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By email only to: elizabeth.humphrey@planninginspectorate.gov.uk

5 May 2022

Dear Elizabeth,

APPEAL REFERENCE NO: APP/D3125/W/22/3293656

DESCRIPTION: Outline planning application with all matters reserved for up to 141 assisted extra care residential units (Class C2) and up to 32 affordable housing units (Class C3) along with associated communal facilities, parking, vehicular and pedestrian access, internal roads, public open space, landscaping, drainage and other associated infrastructure.

LOCATION: Land East of Barns Lane, Barns Lane, Burford

West Oxfordshire District Council ('the Council') has informed the Cotswolds Conservation Board ('the Board') of the applicant's appeal against the Council's refusal of this outline planning application with all matters reserved for up to 141 assisted extra care residential units (Class C2) and up to 32 affordable housing units (Class C3) along with associated communal facilities, parking, vehicular and pedestrian access, internal roads, public open space, landscaping, drainage and other associated infrastructure at the land east of Barns Lane, Burford, which is located within the Cotswolds National Landscape.

The applicant has acknowledged that the proposed development would constitute 'major development' in the context of paragraph 177 of the National Planning Policy Framework (NPPF). In effect, based on the definition of major development contained in footnote 60 of the NPPF, the applicant has acknowledged that the development merits this status by virtue of its nature, scale and setting, and its potential to have a significant adverse impact on the purpose of conserving and enhancing the natural beauty of the Cotswolds National Landscape.

Paragraph 177 of the NPPF states that planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest. For the reasons we outlined in our consultation response to the Council dated 28 July 2021 (which is appended to this letter for completeness) and which are further amplified in these representations, we do not consider that those exceptional circumstances exist or that the development would be in the public interest. We therefore object to the proposed development and recommend that this appeal should be **dismissed**.

The Board has consistently and firmly objected to the development of this sensitive site, both throughout the preparation of the current West Oxfordshire Local Plan and also in response to previously refused planning applications. Whilst we do not wish to repeat any of the content of our

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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

previous consultation responses, we do wish to make some further representations on matters relating to the Council's reasons for refusal. These representations can be found in Annex 1, below.

If you have any queries regarding this response, please do not hesitate to get in touch.

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. SUPPORTING INFORMATION

Preface

The site is valued due to its location within the Cotswolds AONB and as such, any development would need to protect and enhance the special qualities for which the AONB was designated. The statutory purpose of AONB designation is to conserve and enhance the natural beauty of the area¹. Further information regarding AONB designation, including the factors that contribute to the natural beauty of AONBs, is provided in Appendix 1 of the Cotswolds AONB Management Plan 2018-2023² and in Natural England's guidance for assessing landscapes for designation as National Park or AONB³.

Section 85 of the Countryside and Rights of Way Act outlines what is commonly referred to as the 'duty of regard', namely that *"In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty"*⁴. Both the Council, in determining the application, and the Planning Inspectorate, in determining this appeal, are 'relevant authorities' in this regard.

The most relevant paragraphs of the NPPF in the context of our objection to the proposed development are paragraphs 176 and 177, the requirements of which are considered both in our previous consultation response and also below. Paragraph 174, with regards to 'valued landscapes' and 'the intrinsic character and beauty of the countryside' is also relevant as is Section 16, 'Conserving and enhancing the historic environment', for reasons outlined below as well as paragraph 041 of the Planning Practice Guidance⁵.

The Council refused the appellant's application, reference 21/02343/OUT, on 14 December 2021, citing five reasons for refusal ('RfRs'). The appellant takes the view in their draft Statement of Common Ground, dated February 2022, that the fourth and fifth RfRs can be resolved through planning obligations and/or planning conditions and that the appeal should focus therefore on RfRs 1, 2 and 3. Notwithstanding both the views of the Council and the Inspector on whether or not RfRs 4 and 5 can be resolved as suggested by the appellant, we wish to make additional comments relating to RfRs 1, 2 and 3 to supplement our previous consultation response.

Reason for Refusal 1: Landscape and scenic beauty

The first reason for refusal relates to landscape and visual matters, including the fact that the site lies within the Cotswolds AONB, wherein the Council is required to give great weight to conserving landscape and scenic beauty. This reflects the requirements of paragraph 176 of the NPPF.

RfR 1 also states that the proposal would represent major development which would not conserve landscape and scenic beauty, and no exceptional circumstances or public interest have been demonstrated to justify or moderate the harm caused. This reflects the requirements of paragraph

¹ <https://www.legislation.gov.uk/ukpga/2000/37/section/82>

² Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Appendix 1.

³ Natural England (2011) *Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England* ([link](#)).

⁴ <https://www.legislation.gov.uk/ukpga/2000/37/section/85>

⁵ <https://www.gov.uk/guidance/natural-environment#landscape> Paragraph: 041 Reference ID: 8-041-20190721

177 of the NPPF. The Council's conclusions align with our previous consultation responses and we continue to support the Council's view on this matter. Whilst we do not intend to repeat the detail of our previous consultation response here, we do wish to make some further observations relating to the paragraph 177 tests for exceptional circumstances:

Major development in the AONB

The applicant has acknowledged that the proposed development constitutes 'major development' in the context of paragraph 177 of the NPPF and West Oxfordshire Local Plan 2031 ('WOLP') Policy EH1. Based on the requirements of paragraph 177, the decision maker should not simply weigh all material considerations in a balance but should refuse planning permission unless they are satisfied that exceptional circumstances apply *and* that the development would be in the public interest.

The need for the development

In addition to our previous comments, we note that that the Council's latest Housing Land Supply Position Statement, published in January 2022⁶, demonstrates a 5.3-year supply of deliverable housing sites in West Oxfordshire. This runs contrary to the appellant's assertion that the Council cannot demonstrate a five-year land supply required by national planning policy. We also note that the Government's 2021 Housing Delivery Test results, also published in January 2022, demonstrate that housing delivery across the District has exceeded the requirement for the period 2018-2021 by nearly double (195%).

Indeed, the delivery of housing in West Oxfordshire is clearly on a general upward trajectory. Even though the number of completions in 2020-2021 was fewer than in 2019-2020, largely due to the COVID-19 pandemic, the 2020-2021 figure of 868 completions is significantly higher than annual completions earlier in the current Local Plan period which started in 2011. Completions over the past three years in West Oxfordshire average in excess of 900 dwellings per annum.

Further to our previous comments on the assessment of local need for extra care accommodation, we would also support the comments of the Council's Housing Officer, dated 28 July 2021, that the identified shortfall in the District for this particularly tenure type is being addressed.

However, even if a case was made that there is an unmet housing need in the District, recent Section 78 appeal Inspectors have held that the circumstances of a housing shortfall, including challenges around providing for affordable housing are not unusual and would not amount to exceptional circumstances that would justify harm to the AONB⁷. The social and economic benefits identified by the appellant would apply to any similar form of development, irrespective of its location, and as such we do not consider that they amount to exceptional circumstances in this case.

