

Planning application Ref: W/13/01493

Proposal: Residential development

Location: Kingsdale Court Broadway

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 the definition of "major" development 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;

2. In dismissing appeal reference APP/W0340/A/12/2173977 the Inspector noted that since the NPPF was published, the only “extant planning legislation” where there is a definition of “major development” is “Statutory Instrument 2010 No.2184 - *The Town and Country Planning (Development Management Procedure)(England) Order 2010*” (paragraph 100 of the appeal decision).

3. In June 2013 DCLG published the “*Government Response to Streamlining the Planning Application Process Consultation*”². It noted 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, several responses welcomed the simplicity offered by using major development as the threshold.*”

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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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

And...."Major development is a well-established definition 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."

4. The above DCLG consultation led on to: *"The Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013"* but the definition of "major development" remains unaltered from the 2010 Act.
5. It is noted that the applicants planning statement does not address paragraph 116 of the NPPF.
6. 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.
7. In relation to the second criterion, the Board is of the view that for the following reasons the applicant has not demonstrated that the need cannot be met outside the AONB:
 - a) The reasoned justification in the draft South Worcestershire Development Plan (SWDP) Policy 23 states that the "Strategic Housing Land Availability Assessment clearly shows plenty of housing land capacity beyond the AONBs".

In granting consent on appeal ref: APP/F1610/A/11/2165778 for residential development at Tetbury in the Cotswolds AONB, as referred to in paragraph 6.49 of the applicants Planning Statement, the Inspector concluded;

*"But importantly, in terms of the harm that would be caused to the AONB, I have not been provided with any evidence to suggest that there is anything other than very limited scope indeed to provide housing **within the District** [my embolding] on sites that are not part of the AONB."*

The Secretary of State concurred;

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“But there is no evidence to indicate that the remaining shortfall could be addressed solely through the use of previously developed sites. He notes that the Inspector found no evidence of anything other than very limited scope to provide housing on sites outside the AONB.”

The Board considers therefore that in assessing “the scope for, developing elsewhere outside the designated area” test for 116, it is the opportunities for such development in at least the relevant district which should be considered, not just the settlement directly concerned. As noted above, the draft SWDP suggests that there is “plenty of housing land capacity beyond the AONBs”.

- b) The draft SWDP includes an allocation of land for development at Station Road. This site is outside the AONB, and therefore NPPF paragraph 116 does not apply. Development of this site could meet identified housing need, together with other non AONB sites in the District.

- 8. The Board is therefore of the view that the “scope elsewhere” test has not been met and therefore “exceptional circumstances” are not justified to allow this development.

- 9. With respect to the third criterion the Board is of the view that this has not be met for the following reasons:
 - a) The site consists of agricultural land which forms part of an interesting wider mature tree and grassland matrix with orchard remnants). 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)*

“...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.

- 10. 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

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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.

11. It should be noted that the applicant's planning statement, when quoting paragraph 14 of the NPPF, fails to mention the important restriction on the presumption in favour of sustainable development set out in the NPPF footnote 9 relating to that paragraph. The footnote refers to policies relating to AONBs. In other words failure to comply with policies 115 and 116 of the NPPF cannot be "trumped" by other sustainable development considerations.

Relevant Local Policies

12. The Wychavon Local Plan policy with respect to the Cotswolds AONB is as follows:

ENV2 COTSWOLDS AREA OUTSTANDING NATURAL BEAUTY (AONB)

Development within or affecting the setting of the AONB that would harm the natural beauty of the landscape will not be permitted. Agricultural, forestry or small-scale development necessary for the social or economic well-being of the AONB will be permitted where it will conserve or enhance the character, appearance and special qualities of the landscape.

Proposals for major development within or impacting upon the AONB will not be permitted unless it can be demonstrated that there is an overriding national need for the proposal in that location and that no other alternative site to accommodate the development is available.

13. The Submission SWDP policy with respect to the Cotswolds (and Malvern Hills) AONB is as follows:

SWDP 23: The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty (AONB)

A. Development within or affecting the setting of the AONB (as shown on the Proposals Map) that would adversely impact the natural beauty of the area will not be permitted. The priority is for carefully designed conversions.

B. Any development proposal must complement and enhance the special qualities of the landscape.

C. Development proposals must also be supportive of the most up-to-date approved AONB Management Plans.

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14. The Board's policies for the management of the AONB are set out in the Cotswolds AONB Management Plan 2013-18³ as required by the Countryside and Rights of Way Act 2000.

The policies relevant to this proposal are:

***LP1:** The key characteristics, principal elements, and special qualities (including tranquillity), which form the natural beauty of the Cotswolds landscape are conserved and where possible enhanced.*

***LP2:** Development proposals and changes in land use and management, both within and outside the AONB, take account of guidance and advice published by the Board.*

***DTP1:** All Local Plan documents, neighbourhood planning, and planning decision-making processes should have regard to the statutory AONB Management Plan, and Position Statements, Landscape Strategies and Guidance issued by the Board, as well as the following criteria in determining the acceptability of a proposed development in the Cotswolds AONB.*

Development should:

- *be compatible with the distinctive character of the location as described by the relevant landscape character assessment, strategy and guidelines;*
- *incorporate designs and landscaping consistent with the above, respecting the local settlement pattern and building style;*
- *be designed to respect local building styles and materials;*
- *incorporate appropriate sustainability elements and designs;*
- *have regard to the impact on tranquillity, including dark skies;*
- *not have an adverse impact on local community amenities and services as well as access to these;*
- *protect, and where possible enhance, landscape and biodiversity;*
- *be in accordance with a more sustainable pattern of development, reducing dependence on car travel.*

Summary

15. The Board **objects** to this proposal on the following grounds:

The Board considers the proposals to represent major development and fails to meet the criteria for approval on grounds of "exceptional circumstances" set out in paragraph 116 of the National Planning Policy Framework. Furthermore development of open fields is detrimental to the natural beauty of the Cotswolds AONB contrary to policy 115 of the NPPF.

16. The Board has considered the importance placed by government policy on the provision of residential development to meet proved need, but considers that in this instance this is outweighed by the significant harm to the nationally designated landscape which would occur.

³ <http://www.cotswoldsaonb.org.uk/?page=management-plan-review>