



Pauline Dun
Planning Inspectorate
3J Kite Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

By email only to: Ve.rt@planninginspectorate.gov.uk

18 August 2022

Dear Pauline,

APPEAL REFERENCE NO: APP/C1625/W/22/3300819

DESCRIPTION: Development of 35 new dwellings, creation of new access, green infrastructure and associated works.

LOCATION: Land Adjoining High Dale, The Knapp, Besbury, Minchinhampton

Stroud District Council ('the Council') has informed the Cotswolds Conservation Board ('the Board') of the applicant's appeal against the Council's refusal of this full planning application for a development of 35 new dwellings, creation of new access, green infrastructure and associated works at land adjoining High Dale, The Knapp, Besbury, Minchinhampton, which is located within the Cotswolds Area of Outstanding Natural Beauty¹.

The Board has consistently objected to the development of this sensitive site, both throughout the preparation of the current Stroud District Local Plan Review and in our previous responses to this planning application. Whilst we do not wish to repeat any of the content of these responses, we wish to make some further representations on matters relating to the Council's reasons for refusal and in particular, the appellant's Statement of Case. 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".

Simon Joyce
Planning Officer
simon.joyce@cotswoldsaonb.org.uk | 07808 391227

¹ The Cotswolds Areas of Outstanding Natural Beauty (AONB) is now referred to as the Cotswolds National Landscape. 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. However in the interests of clarity in the determination of this appeal, we have used the former name throughout these representations.

Cotswolds Conservation Board

The Old Prison, Fosse Way, Northleach
Gloucestershire GL54 3JH
01451 862000
info@cotswoldsaonb.org.uk

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

cotswoldsaonb.org.uk

Chairman:
Brendan McCarthy
Vice Chair:
Rebecca Charley

ANNEX 1. SUPPORTING INFORMATION

Preface

The site is valued due to its location within the Cotswolds AONB. The statutory purpose of AONB designation is to conserve and enhance the natural beauty of the area² and development that harms the natural beauty of the area would conflict with the purpose of AONB designation. 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 2018-2023³ and in Natural England's guidance for assessing landscapes for designation as National Park or AONB⁴.

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"*⁵. 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 responses and also below. Paragraph 174, with regards to 'valued landscapes' and 'the intrinsic character and beauty of the countryside' is also relevant as well as paragraph 041 of the Planning Practice Guidance⁶.

The Council refused the appellant's application, reference S.20/2667/FUL, on 20 May 2022, citing four reasons for refusal ('RfRs'). The appellant takes the view in their Statement of Case (RCA Regeneration, 9 June 2022) that the third and fourth RfRs can be resolved through a planning obligation and that the appeal should focus therefore on RfRs 1 and 2. Notwithstanding both the views of the Council and the Inspector on whether or not RfRs 3 and 4 can be resolved as suggested by the appellant, we wish to make additional comments relating to RfRs 1 and 2 to supplement our previous consultation responses, dated 18 January 2021 and 22 December 2021, both of which are appended to these representations for ease of reference.

Reason for Refusal 1

The first reason for refusal states that the proposed development would have a detrimental impact upon the character of the immediate and wider landscape associated with Minchinhampton and Rodborough and which forms part of the Cotswolds Area of Outstanding Natural Beauty and the proposed development is therefore contrary to Policy ES7 of the Stroud District Local Plan and Policy MP Env 1 of the Minchinhampton Neighbourhood Development Plan. This also reflects the requirements of paragraph 176 of the NPPF that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in

² <https://www.legislation.gov.uk/ukpga/2000/37/section/82>

³ Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Appendix 1.

⁴ Natural England (2011) *Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England* ([link](#)).

⁵ <https://www.legislation.gov.uk/ukpga/2000/37/section/85>

⁶ <https://www.gov.uk/guidance/natural-environment#landscape> Paragraph: 041 Reference ID: 8-041-20190721

relation to these issues. Paragraph 176 is also clear that the scale and extent of development within AONBs should be limited.

We agree with the Council's conclusions on this matter and our previous responses appended below contain detailed commentary on the potential adverse landscape impacts of the proposal as well as our assessment of the appellant's LVIA, outlining our concerns that it fails to adequately assess these impacts. The appellant's Statement of Case mentions an additional landscape statement which has been prepared, however to date this has not been made available via the Council's online planning register and the Board has not had an opportunity to review or comment upon it.

Notwithstanding this, we would also like to make some further observations on several matters raised within the appellant's Statement of Case.

