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Tewkesbury Borough Council
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By email only to: anthony.foster@tewkesbury.gov.uk

21 December 2022

Dear Anthony,

APPLICATION NO: 22/00968/FUL

DESCRIPTION: Full planning application for the erection of an industrial building, construction of new accesses, associated infrastructure and landscape planting and outline application for phase 2 comprising the construction of an industrial building and supporting infrastructure (matters relating to appearance, landscaping and layout reserved).

LOCATION: Part Parcel 2869, Tewkesbury Road, Toddington, Cheltenham

The above planning application, which is for a development that would be located within the setting of the Cotswolds National Landscape¹, has been brought to the attention of the Cotswolds National Landscape Board².

Having reviewed the application including the supporting reports and surveys, for the reasons outlined in Annex 1 below we would like to raise a **holding objection** and request further information to assist our assessment of any potential adverse impacts of the proposal on the tranquillity of the Cotswolds National Landscape. This is one of the 'special qualities' of the Cotswolds National Landscape, a feature of the AONB that makes the area so outstanding that it is in the nation's interest to safeguard it. Further detail is provided in the Annex below.

The submission of the further information requested below will allow the Board to draw a more definitive conclusion on the potential impacts of the scheme and whether, in our view, the application complies with the requirements of national and local planning policy and guidance.

Please don't hesitate to contact me if you wish to discuss this response further.

Yours sincerely,

A handwritten signature in black ink, appearing to read "S. Joyce".

Simon Joyce
Planning Officer
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Cotswolds Conservation Board

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The Cotswolds National Landscape is a designated Area of Outstanding Natural Beauty (AONB), managed and looked after by the Cotswolds Conservation Board.

cotswoldsaonb.org.uk

Chairman:
Brendan McCarthy

Vice Chair:
Rebecca Charley

ANNEX 1 COTSWOLDS NATIONAL LANDSCAPE CONSULTATION RESPONSE IN RELATION TO PLANNING APPLICATION 22/00968/FUL

Planning Policy Considerations

In reaching its planning decision, the local planning authority (LPA) has a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the National Landscape.³ The Board recommends that, in fulfilling this ‘duty of regard’, the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the following Board publications⁴:

- Cotswolds Area of Outstanding Natural Beauty (AONB) Management Plan 2018-2023 ([link](#));
- Cotswolds AONB Landscape Character Assessment ([link](#)) particularly, in this instance, with regards to Landscape Character Types (LCT) 19 (Unwooded Vale) and 1 (Escarpment Outliers);
- Cotswolds AONB Landscape Strategy and Guidelines ([link](#)) particularly, in this instance, regards to LCT 19 ([link](#)) including Section 19.1 and LCT 1 ([link](#)) including Section 1.1;
- Cotswolds AONB Local Distinctiveness and Landscape Change ([link](#));
- Cotswolds Conservation Board Position Statements ([link](#)) particularly, in this instance, with regards to Development in the Setting of the AONB ([link](#)), Landscape-Led Development ([link](#)), Tranquillity ([link](#)), Renewable Energy ([link](#)) and Dark Skies and Artificial Light Position Statement ([link](#)) and its appendices ([link 1](#), [link 2 now updated in 2021](#), [link 3](#)).

National Planning Policy Framework (July 2021) and development within the setting of the Cotswolds National Landscape

Paragraphs 174 and 176 of the National Planning Policy Framework (‘NPPF’) provide the highest status of protection for the landscape and scenic beauty of AONBs, including the Cotswolds National Landscape. Paragraph 174 states that planning decisions should both contribute to and enhance the natural environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

Paragraph 176 then outlines the ‘great weight’ to be given to the conservation and enhancement of the landscape and scenic beauty of AONBs. This ‘great weight’ is relevant in this instance as the site forms part of the AONB’s setting and a development of the scale proposed in this location could have a significant adverse impact on its landscape and visual character and quality.

Furthermore, the requirement that development within the setting of AONBs “*should be sensitively located and designed to avoid and minimise adverse impacts on the designated areas*” was also added into paragraph 176 with the publication of the current NPPF in July 2021. Therefore, any adverse effects on the AONB need to be assessed properly and fully taken into account when determining this application, with the appropriate weighting applied in the decision.

