

19.9.17

Ref: 17/02588/EFUL.

Description: Erection of 173 residential units, open space, allotments, green infrastructure, landscaping and associated works including provision of vehicular access from Combe Hay Lane

Location: Parcel 4234, Combe Hay Lane, Combe Hay, Bath

The Cotswolds Conservation Board (the Board) understands that the formal consultation period for this application has expired, but that further information is being sought from the applicant. We trust our comments will be given due weight, as required under Section 85 of the Countryside and Rights of Way (CROW) Act 2000 which applies to all public bodies and states

“(1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”

The Board wishes to **Object** to the application for the reasons detailed below

- This proposal is for major development within the AONB¹. It is the first stage of a much larger strategic allocation for housing, but insufficient information is presented by the applicant to assess it against the criteria set out in NPPF para 116.
- Notwithstanding the allocation of the site for housing in the Core Strategy, the proposal is premature since there are several other sites allocated for housing development outside the AONB and there is no obvious *actual* (rather than anticipated) *current* need for this major development within the AONB.
- The impact proposals on the AONB and the setting of the WHS have not been adequately assessed in terms of loss of rural countryside; how the new urban design would relate to other urban parts of the AONB; what the effect of the proposals would be on views of, across and from the AONB, especially in winter and at dusk.
- There is insufficient evidence in the *Illustrative Comprehensive Masterplan Statement* to demonstrate the cumulative impacts on the AONB of this proposal in combination with later stages of development here and the nearby park and ride expansion.²

¹ The term ‘major development’ in the context of paragraph 116 has to be judged on a case-by-case basis. These proposals are for 173 dwellings and were screened as being likely to have significant environmental effects because of the scale of the development and its impacts on the AONB (including a profound change of landscape character of the site itself) – even without the likelihood of cumulative effects with later stages of development being taken into account (referred to as major development at para 165 of the Inspector’s report on the Core Strategy (see appendix). These all indicate that the application should be treated as ‘major development.’

² Despite SEA requirements, it appears that the overall effect on the Cotswolds AONB of various developments allocated to sites within or adjacent to it was not assessed by the Sustainability Appraisals for either the Core Strategy or the Placemaking Plan. Nor was there any comparison with alternative sites or ways of meeting the

The Board urges that where relevant further information should be assembled to inform these considerations in determining this application. The Board recommends that the following are given careful consideration as material considerations in determining the ‘great weight’ considerations inherent in NPPF paragraphs 115-6:

- *The Cotswolds AONB Management Plan 2013-18* (especially Policies DTP 1, 3-5 and 7 and also LP 1-2; RLMP 2-4; HEP 1; NRP 1; BP 1-4)
- The Board’s *Position Statements* amplifying its advice on relevant matters³
- The Board’s 2016 *Landscape Strategy and Guidelines* identifying key issues that need to be addressed for relevant parts of the AONB.

1 PLANNING POLICY AND SUBSTANTIVE ISSUES

The Board considers that this application, combined with subsequent applications for later stages, constitutes major development in the AONB. It is therefore concerning that the Planning Statement makes NO reference to NPPF paragraphs 115 and 116, which applies to major development within the AONB.

Need and alternative options

The Board was not involved in the Placemaking process⁴, and notes that in respect of this site (covered by *Policy B3a: Land Adjoining Odd Down, Bath Strategic Site Allocation*) no reference is made to alternatives having been examined: the only (non-specific) reference in the Inspector’s report appears to be anticipating higher density:

In many instances the estimated supply from some identified sites is conservative when compared to developer aspirations about capacity in pre-application discussions. For example, the capacity of 300 dwellings set out for allocation of Odd Down in Bath is likely, having regard to pre-application discussions, to increase by 100-150 dwellings.

