



## Dumbleton Parish Council response to planning application 23/00569/FUL

|                       |   |
|-----------------------|---|
| Reference             | 23/00569/FUL  |
| Alternative Reference | PP-12227327   |
| Application Received  | Mon 12 Jun 2023   |
| Application Validated | Fri 14 Jul 2023   |
| Address               | Land To The Rear Of Golden Hay Main Street Dumbleton Evesham Gloucestershire                  |
| Proposal              | The Erection of 8 Affordable Dwellings, 5 Market Sale Dwellings, Access and Associated Works. |

## Contents

|      |   |    |
|------|---|----|
| 1.0  | Dumbleton Parish Council Response   | 3  |
| 2.0  | Summary of Evidence for Objection   | 3  |
| 3.0  | Failure to meet pre-application requirements  | 4  |
| 4.0  | Failure to submit required validation documents – the application is missing materially important information preventing full scrutiny  | 4  |
| 5.0  | Failure to submit additional validation documents   | 6  |
| 6.0  | The site should be excluded from development  | 6  |
| 7.0  | Material Errors and Misrepresentation in the Planning Application   | 7  |
| 8.0  | No clear evidence of a housing need in the settlement   | 14 |
| 9.0  | Settlement growth data is misleading and significantly above the Local Plan's 5% maximum  | 17 |
| 10.0 | Design, layout and form of the development all fail to meet relevant planning policies  | 17 |
| 11.0 | Misleading Services and Accessibility information and failing to meet policy requirements   | 19 |
| 12.0 | Failure to address significant biodiversity net loss and environmental damage   | 20 |
| 13.0 | Failure of the application to meet sustainable transport requirements   | 24 |
| 14.0 | Failure to address highway safety and previous Gloucestershire Highways comments  | 25 |
| 15.0 | Failure to meet other pre-application and policy requirements   | 26 |
| 16.0 | Failure to engage with the community  | 27 |
| 17.0 | Precedent   | 28 |
| 18.0 | Dumbleton Parish Neighbourhood Plan   | 28 |
| 19.0 | Unreasonable burden on a single village in the parish   | 28 |
| 20.0 | Relevant related decisions  | 29 |
| 21.0 | Other relevant information  | 29 |
|      | Appendix A “Passive Acoustic Monitoring of Bat Species at Golden Hay, Dumbleton”,<br><i>by Niamh O'Reilly under the supervision of Dr Chris Hatcher, University of Gloucestershire</i>                                | 30 |
|      | Appendix B Ecological Observations received by Dumbleton Parish Council<br><i>by Prof. Anne Goodenough, BSc, PhD, PGC, PGCHE, FRSB, SFHEA, CBiol,<br/>Professor in Applied Ecology, University of Gloucestershire</i> | 31 |

### Abbreviations used throughout

Local Plan – [Tewkesbury Borough Local Plan 2011-2031 Adoption Version](#)

JCS – [Gloucester, Cheltenham and Tewkesbury Join Core Strategy 2011-2031](#)

NPPF – [National Planning Policy Framework](#)

Conservation Area – [Dumbleton Conservation Area Character Statement 2002](#)

Cotswold AONB<sup>1</sup> – [Cotswold Area of Outstanding Natural Beauty \(now National Landscape\)](#)

The Council – [Dumbleton Parish Council](#)

<sup>1</sup> In June 2020 the Cotswolds National Landscape Board decided to replace the term Area of Outstanding Natural Beauty (AONB) with National Landscape. This plan uses the name Cotswolds National Landscape (CNL) for the area designated as the Cotswolds AONB. At times it is abbreviated to National Landscape. AONB is still the legal designation and is used within the plan when referring to AONB's outside of the Cotswolds and the designation nationally.

## 1.0 Dumbleton Parish Council Response

Dumbleton Parish Council **objects** in the strongest possible terms to this application, with the reasons supporting this objection outlined below.

## 2.0 Summary of Evidence for Objection

Planning Application 23/00569/FUL fails to meet requirements, shows no clear evidence of a local housing need and is inappropriate for the settlement:

- Fails to meet the validation requirements of Tewkesbury Borough Council *Tewkesbury Local List of Validation Requirements*
- Fails to meet conditions outlined to the applicant in response to a pre-application (20/00013/PRE)
- Tewkesbury Borough Council's response to the pre-application suggests the proposed development is not economically viable
- The application statements submitted include numerous material errors and misrepresentations, preventing proper scrutiny and informed decisions to be taken. This can lead to an incorrect decision and increased risk of a Judicial Review
- Provides no clear evidence of a housing need in the settlement and uses no longer valid and outdated data as the rationale for the application
- Fails to meet the requirements of the *Tewkesbury Borough Local Plan 2011-2031 Adoption Version*, including (but not limited to): RES3; RES4; RES5; RES6; RES12; RES13; DES1; HER1; HER2; HER4; LAN2; NAT1
- Fails to meet the requirements of *Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031*, including (but not limited to): Strategic Objective 4; Strategic Objective 5; Strategic Objective 6; Strategic Objective 7 Policy SD4; Policy SD6; Policy SD7; Policy SD8; Policy SD9; Policy SD10; Policy SD12; Policy SD14; Policy INF1; Policy INF4
- Fails to meet the requirements of the *National Planning Policy Framework*, including (but not limited to): Sections 2, 9, 11, 12, 15 and 16
- Fails to meet the policies and guidance of the *Dumbleton Conservation Area Character Statement 2002*
- Fails to address highway safety issues, including comments from Gloucestershire County Council Highways on the previously submitted application (22/00009/FUL) that recommended refusal
- Proposes development in a non-service village which is not a Strategic Allocation site with an Accessibility score of 0 out of 15 and a Total Services and Accessibility score of 8 out of 48 (likely to be 5 out of 48 when updated) – the location is inappropriate for development
- Sets a precedent for future development in a Conservation Area and the Cotswolds AONB
- Does not consider the *Dumbleton Parish Neighbourhood Plan*
- Places an unreasonable burden on a single village based on an invalid and outdated housing needs survey using data for the previous Parish comprised of three villages
- Relevant related decisions show refusal and withdrawal
- No economic justification for the development is submitted for scrutiny
- Public opinion in the parish is against the application and notes that the Neighbourhood Plan will play a better role in identifying needs

**The application does not meet the policies and requirements of:**

- **Tewkesbury Borough Council's planning and validation**
- **the Joint Core Strategy**
- **the Tewkesbury Local Plan**
- **the National Planning Policy Framework**
- **the Dumbleton Conservation Area Character Statement**

**Its assertion of housing need that underpins the application is based on no longer valid and outdated data and not proven to the scale stated in the application.**

**It should be refused on this and the above-noted grounds, along with all other supporting reasons for the Council's objection.**

### 3.0 Failure to meet pre-application requirements

The *Design and Access Statement* section 1.3 states:

*The accompanying Planning Statement outlines the necessary information of all Pre-App discussions with Bob Risic (sic) which is relevant to support this planning application.*

Details of the Pre-App discussions do not appear in the *Planning Statement*. The Council has used the information in a reply on 10 June 2020 from Tewkesbury Borough Council to pre-application 20/00013/PRE in this response.

The reply from Tewkesbury Borough Council identifies a specific list of *Information required to support a Planning Application*

This application does not include (and may not be limited to) the following items from this list:

- Foul Sewage assessment
- Lighting Assessment
- Energy Statement

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **JCS SD14**
- **NPPF 4 and 11**
- **Tewkesbury Local List of Validation Requirements**
- **Tewkesbury Borough Council pre-application requirements**

**As a result, it should be refused**

### 4.0 Failure to submit required validation documents – the application is missing materially important information preventing full scrutiny

The following documents required for validation were not submitted with the application on 12 June 2023:

- Lighting Assessment
- Viability Assessment
- Up-to-date housing needs survey
- Landscape and Visual Impact Assessment
- Topographical Survey
- Arboricultural Assessment

The *Design and Access Statement*, section 1.2, states:

*...the following submitted documents:*

- *Planning Statement*
- *Ecological Report*
- *Arboricultural assessment*
- *Flood Risk Assessment & Drainage Strategy*
- *Transport Statement*
- *Landscape Visual Assessment*
- *Ground Investigation Report*
- *Heritage Statement*
- *Archaeological Report*
- *Topographical Survey*

The *Planning Statement*, section 1.5 states:

*For the Case Officer's benefit, this planning statement accompanies (and should be read in association with) the following documentation:*

- *Supporting plans by BM3*
- *Landscaping plans by Zebra Landscaping*
- *Landscape and Visual Appraisal by Zebra Landscaping*
- *Design and Access Statement by BM3*
- *Transport Statement by Cotswold Transport Planning*
- *Heritage Statement by Orion*
- *Ground Investigation Report by Wilson Associates*
- *Arboriculture Impact Assessment by Seed*
- *Ecological Report by AA Environmental Ltd*
- *Local Housing Needs Assessment by GRCC*

The *Planning Statement*, section 5.20 states:

*As demonstrated in the supporting viability assessment,...*

At the date of submission of the Council's response, the following documents **had not been submitted**:

- *Arboricultural Impact Assessment [the Council notes correspondence on 14 July 2023 from the applicant highlights that this assessment will not be submitted but gives no reason as to why]*
- *Topographical Survey*
- *Local Housing Needs Assessment by GRCC*
- *Supporting Viability Assessment*

The *Planning Statement* was submitted later than the application. As a result, the Council had no opportunity to scrutinise it during its Planning Consultation meeting for the application on 10 July 2023.

The Council notes that a *Landscape and Visual Appraisal* was available as of 26 July 2023. This is **42 days after** the application was received by Tewkesbury Borough Council (12 June 2023). It is **27 days** after the Council was notified of the application. This has allowed no time for scrutiny during its Planning Consultation meeting on 10 July 2023 or before submitting this response. It must be considered **materially missing** information as a result.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan RES6, RES12 and RES13**
- **JCS SD12 and SD14**
- **NPPF 2, 4 and 11**
- **Tewkesbury Local List of Validation Requirements**

**The application cannot be thoroughly scrutinised and no informed decision can be made as a result of materially important information**

**As a result, it should be refused**

## 5.0 Failure to submit additional validation documents

The Council believes the application required the following additional documents for validation. The items below refer to the *Tewkesbury Local List of Validation Requirements*<sup>2</sup> published in March 2022.

### *Affordable Housing Statement*

Required if the proposal is for 10 dwellings or any rural exception site.

### *Air Quality Assessment*

Required for applications “that would lead to an increase in congestion or HGV movements, include significant amounts of car parking, emit dust”.

The application cites an additional 60 vehicular trips per day (the Council believes this to be a low figure based on standard traffic assessments for the number of additional vehicles) and a significant increase in car parking. The application also does not address the volume of construction traffic that would be involved. The Council believes an AQA is required for validation.

### *Social and Community Infrastructure Justification statement*

The land in the application has been accessible by members of the public for several decades, used for dog-walking, walking and similar leisure activities. It has also been kindly made available by the landowners to the local Village Club for leisure and related activities over the period by the nearby Village Club.

The land with additional land and tennis courts is subject to an *Asset of Community Value* application under the *Localism Act 2011*. This is a material consideration as it demonstrates that the residents believe the land to be an important accessible open space.

### *Travel Plan*

The significant increase in traffic volume alongside part of the access road to the site being single carriageway and unable to be widened (due to historically protected railings on one side and the pedestrian pavement on the other), the Council believes that a Travel Plan is required for validation.

### *Waste Minimisation Statement*

Required for any proposal for either 10 or more dwellings (or residential development on a site larger than 0.5 hectares).

### *Water Management Statement*

Required for all applications for full or outline planning permission. This is particularly pertinent to Dumbleton as its current foul sewerage system has capacity issues and needs cleaning and pumping throughout the year.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Tewkesbury Local List of Validation Requirements**

**As a result, it should be refused**

## 6.0 The site should be excluded from development

As noted in section 5.12 of the *Planning Statement*:

*The parcel of land for consideration was previously used as a paddock for grazing.*

This proposed site in this application is a paddock and is not in the built-up area and, thus, should be excluded from development.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan Policy RES4**
- **JCS Policy INF4**
- **NPPF 2**

**As a result, it should be refused**

<sup>2</sup> Tewkesbury Local List of Validation Requirements, March 2022 <https://tinyurl.com/2heojb9c>

## 7.0 Material Errors and Misrepresentation in the Planning Application

The Local Planning Authority relies on the information in the application being accurate. Misrepresentation, skewing of statistics and misleading information can lead to an incorrect decision and a heightened risk of a Judicial Review being called and being successful.

