



Chris Griggs-Trevarthen
Bath & North East Somerset Council
Planning Services
Lewis House
Manvers Street
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By email only to: chris_griggs@bathnes.gov.uk

2 February 2023

Dear Chris,

APPLICATION NO: 22/02169/EOUT

DESCRIPTION: (i) Outline application for Phases 3 and 4 for up to 300 dwellings; landscaping; drainage; open space; footpaths and emergency access; all matters reserved, except access from Coombe Hay Lane via the approved Phase 1 spine road (details of internal roads and footpaths reserved); (ii) Detailed application for the continuation of the spine road (from Phase 1), to and through Sulis Manor and associated works comprising: the demolition of existing dilapidated buildings and tree removal; drainage; landscaping; lighting; and boundary treatment; to enable construction of the spine road, and (iii) Detailed application for landscaping; mitigation works; allotments; including access; on the field known as Derrymans.

LOCATION: Parcel 4234 Combe Hay Lane Combe Hay Bath

Thank you for consulting the Cotswolds National Landscape Board¹ on the additional information submitted by the applicant in support of this proposed development, which would be located within the Cotswolds National Landscape².

Whilst we do not wish to repeat the content of our previous responses, for consistency we have structured our additional responses at Annex 1 below using the same headings as in our first response dated 4 August 2022. Having considered the additional information provided by the applicant and further to our previous consultation responses dated 4 August and 29 September 2022, the Board wishes to maintain our **objection** to this application.

As explained in Annex 1 and our previous responses the exceptional circumstances required by paragraph 177 of the National Planning Policy Framework do not exist to justify a further 300 homes on top of the 171 already permitted upon a site which was originally allocated for 'around 300 dwellings'. This alone provides a clear reason for refusing this application and further support for this position has recently been established by the adoption of the Council's Local Plan Partial Update.

We also consider that for the reasons outlined in Annex 1 that notwithstanding the content of the updated submission, a number of the placemaking principles required by the policy B3a allocating the site are not met, including placemaking principles 1, 2, 3 and 5. It is also disappointing that the applicant has provided no further information in respect of our requests relating to the potential impacts of the scheme upon the tranquillity of the National Landscape. We would again invite them to address these issues through the submission of additional information.

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

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Joyce', with a small dot at the end.

Simon Joyce

Planning Officer

simon.joyce@cotswoldsaonb.org.uk | 07808 391227

ANNEX 1: COTSWOLDS NATIONAL LANDSCAPE BOARD FURTHER RESPONSE TO APPLICATION REF. 22/02169/EOUT

PRINCIPLE OF DEVELOPMENT AND 'EXCEPTIONAL CIRCUMSTANCES' (NPPF PARAGRAPH 177)

Our previous responses discussed the planning policy background, principle of development and the 'exceptional circumstances' required for major development within an AONB by paragraph 177 of the NPPF in some detail. Whilst we do not intend to revisit our analysis here, we still strongly believe that the case for 'exceptional circumstances' needs to be revisited for this application and wish to make the following additional comments:

The need for the development

We understand that the Council has now adopted the Local Plan Partial Update (LPPU) following a meeting of Special Council on 19 January 2023. In his report dated 13 December 2022 the Inspector who examined the Local Plan Partial Update concluded that on adoption, he was satisfied that the Council can demonstrate a housing land supply in excess of five years, even without taking into account the over-delivery of houses in the plan period to date. This undermines the applicant's assertion that the proposed quantum of development, which is significantly over and above the indicative amount the site is allocated for in the Core Strategy, will help to address a potential future shortfall in housing in the District.

This is further proof that there is no need for this site, which lies within a National Landscape (AONB) where national policy states that the scale and extent of development should be limited, to deliver anything above the total of 300 homes that it is indicatively allocated for in the Core Strategy.

Scope for developing outside the designated area or meeting the need for it in some other way

The recently-adopted LPPU allocates a total of 940 further homes, including 530 allocated at Bath. As such it is clear that there are legitimate alternatives allocated within the Council's Development Plan to meet the District's housing requirements to a proposal which intensifies and extends this site allocation within a nationally protected designated landscape.

Detrimental effects

These are considered in the section below, principally against the placemaking principles contained within the site allocation policy B3a. Whilst the revised submission does respond positively to some of our previous comments along with those from other consultees, other areas remain unaddressed. We remain of the view that the applicant has not adequately considered the potential detrimental impacts of the proposal on the environment and landscape and also in some areas underplays their assessment of these potential impacts.