This appears incompatible with the policy itself, which includes the provision:

Avoid or minimise detrimental impacts on (and provide enhancements to important landscape features and significant views):

- *the Cotswolds AONB*

However, the Board is aware that this site allocation and policy was established by the adopted Core Strategy, for which the Inspector at the time concluded that ‘*There are no acceptable alternative sites at Bath (see below) which could replace the contribution to housing that this site would make. I consider that there are the exceptional circumstances to justify removing land from the Green Belt and for major development within the AONB*’ (see Appendix for full extract). However, it appears that no environmental comparisons of alternative sites were made in the SA of the Core Strategy, or whether any suitable alternative sites outside the AONB might exist in adjacent planning jurisdictions.⁵

need. The ‘scoping out’ of a full cumulative impact assessment has resulted in little more than a restatement of design objectives principles.

³ Position Statements on *Housing and Development*; *Affordable Housing*; relevant criteria on assessment of need in *Neighbourhood Plans*; and *Tranquility and Dark Skies*

⁴ The Conservation Board is not a statutory consultee for such purposes, but does fall within the range of bodies who should be made aware of public consultation concerning the Sustainability Appraisal/SEA.

⁵ It does not appear that under the Duty to Co-operate consideration was given to whether the need might be met outside the AONB in the area of adjacent authorities?

Most importantly, while the Core Strategy has established the principle of the likely need for development on this site at some point before 2029, there has been no attempt by the applicant to provide the information required to assess this application in current circumstances against the criteria set out in paragraph 116, to which the Courts have given significant weight.⁶ Contrary to what the Environmental Statement implies in stating that consideration of alternative sites or means of otherwise meeting the need do not have to be covered because of strategic allocation, the Core Strategy and Placemaking Plan do not in themselves mean that *any* proposal for the site would meet these tests, and they do not over-rule NPPF paragraph 116: the criteria must be applied to the specific proposal to demonstrate that it meets *all* the criteria *at the time* the application is made.

In particular, the applicant has not provided the information on which the original justification for the allocation was made, nor updated it to allow robust and thorough consideration of the **current** position in terms of how these proposals relate to **each** of the following:

- *the need for the development .. in terms both of any national considerations and the impact of permitting it, or refusing it, upon the local economy;*
- *the scope for avoiding effects on the AONB by
the scope for developing elsewhere outside the designated area;
the cost of doing so;
meeting the need for it in some other way;*

In particular the Board considers that to meet these criteria the need for the development here rather than elsewhere outside the AONB or by other means must be demonstrable **now**, not just predicated on future projections of need to 2029, which may or may not prove realistic in the medium term.

According to the newly adopted Placemaking Plan (p19) '*the annual rate of delivery required for the first five year period from adoption (2014-19) has been increased to 850 pa (4,250 dwellings over the 5 year period). A 20% buffer will be needed in the calculation of the 5 year housing supply at least for this first Plan period.*' The current situation as set out in the '*Diagram 3a Housing Trajectory as at adoption*' is that the initial provision of houses is planned at a rate of 850 per annum and after 2018/9 this drops to 722. Given that this is the only site allocated for housing within the AONB (and unlike the AONB the Green Belt has been reconfigured to accommodate other sites) the projected rate of house building indicates that other sites and ways of meeting the need that are outside the AONB will not be exhausted until 2028.

The Board's view is that while the exceptional circumstances criteria may be met (as the Inspector for the Core Strategy concluded) at some time in the period before 2029 for which the Strategy provides objectives and vision for change, they do NOT apply now, and at such an early stage in the planning cycle it will be some time before it is clear whether the projections on which the allocations were based are accurate.