Paragraph 3.14 highlights a putative benefit of the scheme being the creation of a new publicly accessible area with 'new views' possible across the landscape. This appears to be stretching a point somewhat, given that similar or almost identical views can currently be experienced from local public rights of way, principally from The Knapp, and currently such views from The Tynings and The Knapp would be unencumbered by new development. Indeed these 'new views' would primarily be experienced by the residents of the new development rather than being of any particular benefit to the wider community.

Therefore, any benefit assessed from the provision of such 'new views' should be given very minimal weight and is likely to be outweighed by the negative impact of the development on views from The Tynings, which would largely be blocked by the new development. Indeed, section 15 of the appellant's LVIA concludes that the initial impact on views from 8 of the 11 viewpoints will be 'high' due to loss of views.

Furthermore, the Board is, in principle, 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 and the first statutory purpose of conserving and enhancing the natural beauty of the AONB, the Board has a statutory requirement, under Section 87 of the CROW Act, to attach greater weight to the first purpose⁷.

This requirement is commonly referred to as the 'Sandford Principle', which also applies in National Parks⁸. 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 minor 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.

⁷ <https://www.legislation.gov.uk/ukpga/2000/37/section/87>

⁸

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

At paragraph 3.17 of their Statement of Case the appellant considers the proposal against the guidance provided within the Board's AONB Management Plan, in particular Policy CE11 and Appendix 9. The appellant states that the development will retain and promote some of the 'special qualities' of the AONB as set out within chapter 2 of the AONB Management Plan. The 'special qualities' is not an exhaustive list of qualities that make up the natural beauty of the Cotswolds and do not constitute a 'tick list' against which to assess the particular merits or dismerits of a scheme. Nonetheless we dispute the appellant's assertion and consider each of the 'special qualities' cited by the appellant in their Statement of Case in turn below.

'Retention of long-distance views': Whilst some attempt has been made to retain long-distance views from within the site, this would be outweighed by the negative impact on long-distance views towards the site (and on the loss of views identified above), as detailed in our previous responses and critique of the LVIA.

'Distinctive dry stone walls': The fact that the proposal merely retains the current dry stone walls along The Knapp is not a benefit of the scheme and does not enhance this special quality. Indeed, the Boundary Treatment Plan (dwg. no. 6229-P-101 rev. A) shows that a section of dry stone wall would actually be removed to create the access road with only short section being replaced at an angle to the current wall to ensure the required visibility splays can be achieved. Otherwise, the boundary treatments proposed are mainly standard timber fencing and reconstituted stone walls rather than additional dry stone walling. The result is what appears to be a net loss of dry stone walling compared to the current state.

The provision of a *'flower-rich grassland within the open space'* should be given little weight as these are narrow strips of planting bordering the edges of the site and would in practice make little meaningful contribution to the restoration of this habitat whilst the claimed *'high architectural quality'* does not in our view comprise a significant enhancement to the special qualities of the AONB, particularly when balanced against the identified harms of the scheme.

No justification is given for the claim that tranquillity has been *'provided through the layout and avoidance of a cluttered street scene'*, however in our view it is difficult to make a claim that the tranquillity of a currently undeveloped agricultural field and its surroundings is likely to be increased by building 35 houses upon it. The Board's Tranquillity Position Statement⁹ defines tranquillity as *"a state of calm and quietude associated with peace, experienced in places with mainly natural features and / or historic character, free from man-made noise and other aural and visual disturbance"* (our emphasis) whilst Natural England's guidance on protected landscape designations specifically identifies urban development as a detractor from tranquillity¹⁰.

The footpaths purported to *'promote recreation'* are short stretches of path principally included to enable pedestrian permeability around the site and as such it is unlikely that these stretches of footpath, for example that running between the frontages of new dwellings and those on The Tynings, would be as valued locally as other more rural rights of way. As stated above, such a

⁹ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2019/06/Tranquillity-Position-Statement-FINAL-June-2019.pdf>

¹⁰ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2021/08/Guidance-for-assessing-landscapes-for-designation-as-National-Park-or-AONB-in-England.pdf>. Appendix 1, page 25

consideration also attracts less weight than the conservation and enhancement of natural beauty and when balanced against the identified harms of the scheme.

The appellant then states that *“Given the enhancement identified within the LVIA, it is therefore argued that the development cannot be considered major development within the AONB”*. For the reasons outlined above and those below relating to RfR 2, as well as those in our previous responses, we do not agree with this conclusion.