The Board’s Position Statement on Development in the Setting of the AONB referred to above outlines how the surroundings of the Cotswolds National Landscape are also important to its landscape character and quality. Development proposals that affect both views into and out of the AONB need to be carefully assessed to ensure that they conserve and enhance the natural beauty and landscape character of the AONB.

The National Planning Policy Guidance ('NPPG', 2014) also confirms in relation to the Section 85 duty³ that *"The duty is relevant in considering development proposals that are situated outside National Park or Area of Outstanding Natural Beauty boundaries, but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas."*

A High Court decision (*Stroud District Council v Secretary of State for Communities and Local Government (Gladman Development Ltd)* February 2015) helps to confirm the application of what is now paragraph 176 of the NPPF as far as 'great weight' is concerned. Mr Justice Ouseley stated in this case that paragraph 115 (now paragraph 176) of the NPPF *"certainly covers the impact on the scenic beauty of the land actually within the AONB. It seems to me that it would be unduly restrictive to say that it could not cover the impact of land viewed in conjunction with the AONB from the AONB. But to go so far as to say that it must also cover land from which the AONB can be seen and great weight must be given to the conservation of beauty in the AONB by reference to that impact reads too much into paragraph 115."*

The above decision helps to clarify that there are differing ways of assessing impacts on the setting of the AONB which require the application of different policies and guidance: (i) harm directly to land in the designated AONB itself from views out of the AONB and between parts of the AONB towards new development in its setting (where paragraph 176 of the NPPF is relevant) and: (ii) as a separate material consideration, harm to land outside the designated AONB, for example views of new development in the context or backdrop of the AONB (where paragraph 176 is not relevant).

Any impact upon views back towards the AONB, from outside the AONB, may be a separate material consideration and subject to separate policy and guidance, for example paragraph 174 of the NPPF also states that planning decisions should contribute to and enhance the natural environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

Adopted Development Plan

As far as adopted Development Plan policy relating to landscape issues is concerned, Policy SD6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy identifies that development proposals are required to consider the landscape and visual sensitivity of the area in which they are to be located or which they may affect, and have regard to local landscape distinctiveness. Policy SD7: The Cotswolds Area of Outstanding Natural Beauty (AONB) identifies that proposals within the setting of the Cotswolds AONB are required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities.

The Tewkesbury Borough Plan 2011-2031 was adopted on 8 June 2022. Policy LAN1 also states that where a proposal would result in harm to the Special Landscape Area having regard to the criteria contained within the policy, this harm should be weighed against the need for, and benefits from, the proposed development. Proposals causing harm to the Special Landscape Area will only be permitted where the benefits from the development would clearly and demonstrably outweigh the identified harm.

Cotswolds AONB Management Plan

The Cotswolds AONB Management Plan 2018-2023, which is a material consideration in planning decision making, identifies the tranquillity of the area and its dark skies as two of its 'special qualities'. The special qualities of the AONB are those aspects of the area's natural beauty which make the area distinctive and which are valuable, especially at a national level. They are also the key attributes on which the priorities for the AONB's conservation, enhancement and management should be based.

Policy CE1 states that proposals that are likely to impact on, or create change in, the landscape of the Cotswolds AONB, should have regard to, be compatible with and reinforce the landscape character of the location, as described by the Cotswolds Conservation Board's Landscape Character Assessment and Landscape Strategy and Guidelines. They should have regard to the scenic quality of the location and its setting and ensure that views – including those into and out of the AONB – and visual amenity are conserved and enhanced.

The Board's Tranquillity Position Statement referenced above recommends that proposals that have the potential to impact on the tranquillity of the AONB accord with Policy CE4 of the Cotswolds AONB Management Plan 2018-2023, give great weight to conserving and enhancing the tranquillity of the AONB and assess potential impacts on tranquillity, particularly with regards to noise, vehicle movements and landscape and visual impacts.

