

**19/01071/OUT – ERECTION OF 50 DWELLINGS - LAND OFF  
ASHMEAD DRIVE, COBBLERS CLOSE, GOTHERINGTON,  
CHELTENHAM, GLOUCESTERSHIRE**

**COTSWOLDS CONSERVATION BOARD COMMENTS, 12 JUNE  
2020**



The interest of the Cotswolds Conservation Board ('the Board') in planning application 19/01701/OUT primarily relates to the potential visual impact of the proposed development on views from and to the Cotswolds Area of Outstanding Natural Beauty (AONB), the boundary of which lies approximately 360m to the north and 740m to the east.

### **Summary**

The Board considers that the proposed development would have a significant adverse visual effect on receptors on the footpath on the upper, western slopes of Nottingham Hill (Viewpoint 8 in the applicant's landscape and visual impact). This would constitute a significant adverse impact on the natural beauty of the Cotswolds AONB, in particular, its scenic beauty. On this basis, the Board objects to the proposed development.

The Board considers that there would be a significant adverse visual effect because the mass of development - which is primarily to the south of the proposed open space and to the south of the linear, east-west form of the settlement of Gotherington - would create a very strong impression that the gap between Gotherington and Bishops Cleeve has been reduced. The development would also significantly erode the linear character and form of the settlement and disproportionately increase its overall mass and size, making it more visually prominent in views from the AONB.

This loss of character and form, as seen from the AONB, would be contrary to the Cotswolds AONB Landscape Strategy and Guidelines. As such, it would also be contrary to the Cotswolds AONB Management Plan 2018-2023 and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy.

These effects are even more significant when the cumulative impact of the proposed development and the recent Malleson Road development are taken into consideration.

The Board considers that the visual effects for receptors on Cleeve Common would potentially be moderate adverse, for similar reasons to those given in relation to Viewpoint 8, albeit with a smaller scale of change due to the greater distance involved.

The Board is also concerned that the visual effects on receptors on the footpaths within – and around the boundary – of the development site have been underestimated. Views to the escarpment (including views from outside the AONB) are one of the special qualities of the AONB. The degradation of such views is identified as an issue in the Cotswolds AONB Landscape Strategy and Guidelines. The Board recommends that these visual effects should be re-assessed in this context.

With regards to the presumption in favour of sustainable development, the Board considers that the 'tilted balance' should not be applied (i.e. there should not be a presumption in

favour of granting planning permission). This is because, based on relevant case law, we consider that paragraph 11d(i) and footnote 6 of the National Planning Policy Framework (NPPF) apply, which provides an exception to the tilted balance.

### **AONB context**

The statutory purpose of AONB designation is to conserve and enhance the natural beauty of AONBs. Local planning authorities have a statutory duty to have regard to this purpose when making planning decisions that could affect the AONB. Under paragraph 172 of the NPPF, LPAs are also required to give great weight to conserving and enhancing the landscape and scenic beauty of AONBs, which have the highest status of protection in this regard.

The views from and to the Cotswold escarpment (including escarpment outliers) are one of the 'special qualities' of the AONB. In other words, these views:

- one of the aspects of the AONB's natural beauty which make the area distinctive and which are valuable at a national level;
- one of the key attributes on which the priorities for the AONB's conservation, enhancement and management should be based.

The dramatic panoramic views over the Severn Vale from the escarpment are also one of the key features of the Escarpment and Escarpment Outlier landscape character.<sup>1</sup>

As stated in National Planning Practice Guidance, '*land within the setting of [AONBs] often makes an important contribution to maintaining their natural beauty*'.<sup>2</sup> For example, in this instance, the views, both out of and into the AONB, are a key component of the scenic beauty of the Cotswolds AONB. As outlined above, this scenic beauty must be given great weight in planning decisions.

The Cotswolds AONB Landscape Strategy and Guidelines (LSG) identifies a number of potential landscape implications relating to new development on (and in the setting of) the escarpment, or scarp.<sup>3</sup> These include:

- Erosion of the setting of the AONB.
- Degradation of the view from the scarp / outliers across the adjoining vale and from the vale looking at the scarp / outliers.
- Erosion of distinctive form, scale and character of smaller settlements along the base of the Scarp.
- Erosion of organic growth and linear patterns of settlements bordering roads fringing the lower slopes of individual outliers including their relationship to the landscape.
- Interruption, weakening or loss of the historic character of settlements and the historic context in how they have expanded.
- Loss of characteristic small scale settlements due to settlement growth and coalescence.