At paragraph 3.22 of their Statement of Case the appellant proceeds to highlight an appeal decision at Sonning Common in South Oxfordshire and attempts to draw parallels between that decision and this appeal proposal, particularly through an implication that the appeal site is of lesser value than more rural areas of the AONB. Again, 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 a characteristic agricultural field on the settlement edge and lead to the expansion of built form. The site is clearly at the settlement edge, but we would highlight the recent assessment of sites such as this made by an Inspector in a more recent Section 78 appeal. This appeal concerned an edge of settlement site in Pewsey, Wiltshire within the North Wessex Downs AONB¹¹. 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).

Finally, at paragraph 3.23 and elsewhere throughout their Statement of Case, the appellant repeatedly stresses the fact that there are no other alternative non-AONB sites in Minchinhampton. Whilst that may be the case, the appellant fails to highlight the draft Local Plan Review allocation PS05 (East of Tobacconist Road) where 80 dwellings are proposed and which has been found to be sequentially preferable to the appeal site through the Local Plan process. Land south of that site has also been safeguarded for potential future allocation within the draft Local Plan Review.

Reason for Refusal 2

The Council’s second reason for refusal states that the provision of affordable housing does not bring about a public benefit that would otherwise outweigh the identified harm or the requirement to attribute 'great weight' to the preservation of the Cotswolds Area of Outstanding Natural Beauty and the proposed development is therefore contrary to Policy HC4 and ES7 of the Stroud District Local Plan and Policy MP Env 1 of the Minchinhampton Neighbourhood Development Plan. This RfR also reflects the requirements of paragraphs 176 and 177 of the NPPF.

The Council’s conclusions align with our conclusions drawn in 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 on the assertions made by the appellant in their Statement of Case relating to whether or not the proposal

¹¹ Ref: APP/Y3940/W/21/3283427, Land west of Wilcot Road, Pewsey, Wiltshire, 7 March 2022

comprises ‘major development’ and the paragraph 177 tests for exceptional circumstances and public interest.

Major development in the AONB

The appellant maintains their position that the appeal proposal does not comprise ‘major development’ for the purposes of NPPF paragraph 177 and footnote 60, citing two appeal decisions to support their case. However, it is also true to say that many appeal decisions have been issued where it has been concluded that developments of this size and smaller have been considered ‘major development’. Indeed, this is a reflection of NPPF footnote 60 which is clear that this is a matter for the decision maker taking into account the particular nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

For the reasons outlined in Appendix 1 of our response dated 18 January 2021 and on page 2 of our response dated 22 December 2021, we continue to support the Council’s view that the appeal proposal constitutes ‘major development’ in the Cotswolds AONB.

Before considering the requirements of paragraph 177, we would also challenge the appellant’s conclusion at paragraph 3.43 of their Statement of Case that *“the weight attributed to the exceptional circumstances in favour of this appeal outweigh(s) any identified harm to the AONB”*. Paragraph 177 is clear that the starting point for determining major development proposals is one of refusal unless the decision maker considers that all three exceptional circumstances tests are demonstrably passed *and* it can be demonstrated that the development is in the public interest. It is not a case of simply weighing all material considerations in a balance.

The need for the development

In outlining their case for the need for the development the appellant cites a range of national statistics on the housing crisis which lack relevance to this specific appeal proposal, whilst we have commented on the need for development in our previous consultation responses.

Paragraph 3.36 cites the AONB Management Plan’s recognition that there is a serious problem with affordability within the AONB and a need for additional housing, with Policy CE12 remarking that priority should be given to the provision of affordable housing. Whilst the Board supports the provision of affordable housing in the Cotswolds, when based on robust evidence of local need arising from within the AONB, we are clear that it must be provided in a manner that is compatible with the purposes for which the area has been designated an Area of Outstanding Natural Beauty. As outlined in our representations, we believe this is not the case and, in the round, the proposal conflicts with the guidance contained within the Management Plan.

We also note that the Council’s most recent Five-Year Housing Land Supply Statement (November 2021) claims a 6.47-year land supply and its latest Housing Delivery Test result stands at 161%.

However, even if a case was made that there is an unmet affordable 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 AONB¹². The social and economic benefits

¹² Paragraph 90, appeal reference APP/M2270/W/21/3273022, Hawkhurst Golf Club, dated 2 February 2022.

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 development, because there may be alternative sites that are more suitable because development there would result in less harm to the AONB landscape”*¹³.

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

Please refer to our previous responses.

Detrimental effects

Please refer to our previous responses and additional comments above.

Conclusion

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.

