

26.9.2016

S.16/1906/FUL Land To The West Of Hawkesbury Road, Hillesley, Gloucestershire Residential development of 22 dwellings with associated access, footpath diversion, parking and landscaping (including 11 affordable dwellings).

The Cotswolds Conservation Board wishes to raise an **objection** to this proposal.

The site is outside the settlement boundary, in the countryside and within the nationally protected Cotswolds AONB. The site has not been allocated within the recently Adopted Stroud Local Plan. The scheme has been justified on the basis of a local needs survey, whereas the most important requirements in securing a planning permission on a site of this nature is coming forward with a scheme that meets the legal requirements of “conserving and enhancing” the Cotswolds AONB and meets the tests of Paragraphs 115 and 116 of the NPPF.

The proposal for 22 dwellings is within an existing field outside the physical limits of this modest village and will be of a cul-de-sac style extending at some depth at what is the natural end point of the village. There will be a substantial change in character to this part of the village visible from public viewpoints, interruption of views across the site towards other parts of the AONB and clear degradation of this part of the AONB through extending housing into this open landscape that cannot be suitably mitigated. The Cotswolds Conservation Board advises, given the local context (as advised by the NPPG), that the Council should consider this proposal to be “major development” and attach a similar dismissed appeal (25 dwellings) at Ashton Under Hill that was considered to be major development within the Cotswolds AONB.

The submitted Landscape and Visual Impact Assessment has not included a Zone of Theoretical Visibility Plan, photomontages, winter views or a night time/lighting assessment. Further to this the LVIA doesn't actually explain the harm the development will bring. For example Viewpoint 8 is from the public right of way through the development, which the LVIA describes as a “*pleasant, predominantly rural view*” but doesn't explain that the proposal is to replace it with a housing development.

The site falls within the Landscape Character Area 19C Wickwar Vale (Unwooded Vale). The Cotswolds AONB Landscape Strategy and Guidelines 2016 advises in relation to the expansion of settlements within this area (at Paragraph 19.1) “*Avoid development that will intrude negatively into the landscape and cannot be successfully mitigated, for example, extensions to settlements in areas of open landscape.*”

In forming a decision on this application the Council is strongly recommended to consider the attached High Court decision (Mevagissey Case No: CO/6597/2013) a scheme of 31 dwellings of which 21 dwellings were affordable, which resulted in the grant of planning permission in an AONB being quashed by Judge Hickinbottom. In this case Judge Hickinbottom stated in relation to the tests for considering exceptional circumstances (Paragraph 116 of the NPPF) in relation to affordable housing:

(Paragraph 52... “Even if there were an exceptional need for affordable housing in an area, that would not necessarily equate to exceptional circumstances for a particular development, because there may be alternative sites that are more suitable because development there would result in less harm to the AONB landscape....”

In concluding Judge Hickinbottom stated:

“65. However, as Mrs Townsend submitted, there is a close connection between Grounds 1 and 2; and, in my judgment, the inadequacy of reasons I have found was a clear reflection of an actual failure of the Planning Committee to grapple with the issues that the policy required them to deal with. Eloquently, Mr Goodman submitted that, even on the most kindly construction, it is not possible to infer from the available evidence that the Planning Committee appreciated that it was required to refuse permission unless there were exceptional circumstances in the public interest which outweighed the weight required to be given to the scenic beauty of the AONB, or that they appreciated that that policy required the scenic beauty factor be accorded “great weight”, or that they were required to consider other ways of meeting the identified need for affordable housing. For the reasons I have given, I agree. There is no simply evidence that they engaged with the exercise required of them by paragraphs 115-116 of the NPPF, which required them to assess the need for the development, the scope for developing elsewhere outside their area or meeting the identified need in some other way, and the detrimental effect on the environment and landscape, whilst

giving “great weight” to the scenic beauty factor. Such engagement and proper analysis cannot be assumed in this case for the reasons I have given. I am therefore satisfied that, unfortunately, the Committee failed to have proper regard to the relevant planning policies, and in particular failed to give the conservancy of the AONB great weight and failed to consider the scope for alternative sites.”

In conclusion the applicant has not referred to Footnote 9 of Paragraph 14 of the NPPF that confirms the presumption in favour of sustainable development does not automatically apply in AONBs given the restrictions within Paragraphs 115 and 116. In addition the Mevagissey decision has confirmed that, amongst material considerations, national policy gives the conservation of landscape and scenic beauty in an AONB a particular enhanced status. It 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. The Cotswolds Conservation Board accordingly consider that through applying the tests of the NPPF, through the outcome of the Mevagissey High Court decision, the priority lies with the conservancy of the AONB given the level of harm this development would bring and that affordable housing provision does not equate to an “exceptional circumstance.”