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By email only to: james.lloyd@tewkesbury.gov.uk

12 July 2022

Dear James,

**APPLICATION NO:** 22/00650/FUL

**DESCRIPTION:** Residential development comprising 45 dwellings, creation of new access, public open space and other associated ancillary works.

**LOCATION:** Trumans Farm, Manor Lane, Gotherington

Thank you for consulting the Cotswolds Conservation Board ('the Board') on this application, which would be located within the setting of, and adjacent to, the Cotswolds National Landscape.<sup>1</sup>

The Board recognizes the importance of meeting local housing requirements. However, this should be delivered in a way that is compatible with the statutory purpose of AONB designation, which is to conserve and enhance the natural beauty of the AONB. In this instance, we consider that the proposed development would have a significant adverse impact on the natural beauty of the Cotswolds National Landscape, particularly with regards to the impact on views from Nottingham Hill.

We consider that this significant adverse impact provides a clear reason for refusal. As such, we **object** to the proposed development and recommend that it should not be granted planning permission. Further detail is provided in the Annex below.

The fields that the proposed development would occupy play an important role in separating the built development of Gotherington from the Cotswolds National Landscape. As such, the site also plays a key role in protecting the foreground setting of the National Landscape. This is one of the reasons why these fields form part of Special Landscape Area designation.

However, the proposed development would result in the built development of Gotherington encroaching towards the Cotswolds National Landscape. This would be particularly noticeable when viewed from the more elevated viewpoints on Nottingham Hill. Even with the proposed mitigation in place, we consider that the magnitude of change combined with the very high sensitivity of visual receptors at these viewpoints, the resultant visual impact would be major adverse (i.e. significant). This significant adverse impact should be given great weight by Tewkesbury Borough Council.

We acknowledge that the proposed development could potentially have a small beneficial effect on views from Gotherington towards the Cotswolds National Landscape, primarily as a result of the creation of new publically-accessible open space. However, we consider that this benefit is far outweighed by the significant adverse impact on views from the National Landscape.

**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](http://cotswoldsaonb.org.uk)

*Chairman:*  
**Brendan McCarthy**  
*Vice Chair:*  
**Rebecca Charley**

We are aware that a previous housing development proposal for this site was refused planning permission and then dismissed at appeal in 2016. A further application (ref. 21/00019/FUL), which is very similar to the current application, was the subject of an objection by the Board and then refused by the Council last year. One of the key reasons for planning permission being refused was the adverse impacts on the Cotswolds National Landscape.

We acknowledge that recent appeal decisions have concluded that Tewkesbury Borough Council is unable to demonstrate a five-year supply of deliverable housing sites and the applicant makes a case on this basis that the 'tilted balance' at paragraph 11d of the NPPF is invoked. However, we are conscious that the Council has since adopted the Tewkesbury Borough Plan which makes significant allocations for residential development and also that a number of major residential schemes have either been allowed at appeal or consented by the Council in recent months.

It may therefore be the case that the Council feels that it can now demonstrate a five-year supply of deliverable housing sites and the application of its Development Plan policies would point towards a refusal of this application on this basis. However, even if this is not the case, as outlined above and in the Annex below, we maintain our view expressed in response to previous applications that we consider that the significant adverse impacts of the proposed development provide a clear reason for refusal in paragraph 11di) terms. As such, we consider that the presumption in favour of granting planning permission (i.e. the 'tilted balance') should be disapplied.

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', with a small dot at the end.

Simon Joyce

**Planning Officer**

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## ANNEX 1 COTSWOLDS NATIONAL LANDSCAPE CONSULTATION RESPONSE IN RELATION TO PLANNING APPLICATION 22/00650/FUL

### Preamble

The comments below are based on a review of the information submitted by the applicant, including the Landscape and Visual Assessment (LVA, Davies Landscape Architects, May 2022) and observations from a site visit made by the Board's Planning Officer in July 2022.

