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Tewkesbury Borough Council
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Tewkesbury
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By email only to: developmentapplications@tewkesbury.gov.uk

17 March 2021

Dear Paul,

APPLICATION NO: 21/00019/FUL

DESCRIPTION: Residential development comprising 49 dwellings, creation of new access, public open space and other associated ancillary works

LOCATION: Part Parcel 0250, Manor Lane, Gotherington, Cheltenham, Gloucestershire

Thank you for consulting the Cotswolds Conservation Board ('the Board') on planning application 21/00019/FUL.

The proposed development would be located in the setting of - and adjacent to - the Cotswolds National Landscape (the new name for the Cotswolds Area of Outstanding Natural Beauty (AONB)).

The Board recognizes the importance of meeting local housing requirements. However, this should be delivered in a way that is compatible with the statutory purpose of AONB designation, which is to conserve and enhance the natural beauty of the AONB. In this instance, we consider that the proposed development would have a significant adverse impact on the natural beauty of the Cotswolds National Landscape, particularly with regards to the impact on views from Nottingham Hill.

We consider that this significant adverse impact provides a clear reason for refusal. As such, we object to the proposed development and recommend that it should not be granted planning permission.

The fields that the proposed development would occupy play an important role in separating the built development of Gotherington from the Cotswolds National Landscape. As such, the site also plays a key role in protecting the foreground setting of the National Landscape. This is one of the reasons why these fields form part of Special Landscape Area designation.

However, the proposed development would result in the built development of Gotherington encroaching towards the Cotswolds National Landscape. This would be particularly noticeable when viewed from the more elevated viewpoints on Nottingham Hill. Even with the proposed mitigation in place, we consider that the magnitude of change in these views would still be moderate. When this moderate magnitude of change is combined with the very high sensitivity of visual receptors at these viewpoints, we consider that the visual impact would be major adverse (i.e. significant). This significant adverse impact should be given great weight by Tewkesbury Borough Council.

We acknowledge that the proposed development could potentially have a small beneficial effect on views from Gotherington towards the Cotswolds National Landscape, primarily as a result of the

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The Cotswolds National Landscape is a designated Area of Outstanding Natural Beauty (AONB), managed and looked after by the Cotswolds Conservation Board.

cotswoldsaonb.org.uk

Chairman:
Brendan McCarthy
Vice Chair:
Rebecca Charley

creation of new publically-accessible open space. However, we consider that this benefit is far outweighed by the significant adverse impact on views from the National Landscape.

We are aware that a previous housing development proposal for this site was refused planning permission and then dismissed at appeal. One of the key reasons for planning permission being refused was the adverse impacts on the Cotswolds National Landscape. We acknowledge that the applicant has implemented measures to try and address the planning inspector's concerns, such as reducing the number of dwellings. However, we do not consider that the planning inspector's concerns have been addressed to the extent that the appeal decision should be overturned. In line with case law, the decision on the current planning application should therefore be consistent with the planning inspector's decision (i.e. planning permission should be refused).

We acknowledge that Tewkesbury Borough Council is potentially unable to demonstrate a five year supply of deliverable housing sites. However, as outlined above, we consider that the significant adverse impacts of the proposed development provide a clear reason for refusal. As such, we consider that the presumption in favour of granting planning permission (i.e. the 'tilted balance'), which would normally apply in these circumstances, should be disapplied.

Without prejudice, if Tewkesbury Borough Council is minded to give the proposed development further consideration, we recommend that the applicant should be required to provide photomontages of the proposed development, particularly with regards to the views from Nottingham Hill and from Oxenton / Woolstone Hill.

Further information on these points is provided in Appendix 1.

If you have any queries regarding these comments, please do get in touch.

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 that extends to the right.

John Mills
Planning & Landscape Lead
john.mills@cotwoldsaoib.org.uk | 07808 391227

APPENDIX 1. COTSWOLDS CONSERVATION BOARD COMMENTS ON PLANNING APPLICATION 21/00019/FUL

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INTRODUCTION

The comments below are based on a review of the information submitted by the applicant, including the Landscape and Visual Impact Assessment (LVIA) and of photographs provided by other stakeholders (particularly with regards to views from Nottingham Hill). The Board’s Planning & Landscape Lead has not had capacity to make a site visit. However, through his recent involvement in the planning appeal relating to the proposed housing development at Land off Ashmead Drive, Gotherington,¹ he is familiar with views from the Cotswolds National Landscape towards Gotherington (and vice versa). Ordnance survey maps (on the Defra MAGIC website) and Google Earth have been used to help with this review.

