

BREDON & BREDON'S NORTON PARISH COUNCIL



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Mr Jonathan Edwards
Development Manager (South)
Wychavon District Council
By email: jonathan.edwards@wychavon.gov.uk

9 June 2018

Dear Mr Edwards

REF. 18/00771/OUT - DEVELOPMENT OF APPROXIMATELY 500 RESIDENTIAL DWELLINGS ON LAND EAST OF TEWKESBURY ROAD, BREDON'S HARDWICK (MITTON BANK)

Bredon & Bredon's Norton Parish Council objects to the above application for the reasons set out below.

South Worcestershire Development Plan (SWDP)

1. The SWDP was adopted on 25th February 2016. With regard to the current application, the most relevant sections of the SWDP are:

Policy SWDP 2(C)

"The open countryside is defined as land beyond any development boundary. In the open countryside, development will be strictly controlled and will be limited to dwellings for rural workers (see policy SWDP 19), employment development in rural areas (see SWDP 12), rural exception sites (see SWDP 16), buildings for agriculture and forestry, replacement dwellings (see SWDP 18), house extensions, replacement buildings and renewable energy projects (see policy SWDP 27) and development specifically permitted by other SWDP policies."

Policy SWDP 2(I)

“As required by the Duty to Cooperate, due consideration will be given, including through a review of the SWDP where appropriate, to the housing needs of other local planning authorities⁽⁶⁾ in circumstances when it has been clearly established through the local plan process that those needs must be met through provision in the SWDP area.”

Footnote 6 to Policy SWDP 2(I)

“Cheltenham Borough, Gloucester City and Tewkesbury Borough Councils are preparing a Joint Core Strategy (JCS). Land at Mitton (Wychavon District) and the Mythe (Malvern Hills District) were not included as strategic allocations in the Submission Version of the JCS (November 2014). The South Worcestershire Councils will, however, continue to monitor progress on the examination of the JCS.”

2. It is accepted by all parties that the application site is not currently allocated as a strategic site in the adopted SWDP.
3. SWDP 2(I) together with Footnote 6 state that due consideration will be given to housing at Mitton where it has been clearly established through the JCS process that Tewkesbury's housing needs must be met in the SWDP area. Where appropriate, due consideration may take the form of a review of the SWDP.
4. SWDP 2(I) does not in and of itself provide policy support for housing at Mitton. It commits the local authority to giving due consideration to Tewkesbury's housing needs via a review of the SWDP where appropriate, and (by implication) via other mechanisms where not.
5. Planning Practice Guidance (Paragraph: 001 Reference ID: 9-001-20140306) states that the duty to cooperate is *not a duty to agree*.
6. The DCLG Ministerial Statement of 14th September 2017 proposed changes to the way that Objectively Assessed Need is calculated by planning authorities and the frequency at which local plans must be updated. Under the new rules, a review of the SWDP would need to be completed in a little over two and a half years. The south Worcestershire authorities formally started the review in late 2017.
7. It cannot reasonably be argued that the SWDP review is not an 'appropriate' mechanism for considering Tewkesbury's housing needs, given that the review is already underway and must be completed within a relatively short timescale. Any application at Mitton coming forward in advance of the review should be ruled out on the grounds of prematurity.

Bredon Parish Neighbourhood Plan

8. The Bredon Parish Neighbourhood Plan was adopted in July 2017 following a referendum. The Plan was supported by 90% of those voting with a turnout of 71% – thought to be a record for neighbourhood plans.
9. NPPF §198 requires that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

10. The Neighbourhood Plan's key policy NP1 restricts development to strategic allocations and sites within identified development boundaries. The second paragraph of the policy states:

Development proposals on sites allocated under the strategic policies of an adopted local plan will be supported. All other development proposals located outside the defined Development Boundary of any settlement will be strictly controlled and will be limited to proposals which are demonstrably suited to an open countryside location.