We would also wish to highlight the High Court judgement for 'Mevagissey Parish Council v Cornwall Council' where Hickinbottom J found that "*Even if there were an exceptional need for affordable housing in an area, that would not necessarily equate to exceptional circumstances for a particular*

⁶ <https://www.westoxon.gov.uk/media/5vcltaww/housing-land-supply-position-statement-2021-2026.pdf>

⁷ Paragraph 90, appeal reference APP/M2270/W/21/3273022, Hawkhurst Golf Club, dated 2 February 2022.

development, because there may be alternative sites that are more suitable because development there would result in less harm to the AONB landscape”⁸.

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

As outlined in our previous consultation response, case law has clarified that ‘no permission should be given for major development save to the extent the development ... met a need that could not be addressed elsewhere or in some other way’⁹.

In addition to our previous comments on this matter and in relation of the need to assess alternative sites outside the AONB, the appellant refers to an now-elderly Local Plan Topic Paper and has failed to undertake an updated analysis of any alternative sites, including sites adjacent to main/rural service centres, Strategic Development Areas or sites identified in the West Oxfordshire SHELAA which lie outside the AONB. In short, the appellant has not demonstrated that there are not suitable alternatives to meeting the identified housing requirement outside of the designated area.

Detrimental effects: Landscape and Visual Impact

We fully support the Council Officers’ view expressed in their 13 December 2021 report to the Council’s Uplands Planning Sub-Committee that “it is clear that a development of the scale proposed has the potential to have a significant impact on the wider environs including the Cotswolds AONB, the character and setting of the Conservation Area and the historic core of Burford”¹⁰.

WOLP Policy EH1 states that the Cotswolds AONB Management Plan and guidance documents are material considerations in decision making relevant to the AONB. Policy CE1 of the Cotswolds AONB Management Plan specifies that development proposals should be compatible with and reinforce the landscape character of the location, as described by the Landscape Character Assessment¹¹.

The LCA identifies 19 different landscape character types (LCT) within the Cotswolds AONB. The appeal site is located within Landscape Character Type (LCT) 16: Broad Floodplain Valley and Landscape Character Area (LCA) 16A Lower Windrush Valley.

The Cotswolds AONB Landscape Strategy and Guidelines (LS&G)¹² provides the further information for each LCT, including:

- Key features (reflecting the key characteristics identified in the Landscape Character Assessment);
- An assessment of the landscape sensitivity of each LCT and its capacity for further development;
- The ‘local forces for change’;
- The ‘landscape implications’ of these forces for change; and

⁸ R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684. Paragraph 51.

⁹ R (Advause) v Dorset Council v Hallam Land Management Ltd [2020] EWHC 807 ([link](#)). Paragraph 35.

¹⁰ Paragraph 5.19

<https://meetings.westoxon.gov.uk/documents/s3477/Uplands%20Committee%20Schedule%2013th%20December%202021.pdf>

¹¹ Cotswolds Conservation Board (2015) *Cotswolds AONB Landscape Character Assessment* ([link](#)).

¹² Cotswolds Conservation Board (2016) *Cotswolds AONB Landscape Strategy & Guidelines* ([link](#)).

- Guidelines to address the local forces for change and associated landscape implications, in order to ensure that development in the AONB and its setting is consistent with the purpose of AONB designation.

Policy CE10 of the Cotswolds AONB Management Plan also specifies that development proposals should be compatible with the LS&G.

Section 16.1¹³ of the LS&G provides fifteen potential adverse landscape implications relating to the 'development, expansion and infilling of settlements' within the Broad Floodplain Valley LCT. This appeal proposal constitutes development, expansion *and* infilling. In our view, at least eleven of these adverse landscape implications are relevant to this appeal, namely:

- Intrusion of expanded settlement fringes into the landscape;
- Degradation of views along and across the Broad Floodplain Valleys;
- Impact or loss of views of key features such as church towers across the landscape;
- Erosion of distinctive settlement patterns due to settlement growth and coalescence;
- Loss/dilution of organic growth patterns of settlements including the relationship between the historic core and adjacent historic fields, paddocks and closes;
- Proliferation of suburban building styles, housing estate layout and materials;
- Upgrading of minor roads and lanes associated with new development and the introduction of suburbanising features;
- Increased traffic leading to increased damage to road verges and roadside hedges and walls and the creation of informal passing places;
- Introduction and accumulation of lit areas and erosion of characteristically dark skies;
- Potential loss of archaeological and historical features, field patterns and landscapes; and
- Interruption, weakening or loss of the historic character of settlements and the historic context in how they expanded, especially the importance of the relationship between the historic core of the settlement and surviving historic features.

Section 16.1 of the LS&G also provide landscape strategies and guidelines to mitigate the potential adverse landscape implications discussed above. Again, a number of these are directly contradicted by the proposal, including:

- Avoid development that will intrude negatively into the landscape and cannot be successfully mitigated, for example, extensions to settlements in areas of open landscape;
- Ensure that new development does not adversely affect the wider rural landscape and views to and from the AONB;
- Ensure new development is proportionate and does not overwhelm the existing settlement;
- Avoid developments incorporating standardised development layout, suburban style lighting, construction details and materials that cumulatively can lead to the erosion of peaceful landscape character;
- Ensure that new development does not adversely affect settlement character and form or impact on views of key features such as church towers/spires;
- Ensure new development is visually integrated into its surroundings and does not interrupt the setting of existing settlements. or views along the valley;

¹³ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-16-broad-floodplain-valley-june-2016.pdf>

- Ensure the density of new development reflects its location;
- Avoid disconnecting the historic core of the settlement from its rural surroundings, particularly village Conservation Areas;
- Avoid proposals that result in the loss of archaeological and historical features or that impact on the relationship of the settlement and its links with surviving historical features.

We agree with the Council's assessment contained in RfR 1 that *"The site is prominently located in the countryside beyond the existing settlement edge of Burford. The development would encroach unacceptably into agricultural land and would fail to relate satisfactorily to the town or the existing rural environment which provides a setting for it. It would not easily assimilate into its surroundings resulting in the loss of an important area of open space that makes a positive contribution to the character of the area. It would be highly prominent and visible in a number of public views. The development would also be of a disproportionate and inappropriate scale to its context and would not form a logical complement to the existing scale and pattern of development or the character of the area."* The appellant contends that the appeal site is not assessed as making an important contribution to the local character (LVIA, page 9). They state that the rural landscape that forms the interface with the settlement edge is influenced by settlement and highway features. As such the appellant states that the site does not reflect the condition or have the number of special qualities associated with the AONB as the wider rural landscape does and as such is of lesser value.