We also welcome the submission of the further information from the applicant in respect of Visual Analysis and Design View from Nottingham Hill (Davies Landscape Architects, May 2022) which includes CGI montage views of the proposed development from Nottingham Hill at year 1 and year 15 post-construction, which had not accompanied previous applications.

The site boundary comes within approximately 30m of the Cotswolds National Landscape boundary, on the opposite side of the embankment of the Gloucestershire & Warwickshire Steam Railway. The built environment of the proposed development would come within approximately 55m of the National Landscape boundary. This site is also overlooked from Nottingham Hill, Oxenton / Woolstone Hill and Crane Hill, within the National Landscape, including from public rights of way in these locations. As such, the proposed development is clearly in the setting of the Cotswolds National Landscape.

### 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.<sup>2</sup> 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 publications<sup>3</sup>:

- 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) 2 (Escarpment), 1 (Escarpment Outliers) and 18 (Settled Unwooded Vale);
- Cotswolds AONB Landscape Strategy and Guidelines ([link](#)) particularly, in this instance, regards to LCT 2 ([link](#)) including Section 2.1, LCT 1 ([link](#)) including Section 1.1 and LCT 18 ([link](#)), including Section 18.1;
- 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](#)) 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 would, in the view of the Board, 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. We note that neither the applicant's LVA nor the Planning Statement mention this requirement and the LVA, despite being dated May 2022, still lists policies from the since-superseded February 2019 version of the NPPF.

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 duty<sup>2</sup> 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 paragraphs 176 or 177 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. This plan reinstates a defined settlement boundary at Gotherington, outside of which unallocated residential development of this scale is not supported. This site lies outside of the village's settlement boundary. 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.

At the local level, the Gotherington Neighbourhood Development Plan identifies a number of locally significant views. Of particular relevance to this proposal, in the context of the Cotswolds National Landscape are views from Nottingham Hill, listed in Policy GNPD10. The NDP requires that development proposals should ensure special attention is paid to preserving such views, or including mitigation measures that ensure such views are maintained as fully as possible. Policy GNPD9 also requires development proposals to demonstrate that they would not have a detrimental impact on the views to and from surrounding hills, including Nottingham Hill or the Area of Outstanding Natural Beauty.

#### *Cotswolds AONB Management Plan*

The Cotswolds AONB Management Plan 2018-2023, which is a material consideration in planning decision making, identifies the Cotswold escarpment, including views from and to the AONB, as being two of the AONB's 'special qualities' along with the tranquillity of the area and its dark skies. 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.

### **Impact on views from the Cotswolds National Landscape**

#### *Sensitivity*

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 reiterated in the recent planning appeal decision relating to the proposed development of up to 50 dwellings at Land off Ashmead Drive, Gotherington<sup>4</sup>.

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.

Views from the Cotswolds National Landscape, specifically from the Cotswold escarpment are one of the ‘special qualities’ of the Cotswolds National Landscape. As such they are one of the key attributes on which the priorities for the area’s conservation, enhancement and management should be based.

The panoramic views from the upper escarpment are also one of the ‘key features’ of Landscape Character Type (LCT) 2 (Escarpment), which Nottingham Hill is located within. Panoramic views from the upper slopes are also a key feature of LCT 1 (Escarpment Outliers), including the eastward views to the Cotswold escarpment.

Taking all of these points into account along with the other policy requirements outlined above, the sensitivity of relevant visual receptors is likely to be as follows:

- Receptors on public rights of way (PROW) on Nottingham Hill and from promoted PROW (e.g. Gloucestershire Way) within the Cotswolds National Landscape = very high sensitivity.
- Receptors on other PROW within the Cotswolds National Landscape = high sensitivity.
- Receptors on PROW, with views to the Cotswolds National Landscape = medium sensitivity.

