out that housing policies contained within development plans should not be considered up-to-date.
- 8.31** 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 3.4 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.

- 8.32** 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.

Landscape and Visual Impact

- 8.33** Paragraph 180 of the NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by, inter alia, protecting and enhancing valued landscapes, and by recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem service. Policy SD6 of the JCS states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. Proposals will have regard to local distinctiveness and historic character of different landscapes and proposals are required to demonstrate how the development will protect landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement area. Policy LAN2 of the TBP sets out that all development must, through sensitive design, siting, and landscaping, be appropriate to, and integrated into, their existing landscape setting.
- 8.34** The application site is not under any formal landscape designations, either statutory/national or non-statutory/local. The Cotswolds Area of Outstanding Natural Beauty (AONB) lies to the eastern edge of Shurdington Road, opposite the site. JCS Policy SD7 (The Cotswolds Area of Outstanding Natural Beauty) and the Cotswolds AONB Management Plan (2018-2023) seek to ensure that development proposals within the setting of the Cotswolds AONB will conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities.
- 8.35** A Landscape and Visual Appraisal (LVA) accompanies the application. The appraisal concluded that the overall effect on the landscape character and the landscape receptors would be neutral. The report continues by setting out that the design of the layout has sought to provide a type of development which responds to its local environment and incorporates locally characteristic features. In respect of views and the visual environment, the report concludes those people who will experience the largest change in the view are located to the immediate surroundings of the site. Generally, from the footpaths and publicly accessible land within the AONB escarpment, the site is visible in varying degrees nestled within the settlement of Shurdington. Neutral visual effects have been identified for all people, except for the local residents who will experience an adverse visual effect.
- 8.36** The Council's Landscape Advisor (LA) has reviewed the submitted LVA and has confirmed they are satisfied that it is an objective and unbiased appraisal and is appropriate and in proportion to the scale and nature of the proposed development. The LA accepts the conclusions of the LVA.
- 8.37** In terms of the impact of the proposed development upon the setting of the Cotswolds AONB, as part of the evidence base for the proposed housing allocations in the Tewkesbury

Borough Plan 2011-2031 an assessment was carried out in 2019 and evidenced in The Tewkesbury Borough Plan Assessment of Site Allocation Impacts on the Setting of the Cotswolds AONB. This report states that development at this site would have an imperceptible impact upon wide-open views across the Vale from elevated vantages in the AONB; that site accords with the established settlement pattern and is neither conspicuous nor prominent; that development on this site would not interrupt views to the Escarpment and roadside hedges currently prevent views from Badgeworth Lane access the site. The report concluded that development at this site would be consistent with the policies set out in the Cotswolds AONB Management Plan.

- 8.38** In respect of the impact upon the character and appearance of the site, the application comprises one rectangular shaped field in agricultural use, enclosed by hedgerows and trees on three sides. The site occupies a prominent corner junction location and Badgeworth Lane in this location provides a very clear and stark definition between the built-up area of Shrdington and the open countryside which this site is part of.
- 8.39** The application site is very much rural in nature. As such, the proposal would introduce built form into a location where currently there is none. As a result, the proposed development would encroach beyond the village edge, creating an urbanising effect which would not be in keeping with the character and appearance of the site and the village at the local scale.
- 8.40** The Inspector, in the Final Report on the Examination of the Tewkesbury Borough Plan, raised this concern. He set out that the proposed housing allocation '*would significantly extend housing development along the A46, encroach into the countryside to the south of the village and breach the existing strong boundary formed by Badgeworth Lane*' and that the LUC Green Belt Review '*underplays the rural character of the site*'.
- 8.41** In conclusion, the introduction of the proposed development in this location would not respond positively to and respect the character of the site and its surroundings and would fail to add to the overall quality of the area. As such the proposal would harm the character and appearance of the area. This weighs against the proposal.

