

## Site ref C001/C002 Coombe Hill Service Village in the TBC Draft Plan -

The Parish Council have just been made aware that the EIP process has now begun and are concerned that they do not appear to have been notified that this public examination was happening. Of more concern, was the lack of information provided by TBC to the Inspector relating to our Parish. Leigh Parish Council submitted a response to the TBC Plans Pre Submission Consultation in November 2019. At that time the TBC Draft Plan showed a rise in indicative house numbers from 22 to 76 across two sites (C001 and C002) plus an expansion of the Business Centre. The Parish Council's response highlighted all the implications that these proposed changes would create. Planning applications for sites at Coombe Hill have been discussed at regular intervals, the last being at a Parish Council Meeting on Wednesday 13th January 2021. The Parish Council would like to re affirm the comments made in the three responses to the specific site known as C001 in the draft plan, which can be found on the planning portal on 9<sup>th</sup> June, 15<sup>th</sup> July and 16<sup>th</sup> November 2020 respectively under 20/00140/OUT, together with the additional comments logged against this site using the earlier reference 17/01337/OUT. The Parish Council understands that there is no Extant Planning for this site using the older planning reference, owing to the Local Planning Authority still in negotiations over some 'issues'. If agreement cannot be reached for 40 houses, then it is logical to assume that agreement will not be reached for any greater number of houses.

The Parish Council supports Tewkesbury Borough Council's recent decision of 'Minded to Refuse' for the C001 site at their meeting on 17th November 2020 but are very concerned that many issues relating to this specific site have not be brought to the EIP Inspectors attention, e.g flooding, drainage, environmental impact, urban estate in a rural setting. The Parish Council fully endorses the eight reasons for refusal that are outlined in the TBC Statement of Case and would like to draw the Inspectors attention to this detailed document. (copy attached??). The Parish Council's own submitted concerns for development on these sites have included six of these reasons in great detail as part of their own response.

The Parish Council have recorded their concerns during the various meetings on several key areas listed below. The current proposals to develop the larger C001 site have angered the parish as it fails to respect anyone already living in the area. It ignores the suggested figures in the TBC draft plan that is currently being examined in the public by Inspector Read.

- Current proposals fail to meet the criteria within the JCS Policy SD10 and the TBC Local Plan of suggested housing numbers for the site. Whilst the need for housing has been argued and debated for some time, parishioners have finally capitulated to the idea of housing, as long as it respected the character of the site and its surroundings. A recent survey has confirmed that there are 121 houses in the whole Parish, of that only 41 at Coombe Hill. The effect of adding another 40, 95 or 150 houses will have a massive impact on the current residents. The C002 site for 25 houses on the opposite side of the A38 has already commenced and will add to the existing water run-off issues in the area below the A38. Damage limitation is therefore the Parish Council's ultimate goal. There is a site specific policy for this site which should be followed to the letter. This limits the number of houses on the site and recommends that measures are taken to reduce its obvious visual impact on the area due to the topography of the site.
- Failure to mitigate the impact of an urban housing development in a rural area by its scale and design. Sadly the introduction of an urban design, high density housing estate in a rural area on a very busy cross road is not considered appropriate. Its scale is unsuitable.