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<sup>1</sup> [https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/08/3\\_TheCotswoldsLandscape\\_1.pdf](https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/08/3_TheCotswoldsLandscape_1.pdf). Landscape Character Type (LCT) 1 (Escarpment Outlier) and LCT 2 (Escarpment).

<sup>2</sup> <https://www.gov.uk/guidance/natural-environment#landscape>. Paragraph 042.

<sup>3</sup> <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-2-escarpment-2016.pdf> (Section 2.1 - New Development – Potential Landscape Implications) and <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-1-escarpment-outliers-2016.pdf> (Section 1.1 – New Development – Potential Landscape Implications)

- Proliferation of housing estate layout.

The guidelines for addressing these implications include:

- Avoid development that will intrude negatively into the landscape and cannot be successfully mitigated.
- Ensure new development is proportionate and does not overwhelm the existing settlement.
- Conserve linear pattern of settlements fringing the lower slopes of the hills and the rural road network linking them.
- Conserve the distinctive orientation of linear villages along the base of the outliers.
- Avoid cramming development right up to the boundaries resulting in hard suburban style edge to the settlement.

Permitting development that exacerbated the 'potential landscape implications' and that was contrary to the LSG guidelines would also be contrary to the policies of the Cotswolds AONB Management Plan 2018-2023 (particularly policies CE1 and CE10).<sup>4</sup> Permitting development that is not consistent with the policies of the Cotswolds AONB Management Plan would be contrary to the Gloucestershire, Cheltenham and Tewkesbury Joint Core Strategy (Policy SD7).

### **Visual impact (AONB)**

The applicant's Landscape and Visual Impact Assessment (LVIA) identifies four viewpoints within the Cotswolds AONB (viewpoints 5, 7, 8 and 10) and one on the AONB boundary (viewpoint 6). The Board's Planning & Landscape Officer has visited four of these viewpoints (viewpoints 5, 6, 8 and 10).

Although the Board's Planning and Landscape Officer hasn't visited the site itself, we consider the views from the footpaths on the site to be an important consideration, given that the views to the escarpment are one of the special qualities of the AONB and that degradation of views from the vale towards the escarpment is identified as an issue in the Cotswolds AONB Landscape Strategy and Guidelines. The large number of footpaths that cross the site make this issue particularly significant. Great weight should therefore be given to these on-site views.

Given the proposed layout of the development the views from the footpath that runs from the western edge of the site to the north-eastern of the corner of the site merit particular attention, as this is where views towards the escarpment are most likely to be adversely affected. Similarly the views towards Crane Hill and Oxenton Hill from the footpath running along the southern boundary of the site are also an important consideration. Unfortunately these footpaths were not selected as a viewpoint in the LVIA.

#### Viewpoints 5 and 6

Based on the Board's site visits, the Board agrees that the 'magnitude of change' for receptors at viewpoints 5 and 6 would be low or very low. We also agree that the nature of the visual effect would be neutral.

#### Viewpoint 8 (Nottingham Hill)

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<sup>4</sup> <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2018/12/Management-Plan-2018-23.pdf>

The LVIA identifies the overall visual effect for receptors at this viewpoint to be moderate adverse. This is the only LVIA viewpoint where the LVIA identifies the overall visual effect as being adverse.

The Board disagrees with this conclusion. It is the Board's opinion that the visual effects on this viewpoint would, in fact, be major adverse.

Our main point of disagreement with the LVIA is the LVIA's assertion that the magnitude of change would be low. The LVIA asserts that the magnitude of change would be low because the development would not extend the edge of Gotherington southwards but would, instead, fill the indent in the southern settlement edge. This reflects the opinions expressed by the Borough Council's landscape consultant (Toby Jones), who also concludes that the development would not appear as a conspicuous intrusion into the gap between Gotherington and Bishops Cleeve, but as an in-filling of an embayment in the existing settlement

The Board acknowledges that the proposed development would not physically extend Gotherington beyond its current southern limits. We also acknowledge that the open space that would be provided in the development would help to break up the overall mass of development in Gotherington. However, the development would introduce a significant mass of housing between the current 'fingers' of development on the western and eastern boundaries, to the south of the open space.

On a related point, the development would result in the number of dwellings in Gotherington would increase by a significant 10%<sup>5</sup>, with all of this increase being to the south of the main east-west, linear form of the village. This increase is disproportionate to the existing settlement, especially when one considers the prominence of Gotherington in views from the Cotswolds AONB.

This scale of growth would further add to the perception of Gotherington extending south and the gap between Gotherington and Bishops Cleeve being reduced. It would also adversely affect views from the Cotswold escarpment by significantly altering the settlement's linear character and form and by significantly increasing the overall scale and mass of the built environment of Gotherington, making it more prominent in views from the escarpment.