In summary, we consider that the above underlines that the exceptional circumstances required by paragraph 177 of the NPPF do not exist for this development and this alone provides a clear reason for refusing this application.

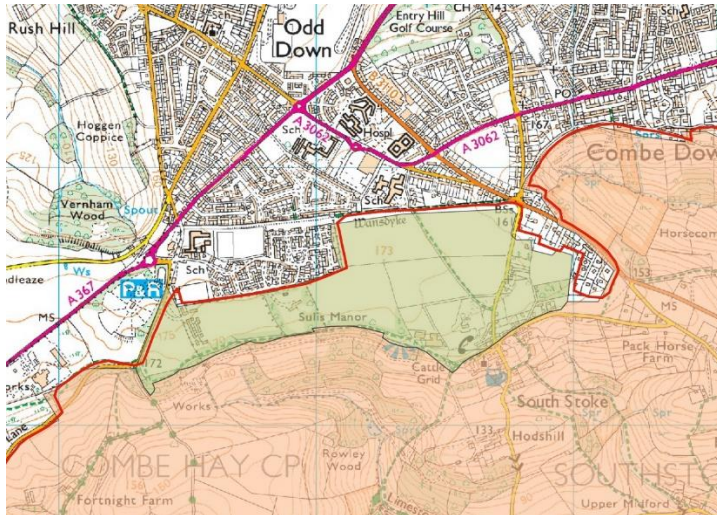
LANDSCAPE AND VISUAL IMPACTS (PLACEMAKING PRINCIPLE 5)

We note and support the fact that since our previous consultation, Policy NE2 of the newly-adopted Local Plan Partial Update has been updated to specifically state that great weight will be afforded to conserving and enhancing landscape and scenic beauty of designated Areas of Outstanding Natural Beauty (AONBs), and with particular reference to their special qualities. The supporting text of the policy at paragraph 249a states that the Cotswold and Mendip Hills AONB Management Plans set out the managing body's policy for the management of the AONB and the carrying out of their functions in relation to it. The supporting text also explicitly outlines how the Countryside and Rights of Way (CRoW) Act 2000, Section 85 places a statutory duty on all relevant authorities to have regard to conserving and enhancing natural beauty when discharging any function in relation to, or affecting land within an Area of Outstanding Natural Beauty.

As outlined within this and our previous responses, we do not believe that the application complies with the requirements of its allocation policy B3a and furthermore the proposal would not conserve and enhance the landscape and scenic beauty of the National Landscape and, as such, would not be consistent with policy NE2, paragraph 176 of the NPPF and policy CE1 of the Cotswolds AONB Management Plan. It also has not been demonstrated that the application would not have an adverse impact upon the relative tranquillity, the cultural heritage and the natural heritage of the AONB. Tranquillity is a 'special quality' of the National Landscape specified in the AONB Management Plan whilst cultural heritage and natural heritage are factors that contribute to its natural beauty and therefore any adverse impacts on these factors would also not accord with policy NE2. These matters are expanded upon in the sections below.

The applicant's Environmental Assessment Addendum dated December 2022 features a number of updates to the Landscape and Visual chapter, including responses to some of the matters raised within our previous consultation. In the main the updates are minor to reflect the minor amendments made to the scheme and the assessment of landscape and visual impacts are in the main unchanged, including those impacts upon landscape character of the Cotswolds AONB and the visual impact upon viewpoints within the National Landscape. As such, our previous comments on these matters still stand and we still consider that overall, the LVIA underestimates the potential adverse effects of the development on the character of the AONB.

We note the applicant's comments on the extent of the Cotswold AONB Landscape Character Assessment Character Area 9A High Wold Dip Slope: Sulis Manor Plateau at paragraph 4.3.11 of the Addendum. The applicant's screenshot is taken from a thumbnail sketch within the printed LCA and is meant to be indicative only. The screenshot below is taken from a GIS version of the LCA mapping and shows the extent of LCA 9A (coloured green) which does not include the area to the south of the site shown in the thumbnail sketch map.



Our position remains that this single development would occupy much of this LCA (including parts of the LCA that are not included in the Core Strategy allocation) and would still be unique in terms of development proposals within the Cotswolds National Landscape by irreversibly changing the character of a significant part of that LCA in a manner that is at odds with the description of its current landscape character.