There are numerous material errors and misrepresentations throughout the application. These question the validity and reliability of the applicant's statements and third-party suppliers' statements. In the Council's view, this means the application (notwithstanding all other reasons for refusal) should be refused.

Examples of these material errors and misrepresentations include (but are not limited to):

### 7.1 The Planning Statement when referring to the previous application (22/00009/FUL)

Section 1.2 states:

*Following an initial planning application for residential development in January 2022 (ref:22/00009/FUL), the planning proposal was withdrawn following correspondence with the Council on concerns regarding design (layout) and the proposals (sic) connectivity with the village.*

Section 1.3 states:

*Further to the previous application the proposed development has been assessed and amended to incorporate further public access routes across the site to better integrate the proposal. This has been discussed further in the following sections.*

Section 1.2 states that the application was withdrawn due to unfavourable comments on design and connectivity. Section 1.3 states that it has only dealt with connectivity but treats this as dealing with design concerns.

Section 1.5 refers to Local Housing Needs Assessment by GRCC (properly, the *Housing Needs Survey 2019*). As noted in [section 8.0](#) below, this Survey is no longer valid following the creation of the new Dumbleton Parish in April 2023. The new Parish is materially smaller in terms of the number of dwellings and population and there is no reference to the new Parish throughout the *Planning Statement*.

Section 3.1 states

*A viability assessment has been provided as part of this application to evidence the above claim.*

**This is materially incorrect.** No such assessment has been submitted.

Section 3.2 makes several statements that should be considered material errors, including (but not limited to)

*The village of Dumbleton has an identified affordable housing need*

This is **materially misleading** as there is no evidence for this. The application uses the invalid and outdated HNS 2019. Notwithstanding the invalidity, the data in the Survey does not support the application's assertion of housing need.

*The proposed design reflected the character and aesthetic of the villages (sic) townscape*

This contradicts section 1.2 in the *Planning Statement* (see above). This is **materially incorrect** as at least **three** objections, including the Council's response, cited design as one reason for refusal.

*The proposal was acceptable on highway safety policy requirements*

This is **materially incorrect**, Gloucestershire County Council Highways, a statutory consultee, objected and recommended **refusal**.

*The development would provide sufficient landscaping and BNG gains to support environmental policy*

*No objections were raised on ecology or arboriculture grounds*

This is **materially incorrect**. Several objections cited ecological reasons for refusal, including the Council's response.

It is also **materially misleading** as [section 12.0](#) below shows there is no support for environmental policy and a significant biodiversity net **loss**, not gain.

## 7.2 The Planning Statement in the context of the new application

Section 4.7 states:

*Whilst it is acknowledged that the Tewkesbury Borough Council Local Plan has been adopted (subject to main modifications), this does not alter the current identified undersupply of housing in the borough.*

Section 4.8 states:

*Consequently, in accordance with paragraph 11(d), the relevant and most important policies outlined above can only be given marginal weight in the decision-making process and should be treated as material considerations.*

Section 6.1 states:

*As a result of the Local Authority's housing land supply position, paragraph 11(d) is engaged and a presumption in favour of sustainable development applies. The primary local planning policies which determine the principle of development can consequently not be given full weight.*

**These statements are objectively incorrect.**

Tewkesbury Borough Council published its interim five-year housing land supply statement in March 2023 as follows:

0% buffer: **7.02 years supply**

5% buffer: **6.68 years supply**

As such, primary local planning policies **must be given full weight**.

These statements are also **materially incorrect** as the site is small and will have a minimal impact on numbers. Rural exceptions sites are precisely that – exceptions – so great weight must be given to the policy tests.

Section 5.8 states:

*The proposed 13 dwellings, compared the size (sic) of the existing village, is also proportionate to the size and function of Dumbleton which currently comprises 270 dwellings (4% growth).*

**This is materially misleading.**

Based on the *Planning Statement's* datum, the growth is **4.8%, not 4% as stated**. The convention for rounding means this should be rounded up, making the figure **5.0%**.

The *Planning Statement* notes the number of dwellings at 270. This figure is the number of HNS 2019 **questionnaires** distributed in the previous Dumbleton Parish. The number of dwellings in the previous Parish was **245** (25 fewer).

As of 1 April 2023, Dumbleton Parish now comprises **195 dwellings**. The settlement of Dumbleton comprises **170 dwellings**.

Using either figure means the resultant growth in the settlement would be **7% (rounded from 6.6%)** or **8% (rounded from 7.6%)**. Both figures are materially above the 5% set out as the **maximum** in the Local Plan.

Section 5.12 states

*The parcel of land for consideration was previously used as a paddock for grazing. As the land is private property and has no public footpaths crossing it, the site is not accessible to members of the public and therefore offers no physical amenity benefits.*

**This is materially incorrect.**

For several decades, the land has been open and used by members of the public for leisure and recreational activities and parts of the site have, with the kind permission of the landowner, been used since it was established in 1966 by the local Village Club for recreational and leisure activities.

The land in question is also subject to an ongoing application to register it as an *Asset of Community Value*. This is material to the planning application.



Section 5.18 states:

*Notwithstanding compliance with RES4, the proposal also complies with SD12. The GRCC report identifies that Dumbleton (November 2019) has an affordable housing need of at least 8 x homes. No affordable or market dwellings have been delivered in Dumbleton or nearby neighbouring settlements. Therefore, the identified need remains unmet.*

**This is materially incorrect and misleading.**

The final GRRC report (HNS 2019) was published in October 2020. HNS 2019 uses data from the previous Dumbleton Parish, comprised of three villages. The new Dumbleton Parish comprises two villages with **50 fewer dwellings (a 20% reduction)**.

The application places **all** the housing need for the three villages from the previous Parish in the single settlement of Dumbleton – this is flawed.

There is no evidence for a housing need of at least 8 x homes – see [section 8.0](#) below.

Alderton, the nearest settlement on a straight-line basis (2.85km), has had a **40% increase<sup>3</sup>** in housing over the last ten years, including affordable and market dwellings. This is drastically above the 5% maximum identified in the Local Plan and it is **materially misleading** to state that “*need remains unmet.*”

Section 5.20 states:

*As demonstrated in the supporting viability assessment, the proposed market dwellings are included to fund and ensure the realistic delivery of the proposed affordable housing to meet the identified need.*

**This is materially misleading.**

No viability assessment/report has been submitted. This means the information cannot be scrutinised.

A viability report will show four main interdependent variables: Developer Profit, Cost, Revenue and Land Value.

It is usual for affordable housing on Rural Exceptions sites to produce minimal land value and developer profit at 10% or less of Gross Value.

In these circumstances, affordable housing, including social rent tenures, is typically viable without cross-subsidy from market homes.

Further, a **promoter**, not a developer or a landowner, proposes this development. This means there will be additional costs for the promoter’s fee (usually via a land value uplift). These additional fees are not compatible with the principle of rural exceptions.

Section 5.34 states

*Regarding ecology, online records confirm that there are no records of protected species on, or near, the proposed development site. A site survey confirms that the land in question is of limited ecological value. Species found on site are common and abundant.*

**This is materially misleading.**

**11 (potentially 12) of 17 UK’s breeding bat species** are recorded on site and all bats are protected by law. As a result of the significance of the site as a bat foraging area, an application is underway to give the site protected wildlife status. See [section 12.0](#) below.

The *Ecological Report* is **materially misleading** as it states there are no newt habitats nearby. This is misleading as there are several ponds and ditches within the range of newts, but no survey was carried out despite the site being within a NatureSpace Partner’s red zone (“Red Zone”).

<sup>3</sup> <https://www.alertonvillage.co.uk/planning.html>

Section 5.48 states:

*The proposal has been designed with intention to respond to the rural surroundings and preserve the existing character and cohesion to the existing residential area. As is already found in Dumbleton as an established characteristic, dwellings have been placed back-to-back with the existing homes, following the curvature of the existing built form.*

*The scale and massing of the proposed dwellings is a mix of two and single storey homes This follows the existing pattern of homes in the community, thereby not resulting in a visually discordant development.*

*The internal size of the properties accords with the national minimum internal space standard requirements.*

**This is materially incorrect.**

The built form does not have short back-to-back gardens. The only back-to-back gardens are in the centre of the village, **not** the fringe.

The application states that the density and massing reflect the character of the settlement. **This is objectively untrue.** The gable depths and roof pitches are atypical of the settlement and the Cotswolds region in general.

The application states that the properties meet the requirements of the statutory guidance on *Technical housing standards – nationally described space standard*<sup>4</sup>.

**This is materially untrue.**

Based on the application's dimensions provided, plots 1, 3 and 8 are significantly undersized and plots 4-7 are marginally undersized. As these plots are for affordable dwellings, space standards must carry greater weight in decision making.

Plots 3, 9, 10 and 11 have bedrooms that do not meet the space standards.

Sections 5.53 through 5.56 refer to drainage.

The drainage survey does not account for surface water flooding in the site's southwest corner. In January 2020, the Council received the following clarification from Fisher German, the agent for the landowner<sup>5</sup>:

*There is a water drainage problem at the access to Golden Hay field which we need to resolve following complaints from the owners of some properties in Golden Hay that their gardens are flooding.*

The application does not demonstrate any communication with Severn Trent Water, who would confirm that the treatment plant in Dumbleton is at capacity.

As such, the *Planning Statement* comments on drainage are **materially misleading**.

Section 6.3 states:

*This planning statement and supporting documents provided have already demonstrated how the proposal does not result in harm to these assets [Cotswold AONB and Dumbleton Conservation Area]*

This is **misrepresentation**.

The Ecological Report is inadequate and does not account for the extreme damage to a significant bat foraging location where 11/12 of the 17 UK's breeding bat species have been found, including four of the most under threat. The Ecological Report does not consider other protected species, including hedgehogs and birds. It also ignores the potential for the presence of the Great Crested Newt.

The design and layout of the proposed development do not respect the character of the settlement in the pattern of development, massing and form, scale (too large with atypically wide gables) and the levels shown on the plans mean that the development will sit significantly higher than the adjoining listed building and will dominate them from all angles.

<sup>4</sup> <https://tinyurl.com/2n984ae6>

<sup>5</sup> Minute 1013 <https://dumbleton-parish-council.org.uk/wp-content/uploads/2020/12/DPC-Minutes-012020.pdf>

Section 6.5 states:

*As outlined above, the development offers a much-needed opportunity to provide a mix of affordable housing types to the village where there is an identified local need. This statement has also demonstrated that there is a high borough wide need for affordable and market housing which this development will help contribute to address.*

**This is materially misleading and objectively untrue.**

The application provides no evidence for an identified local housing need as it uses a no longer valid Survey (HNS 2019). Notwithstanding the invalidity of the HNS 2019, the data in the Survey does not support the scale of housing need asserted in the application.

As noted above, Tewkesbury Borough Council published its interim five-year housing land supply statement in March 2023, showing at least 6.68 years supply. As such, there is no “high borough wide need for affordable and market housing”.

Section 6.8 states:

*The proposed development will see an increase in local biodiversity net gains through the provision of new planting and landscaping which has been sensitively design reflecting the developments edge of village location. As the land is currently pastureland, it is considered that the proposed planting and landscaping will provide a much better offer for local wildlife.*

Section 6.9 states:

*This statement and supporting evidence have also demonstrated that the development will not result in harm to the wider AONB and will protect the countryside’s intrinsic beauty.*

**These are both materially misleading and objectively untrue.**

As shown in [section 12.0](#) below, the site is an extremely important site for protected species, including 11/12 of 17 UK bat species, **four of which are under threat**. The *Ecological Report* is inadequate, with no proper survey for hedgehogs or the Great Crested Newt and does not consider either in its conclusions. The destruction of such a significant wildlife site will have the reverse effect as that described in sections 6.8 and 6.9.

The site is pending an application to register it as a Local Wildlife Site, which must be considered material for the planning decision.

#### *Section 7.0 Conclusions*

Given the significant number of materially misleading statements, materially incorrect statements, materially untrue statements, objectively untrue statements and misrepresentations, the conclusions in the *Planning Statement* do not demonstrate any compliance with the planning considerations listed.