11. The explanatory text to NP1 makes clear that this policy is intended to apply to the land at Mitton Bank. Paragraph 7.7 states:

The second paragraph of the policy provides a context within which strategic housing development may come forward at Mitton in the southern extent of the Neighbourhood Area. The Planning Inspector's Interim report on the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (May 2016) recommended that the three Councils engage with Wychavon District Council to seek to agreement for the release of housing land at Mitton. This approach would contribute towards Tewkesbury's housing requirements. If agreement is reached a Local Plan Review may be required. [emphasis added]

12. Footnote 20 to Policy NP1 states that proposals will be supported where they are on sites allocated under the strategic policies of an adopted local plan "Including the Gloucester Cheltenham Tewkesbury Joint Core Strategy" (JCS). This footnote is intended to future-proof the plan by allowing for the possibility that the JCS (or its successor up to 2030) is granted powers to allocate land at Mitton. It is important to note that the current version of the JCS does not allocate land at Mitton Bank (see para 18 below).
13. The wording for Neighbourhood Plan policy NP1 was drawn up by parish councillors in collaboration with Wychavon District Council officers. It was deemed by an independent examiner to be in conformity with the strategic policies of the SWDP.
14. Policy NP1 in its entirety makes clear that any housing at the application site must be *allocated* through a local plan. It is a matter of law that any such allocation can currently only come about through a review of the SWDP.¹
15. The Parish Council obtained specialist counsel's opinion on this matter for the *Gloucester Cheltenham Tewkesbury Joint Core Strategy* Examination in Public. Counsel's opinion confirms that new housing on unallocated land at Mitton Bank would be in statutory contravention of the development plan, and that any allocation would have to be made through a review of the SWDP. A copy of the opinion is attached herewith.
16. Counsel also confirmed that under Section 38(5) of PCPA 2004, any policy conflict must be resolved in favour of the last document to become part of the development plan – in this case the Bredon Parish Neighbourhood Plan.

¹ Section 36(2) of the Town and Country Planning Act 1990 (TCPA), and section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA).

17. The draft Neighbourhood Plan was consulted upon widely during 2015 and 2016 and the views of the JCS authorities were sought. It should be noted that none of the JCS authorities put forward any objection to policy NP1.

Gloucester-Cheltenham-Tewkesbury Joint Core Strategy (JCS)

18. The Gloucester Cheltenham Tewkesbury Joint Core Strategy (JCS) was adopted on 11th December 2017. It makes clear that the application site is *not an allocation* in the JCS. The strategy states with regard to Mitton:

(§3.2.17) In addition, there is joint working with Wychavon District Council to look to bring forward the cross-boundary site at Mitton, adjacent to the town. The adopted South Worcestershire Development Plan (2006-2030) already includes a policy commitment to consider, including through a review of the plan, meeting the needs of other authorities within the SWDP area. The site at Mitton is specifically referenced in this context. In addition, there is joint working with Wychavon District Council to assess the potential and possible release of land at Mitton.

(§7.1.26) Outside of the JCS area a site Mitton, in Wychavon District, has been promoted to the JCS examination as an omission site which could help meet the requirements of Tewkesbury Borough. The JCS authorities are working with Wychavon on the potential and possible release of land at Mitton to deal with 500 homes coming forward to meet Tewkesbury's needs. The JCS authorities will continue to work with Wychavon on the potential delivery of the site in the context of the South Worcestershire Development Plan and the Bredon Neighbourhood Plan.

(Table SP2b) Mitton - site is within Wychavon District and is not an allocation in the JCS. Site is subject to joint working between Wychavon District Council and Tewkesbury Borough Council [emphasis added].

19. The *joint working* referred to in the JCS principally takes the form of a Planning Statement signed by both Wychavon District and Tewkesbury Borough councils. This includes the following text:

This statement establishes an agreement to co-operate over the principle of development on this site contributing 500 homes towards the needs of Tewkesbury Borough.

However, this statement does not attempt to identify or agree all issues and details that may be presented in the detailed assessment of the soundness of such a release or in bringing the land forward for development in accordance with a formal MoA [Memorandum of Agreement]². The parties to this statement acknowledge that considerable further technical work is required, including appropriate consultation, as part of the on-going duty to co-operate over cross boundary strategic matters. As such, this statement and any subsequent MoA shall not prejudice the discretion of either of the Councils in decision making in regard to this through their statutory powers and duties, whether this be through the determination of any planning application,

² To date, no Memorandum of Agreement has been signed by the two authorities.

responses to consultations or progression through the local plans and/or neighbourhood plan processes [emphasis added].

The authorities also acknowledge that in addition to ensuring that the potential release is subject to both appropriate consultation and detailed assessment, regard needs to be given to the development plan for Wychavon District, which includes both the South Worcestershire Development Plan and the Bredon Parish Neighbourhood Plan [emphasis added]. The impact of development on both the existing Mitton community and the rural communities of Bredon Parish also need to be considered.