PROXIMITY TO THE COTSWOLDS NATIONAL LANDSCAPE

The site boundary comes within approximately 30m of the Cotswolds National Landscape boundary, on the opposite side of the embankment of the Gloucestershire Warwickshire Steam Railway. The built environment of the proposed development would come within approximately 55m of the National Landscape boundary. This site is also overlooked from Nottingham Hill, Oxenton / Woolstone Hill and Crane Hill, within the National Landscape, including from public rights of way in these locations. As such, the proposed development is clearly in the setting of the Cotswolds National Landscape.²

¹ Planning appeal APP/G1630/W/20/3256319 (relating to planning application 19/01071/OUT).

² Please refer to the Board’s Position Statement on ‘Development in the Setting of the Cotswolds AONB’ ([link](#)) for more information.

IMPACT ON VIEWS FROM THE COTSWOLDS NATIONAL LANDSCAPE

Sensitivity

Paragraph 172 of the National Planning Policy Framework (NPPF) states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.³ Case law has clarified that this includes giving great weight to the impact of development outside an AONB on views from the AONB.⁴ This clarification has been re-iterated in the recent planning appeal decision relating to the proposed development of up to 50 dwellings at Land off Ashmead Drive, Gotherington.⁵

The Government's planning practice guidance on Natural Environment⁶ recognises that development in the setting of an AONB can potentially do significant harm to the landscape and scenic beauty of the AONB, especially where long views from the AONB are identified as important.

Views from the Cotswolds National Landscape, specifically from the Cotswold escarpment are one of the 'special qualities' of the Cotswolds National Landscape.⁷ As such they are one of the key attributes on which the priorities for the area's conservation, enhancement and management should be based.

The panoramic views from the upper escarpment are also one of the 'key features' of Landscape Character Type (LCT) 2 (Escarpment)⁸, which Nottingham Hill is located within. Panoramic views from the upper slopes are also a key feature of LCT 1 (Escarpment Outliers)⁹, including the eastward views to the Cotswold escarpment.

Policy CE1 of the Cotswolds AONB Management Plan 2018-2023 states that development proposals should '*ensure that views – including those ... out of the AONB ... are conserved and enhanced*'.¹⁰

The Cotswolds AONB Management Plan also identifies that one of the 'special qualities' of the Cotswolds National Landscape is:

- An accessible landscape for quiet recreation for both rural and urban users, with numerous walking and riding routes, including the Cotswolds Way National Trail.

At the local level, the Gotherington Neighbourhood Development Plan identifies a number of locally significant views.¹¹ Of particular relevance to this proposal, in the context of the Cotswolds National Landscape are views from Nottingham Hill.

The NDP requires that development proposals should ensure special attention is paid to preserving such views, or including mitigation measures that ensure such views are maintained as fully as possible.

³ National Planning Policy Framework (NPPF) (link). Paragraph 172.

⁴ Stroud District Council v Secretary of State for Communities and Local Government [2015] EWHC 488 (link). Paragraphs 25 and 26 are particularly relevant in this regard.

⁵ Planning appeal APP/G1630/W/20/3256319 (relating to planning application 19/01071/OUT). Paragraph 28 is particularly relevant in this regard.

⁶ <https://www.gov.uk/guidance/natural-environment#landscape>. Paragraph 042.

⁷ Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* (link). Chapter 2 – Special Qualities.

⁸ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-2-escarpment-2016.pdf>.

⁹ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-1-escarpment-outliers-2016.pdf>.

¹⁰ Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* (link). Policy CE1.

¹¹ Gotherington Parish Council (2017) *Gotherington Neighbourhood Plan 2011-2031* (link). Policy GNPD10 (Protecting Locally Significant Views) and Appendix 3.