- Failure to address all the issues highlighted in relation to flooding/drainage/surface water problems both on site and affecting neighbours and dwellings downstream. *“The parish is bounded almost entirely by watercourses, the River Chelt and its tributaries, the Morris brook and the Leigh brook, on the southeast, south-west, and a short part of the north-west, the Coombe Hill Canal (opened c. 1796 and closed in 1876) on most of the north-west. Before the construction of the canal the north boundary with Deerhurst was undefined. The parish stops short of the River Severn but is close enough to be affected by flooding, particularly the north and east parts which are intersected by streams.”*<sup>#</sup>. It has been noted that buried in one of many emails, there is an undertaking to upgrade the culvert through a Section 106 agreement with Gloucestershire County Council. Although there is an estimated cost, there is no agreed contribution figure. This is the first written acknowledgement or reference to any water flow problem that needs addressing. Even if the culvert is enlarged, there is insufficient capacity downstream to accommodate existing floodwaters. Recent communications with the GCC LLFA Officer have confirmed that the GCC *“ will not endorse or undertake any works to upsize the culvert unless we can be 100% sure that downstream risk would not be exacerbated. Requirement for modelling as such is part of the s106 element”*. Developments at Coombe Hill, together with the expansion of the Business Centre one field away, will add considerably to this problem. It is not surprising to hear that the house closest to site C001 (The Bellows) was flooded yet again on 23<sup>rd</sup> December 2020. Surface water was not able to drain quickly enough from the site. This is the same area on a proposed site plan that will accommodate a childrens play area and SuDs pond. The Parish Council consider that this is also a health and safety issue as children and water should not mix. This is an area of substantial and sustainable flooding; it becomes inoperable for several months of the year. So where do people then go for recreation? Unless the water and drainage issues are resolved, neighbouring houses will be at constant risk of flooding and not exclusively The Bellows.
- In October 2019, Tewkesbury Borough Councillors declared a climate emergency and this included reducing carbon emissions and expanding the remit of the existing Flood Risk Management Group to deal with climate change matters. There are no obvious or inferred climate change initiatives being put forward for this site. No solar or wind generating sources are mentioned; water harvesting is limited to a SUD's system.
- Failure to acknowledge the potential damage to the local ecology and closeness to an SSSI site. There is a need for people to embrace the outdoors without destroying it and the current proposals will have an adverse impact on the local ecology. The insufficient recreational space within the site, regardless of whether it floods or not, shows a lack of respect for the community.
- Failure to acknowledge an increase in traffic. This site is directly opposite another recently permitted estate of 26 houses. They both increase the risk of accidents to vehicles and pedestrians alike. The junction of the A38 and A4019 is very busy. Made more so with the proximity of the petrol station, garage and car lot. Glos Highways have recognised the need to upgrade this junction and are currently working on the improvements following a successful bid of £2.8 million, as part of the M5 junction 10 Improvement Scheme. Consequently, even more traffic will be flowing through this busy spot.
- Failure to fully fund the appropriate amount of community infrastructure support for Education. The final insult is the clear objection to the section 106 contributions. There are no places in local schools, ensuring that young children will have to be driven to the next available school, thus creating more traffic on an already busy road and with no regard to

the carbon footprint or the fact that school capacity has been reached under current funding arrangements.

On 12<sup>th</sup> January 2021 further news emerged about Tewkesbury Borough Councils inability to meet its five year housing requirements. It is strongly believed that the five year housing supply figure is largely in the hands of the developers, who are holding back on schemes that they know will be approved in the next few years so as to create in the short term, a shortfall in the supply. The outcome of this latest news is considered to have an impact on applications at Coombe Hill.

In summary, unless and until the following areas reach a satisfactory conclusion, planning permission should not be granted for the C001 site:

- Adhere to the JCS policy and the TBC site specific policy regarding numbers for each site (C001-50 and C002-25)
- Flooding
- Full contribution for Community Infrastructure costs (All levels of Education and library provision)
- Protect the priceless Ecology from damage
- Suitable design and density for a Rural location
- Traffic

The Parish Council is aware that there is a need for housing but not at any price and certainly not at the detriment to the existing residents.

Encs: recent photos of the C001 site

# Extract from British History Online

# **STATEMENT OF CASE OF THE LOCAL PLANNING AUTHORITY**

**Town and County Planning Act 1990**

**Section 78 Appeal**

**Planning appeal by:** Bovis Homes Ltd & Robert Hitchins Ltd

**Location:** Land Off A38, Coombe Hill, Gloucester, Gloucestershire

**Development:** Outline application for up to 150 dwellings, associated infrastructure, ancillary facilities, open space and landscaping. Construction of a new vehicular and pedestrian access from the A38 and pedestrian access to the A4019.

**TBC Reference:** 20/00140/OUT

**Inspectorate Reference:** APP/G1630/W/20/3257625

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## 1.0 INTRODUCTION

1.1 This appeal has been lodged by Bovis Homes Ltd & Robert Hitchins Ltd ('the Appellants') on the basis that Tewkesbury Borough Council ('the Council') did not determine the outline application Ref: 20/00140/OUT for up to 150 dwellings, associated infrastructure, ancillary facilities, open space and landscaping, construction of a new vehicular and pedestrian access from the A38 and pedestrian access to the A4019, at land at Coombe Hill, Gloucester, Gloucestershire, within the prescribed period.