#### *Appendix A Public Transport and Local Amenities*

There are several material errors and misleading information within Appendix A of the Planning Statement, including (but not limited to):

##### *Bus Timetables*

The Appendix notes the three bus services that operate once on a Monday, once on a Thursday and once on a Friday. It is **materially misleading** as the Appendix does not make it clear that the buses are infrequent and unsuitable for anyone using public transport to access employment opportunities.

##### *Dumbleton Village Club*

Information about Dumbleton Village Club is **materially misleading** as it does not make clear that access to **all** facilities requires membership at a cost of £15 per person or £20 per couple<sup>6</sup>. For the demographic requiring affordable housing, this would be an extra financial burden that could likely exclude them.

<sup>6</sup> <https://tinyurl.com/26qge9qj> – “Membership gives access to the Dwyer’s Bar and the Snooker Room...” taken from Dumbleton Village Club website

### *Near by (sic) Facilities*

The listing for nearby facilities is **materially misleading** as it does not make it clear that four facilities are accessible only by private vehicle.

The listing is **materially misleading** as it does not clarify that access to **all** Dumbleton Cricket Club facilities requires membership at a cost of £40 per person (for social membership)<sup>7</sup>. For the demographic requiring affordable housing, this would be an extra financial burden that could likely exclude them.

The listing is **materially misleading** as it does not make clear that Dumbleton Cricket Club is only open between April and October each year and that Dumbleton Hall Hotel regularly closes to village residents for private events, such as weddings.

The listing is **materially incorrect** as it lists Dumbleton Tennis Club. The Club has not existed since 2018, when the landowner did not renew the lease for the Club and the tennis court facility was closed for use.

The listing is **materially misleading** as it does not make clear that Pink Gym Ladies Gym (2.1 miles from Subject) is for sale and unlikely to remain open.

**The significant number of material errors and misleading statements in the Planning Statement means the application should be refused**

## 7.3 Design and Access Statement

### *Section 1.2 Accompanying Documents*

**Materially important** documents were not submitted with the application despite section 1.2 stating they have been:

- Arboricultural assessment
- Landscape Visual Assessment<sup>8</sup>
- Topographic Survey

The Council believes the application should not have been validated without these materially important documents (notwithstanding other materially important documents missing for validation requirements).

### *Section 1.3 Planning History*

There is no reference to **material details** from the pre-application 20/00013/PRE advice given by Tewkesbury Borough Council on 10 June 2020, including but not limited to:

- a specific list of Information required to support a Planning Application, including:
  - Foul Sewage assessment
  - Lighting Assessment
  - Energy Statement
- the Strategic Housing and Enabling Officer states that Cross Subsidy via market housing is not required.
- the Planning Department states that it has “Serious Reservations” about the proposal in multiple contexts, including cross subsidy, impact on the Cotswold AONB and the size of the development.
- the Heritage Conservation Officer is not supportive of the design of the houses or the open-plan frontages.
- the Tewkesbury Conservation Specialist “The house designs are particularly unsympathetic and unsuitable”

<sup>7</sup> <https://tinyurl.com/24ufp3n6> – “For adults who don’t intend to play but want to use the bar and/or attend social events.” taken from Dumbleton Cricket Club website

<sup>8</sup> The Council notes that a LVIA was visible on Tewkesbury Borough Council’s Planning Portal as of 26 July 2023. This is 27 days after the Council was notified of the application and has allowed no time for scrutiny prior to submitting this response.

Section 1.6 Surrounding Area states

*There are also plans for the unused school to reopen for educational use.*

**This is materially misleading and materially untrue.**

The Council received correspondence on 10 July 2023 from the Board of Governors (“FGB”) of Oak Hill Primary School that states:

***The FGB remains committed to the view the satellite site based in Dumbleton should be closed as outlined in the Statutory Proposal Notice and associated documentation published by the School on 14 February 2023, being the commencement date for the public consultation period***

***The information contained in the Full Design and Access Statement was not obtained from the School, its staff or the FGB or from the Diocese.***

***The FGB does not have any further information to share with the Parish Council as to the source of this information relied upon by the Applicant in the aforementioned Planning Application. [Emphasis added]***

Neither Oak Hill Primary School nor the Council knows the source of information for this statement. The Council appreciates that this could be a genuine misstatement by the applicant. It is still, however, materially misleading and untrue.

*Section 2.0 Housing Needs Survey*

All references to the HNS 2019 must be considered **materially misleading** as the data is no longer valid for the settlement or the Parish.

Section 2.0 also incorrectly states that a housing needs survey was carried out in September 2020 – it was carried out between 14 October and 21 November 2019, with the final version of the data published in October 2020.

Section 2.1 Planning Policies states:

*A conclusive breakdown of Planning Policies, including Joint Core Strategy (2017) and Tewkesbury Borough Council Emerging Local Plan (2020) can be found in Document 0629.*

This is out of date. The Local Plan is adopted and demonstrates that the applicant has made no attempt to update the application from its previous application (22/00009/FUL). Much of the *Design and Access Statement* and *Planning Statement* appears to be a “copy and paste” exercise from the previous application that demonstrates no regard to comments made about the previous application from consultees.

Document 0629 is also unavailable for inspection and is another **materially important** document that the Council or the Local Planning Authority cannot scrutinise.

Section 5.0 Number of Properties states:

***The development is designed specifically for the site and promotes sustainable living using modern methods of construction, whilst embracing the traditional vernacular style. [Emphasis added]***

There is no evidence in the application to support the statement regarding modern methods of construction.

The Council has received the following advice regarding modern methods of construction (MMC) from Mr N Towe, Director ilke Homes (the UK’s largest MMC builder) and former Director, EDAROTH (an MMC developer)

*“MMC does not lend itself to homes that fit the rural character and provides very limited flexibility in design”*

### Section 6.0 Landscape Statement

The site's visibility from the footpaths surrounding the village is **deliberately understated**. The statement also ignores that the finished levels of the dwellings will make them significantly higher than the surrounding listed buildings, thus, failing to meet Local Plan policies RES4, RES5, DES1, HER1, HER2, LAN1 and LAN2; JCS Strategic Objective 5 and Policies SD4, SD6, SD7 and SD8; NPPF sections 2, 12 and 16; and Conservation Area policy CON1

**The significant number of material errors and misleading statements in the *Design and Access Statement* means the application should be refused**

**The volume of material errors and misrepresentation throughout the application can lead to an incorrect decision and a heightened risk of a Judicial Review being called and being successful.**

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan RES4, RES5, DES1, HER1, HER2, LAN1 and LAN2**
- **Strategic Objective 5 and Policies SD4, SD6, SD7 and SD8**
- **NPPF 2, 12 and 16**
- **Conservation Area Policy CON1**
- **Tewkesbury Local List of Validation Requirements**

**As a result, it should be refused**

## 8.0 No clear evidence of a housing need in the settlement

### 8.1 The Council's Observations on the Housing Needs Survey 2019

The Council has the following observations on the Housing Needs Survey 2019 ("HNS 2019"), published by Gloucestershire Rural Community Council ("GRCC"):

- In October 2019, GRCC delivered 270 Housing Needs Survey questionnaires to the previous Dumbleton Parish, which comprised three villages with a total of 245 dwellings
- 66 completed questionnaires were received by GRCC – around 24% of those sent. GRCC noted that the average response to such a survey was between 10% and 55%
- The first published edition of the survey data and conclusions was sent to the Council and discussed at a full Council meeting in January 2020<sup>9</sup>. It was noted that the first edition contained numerous errors and erroneous conclusions. The Council resolved to seek correction and clarification of these
- Over subsequent months, the Council worked with the Survey's author to correct these errors. Revision 5 of the Survey was the final version received by the Council on 20 October 2020
- Revision 5 showed most of the errors corrected but still drew, in the opinion of the Council, erroneous conclusions from the survey data.

Items that the previous Parish Council still required clarification on included (but were not limited to):

- Data for each village [*GRCC advised this was not possible – the Council believes it is required to assess housing needs in individual settlements properly*]
- How one respondent who noted they were not resident in the parish was able to respond and be included in the survey and who was one of the respondents identified as having a housing need
- Why was "Connection to Dumbleton" listed in the data when it should have been "Connection to Dumbleton Parish"?
- Why was a public house outside the Parish (on the B4077) listed among the parish facilities?

<sup>9</sup> Minute 1014 <https://tinyurl.com/2q4pctax>

During the period in which the Council worked with GRCC on corrections, the Council received a request, on 4 September 2020, from DB Land and Planning Consultancy (“DB Land”) to meet with the Council.

DB Land noted that the HNS 2019 showed a clear need for affordable housing in the village (**not the parish**) and that it had identified a suitable plot of land – the land proposed for development under planning application 23/00569/FUL.

The Council replied that it was, under law, unable to discuss planning development that was not part of a validated planning application and, considering the ongoing correction of the HNS, it was also inappropriate to meet (notwithstanding the regulations). **The Council did not receive a response from DB Land.**

On 17 November 2021, the Council voted to implement a Neighbourhood Plan following consultation with the parish. The Council informed Neighbourhood Planning at Tewkesbury Borough Council of this decision and the proposed plan designation area.

## 8.2 The HNS 2019 is no longer valid and is outdated

The HNS 2019 was undertaken across the previous Dumbleton Parish, which comprised the villages of Dumbleton, Great Washbourne and Wormington – **245 dwellings in total.**

On 1 April 2023, this form of Dumbleton Parish ceased to exist and was replaced by two newly created parishes<sup>10</sup>: Dumbleton (comprising Dumbleton and Great Washbourne) and Wormington (comprising Wormington).

The new Dumbleton Parish comprises **195 dwellings in total.**

As noted above, GRCC advised that data for each village was unavailable. As a result, **all data in the HNS 2019 data is invalid as of 1 April 2023:**

- The data was collected from three villages; **50 dwellings (over 20%)** are no longer in Dumbleton Parish
- The data for each village is unavailable, meaning the data has **no validity** for the new parish
- The data is four years old, and there has been a significant churn in property ownership since October 2019 – approx. 8% of the total stock in the previous Dumbleton Parish.

**The HNS 2019 survey data is no longer valid and is outdated for the new Dumbleton Parish created on 1 April 2023. There is no clear evidence of a housing need.**

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan RES6, RES12 and RES13**
- **JCS SD12**
- **NPPF 2**

**As a result, it should be refused**

## 8.3 The HNS 2019 does not demonstrate a clear housing need (notwithstanding its invalidity)

This application cites the HNS 2019 as evidence of an identified housing need within Dumbleton village (*Design and Access Statement, sections 2.0 and 5.0; Planning Statement, sections 3.1, 3.2, 5.18 and 7.2*).

In the final published version of the HNS 2019 (October 2020), the Report provided the following data:

### Section 7 – Existing Affordable Housing Stock

*Current affordable housing stock in [the previous] Dumbleton parish (as at November 2019)*

- *5 dwellings (4 bungalows and 1 house)*
- *3 of the bungalows have been re-let in the last 3 years*

### Section 5 – Key Findings

#### Section 5.6, Table C1

*Two respondents – both of whom currently rent in [the previous] Dumbleton parish – expressed a preference for affordable rented housing in [the previous] Dumbleton parish [Emphasis added]*

<sup>10</sup> As per a formal order made by Tewkesbury Borough Council on 2 February 2023

### Section 5.8, Table C2

*Three respondents – two of whom currently live in [the previous] Dumbleton parish – expressed a preference for affordable home ownership in [the previous] Dumbleton parish [Emphasis added]*

Analysing this data shows that within [the previous] Dumbleton parish – **as distinct from Dumbleton village** – five respondents expressed a preference to live in the [previous] parish. Of these five, **only one did not already live in the [previous] parish.**

This is contrary to the assertion in the application's *Design and Access Statement* that states:

*The survey has identified a need for 2 Affordable Rented, 6 Shared Ownership*

The existing affordable housing stock of five dwellings also showed, according to the HNS 2019, regular availability of affordable housing, with three being re-let in three years – 60% of the available stock.