Moderating effects if there were exceptional circumstances that preclude alternative options

⁶ See Court of Appeal [2016] EWCA Civ 936 - Farthingloe; High Court [2014] EWHC 1895 (Admin) - Forge Field; High Court [2013] EWHC 3684 (Admin) - Megavissey;

While there has been some assessment of the third criterion under NPPF para 116:

- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated*

there are significant shortcomings in the EIA (as detailed by the Landscape Officer – with which the Board concurs), not least of which is that there has been no serious consideration of the **cumulative effects** when the development is viewed in combination with the overall master plan – which clearly provides the basis for making such an assessment – or with the proposed expansion of the Odd Down park and ride site (policy ST6).⁷

The **Landscape and Visual assessment** acknowledges that the site is within the AONB but refers only to Management Plan policies LP1-2 and RLMP1-2 and, contrary to the Board's advice, makes little or no specific reference to the Board's current Landscape Strategy and Guidelines (certainly does not quote key characteristics and issues) nor any Position Statements. The Planning Statement and Design and Access Statement do not refer to any of these documents, despite their being material considerations, and the EIA and its NTS and other statements give the erroneous impression that it is only views to and from the AONB that are affected.

The effect of the **physical conversion of AONB rural landscape to urban development** is insufficiently assessed (part of the value of the site being to afford some land buffering of the most sensitive areas from urban intrusion). There is almost no consideration of how the proposed design (which will still be within the AONB) will fit in with the character of other urban areas within the AONB – especially at Bath. This leaves it unclear what matters at this site, and what characteristics should influence design.

The Design Intent says: *'The neighbourhood will be viewed within the landscape setting of the Cotswolds AONB and as such the proposals reflect a landscape-led design to conserve and enhance the natural beauty.'* It goes on to say that

'The design team felt strongly that a coherent and 'planned' approach to the settlement in the western section would feel most convincing in an enclosed, largely rectangular field that comprises the Phase 1 development site. The team visited Hampstead Garden Suburb and drew inspiration from the ordered regular streetscape achieved there. Coombe Down village was also researched to understand the landscape prominent street scenes that are prevalent there.'

The character of Combe Down is clearly relevant, but appears to have had little or no influence and there is no indication that urban layouts in similar topographical situations elsewhere in Bath or the AONB were considered – the relevance of Hampstead Garden Suburb appears to be based not on comparable arts-and-crafts style planned suburbs in or around Bath or elsewhere in the AONB (if such exist), but is merely intended to pick up the style of 1930s Sullis Manor – which is largely screened by trees in its own grounds.

The design concept is stated in the following terms:

'Sitting within a rural-urban interface (both within the setting of the Bath World Heritage Site and within the Cotswold AONB), we developed a language that draws

⁷ The Board is concerned that this was not done in the Strategic Environmental Assessments (ie Sustainability Appraisals) of the Core Strategy or Placemaking Plan and questions the appropriateness of 'scoping out' cumulative effects from the ES given that there is no indication that they would not proportionately be any less significant than the effects of this site – and could well be worse.

inspiration from the Cotswold Arts & Crafts vernacular; with use of repetitive architectural motifs and details handled in a richly varied way: casement windows, projecting bays, gables and prominent chimneys. In this way the site takes on the character of a settlement that is regularly planned and ordered, but draws architectural inspiration from local village vernacular. Around the central, formal green space at the heart of the site, the architectural language is accordingly more formal with use of classical proportions, sash windows and columned door surrounds.'

The illustrative designs look quite attractive and at least it has a fairly urban structure – but if the loss of undeveloped AONB landscape is considered justifiable because no other non-AONB sites allocated for housing are available, the LPA must consider whether or not this design concept will **enhance** the AONB when its local and wider *urban* characteristics are taken into account. Apart from the architectural style, there is also an important question of layout: while the planned layout has some merit in having the beginnings of street pattern, it is still a cul-de-sac layout that has little relationship to the urban character of the historic City. If this area is to become part of the City immediately adjoining and in the setting of the World Heritage site more attention needs to be paid to enhancing urban planning in a manner local to Bath.