1.2 The planning application was validated on 5th March 2020 and was reported to the Council's Planning Committee on 17<sup>th</sup> November 2020 in order to seek a resolution from the committee as to how it would have determined the proposals if the Council had remained the determining authority. The officer report considered the proposals and the committee accepted the recommendation that the Council be minded to refuse the application proposals for the following reasons:

- 1) The proposed development conflicts with policies SP1, SP2 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031 (December 2017) and Policies RES1 and COO1 of the Pre-Submission Tewkesbury Borough Plan 2011-2031 (October 2019) in that the proposed development does not meet the strategy for the distribution of new development in Tewkesbury Borough and the application site is not an appropriate location for new residential development of the scale proposed.
- 2) The applicant has failed to demonstrate that the quantum of development could be accommodated upon the site in a manner which would respond positively to, and respect the character of the site and its surroundings or the settlement of Combe Hill. For these reasons, the proposed development conflicts with Policies SD4 and SD6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031 (December 2017) Policy COO1 of the Pre-submission Tewkesbury Borough Plan 2011-2031 and the National Planning Policy Framework.
- 3) The proposed Design and Access Statement and Illustrative Masterplan are deficient in terms of the overall design approach, level of detail and contextual analysis, and accordingly fail to demonstrate how key design requirements would translate into a robust, high quality design at the reserved matters stage. As such, the proposed development conflicts with Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031 (December 2017) Policy COO1 of the Pre-submission Tewkesbury Borough Plan 2011-2031 and the National Planning Policy Framework.
- 4) The applicant has failed to demonstrate that the additional recreation pressure brought about by a housing scheme of 150 homes without suitable alternative recreation space

on or within a short walk of the application site would not result in an adverse effects on the integrity of the Severn Estuary SPA, specifically with respect to wild birds which use the nearby Coombe Hill Canal SSSI /Coombe Hill Meadows GWT nature reserve. The proposed development conflicts with Policies SD9 and INF3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031 (December 2017), Policy COO1 of the Pre-submission Tewkesbury Borough Plan 2011-2031 and the National Planning Policy Framework.

- 5) The applicant has failed to demonstrate that the development would not increase the risk of flooding within the site or elsewhere. The proposal is therefore contrary to Policy INF2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031 (December 2017) and the National Planning Policy Framework.
- 6) In the absence of an appropriate planning obligation, the proposals do not provide housing that would be available to households who cannot afford to rent or buy houses available on the existing housing market. As such, the proposed development conflicts with Policy SD12 of the Gloucestershire, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) and the guidance set out in the National Planning Policy Framework.
- 7) The proposed development does not adequately provide for community and education facilities contrary to Policy GNL11 of the Tewkesbury Borough Local Plan to 2011 (March 2006), Policies INF4, INF6 and INF7 of the JCS and the NPPF of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031 (December 2017) and the National Planning Policy Framework.
- 8) The proposed development does not adequately provide for open space, outdoor recreation and sports facilities and the proposed conflicts with Policies RCN 1 and GNL11 Tewkesbury Borough Local Plan to 2011 (March 2006), Policies INF4, INF6 and INF7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031 (December 2017) and the National Planning Policy Framework.

1.3 The Council expects that reasons 6 and 8 will be addressed by appropriate s106 obligations, however if this is not the case, the Council will demonstrate the harm arising from the absence of obligations to address those matters.

## **2.0 THE SITE AND ITS LOCATION**

2.1 Descriptions of the site and its location are contained in the report to Committee, the Appellants' Statement of Case and the draft Statement of Common Ground.

### **3.0 PLANNING HISTORY**

- 3.1 The Council resolved to permit planning application reference 17/01337/OUT, an outline application for up to 40 dwellings, associated infrastructure, ancillary facilities, open space and landscaping with vehicular and pedestrian access from A38, with all matters reserved, in June 2019. The Appellant has not progressed this application; it is understood that this is because of the disagreement in respect of education matters (see below).
- 3.2 The site has been promoted through the emerging Tewkesbury Borough Plan and as set out above is contained within the emerging Tewkesbury Borough Plan as allocation COO1.