Important Hedgerow

- 8.42** The proposed development would require the removal of a section of approximately 19 metres of hedgerow on the northern boundary adjacent Badgeworth Lane to facilitate the creation of the new vehicular and pedestrian access. A Hedgerow Survey was carried out which established that this hedgerow is classified as 'Important' under the Hedgerow Regulations, and thus, should be retained where practicable and protected to conform with the requirements of the Hedgerow Act 1997.
- 8.43** Policy NAT1 of the TBP states, inter alia, that development likely to result in the loss, deterioration or harm to features, habitats or species of importance to biodiversity, environmental quality or geological conservation, either directly or indirectly, will not be permitted unless:
- a) the need for, and benefits of the development clearly outweigh its likely impact on the local environment, or the nature conservation value or scientific interest of the site.
 - b) it can be demonstrated that the development could not reasonably be located on an alternative site with less harmful impacts; and
 - c) measures can be provided (and secured through planning conditions or legal agreements), that would avoid, mitigate against or, as a last resort, compensate for the adverse effects likely to result from development.

- 8.44** Policy NAT1 automatically applies to hedgerows that meet the 'Important' hedgerow criteria in the Hedgerow Regulations.
- 8.45** The loss of this protected hedgerow would have an unacceptable harm on the local environment and the council's Tree Officer has advised that not only will there be a 19 metre removal of the hedgerow, there will also be a reduction in height which has not been specified. Furthermore, there will be an impact from drainage being installed through sections of the hedge and also the construction of driveways and improvements of footways on the roadside of the hedgerow. Given the Inspector in the Examination of the Tewkesbury Borough Plan confirmed there is no need for the development on this site its loss would be contrary to criterion a) of Policy NAT1 for which there is no justification or necessity.

Access and highway safety

- 8.46** Section 9 of the NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Paragraph 115 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.47** Policy INF1 of the JCS requires developers to provide safe and accessible connections to the transport network to enable travel choice for residents and commuters. All proposals should provide for safe and efficient access to the highway network for all transport modes; encourage maximum potential use of walking, cycling and passenger transport networks to ensure that credible travel choices are provided by sustainable modes. Planning permission will be granted only where the impact of development is not considered to be severe.
- 8.48** The application is supported by a Transport Statement (TS), a Travel Plan (TP) and a Stage 1 Road Safety Audit Report (RSAR). The TS establishes the suitability of proposed vehicular access to the site, which would be provided through a new priority-controlled T-junction with Badgeworth Lane. The assessment also considers the suitability of the existing highway network to accommodate the additional traffic generated by the development. The TS sets out that the application site is in a suitable location in transport terms, with local facilities within comfortable walking distance and suitable transport routes present. The site also benefits from being near bus stops, with the A46 served by a good level of bus service for the surrounding urban areas of Cheltenham and Gloucester. The TS concludes that the assessment work undertaken and detailed in the TS demonstrates that, in NPPF terms, the development would not have a severe impact on the operation of the local highway network, nor an unacceptable impact on highway safety.
- 8.49** The proposed development includes several mitigation/enhancement measures. The highway works include the signalisation of the Badgeworth Lane/Greenway Lane/A46 Shurdington Road crossroad junction and the provision of a traffic signal-controlled pedestrian crossing across Badgeworth Lane, improvements to the pedestrian infrastructure and the introduction of car parking restrictions along Badgeworth Lane. The proposed development would provide 16 additional visitor/community parking spaces within the site, to replace most on-street spaces lost due to the proposed parking restrictions. These mitigation/enhancement measures can be secured via a planning obligation and are only necessary as a consequence of development. The applicant has indicated a willingness to enter into a legal agreement to secure the above infrastructure works however at this stage there is no such agreement in place.

- 8.50** In terms of the impact on the Strategic Transport Network, National Highways have been consulted on the application and offer no objection to the proposals.
- 8.51** Gloucestershire County Council have been consulted as Local Highway Authority (LHA). The LHA concluded that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion.