(Para 8) The delivery mechanism for up to 500 dwellings is likely to be through the development management process. Wychavon District Council and Tewkesbury Borough Council will therefore work positively through the development management process to consider any planning application associated with meeting accepted unmet housing requirements of Tewkesbury Borough in this location. However, if the phasing requirements for a release in this location are compatible with the intended timetable for the review of SWDP, then a potential allocation will be consulted upon, tested and brought forward through the SWDP review process [emphasis added].

20. The JCS and Planning Statement make clear that land at Mitton has not been allocated under the JCS, and that the SWDP review process is the appropriate way to consult upon, test and bring forward any potential allocation at Mitton Bank.
21. Taken together, the existing legislation, national planning policy and policies of the development plan make it clear that the current review of the SWDP is the appropriate mechanism for identifying land for housing at Mitton, not the development management process. If the proposed scheme were approved unlawfully, the Parish Council would be likely to challenge the decision through a judicial review.

Importance of plan-led development

22. The Government's stated policy is that "*Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities*".³ Unlike the development management process, the Local Plan is specifically designed to ensure that housing is planned strategically, enabling planners to compare sites and ensure that homes are delivered in the best available places. It helps ensure that housing, infrastructure and essential services are well-integrated. This is particularly important at Mitton, where there are major issues relating to transport (exceeded capacity on the A46 at Ashchurch and the M5 at Junction 9), cross-border care, education provision and landscape protection.
23. A review of the SWDP would be able to ensure that transport links were prioritised and that key areas were protected under Local Plan policies, such as Significant Gaps (SWDP 2), Green Infrastructure (SWDP 5) and Green Space (SWDP 38). Equivalent protection is not provided by planning condition.
24. A review would mean that development was shaped in a plan-led manner, in line with national planning policy. This would allow the normal democratic processes of the planning

³ National Planning Policy Framework §150.

system to be followed, ensuring that those affected by development could be properly engaged and consulted.

25. The Neighbourhood Plan specifically stipulates that any large-scale development at Mitton will only take place following a review of the SWDP. This was voted for by local people in overwhelming numbers. Failure to support this key provision of the plan would no doubt cause widespread disillusionment with the planning system.

Highways issues

26. No new transport links have been proposed under the scheme. Without an upgrade to the A46 at Ashchurch and Junction 9 of the M5 motorway, the Strategic Road Network will suffer unsustainable congestion and impaired road safety. Unless a new bridge over the Carrant is built to connect Mitton Bank with Shannon Way, small local roads are bound to experience a substantial increase in traffic due to rat-running. The safety of road users would be reduced, especially that of pedestrians and cyclists. There would also be increased vehicle emissions in the highly polluted Tewkesbury Air Quality Management Area (AQMA).
27. We note from Highways England's response that the applicant's TRICS assessment does not meet the requirements of good practice guidance. Only two sites have been included in the calculation of trip rates, whereas TRICS good practice guidance recommends a minimum of five to six sites in achieving a sample site suitable for comparison purposes. The site surveys include a maximum of 99 dwellings, whereas the proposals are for 500 dwellings, and the dates of surveys used a range from January 2005 to October 2012.

Further reasons for objection

28. The Parish Council acknowledges that this is an outline application. While it has numerous concerns about the application, it will limit its comments to issues which are relevant at an outline planning stage.
29. The developers have not adequately addressed the difficulties relating to education provision. The site falls within the Worcestershire County Council catchment, but it is closer geographically to schools within Gloucestershire. The proposed housing is expected to yield between 14 and 20 pupils per year group. The Prince Henry's educational pyramid is currently under pressure and will be unable to support any additional demand arising from the development through existing provision.⁴ The High School and Bredon Hill Academy (Middle School) are already full, and Bredon Hancock's Endowed First School is at near capacity. Across the border, Mitton Manor Primary is full, Northway Primary & Nursery School is full for the lower year groups, while Gloucestershire County Council is expecting Tewkesbury Secondary School to be at or near capacity due to the cumulative impact of developments in the area. There are obvious difficulties arising from pupils switching between the three-tier (middle school) system in Worcestershire and the two-tier system in Gloucestershire. In addition, the Parish Council questions whether the interests of children are well-served by requiring them to make a daily round-trip of some 30 miles to attend the High School.

⁴ Source: Strategic Planning and Environmental Policy Manager, Worcestershire County Council, 31 May 2018.