We would also like to comment further on the issue of assessing what is a 'significant' impact. Having assessed the visual impact of the proposal as at least 'moderate adverse' from a number of viewpoints, the Addendum highlights paragraph 1.7.25 of the LVIA methodology which states that *"a level of effect of greater than Moderate, will generally be used as a benchmark for determining whether an effect is significant"*. Whilst it is noted that this is a matter for professional judgement, we disagree and consider that an assessment of 'moderate' impact from multiple viewpoints should be considered as likely to be significant⁵. We note that this position was shared by the Council's Landscape Officer in his consultation response dated 17 July 2022. Indeed, given that all of the other disciplines covered within the submitted EIA consider that an assessed 'moderate' impact is likely to be significant (as stated at paragraph 1.9.5 of the applicant's updated Environmental Statement Volume III Non-Technical Summary), it would seem inconsistent and illogical for landscape and visual impacts to be considered differently.

TRANQUILLITY (PLACEMAKING PRINCIPLE 5 (and 7))

In our previous response we concluded that the Environmental Statement submitted in support of the application failed to consider or quantify the potential impact of traffic generated by the development on the National Landscape and its tranquillity or the cumulative impact of this and the other developments consented or allocated nearby and made recommendations as to further assessments.

The Transport Assessment Addendum (Tetra Tech, December 2022) submitted does not consider our previous response and therefore this matter remains unaddressed by the application.

In this regard we wish to draw the Council's attention to a recent appeal decision relating to proposed developments within the setting of the National Landscape at Mitton near Tewkesbury (appeal refs. 3301732 and 3301742, dated 25 November 2022). These appeals 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 National Landscape would not be unacceptably harmed.

We support the Inspector's view in determining those appeals that a sufficiently precautionary and robust approach should be taken when assessing the potential highways impacts of the development, including on the relative tranquillity of the National Landscape. As the applicant has not addressed this matter, we continue to object to the application as it has not adequately assessed the potential impacts on the tranquillity of the Cotswolds National Landscape, another of its special qualities and as such does not comply with Local Plan Partial Update Policy NE2 and AONB Management Plan Policies CE4 and CE10. We would again invite them to address these issues through the submission of additional information.

LIGHTING/DARK SKIES (PLACEMAKING PRINCIPLE 5)

In our previous response we recommended that the relevant 'environmental zone' for which compliance should be assessed is Environmental Zone E1, which relates to AONBs. We acknowledge and welcome that the external lighting strategy, supported by an updated Lighting Impact Assessment (The Lighting Bee, December 2022) has been revised to accord with this guidance and also now considers both Policy CE5 of the AONB Management Plan and the Board's Dark Skies and Artificial Light Position Statement.

We note that the proposed lighting has been reviewed and will be designed in accordance with the limiting criteria for an E1 Environmental Zone, in order to limit obtrusive light and light pollution. We also note the conclusion of the Assessment that on adopting the lighting strategy, criteria and mitigation measures outlined in this report and in the Lighting Parameters Plan PP 005 Rev 5, the impact from the proposed development on sensitive receptors in terms of lighting will be 'Minor Adverse / Not Significant' when considering effects in terms of obtrusive light.

The Lighting Impact Assessment notes at section 4.2 that it is not possible to provide a site wide lux contour plan for Phases 3 and 4 at the outline application stage for this project, as sufficient detail of the development is not available to enable this. It is envisaged that detailed analysis, including lighting calculations and assessment will be provided at the detailed application/ reserved matters application stage based on the final site layout and house types, to ensure that light spill from street lighting, external lighting and internal light spill from buildings will meet the ecological requirements as set out in the Lighting Parameters Plan to ensure light spill is limited to less than 0.4 lux vertically, and 0.2 lux horizontally at the edge of the dark zone at the southern boundary of the site and 1 lux at the other boundaries.

Without prejudice, should the Council be minded to grant planning permission, we would request that appropriate planning conditions are imposed which enable to above matters to be addressed at

reserved matters stage in the interests of the conservation and enhancement of the landscape and scenic beauty of the National Landscape.

COMPREHENSIVE MASTERPLAN (PLACEMAKING PRINCIPLE 2)

Further to our previous comments, whilst a revised 'comprehensive masterplan' (dwg. ref. A-110 Rev. E) has been submitted, it remains little more than a block plan and the Phase 2 development remains excluded, to come forward at a later date. In our view, this is not a 'comprehensive masterplan' and therefore, we consider that the application still does not fulfil the requirements of Placemaking Principle 2.