**Notwithstanding the HNS 2019 is now invalid, the application is not supported by the data from the HNS 2019. There is no evidence of housing need on the scale asserted by the application.**

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- Local Plan RES6, RES12 and RES13
- JCS SD12
- NPPF 2

**As a result, it should be refused**

#### 8.4 Failure to meet specific policy tests

Based on the data in the HNS 2019, the application fails to meet the requirements of the Tewkesbury Borough Local Plan 2011-2031 Adoption Version, **Policy RES6 Rural Exception Sites**, as follows:

4. ***Under no circumstances will schemes be permitted where the number of affordable units exceeds the need identified in the Housing Needs Survey. [Emphasis added]***

The application proposes eight affordable dwellings (with an additional five market sale dwellings). Notwithstanding the invalidity of the HNS 2019, the final published Survey identified **five** respondents across the whole of the previous Parish and existing affordable housing stock of **five** dwellings. The identifiable need is not eight dwellings as proposed.

**The application fails to meet the Local Plan Policy RES6 and should be refused.**

#### 8.5 Tewkesbury Borough Council's Housing Land Supply

Tewkesbury Borough Council published its interim five-year housing land supply statement in March 2023, as noted in [section 7.2](#) above, with at least **6.68 years** of housing land supply.

There is no evidence of a local housing need, the application fails to meet policies and with the level of deliverable supply across the Borough, there is no justification for this development.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- Local Plan RES6, RES12 and RES13
- JCS SD12
- NPPF 2

**As a result, it should be refused**



## 9.0 Settlement growth data is misleading and significantly above the Local Plan's 5% maximum

The *Planning Statement* section 5.8 states:

*The proposed 13 dwellings, compared the size (sic) of the existing village, is also proportionate to the size and function of Dumbleton which currently comprises 270 dwellings (4% growth).*

**This is materially misleading and materially incorrect.**

Based on the data used in the *Planning Statement* section 5.8, the growth is **4.8%**. The convention for rounding means this should be rounded up, making the figure **5.0%, not 4%**.

The *Planning Statement* states Dumbleton comprises 270 dwellings. This is **materially incorrect**.

The number of dwellings in the previous Parish was **245** (25 or 9.0% fewer).

As of 1 April 2023, Dumbleton Parish comprises **195 dwellings**. The settlement of Dumbleton comprises **170 dwellings**. Using this data means the resultant growth in the village would be:

**7% (rounded from 6.6%)** when based on the Parish overall; or

**8% (rounded from 7.6%)** when based on the single settlement

Both figures are materially above the 5% set out as the **maximum** in the Local Plan.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan RES4, RES5 and RES6**
- **NPPF 2**

**As a result, it should be refused**

## 10.0 Design, layout and form of the development all fail to meet relevant planning policies

As noted in Tewkesbury Borough Council's response to the pre-application:

*Any subsequent application will need to demonstrate that the development will preserve and enhance the character and appearance of the conservation area which the submitted designs would not.*

The proposed development layout does not respect the character of the settlement. It is not in keeping with the fringe of the settlement and the proposed design is not in keeping with the character of the surrounding dwellings, the rest of the settlement and the layout of the settlement:

- the levels shown on the plans mean that the development will sit significantly higher than the adjoining listed buildings and will dominate them from all angles
- the scale is too large, with atypically wide gables
- back-to-back garden layout and small separations are not characteristic of the fringes of the settlement

Two dwellings within close vicinity of the proposed development are listed and noted as a building of historic character, both covered by an Article 4 (2) direction<sup>11</sup>.

The proposed development is within the setting of these Grade II listed buildings on Main Street. The Grade II listed buildings setting is characterised by large front gardens and rear gardens that back onto open space. The listed buildings are small in scale.

The proposed development will place much larger dwellings in the immediate vicinity of these listed buildings. The proposed dwellings have significantly higher floor levels and will have noticeably higher roof lines than the listed buildings. This will adversely affect the listed buildings' setting and architectural interest.

<sup>11</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015 <https://tinyurl.com/2jk32n7x>

The site sits within the Cotswold AONB and will be visible from the surrounding landscape, particularly as the scale and massing is significantly greater than the nearby dwellings. This will cause harm to the landscape.

As the site is within the Cotswold AONB, a *Landscape and Visual Impact Assessment* (“LVIA”) should have been submitted with the application<sup>12</sup>. There is no LVIA, so the Council has been unable to scrutinise it and the Local Planning Authority cannot make an informed decision regarding the protection of the landscape character. The LVIA is also required by Tewkesbury Borough Council’s validation requirements (see section 3.0 above).

This design introduces a suburban-style street and houses to a fringe-of-settlement location. This does not reflect the form of the settlement and is a clear urbanisation of open countryside in the Cotswold AONB.

A significant number of the plots of the proposed dwellings in the application do not meet the nationally described space standards<sup>13</sup>.

Based on the application’s dimensions provided, plots 1, 3 and 8 are significantly undersized and plots 4 to 7 are marginally undersized. As these plots are for affordable dwellings, space standards must carry greater weight in decision making.

Plots 3, 9, 10 and 11 have bedrooms that do not meet the space standards.

No justification has been provided in the application for these variances from statutory guidance.

The application site is outside of the settlement boundary, but it fails to meet the tests of “small scale” and the tests for a Rural Exceptions site.

The pre-application response from Tewkesbury Borough Council states:

*There are serious reservations that the number of open market dwellings bring the scope of the development into the ‘major’ development category in the AONB which Paragraph 172 of the NPPF advises should be refused*

The pre-application response refers to 8 open market dwellings. The current application is for 5 open market dwellings, but the Council believes that Tewkesbury Borough Council’s serious reservations are still material in the decision.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan RES4, RES5, DES1, HER1, HER2, LAN1 and LAN2**
- **JCS Strategic Objective 5; Policies SD4; SD6; SD7 and SD8**
- **NPPF 2, 12 and 16**
- **Dumbleton Conservation Area CON1**
- **Cotswolds AONB**
- **Tewkesbury Local List of Validation Requirements**

**As a result, it should be refused**

<sup>12</sup> The Council notes that an LVIA was visible on Tewkesbury Borough Council’s Planning Portal as of 26 July 2023. This is 27 days after the Council was notified of the application and has allowed no time for scrutiny prior to submitting this response.

<sup>13</sup> Statutory guidance: Technical housing standards – nationally described space standard <https://tinyurl.com/2n984ae6>

## 11.0 Misleading Services and Accessibility information and failing to meet policy requirements

In the JCS EB011e – 2017 JCS Settlement Audit Refresh (as amended via January 2020 addendum) (EB011e), Dumbleton scores

- 0 out of 15 for Accessibility – placing it in the **least** accessible category
- 8 out of 48 for Total Services and Accessibility.

Dumbleton is in the least accessible category for the following:

- General accessibility (based on access to the following 10 key destinations by the June 2017 Gloucestershire Accessibility Toolkit: Post office, Supermarket, Library, Primary School, Secondary School, Children's Centre, GP, Pharmacy, Accident & Emergency or Minor Injuries Unit, Fitness Facility)
- Access to major employment areas (offering minimum 500 jobs) by public transport
- Access to major employment areas (offering minimum 500 jobs) by road/car
- Access to railway station

The *Design and Access Statement*, section 1.6, states:

*Dumbleton is a small village with good facilities including Dumbleton Hall, a church, the Cricket Club and Tennis Club and the Dumbleton Club. There are also plans for the unused school to reopen for educational use.*

The *Planning Statement*, Appendix A notes the following local facilities:

*Dumbleton Village Club  
Dumbleton Village Hall  
Dumbleton Cricket Club  
Dumbleton Hall Hotel  
Dumbleton Tennis Club  
St Peters Church*

The *Transport Statement* ("TS") section 3 states:

- 3.2 *The application site benefits from being in proximity to a range of services, amenities, and facilities that are predominantly located to the south within the main settlement of Dumbleton. Table 3.1 provides details of the services and amenities that may be accessed from the application site via walking or cycling and demonstrates the approximate distances and journey times.*
- 3.3 *Table 3.1 confirms that the application site benefits from being within a reasonable walking and cycling distance to a range of service, amenities, and facilities, which include education, and recreational destinations, in addition to bus stops.*

The Council notes that:

- **Four** of the six amenities are seasonal and with limited opening hours (Cricket Club, Village Club, Village Hall and St Peter's Church)
- **Two** of the six amenities require membership for **full use** of the facilities<sup>14</sup>:  
Dumbleton Cricket Club Social Membership 2023: £40 per person  
Dumbleton Village Club Membership 2023: £15 per person/£20 per couple
- The Dumbleton base of Oak Hill Primary School **is closed, with no current plans to reopen**
- Dumbleton Tennis Club **does not exist** – the lease for the tennis court was withdrawn from the previous Tennis Club by the landowner in 2018. No Club has existed since then
- Dumbleton Hall Hotel is open to non-residents but is regularly closed for private events such as weddings

The permanent closure of the Dumbleton base of Oak Hill Primary School will reduce the village's overall score by three points, reducing it to **5 out of 48**, ranking the village at 50 out of 74 [*Dumbleton Parish Council estimate*].

<sup>14</sup> Dumbleton Village Club membership: <https://tinyurl.com/26qge9qj> – "Membership gives access to the Dwyer's Bar and the Snooker Room..."; Dumbleton Cricket Club membership: <https://tinyurl.com/24ufp3n6> – "For adults who don't intend to play but want to use the bar and/or attend social events."

The *Transport Statement* is **materially misleading** regarding the range of services, amenities and facilities the site benefits from.

The *Design and Access Statement* section 1.6 states

*There are also plans for the unused school to reopen for educational use.*

The Council received correspondence on 10 July 2023 from the Board of Governors of Oak Hill Primary School stating that this information “*was not obtained from the School, its staff or the FGB or from the Diocese*” and they were “*unaware of the source*” (see [section 7.3](#) above for full details).

As such, the *Design and Access Statement* must be considered **materially misleading and materially untrue** regarding the reopening of the Dumbleton base of Oak Hill Primary School.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan RES6**
- **JCS Strategic Objective 5, Strategic Objective 6 and Strategic Objective 7; Policies SD4; SD10 and INF1**
- **NPPF 2 and 9**
- **Tewkesbury Local List of Validation Requirements**

**As a result, it should be refused**

## **12.0 Failure to address significant biodiversity net loss and environmental damage**

The *Ecological Report* submitted with the application is inadequate and shows no evidence of primary surveying for protected species, including bats and the Great Crested Newt. The *Report* dismisses the potential for the presence of protected species without basic surveys, which is against the prevailing guidance. These are serious errors and, in the Council's opinion, make the *Ecological Report* **materially misleading and materially incorrect**.

The Council has received independent ecological advice from *Prof. Anne Goodenough<sup>15</sup>, BSc, PhD, PGC, PGCHE, FRSB, SFHEA, CBiol, Professor in Applied Ecology, University of Gloucestershire* on both the application's *Ecological Report* and the formal response by Tewkesbury Borough Council. The advice is published in full in [Appendix B](#) and is used to inform the Council's responses below.

### **Badgers**

The *Ecological Report* notes an active badger sett just outside the site's boundary. No territory analysis has been conducted (using pellet baiting and latrine searching/mapping) to evidence if the site is within the territory of this family group.

### **Bats**

The *Ecological Report* concludes there are no bat roosts on site but uses this to dismiss potential bat interest at the site, which is not in accordance with Bat Conservation Trust (“BCT”) Guidelines. The *Report* shows no evidence of any passive acoustic monitoring or any entry-level dusk Activity Survey to ascertain the site's value for foraging as per BCT development guidelines. This failure to undertake any primary surveys is unacceptable as:

- **All 17 UK bat species are legally protected by *The Wildlife and Countryside Act 1981 (as amended)* as well as the *EC Habitats Directive (92/43/EEC)* and *European Protected Species* licensing framework, transposed into domestic law by the European Union (Withdrawal) Act 2018 and the *Conservation of Habitats and Species Regulations 2017 (as amended)* and the subsequent *Changes to the Habitats Regulations 2017***
- The *Ecological Report* notes the presence of a known Lesser Horseshoe roost 0.72 km at Dumbleton Hall. This species has a Core Sustainance Zone<sup>16</sup> (“CSZ”) of 4 km, according to BCT data. BCT also notes that high-quality feeding sites within a CSZ area should be identified and managed sensitively for this species, which is one of the UK's rarest bats that is highly sensitive to disturbance
- The potential for roosts immediately adjacent to the site has not been considered, despite a tree line on the eastern border of the site and old houses with outbuildings adjoining the site to the south. A pipistrelle maternity roost was observed in the roof of a property within 10m of the proposed development site in 2022.