### **4.0 PLANNING POLICY CONTEXT**

- 4.1 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.
- 4.2 The Development Plan currently comprises the Joint Core Strategy (JCS) (2017) (**Appendix A**), the saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP) (**Appendix B**), and a number of 'made' Neighbourhood Development Plans, none of which are applicable to this appeal.
- 4.3 Other material policy considerations include:
- The National Planning Policy Framework and its associated Planning Practice Guidance
  - National Design Guide: Planning practice guidance for beautiful, enduring and successful places, Ministry of Housing, Communities and Local Government, October 2019
  - The emerging Tewkesbury Borough Plan to 2031 (**Appendix C**).
  - Tewkesbury Borough Council Flood and Water Management Supplementary Planning Document March 2018 (**Appendix D**)
  - Affordable housing In Tewkesbury Borough Supplementary planning guidance August 2005 (Updated November 2006) (**Appendix E**)
- 4.4 The Development Plan policies relevant to this appeal are as follows:

#### ***Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS)***

- SP1 (The Need for New Development)



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

***Saved Policies of the Tewkesbury Borough Local Plan to 2011 (March 2006)***

- TPT3 (Pedestrian Networks)
- TPT6 (Cycle Parking)
- RCN1 (Outdoor Playing Space)

***Tewkesbury Borough Local Plan 2011- 2031 - Pre-Submission version 2019***

4.5 The Pre-Submission version of the Tewkesbury Borough Plan (PSTBP) was approved for publication and submission at the Council meeting held on 30 July 2019. On the basis of the stage of preparation the plan has reached, and the consistency of its policies with the NPPF, it is considered that the emerging policies of the plan can be afforded limited to moderate weight, subject to the extent to which there are unresolved objections to each individual policy (the less significant the unresolved objections, the greater the weight that may be given).

4.6 The relevant policies of the PSTBP are as follows:

- RES1 (Housing Site Allocations)
- RES2 (Settlement Boundaries)
- RES3 (New Housing Outside Settlement Boundaries)
- COO1 (Land junction of A38/4019, Coombe Hill)
- RES5 (New housing development)
- RES12 (Affordable Housing)

- RES13 (Housing Mix)
- NAT1 (Biodiversity, Geodiversity and Important Natural Features)
- NAT3 (Green Infrastructure: Building with Nature)
- ENV2 (Flood Risk and Water Management)
- RCN1 (Public Outdoor Space, Sports Pitch and Sports Facility Provision)
- TRAC1 (Pedestrian Accessibility)
- TRAC2 (Cycle Network and Infrastructure)
- TRAC3 (Bus Infrastructure)
- (TRAC4 (High Frequency Bus Routes)

4.7 The objections to policy COO1 are attached at **Appendix F**.

## **5.0 THE COUNCIL'S CASE**

### ***Reason for refusal 1***

- 5.1 The Council's first reason for refusal essentially relates to the principle of a development of this scale in this location.
- 5.2 The proposal does meet any of the criteria within Policy SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017) (the 'JCS').
- 5.3 Whilst Coombe Hill is identified in the JCS as a Service Village, this does not mean that any scale of development will be acceptable at any service village. The Council will demonstrate that the proposed development does not accord with the Council's adopted strategy for the distribution of new development within the Borough. Policy SP2 of the JCS sets out, inter alia, that to support their economic roles as the principal providers of jobs, services and housing, and in the interests of promoting sustainable transport, development will be focused at Gloucester and Cheltenham, including urban extensions to these areas.
- 5.4 Policy SP2 further explains that rural service centres and service villages will accommodate lower levels of development to be allocated through the Tewkesbury Borough Plan and Neighbourhood Plans, proportional to their size and function, and also reflecting their proximity and accessibility to Cheltenham and Gloucester. Whilst Coombe Hill is relatively close to Cheltenham, and there are good public transport links to Cheltenham, Gloucester and Tewkesbury, the Council will demonstrate that a development of 150 dwellings in this location would not in any way be proportional to the size and function of Coombe Hill and for that reason does not meet the strategy for the distribution of new dwellings set out in the Development Plan.
- 5.5 The Housing Background Paper (October 2019) applied a disaggregation methodology to the 880 dwellings required in Service Villages (Appendix G). This resulted in Coombe Hill being identified as needing to provide 22 dwellings in the plan period (2011-2031). Notwithstanding

this, and reflecting the accessible location of the settlement, the emerging Borough Plan allocates two sites with a cumulative indicative capacity of up to 76 dwellings at Coombe Hill (50 dwellings at this site COO1, and 26 on a site on the opposite side of the road, at land adjacent to The Swan public house).