We strongly disagree with this assertion. There are no detracting features present on the site itself that represent harm to the site's overriding baseline landscape character, however its development would result in the loss of characteristic fields on the settlement edge and the expansion of the built form. The site is clearly at the settlement edge of Burford, but we would highlight the recent assessment of sites such as this made by an Inspector in a Section 78 appeal. This appeal concerned an edge of settlement site in Pewsey, Wiltshire within the North Wessex Downs AONB¹⁴. At paragraph 17 of his decision letter, the Inspector states *"That said the whole of the AONB is subject to, and given the protection afforded by, the national designation. This includes areas on the fringe of settlements, such as the appeal site... it is the ... proximity to settlements that makes this type of site more vulnerable to development pressures. Significantly more so than the uplands and remote farmland where built development would be very rarely contemplated. Statute and national policy requires that I have regard to the purpose of conserving and enhancing the natural beauty of all of the AONB and great weight should be attached to that purpose"* (our emphasis).

We also note the assessment of the local character of the site within the report on West Oxfordshire Local Plan Allocations Landscape and Heritage Advice by Chris Blandford Associates which forms part of the Council's Local Plan evidence base ('the CBA report')¹⁵. Paragraph 4.2.15 of this report states that the site and its immediate context is broadly consistent with the features *"identified within the published landscape character assessments at national, county and district level, namely the land use including both pasture and some extensive areas of arable land; the well-defined broad valley floodplain, river terraces and gentle convex slopes and small, unspoilt villages with rural character"*. The CBA report then comments at paragraph 4.2.16 that *"Its eastern side is more open and exposed as it faces out into open countryside rather than feeling enclosed by the existing settlement"*.

¹⁴ Ref: APP/Y3940/W/21/3283427, Land west of Wilcot Road, Pewsey, Wiltshire, 7 March 2022

¹⁵ West Oxfordshire Local Plan Allocations Landscape and Heritage Advice, Chris Blandford Associates, October 2017 ([link](#))

In our view, the introduction of built form to the site would not only destroy the open character of the field but also intensify the presence of development on the eastern approach to Burford. When travelling towards the settlement either by road or Public Rights of Way, the settlement edge has a perceivable depth and layers which create a softer approach to this historic settlement. Development of the site as proposed would create a harder, straighter and more consistent edge to the eastern side of Burford, and would be highly visible on the approach when travelling westwards along the A40, Witney Street or walking along the Windrush Valley. We share the Council's view that this would be detrimental to both the landscape character of the settlement and wider AONB.

As outlined both in the appellant's LVIA and the CBA report¹⁶, the site features prominently in views within the area, including those taken from Public Rights of Way and along publicised and published walks¹⁷. In our view it forms an important part of the eastern approach to the settlement, forming part of views towards the town that includes the local focal point that is the spire of the Grade I listed Parish Church of St John the Baptist. For example, the photographs shown on the next page, taken on 26 April 2022 from the end of Wysdom Way, where a secondary vehicular and pedestrian access is proposed by the appeal scheme, clearly show views of the church's spire across the site against the backdrop of the AONB when looking northwest and north.

We note that whilst the appellant's LVIA also considers a photoviewpoint from Wysdom Way (LVIA viewpoint 3), it is taken from a point some distance from the end of the cul-de-sac, from where the view shown below is obscured by residential properties. We would also refer to the photographs of the views referred to as EB2, EB5, EB8 and EB9 contained within Appendix 2 of the CBA report¹⁸, all of which clearly show views of the spire across the site or in association with the site. The CBA report also makes specific reference to how the site is *"considered to be very visually prominent in some middle to long distance views by virtue of its elevated location"* (paragraph 4.2.23). Consequently we agree with the conclusion of the CBA report at paragraph 4.2.26 that *"the landscape of the East of Burford site is considered to be of medium-high landscape sensitivity and high visual sensitivity"*.

In our opinion, the loss of these views would not accord with Section 16.1 of the LS&G referenced above and by extension the policies of the Cotswolds AONB Management Plan and would also conflict with Policies EH1, EH2, EH9, EH10, EH11 and EH13 of the WOLP.

¹⁶ Paragraphs 4.2.17 to 4.2.19 of the CBA Report, referenced above.

¹⁷ For example, the site is prominent in a number of views from Witney Road, the Public Right of Way 149/17/10 along the River Windrush and from Blacksmiths Lane/Beech Grove Lane, Fulbrook close to Beech Grove Farm at LVIA photoviewpoint 6, all of which form the route of Walk 14 in the walking guide *Crimson Short Walks: The Cotswolds* (www.totalwalking.co.uk)

¹⁸ Pages 132 to 136 ([link](#))



Above: View of Burford and church spire from northern end of Wysdom Way, looking northwest, April 2022.



Above: View of Burford, church spire, Windrush Valley and wider AONB from northern end of Wysdom Way, looking north, April 2022.

Whilst the site is bounded by built development on three sides, that on the north side is a notably soft boundary with building roof ridge lines set down just below or lying at the same level of the site, as noted at paragraph 4.2.7 of the CBA report. Neighbouring development in this part of Burford is generally comprised of 1 and 2-storey detached, semi-detached and terraced homes. As discussed below, the proposed development would not reflect the predominant character of this neighbouring development and in our view would not comprise a logical infill development as asserted by the appellant.

Although the appeal proposal is made in outline form with all matters of detail reserved for subsequent determination, it features an indicative masterplan which illustrates how the scale and form of development proposed would be accommodated within the site and how and from where site access would be achieved. Parameter plans were also submitted as part of the application and it is understood that these would be approved plans that would guide future Reserved Matters applications, should the appeal be allowed.

We would question whether an outline planning application for major development in an AONB is appropriate, both in principle and specifically in relation to this proposal. This is because in our view there is insufficient binding detail to demonstrate compliance with the requirements of the NPPF.

The uncertainty created by deferring all matters of detail to the reserved matters stage potentially makes it very difficult for the decision maker to reach robust conclusions, at this current outline planning application stage, regarding the following points:

- (i) the significance of the adverse landscape and visual effects;
- (ii) the extent to which these adverse effects would be moderated;
- (iii) whether exceptional circumstances apply;
- (iv) whether the development would be in the public interest;
- (v) whether the application of the NPPF policies relating to AONBs provides a clear reason for refusal;
- (vi) whether the tilted balance should be dis-applied; and
- (vii) the overall planning balance.

Nonetheless, we believe that the indicative masterplan and parameter plans submitted in support of the application are material considerations in this appeal.

The proposals show the introduction of large blocks of retirement development, particularly through the centre of the site. We agree with the Council's Landscape Officer that these would be out of character with the neighbouring townscape and do not represent a sympathetic expansion of the settlement in this location. The quantum of development, up to 173 residential units, is also significantly higher than proposed by previous applications on the site; proposals which themselves were also refused due to harm to the landscape and scenic beauty of the AONB.