<sup>15</sup> Prof. Anne Goodenough <https://tinyurl.com/26jmtqfy>

<sup>16</sup> Core Sustainance Zones information from BCT <https://tinyurl.com/28wujrac>

The Council has received an independent research paper from the University of Gloucestershire – “*Passive Acoustic Monitoring of Bat Species at Golden Hay, Dumbleton*” by Niamh O’Reilly, under the supervision of Dr Chris Hatcher. A copy is appended to this Response in [Appendix A](#).

The research shows that the proposed development site is **extremely important** for UK bat species. The site is home to **11 (potentially 12) of the 17<sup>17</sup>** UK’s breeding bat species, including **four** threatened/endangered species.

The research notes that across the 20 recording nights in April 2023, there were 2,409 bat recordings (“bat passes”) – an average of more than 120 bat passes per night, making the site extremely important in terms of bat species richness.

This shows that bat activity at this greenfield site in Dumbleton is substantial. Recorded activity is likely to be underestimated as monitoring was undertaken at the start of the survey season before the peak from June to August.

This also suggests the open ground and greenfield sites around the village are vital for the foraging of multiple species (technically termed a multi-species CSZ).

As noted above, **all bats are legally protected in the UK**. This means that **all 11/12** bat species detected at the site are important, especially given the high levels of activity observed. Some species are rare (regionally, nationally, or internationally), while some have very specific habitat requirements and are only found in specific locations. As the research notes, it was of special interest to record:

|   |  |
|---|--|
| Barbastelle<br>( <i>Barbastella barbastellus</i> )      | Near Threatened globally (International Union for Conservation of Nature) and rare in a UK context, so is a UK conservation priority species (Biodiversity Action Plan listed).  |
| Brown Long-eared<br>( <i>Plecotus auratus</i> )         | Specialist forager on tree lines.  |
| Leisler’s<br>( <i>Nyctalus leisleri</i> )               | Rare in the UK and Bat Conservation Trust advises special care should be taken of areas where the species is present.  |
| Lesser Horseshoe<br>( <i>Rhinolophus hipposideros</i> ) | One of the UK’s rarest bats and still declining. UK conservation priority species (Biodiversity Action Plan listed). There is an active roost at Dumbleton Hall; the open ground around the village is vital for foraging (technically a Core Sustainance Zone). Highly sensitive to disturbance. Bat Conservation Trust advises that “sensitive management of their foraging area is very important”. |
| Noctule<br>( <i>Nyctalus noctule</i> )                  | UK conservation priority species (Biodiversity Action Plan listed).  |

Following the publication of this independent research, an application for the site to be designated as important for wildlife – *Local Wildlife Site* (“LWS”) has been submitted and is pending.

Prof. Goodenough, after sight of the independent research and the *Ecological Report*, made the following observation:

*“Speaking objectively as a professional ecologist with nearly 20 years’ experience, **the number of species and the high level of foraging activity at the proposed development site make this site extremely valuable for a vulnerable and highly protected taxonomic group. Indeed, this site has the highest bat diversity of any that I have worked on within the UK.** I find it extremely disappointing that not even a basic bat activity survey was undertaken by the authors of the Ecological Report: “absence of evidence” is emphatically not “evidence of absence”. Moreover, while loss of bat roosts can be mitigated by adding artificial roost structures, **loss of feeding grounds due to development cannot be sensibly mitigated.**” [Emphasis added]*

**The inadequacy of the application’s Ecological Report regarding protected UK breeding bat species, with its materially misleading and incorrect conclusions, should mean refusal, notwithstanding all other reasons outlined in this response.**

<sup>17</sup> It is not possible to split the closely-related Brandt’s and Whiskered species of bats based on sound recordings. Capture under licence and/or DNA analysis needed

## Amphibians

There has been no formal surveying for amphibians, most notably the Great Crested Newt (“GCN”), which is a legally protected species under *The Wildlife and Countryside Act 1981 (as amended)* and *The Conservation of Habitats and Species Regulations 2017 (as amended)*. As noted in section 3.6 of the *Ecological Report*, the proposed development falls within a NatureSpace Partner’s red zone<sup>18</sup> (“Red Zone”). This means a formal survey should have been undertaken, particularly as the Red Zone and potential for GCNs were raised in response to the previous application for the site.

The *Ecological Report* rejects the potential for presence on site (section 3.24) without surveying, noting the distance to the nearest pond being over 270m and the nearest ditch being dry.

The formal response to the *Ecological Report* accepts the conclusion “...that it is unlikely that GCN would be present on site due to the lack of ponds within 250m.”

The Council notes the following regarding this conclusion:

- GCNs can move **up to 1.6km** and there are substantial bodies of water **within 1.6km** in the wider countryside and thus with GCN dispersal range. See [Appendix B](#) for complete details.
- There are known garden ponds **within 250m, including five within 30m** of the site boundary. GCNs are known to use garden ponds, and two of these properties’ householders report newts within their ponds. Prior to the date of the application, one resident noted the presence of all three species of newts native to the UK, including the GCN, on their property. A survey under GCN Level 1 licence should be carried out to confirm this.
- The nearest pond in the wider countryside is linked almost continuously to the site by a ditch which, although reported as dry at the time of a **single ecological visit in May 2020 during a prolonged drought** and when temperatures on the day of the spring visit were 24°C, holds water continually except in prolonged drought conditions. Evidence to support this is shown in [Appendix B](#).

The Council requests that a Great Crested Newt Habitat Suitability Analysis is undertaken to consider ditch connectivity from known substantial waterbodies in the wider countryside within 1.6km (actually within 0.7km). Garden ponds adjacent to the site and throughout the settlement should be surveyed using primary ecological censusing or eDNA.

## Hedgehogs

The *Ecological Report* submitted with the application states hedgehogs, legally protected under Schedule 5 of *The Wildlife and Countryside Act 1981 (as amended)*, are recorded within 280m of the site but then makes no further mention of this species.

As the formal response notes:

*Consideration should be given to the potential presence of hedgehogs.*

Numerous residents with gardens backing onto the site have photographic evidence of hedgehogs (some dated and geotagged). There are records multiple records of injured hedgehogs at Vale Wildlife Hospital within the last two years from within 100m of the site, suggesting the local population is already at substantial risk from anthropogenic activity.

Residents in the vicinity of the proposed development conducted a basic field study. The results show evidence of hedgehogs in 100% of the locations in the study. See Appendix B for full details.

The Council believes that a primary survey must be carried out and further consultation on the ecological conditions must be undertaken before the application can be validated.

## Birds

Several species of birds with the highest level (Schedule 1) legal protection under *The Wildlife and Countryside Act 1981 (as amended)*, including the Red Kite and Barn Owl, hunt over this area.

The *Ecological Report* states that ground-nesting farmland birds such as Skylark and Yellowhammer (both priority species legally protected) occur locally. However, the *Ecological Report* does not state (possibly due to incomplete information being available to the consultants) that the current management of the site, that is hay cut with aftermath grazing, is the ideal for legally protected species listed on the UK conservation priority (former Biodiversity Action Plan) list.

<sup>18</sup> Risk Zones explained, NatureSpace website: <https://tinyurl.com/25p2liq8>

### Biodiversity Net Gain

There is no detailed plan for Biodiversity Net Gain (BNG) within the application, despite it now being a legal requirement to show at least a 10% net improvement to biodiversity due to the development.

No details of the relevant metric nor workings have been shown. No ecologically robust details are given per BNG national guidance<sup>19</sup> and the specific BNG calculation metric is not articulated.

It is also notable that if primary ecological surveys for protected species had been carried out, as would be expected given the disclosed and incontrovertible evidence of local roosts (bats), sighting records (hedgehogs) and a national metric on site suitability (newts), the baseline ecological conditions would be considerably higher. This, in turn, would most likely make the BNG 10% requirement harder to meet.

### Local Wildlife Site application

*Local (or Key) Wildlife Sites (LWS)* are sites that have been independently assessed by a country-level selection panel and assessed as being of county-level importance.

LWS are the best examples of sites for specific habitats or species in the county where the loss would have a **profound and irreversible ecological impact**. The system occurs across the UK, and the Gloucestershire LWS process is encapsulated in a 107-page document plus appendices. The requirements for listing a site are extensive, rigorous and robust. Crucially, LWS are a material consideration in the planning process to protect LWS from avoidable harm. Tewksbury Borough Council has agreed, ratified, and supported the Gloucestershire system.

Based on the results from passive acoustic surveying undertaken for bats in April 2023, an application has been made to the Local Wildlife Site Selection Panel to formally assess the site for possible listing. The application has been made under Criterion 4 “*Rare or Exceptional Feature*” Part A

*“the species present are rare, either in an international, national, or county context”*

It is noted in the LWS guidance that LWS designation is not usually a suitable approach for roosts in domestic dwellings, but the designation of associated habitat can be suitable to aid protection and management.

The specifics of the application relate to the site being a key foraging area for a diverse assemblage of bats – including those that are rare in a national context (Leisler’s; Lesser Horseshoe), UK priority species (Barbastelle; Noctule), or Near Threatened internationally (Barbastelle) – and the very high activity levels recorded.

The bat-specific data has been cross-referenced with thresholds in Table S3 of the LWS documentation. The known long-term roost site of Lesser Horseshoe at Dumbleton Hall (0.7 km from the site) is noted. The LWS application contends that the loss of a local and well-used (and, thus, likely high-quality) foraging area would negatively affect the local population and, therefore, potentially, the viability of this roost and those of other species in the local area.

Despite being a validation requirement, no lighting assessment is included as part of this application. As a result, there can be no determination of the impact of 13 new dwellings on an existing dark landscape used by the many night-feeding species noted above.

**The Council believes the application should not be validated because of the LWS application.**

**The development will harm a habitat important to the rarest UK bat species and no other potential site has been considered, so the application should be refused.**

**The recorded incidents of protected species using the location and the inadequate ecological report that addresses the needs of these species means that the application should be refused.**

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan NAT1**
- **JCS Strategic Objective 4; Policies SD7, SD9 and SD14**
- **NPPF 2, 11 and 15**
- **Tewkesbury Local List of Validation Requirements**

**As a result, it should be refused**

<sup>19</sup> CIEEM <https://cieem.net/i-am/current-projects/biodiversity-net-gain/>

### 13.0 Failure of the application to meet sustainable transport requirements

The previous application (22/00009/FUL) for the site drew the following comment from Gloucestershire County Council Highways:

*The Highways Authority therefore concludes that given the location of the site, there are no realistic transport choices other than private vehicle to gain access to the site. The proposal would be car dominated and fails to address sustainable transport; these matters cannot be mitigated. Tools such as a travel plan cannot address the harm due to the lack of transport choices available to support it*

The current application has more dwellings but is otherwise unchanged in highways terms. Gloucestershire County Council Highways has not yet commented, however, its comments on the previous application are a material consideration. As noted by Highways, these matters cannot be mitigated.

**As such, the application should be refused.**

The application's *Transport Statement* ("TS") states:

1.8 *This TS concludes that the proposed development, in highway and transportation terms, is acceptable*

This conclusion is **materially misleading** as the Accessibility score of 0 out of 15 places the settlement in the **least accessible category** rather than "acceptable".

The TS states:

3.8 *All of the local services, amenities, and facilities detailed above are within 2km of the application site, which presents the opportunity for residents to walk and cycle to / from these destinations in favour of a single occupancy private car journey. Furthermore, with reference to the above detailed DfT guidance, it is also considered that cycle trips may be made to neighbouring villages / settlements of Sedgeberrow, Toddington, Beckford and Alderton as all are within an 8km cycle distance. Evesham town centre is located 9km north of the site.*

As noted above, the local services are mainly seasonal and with limited opening hours and one is closed.

To access Beckford and Evesham town centre by bicycle means using the A46 that connects Ashchurch to Evesham. The A46 is undergoing assessment by a Safety Action Group as it is identified as extremely dangerous due to the number of road traffic incidents and fatalities in the last five years. It is unlikely anyone would choose to use this route for access by bicycle.