Although we do not wish to comment further on the five-year land supply situation in Stroud District and the appellant does not make a case on the grounds of a five-year land supply shortage, should the Inspector conclude after hearing evidence on this issue at the informal hearing 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. In deciding the overall planning balance, case law has established that the decision maker should not simply weigh all material considerations in a balance, but should refuse an application unless they are satisfied that the exceptional circumstances and public interest threshold apply¹⁴. 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.

¹³ R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684. Paragraph 51.

¹⁴ *ibid*

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 affordable 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 S.20/2667/FUL, DATED 18 JANUARY 2021



Simon Penketh
Stroud District Council
Ebley Mill
Ebley Wharf
Stroud
GL5 4UB

By email only to: planning@stroud.gov.uk

18 January 2021

Dear Simon

APPLICATION NO: S.20/2667/FUL

DESCRIPTION: Development of 35 dwellings, creation of new access, green infrastructure and associated works.

LOCATION: Land Adjoining High Dale, The Knapp, Besbury, Minchinhampton

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

In principle, the Board supports the provision of affordable housing in the Cotswolds National Landscape where this provision is based on robust evidence of local need arising within the National Landscape. We also acknowledge that there is robust evidence of affordable housing need in Minchinhampton although, as outlined below, we would question the affordable housing need identified by the applicant.

The provision of such housing should be delivered in a way that is compatible with the purpose of conserving and enhancing the natural beauty of the Cotswolds National Landscape. As outlined below, we do not consider that this proposal would achieve this outcome. Nor do we consider that the proposal demonstrates the exceptional circumstances and public interest that would be required to permit development that is not compatible with this purpose. In addition, we consider that the proposed development would conflict with national and local planning policy.

For these reasons, the Board objects to the proposed development.

Key considerations in reaching this opinion include:

- whether the proposed development constitutes 'major development';
- the need for the proposed development;
- alternative options to the proposed development;
- the detrimental effects of the proposed development.

These considerations are outlined in more detail below.

Cotswolds Conservation Board

The Old Prison, Fosse Way, Northleach
Gloucestershire GL54 3JH
01451 862000
info@cotswoldsaonb.org.uk

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cotswoldsaonb.org.uk

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Major Development

When determining such planning applications, one of the primary considerations is whether the proposed development constitutes major development, in the context of paragraph 172 and footnote 55 of the National Planning Policy Framework (NPPF).

For the reasons outlined in Appendix 1, we consider that the proposed development *should* be considered to be major development. A key consideration, in this regard, is the fact that Stroud District Council's own evidence base states that *'the site is not suitable for development because of the likely high landscape impact'*.¹

For proposals that are deemed to be major development there should be a presumption against granting planning permission.

Need

For major development proposals, paragraph 172 of the NPPF requires an assessment of the need for the development, including in terms of national considerations, and the impact of permitting it, or refusing it, upon the local economy.

The main justification that the applicant has provided for the proposed development, in the Executive Summary of their Planning Statement, is the assertion that the housing requirement for Stroud District has increased from 638 homes per annum to 786 per annum. However, the Government has subsequently confirmed that it will not be implementing the revised standard methodology for calculating housing need on which this increase is based. As such, the principle justification given for the development in the Executive Summary is no longer valid.

The affordable housing need identified by the applicant for the Plan period represents an 11-fold increase on the affordable housing need identified in the Minchinhampton Housing Need Survey (HNS) and a five-fold increase on the annual affordable housing need identified in the Minchinhampton Neighbourhood Development Plan (NDP). The type of affordable housing proposed by the applicant also differs considerably from the type of affordable housing that is identified as being required in the HNS and NDP. See Appendix 1 for further details.

Such a large divergence from the figures in the HNS and NDP seems excessive and calls into question the validity of the applicant's housing need assessment. Given this significant divergence from the NDP, the proposed development would not be plan-led in this regard.

Case law has clarified that even if exceptional need is identified, this does not equate to exceptional circumstances or being in the public interest. This is because, consideration still has to be given to alternative options and to any detrimental impacts.²

Alternative Options

For major development proposals, paragraph 172 of the NPPF requires an assessment of the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way.

However, the applicant has made no such assessment.

¹ White Consultants (2016) *Stroud District Landscape Sensitivity Assessment – Final Report for Stroud District Council*. ([Link](#)). Further information provided in Appendix 1 below.

² R (Mevagissey Parish Council) v Cornwall County Council [2013] EWHC 3684 (Admin) Hickinbottom J. Paragraph 53.