With regard to **visual intrusion** the map of the Zone of Theoretical Visibility indicates that the site is relatively well-screened in distant views (which is credible because of topography and vegetation plus existing development to the north), but apart from Sulis Manor there is open farmland in the immediate vicinity. The photomontages seem to indicate that even at immediate completion the development would not be visible and the impact of the development on the surrounding landscape would be limited, but the Landscape Officer's comments are sceptical, as are Bath Preservation Society's. The Landscape Officer comments:

I have major misgivings regarding the presentation, quality and the methodology of the photomontages. To give an example viewpoint 17 from near Twinhoe is one of the closer photomontage views to the site at approximately 2.5 km. At this distance viewed on site existing houses at Sulis Meadows and Sulis Manor are visible in the view. In the Environmental Statement existing view the site and skyline is not in focus and therefore even the existing view is not accurately presented. This is reflected in the photomontage of this view which shows blurred shapes on the skyline which cannot be made out.

The Board concurs and also notes that hardly any of the closer range photographs are in winter, and there are no close range photomontages. Although the photomontages are mostly winter views, none of them present the effect of lighting – which from the occurrence of light in the night-time photographs could clearly be significant (and increasingly so as the plateau is built over).

With respect to the **setting** of the WHS (and Wansdyke) the Board notes that Historic England has not voiced concerns, but nor have they commented on the assessment not addressing cumulative effects (or reflected this in their own comments). Since the setting of heritage assets, and especially the relationship with historic settlements with their rural and topographical surroundings is fundamental to the character of the Cotswolds landscape, the Board again concurs with the Landscape Officer's criticism that the effects on the setting of

the WHS and issues of how best to avoid or moderate harm has not been sufficiently addressed. In particular there has been no consideration of the urban character of what is proposed as an addition to the historic city and a new relationship to its surroundings.

Appendix A Inspector's comments on the allocation site B3a in B&NES Core Strategy

161. *There are a few other matters to address. The allocation includes the existing modern former farm buildings at Manor Farm which are now used for various commercial purposes, but this part of the allocation would remain in the Green Belt. The Council explain that this approach is to ensure that any redevelopment at Manor Farm can be properly integrated with the rest of the development, but without increasing the scale of the buildings. These buildings are prominently sited on the edge of the plateau and adjoining the extended conservation area. Retention within the Green Belt allows strict control of any redevelopment. The Council's approach is justified.*

162. *The allocation also includes the Odd Down Football Ground. Whilst this would be an acceptable location for housing, finding an acceptable site for a replacement ground may be difficult (see CD10/E12). It is reasonable that any master-planning of the area should show how this site might be integrated, but the rest of the development could proceed without this land. PP10 allows for the football club to be retained on its present site, which may well be the outcome.*

163. *PP1 refers to development of around 300 dwellings. This capacity reflects the Council's view that substantial parts of the allocated area are not suitable for built development and my assessment above largely endorses that approach. The text should make clear, however, that this figure is not a cap on capacity if all the place-making principles can be met.*

164. *Overall, there would be a loss of Green Belt, localised harm to the AONB (nonetheless great weight should be attached to protecting this landscape); only slight harm to the Wansdyke SM, with a small benefit from planned positive management measures; and limited and localised harm to the setting of WHS. The allocation would achieve 300 dwellings at a highly sustainable site at the most sustainable town/city in the district. Of these 300 or so dwellings, 40% would be affordable (in accordance with my conclusion under Issue five) making provision where the affordable need is greatest. There are no acceptable alternative sites at Bath (see below) which could replace the contribution to housing that this site would make.*

165. *I consider that there are the exceptional circumstances to justify removing land from the Green Belt and for major development within the AONB. The need for housing and the benefits of additional housing in this location at Bath outweigh the harm that would arise, taking into account the great weight that must be given to protecting the AONB and heritage assets. The Council's decision to allocate this site represents positive planning and is justified. This allocation is needed to make the plan sound. I have amended the detailed wording of the proposed policy and the Concept Diagram to reflect my conclusions above on the detailed points and to take account of my conclusion under Issue six. (MMs 9, 21, 36, 37, 39, 40 and 41). In the light of my assessment above that land adjoining South Stoke Lane needs to be retained in the Green Belt, the Council is justified in concluding that there is no scope to identify any safeguarded land here (MM38 and part of MM109).*