The TS states:

3.13 *The nearest public transport provision is a public bus stop 'Bank Farm Turn'. It is located on Main Street, between the application site and the junction with Beckford Road. The provision operates as a 'Hail and Ride' service with no formal bus stop.*

This bus stop/hail and ride service is not listed on the timetables presented in the TS nor on the operator's website. It is also unknown to residents. Casual polling, including 30+ members of the public at a Planning Consultation meeting on 10 July 2023, shows no local knowledge of this service. This statement must be considered **materially incorrect**.

3.15 *Considering the rural nature of the application site, it is served by a reasonable level of public bus services throughout the week, with services to nearby employment and recreational destinations including Cheltenham.*

This statement should be considered **materially misleading**. The village has a limited public transport network consisting of services that operate only **once** on a Monday, Thursday and Friday (excluding public holidays).

On Mondays and Fridays, the outbound service leaves at 09:35am and the inbound service arrives at 12:56pm. These times are clearly incompatible with access to employment. Neither service accesses Cheltenham. The service terminates at the Tesco superstore, Bishop's Cleeve and **allows less than one and a half hours** at the location before returning.

On Thursday, the outbound service leaves at 10:12am and returns at 2:01pm. Again, these times are clearly incompatible with access to employment. The service terminates at Cheltenham and **allows users approximately 2hrs 15 mins at the destination**.

The services **do not run** throughout the week, as asserted by the TS.

There is no other public transport available in the village.



Access to employment, retail, medical and other services must be undertaken by private vehicle, most of which are privately owned cars.

The nearest licensed taxi service is in Broadway, some seven miles away. Due to the distances involved, licensed taxi services charge a premium for picking up from the village, approximately doubling the cost of any journey.

The TS concludes:

*3.16 In summary, considering its rural location, the application site is reasonably well located in terms of being within walking and cycling distance to a range of nearby services, amenities, and facilities, in addition to public transport provision.*

This conclusion must be considered **materially misleading**. The public transport affords no opportunity to access employment areas and the services **do not run** “throughout the week” as stated in the TS.

People with disabilities and reduced mobility will not have access to all modes of transport. They will, by necessity, use private or private hire vehicles (as noted above, generally at twice the standard rate due to the settlement’s location).

According to the application, the development will generate a minimum of 60 additional vehicular trips per day. This is a significant increase in traffic volume for a small settlement. The application should have included a Travel Plan (as per *Tewkesbury Local List of Validation Requirements*) to be validated and assessed, allowing the Local Planning Authority to make an informed decision.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan RES6**
- **JCS Strategic Objective 5, Strategic Objective 6 and Strategic Objective 7; Policies SD4; SD10 and INF1**
- **NPPF 2, 9 and 12**
- **Tewkesbury Local List of Validation Requirements**

**As a result, it should be refused**

#### **14.0 Failure to address highway safety and previous Gloucestershire Highways comments**

As noted in [section 13.0](#) above, the previous application (22/00009/FUL) was recommended for refusal by Gloucestershire Highways. The current application has more dwellings but is otherwise unchanged in highways terms, so its comments on the previous application are a material consideration.

**As such, the application should be refused.**

The application provides visibility splays for some elements of the location. It fails to demonstrate the suitability of the highway at certain points for a development of this nature.

##### **14.1 Main Street access**

After Main Street diverges from Beckford Road, leading to the proposed site, the highway is only suitable for the **width of a single vehicle** – no passing is possible. This width cannot be altered as historically protected boundary railings are on one side and the pedestrian pavement on the other. Passing is only possible by mounting the pavement or damaging the boundary railings.

After the proposed access to the site, Main Street is a private road leading to an active agricultural business. Agricultural HGVs regularly use Main Street to access other parts of the village. The site access is on a blind corner where previous road traffic incidents have occurred.

Adding a minimum of 60 additional daily vehicular trips (excluding additional trips by delivery and other third-party vehicles) will impact highway safety. The application does not show any understanding of this and does not demonstrate any plan for addressing this.

The A46 connecting one entrance to the village has a very poor safety record, with a significant number of road traffic incidents and related fatalities. The application has **not** provided an assessment of the impact of additional traffic (domestic and commercial) both during the construction and post-construction phases. The Council believes such an assessment is required due to significant public safety concerns around the A46.

As per *Tewkesbury Local List of Validation Requirements*, a *Travel Plan* has not been submitted with the application.

The application fails to ensure that credible travel choices are provided by sustainable modes. The impact of significant volumes of additional traffic will also be severe in a small village that already has challenges with high volumes of traffic and should be refused on this basis.

**The application fails to address highway safety and is missing information to allow the Local Planning Authority to make an informed decision. As such, the application should be refused.**

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **JCS Strategic Objective 6 and Strategic Objective 6; Policy INF1**
- **NPPF 9**
- **Tewkesbury Local List of Validation Requirements**

**As a result, it should be refused**

### **15.0 Failure to meet other pre-application and policy requirements**

The application site is outside of the settlement boundary, but it fails to meet the tests of “small scale” and the tests for a Rural Exceptions site.

The pre-application response from Tewkesbury Borough Council states:

*There are serious reservations that the number of open market dwellings bring the scope of the development into the ‘major’ development category in the AONB which Paragraph 172 of the NPPF advises should be refused*

The pre-application response refers to 8 open market dwellings, while the application is for 5 open market dwellings. The Council believes that Tewkesbury Borough Council’s serious reservations are still material in the decision.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan RES3 and RSE12**
- **JCS Policy SD12**
- **Tewkesbury Borough Council’s pre-application requirements**

**As a result, it should be refused**

Under Local Plan RES6, section 3.38 states:

*3.38. All schemes involving an element of market housing must be robustly justified through a viability appraisal which should highlight that the amount of any market housing included is minimised so that only sufficient finance is raised to provide the required cross-subsidy without leaving a residual profit.*

The *Planning Statement*, section 5.20 states:

*As demonstrated in the supporting viability assessment,...*

No such viability assessment has been submitted and thus, the application cannot demonstrate the need for market housing. A professional viability assessment from a sector expert should have been submitted with the application and consultees should have been allowed to scrutinise this.

**The application fails to meet the requirements of Local Plan RES6 and should be refused.**

The application’s *Archaeological Trial Trenching Evaluation Report* states:

*There is some evidence of a late Iron Age or Early Roman settlement, although most of the pottery this early occurs residually. The majority of the pottery is associated with a late 2nd to 3rd century settlement. The deposition pattern, functional analysis and fineware levels all suggest that this is at the high end of the rural status, perhaps a villa or Romanized farmstead. [Emphasis added]*

The Report concludes:

*The site is considered to have a high archaeological potential.*

Under HER4, further assessment of the site's archaeological potential must be carried out. The application does not comment or show any evidence for such an assessment. Without these details, the application cannot meet the requirements of HER4.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan Policy HER4**
- **JCS Strategic Objective 4**

**As a result, it should be refused**

It is the Council's opinion that the land to the rear of Golden Hay falls under the *Localism Act 2011*, s88:

88 *Land of community value*

1. *For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area is land of community value if in the opinion of the authority—*
  - a) *an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and*
  - b) *it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.*

For several decades, the land has been open and used by members of the public. The landowner has also permitted the local Village Club to use the land for recreational and leisure activities since the Club was established near the site in 1966.

The land with additional land and tennis courts is subject to an *Asset of Community Value* application under the *Localism Act 2011*. This is a material consideration as it demonstrates that the residents believe the land to be an important accessible open space.

The site is also subject to a pending an application to designate it as a *Local Wildlife Site*, which is material to the application.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **Local Plan RES4, RES5 and NAT1**
- **JCS Policy INF4**
- **NPPF 2**

**As a result, it should be refused**

## **16.0 Failure to engage with the community**

**The applicant has shown no evidence of engagement with the local community or desire to do so.**

On 4 September 2020, the Council received an email from the promoter DB Land and Planning Consultancy ("DB Land") noting the HNS 2019 showed a clear need for affordable housing in the village (**not the parish**) and that it had identified a suitable plot of land – the land proposed for development under the application.

The Council replied that, **under law**, it was unable to discuss planning development that was not part of a validated planning application and, considering the ongoing editing of the HNS 2019 at the time, it was also inappropriate to meet (notwithstanding the regulations). The Council **did not** receive a response.

Since September 2020, the applicant has had nearly **three years** in which it could have engaged with the community. Allowing for Covid-19 pandemic restrictions between March 2020 and March 2021, there have been around **24 months** during which the applicant could have engaged.

The applicant chose **not** to represent itself at the Dumbleton Parish Council Planning Consultation meeting on 10 July 2023, having been formally invited to do so by the Council.

The applicant has not attempted to seek the views of residents and local stakeholders at any point since September 2020.

While the agent representing the landowner did engage with the community at the Planning Consultation meeting, on 10 July 2023, the landowner has not engaged with the community for several years.

In its supporting statement, the landowner notes that it has “*given to the Village a tennis court...*”. It does not state that the landowner withdrew the lease for this facility in 2018, closing it as a village facility.

Community engagement from both the applicant and the landowner would have helped understand the constraints on the accessibility of the site and the lack of suitability of the settlement for this development.

**The application fails to meet the requirements of the following policies, as well as any others that may apply.**

- **JCS Policy INF4**
- **NPPF 4 and 12**

**As a result, it should be refused**

## **17.0 Precedent**

This application aims to create a precedent for future development. The application is clearly designed to allow for further expansion into the rest of the land beyond what is within the application under consideration.

## **18.0 Dumbleton Parish Neighbourhood Plan**

Dumbleton Parish Council voted to implement a Neighbourhood Plan at a meeting on 17 November 2021. It notified Tewkesbury Borough Council Neighbourhood Planning of this decision and the suggested neighbourhood plan area. It is still awaiting the designation of the Neighbourhood Plan area as of the date of this response, many months after the original application.

Although the Neighbourhood Plan is nascent, the Council believes it must carry weight in this application and any other application within the parish before its formal adoption.

As Tewkesbury Borough Council notes in the *Tewkesbury Borough Local Plan 2011-2031 Adoption Version*:

**9.35. *The Borough Council positively supports the work of communities who have made the decision to create a Neighbourhood Plan. [Emphasis added]***

The implementation decision was taken following consultation with the parish through a four-page explanatory leaflet with an accompanying survey and online survey. The survey results showed over 97% of the parish favoured implementing a plan.

The Council believes it has engaged with the community regarding the Neighbourhood Plan and that the overwhelmingly positive response indicates the parish residents' desire to be actively involved with all aspects of decision-making, including planning.

The applicant has not engaged with the community as required (*NPPF Section 12, JCS INF4*) and the Council strongly urges Tewkesbury Borough Council to listen to the electorate in the parish.

The Council is aware that implementing and adopting a Neighbourhood Plan may likely highlight a range of needs, including housing, across the parish. It believes that these needs can be better addressed for the benefit of the whole parish through the Neighbourhood Plan and will be able to listen and react to the parish's needs better than a single development that has had no community engagement.

**The Council urges Tewkesbury Borough Council to refuse this application and allow the parish through its Neighbourhood Plan to assess and meet its needs.**

## **19.0 Unreasonable burden on a single village in the parish**

Notwithstanding that the HNS 2019 is no longer valid, it was a parish-wide report encompassing three villages. The application asserts that any need identified for the whole parish should be applied to a single settlement – this is clearly an unreasonable burden on a single settlement.

## 20.0 Relevant related decisions

14/01122/FUL (03.02.2015) – Refuse

APP/G1630/W/15/3129433 – Appeal dismissed

16/00136/FUL (17.08.2016) – Refuse

22/0009/FUL – Withdrawn

The proposed location has been rejected as unsuitable for development in previous Local Plans. The circumstances and nature of the location have not changed in this time.

## 21.0 Other relevant information

### 21.1 Economic justification

Tewkesbury Borough Council's response to the pre-application states regarding the proposal for 8 open market and 8 affordable dwellings:

*The reasoned Justification sets out that local authorities will consider whether allowing a limited proportion of market housing would facilitate the provision of new affordable housing. This is reflected and enhanced upon by Policy RES12 of the PSTBP which advises that alternative means of funding affordable housing should be sought in the first instance and I am not convinced that 8 open market units to cross subsidise 8 affordable dwellings would be appropriate/limited proportion of market housing.*

*Any future application should be accompanied by evidence as to why the affordable housing could not be delivered via alternative public funding.*

This indicates that the previous proposal that included 8 open market dwellings was not deemed economically viable. That being the case, the proposal for 8 affordable dwellings and 5 open-market dwellings cannot be viable by the same measure.