ALLOTMENT PROVISION (PLACEMAKING PRINCIPLE 3)

Further detailed plans and information on the allotment proposals have been submitted, in particular dwg. ref. NPA-11192-XX-ZZ-DR-L-3005. This shows the allotments occupying the northern corner of the Derrymans field bounded by a timber post and rail fence supplemented by a native species clipped hedge. The raised beds, storage shed and picnic area mentioned in the original submission have been removed whilst the access route and parking zone would be surfaced in grasscrete cellular grassed paving. We acknowledge that this would reduce the impact of the introduction of allotment development on the openness of the Green Belt and the character and appearance of the National Landscape.

Notwithstanding the above, our fundamental concerns remain regarding the principle of locating the allotment provision at Derrymans as this part of the proposal. Derrymans remains located outside of the allocation boundary and its development would extend the site further into the National Landscape (and the Green Belt), further undermining the requirement of paragraph 176 of the NPPF for the scale and extent of development to be limited within AONBs. Our view is that given the exceptional circumstances for this proposed development do not exist, there is no need for development to extend outside of the allocation boundary and all allotment provision should be met within this boundary as would have been envisaged by the original site allocation. As Derrymans is also a Site of Nature Conservation Interest, this would also address the 'in-principle' objection of the Council's Ecologist (dated 20 October 2022) to these proposals. In her objection, she highlights the potential to restore the entire field to calcareous grassland and concludes that siting the allotments in this location would be contrary to Policy NE3-3b. We would support her view on both of these matters.

CULTURAL HERITAGE/HISTORIC ENVIRONMENT (PLACEMAKING PRINCIPLES 5 & 6)

In our original response, we highlighted how cultural heritage is one of the factors that contributes to the natural beauty of the Cotswolds National Landscape and that the National Landscape's '*significant archaeological ... and historic associations*' is one of the special qualities of the area. Both the Wansdyke scheduled monument and Sulis Manor house and gardens are highlighted with the Cotswolds AONB Landscape Character Assessment and we consider that the potential impacts of the development on these features are therefore an important consideration when considering the impacts of the development on the natural beauty of the CNL, in addition to being important considerations in their own right.

As such, we note and support Historic England's consultation responses of 2 September and 24 November 2022 raising serious concerns on heritage grounds, particularly regarding the impact of the proposal on the Wansdyke scheduled monument and lack of detail provided by the proposals. In our view, the revised 'comprehensive masterplan', which remains little more than a block plan, and the accompanying parameter plans do not respond adequately to these concerns and by extension do not comply with the relevant Placemaking Principles of the site's allocation policy.

NATURAL HERITAGE/BIODIVERSITY (PLACEMAKING PRINCIPLE 5)

Further to our previous consultation comments and the objection of the Council's ecologist, we note and welcome the increased area of calcareous grassland creation proposed at Derrymans, albeit as highlighted above this is an area outside the site allocation boundary and the proposed siting of the allotments within an SNCI is the subject of an 'in-principle' objection from the Council's Ecologist. For avoidance of doubt, we do not consider that creating an increased area of calcareous grassland diminishes our objection to this proposal.

We also note that the replacement broadleaved woodland planting to compensate for the loss of trees within the grounds of Sulis Manor which was previously proposed to be located at Derrymans has now been relocated onto the field known as 30 Acres, which extends the red line site area even further outside of the site allocation boundary, which we would not support. The field known as Old Broad Close remains shown as being retained in agricultural use.

It is also noted that an updated calculation of Biodiversity Net Gain will be provided separately, however we remain of the view that the application currently displays a disappointing approach to biodiversity mitigation and habitat creation when it impacts a special quality of a nationally protected landscape, particularly when the application proposes such a significant increase in development over and above its indicative allocation and extends outside of its allocation boundaries.

Given that the exceptional circumstances do not exist to justify an increase in development above the indicative allocation, a reduction in the quantum of Phase 3 and 4 developments to provide an overall total of around 300 dwellings would allow more opportunity for on-site habitat restoration and Biodiversity Net Gain. We also continue to recommend the creation of calcareous / species-rich grassland habitat on the field called 'Great Broad Close' (between the site and Wansdyke), with habitat connectivity to the existing calcareous grassland to the south of the site.

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) An example can be found in the methodology for the Environmental Statement for the A417 Missing Link DCO application ([link](#)) at paragraph 4.5.17: *"In terms of the EIA Regulations, 'significant' effects are generally those where the significance of the effect is 'moderate' or greater"*.