Design and layout

- 8.52** 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 139 of the NPPF makes it clear that planning permission should be refused for development of poor design that fails to reflect local design policies and government guidance on design contained in the National Design Guide and National Model Design Code.
- 8.53** 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.
- 8.54** This advice is echoed in JCS policy SD4 which states new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting.
- 8.55** Policy RES5 of the TBP states proposals for new housing development should, inter alia, be of a design and layout that respects the character, appearance and amenity of the surrounding area and is capable of being well integrated within it and be of an appropriate scale having regard to the size, function and accessibility of the settlement and its character and amenity, unless otherwise directed by policies within the Development Plan.
- 8.56** All matters relating to the design and layout are reserved for future consideration. However, the application includes a detailed Illustrative Layout (IL), which indicates how the site could be developed. In addition, the submitted Design and Access Statement (DAS) sets out the development objectives. The purpose of the IL is to provide guidance for the detailed stage of future reserved matters applications. The DAS aims to detail how the proposal evolved, including an assessment of the site and its context, identification of the constraints and opportunities which lead to the key urban design principles for the development and an explanation of how the site is proposed to be developed in design terms.
- 8.57** The DAS provides an overview of the Illustrative Masterplan (IM). These include:
- 0.749 hectares of public open space is to be provided to the south and west, which provides a connection to the wider countryside beyond.
 - A Locally Equipped Area of Play (LEAP).

- The vast majority of existing boundary vegetation would be retained on site.
- Proposed development is shown that would front the A46, set behind a new landscaped boundary.
- The surface water attenuation basin would be located within the northwestern part of the site.
- Anticipated that buildings (other than garages) would be generally two storeys in height, with the potential use of a limited number of taller 2.5 storey dwellings located to add variety to the street scene and massing to landmark buildings. A limited number of bungalows could also be provided.
- Development would comprise a range of house sizes from one to four bedrooms, predominantly in detached, semi-detached and terraced layouts.
- The layout would define an internal “arrival” space, enhanced by the potential for a landmark building at the end of the street.
- Formation of a simple and legible movement framework within the site that promotes pedestrian and cycle priority and delivers safe traffic speeds (20mph design speeds).
- Pedestrian connection to Shurdington Road.

8.58 It is noted that the proposed surface water attenuation basin would be a dominant feature in the public open space so there would have to be careful consideration given to the design of this, to ensure that the open space has dual function, for both recreation as well as formal drainage.

8.59 However, officers consider the layout as shown demonstrates that up to 50 dwellings could be accommodated on the application site in accordance with local/national design policies. Although, as mentioned in the ‘Landscape and Visual Amenity’ section above, officers consider the development of this site would cause unacceptable harm upon the character and appearance of the area as a whole.

Residential amenity

8.60 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 TBP 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.

8.61 The application is in outline and seeks permission for up to 50 dwellings. The specific relationship between the proposed development and the surrounding built form on the site boundaries will need careful consideration as part of any future reserved matters application. As the proposals seeks consent for up to 50 dwellings this is a maximum value and could be reduced should it be necessary to achieve a satisfactory scheme in respect of the overall design and amenity.

8.62 Policy SD11 of the JCS states that new housing should meet and where possible exceed appropriate minimum space standards. Policy DES1 (Housing Space Standards) of the TBP requires all new residential development to meet the Government’s nationally described 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. The applicant has confirmed that all house types would achieve the nationally described space

standards.

Housing mix

- 8.63** Policy SD11 of the JCS and RES13 of the TBP 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.
- 8.64** 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.
- 8.65** A Feasibility Layout plan has been submitted which sets out that the proposed housing would include a variety and range of dwelling types that includes 1 bed – 4 bed properties. Given the proposal is in outline, with design and layout reserved, it is considered that an acceptable mix could be secured at the reserved matters stage by condition should permission be granted. The housing mix would need to be in broad accordance with the most up to date evidence of the local housing need and market demand.

Affordable housing

- 8.66** The NPPF sets out that Local Planning Authorities should set policies for meeting affordable housing need on development sites. Policy SD12 of the JCS and Policy RES12 of the TBP requires a minimum of 40% affordable housing on site outside of the Strategic Allocations sites.
- 8.67** The development proposes 50% affordable housing on the site, this equates to 25 dwellings. The proposed quantum of provision exceeds the policy requirement, and the Council could only reasonably secure 40% of these by legal agreement as set out and in compliance in planning policy.
- 8.68** The applicant has also indicated that there would be a mixture of tenure types and unit sizes. The Council's Housing Strategy and Enabling Officer has confirmed the proposal would be acceptable in principle, subject to the precise number, size and mix of affordable dwellings which could be secured by way of a Section 106 Legal Agreement.

