

Mr Joe Seymour
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
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22nd February 2019

By email to:

Joe.Seymour@cheltenham.gov.uk

dccomments@cheltenham.gov.uk

Dear Mr Seymour

18/02581/FUL – Demolition of existing building and construction of 8 x self & custom build dwellings – Cromwell Court, Greenway Lane, Charlton Kings, Cheltenham

Thank you for inviting the Cotswolds Conservation Board ('the Board') to comment on the proposed development at Cromwell Court.

The Board objects to the proposed development and recommends that the proposed development should not be granted planning permission.

The Board acknowledges the aspiration for the proposed development to be 'landscape-led' and for the design to be of exceptional quality. However, the development would extend the built environment of Cheltenham around to the eastern side of Battledown Hill, further into the AONB and beyond the boundary of the principal urban area. The proposed development is in a highly sensitive location that faces – and is clearly visible from – the Cotswold escarpment. Combined with the existing development on the north-north east side of Battledown Hill, it would result in an unacceptable cumulative impact. Perhaps most importantly, if permitted, it could pave the way for further encroachment of the built environment into the AONB.

For these reasons, the Board considers that, although the proposed development is for a relatively small number of dwellings, it could – and indeed would - have a significant adverse impact on the purpose for which the Cotswolds Area of Outstanding Natural Beauty (AONB) was designated (i.e. to conserve and enhance the natural beauty of the AONB).

Given the significant impact – and the highly sensitive setting - of the proposed development, the Board considers the development to be major development in the context of paragraph 172 of the National Planning Policy Framework (NPPF). The Board does not consider that the proposal demonstrates the exceptional circumstances that such development would require or that it is in the public interest.

In addition, the development would not be compatible with the policies of the Cotswolds AONB Management Plan and, by extension, Policy SD7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS). It would also not be compatible with the Policy SD10 (Residential Development) of the JCS.

Conserving, enhancing, understanding and enjoying the Cotswolds Area of Outstanding Natural Beauty

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As indicated above, the Board objects to the proposed development and recommends that it should not be granted planning permission. However, if the local planning authority is minded to grant planning permission, planning conditions should be imposed to ensure that all of the proposed mitigation measures are implemented. This should include measures to avoid and minimise light pollution. If planning permission is granted, consideration should be given to securing funding – for example, through planning obligations – to contribute to conserving and enhancing the natural beauty of the Cotswolds AONB (for example, by making a financial contribution to the Board towards the implementation of the Cotswolds AONB Management Plan).

Additional information and advice is provided in Annex 1, below. Should you require further clarification on any of the points raised, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads "John Mills". The signature is written in a cursive style with a long, sweeping underline.

John Mills MRTPI
Planning and Landscape Officer
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ANNEX 1. SUPPORTING COMMENTS RELATING TO THE COTSWOLDS CONSERVATION BOARD'S OBJECTION TO PLANNING APPLICATION 18/02581/FUL

MAJOR DEVELOPMENT

Major development policy and interpretation

Paragraph 172 of the NPPF states that '*planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest*'. Footnote 55 of the NPPF clarifies that '*whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated*' (i.e. to conserve and enhance the natural beauty of the AONB).

As outlined in a legal opinion provided to South Downs National Park Authority by James Maurici QC of Landmark Chambers, the assessment as to whether a proposal could have a significant adverse impact is a question of the potential to have this impact. It '*does not require (and ought not to include) an in-depth consideration of whether the development will in fact have such an impact. Instead, a prima facie assessment of the potential for such impact, in light of the scale, character or nature of the proposed development is sufficient*'¹. In other words, for a development to be considered major development, it does not need to be demonstrated that the proposal would have a significant adverse impact but simply that it could.