- 5.6 The development of the Appeal site would result in this apportionment being significantly exceeded and on its own would lead to an increase of over 300% in the number of dwellings at Coombe Hill.
- 5.7 Whilst the proposal is clearly contrary to the development plan it is also the case that the Council cannot currently demonstrate a 5-year supply of deliverable housing sites. The Council's current position is that it can only demonstrate a 4.37 year supply.
- 5.8 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 five 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.'*
- 5.9 The Appellants contend that the 'tilted balance' should be applied in accordance with paragraph 11 of the Framework. However, the Appellants' Statement of Case makes no reference whatsoever to the objection of Natural England (and the Gloucestershire Wildlife Trust and Council's ecology adviser). As discussed in relation to the Council's Reason for Refusal 4 below, there is an objection based on the impact of the proposed development on the Severn Estuary Special Protection Area (SPA), which is functionally linked to the nearby Coombe Hill Canal SSSI and Coombe Hill Meadows Nature Reserve.
- 5.10 Special Protection Areas are habitats sites as defined in Annex 2 of the Framework and Footnote 6 of the NPPF provides that such sites are among those 'areas or assets of particular importance' to which paragraph 11 d) i of the Framework refers.
- 5.11 The Council will thus demonstrate that the 'tilted balance' does not apply in this case.
- 5.12 In respect of the principle of development therefore, the proposed development conflicts with policies SP2 and SD10 of the JCS in that the proposed development does not meet the strategy for the distribution of new development in Tewkesbury Borough and the appeal site is not an appropriate location for new residential development of the scale proposed.

### **Reasons for Refusal 2 and 3**

- 5.13 Whilst the proposed development would introduce built form into an otherwise undeveloped green field in the countryside, the Council recognises that this is an inevitable consequence of the allocation of the site in the emerging Borough Plan. It is therefore not the principle of housing led development on this site that is of concern to the Council (as evidenced by the previous resolution to grant permission for 40 dwellings on the site), but the impact of the scale of development proposed on the character of the site and its surroundings.
- 5.14 The Council will demonstrate the rationale for the indicative capacity of the site in combination with the allocation at site COO2. Reference will be made to the care taken in preparing the emerging Borough Plan to aim to establish a coherent central village cluster, without creating a more suburbanised village character which would be totally incongruous with the settlement's existing form. The allocation represents a low-density development with significant opportunities for landscaping and public open space as an integral part of the site layout which would provide an improved sense of place whilst respecting the village's existing character.
- 5.15 Conversely, the Council will demonstrate how the proposed development of 150 dwellings does not respond positively to, nor respect the character of, its surroundings and would not achieve the high quality design required by the Development Plan, the NPPF, the Government's National Design Guide (**Appendix H**) and the emerging Development Plan (which the Appellants seek to draw support from). The proposal does not take the opportunities presented for landscaping and public open space to form an integral part of the proposals, which is crucial not only in the sense of place-making, but also to ensure there is adequate mitigation to address the adverse impacts on the Coombe Hill Canal SSSI and Coombe Hill Meadows Nature Reserve, and consequently the Severn Estuary SPA.
- 5.16 The Appellants may allege that this is an outline application with all matters reserved and that the Inspector need not concern herself with matters of design and layout which can all be resolved at reserved matters stage. The Council will make reference to *[Crystal Properties (London) Ltd v Secretary of State for Communities and Local Government and London Borough of Hackney Council [2016] EWCA Civ 1265]* to illustrate that the Inspector is entitled to, and indeed obliged to, judge the appeal proposals on the material that has been submitted, whether it is indicated to be illustrative or not. The Council will demonstrate that the illustrative material does not show that the development of this site to accommodate up to 150 dwellings can be achieved in an environmentally acceptable way and that the proposals offend the development plan and government guidance which seek high quality design

### **Reason for Refusal 4**

- 5.17 Reference has already been made in this Statement that the appeal proposals are subject of an objection by Natural England due to the adverse impact of the development of up to 150 dwellings

on the Severn Estuary SPA, and the consequences of this in respect of the tilted balance. Insufficient evidence has been presented by the Appellant to show that the addition of 150 dwellings without sufficient recreation space within, or close to, the site would not result in adverse impacts on the integrity of the Severn Estuary SPA because of its functional links with the Coombe Hill Canal SSSI and Coombe Hill Meadows Nature Reserve. Natural England's objection is amplified by the Gloucestershire Wildlife Trust and the Council's ecology adviser.