30. The application does not appear to have taken account of the availability of primary care facilities. The new development would fall within Worcestershire for the purposes of health and social care. The GP practice operating within Bredon Parish at a primary care level (Bredon Hill Surgery) is close to full and has insufficient capacity to provide for an additional 1,200 patients.⁵ As has been evidenced in recent cases, it is very hard to integrate the Worcestershire Adult Social Care system with Gloucestershire Acute System, and this can give rise to life-threatening delays.
31. Residents in the proposed dwellings would to some extent be disenfranchised from local democracy. Their homes would be physically adjoining the town of Tewkesbury (in Tewkesbury Borough, Gloucestershire and the South-West Region). However, they would take part in elections in Bredon Parish, Wychavon District, Worcestershire county, the West Midlands Region and the West Worcestershire parliamentary constituency. Residents may struggle to get their voices heard within Gloucestershire, where many of the decisions affecting their daily lives would be taken.
32. By developing the frontage along Tewkesbury Road, the proposal would damage the rural setting of Bredon's Hardwick and harm several of the *Key Views* highlighted in Neighbourhood Plan policy NP15. The iconic hawthorn hedge on the east side of the road, identified as an important landscape feature in the Neighbourhood Plan, would be largely destroyed by the visibility splays required by the new access roads.
33. The site is two miles from the Cotswold AONB and falls within its setting. Bredon Hill (a major visitor attraction in the AONB) overlooks the site. *Key Views* out of the AONB, highlighted in Neighbourhood Plan policy NP15, would be negatively impacted by the intrusion of built urban form into the rural setting of the AONB. The proposal would further harm the setting of the AONB by causing a substantial increase in traffic through the AONB villages of Westmancote, Kemerton, Overbury, Conderton and Beckford.
34. In respect of the Cotswolds AONB, the proposal conflicts with Neighbourhood Plan policy NP1, which requires that proposals
- “must demonstrate that they specifically address the provisions of the Cotswolds AONB Management Plan in respect of:*
- 1. conserving and enhancing the natural beauty and special qualities of the Cotswolds AONB;*
 - 2. protecting local distinctiveness, tranquillity, sense of place, and the setting of the AONB;*
 - 3. maintaining the historic settlement pattern and mix; and*
 - 4. protecting key views of the surrounding countryside.*
35. The Carrant Brook which runs through part of the site as well as along part of its eastern edge has been designated a Local Wildlife Site (LWS) by Worcestershire County Council. It is home to a number of protected species. It is unclear what effect a large new population centre would have on the connectivity of sensitive species within the Carrant catchment, however it seems likely that harms would arise which could not be mitigated.

⁵ Assumes 2.4 people per household, based on census data for Northway in 2011.

36. Tewkesbury has suffered from a series of disastrous floods in recent years. Mitton Bank forms the watershed between the River Avon and Carrant Brook, both of which drain towards the town. The replacement of water-absorbent grassland with buildings and hard surfaces has the potential to increase downstream flooding. The Parish Council is concerned that following protracted rainfall, SuDS attenuation ponds next to the Carrant floodplain would not retain water as effectively as the existing grassland. Moreover, there appears to be no SuDS provision west of the watershed on land draining directly to the Avon. While the Parish Council accepts that the site plans are in outline, the effectiveness of SuDS is of vital importance, and it must be established at this stage where the attenuation ponds are to be located and whether they are adequate for the quantity of housing proposed.
37. Most of the proposed recreational space is in the Carrant flood plain. It is noted that this land was under water between December 2017 and March 2018 and was also waterlogged for much of May. The Parish Council is concerned that this area will be unusable for much of the year due to flooding and waterlogging, leaving residents without adequate facilities.

Conclusions

38. New housing at Mitton Bank must be delivered through a review of the Local Plan not through the development management process. A plan-based system helps to ensure that housing, infrastructure and essential services can be well-integrated, while giving policy protection to important landscape features. It also guarantees that local people are properly consulted.
39. The current proposals conflict with the Neighbourhood Plan. The plan was approved by an overwhelming majority of voters in a recent referendum. Disregarding the plan would cause widespread disillusionment with planning and local government. Failure to apply the policies of the development plan lawfully would be likely to give rise to a judicial review.

Yours sincerely

Ian Rowland-Hill

Cllr Ian Rowland-Hill
Chairman, Bredon & Bredon's Norton Parish Council

cc.

Cllr Adrian Hardman, Bredon Ward, Bredon Parish, Wychavon
Cllr Adrian Darby OBE, Westmancote Ward, Bredon Parish, Wychavon
Mrs Harriett Baldwin MP, West Worcestershire constituency