### *Magnitude of change*

The applicant's LVA identifies ten viewpoints within the Cotswolds National Landscape (out of a total of 16 viewpoints), with an additional viewpoint (RVP 03) being on the boundary of the National Landscape (i.e. eleven in total). Three of these viewpoints are on Crane Hill (RVP 07, 08 and 09), two are on Oxenton / Woolstone Hill (RVP 05 and 06) and four are on Nottingham Hill (RVP 11, 12, 13, 14 and 15). We note that the additional RVPs selected for this application, RVPs 15 and 16, are not shown the RVP Location Map (Figure 21).

### *View from RVP 03*

We acknowledge that the views from the Cotswolds National Landscape boundary at RVP 3 (and further east along Gretton Road) is screened or heavily filtered by intervening field boundary trees and hedgerows. These views would primarily be experienced by car users and cyclists. As such, we acknowledge that the magnitude of change, resulting from the proposed development is likely to be negligible.

### *Views from Oxenton / Woolstone Hill (RVP 05 and 06)*

We acknowledge that the consented development, north of Gretton Road, partially 'encloses' the site in the context of these views and that the current settlement edge forms a backdrop to part of the site, albeit to a limited degree. However, the site is relatively exposed, when viewed from these viewpoints (particularly RVP 05), compared to the existing settlement edge and the area of the consented development. As such, the magnitude of change could potentially be minor, rather than negligible.

We have previously commented on the quality of the photographs in the LVA - and the labelling used on these photographs – this appears to be largely unchanged for this application with previous winter photos from 2020 being reused. Supplementary photos have been provided dating from spring 2022, but by this time, vegetation is in full leaf. The quality of the winter photos means that it is very difficult to come to a definitive conclusion as to likely visual impacts. Some photographs (for example RVP5 on page 35) are very hazy and the labelling does not show the extent of the site boundary.

Notwithstanding, we acknowledge that views of the site from these viewpoints would be filtered by intervening vegetation and that the site would be 'enclosed' (in the context of these Crane Hill views) on completion of the intervening, consented development. As such, we acknowledge that the magnitude of change in these views, resulting from the proposed development is likely to be negligible.

### *Views from Nottingham Hill (RVP 11, 12, 13, 14 and 15)*

As with some of the other viewpoints, the LVIA fails to demarcate the extent of the proposed development on some of the photographs for these viewpoints. Instead, the annotation emphasises the extent of the existing settlement edge and of the consented development. As such, the annotation underplays the potential visual impact of the proposed development itself.

We acknowledge that, from RVP 11 and 12, the site would be partially screened by existing intervening vegetation and, to a limited degree, by the railway embankment. We also acknowledge that the site is seen in the context of the existing settlement edge (and, potentially, the consented development) as a backdrop. In addition, we acknowledge that some of the houses, primarily those in the south east corner closest to the boundary of the Cotswolds National Landscape, will be single-storey.

However, many of the proposed houses are two-storey. Given that most of the houses that currently form the settlement edge along Manor Lane are 1.5 storey (i.e. the first floor is in the roof), these new two-story houses are likely to look considerably bigger. In addition, RVP 11 and 12 are approximately 10m higher than the proposed houses. As such, the upper parts of the houses (and certainly the roofs, including for the one-storey houses) would still be seen. This new housing will be closer to the railway embankment and, as such, would still potentially convey a sense of encroachment towards the National Landscape.

With regards to RVP 13 and 14, we acknowledge that the site forms part of a wider panorama. However, this eastern edge of Gotherington is a focal point in these panoramic views. The fact that the slopes of Nottingham Hill block views to the south of Gotherington adds to the perception of this eastern edge of the settlement being a focal point. Virtually the whole of the site can be seen from these two viewpoints, with just a small amount of intervening vegetation at the south end of the site. From this elevation the railway embankment would only screen a small section of the area that would remain undeveloped.

At present, from these viewpoints, the undeveloped character of the site provides a very clear gap between the built development of Gotherington and the boundary of the Cotswolds National Landscape, which is demarcated by the railway embankment. However, if the development was to be permitted a substantial proportion of the site would be occupied by built development. The slightly elevated position of the railway embankment means that very little undeveloped land would be seen between the embankment and the edge of the new housing and roads. As such, there would be a very strong sense of encroachment towards the National Landscape which would be highly visible to users of Public Rights of Way on Nottingham Hill for an extended period when descending towards the village. The provision of CGI montages at year 1 and 15 by the applicant is welcome, however in our view they underscore the points made above and illustrate the likely detrimental impact of the scheme.