- 5.18 The Council is strongly of the view that in light of the objection by Natural England, the Appellants were not in a position to appeal non-determination when they did. This is a matter that the Appellants should have sought to resolve through the planning application process and it was unreasonable to proceed to appeal without first seeking to do so.
- 5.19 At this stage Natural England have indicated that they do not intend to attend the Inquiry, but that they will submit written representations to 'assist the inspector in their role as competent authority under the Habitats Regulations'.
- 5.20 Whilst the Council hope that Natural England as the relevant statutory consultee will provide evidence and present their case to the Inquiry to support their objection, if this is not the case, then the Council will present evidence in support of Reason for Refusal 5.

#### ***Reason for Refusal 5***

- 5.21 Whilst the site lies within Flood Zone 1 as shown on the Environment Agency flood maps, surface water flood maps show that there is some flood risk to the south of the site and there is concern that the site might be at greater risk than mapping suggests. There are particular concerns that the A4019 and the nearby property known as The Bellows could be at risk of flooding.
- 5.22 As a consequence of this, Gloucestershire County Council, as Lead Local Flood Authority (LLFA), advised that further modelling work is required to demonstrate that the proposal would not increase the risk of flooding on the site or elsewhere. The Appellants did not seek to address these concerns prior to submitting their appeal.
- 5.23 It is understood that the County Council has applied for Rule 6 status and will present evidence in support of Reason for Refusal 5 at the Inquiry.

#### ***Reason for Refusal 6***

- 5.24 The application, and the Appellants' Statement of Case confirms that there would be a mix of house types, sizes and tenures including policy compliant levels of affordable housing (40%). The Council's Strategic Housing Enabling Officer has confirmed that this number of affordable units would be acceptable subject to a 75%/25% split which would result in 45 social rented units and 15 shared ownership units in accordance with a mix which is set out in the table at paragraph 8.30 of the officer report to planning committee.

5.25 The Appellants have not confirmed that this is agreeable to the Council's requirements at this stage, and in the absence of an agreement, and a signed obligation to secure the number/type and mix of affordable units the Council must object to the proposals. Nevertheless, despite not having been approached by the Appellants' solicitors at this stage, the Council hopes that this issue will be resolved by the preparation of suitable planning obligations in advance of the Inquiry.

***Reason for Refusal 7***

5.26 The Appellants have made it very clear in their Statement of Case that they do not agree that Gloucestershire County Council's request for s106 contributions towards education infrastructure are appropriate in the context of the CIL Regulations and that such infrastructure should be paid for by CIL which the Appellants contend '*was intended to cover education for such sites*'.

5.27 As set out above, it is understood that the County Council has applied for Rule 6 status and will present evidence in support of Reason for Refusal 7 at the Inquiry. Nevertheless, the Local Planning Authority supports the principle that infrastructure, where it is directly linked to the development proposed, and meets the tests set out in CIL Regulation 122, is capable of being paid for through s106 contributions. This matter was considered by Inspector Stephens at an appeal at Stoke Road, Bishop's Cleeve in 2019 (PINS ref: APP/G1630/W/19/3229581) which is attached at **APPENDIX I**.

5.28 In the context of Reason for Refusal 7, 'community facilities' refers to the library contributions which have also been requested by Gloucestershire County Council and will be addressed by them as a Rule 6 party, and also to recycling and waste contributions. The latter will be addressed by the Council and it is hoped that this will be agreed and appropriate contributions contained within a completed planning obligation with the Appellant before the opening of the Inquiry.