A key consideration in this regard is whether there are more appropriate locations in the local area (i.e. within Minchinhampton parish) to meet the affordable housing need arising within Minchinhampton, particularly with regards to the affordable housing need identified in the Minchinhampton Housing Need Survey and in the Minchinhampton NDP.

An obvious alternative option would be draft site allocation PS05 (East of Tobacconist Road) where 80 dwellings are proposed. An additional alternative option would be the South of Cirencester Road site, which had previously been considered for an allocation of up to 50 dwellings in Stroud District Council's Emerging Strategy Paper.

Although the Board has previously expressed concerns about both of these sites, they are both potentially preferable to a housing development at The Knapp. For example, unlike the current proposal, they would not extend development at Minchinhampton (or the visual impact of such development) onto the upper slopes of Golden Valley.

An additional consideration should be the potential to deliver smaller scale affordable housing developments within the settlement development limit of Minchinhampton.

Detrimental Effects

For major development proposals, paragraph 172 of the NPPF requires an assessment of any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which this could be moderated.

Even if the proposal is not considered to be major development, great weight should still be given to conserving and enhancing the landscape and scenic beauty of the Cotswolds National Landscape. In addition, any assessment of whether the development would be in the public interest should bear in mind the fact that it is in the national interest to safeguard the natural beauty of the National Landscape.

The Board acknowledges the measures that the applicant has taken to mitigate adverse impacts, as outlined in Appendix 1. However, we consider that the applicant's Landscape and Visual Impact Analysis (LVIA) has failed to adequately assess adverse landscape and visual impacts. For example, it has not provided wireframe images or photomontages of the proposed development, or even demarcated the proposed development on the viewpoint photographs. We consider that these adverse impacts are likely to be more significant than the LVIA suggests.

As outlined above, Stroud District Council's own evidence base indicates that the site is not suitable for development because of the likely high landscape impact. Even taking into account the proposed mitigation, the Board supports this conclusion. Further comments are provided in Appendix 1.

Environmental Impact Assessment

Stroud District Council should have undertaken an Environmental Impact Assessment (EIA) Screening Opinion for the proposed development. Given the likely adverse effects identified in the District Council's own evidence base, it would be logical to conclude that an EIA *should* be required.

Further information relating to the Board's comments is provided in Appendix 1.

If you have any queries regarding the Board's comments 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 Officer
john.mills@cotswoldsaonb.org.uk | 07808 39122

APPENDIX 1. SUPPORTING INFORMATION

MAJOR DEVELOPMENT

Footnote 55 of the NPPF specifies that ‘whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined’.

Legal opinion has clarified that consideration of whether a development has the potential to have a significant adverse impact ‘does not require (and ought not to include) an in-depth consideration of whether the development will in fact have such an impact. Instead, a prima facie assessment of the potential for such impact ... is sufficient’.³

The proposed development is not allocated in either the adopted or draft Local Plan. In addition, the development would be located outside the settlement development limit. For a ‘local service centre - second tier’ settlement such as Minchinhampton, development outside the settlement development limit should only be permitted in exceptional circumstances.

The Board considers a single, windfall development of 35 dwellings to be relatively large in the context of the Cotswolds National Landscape, albeit that this would represent a relatively small % increase in the total number of dwellings in Minchinhampton.⁴

A key consideration is the potential for the proposed development to have a significant adverse impact on the purpose of conserving and enhancing the natural beauty of the Cotswolds National Landscape. In this regard, Stroud District Council’s own evidence base states that:

- The land parcel has high landscape sensitivity to housing use: *The area’s sensitivity lies in ... its role as part of the skyline and location on the edge of the wold top and the sloping valley side. Existing housing is set back from the wold edge. The area’s value lies in its location in the Cotswolds AONB and role as setting to Minchinhampton Common multi-period scheduled monument ... Housing would adversely affect the setting and character of the common to the west and would impinge on the skyline on the wold edge or on the valley sides which would be uncharacteristic of the main settlement form.*⁵
- *The site is not suitable for development because of the likely high landscape impact. Development would adversely affect the setting and character of Minchinhampton Common to the west and would impinge on the skyline on the wold edge which would be*

³ ³ Maurici, J., QC (2014) *In the matter of the National Planning Policy Framework and in the matter of the South Downs National Park Authority – Opinion* Paragraph 26. ([Link](#)). (N.B. This is commonly referred to as one of the ‘Maurici Opinions’).