Policy CE5 states that proposals that are likely to impact on the dark skies of the AONB should have regard to these dark skies, by seeking to (i) avoid and (ii) minimise light pollution. Policy CE10 states that development and transport in the Cotswolds AONB and in the setting of the AONB should have regard to – and help to deliver – the purposes of conserving and enhancing the natural beauty of the AONB and increasing the understanding and enjoyment of the AONB's special qualities. They should also contribute to the economic and social well-being of AONB communities. Proposals relating to development and transport in the Cotswolds AONB and in the setting of the AONB should comply with national planning policy and guidance. They should also have regard to – and help to deliver – the Cotswolds AONB Management Plan and be compatible with guidance produced by the Cotswolds Conservation Board, including the: (i) Cotswolds AONB Landscape Strategy and Guidelines; (ii) Cotswolds AONB Landscape Character Assessment; (iii) Cotswolds AONB Local Distinctiveness and Landscape Change; and (iv) Cotswolds Conservation Board Position Statements.

Landscape and Visual Impact

As outlined above, NPPF paragraph 176 states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs and that development within the setting of AONBs should be sensitively located and designed to avoid and minimise adverse impacts on the designated areas. The case law referred to above has clarified that this includes giving great weight to the impact of development outside an AONB on views out from within the AONB. This clarification has been re-iterated in the recent planning appeal decision relating to the proposed development of up to 50 dwellings at Land off Ashmead Drive, Gotherington⁵.

The Government's planning practice guidance on Natural Environment (paragraph 042) recognises that development in the setting of an AONB can potentially do significant harm to the landscape and scenic beauty of the AONB, especially where long views from the AONB are identified as important.

The Cotswolds National Landscape covers Alderton Hill and Dumbleton Hill and extends right down to its boundary north of the current Industrial Estate and along the B4077 east of the site at Toddington. To the south, Langley Hill, Dixon Hill and Oxenton Hill are also part of the National Landscape and the land between these outliers, known as the Teddington and Greet Vale, is designated as a Special Landscape Area (SLA) in the Tewkesbury Borough Plan.

The Government's planning practice guidance on Natural Environment (paragraph 042) recognises that development in the setting of an AONB can potentially do significant harm to the landscape and scenic beauty of the AONB (to which great weight must be attached), especially where the landscape character of land within and adjoining the designated area is complementary.

The site forms part of a Special Landscape Area (SLA). The recently-adopted Tewkesbury Borough Plan states at paragraph 8.3 that SLAs 'are defined where the topography is a continuation of the adjacent AONB and / or where the vegetation and associated features are characteristic of the AONB'. SLAs 'play a role in protected the foreground setting of the adjacent Cotswolds AONB' and are considered by the LPA to be a valued landscape having regard to paragraph 174 of the NPPF.

A key issue in respect of this application is the impact of the proposed development on the visual connectivity between areas within the AONB, when viewed both to and from the AONB. The relatively undeveloped nature of the land between Langley, Dixon and Oxenton Hills to the south and Alderton/Dumbleton Hill to the north helps to maintain this geological and visual link. Other landscape and visual sensitivities include the influence of developments in views from public rights of way and the perception of from the B4077 and B4078.

The submitted LVIA acknowledges that the site is forms part of a distinctive landscape which is assessed to have a higher landscape and visual sensitivity because of its relationship with the AONB. It also recognises that the development proposals give rise to some landscape and visual harm as might be expected for a green field site in a rural location but considers that this harm is localised and limited in its geographical extent and the new development would be experienced in the context of the existing industrial estate which is relatively prominent in local views.

We consider that with the mitigation measures proposed, including the green infrastructure, that potential harm to the dark skies and setting of the AONB may, to an extent, be mitigated. We also recognise that the introduction of the new built form and in particular green infrastructure has the potential to partly screen the existing industrial structures and screen highway activity which may help mitigate the impact of the wider site, particularly in views from the B4078 and B4077.

Without prejudice, if the Council is minded to grant planning permission, we would welcome conditions securing the landscaping scheme and management plan along with appropriately recessive materials to ensure that the landscape and visual impact of the scheme is mitigated as far as possible.