### *Significance of Effects*

#### *View from RVP 03*

Given that the magnitude of change in the view from RVP 03 is likely to be negligible, we consider that the proposed development would also have a negligible effect on this view (even taking into account the high sensitivity of the visual receptors).

#### *Views from Oxenton / Woolstone Hill (RVP 05 and 06)*

If the magnitude of change is negligible then the proposed development would have a negligible effect on this view. However, the magnitude of change could potentially be minor adverse, particularly from RVP 05. In this scenario, the significance of the effects would potentially be as follows:

- RVP 05: Very high sensitivity (The sensitivity is increased from 'high' to 'very high' by the fact that the viewpoint is on the Gloucestershire Way (i.e. a named and promoted route)) + minor adverse magnitude of change = moderate adverse.
- RVP 06: High sensitivity + minor adverse magnitude = moderate / minor adverse.



### *Views from Crane Hill (RVP 07, 08 and 09)*

Given that the magnitude of change in the views from RVP 07, 08 and 09 is likely to be negligible, we consider that the proposed development would also have a negligible effect on this view (even taking into account the high sensitivity of the visual receptors).

### *Views from Nottingham Hill (RVP 11, 12, 13 and 14)*

Based on the information outlined above, we consider the significance of the visual effects to be as follows:

- RVP 11 and 12: Very high sensitivity + moderate adverse magnitude of change = major adverse at year 1-7 potentially reducing to major/moderate adverse by year 15.
- RVP 13 and 14: Very high sensitivity + moderate adverse magnitude of change = major adverse at both years 1-7 and 15.
- RVP 15: Very high sensitivity + minor adverse magnitude of change = moderate adverse at both years 1-7 and 15.

### *Cumulative Effects*

Of the eleven viewpoints within, or on the boundary of, the Cotswolds National Landscape, we consider that the visual impact of the proposed development would be major adverse for two viewpoints (RVP 13 and 14) and moderate adverse for three or four of the viewpoints (RVP11, 12, 15 and possibly RVP 05) at year 15 of the development.

It is also important to note that the adverse impacts wouldn't just be experienced from the selected viewpoints but from several hundred metres of public rights of way on Nottingham Hill (and, potentially, Oxenton / Woolstone Hill). As such, the proposed development would clearly have a significant adverse visual impact on views from the Cotswolds National Landscape.

## **Impact on views to the Cotswolds National Landscape**

### *Sensitivity*

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 to the AONB are identified as important. Views to the Cotswolds National Landscape, specifically to the Cotswold escarpment are one of the 'special qualities' of the Cotswolds National Landscape.

Policy CE1 of the Cotswolds AONB Management Plan 2018-2023 states that development proposals should 'ensure that views – including those ... out of the AONB ... are conserved and enhanced'.

RVP 10 is the view from Gotherington Playing Fields looking south-east, across Gotherington, towards Nottingham Hill. At the local level, this location has been designated as a Local Green Space in the Gotherington Neighbourhood Plan (in which it is referred to as Freeman's Field). One of the factors that has contributed to this designation is the views of the Cotswolds National Landscape. The eastwards view from Freeman Field is identified as a 'locally significant view' in Policy GNDP10 and Appendix 3 of the GNDP.

Taking all of these points into account, the sensitivity of relevant visual receptors is likely to be as follows:

- Receptors on PROW outside the Cotswold National Landscape, with views to the Cotswolds National Landscape that are identified as being important / significant = high sensitivity (i.e. RVP 10)
- Receptors on PROW outside the Cotswold National Landscape, with views to the Cotswolds National Landscape = medium sensitivity (i.e. RVP 01, 02 and 04).