Taking all of these points into account, the sensitivity of relevant visual receptors is likely to be as follows:

- Receptors on public rights of way (PROW) on Nottingham Hill and from promoted PROW (e.g. Gloucestershire Way) within the Cotswolds National Landscape = very high sensitivity.
- Receptors on other PROW within the Cotswolds National Landscape = high sensitivity.
- Receptors on PROW, with views to the Cotswolds National Landscape = medium sensitivity.

Magnitude of Change

The applicant's Landscape and Visual Impact Assessment (LVIA) identifies nine viewpoints within the Cotswolds National Landscape (out of a total of 14 viewpoints), with an additional viewpoint (RVP 03) being on the boundary of the National Landscape (i.e. ten in total). Three of these viewpoints are on Crane Hill (RVP 07, 08 and 09), two are on Oxenton / Woolstone Hill (RVP 05 and 06) and four are on Nottingham Hill (RVP11, 12, 13 and 14).

View from RVP 03

We acknowledge that the views from the Cotswolds National Landscape boundary at RVP 3 (and further east along Gretton Road) is screened or heavily filtered by intervening field boundary trees and hedgerows. These views would primarily be experienced by car users and cyclists. As such, we acknowledge that the magnitude of change, resulting from the proposed development is likely to be negligible.

Views from Oxenton / Woolstone Hill (RVP 05 and 06)

We acknowledge that the consented development, north of Gretton Road, would partially 'enclose' the site (in the context of these views) and that the current settlement edge forms a backdrop to part of the site (albeit to a limited degree). However, the site is relatively exposed, when viewed from these viewpoints (particularly RVP 05), compared to the existing settlement edge and the area of the consented development. As such, the magnitude of change could potentially be minor, rather than negligible.

The quality of the photographs in the LVIA - and the labelling used on these photographs - is so poor that it is very difficult to come to a definitive conclusion as to likely visual impacts. For example, the photographs are very hazy and the labelling focusses more on other development than on the proposed development itself.

To address this issue, we recommend that the applicant should be required to provide clear, high quality photographs that clearly demarcate the extent of the proposed (built) development. Ideally, the photographs should include photomontages of the proposed development showing the site when construction has been completed and in, say, 10 years' time (in both winter and summer conditions).

Views from Crane Hill (RVP 07, 08 and 09)

We acknowledge that views of the site from these viewpoints would be filtered by intervening vegetation and that the site would be 'enclosed' (in the context of these Crane Hill views) on completion of the intervening, consented development. As such, we acknowledge that the magnitude of change in these views, resulting from the proposed development is likely to be negligible (assuming that the consented development is completed in the meantime).

Views from Nottingham Hill (RVP 11, 12, 13 and 14)

As with some of the other viewpoints, the LVIA fails to demarcate the extent of the proposed development on some of the photographs for these viewpoints. Instead, the annotation emphasises the extent of the existing settlement edge and of the consented development. As such, the annotation underplays the potential visual impact of the proposed development itself.

We acknowledge that, from RVP 11 and 12, the site would be partially screened by existing intervening vegetation and, to a limited degree, by the railway embankment. We also acknowledge that the site is seen in the context of the existing settlement edge (and, potentially, the consented development) as a backdrop. In addition, we acknowledge that some of the houses, primarily those in the south east corner closest to the boundary of the Cotswolds National Landscape, will be single-storey.

However, many of the proposed houses are two-storey. Given that most of the houses that currently form the settlement edge in this location are 1.5 storey (i.e. the first floor is in the roof), these new two-storey houses are likely to look considerably bigger. In addition, RVP 11 and 12 are approximately 10m higher than the proposed houses. As such, the upper parts of the houses (and certainly the roofs, including for the one-story houses) would still be seen. This new housing will be closer to the railway embankment and, as such, could still potentially convey a sense of encroachment towards the National Landscape. As such, the visual impact would be more than negligible.

On balance, we would consider the magnitude of change in views from RVP 11 and 12 to be minor adverse.

With regards to RVP 13 and 14, we acknowledge that the site forms part of a wider panorama. However, this eastern edge of Gotherington is a focal point in these panoramic views. The fact that the slopes of Nottingham Hill block views to the south of Gotherington adds to the perception of this eastern edge of the settlement being a focal point.

Virtually the whole of the site can be seen from these two viewpoints, with just a small amount of intervening vegetation at the south end of the site. From this elevation the railway embankment would only screen a small section of the area that would remain undeveloped.