This site was initially a draft Local Plan allocation for 85 homes, which was reduced to 70 homes following the Council's publication of a Cotswolds AONB Topic Paper in October 2017 which drew upon the CBA report referred to above. The Local Plan Inspector then concluded that, given that the Council could demonstrate how its housing requirement could be met across West Oxfordshire as a whole, a five-year supply could be demonstrated and in the absence of a housing need figure for the sub-area (circumstances which coincidentally are unchanged at the current time), it was not necessary to allocate sites in the AONB. The subsequent planning application for 85 dwellings was

revised down to 70 dwellings (appn. ref. 17/00642/OUT), but was then refused and the subsequent appeal withdrawn. We note that the first two reasons for refusal of this application also concerned landscape and heritage harm, but would stress that the application was for up to 70 residential units, whilst this appeal proposal is for more than double that number; up to 173.

Comparing the two indicative masterplans prepared for these applications (shown overleaf), it is clear that a greater proportion of the main part of the site would be developed under the current appeal proposal, that densities across the site would be increased and that the current appeal proposal would encroach even closer to the northern and eastern boundaries of the field, the eastern boundary providing the connection with the wider AONB. These points all conflict with the advice contained in the CBA report which concluded any development would need to be of a *“low density with significant areas of green space provided in the central parts of the site and towards the southern and northern boundaries. Any greater dwelling numbers than these [70 dwellings] could make it more difficult to achieve an appropriate form/character or result in significant adverse impacts”* (paragraph 4.2.27).

The submitted plans for this application also retain the principal vehicular access via a long, sinuous access road connecting to Witney Street at a point some distance from the edge of Burford; this would create an incongruous new feature in the rural approach to the town, particularly given the significant regrading work which would be required to create an access through the bank from the elevated field at this point.

The large blocks of development in the centre of the site are also situated upon the most elevated area within the site, which would be another prominent change to the landscape. The submitted parameter plan (Dwg. ref. P20-0412_04 Sheet 2 Rev B) shows the development of residential blocks reaching heights of up to 16m above ‘future ground level’ proposed through the centre of the site. The plan notes state that the ‘future ground level’ allows for a maximum of 1.5m plus the existing ground level, to allow for ‘appropriate drainage, balance cut and fill and alignment of streets and buildings to consistent levels’.

This indicates that the contours of the site present significant technical challenges in terms of achieving workable levels and that significant amounts of cut and fill may be required, resulting in building heights in excess of 17.5m compared to current ground levels. This scale and nature of development would be wholly out of character in this AONB context and would neither conserve nor enhance its landscape and scenic beauty. It would also conflict with the advice contained at paragraph 4.2.28 of the CBA report referenced above which recommended restricting building heights to 1.5 to 2 storeys with a maximum roof ridge height of 8m. That is less than half what is proposed by the appeal scheme.

Although the appellant has to date provided no photomontages or detailed landscaped sections to illustrate how the development’s impact might be mitigated, in our view it is very unlikely that landscaping proposed on the lower, eastern slopes of the site would provide adequate mitigative screening to a development with ridge heights of potentially up to 17.5m on the higher central and western areas of the site. We share the Council’s concern that this planting appears out of character in this exposed location and its sole purpose appears to be to hide the development, which would suggest that it is inappropriate in the first place. We also share the Council’s concern regarding the length of time the vegetation would take to mature to provide any form of screening at all.



Client: Calsonic Construction Limited
Project: Land East of Burford
Drawing: Indicative Framework Plan
Project No.: CAG0203
Drawing No.: 10_06
Revision: 01
Scale: 1:1250 @ A2
Date: June 2017
Checked by: NH / SM / C/P

Promap

Turley

Illustrative masterplan submitted for application reference 17/00642/OUT, refused 17 January 2018, appeal withdrawn



KEY

- 1 SITE LOCATION (17/00642)
- 2 LAND WITHIN APPLICANTS CONTROL

DESIGN NOTES

- 1 PRINCIPAL SITE ACCESS
- 2 INDICATIVE ATTENUATION FEATURES
- 3 NEW STRUCTURAL LANDSCAPING
- 4 EXISTING HEDGEROW RETAINED AND SUPPLEMENTED WHERE REQUIRED
- 5 SECONDARY VEHICULAR ACCESS FROM WYSDAM WAY
- 6 RED DOT DENOTES C3 AFFORDABLE DWELLINGS
- 7 4M FOOT/CYCLE WAY
- 8 DDA COMPLIANT FOOT/CYCLE WAY TO WHITNEY WAY

LAND EAST OF BARNES LANE, BURFORD - INDICATIVE MASTERPLAN

PLANNING | DESIGN | ENVIRONMENT | ECONOMICS | WWW.PEGASUSPDC.CO.UK | TEAM/DRAGON BY JMM | APPROVED BY P-M: AMW | DATE: 29/04/21 | SCALE: 1:1250 @ A1 | DRAW: P20-0412_01 | SHEET NO: 01 REV: A | CLIENT: GREYSTONE LAND



Indicative masterplan submitted for application reference 21/02343/OUT

Indeed, we also have significant concerns regarding the earthworks which would be required to deliver the scheme proposed, both on the main development area and the neighbouring field through which the access road would be taken; the access point at Witney Road lies approximately 25m lower than the elevated western part of the site. In our view these earthworks would result in a substantial detrimental change to the character both of the local landform and the rural approach to Burford along Witney Street.

Reason for refusal 2: Heritage impact

As explained above, the issue of conserving and enhancing landscape and scenic beauty of the AONB is an important component of conserving and enhancing its natural beauty, particularly given the great weight that should be given to this issue. However, the factors that contribute to the natural beauty of an AONB are more extensive than just landscape and scenic beauty and only having regard to AONB impacts in the context of landscape and scenic beauty would only partially fulfil the statutory 'duty of regard' referred to above.

Natural England's 'Guidance for assessing landscapes for designation as National Park or AONB in England' identifies six factors that contribute to the natural beauty of AONBs¹⁹. One of these is cultural heritage which is the subject of the Council's second reason for refusal.

RfR 2 states that *"The site is a substantial agricultural field forming part of an extensive area of countryside around Burford that provides a setting for the town. The site is substantially within the Burford Conservation Area, with only the means of access sitting outside it. A large number of Listed Buildings and undesignated heritage assets are located in the vicinity. The Grade I Listed church of St John, and in particular its spire, is inter-visible with the site from a number of public viewpoints. The proposed development would significantly encroach into the countryside and would have an urbanising effect on the Conservation Area and the setting of heritage assets. This would lead to less than substantial harm to the setting and significance of the assets which is not outweighed by public benefits. The proposal is therefore contrary to West Oxfordshire Local Plan 2011 Policies OS2, OS4, EH9, EH10, EH11 and EH13 and advice in the NPPF"*.