Significant adverse impact

The proposed development would extend the built environment of Cheltenham around to the eastern side of Battledown Hill, further into the AONB and beyond the boundary of the principal urban area. The proposed development is in a highly sensitive location that faces – and is clearly visible from – the Cotswold escarpment. Combined with the existing development on the north-north east side of Battledown Hill, it would result in an unacceptable cumulative impact. Perhaps most importantly, if permitted, it could pave the way for further encroachment of the built environment into the AONB. .

For these reasons, the Board considers that, although the proposed development is for a relatively small number of dwellings, it could have a significant adverse impact on the purpose for which the Cotswolds Area of Outstanding Natural Beauty (AONB) was designated (i.e. to conserve and enhance the natural beauty of the AONB). It would, therefore, meet this element of the NPPF's definition of major development.

Sensitivity of the setting

Cheltenham Borough Council (CBC) has classed this location as being Wooded Pasture Slopes (specifically the Greenway Wooded Pasture Slopes)². CBC considers this classification to be a 'major landscape constraint' with a 'low landscape capacity for built development'.

¹ South Downs National Park Authority (2014) *Opinion – In the matter of the National Planning Policy Framework and in the matter of the South Downs National Park Authority*. James Maurici QC, Landmark Chambers.

² Cheltenham Borough Council (2015) *Landscape Character, Sensitivity and Capacity Assessment of Cotswolds AONB within the Cheltenham Borough Administrative Area*.

This location is classed by the Board as being Landscape Character Type (LCT) 2 – Escarpment³. The Board's Landscape Strategy and Guidelines⁴ identifies this LCT as being very sensitive to change. For this LCT, the Landscape Strategy and Guidelines seeks, inter alia, to:

- Maintain the open, dramatic and sparsely settled character of the character of the Escarpment.
- Avoid development that will intrude negatively into the landscape and cannot be successfully mitigated, for example, extensions to settlements onto the escarpment.

In the context of LCT2, the proposed development would constitute an extension onto the escarpment and should, therefore, be avoided.

Exceptional circumstances / in the public interest

The Board acknowledges that new housing is required in Cheltenham Borough. However, a national and district-wide need for more housing should not be considered to be 'exceptional circumstances', in the context of paragraph 172 of the NPPF. The fact that housing is required in the Borough does not necessarily mean that this housing should be located in the AONB.

Paragraph 172 of the NPPF states that development within AONBs should be limited. Policy CE12 of the Cotswolds AONB Management Plan 2018-2023 expands on this by stating that:

- *Development in the Cotswolds AONB should be based on robust evidence of local need arising from within the AONB. Priority should be given to the provision of affordable housing, maintaining and enhance local community amenities and services and improving access to these amenities and services.*

The proposed development does not meet any of these criteria. In particular, it is worth noting that the development makes no provision for affordable housing, whereas paragraph 63 of the NPPF allows for the provision of affordable housing for residential developments of more than five units. Policy SD7 (The Cotswolds AONB) of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy states that '*proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan*'. Therefore, given that the proposed development does not comply with any of the criteria in Policy CE12 of the Management Plan, the development should not be permitted.

In addition, the proposal does not comply with Policy SD10 (Residential Development) of the Joint Core Strategy as, for example, it is not:

- an allocated site;
- in the built up area of the three main areas or a rural service centre or a service village;
- affordable housing.

The Board acknowledges that, until the Borough Council's new Local Plan is adopted, there is some uncertainty about the Council's five-year housing supply. However, paragraph 11(d) of the NPPF exempts AONBs from the presumption in favour of development under these circumstances. In other words, a potential shortfall in the five-year housing supply should not tilt the balance towards approving the proposed development.

³ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-2-escarpment-2016.pdf>

⁴ <https://www.cotswoldsaonb.org.uk/our-landscape/landscape-strategy-guidelines/>

The Board's opinion

Based on the information outlined above, it is the Board's opinion that the proposed development would constitute major development in the context of paragraph 172 of the NPPF. The planning applications does not demonstrate that exceptional circumstances apply or that the development would be in the public interest. As such, planning permission should be refused.