At present, from these viewpoints, the undeveloped character of the site provides a very clear gap between the built development of Gotherington and the boundary of the Cotswolds National Landscape, which is demarcated by the railway embankment. However, if the development was to be permitted a substantial proportion of the site would be occupied by built development. The slightly elevated position of the railway embankment means that very little undeveloped land would be seen between the embankment and the edge of the new housing and roads. As such, there would be a very strong sense of encroachment towards the National Landscape.

There does not appear to be any hedgerow or tree planting proposed in close proximity to the new housing. As such, the new houses and roads would still provide a hard urban edge, especially when seen from these more elevated viewpoints (i.e. RVP 13 and 14).

On balance, we consider the magnitude of change in the views from RVP 13 and 14 to be moderate adverse.

To provide further clarity on these issues, we recommend that the applicant should be required to provide photomontages of the proposed development, as seen from these viewpoints. This should include the development immediately after construction and in, say, 10 years (including winter and summer conditions).

Significance of Effects

View from RVP 03

Given that the magnitude of change in the view from RVP 03 is likely to be negligible, we consider that the proposed development would also have a negligible effect on this view (even taking into account the high sensitivity of the visual receptors).

Views from Oxenton / Woolstone Hill (RVP 05 and 06)

As outlined above, given the poor quality of the information provided, it is difficult to come to a conclusion as to likely visual impacts. If the magnitude of change is negligible then the proposed development would have a negligible effect on this view. However, the magnitude of change could potentially be minor adverse. In this scenario, the significance of the effects would potentially be as follows:

- RVP 05: Very high sensitivity¹² + minor adverse magnitude of change = moderate adverse.
- RVP 06: High sensitivity + minor adverse magnitude = moderate / minor adverse.

Views from Crane Hill (RVP 07, 08 and 09)

Given that the magnitude of change in the views from RVP 07, 08 and 09 is likely to be negligible, we consider that the proposed development would also have a negligible effect on this view (even taking into account the high sensitivity of the visual receptors).

Views from Nottingham Hill (RVP 11, 12, 13 and 14)

Based on the information outlined above, we consider the significance of the visual effects to be as follows:

- RVP 11 and 12: Very high sensitivity + minor adverse magnitude of change = moderate adverse.
- RVP 13 and 14: Very high sensitivity + moderate adverse magnitude of change = major adverse.

Cumulative Effects

Of the ten viewpoints within, or on the boundary of, the Cotswolds National Landscape, we consider that the visual impact of the proposed development would be major adverse for two viewpoints (RVP 13 and 14) and moderate adverse for two or three of the viewpoints (RVP11 and 12 and possibly RVP 05).

It is also important to note that the adverse impacts wouldn't just be experienced from the selected viewpoints but from several hundred metres of public rights of way on Nottingham Hill (and, potentially, Oxenton / Woolstone Hill).

As such, the proposed development would clearly have a significant adverse visual impact on views from the Cotswolds National Landscape.

¹² The sensitivity is increased from 'high' to 'very high' by the fact that the viewpoint is on the Gloucestershire Way (i.e. a named and promoted route).

IMPACT ON VIEWS TO THE COTSWOLDS NATIONAL LANDSCAPE

Sensitivity

The Government's planning practice guidance on Natural Environment¹³ recognises that development in the setting of an AONB can potentially do significant harm to the landscape and scenic beauty of the AONB, especially where long views to the AONB are identified as important.

Views to the Cotswolds National Landscape, specifically to the Cotswold escarpment are one of the 'special qualities' of the Cotswolds National Landscape.¹⁴

Policy CE1 of the Cotswolds AONB Management Plan 2018-2023 states that development proposals should '*ensure that views – including those ... out of the AONB ... are conserved and enhanced*'.¹⁵

RVP 10 is the view from Gotherington Playing Fields looking south-east, across Gotherington, towards Nottingham Hill. At the local level, this location has been designated as a Local Green Space in the Gotherington Neighbourhood Plan (in which it is referred to as Freeman's Field). One of the factors that has contributed to this designation is the views of the Cotswolds National Landscape. The eastwards view from Freeman Field is identified as a 'locally significant view' in Policy GNDP10¹⁶ and Appendix 3¹⁷ of the NDP.