The photographs shown above illustrate the intervisibility between the landmark church spire and the site, particularly at a point proposed to give access to the development. Section 16.1 of the Cotswolds AONB LS&G referred to above explicitly mentions 'impact of loss of views of key features such as church towers across the landscape' as a potential adverse implication of development such as this and advises that it should be ensured that 'new development does not adversely affect settlement character and form or impact on views of key features such as church towers/spires'.

In our view and in contrast to the view expressed in the appellant's Heritage Statement, these photographs show that the site forms part of the historic rural setting of the church and contributes to its heritage significance through setting. We support the advice contained within the CBA report at paragraph 4.3.22 that *"The Site does however make a contribution to the character and appearance of the conservation area through its role in views featuring the conservation area from the north and east. In these views the Site is visually prominent and its open and undeveloped character is a feature of the conservation area's character and is a notable element of the rural setting of the historic core of the conservation area"*. The report continues at paragraph 4.3.23 to state that *"in views from the east*

¹⁹ Natural England (2011) *Guidance for assessing landscapes for designation as National Park or AONB in England* ([link](#)). Table 3.

and north the Site forms a feature in views of the grade I listed church's spire. Development would alter the character of these views reducing the rural nature of the church's setting and potentially interrupting views of the spire".

Whilst the CBA report makes some recommendations on how a modest quantum of development might be acceptable in heritage terms (at paragraph 4.3.26 of that report and repeated at paragraph 5.31 of the Committee report), the proposed scheme conflicts with this advice. Therefore, we agree with the Council's view that the proposal would result in less than substantial harm to designated heritage assets, but the associated benefits of the proposal do not outweigh the less than substantial harm arising in this case.

Further adverse impacts on natural beauty: Tranquillity and dark skies

The relative tranquillity of the AONB is another of the six factors identified by Natural England's Guidance referred to above and is also a 'special quality' of the Cotswolds AONB identified in the AONB Management Plan 2018-2023. The 'dark skies' of the AONB are another of its 'special qualities'; in other words, these are two of the features of the AONB that makes the area so outstanding that it is in the nation's interest to safeguard it.

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 of Burford. However, the present undeveloped nature of the site helps to prevent the further erosion of these special qualities, which would occur if the appeal were allowed.

In relation to tranquillity, the Board's Tranquillity Position Statement²⁰ 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. Cumulative impacts on tranquillity should also be taken into consideration in such assessments and with regard to the impact of the proposed development combined with other existing or proposed developments. Proposals that are likely to impact on the tranquillity of the Cotswolds AONB should have regard to this tranquillity, by seeking to (i) avoid and (ii) minimise noise pollution and other aural and visual disturbance and measures should be taken to enhance the tranquillity of the Cotswold AONB by (i) removing and (ii) reducing existing sources of noise pollution and other aural and visual disturbance.

Section 4.5 of the Tranquillity Position Statement outlines how the increase in traffic movements on roads in and directly adjacent to the AONB can have a significant impact on the tranquillity of the AONB. It 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:

- 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.

²⁰ Cotswolds Conservation Board (2019) *Tranquillity Position Statement* ([link](#))

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. On this basis, it can be argued that an increase in traffic flows 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. This matter has not been addressed within the applicant's Transport Assessment and therefore we consider that the applicant has not demonstrated that the additional vehicle movements on local roads, in particular Witney Street where the main site access is proposed, would not adversely impact the tranquillity of the AONB.

As far as dark skies are concerned, Policy CE5 'Dark Skies' of the AONB Management Plan states that proposals that are likely to impact on the dark skies of the Cotswolds National Landscape should have regard to these dark skies, by seeking to (i) avoid and (ii) minimise light pollution. Measures should be taken to increase the area of dark skies in the Cotswolds AONB by (i) removing and (ii) reducing existing sources of light pollution. Further guidance and information is provided in the Board's Dark Skies & Artificial Light Position Statement²¹.

Section 16.1 of the LS&G for LCT16 referred to above identifies the Introduction and accumulation of lit areas and erosion of characteristically dark skies as a potential adverse landscape implication. We consider that the proposed development and associated light spillage and glow will comprise a new source of light pollution within the immediate and wider surrounding area, failing to avoid and/or reduce existing levels of light within the AONB and potentially further adversely impacting on the dark skies of the Cotswolds National Landscape. This is an important consideration given that a key aspiration for the AONB is to avoid, minimise and reduce light pollution in order to enhance the dark skies of the AONB.

In our view, the appellant has not demonstrated that the introduction of up to 173 residential units and associated streetlighting into what is a characteristically dark landscape would be consistent with the LS&G and, by extension, the policies of the Cotswolds AONB Management Plan 2018-2023. In our view the proposal would also not be consistent with WOLP Policy EH2 of the West Oxfordshire Local Plan 2031 which states that *"proposed development should avoid causing pollution, especially noise and light, which has an adverse impact upon landscape character and should incorporate measures to maintain or improve the existing level of tranquillity and dark-sky quality, reversing existing pollution where possible"* and WOLP Policy EH8 which will only allow external lighting proposals where *"the proposal would not have a detrimental effect on intrinsically dark landscapes"*.

²¹ Cotswolds Conservation Board (2019) *Dark Skies & Artificial Light Position Statement* (main document ([link](#)), Appendix A ([link](#)), Appendix B ([link](#)) and Appendix C ([link](#))).

Reason for refusal 3: Affordable housing

The Council's third reason for refusal states that *"the application fails to provide for adequate affordable housing provision in conflict with Policy H3 of the West Oxfordshire Local Plan 2031 and advice in the NPPF"*.

The appeal proposal seeks permission for up to 141 market extra care residential units (class C2), none of which are affordable, and 32 class C3 dwellings, all of which would be affordable. In total, this provides for only 18% affordable housing (32/173) across the scheme as a whole, significantly below the requirement of WOLP Policy H3. This requires that in this part of West Oxfordshire, 50% of 'non-specialist' units are provided as affordable housing whilst 45% of extra-care units are provided as affordable, resulting in a policy-compliant starting point of 79.5 affordable units (i.e. $141 * 45\% + 32 * 50\%$). However, the appellant only proposes 32 affordable units, less than half what is required by adopted Development Plan policy.

We recognise that the appellant seeks to provide financial contributions towards off-site affordable extra care provision and WOLP Policy H3 is clear that *"A financial contribution for the provision of affordable housing on other sites in West Oxfordshire in lieu of on-site provision may be appropriate if it can be demonstrated that: i) It is not physically possible or feasible to provide affordable housing on the application site; or ii) There is evidence that a separate site would more satisfactorily meet local housing need and contribute to the creation of mixed communities"* (our emphasis).

The appellant has to date provided no justification in either their Planning Statement, Statement of Case or draft Statement of Common Ground for this failure to comply with adopted planning policy and to date has given no evidence to demonstrate that a policy-compliant development would not be viable.