Drainage and flood risk

- 8.69** The NPPF states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Policy INF2 of the JCS seeks to prevent development that would be at risk of flooding. 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. For sites of strategic scale, the cumulative impact of the proposed development on flood risk in relation to existing settlements, communities or allocated sites must be assessed and effectively mitigated. 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.
- 8.70** The application site is located entirely in Flood Zone 1, an area identified by the

Environment Agency at a low probability of flooding from rivers and seas. However, as the site is over 1 hectare, in accordance with the requirements of the NPPF, the application is supported by a Site-specific Flood Risk Assessment (FRA) and Sustainable Drainage Strategy (SDS).

- 8.71** In terms of surface water drainage, it is proposed that surface water will be captured by gullies, channel drains and downpipes before being conveyed by an underground pipe network towards the attenuation basin and swale feature where it will be stored prior to discharge via a vortex flow control to a new connection to the existing culverted watercourse under Badgeworth Lane.
- 8.72** Gloucestershire County Council as Lead Local Flood Authority (LLFA) have reviewed the FRA and Drainage Strategy and raise no objection to this proposal, subject to conditions requiring the detailed Sustainable Drainage System (SuDS) Strategy and a SuDS management and maintenance for the lifetime of the development to be submitted and approved by the LPA.
- 8.73** The LLFA outlined within their comments that they have no objections to the proposal to discharge into the culverted watercourse under Badgeworth Lane, however, it will require agreement from Highways. The Local Highways Authority have confirmed that they accept the proposal in principle, however as this culverted watercourse is maintained by the highway authority and also accepts highway surface water run-off, the highway authority will need robust evidence that the proposal would not cause any safety issues on the highway nor will exacerbate any existing issues (including flooding or ponding up or downstream) and improvement works to the drain may be required. This information would therefore be required within the submission of any subsequent Reserved Matters application if this application was subject to an approval.
- 8.74** In terms of foul water disposal, it is proposed to drain used water from the development to the existing foul sewer. Severn Trent Water have confirmed they have no objections to the proposals, subject to a condition securing detailed plans.

Biodiversity

- 8.75** 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 TBP states that development proposals that will conserve, and where possible restore and/or enhance, biodiversity will be permitted.
- 8.76** An Ecological Impact Assessment, which includes a hedgerow survey, informs this application. The report concluded that overall, the proposed development of the site would likely result in the direct loss of an area of species-poor grassland identified as low ecological value. The hedgerows around the site are considered to be of medium and high ecological value and it is therefore recommended that, where possible, these are retained during works. The report revealed that the hedgerow along the north boundary was 'Important', so the proposed access road along this feature should aim to retain as much of the hedgerow as is practical to maintain the functionality as a potential commuting route for bats and birds and provide replacement planting elsewhere on the site to compensate for any lengths removed. Additional, optional mitigation and enhancement measures have been suggested.

- 8.77** The applicant has submitted further documentation throughout the lifetime of the application in the form of a Hedgerow Offset Plan and Technical Note. A Biodiversity Net Gain (BNG) Assessment has also been provided which demonstrates how the development would achieve the required minimum 10% BNG. The BNG Assessment details the site is capable of achieving a net gain in habitat of 10.17% and net gains in hedgerows of 73.89%. The BNG would need to be updated for any subsequent reserved matters application to ensure the site remains capable of achieving a net gain in both habitat and hedgerow units at the reserved matters stage.
- 8.78** The Councils Ecological Advisor has reviewed all the reports and requested that further information in regards to bats is required to assess the importance of the surrounding hedgerows and trees at all boundaries of the site for foraging/commuting bats, to assess potential impacts as a result of the development, inform detailed scheme design, and to recommend mitigation measures. The results of the activity surveys would then need to be submitted in a report to the LPA for review. Following this the applicant submitted a Technical Note to address that the layout, at this stage, is indicative, and within discussions with the Councils Ecology Advisor it was agreed that, if the application was to be approved a suitably worded condition imposing a 10 metre buffer to any trees with bat potential would be added, the proposed buffer would ensure that any future layout brought forward that fails to meet those requirements would be subject to bat activity surveys as part of a reserved matters submission.
- 8.79** The site lies within the impact risk zone for the Cotswolds Beechwoods Special Area of Conservation (SAC). Policy NAT1 of the TBP states that proposals that are likely to have a significant effect on an internationally designated habitats site (either alone or in combination with other plans or projects) will not be permitted unless a Habitats Regulations Assessment (HRA) has concluded that the proposal will not adversely affect the integrity of the habitats site.
- 8.80** The submitted Ecological Impact Assessment includes a brief shadow HRA, which considers the impact of the development in terms of recreational pressures on the nearby Cotswolds Beechwood SAC as well as consideration to other sites of nature conservation concern. The shadow HRA sets out that the development is unlikely to generate significant numbers of recreational trips to the Cotswolds Beechwood SAC. Nonetheless, certainty can be provided by the applicant's willingness to provide Homeowners Information Packs (HIP) to new residents, the details of which can be secured by way of planning condition should permission be granted. Both Natural England and the Council's Ecological Advisor have reviewed the assessment and concur with the assessment conclusions.