Tranquillity

Tranquillity is another of the 'special qualities' of the Cotswolds National Landscape, being one of the features of the Cotswolds that makes the area so outstanding that it is in the nation's interest to safeguard it. The Cotswolds National Landscape has relatively high levels of tranquillity, especially when compared with the surrounding urban areas, though we acknowledge that both the relative tranquillity and dark skies of the AONB are affected by the noise and artificial lighting of the neighbouring built environment. However, the present undeveloped nature of the site helps to prevent the further erosion of these special qualities, which may occur if planning permission were granted and, in our view, the potential impact on the tranquillity of the AONB has not been adequately assessed by the applicant.

Section 4.5 of the Board's Tranquillity Position Statement outlines how The Institute of Environmental Assessment's 'Guidelines for the Environmental Assessment of Road Traffic' recommends using two 'rules of thumb' for identifying the scale at which increases in traffic movements should be considered in an Environmental Impact Assessment (EIA):

- Rule 1: Where traffic flows will increase by more than 30% (or the number of heavy goods vehicles (HGVs) will increase by more than 30%).
- Rule 2: Any other sensitive areas where traffic flows have increased by 10% or more.

AONBs are specifically identified as 'sensitive areas' in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. As such, Rule 2 should be applied in the Cotswolds AONB and should relate to both traffic flows and HGV movements. On this basis, it can be argued that an increase in traffic flows or HGV movements of more than 10% from a development proposal or in combination with other proposals is likely to be significant and have an adverse impact on the tranquillity of the Cotswolds AONB.

Having reviewed the applicant's Transport Assessment (Rappor, August 2022), there is no mention of issues relating to tranquillity and as such we do not consider that the potential impact of the development upon the tranquillity of the National Landscape has been adequately assessed or addressed. This is disappointing given this issue was highlighted to the applicant's agent in our response via email on 8 August 2022 to their pre-application consultation. However, we note that paragraph 6.29 of the Transport Assessment states that the proposed development is anticipated to attract an additional 88 vehicle trips along the B4078 at the site entrance, this equates to a percentage impact increase of 81.5% during the 17:00 - 18:00 period. This increase is well above the 30% 'rule of thumb' specified above.

We would also recommend that both the Council and Gloucestershire County Council as the highways authority ensure that the application and in particular the Transport Assessment takes a sufficiently precautionary and robust approach when assessing the potential highways impacts of the development, including on the relative tranquillity of the National Landscape. The evidence provided must be sufficiently satisfactory to reach a fully informed conclusion about the severity of impacts on the local highway network and allow for the likely impacts of the proposal to be assessed. In this regard we would highlight a recent appeal decision relating to proposed developments within the setting of the National Landscape at Mitton (appeal refs. 3301732 and 3301742, dated 25 November 2022) which were refused as the Inspector was not satisfied that the submitted transport assessment had been undertaken using a sufficiently robust approach so that he could be confident that the developments would not result in a severe residual cumulative impact on the road network, or that the tranquillity of the AONB would not be unacceptably harmed.

We are also concerned that the location is relatively remote for additional employment development, provides poor accessibility via alternative methods of transport to the private car and that preferable alternative sites would exist in Tewkesbury Borough for significant employment development of this nature. We would highlight the conclusion of the Tewkesbury Borough Plan Inspector in this respect where he stated *"The site is detached from any built-up area, not well connected to the principal road network, and would offer little opportunity for sustainable modes of transport"* (paragraph 79 of the examination report).

Lighting

Light pollution occurs in the form of light trespass where light shines where not needed, sky glow where light appears over towns and cities and glare, which is the uncomfortable reaction when a light source is viewed within a dark atmosphere. These all contribute to the erosion of 'dark skies' and the ability to view the stars at night.

Paragraph 185c of the NPPF states that planning decisions should ensure that new development is appropriate for its location and in doing so they should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. Paragraph 001 of the PPG on Light Pollution (Paragraph: 001 Reference ID: 31-001-20191101) states that *"intrinsically dark landscapes' are those entirely, or largely, uninterrupted by artificial light. National parks ... can serve as good examples"*. As AONBs have the same level of protection with regards to landscape and scenic beauty as national parks within the NPPF and PPG and dark skies are one of the special qualities of the

Cotswolds National Landscape, we consider it reasonable to treat the National Landscape as an 'intrinsically dark landscape' in NPPF and PPG terms. Policy CE5 of the AONB Management Plan states that proposals that are likely to impact on the dark skies of the AONB should have regard to these dark skies, by seeking to (i) avoid and (ii) minimise light pollution.