Moreover, the appellant has neither demonstrated that it is not physically possible or feasible to provide affordable housing on the application site, indeed they are proposing affordable homes on the site in the form of 32 C3 class dwellings, nor have they provided any evidence regarding the superior suitability of a separate, alternative site as required by WOLP Policy H3. Paragraph 8.21 of the appellant's Statement of Case merely states that *"At the time of the planning application the Appellant was exploring the opportunities for off-site payments to address the residual policy requirement. These discussions will continue in the lead up to the inquiry in the hope that this issue can be resolved to the satisfaction of both parties"*.

Indeed, in our view the appellant seems to be attempting to run a somewhat contradictory argument at this appeal. They seek to justify their proposal by stating there is an 'acute identified local need' for new residential development, including an 'acute identified local need' for affordable housing and extra care accommodation both in Burford itself and within the wider Burford-Charlbury sub-area.

This need, they claim, cannot be met in some other way; this forms part of their case seeking to demonstrate the exceptional circumstances required by NPPF paragraph 177 for such a major development within the Cotswolds AONB. Counter to this, however, is the fact that the extra care element of their proposal then would not provide policy-compliant levels of affordable accommodation on site to respond to this 'acute identified local need' which cannot be met in some other way. The fact that the appellant seeks to make a payment for the residual affordable extra care provision off-site would seemingly indicate that the need for extra care accommodation *can* be met in

some other way as it would be paid to the Council to go towards the provision of such accommodation elsewhere.

Furthermore, given the constraints of national and local planning policy including the exceptional circumstances required for major development to come forward within the Burford-Charlbury sub-area which is almost entirely covered by AONB designation, any financial contribution for off-site provision would likely go towards the development of new affordable extra care accommodation outside of both Burford and the Burford-Charlbury sub-area and therefore would fail to combat one of the very problems this proposal purportedly seeks to address. It is our view that failure to comply with WOLP Policy H3, which is up-to-date in NPPF terms, would by itself provide a clear reason for the dismissal of this appeal.

Recreational benefits

One of the benefits of this proposal cited by the appellant at paragraph 8.84 of their Planning Statement is the 'increased public access to open space in the AONB'. In principle, the Board is supportive of providing new and / or improved opportunities for public enjoyment of the Cotswolds AONB, including recreational and public access opportunities. This is reflected in the Board's second statutory purpose, which is to increase the understanding and enjoyment of the special qualities of the AONB. However, where there is a conflict between this purpose (i.e. purpose (b)) and the purpose of conserving and enhancing the natural beauty of the AONB (i.e. purpose (a)), the Board has a statutory requirement, under Section 87 of the CROW Act, to attach greater weight to purpose (a)²².

This requirement is commonly referred to as the 'Sandford Principle', which also applies in National Parks²³. Under the 'duty of regard' referred to above we would encourage the Planning Inspectorate to apply the same principle.

With regards to this specific development proposal, we consider that any potentially minimal recreational and public access benefits provided by the development are far outweighed by the adverse impacts of the development on the AONB. As such, the Sandford Principle should apply.

²² <https://www.legislation.gov.uk/ukpga/2000/37/section/87>

²³

<https://secure.nationalparks.uk/students/whatisanationalpark/aimsandpurposesofnationalparks/sandfordprinciple>

Conclusion

The appellant concedes that, for the purposes of paragraph 176 and 177 of the NPPF, the proposal represents ‘major development’ within the Cotswolds AONB; indeed, a development of up to 173 residential units and associated infrastructure on a site extending to over 7.5 hectares comprises ‘major development’ by most measures.

The starting point for reaching a conclusion on the provisions of paragraphs 176 and 177 of the Framework is that great weight should be given to conserving and enhancing the landscape and scenic beauty of an AONB, which has the highest status of protection in relation to these issues. As such, the scale and extent of development within these areas should be limited, and planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

For the reasons outlined in our previous consultation response and expanded upon above, this major development proposal does not meet the paragraph 177 tests. Part of this assessment supports the conclusion of the Council that development of the site would have a detrimental effect on the landscape and scenic beauty of the AONB. As a result, the appeal proposal also conflicts with the requirements of paragraphs 176 and 177 and provides a clear reason for the refusal of this appeal.

In our view, the proposal also fails to accord with Policies OS2, OS4, H3, EH1, EH2, EH8, EH9, EH10, EH11, EH13 and BC1 of the West Oxfordshire Local Plan 2031 and Policies CE1, CE4, CE5, CE10 and CE12 of the Cotswolds AONB Management Plan 2018-2023.

Further to our previous comments on how the ‘tilted balance’ at paragraph 11d of the NPPF is not engaged, we note above that the Council’s latest Housing Land Supply Position Statement, published in January 2022, demonstrates a 5.3-year supply of deliverable housing sites in West Oxfordshire. In this respect we consider that the Council’s Development Plan policies relevant to the supply of housing can be considered to be up-to-date.

Although we do not wish to comment further on the five-year land supply situation in West Oxfordshire, should the Inspector conclude after hearing evidence on this issue at the inquiry that the Council cannot demonstrate a five-year land supply or the policies which are most important for determining the application are otherwise out-of-date, we consider for the reasons outlined above, that the application of policies in the NPPF, in particular paragraphs 176 and 177, provide a clear reason for refusing the proposed development. As such, the ‘tilted balance’ in favour of granting planning permission is not engaged and the appeal should be determined on an unweighted planning balance with clear reasons for refusal already present as outlined in our representations.

Therefore, we fully support the Council’s view that the proposal conflicts with the adopted Development Plan. Furthermore, the benefits of the proposal including economic and social benefits including the provision of extra care housing, affordable housing (though, as discussed above, not affordable extra care housing) and employment benefits to the local economy do not outweigh the scheme’s adverse impacts, including its harm to the AONB, a nationally protected landscape where the conservation and enhancement of landscape and scenic beauty should be given great weight. Accordingly, this appeal should be dismissed.

APPENDIX 1: COTSWOLDS NATIONAL LANDSCAPE CONSULTATION RESPONSE IN RELATION TO
PLANNING APPLICATION 21/02343/OUT, DATED 28 JULY 2021

Joan Desmond
West Oxfordshire District Council
Elmfield
Witney
OX28 1PB



By email only to: joan.desmond@westoxon.gov.uk

28 July 2021

Dear Joan,

APPLICATION NO: 21/02343/OUT

DESCRIPTION: Outline planning application with all matters reserved for up to 141 assisted extra care residential units (Class C2) and up to 32 affordable housing units (Class C3) along with associated communal facilities, parking, vehicular and pedestrian access, internal roads, public open space, landscaping, drainage and other associated infrastructure.

LOCATION: Land East Of Barns Lane, Barns Lane, Burford

Thank you for consulting the Cotswolds Conservation Board ('the Board') on this proposed development, which would be located within the Cotswolds National Landscape.