Taking all of these points into account, the sensitivity of relevant visual receptors is likely to be as follows:

- Receptors on PROW outside the Cotswold National Landscape, with views to the Cotswolds National Landscape that are identified as being important / significant = high sensitivity (i.e. RVP 10)
- Receptors on PROW outside the Cotswold National Landscape, with views to the Cotswolds National Landscape = medium sensitivity (i.e. RVP 01, 02 and 04).

Magnitude of Change

The applicant's LVIA identifies four viewpoints (out of 14 viewpoints in total) that are outside the Cotswolds National Landscape and looking towards the National Landscape. Of these, viewpoints RVP 01, 02 and 04 are adjacent to the northern boundary of the site, on Gretton Road, and RVP 10 is approximately 700 to the north east. All of these viewpoints look south or south-east, towards Nottingham Hill.

We acknowledge that the northern boundary of the site is well contained within mature hedges with only occasional glimpses possible towards the slopes of Nottingham Hill. In addition, these views (i.e. RVP 01, 02 and 04) would primarily be experienced by car users (passing the site at approximately 30mph) and cyclists.

We also acknowledge that the development would probably not be visible from RVP 10.

On this basis, we consider that the magnitude of change in these views, in terms of the extent to which the development would affect views of Nottingham Hill, would be negligible.

¹³ <https://www.gov.uk/guidance/natural-environment#landscape>. Paragraph 042.

¹⁴ Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Chapter 2 – Special Qualities.

¹⁵ Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Policy CE1.

¹⁶ Moat Farm – view from field.

¹⁷ View 9 (Site D - Moat Farm).

Significance of Effects

Given that the magnitude of change in the views from RVP 01, 02 and 04 is likely to be negligible (in terms of the extent to which the development would affect views of Nottingham Hill), we consider that the proposed development would also have a negligible adverse effect on these views.

In addition, we acknowledge that the creation of publically accessible open space would also provide new, publically accessible views to the Cotswold escarpment and escarpment outliers. As such, there would potentially be a small net beneficial effect with regards to the impact of the development on views from outside the Cotswolds National Landscape towards the National Landscape.

However, given the extensive hedging and tree planting that is proposed, it is likely that this net benefit will be compromised to some degree. Also, it is important to note that the benefits of creating newly accessible views of the Cotswolds in locations outside the National Landscape are heavily outweighed by any adverse impacts that there might be on views from the National Landscape.

THE RELATIONSHIP BETWEEN THE SITE AND THE COTSWOLDS NATIONAL LANDSCAPE (LANDSCAPE CHARACTER AND SETTING)

The Government's planning practice guidance on Natural Environment¹⁸ recognises that development in the setting of an AONB can potentially do significant harm to the landscape and scenic beauty of the AONB, especially where the landscape character of land within and adjoining the designated area is complementary.

The site forms part of a Special Landscape Area (SLA). SLAs '*are defined where the topography is a continuation of the adjacent AONB and / or where the vegetation and associated features are characteristic of the AONB*'.¹⁹ SLAs '*play a role in protected the foreground setting of the adjacent Cotswolds AONB*'.

We consider that the landscape character of the site is clearly complementary to – and a continuation of – the landscape character of the Cotswolds National Landscape, particularly Landscape Character Type 18 (Settled Unwooded Vale). LCT 18 (Settled Unwooded Vale). For example, one of the '*key features*' of LCT 18 is the *soft rolling or gently undulating landform, with the Cotswolds Escarpment defining the eastern limit of the Vale and providing a dramatic backdrop to vale settlements and landscapes*'.²⁰ This feature is clearly reflected in the landscape character of the site and its immediate vicinity.

In this context, it is also worth noting that Tewkesbury Borough Council's Landscape Sensitivity Study (LSS) for Rural Service Centres and Service Villages states that this land parcel (Goth-05) is closely associated with the lower slopes of Nottingham Hill, despite being cut off from them.²¹

¹⁸ <https://www.gov.uk/guidance/natural-environment#landscape>. Paragraph 042.

¹⁹ Tewkesbury Borough Council (2019) *Tewkesbury Borough Plan 2011-2031 Pre-Submission* (Policy LAN1 (Special Landscape Area) and supporting text) ([link](#)) and Tewkesbury Borough Council (2006) *Tewkesbury Borough Plan to 2011* (Policy LND2 (Special Landscape Area) and supporting text) ([link](#)).