This increase in scale and mass is even more significant when one considers the cumulative impacts of the proposed development together with the recent Malleson Road development.

The development would also significantly erode the distinctive, linear pattern of settlement at Gotherington, as seen from the AONB, which is an important consideration in the Cotswolds AONB Landscape Strategy and Guidelines.

From this elevated viewpoint, any proposed mitigation is unlikely to reduce the visual effects, over time, to any significant degree

Based on the points outlined above, the Board considers that the magnitude of change (to use the LVIA's terminology) would be at least moderate. When this moderate magnitude of change is combined with the very high sensitivity of the visual receptors at this viewpoint, the overall visual effect would be significant. This would mean that the development would also

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<sup>5</sup> According to the information on [www.nomisweb.co.uk](http://www.nomisweb.co.uk) there were 448 dwellings in the 'built environment' of Gotherington at the time of the 2011 census. The Malleson Road development has increased this by 50 dwellings, bringing the total to approximately 500 dwellings. Therefore, a development of a further 50 dwellings would represent a 10% increase in the number of dwellings.

have a significant adverse effect on the Cotswolds AONB, in particular, its scenic beauty / quality.

Given that the development would have significant adverse effects on the AONB, the Board objects to the proposed development.

#### Viewpoint 10 (Cleeve Common)

The Board acknowledges that the scale of visual change is likely to be less significant for visual receptors on Cleeve Common than for visual receptors on Nottingham Hill, particularly given the distance separating the development site and Cleeve Common.

However, many of the points made in relation to Viewpoint 8 are still valid for Viewpoint 10, albeit at a smaller scale. For example, the development would still create the impression that the gap between Gotherington and Bishops Cleeve has been reduced and Gotherington itself would be more prominent in views from the escarpment.

In addition, one of the factors that contributes to the size of scale of visual effects is *'the nature of the view of the proposed development, in terms of the relative amount of time over which it will be experienced and whether views will be full, partial or glimpses'*. On Cleeve Common there are multiple footpaths, including the Cotswold Way National Trail and Winchcombe Way, on which the proposed development site can be seen for long periods of time by walkers using the footpaths. The whole of Cleeve Common is access land, where a wide range of recreational users can also see the proposed development site for long periods of time.

With these points in mind, the Board considers that the visual 'magnitude' would be more than 'very low' (as proposed in the LVIA) and the overall visual effect would at least be adverse rather than neutral. A low adverse magnitude combined with a very high 'sensitivity', would result in an overall moderate adverse visual effect.

#### **Presumption in Favour of Sustainable Development**

The applicant's Planning Statement asserts that the Borough Council cannot demonstrate a five year supply of housing and that there should therefore be a presumption in favour of granting planning permission (known as the 'tilted balance'), in line with footnote 7 of the National Planning Policy Framework (NPPF).

However, as outlined in paragraph 11d(i) and footnote 6 of the, this presumption does not apply if *'the application of policies in [the NPPF] that protect areas or assets of particular importance provides a clear reason for refusing the development proposed'*, including the policies relating to AONBs.

There has been some debate in planning case law as to whether the exception outlined in paragraph 11d(i) and footnote 6 just relates to major development in AONBs (i.e. the second part of paragraph 172 of the NPPF) or whether it applies to all parts of paragraph 172.

Monkhill Ltd v Secretary of State for Housing, Communities And Local Government [2019] EWHC 1993 (Admin) (24 July 2019),<sup>6</sup> clarifies that the exception outlined in paragraph 11d(i) and footnote 6 of the NPPF applies to all parts of paragraph 172 of the NPPF, not just to the second part relating to major development. For example, paragraph 60 of this case law states that:

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<sup>6</sup> <https://www.bailii.org/ew/cases/EWHC/Admin/2019/1993.html>

- *'As a matter of law, none of them [i.e. the first parts of paragraphs 172 and 173 and paragraph 196 of the NPPF] lacks any element necessary to found a freestanding reason for refusal of permission, or to engage paragraph 11(d)(i) of the NPPF.'*

Paragraph 172 of the NPPF applies in relation to the proposed development at Gotherington (i.e. great weight has to be given to conserving and enhancing the natural beauty of the AONB, which has the highest status of protection in this regard). As such, the Board would argue that paragraph 11d(i) and footnote 6 of the NPPF also apply and that the presumption in favour of granting planning permission (i.e. the tilted balance) should not apply.

The fact that the proposed development at Gotherington has been identified, in the LVIA, as having an adverse visual effect on receptors in the Cotswolds AONB (Viewpoint 8) – and that the Board considers this adverse effect to be significant – adds further weight to this argument.