

4.5.2016

RE: Landscape Character, Sensitivity and Capacity Assessment of Cotswold AONB Within Cheltenham Borough Administrative Area.

The Cotswold Conservation Board notes that a detailed assessment of this part of the AONB has been undertaken and accordingly four “possible locations” (LCA 6.1, LCA 6.2, LCA 7.3, LCA 10.13) where there would be “less impact” landscape character impact and with robust mitigation could accommodate “appropriate development.”

The Board notes that although this assessment provides consideration of the landscape constraints related to the AONB in relation to development, there still needs to be an overall strategic approach that allocations “should prefer land of lesser environmental value” (NPPF Paragraph 17) and that the level of protection afforded to the AONB is commensurate with its status (Paragraph 113 of the NPPF). Given that the AONB is afforded “the highest status of protection” in relation to landscape and scenic beauty, national policy therefore gives the conservation of landscape and scenic beauty in an AONB a particular enhanced status.

If the four “possible locations” were to be brought forward as allocations within the AONB, the Council will need to evidence not just the landscape impact, but that the overall strategic approach has generally been avoidance of the AONB and reasoning why these four “possible locations” fulfil national policies that indicate development should generally be “restricted” in AONBs.

The NPPG (2014) advises that whether Paragraph 116 of the NPPF is applicable in terms of “major development” is a matter for the decision taker which is the Council in this case. However, if the Council consider one or all of these sites to be major development then Paragraph 116 requires an application for planning permission for a major development within an AONB to be refused, unless (i) there are exceptional circumstances (“exceptional” in this context connoting rarity); and (ii) it is demonstrated that, despite giving great weight to conserving the landscape and scenic beauty in the AONB, the development is in the public interest. As well as any detrimental effect of the development on the landscape, this national policy requires the planning decision-maker to assess, and take into consideration, the need for the development and the scope for meeting the assessed need in some other way.

Recommended Amendments:

The Board therefore recommends the following amendments to add clarity to the Assessment:

We recommend the insertion between 1.5 and 1.6 reference to the CRoW Act 2000 and in particular the Council’s legal duty under Section 85 to have regard “to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”

Accordingly there are a number of key references within the NPPF that should also be included. Paragraph 14 in respect of “plan-making” confirms the “presumption in favour of sustainable development” however this presumption does not automatically apply in AONBs by reason of Footnote 9 of the NPPF (See for example Paragraph 56 Appeal Ref: APP/B1605/A/11/2164597 Land at Hunting Butts Farm, Swindon Lane, Cheltenham).

The specific policies within the Framework that indicate where “development should be restricted” include Paragraphs 113 and specifically 115 and 116 in respect of AONB. We recommend reference is added to Paragraph 1.6 in respect of these key paragraphs.

Paragraph 1.7 refers to the NPPG (2014). However, there is specific guidance in respect of the interpretation of major development in AONBs and whether Paragraph 116 applies “*Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable.*” We therefore also recommend a cross reference is added to this specific part of the NPPG.

Paragraph 1.8 refers to the Management Plan but quotes from the Landscape Strategy and Guidelines. It may be helpful to quote separately the relevant section of the Management Plan (Development and Transport Policies DTP1 to DTP7) and then refer to the Landscape Strategy and Guidelines.

Of note the Landscape Strategy and Guidelines have recently been amended (all relevant LPAs were consulted) in respect of this area and have been adopted by the Board (see attached new versions). It is possible that the research work was undertaken prior to the recent adoption of these amendments. The Council may wish to therefore either attach the revised versions in the appendices (see attached) or to at least add a footnote to acknowledge the Landscape Strategy and Guidelines have been recently revised.

Conclusions

The Board notes that a detailed assessment of this part of the AONB has been undertaken and accordingly four "possible locations" (LCA 6.1, LCA 6.2, LCA 7.3, LCA 10.13) have been identified where there would be "less impact" and with robust mitigation could accommodate "appropriate development." If the four "possible locations" were to be brought forward as allocations within the AONB, the Council will need to evidence and justify not just the landscape impact, but that the overall strategic approach has generally been avoidance of the AONB and reasoning why these four "possible locations" fulfil national policies, that generally indicate development should be restricted in AONBs. In addition if the Council do consider Paragraph 116 of the NPPF to be relevant to one or all of the sites, that the requirements of this paragraph of the NPPF are also fulfilled. A number of amendments have therefore been suggested to the wording of the assessment to ensure these matters are considered.