²⁰ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-18-settled-unwooded-vale-june-2016.pdf>.

²¹ Tewkesbury Borough Council (2014) *Landscape and Visual Sensitivity Study – Rural Service Centres and Service Villages* ([link](#)).

On this basis, we consider that the proposed development would conflict with the SLA's value in having features that are a continuation of – and / or characteristic of - the Cotswolds National Landscape.

The LSS also states that *'the character of this parcel is sensitive to development that might appear intrusive at the base of Nottingham Hill and that might give the perception of settlement encroachment out into the open countryside'*. As outlined above, with regards to impacts on views from the Cotswolds National Landscape, the proposed development does appear intrusive and does give the perception of settlement encroachment.

On this basis, we consider that the proposed development would conflict with the SLA's role in helping to protect the foreground setting of the Cotswolds National Landscape. In addition, it would not be compatible with the Government's guidance on development in the setting of designated landscapes.

CONTEXT OF PREVIOUS APPEAL DECISION

We are aware that a previous housing proposal on this site has been refused planning permission at appeal, with one of the main reasons for refusal being the adverse impacts that it would have on the Cotswolds National Landscape.²² We acknowledge that the current proposal has a smaller quantum of housing than the previous proposal (i.e. 49 instead of 75). However, we would question the applicant's assertions that the planning inspector's concerns have been adequately addressed.²³

For example:

- Encroachment close to the AONB / reduction of gap between the village and the AONB: The applicant asserts that they have addressed this issue by reducing the number of houses and pulling the development footprint back from the AONB boundary. However, the closest point of the proposed houses and roads to the Cotswolds National Landscape (on the southern boundary of the site) remains relatively unchanged, compared to the previous proposal. Therefore, the gap between the village and the AONB also remains relatively unchanged, compared to the previous proposal.
- New housing clearly visible in views from the AONB / planting would not serve to offset the harm caused: The applicant asserts that they have addressed this issue by reducing the height of development and by using 'structural landscaping'. However, from the elevated views in the Cotswolds National Landscape, the housing would still be seen over the top of the structural landscaping (i.e. additional trees and hedgerows).
- Encroachment into the SLA: The applicant asserts that they have addressed this issue by reducing the number of houses to retain a wider gap. However, the extent to which the built development has been pulled back is very limited. For example, the north eastern boundary of the built development still extends across the majority of the site, having only been 'pulled back' by the width of approximately one house and one garden.
- Incongruous intrusion: The applicant asserts that they have addressed this issue by, inter alia, proposing additional trees and hedgerows to reinforce the setting of the AONB. However, the planting of multiple trees in undeveloped section of the fields would result in the loss of the characteristic mixed arable and pasture land use of the settled unwooded vale.²⁴

²² Planning application APP/G1630/W/17/3167141, relating to planning application 16/00539/OUT.

²³ See section 4.31 of the applicant's Design & Access Statement ([link](#)).

²⁴ The site and the surrounding area share some of the key features of Landscape Character Type 18 (Settled Unwooded Vale) ([link](#)), just to the north east of the site.

We acknowledge planning permission for a housing development on the north side of Gretton Road²⁵, which will introduce built development into the currently undeveloped views between Nottingham Hill and the escarpment outliers of Crane Hill and Oxenton / Woolstone Hill. However, in the context of views from Nottingham Hill, this is far less significant as it is:

- a relatively modest development of 10 dwellings;
- further away;
- at a lower elevation; and
- on the opposite side of Gretton Road.

It is worth noting that planning permission for that development was granted in November 2016, which is well before the appeal decision for the Manor Lane site, which was published in August 2017. As such, the planning inspector would have been aware of the development north of Gretton Road when they concluded that planning permission should be refused for the Manor Lane site.

Overall, although the applicant has taken some positive steps to try and address the planning inspector's concerns, we do not consider that these concerns have been addressed sufficiently to merit a different decision. It is well established in case law that like cases should be decided in a like manner so that there is consistency. As such, we consider that the planning decision should remain consistent with the appeal decision (i.e. planning permission should be refused).