The application is not supported by a viability assessment, so that no economic justification can be scrutinised. The application should not have been validated without the assessment.

**On this basis, the application should be refused.**

### 21.2 Foul sewage issues

Although required for validation, a Foul Sewage Assessment is **not** included with the application.

There are known issues throughout the village with the foul sewage with manual pumping/clearing of the system required throughout the year. The addition of a further 13 dwellings will add additional pressure on an already inadequate foul sewage system.

**On this basis, the application has not met the validation requirements and should be refused.**

### 21.3 Public opinion

Based on comments received by Dumbleton Parish Council at the date of this response, the majority of the parish object to this planning application.

As noted in previous sections, the Neighbourhood Plan will identify the needs across the parish and will be able to work with the parish to deliver solutions.

**Appendix A**

**“Passive Acoustic Monitoring of Bat Species at Golden Hay, Dumbleton”,  
by Niamh O’Reilly under the supervision of Dr Chris Hatcher, University of Gloucestershire**

Double-click on the icon below to open the research document (*Adobe Reader or similar PDF software is required*)



## Appendix B

### **Ecological Observations received by Dumbleton Parish Council by Prof. Anne Goodenough, BSc, PhD, PGC, PGCHE, FRSB, SFHEA, CBiol, Professor in Applied Ecology, University of Gloucestershire**

I have specific concerns on the Ecological Impact Assessment report submitted by the Developer. This is an area where I have professional knowledge. **I am a Professor of Applied Ecology and teach Ecological Impact Assessment, Biodiversity Net Gain, and Wildlife Conservation at University level. I am also a Chartered Biologist who has published almost 100 peer-reviewed academic articles including multiple outputs on surveying legally protected species in development contexts.** Speaking as a professional ecologist, my ecological concerns are outlined below and are especially profound given National Planning Policy Framework and Joint Core Strategy SD7 statements on importance of wildlife within AONBs, as well as relevant legislation:

#### Bats

The Ecological Impact Assessment (EclA) concludes that there are no bat roosts on site as there are no structures that could support these. I concur with this statement. However, this is used to dismiss potential bat interest at the site, which is **not in accordance with Bat Conservation Trust (BCT) Guidelines**. The Developer/Consultant has not undertaken any passive acoustic monitoring, nor even an entry-level dusk Activity Survey, to ascertain the value of the site for foraging as per BCT development guidelines. Failure to undertake any primary surveys of bat activity is disappointing given that:

- All 17 UK bat species are legally protected by the Wildlife and Countryside Act 1981 (as amended) as well as the EC Habitats Directive (92/43/EEC) and European Protected Species licensing framework, transposed into domestic law by the European Union (Withdrawal) Act 2018.
- The Ecological Report notes the presence of a known Lesser Horseshoe roost 0.72 km to the SSW (Dumbleton Hall). This species has a Core Sustenance Zone of 4 km according to BCT data, who also note that high quality feeding sites within this area should be identified and managed sensitively for this species, which is one of the UK's rarest bats that is highly sensitive to disturbance.
- The potential for roosts immediately adjacent to the site has not been considered, despite a tree line on the eastern border of the site and old houses with outbuildings adjoining the site to the south. Discussion with a neighbour in 2022 led to observation of a pipistrelle maternity roost in the roof of a property <10 m from the proposed development site.

Primary observations using acoustic detection in my own garden adjoining the site in question between 2018 and 2021 on a casual basis, not related to, nor motivated by, this development application nor that previously submitted indicated at least four bat species – Pipistrelle, Soprano Pipistrelle, Daubenton's and Noctule – were using the site as a foraging area.

In September 2022, motivated by the previous (withdrawn) application, I facilitated four community-led dusk activity transects by members of Dumbleton Conservation Society with real-time identification of bats using an industry-standard heterodyne detector. Surveys commenced at sunset. Overall survey effort was 12 surveyor hours. In total, five of the UK's 17 breeding bat species were detected, with all species being encountered on at least 50% of surveys. Other than Brown Long-eared, which were restricted to the tree line on the Eastern boundary of the site, all bats were free flying over the entirety of the proposed development site. Both Pipistrelle and Leisler's were actively feeding, with Pipistrelles emitting numerous feeding buzzes.

| Species Vernacular         | Species Scientific        | 4 Sept | 11 Sept | 18 Sept  | 25 Sep |
|----------------------------|---------------------------|--------|---------|----------|--------|
| <b>Common Pipistrelle</b>  | Pipistrellus pipistrellus | Yes    | Yes     | Yes      | Yes    |
| <b>Soprano Pipistrelle</b> | Pipistrellus pygmaeus     | Yes    |         | Yes      |        |
| <b>Noctule</b>             | Nyctalus noctule          |        | Yes     | Possible |        |
| <b>Leisler's</b>           | Nyctalus leisleri         | Yes    | Yes     | Yes      |        |
| <b>Brown Long-eared</b>    | Plecotus auratus          | Yes    | Yes     | Yes      | Yes    |

Based on the above tabulated data, independent research was conducted in April 2023 using industry-standard passive acoustic devices (Anabat Express units, Titley Scientific) deployed around the edge of the proposed development site and oriented towards it. These units recorded ultrasonic echolocation calls for subsequent analysis, following standard protocols. Data were collected for five full nights in each of four locations (five nights per location) in line with Bat Conservation Trust guidelines. To avoid conflict of interest, this work was not carried out by me, nor supervised by me.

**Across the 20 recording nights, there were 2,409 bat pass recordings. This is an average of over 120 bat passes per night, a very high activity level.** It should be noted that recorded activity is likely to be an underestimate as the work was done at the very start of the survey season, well before the seasonal peak in June-August. These recordings showed that **at least 11 (possibly 12) of the 17 bat species breeding in the UK are using the proposed development site, which makes the site extremely important in terms of bat species richness. This suggests this greenfield site is vital for foraging of multiple species (technically a multi-species “Core Sustenance Zone”), including Lesser Horseshoe.** All recordings have been retained.

| Species                    | Bat pass recordings over 20 nights in April 2023 | Number of locations where species was found (out of 4) |
|----------------------------|--|--|
| Common Pipistrelle         | 958  | 4  |
| Soprano Pipistrelle        | 647  | 4  |
| Noctule                    | 473  | 4  |
| Whiskered and/or Brandt's* | 82   | 4  |
| Daubenton's                | 75   | 4  |
| Leisler's                  | 55   | 4  |
| Brown Long-eared           | 37   | 4  |
| Lesser Horseshoe           | 35   | 4  |
| Barbastelle                | 34   | 3  |
| Natterer's                 | 7  | 3  |
| Serotine                   | 6  | 3  |

\* it is not possible to split closely-related Brandt's & Whiskered bats based on sound recordings; capture under licence and/or DNA analysis needed

All bats are legally protected in the UK under the Wildlife and Countryside Act, and under EU legislation that has been subsumed into national legislation post-Brexit. This means that all 11-12 bat species detected here are important, especially given the high levels of activity observed. However, some species are rare (regionally, nationally, or internationally), whilst others have very specific habitat requirements and are only found in specific locations. It was, therefore, especially interesting to record:

|                         |  |
|-------------------------|--|
| <b>Barbastelle</b>      | Near Threatened globally (International Union for Conservation of Nature) AND rare in a UK context so a UK conservation priority species (Biodiversity Action Plan listed).  |
| <b>Brown Long-eared</b> | Specialist forager on tree lines and woodland edges.   |
| <b>Leisler's</b>        | Rare in the UK and Bat Conservation Trust advises special care should be taken of wooded areas where the species is present.   |
| <b>Lesser Horseshoe</b> | One of the UK's rarest bats and still declining. UK conservation priority species (Biodiversity Action Plan listed). There is an active roost at Dumbleton Hall the open ground around the village is vital for foraging (technically a Core Sustenance Zone). Highly sensitive to disturbance. Bat Conservation Trust advises that "sensitive management of their foraging area is very important". |
| <b>Noctule</b>          | UK conservation priority species (Biodiversity Action Plan listed).  |