### *Magnitude of Change*

The applicant's LVA identifies four viewpoints (out of 16 viewpoints in total) that are outside the Cotswolds National Landscape and looking towards the National Landscape. Of these, viewpoints RVP 01, 02 and 04 are adjacent to the northern boundary of the site, on Gretton Road, and RVP 10 is approximately 700 to the north east. All of these viewpoints look south or south-east, towards Nottingham Hill.

We acknowledge that the northern boundary of the site is well contained within mature hedges with only occasional glimpses possible towards the slopes of Nottingham Hill. In addition, these views (i.e. RVP 01, 02 and 04) would primarily be experienced by car users (passing the site at approximately 30mph) and cyclists.

We also acknowledge that the development would probably not be visible from RVP 10. On this basis, we consider that the magnitude of change in these views, in terms of the extent to which the development would affect views of Nottingham Hill, would be negligible.

### *Significance of Effects*

Given that the magnitude of change in the views from RVP 01, 02 and 04 is likely to be negligible (in terms of the extent to which the development would affect views of Nottingham Hill), we consider that the proposed development would also have a negligible adverse effect on these views.

In addition, we acknowledge that the creation of publically accessible open space would also provide new, publically accessible views to the Cotswold escarpment and escarpment outliers. As such, there would potentially be a small net beneficial effect with regards to the impact of the development on views from outside the Cotswolds National Landscape towards the National Landscape.

However, given the extensive hedging and tree planting that is proposed, it is likely that this net benefit will be compromised to some degree. Also, it is important to note that the benefits of creating newly accessible views of the Cotswolds in locations outside the National Landscape are heavily outweighed by any adverse impacts that there might be on views from the National Landscape.

### **The relationship between the site and the Cotswolds National Landscape (Landscape Character and Setting)**

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 the landscape character of land within and adjoining the designated area is complementary.

The site forms part of a Special Landscape Area (SLA). The newly-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.

We consider that the landscape character of the site is clearly complementary to – and a continuation of – the landscape character of the Cotswolds National Landscape, particularly Landscape Character Type 18 (Settled Unwooded Vale). For example, one of the ‘key features’ of LCT 18 identified in the Cotswolds LS&G referred to above is ‘the soft rolling or gently undulating landform, with the Cotswolds Escarpment defining the eastern limit of the Vale and providing a dramatic backdrop to vale settlements and landscapes’. This feature is clearly reflected in the landscape character of the site and its immediate vicinity.

In this context, it is also worth noting that Tewkesbury Borough Council’s Landscape Sensitivity Study (LSS, 2014) for Rural Service Centres and Service Villages states that this land parcel (Goth-05) is closely associated with the lower slopes of Nottingham Hill, despite being cut off from them.

On this basis, we consider that the proposed development would conflict with the SLA’s value in having features that are a continuation of – and / or characteristic of - the Cotswolds National Landscape.

The LSS also states that ‘the character of this parcel is sensitive to development that might appear intrusive at the base of Nottingham Hill and that might give the perception of settlement encroachment out into the open countryside’. As outlined above, with regards to impacts on views from the Cotswolds National Landscape, the proposed development does appear intrusive and does give the perception of settlement encroachment.

On this basis, we consider that the proposed development would conflict with the SLA’s role in helping to protect the foreground setting of the Cotswolds National Landscape. In addition, it would not be compatible with the Government’s guidance on development in the setting of designated landscapes.

## **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.

However, the information submitted in support of the application fails to consider or quantify 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. We would request that this is addressed by the applicant in an addendum.

## 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.

The application does not appear to consider potential dark skies impacts in relation to the AONB and the applicant is requested to provide further assessment of their proposal to allow the Board to consider this issue. The applicant is encouraged to refer to the Board's guidance in relation to artificial light and dark skies contained in our Position Statement referred to above.