CONTEXT OF RELEVANT LEGISLATION, POLICY AND GUIDANCE

Based on the points outlined above, we consider that the proposed development would not be compatible with:

- the statutory purpose of AONB designation, which is to conserve and enhance the natural beauty of AONBs;²⁶
- the policies of the National Planning Policy Framework (NPPF), particularly paragraphs 172 and 11di;
- the Government's planning practice guidance, particularly with regards to development in the setting of designated landscapes;²⁷
- the policies of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, particularly Policy SD7 (Cotswolds AONB);²⁸
- the policies of the Pre-Submission Tewkesbury Borough Plan 2011-2031, particularly policies RES3 (New Housing Development Outside Settlement Boundaries), RES5 (New Housing Development) and LAN1 (Special Landscape Areas);²⁹
- the policies of the Tewkesbury Borough Plan to 2011, particularly policies HOU4 (Other Settlements / Rural Areas) and LND2 (Special Landscape Areas);³⁰
- the policies of the Gotherington Neighbourhood Development Plan, particularly policies GNDP03 (New Housing Development in the Open Countryside), GNDP09 (Protecting and Enhancing the Local Landscape) and GNDP10 (Protecting Locally Significant Views);³¹
- the policies of the Cotswolds AONB Management Plan 2018-2023, particularly policy CE1 (Landscape);

²⁵ Planning application 16/00336/OUT.

²⁶ National Planning Policy Framework ([link](#)).

²⁷ <https://www.gov.uk/guidance/natural-environment#landscape>. Paragraph 042.

²⁸ Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 ([link](#)).

²⁹ Tewkesbury Borough Council (2019) *Tewkesbury Borough Plan 2011-2031* ([link](#)).

³⁰ Tewkesbury Borough Council (2006) *Tewkesbury Borough Plan to 2011* ([link](#)).

³¹ Gotherington Neighbourhood Plan 2011-2031 ([link](#)).

- Cotswolds AONB Landscape Strategy and Guidelines,³² particularly with regards to Landscape Character Types 1 (Escarpment Outliers),³³ 2 (Escarpment)³⁴ and 18 (Settled Unwooded Vale)³⁵;
- the Cotswolds Conservation Board Position Statement on ‘Development in the Setting of the Cotswolds AONB’.³⁶

THE TILTED BALANCE

We acknowledge that there is uncertainty about whether Tewkesbury Borough Council can demonstrate a five year supply of deliverable housing sites. Paragraph 11d of the NPPF sets a presumption in favour of granting planning permission in such circumstances (i.e. the ‘tilted balance’ is applied). However, paragraph 11di and footnote 6 of the NPPF make it clear that the tilted balance should not be applied if the application of policies relating to AONBs (such as paragraph 172) provide a clear reason for refusing the development being proposed.

As outlined above, case law has established that the impact of development outside an AONB on views from the AONB is covered under the first part of paragraph 172 of the NPPF (i.e. great weight should be given to such impacts).

In addition, case law has clarified that:

- The first part of paragraph 172 of the NPPF qualifies as a policy to be applied under limb (i) of paragraph 11(d) of the NPPF; it is also capable of sustaining a freestanding reason for refusal in general development control in AONBs.³⁷

We consider that the proposed development would have a significant adverse impact on views from the Cotswolds National Landscape, it would also harm the setting of the National Landscape by undermining the Special Landscape Area designation.

We consider that these impacts – and the great weight that should be given to them - provide a clear reason for refusing planning permission. As such, there should not be a presumption in favour of granting planning permission (i.e. the tilted balance should not apply).

³² <https://www.cotswoldsaonb.org.uk/our-landscape/landscape-strategy-guidelines/>

³³ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-1-escarpment-outliers-2016.pdf>

³⁴ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-2-escarpment-2016.pdf>

³⁵ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-18-settled-unwooded-vale-june-2016.pdf>

³⁶ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/08/setting-position-statement-2016-adopted-with-minor-changes-30616-1.pdf>

³⁷ *Monkhill Ltd v Secretary of State for Housing Communities and Local Government* 2019 EWHC 1993 (Admin) (24 July 2019) ([link](#)). In this case law, it was already common ground that paragraph 11di applied to the second part of paragraph 172 (i.e. the provisions relating to major development).