***Reason for Refusal 8***

5.29 The description of development includes reference to open space and the illustrative layout, purported to be a masterplan, indicates two derisory areas of open space. The first of these areas is located adjacent to the A4019 and appears to be an afterthought on left over land next to the proposed SuDS pond, but nonetheless is proposed to house a Locally Equipped Area for Play. The second area of open space is a narrow strip of land opposite the main vehicular access to the site and bordered by roadway on 3 of its sides and driveways to dwellings on the other. It is indicated that this area would house a Local Area for Play.

5.30 A 'circular walk' is also indicated which, at the northern boundary, would pass behind the rear boundaries of dwellings in a narrow corridor between those boundaries and the site boundary. This area would be very poorly surveilled and unattractive.

5.31 The above matters will be discussed further in respect of Reasons for Refusal 2,3 and 4, however, notwithstanding the above shortcomings, should the Inspector allow the appeal,

planning obligations would be required to secure the play areas in perpetuity. There have been no discussions with the Appellants on these matters and, as with the other potential obligations referred to above and in the officer report, no draft obligations have been circulated by the Appellants.

## **6.0 THE APPELLANTS' GROUNDS OF APPEAL**

### Housing Land Supply

- 6.1 The Council has recently published the Tewkesbury Borough Five Year Housing Land Supply Statement October 2020 (**Appendix J**). The document concludes that the Council can demonstrate a 4.37 year supply of deliverable housing sites. The Council agrees that this is a substantial shortfall although for the reasons explained above, does not agree that the 'tilted balance' is engaged in this case.

### The principle and scale of development at Coombe Hill

- 6.2 The Council, having resolved to grant permission for 40 dwellings on the site, having allocated the site for housing in the emerging Borough Plan and having included Coombe Hill as a Service Village in the Joint Core Strategy, accept the principle of housing-led development on this site. For the reasons set out above, the Council does not agree that the provision of 150 dwellings on the site would be acceptable and will demonstrate to the Inquiry why this is not the case.

### Education Requirements

- 6.3 As explained above, the Council does not agree that education infrastructure cannot be delivered by s106 contributions provided they meet the test set out in Regulation 122.
- 6.4 The Council notes that the purported Full Statement of Case submitted by the Appellants with the appeal is remarkable by its brevity and does not address all the issues which would have been apparent to the Appellants when submitting their appeal. It is also noted that the Appellants, since submitting the appeal, have sought to introduce additional matters which were not mentioned either at application stage, or in their alleged 'Full' Statement of Case.

## **7.0 SUMMARY AND CONCLUSIONS**

- 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 appeal proposals do not accord with the development plan strategy for the area and are therefore contrary to Policies SP2 and SD10 of the JCS. Whilst the Local Planning Authority cannot currently demonstrate a five year supply of deliverable housing sites, the potential impacts on the Severn Estuary Special Protection Area represent a clear reason for refusal which disappplies the tilted balance.
- 7.3 In addition to the adverse harm to protected ecology, the appeal proposals have a number of other shortcomings. The proposal to shoehorn 150 dwellings onto a site which has been identified for around 50 dwellings in the emerging Borough Plan would not, and in the Council's view, could not, be achieved in an environmentally acceptable way. The proposals would be harmful to the character of the site and its surroundings, and the existing settlement of Coombe Hill. The Appellants have not demonstrated therefore that the development would result in the high quality design required by local policies, the NPPF and the National Design Guide.
- 7.4 Furthermore, the Appellants have not demonstrated that the site would not be at risk of flooding and would not lead to flooding elsewhere; and, notwithstanding the Council's other objections to the appeal proposals, have not agreed to the necessary contributions required towards infrastructure which is essential to ensure that the development would integrate as seamlessly as possible with existing provision, and to ensure the development is truly sustainable.
- 7.5 The Local Planning Authority is not blind to the benefits arising from a scheme of this nature and acknowledges that the economic and social benefits would be substantial and weigh in favour of the development. Nevertheless, it is noted that the site is included as a draft allocation in the merging Borough Plan for around 50 dwellings and the Council has resolved to permit 40 dwellings on the site. Consequently, a significant proportion of these benefits would be realised in any event, reducing the significance of the benefits of this scheme.
- 7.6 This is a case where the tilted balance is not in play and the identified harms point clearly towards a refusal to such an extent that, even if the presumption in favour of sustainable development were engaged, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.
- 7.7 It is for these reasons that the Council will ask the Inspector to dismiss the appeal.