Loss of Agricultural Land & Soils

- 8.81** 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.
- 8.82** 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.

8.83 Based on the ALC the application site is Grade 3, land with moderate limitations that affect choice of crops, timing and type of cultivation, harvesting or the level of yield. Given this, the agricultural land is not considered to be the best and most versatile and its loss would not be significant.

Heritage assets

8.84 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. The NPPF sets out that heritage assets range from sites and buildings of local historic value to those of the highest significance and that these assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. 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.

8.85 In terms of built heritage, the Built Heritage Statement (BHS) identified The Greenway Hotel and its Lodge, both are Grade II Listed, as being sensitive to the proposed development. The BHS concluded that the site is considered to comprise a minor part of the setting of the Lodge and makes a slight contribution to its significance.

8.86 However, the heritage significance of the Lodge is principally vested in its built fabric and the elements of its setting that make the most important contribution to its significance will not be affected by the development. The proposed development of the site would result in a minor visual change within the wider setting of the Lodge and the loss of part of its remaining historic undeveloped setting will cause less than substantial harm to its significance. However, as the site has been established to provide only a slight contribution to the setting of the Lodge and the proposed approach to the layout and appearance of the development would incorporate a number of mitigation measures, the impact of the development on the significance of the Lodge would be negligible. The significance of The Greenway Hotel would not be harmed by the development of the site.

8.87 The Council's Conservation Officer agrees with the conclusions of this report and therefore raises no objection on built heritage grounds.

Section 106 obligations

8.88 The Community Infrastructure Levy (CIL) Regulations allow local authorities to raise funds from developers undertaking new building projects in their area. Whilst the Council does have a CIL in place, infrastructure requirements specifically related to the impact of the development will continue to be secured via a Section 106 legal agreement. The CIL regulations stipulate that, where planning obligations do not meet the tests, it is 'unlawful' for those obligations to be taken into account when determining an application.

8.89 These tests are as follows:

- a) necessary to make the development acceptable in planning terms.
- b) directly related to the development; and
- c) fairly and reasonable related in scale and kind to the development.

8.90 JCS Policy INF6 relates directly to infrastructure delivery and states that any infrastructure

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

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

Affordable Housing: 40% of overall provision and policy compliant tenure and size mix

Education: £321,135.43 for primary schools and **£185,920.50** for secondary schools

Libraries: £9,800.50

Waste & recycling bins: £73 per dwelling

POS and Provision of a LEAP

8.92 Whilst the applicant has indicated a willingness to enter into a legal agreement to secure the planning obligations outlined currently there is no signed agreement in place. That said, this is a matter which could be resolved prior to the decision being issued, should permission be granted.

9. Conclusion

9.1 Section 38(6) of the Town and Country Planning Act 1990 provides that, if regard is to be had to the development plan, the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. Section 70(2) of the Act provides that the Local Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

9.2 On the basis the Council cannot at this time demonstrate a five year supply of deliverable housing land, the Council's policies for the supply of housing are out of date. In accordance with paragraph 11 of the NPPF, the presumption in favor of sustainable development indicates that permission should be granted unless policies for protecting areas of assets of particular importance in the NPPF provide a clear reason for refusing the development proposed, or any adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. In this case, and having regard to footnote 7 of paragraph 11, such a policy includes those concerning development in the Green Belt.

9.3 In this case applying the NPPF policies for the protection of areas or assets of particular importance would provide a clear reason for refusing the application.

Benefits

9.4 The development would contribute towards the supply of housing in the form of market, self-build and affordable housing to meet the objectively assessed need for housing in the Borough.