A Lighting Assessment has been submitted by the applicant (Strenger Ltd., September 2022) which concludes that it has been demonstrated that the proposed development will be compliant with the residential receptor criteria as set out in the Institution of Lighting Professionals (ILP) (2021) Guidance Note for the Reduction of Obtrusive Light. Specifically, the assessed lighting associated with the proposed development is compliant with the obtrusive light criteria as set out for ILP Environmental Zones E1 and E2. This is welcomed as we would wish to see compliant with obtrusive light levels for Zone E1 for all types of light limits as the ILP Guidance Note which forms Appendix 2 of the Dark Skies and Artificial Light Position Statement states where an area to be lit lies close to the boundary of two zones the obtrusive light limitation values used should be those applicable to the most rigorous zone (Note 1 on page 10) with E1 being the zone to be used in protected landscapes such as AONBs. We welcome the mitigation measures proposed by the applicant in respect of both impacts on biodiversity and dark skies.

Without prejudice, should the Council be minded to grant planning permission, we would request that appropriate pre-commencement planning conditions which enable to above matters to be addressed are imposed in the interests of the conservation and enhancement of the landscape and scenic beauty of the National Landscape.

Roof-mounted PV (and glazing)

We note that roof-mounted solar PV is proposed for the most of the roof area of the buildings. In principle we would support the provision of relatively small-scale roof mounted solar panels, particularly in preference to large-scale solar farms within the AONB, however it is important that it is delivered in a way that is compatible with the conservation and enhancement of landscape and scenic beauty of the AONB and its setting. In this case we would recommend that consideration is given to potential issues of glint and glare from the roof mounted panels (and indeed, from the glazed elevations), particularly when viewed from elevated vantage points within the AONB.

Recommendation

In conclusion, we would request that the applicant provides the following further information to allow us to fully assess the potential impacts of the proposal on the setting of the AONB and to draw a more definitive conclusion on the potential impacts of the scheme and whether, in our view, the application complies with the requirements of national and local planning policy and guidance:

- An assessment of the potential impact of traffic generated by the development on the AONB and its tranquillity or the cumulative impact of this and the other developments consented or allocated nearby.

NOTES:

- 1) Cotswolds National Landscape is the new name for the Cotswolds Areas of Outstanding Natural Beauty (AONB). The new name takes forward one of the proposals of the Government-commissioned 'Landscapes Review' to rename AONBs as 'National Landscapes'. This change reflects the national importance of AONBs and the fact that they are safeguarded, in the national interest, for nature, people, business and culture.
- 2) The name used for the organisation associated with the AONB designation is the Cotswolds National Landscape Board. At times this is abbreviated to National Landscape Board or The Board. The legal name of the organisation remains the Cotswolds Conservation Board but this name is no longer used in most circumstances.
- 3) Section 85 of the Countryside and Rights of Way Act 2000.
www.legislation.gov.uk/ukpga/2000/37/section/85
- 4) The documents referred to in our response can be located on the Cotswolds National Landscape website under the following sections
 - a. Cotswolds Area of Outstanding Natural Beauty (AONB) Management Plan 2018-2023
www.cotswoldsaonb.org.uk/management-plan
 - b. Cotswolds AONB Landscape Character Assessment
www.cotswoldsaonb.org.uk/lca
 - c. Cotswolds AONB Landscape Strategy and Guidelines
www.cotswoldsaonb.org.uk/lsg
 - d. Cotswolds AONB Local Distinctiveness and Landscape Change
www.cotswoldsaonb.org.uk/ldlc
 - e. Cotswolds Conservation Board Position Statements
www.cotswoldsaonb.org.uk/ps1 www.cotswoldsaonb.org.uk/ps2
- 5) Planning appeal APP/G1630/W/20/3256319 (relating to planning application 19/01071/OUT). Paragraph 28 is particularly relevant in this regard.