The applicant has acknowledged that the proposed development would constitute 'major development' in the context of paragraph 172 of the National Planning Policy Framework (NPPF). In effect, based on the definition of major development in footnote 55 of the NPPF, the applicant has acknowledged that the development merits this status by virtue of its nature, scale and setting, and its potential to have a significant adverse impact on the purpose of conserving and enhancing the natural beauty of the Cotswolds National Landscape.

Paragraph 172 of the NPPF states that planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest. As outlined below, we do not consider that there are exceptional circumstances or that the development would be in the public interest. We therefore object to the proposed development and recommend that planning permission should be refused.

Need

The applicant has relied heavily on district-wide, unconstrained housing need data and extrapolated this to the local level. As outlined in Appendix 1, below, this data should be given little weight in the planning decision.

The applicant has also relied heavily on data from the affordable housing register (i.e. Homeseeker Plus). As outlined in Appendix 1, below, this data (as presented in the applicant's supporting information) should also be given little weight in the planning decisions

The proposed development is not based on convincing, or robust, evidence of need specific to the settlement / parish or AONB sub-area. As such, it is not consistent with the West Oxfordshire Local Plan or the Cotswolds AONB Management Plan 2018-2023. It would also not be consistent with the conclusions of the Local Plan inspector's report.

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

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

The applicant has failed to demonstrate that there is no scope for the proposed type and quantum of housing to be delivered outside the Cotswolds National Landscape or for the need to be met in some other way.

Detrimental effects

The undeveloped character of the site plays an important role in maintaining the rural setting of Burford and its important heritage assets, including in views from numerous locations. Developing the site would have a significant urbanising effect, which would be exacerbated by the access road extending beyond the eastern limits of the settlement boundary.

Tilted balance

We consider that the application of policies in the National Planning Policy Framework (NPPF) provide a clear reason for refusing the proposed development. As such, there should not be a 'tilted balance' in favour of granting planning permission. On the contrary, the major development status of the proposed development, in effect, provides a presumption against granting planning permission.

Further information is provided in Appendix 1, below.

If you have any queries regarding this response, please do get in touch.

Yours sincerely,

A handwritten signature in black ink that reads "John Mills". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

John Mills
Planning & Landscape Lead
john.mills@cotswoldsaonb.org.uk | 07808 391227

APPENDIX 1. SUPPORTING INFORMATION

MAJOR DEVELOPMENT TESTS

Context

The applicant has acknowledged that the proposed development constitutes ‘major development’ in the context of paragraph 172 of the National Planning Policy Framework (NPPF). Based on the requirements of paragraph 172, the local planning authority should not simply weigh all material considerations in a balance but should refuse planning permission unless they are satisfied that exceptional circumstances apply and that the development would be in the public interest.

Paragraph 172 outlines the assessments that must be undertaken when applications for major development are being considered:

- a) The need for the development, including in terms of any national considerations and the impact of permitting it, or refusing it, upon the local economy.
- b) The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way.
- c) Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

As outlined below, we do not consider that the applicant has demonstrated that exceptional circumstances apply or that the development would be in the public interest.

Need

District-wide, unconstrained housing need data

In seeking to demonstrate that exceptional circumstances apply, the applicant has relied heavily on (unconstrained) district-wide housing need data with regards to both older persons housing need and affordable housing need, including extrapolating this data to the settlement or sub-area level. There are several fundamental flaws with this approach, as outlined below. As such, we consider this data should be given little weight in the planning decision.

The West Oxfordshire Local Plan (paragraph 5.39) specifies that *‘within the Cotswolds AONB, windfall housing proposals on undeveloped land adjoining built up areas will be particularly closely scrutinised and will only be supported where there is convincing evidence of a specific local need such as needs identified through a neighbourhood plan or affordable needs specific to a particular settlement, for example through a rural exception site’*.¹ This clearly indicates that ‘local’, in this context, means evidence that is specific to the relevant settlement / parish, not an extrapolation of district-wide data.

This requirement is reflected in Policy CE12 of the Cotswolds AONB Management Plan 2018-2023, which states that *‘development in the Cotswolds AONB’ should be based on robust evidence of local need arising within the AONB’*.²

¹ West Oxfordshire District Council (2018) *West Oxfordshire Local Plan* ([link](#)). Paragraph 5.39, which is supporting text for Policy H2 (Delivery of New Homes).

² Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Policy CE12.

The Board's Housing Position Statement³ provides further relevant guidance, including differentiating between:

- unconstrained housing need and an appropriate level of housing provision within a national important protected landscape, such as the Cotswolds;
- district-wide housing needs and housing needs arising within the AONB, including needs specific to an individual settlement / parish.

In the West Oxfordshire Local Plan 2031 Inspector's Report, the Planning Inspector, Mr Rivett, made the following comment regarding the District Council's evidence on housing and demography in Burford (i.e. 'the Peter Brett report'):

- *It merely indicates the likely implications of various levels of housing growth for the subarea's population and resident labour force. Neither it nor any other substantive evidence before the examination identifies a housing requirement figure for the Burford – Charlbury sub-area which appropriately reflects needs, constraints, relevant national policy and the key issues for development and transport.*⁴

The same principle applies to the applicant's supporting evidence.

Furthermore, the Planning Inspector stated that:

- *In the absence of a specific housing need figure for the sub-area, it is not possible to identify that new dwellings, over and above existing completions and commitments, are as a matter of principle, necessary specifically in the context of the AONB or the Burford–Charlbury sub-area.*⁵

As far as we are aware, there is still no official, specific housing need figure for the sub-area. As indicated above, extrapolating district-wide data does not address this issue. Therefore, Mr Rivett's comments still stand.

It is important to note that planning permission has already been granted, in 2017, for a development of 91 dwellings (50% 'affordable'), 78 assisted / supported living apartments and a 90-bed care home in Burford.⁶ This further undermines the applicant's assertion that exceptional circumstances apply. For example, it calls into question the applicant's assertion that the proposed, additional 141 extra care residential units would meet a need arising with Burford or the Burford-Charlbury sub-area.

³ Cotswolds Conservation Board (2021) *Housing Position Statement* ([link 1](#) (main document), [link 2](#) (appendices)).

⁴ The Planning Inspectorate (2018) *Report on the Examination of the West Oxfordshire Local Plan 2031*. Paragraph 218.

⁵ The Planning Inspectorate (2018) *Report on the Examination of the West Oxfordshire Local Plan 2031*. Paragraph 219.

⁶ Land west of Shelton Road. Appeal Ref: APP/S3125/W/14/3139687 ([link](#)) and Planning Application Ref: 15/00166/OUT ([link](#)).

Affordable housing need specific to Burford and the Burford-Charlbury Sub Area

In seeking to demonstrate affordable housing need, the applicant has relied heavily on data from the West Oxfordshire District Council's affordable housing register (i.e. Homeseeker Plus).