9.5 Economic benefits would also arise from the proposal both during and post construction,

including the economic benefits arising from additional residents supporting local businesses.

- 9.6** The development would provide highway infrastructure improvements which would benefit the wider community.

Harms

- 9.7** Harm would arise as a result of the direct conflict with the settlement strategy in the development plan, which is an important part of the delivery of sustainable development in the area.
- 9.8** The proposed development would represent inappropriate development in the Green Belt that is harmful by definition, would cause harm to the openness of the Green Belt and conflict with the purposes of the Green Belt. Furthermore, it is considered that there are no very special circumstances which would outweigh the harms to the Green Belt. This harm attracts substantial weight.
- 9.9** The proposed development would encroach beyond the village edge which would represent an incongruous and urbanising intrusion into the rural landscape and open countryside.
- 9.10** The proposal would require the removal of approximately 19.5 metres section of 'important' hedgerow which would result in an unacceptable harm to the local environment.
- 9.11** Whilst the applicant has indicated a willingness to enter into an agreement, there is currently no signed agreement in place to secure the planning obligations outlined in paragraph 8.91 of the committee report.

Neutral

- 9.12** It has been established through the submission documents that subject to securing satisfactory measures as part of any future reserved matters, the imposition of appropriate planning conditions and planning obligations, the development would not give rise to unacceptable impacts in relation to flood risk and drainage, design and layout, residential amenity, ecology and the historic environment. In addition, the development would provide an acceptable affordable housing tenure mix.

Overall Conclusion

- 9.13** The development would contribute towards the supply of housing in the form of market, self-build and affordable housing, would provide economic benefits and highway infrastructure improvements which would benefit the wider community. However, the proposed development would be inappropriate development in the Green Belt and would unacceptably reduce its openness and conflict with the purposes of the Green Belt. This harm carries significant weight against the proposal. In addition, the proposal would be contrary to the strategic housing policies in the development plan; would represent an urbanising intrusion into the rural landscape and would cause unacceptable harm to an 'Important' hedgerow. In light of this it is considered that the benefits of the proposal are not sufficient to outweigh the significant harms identified. This indicates a clear reason for refusing the application and it also means that the very special circumstances necessary to justify the proposal do not exist.

10. Recommendation

10.1 It is recommended that the application be **REFUSED**.

11. Reasons for Refusal

- 1** The proposed development does not accord with the strategy for the distribution of new housing development in Tewkesbury Borough as it conflicts with Policies SP2 and SP10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policy RES3 of the Tewkesbury Borough Plan 2011-2031 (June 2022).
- 2** The proposed development represents inappropriate development in the Green Belt and would unacceptably reduce its openness and conflict with the purposes of the Green Belt. Consequently, the development would be contrary to advice set out in the National Planning Policy Framework, Policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policy GRB4 of the Tewkesbury Borough Plan 2011-2031 (June 2022).
- 3** The proposed development would encroach beyond the village edge and therefore would appear as an unacceptable urbanising intrusion into the rural landscape and open countryside. As such, the introduction of the proposed dwellings in this location would fail to respond positively to and respect the character of the site and its surroundings and would fail to add to the overall quality of the area. Accordingly, the proposed development is contrary to advice set out in the National Planning Policy Framework, Policy SD4 and SD6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policy RES5 and LAN2 of the Tewkesbury Borough Plan 2011-2031 (June 2022).
- 4** The proposed development would require the removal of a section of an 'Important' hedgerow, as classified under the Hedgerow Regulations, to facilitate the creation of the new vehicular and pedestrian access. The loss of this section of the hedgerow would have an unacceptable harmful impact on the local environment. As such, this would be contrary to advice set out in the National Planning Policy Framework, Policy SD6 and SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policy NAT1 of the Tewkesbury Borough Plan 2011-2031 (June 2022).
- 5** In the absence of a completed planning obligation, there are no arrangements for the direct implementation or financial contribution towards education and library, affordable housing, recycling and waste bin facilities and the provision of public open space and a LEAP on-site, all of which are required as a consequence of the proposed development. This is contrary to Policies SD12, IN4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and Policies RES12 and RCN1 of the Tewkesbury Borough Plan 2011- 2031 (June 2022).

12. Informatives

- 1** In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner 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.