## Conclusion

Based on the points outlined above, we consider that the proposed development would not be compatible with:

- the statutory purpose of AONB designation, which is to conserve and enhance the natural beauty of AONBs;
- the policies of the National Planning Policy Framework (NPPF), particularly paragraphs 176 and 11di;
- the Government's planning practice guidance, particularly with regards to development in the setting of designated landscapes;
- the policies of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, particularly Policy SD7 (Cotswolds AONB);
- the policies of the Tewkesbury Borough Plan 2011-2031, particularly policies RES3 (New Housing Development Outside Settlement Boundaries), RES5 (New Housing Development) and LAN1 (Special Landscape Areas);

- the policies of the Gotherington Neighbourhood Development Plan, particularly policies GNDP03 (New Housing Development in the Open Countryside), GNDP09 (Protecting and Enhancing the Local Landscape) and GNDP10 (Protecting Locally Significant Views);
- the policies of the Cotswolds AONB Management Plan 2018-2023, particularly policy CE1 (Landscape);
- Cotswolds AONB Landscape Strategy and Guidelines, particularly with regards to Landscape Character Types 1 (Escarpment Outliers), 2 (Escarpment) and 18 (Settled Unwooded Vale); and
- the Cotswolds Conservation Board Position Statement on 'Development in the Setting of the Cotswolds AONB'.

We acknowledge that there is uncertainty about whether Tewkesbury Borough Council can demonstrate a five-year supply of deliverable housing sites. Paragraph 11d of the NPPF sets a presumption in favour of granting planning permission in such circumstances (i.e. the 'tilted balance' is applied). However, paragraph 11di and footnote 7 of the NPPF make it clear that the tilted balance should not be applied if the application of policies relating to AONBs (such as paragraph 176) provide a clear reason for refusing the development being proposed.

As outlined above, case law has established that the impact of development outside an AONB on views from the AONB is covered under the first part of paragraph 176 of the NPPF (i.e. great weight should be given to such impacts).

In addition, case law has clarified that the first part of paragraph 176 of the NPPF qualifies as a policy to be applied under limb (i) of paragraph 11(d) of the NPPF; it is also capable of sustaining a freestanding reason for refusal in general development control in AONBs<sup>5</sup>.

We consider that the proposed development would have a significant adverse impact on views from the Cotswolds National Landscape, it would also harm the setting of the National Landscape by undermining the Special Landscape Area designation.

We consider that these impacts – and the great weight that should be given to them - provide a clear reason for refusing planning permission. As such, there should not be a presumption in favour of granting planning permission (i.e. the tilted balance should not apply).

## 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) Section 85 of the Countryside and Rights of Way Act 2000.  
[www.legislation.gov.uk/ukpga/2000/37/section/85](http://www.legislation.gov.uk/ukpga/2000/37/section/85)
- 3) 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](http://www.cotswoldsaonb.org.uk/management-plan)
  - b. Cotswolds AONB Landscape Character Assessment  
[www.cotswoldsaonb.org.uk/lca](http://www.cotswoldsaonb.org.uk/lca)
  - c. Cotswolds AONB Landscape Strategy and Guidelines  
[www.cotswoldsaonb.org.uk/lsg](http://www.cotswoldsaonb.org.uk/lsg)
  - d. Cotswolds AONB Local Distinctiveness and Landscape Change  
[www.cotswoldsaonb.org.uk/ldlc](http://www.cotswoldsaonb.org.uk/ldlc)
  - e. Cotswolds Conservation Board Position Statements  
[www.cotswoldsaonb.org.uk/ps1](http://www.cotswoldsaonb.org.uk/ps1) [www.cotswoldsaonb.org.uk/ps2](http://www.cotswoldsaonb.org.uk/ps2)
- 4) Planning appeal APP/G1630/W/20/3256319 (relating to planning application 19/01071/OUT). Paragraph 28 is particularly relevant in this regard.
- 5) Monkhill Ltd v Secretary of State for Housing Communities and Local Government 2019 EWHC 1993 (Admin) (24 July 2019). In this case law, it was already common ground that paragraph 11di applied to the second part of paragraph 172 (i.e. the provisions relating to major development).