However, as outlined in the Board's Housing Position Statement, such data should not be used explicitly as a measure of affordable housing need. For example, households can express a preference for up to three locations, which could lead to double, or even triple counting, of housing need.

A key consideration is whether the households on the register have a local connection to the settlement. The applicant has not identified this figure, or the number of households that have both a local connection and a preference.

Further guidance on the extent to which Homeseeker Plus data equates to convincing evidence of housing need within a specific settlement is provided within Appendix 3 of the Board's Housing Position Statement.⁷

Based on the points outlined above, we consider that the applicant's evidence, in this regard, should be given little weight.

Scope for meeting the need outside the Cotswolds National Landscape or in some other way

Case law has clarified that '*no permission should be given for major development save to the extent the development ... met a need that could not be addressed elsewhere or in some other way*'.⁸

The applicant's evidence relies heavily on the assertion that West Oxfordshire cannot meet all of its housing needs outside the Cotswolds National Landscape. Whilst this may be the case, this does not necessarily mean that the proposed type and quantum of development could only be located: (i) in the Cotswolds National Landscape; and / or (ii) in this particular location.

The applicant's case is further undermined by the statement in the West Oxfordshire Local Plan 2031 Inspector's Report that:

- *There is significant opportunity for general development needs to be met outside the AONB.*⁹

As such, the proposed development does not comply with the requirements of the NPPF or relevant case law in this regard.

⁷ Cotswolds Conservation Board (2021) *Housing Position Statement* ([link 1](#) (main document), [link 2](#) (appendices)). Appendix 3.

⁸ R (Advearse) v Dorset Council v Hallam Land Management Ltd [2020] EWHC 807 ([link](#)). Paragraph 35.

⁹ The Planning Inspectorate (2018) *Report on the Examination of the West Oxfordshire Local Plan 2031*. Paragraph 224.

Detrimental effects

The detrimental effects of the proposed development are very similar to the detrimental effects of the previous planning application for this site (17/00642/OUT), as outlined in the ‘Notice of Decision’ for that planning application. For example:

- The site is prominently located in the countryside beyond the existing settlement edge of Burford. The development would encroach unacceptably into agricultural land and would fail to relate satisfactorily to the town or the existing rural environment which provides a setting for it. It would not easily assimilate into its surroundings resulting in the loss of an important area of open space that makes a positive contribution to the character of the area. It would be highly prominent and visible in a number of public views.
- The site is a substantial agricultural field forming part of an extensive area of countryside around Burford that provides a setting for the town. The site is substantially within the Burford Conservation Area, with only the means of access sitting outside it. A large number of Listed Buildings and undesignated heritage assets are located in the vicinity. The Grade I Listed church of St John, and in particular its spire, is inter-visible with the site from a number of public viewpoints. The proposed development would significantly encroach into the countryside and would have an urbanising effect on the Conservation Area and the setting of heritage assets.

As such, the development would not be compatible with the policies of the Cotswolds AONB Management Plan 2018-2023,¹⁰ the Cotswolds AONB Landscape Strategy & Guidelines¹¹ or Policy EH1 of the West Oxfordshire Local Plan.

Public interest

When assessing whether the proposed development is in the public interest, it is important to note mind that AONBs are landscapes whose distinctive character and natural beauty are so outstanding that it is in the nation’s interest to safeguard them.¹²

It is also important to note the Government’s recent assertion that ‘*meeting housing need is never a reason to cause unacceptable harm to [AONBs]*’ and that the ‘standard method’ ‘*does not present a target*’.¹³ We consider that the harm caused by the proposed development would be unacceptable, in this regard.

Tilted balance

Where there is a shortfall in housing land supply, paragraph 11d of the NPPF sets a presumption in favour of granting planning permission (known as the ‘tilted balance’). However, it also identifies a

¹⁰ Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)).

¹¹ Cotswolds Conservation Board (2016) *Cotswolds AONB Landscape Strategy and Guidelines* ([link](#)), particularly with regards to Landscape Character Type (LCT) 16 (Broad Floodplain Valley) ([link](#)).

¹² Department for Environment, Food and Rural Affairs (2017) *Areas of Outstanding Natural Beauty: Landscape Protection and Enhancement. Support Scheme* (England) 2017-2019. This wording is also used in Appendix 1 of the Cotswolds AONB Management Plan 2018-2023.

¹³ Ministry of Housing, Communities & Local Government (2021) Government response to the local housing need proposals in ‘Changes to the current planning system’ ([link](#)).

number of exemptions to this tilted balance, including where the application of policies in the NPPF that protect AONBs and designated heritage assets ‘provides a clear reason for refusing the development proposed’.

Case law has clarified that limb (i) of paragraph 11d is applied by taking into account only those factors which fall within the ambit of the relevant ‘Footnote 6’ policies and that development plan policies and other policies of the NPPF are not to be taken into account in the application of limb (i).¹⁴

Given the detrimental impacts outlined above, we consider that the application of the relevant Footnote 6 policies provides a clear reason for refusal, with regards to both: (i) landscape and scenic beauty; and (ii) cultural heritage. The fact that a similar scale of development on this site has already been refused planning permission (17/00642/OUT), largely on the grounds of adverse impacts on the Cotswolds National Landscape, adds further weight to not applying the tilted balance.

In the planning appeal that was the subject of this case law, it was common ground that if a development constituted major development (with the associated presumption against granting planning permission), that provided a clear reason for refusal. The same principle applies in this instance.

Based on this case law, we consider that issues such as a shortfall in housing land supply should be given very little (if any) weight when deciding if the tilted balance applies.

For these reasons, we do not consider that the tilted balance should be applied in this instance.

Therefore, when deciding the overall planning balance (which should be a subsequent step to the question of the tilted balance), great weight should be given to conserving and enhancing landscape and scenic beauty, but there shouldn’t be a presumption in favour of granting planning permission. Indeed, as outlined earlier in this response, the major development status of the proposal means that, in effect, there should be a presumption against granting planning permission.

Additional comments

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.² 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:

- 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 Type (LCT) 16;
- Cotswolds AONB Landscape Strategy and Guidelines ([link](#)) particularly, in this instance, with regards to LCT 16 ([link](#)), including Section 16.1;
- Cotswolds AONB Local Distinctiveness and Landscape Change ([link](#));
- Cotswolds Conservation Board Position Statements ([link](#)) particularly, in this instance, with regards to the:

¹⁴ Monkhill Ltd v Secretary of State for Housing, Communities and Local Government & Anor (Rev 1) [2021] EWCA Civ 74 ([link](#)).

- Housing Position Statement ([link](#)) and its Appendices ([link](#));
- Landscape-led Development Position Statement ([link](#)) and its Appendices ([link](#));
- Tranquillity Position Statement ([link](#)), including Section 4.5;
- and the Dark Skies and Artificial Light Position Statement ([link](#)) and its appendices ([link 1](#), [link 2](#), [link 3](#)).