

Planning application Ref: 13/03166/OUT

Proposal: **Erection of 18 houses, garages and associated works**

Location: Land off Sutton Lane, Lower Brailes. Warks

Response of the Cotswolds Conservation Board

The Cotswolds Conservation Board ('the Board') was established by Parliament in 2004.

The Board has two statutory purposes¹:

- a) to conserve and enhance the natural beauty of the AONB; and
- b) To increase the understanding and enjoyment of the special qualities of the AONB.

In fulfilling these roles, the Board has a duty to seek to foster the economic and social well-being of people living in the AONB.

National Policy considerations

1. The Board is of the view that the proposal constitutes major development and therefore NPPF paragraph 116 applies. This view is based on:
 - a) The definition of "major" development is in the Town and Country Planning (Development Management Procedure)(England) Order 2010:

“Major development” means development involving any one or more of the following—

- (a) The winning and working of minerals or the use of land for mineral-working deposits;
- (b) Waste development;
- (c) The provision of dwelling houses where —
 - (i) **The number of dwellinghouses to be provided is 10 or more;** or
 - (ii) The development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) Development carried out on a site having an area of 1 hectare or more;

The Boards' view of what constitutes "major development" has been reinforced by the publication by DCLG in June 2013 the *"Government Response to Streamlining the Planning Application Process Consultation"*². It is noted the response in respect of the threshold for Design and Access Statements that:

1. *"On the question of what the new threshold should be, 61% of respondents agreed that major development* is the right level. This was broadly acknowledged as an appropriate benchmark that would focus Design and Access Statements on those applications where they offer greatest value. **As a clear and well-established definition,** [my emboldening] several responses welcomed the simplicity offered by using major development as the threshold.*

***As defined in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 but excluding engineering and mining operations and waste development"**

¹ Section 87, Countryside and Rights of Way Act 2000, as amended by the NERC Act 2006.

² <https://www.gov.uk/government/consultations/streamlining-the-planning-application-process>

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And....”**Major development is a well-established definition** [my emboldening] *that will provide a simple and appropriate threshold compared to the currently complex arrangements. It is recognised that the significance of a development is not solely a function of its scale.*”

The above DCLG consultation resulted in the publication of : “*The Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013*” in which the definition of “major development” remains unaltered from the 2010 Order set out above.

2. Even if the Council does not consider that the definition of major development in these Regulations has the same being as that to be considered under NPPF 116. The Council should be mindful of the response of the Planning Minister to the Board regarding this issue. A copy is attached to this response. It is clear that the number of dwellings being applied for (18) represents major development in the ‘local context’ of a settlement the size of Lower Brailes.
3. Paragraph 116 sets out the criteria against which the application has to be assessed to meet the “exceptional circumstances” test for permission to be granted for major development in a nationally designated landscape.

The criteria are:

- The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
 - the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
 - any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
4. With respect to the third criterion the Board is of the view that this has not be met for the following reason:

The site consists of agricultural land with mature trees and hedgerows of various native species. As such its character and appearance are entirely in accord with the landscape character of the AONB of which it forms part. In his consideration of the Tetbury appeal referred to above the Secretary of State was of the view that:

*“The Secretary of State agrees that the primary concern about the impact on the AONB is the loss of fields to housing development (IR14.53). Despite the visual improvements that would result from the landscaping proposals, and to some extent moderate the impact of the new buildings, he agrees that the **loss of open fields must inevitably have a detrimental effect on the landscape and environment**”.*
[My embolding] (para 21)

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“...and harm the AONB through the loss of open fields.” (para 24)

Clearly the Secretary of State considered in the Tetbury case that the loss of “open fields” was harmful to the Cotswolds AONB, and therefore the detrimental effect of the proposal cannot be moderated. The same applies to this application. Thus the third criterion has not been met. It should be noted that all three criteria have to be met for the “exceptional circumstances” test to be met.

5. Furthermore the site lies within the Cotswolds Area of Outstanding Natural Beauty, and therefore paragraph 115 of the National Planning Policy Framework (NPPF) applies.

115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.

As noted above, the Secretary of State is of the view that the loss of open fields harms the Cotswolds AONB, and that the loss of such fields inevitably has a detrimental effect on the landscape and environment.

This identified harm leads the Board to the view that the landscape and scenic beauty of the Cotswolds AONB has not been conserved by this proposal which therefore fails to meet the requirements of NPPF 115.

6. NPPF paragraph 47 acknowledges that the meeting the full needs for housing for an area has to be consistent with other policies in the NPPF. i.e. restrictive policies such as paragraphs 115 and 116 mean that the full needs for an area may not be able to be met.
7. The Board notes that this application, linked with 13/03160/OUT intends to provide a significant amount of affordable housing. The Board is supportive of small scale schemes to provide affordable housing for local people. However in this instance the scale of development is such that the landscape harm at this location outweighs this.