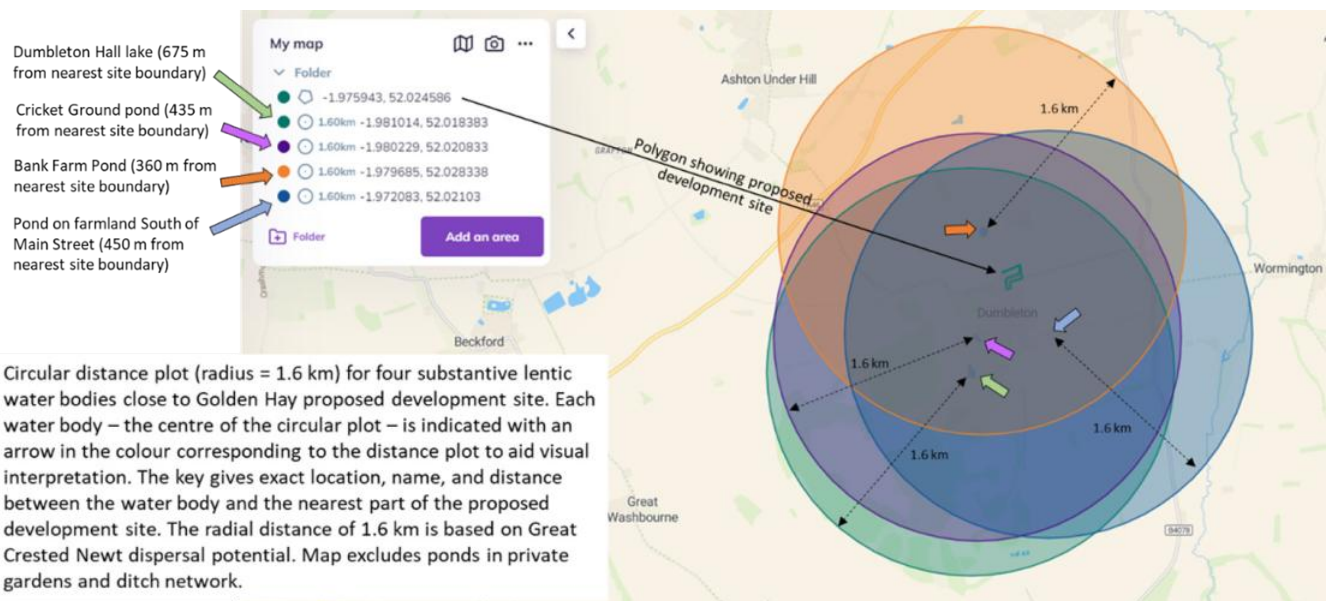


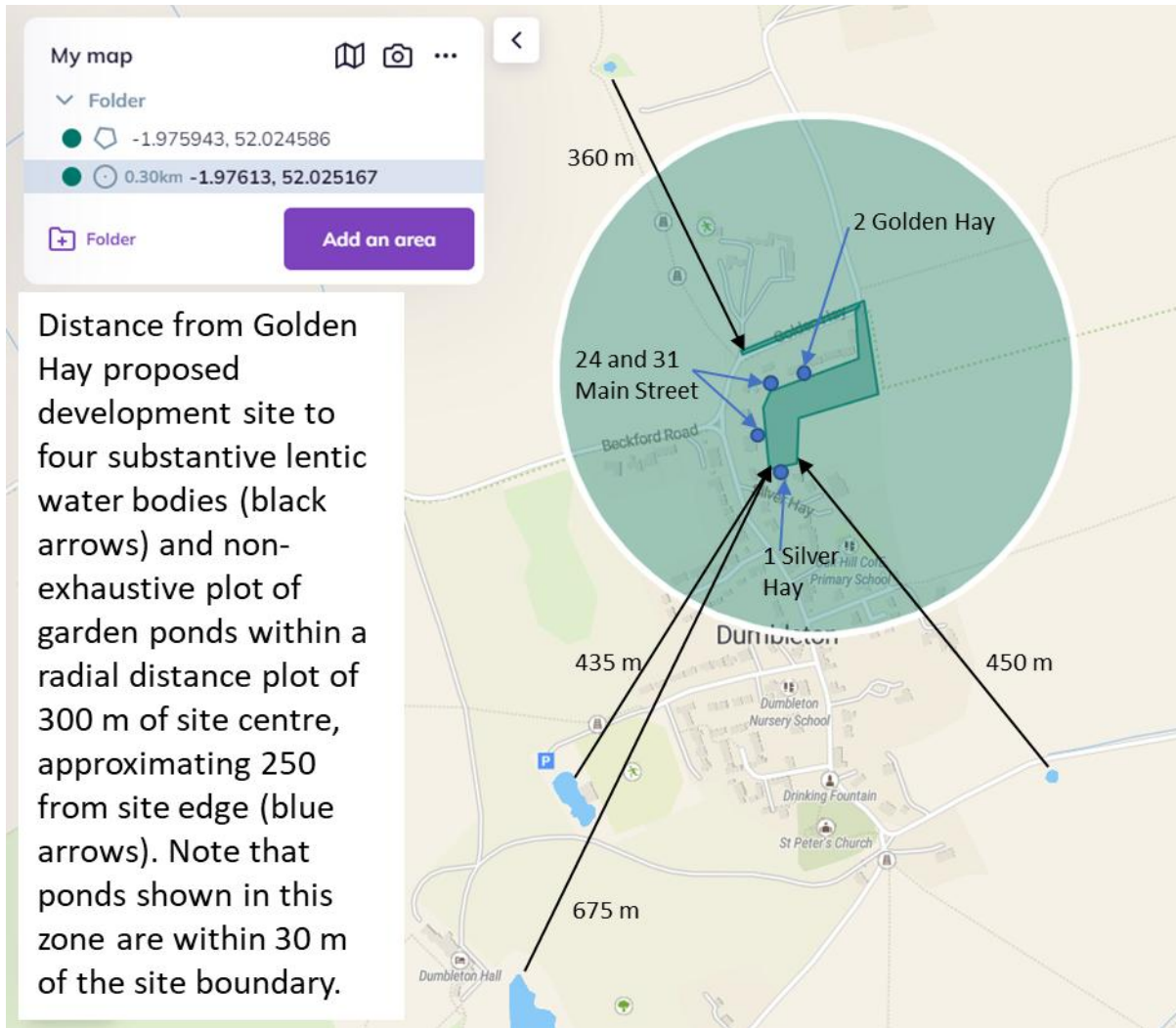
**Speaking objectively as a professional ecologist with nearly 20 years' experience, the number of species and the high level of foraging activity at the proposed development site make this site extremely valuable for a vulnerable and highly-protected taxonomic group. Indeed, this site has the highest bat diversity of any that I have worked on within the UK. I find it extremely disappointing that not even a basic bat activity survey was undertaken by the authors of the Ecological Report: "absence of evidence" is emphatically not "evidence of absence". Moreover, while loss of bat roosts can be mitigated by adding artificial roost structures, loss of feeding grounds due to development cannot be sensibly mitigated.**

### Amphibians

There has been no formal surveying for amphibians, most notably Great Crested Newts (GCN), which is a legally protected species under the Wildlife and Countryside Act 1981 (as amended). This is despite the fact the site with within NatureSpace Partner's red zone (i.e. highly suitable habitat – the most important area). The EclA dismisses the potential for presence on site, without any surveying, given the distance to nearest pond being > 250 m and the nearest ditch being dry. The formal response to the Ecology Report states "I accept the conclusion in the report that it is unlikely that GCN would be present on site due to the lack of ponds within 250m". There are multiple issues:

- Great Crested Newts can move up to 1.6 km and there are substantial bodies of water within 1.6 km in the wider countryside and thus with GCN dispersal range. This is shown in cartographically below.
- There are known garden ponds within 250 m including five within 30 m of the site boundary. This is shown in cartographically below. Great Crested Newts are known to use garden ponds and two of the householders of these properties report newts within their ponds (species unknown).
- The nearest pond in the wider countryside is linked almost continuously to the site by a ditch which, although reported as dry during the single ecological visit in May 2020 during a prolonged drought and when temperatures on the day of the spring visit were 24 degrees, actually holds water continually except in prolonged drought conditions. Evidence to support this is shown in annotated photos below.





Distance from Golden Hay proposed development site to four substantive lentic water bodies (black arrows) and non-exhaustive plot of garden ponds within a radial distance plot of 300 m of site centre, approximating 250 from site edge (blue arrows). Note that ponds shown in this zone are within 30 m of the site boundary.



*Ditch providing almost-continuous link between potential Great Crested Newt water body in the wider countryside (not surveyed) and the proposed development site. Photos taken 19 Feb 2022 showing water within the ditch and emergent aquatic vegetation showing current wet conditions are typical.*

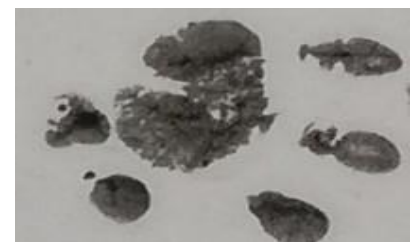
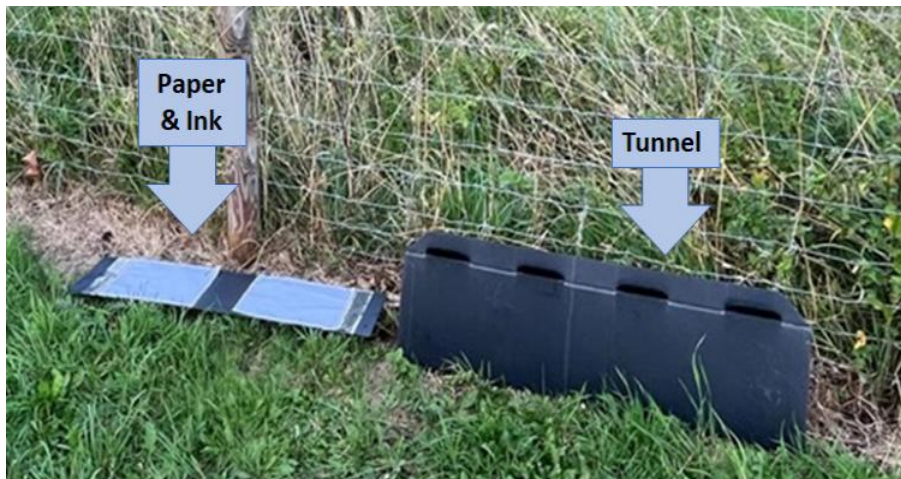
**Summary:** a Great Crested Newt Habitat Suitability Analysis should be performed to include consideration of ditch connectivity from known substantial waterbodies in the wider countryside within 1.6 km (actually within 0.7 km). Garden ponds immediately adjacent to the site should be surveyed using primary ecological censusing.

## Hedgehogs

**The Ecology Report states Hedgehogs, legally protected under Schedule 5 of the Wildlife and Countryside Act, are recorded within 280 m of the site but then, incomprehensibly, makes no further mention of this species.** Numerous residents that have gardens backing onto the site have photographic evidence of hedgehogs in their gardens (some dated and geotagged). There are multiple records of injured hedgehogs to Vale Wildlife Hospital within the last two years from within 100 m of the site (one hit by a vehicle, one caught with a strimmer and one stuck in a fence) suggesting that the local population is already being impacted by human activity; logically population-level effects would be likely to increase if human activity were to increase with this site being developed, with an associated increase in vehicular movements.

To collect primary data, hedgehog footprint tunnels (Wildcare, Longborough, Glos) were deployed in September 2022 for 5-7 nights by members of Dumbleton Conservation Society. These were deployed in six gardens of properties immediately backing onto the proposed development site, one property to the North (Golden Hay), two properties to the West (Main Street) and three properties to the South (Silver Hay / Dumbleton Village Club). As per the standard Mammal Society protocol, black paint powder mixed with vegetable oil was used as the tracking medium and cat kibble was used as bait.

**All six tunnels were positive for hedgehog footprints during the survey. The three properties where paper was changed at least one mid survey were positive for hedgehog on all occasions. All footprint papers have been labelled and retained for independent inspection as necessary.**



**I concur with the formal Ecology Response that it is surprising and disappointing that “no consideration has been given to the potential for hedgehogs to be present on site, despite the nearby desk study record”. Even a very basic field study, such as the one conducted by Dumbleton Conservation Society members, found evidence of hedgehogs in 100% of locations surveyed.**

## Birds

Several species of birds that have the highest level (Schedule 1) legal protection under the Wildlife and Countryside Act hunt over this area, including Red Kite and Barn Owl. Moreover, as noted in the Ecological Report, ground-nesting farmland birds such as Skylark and Yellowhammer (both priority species, both legally protected) occur locally. **What the report does not state, possibly due to incomplete information being available to the consultants, is that the current management of the site, that is hay cut with aftermath grazing, is the ideal for legally protected species listed on the UK conservation priority (former BAP) list.**

## Badgers

The Ecological report notes an active Badger sett just outside the boundary of the proposed development site. No territory analysis has been conducted (using pellet baiting and latrine searching / mapping) to establish whether the site is within the territory of this family group.

### Biodiversity Net Gain

**There is no detailed plan for Biodiversity Net Gain (BNG) within the proposals, despite it now being a legal requirement to show at least 10% net improvement to biodiversity as a result of the development (Environment Act, 2021). No details of the relevant metric, nor workings, have been shown.**

When asked a direct question at the Parish Council planning meeting on Wednesday 16 February 2022 with respect to the original (withdrawn) proposal, the Developer's representative acknowledged the need for BNG at 10% and said this would be "addressed in the landscaping" with each plant species being chosen "for a particular reason" such as "supporting a specific species". No ecologically-robust details were given as per BNG national guidance (e.g. CIEEM <https://cieem.net/i-am/current-projects/biodiversity-net-gain/>) and the specific BNG calculation metric was not articulated.

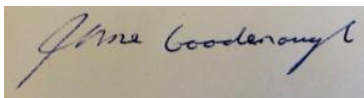
**I find it extremely disappointing that, 18 months on, no more detail is forthcoming in this new application. It is also notable that if primary ecological surveys for protected species had been carried out, as would be expected given incontrovertible – and disclosed – evidence of local roosts (bats), records (hedgehogs) and a national metric on site suitability (newts), the baseline ecological conditions would be considerably higher. This in turn would make the BNG 10% requirement harder to meet. There is no accusation implied in this purely factual statement.**

### Local Wildlife Site application

Local (aka Key) Wildlife Sites are sites that have independently assessed by a country-level selection panel and assessed as being of county-level importance. Such sites are the best examples of sites for specific habitats or species in the county where loss would have a profound and irreversible ecological impact. The system occurs across the UK, although there are some county-level differences in nomenclature. The Gloucestershire LWS process is encapsulated in a 107 page document plus appendices running to a further 100 pages plus. **The requirements for listing a site are extensive, rigorous and robust. Crucially, LWS are a material consideration in the planning process to protect LWS from avoidable harm. The Gloucestershire system has been agreed, ratified and supported by Tewksbury Borough Council.**

Based on the results from passive acoustic surveying undertaken for bats in April 2023 (which were analysed in May and June 2023), **an application has been made to the Local Wildlife Site Selection Panel to formally assess the site for possible listing. This application was made on 12 July 2023 at 18:08** after discussion with two members of the selection panel (one from Gloucestershire Wildlife Trust and one from the Gloucestershire Ecological Advisory Group) regarding due process. **The application has been made under Criterion 4 "Rare or Exceptional Feature" Part A "the species present are rare, either in an international, national, or county context"**. It is noted in the LWS guidance that LWS designation is not usually a suitable approach for roosts in domestic dwellings, but designation of associated habitat can be suitable to aid protection and management.

**The specifics of the application relate to the site being a key foraging area for a diverse assemblage of bats – including those that are rare in a national context (Leisler's; Lesser Horseshoe), UK priority species (Barbastelle; Noctule), or Near Threatened internationally (Barbastelle) – and the very high activity levels recorded. The bat-specific data has been cross-referenced with thresholds in Table S3 of the LWS documentation. The known long-term roost site of Lesser Horseshoe at Dumbleton Hall (0.7 km from the site) is noted. The application contends that loss of a local and well-used (and thus likely high quality) foraging area would negatively affect the local population and thus, potentially, the viability of this roost and those of other species in the local area.**



Professor Anne Goodenough (BSc, PhD, PGC, PGCHE, FRSB, SFHEA, CBiol), 28 Main Street, Dumbleton