⁴ 35 dwellings would be a 1.5% increase on the 2,406 dwellings in Minchinhampton parish - and a 2.6% increase on the 1,366 in the built-up area of Minchinhampton - at the time of the 2011 census (N.B. The 2011 census data is taken from www.nomisweb.co.uk).

⁵ White Consultants (2016) *Stroud District Landscape Sensitivity Assessment – Final Report for Stroud District Council*. ([Link](#)). This extract relates to land parcel M08, which includes the proposed development.

*uncharacteristic of the main settlement form. There are therefore potential impacts preventing sustainable development in this location.*⁶

The proposed development is also in close proximity to a number of nature conservation and historic environment designations and close to access land.

For these reasons, the Board considers that the proposed development *should* be considered to be major development.

HOUSING NEED

The applicant's Housing Need Assessment (HNA) identifies a need for 156 affordable / social rent dwellings and 127 shared ownership dwellings in the 11 years to 2031 (i.e. 253 dwellings in total). The Minchinhampton Housing Need Survey (HNS) identifies a need for 24 affordable dwellings. The HNA figures is therefore an 11-fold increase on the HNS figure.

The applicant's HNA identifies an annual affordable housing need in Minchinhampton of 25.7 dwellings per annum (14.2 affordable / social rent dwellings and 11.5 shared ownership dwelling), whereas the need identified in the NDP (page 40) is for *'about 5 new affordable dwellings per year'* (which equates to the HNS affordable housing need figure of 24 dwellings spread over five years). The HNA figure is therefore a five-fold increase on the NDP figure.

The type of affordable housing provision identified by the applicant is also not consistent with the type of affordable housing provision identified in the NDP or in the Minchinhampton Housing Needs Survey (HNS). As such, it is not consistent with the Development Plan in this regard as well.

100% of the affordable housing need identified in the HNS is for one bedroom dwellings (i.e. all 24 of the households identified as being in need of affordable housing). On the basis of the HNS findings, the NDP (paragraph 4.84) states that *'new housing to meet local needs should ... compromise small one and two bedroomed properties ... and a smaller proportion of 3 or 4 bedroom homes'*. In contrast, the applicant identifies that the majority of affordable housing need in Minchinhampton is for three bedroom homes. Only four of the 35 proposed dwellings in this development (i.e. 11%) are for one bedroom dwellings, whereas 16 (i.e. 45%) are for three or four bedroom dwellings.

The applicant's data is skewed towards larger dwellings because it inappropriately conflates affordable housing need data with the proportion of different size dwellings for Minchinhampton as a whole.

It is worth noting that the applicant's HNA (paragraph 1.6) explicitly states that actual results may differ materially from the results predicted and that the consultant who compiled the report (WP-Housing) *'specifically does not guarantee or warrant any estimate or projections contained in this report'*.

DETRIMENTAL EFFECTS

Landscape and Visual Impact Analysis

The applicant's Landscape and Visual Impact Analysis (LVIA) provides an unsatisfactory assessment of landscape and visual impacts. For example:

⁶ Stroud District Council (2020) *Strategic Assessment of Land Availability Assessment – New Sites Update Report October 2020*. Appendix 4 – List of Rejected Sites. ([Link](#)). This extract specifically relates to the proposed development site (i.e. The Knapp).

- The photographs:
 - Are very small and, as such, do not convey the actual view that would be experienced from the viewpoints in person – by extension, they potentially underplay the visual effects.
 - Do not demarcate the extent of the development within the site.
 - Do not provide photomontages or wire frame images of the proposed development.
- It doesn't adhere to the Landscape Institute's LVIA guidance in terms of assessing the sensitivity of receptors and the magnitude of change in order to gauge the significance of the effect – indeed, it frequently conflates the two components in a way that undervalues the sensitivity (for example, it gives higher value to receptors at viewpoints that are closer to the proposed development rather than basing the value on their status as receptors on public rights of way in a nationally important protected landscape).
- It focusses heavily on visual impacts with very little assessment of impacts on landscape character. For example, there is very little assessment of impacts on the key characteristics of the relevant Landscape Character Types (LCTs) or of the relevant special qualities.
- It doesn't address the issue of light pollution on the dark skies of the National Landscape (including the introduction / spread of lit elements that could potentially be seen across a wide area).
- It doesn't include a Zone of Theoretical Visibility – as such, it is difficult to gauge if there are other potential key viewpoints, for example, on the opposite side of Golden Valley above Brimscombe.
- It includes several irrelevant viewpoints, located some distance from the site and looking in the opposite direction to the site (for example, viewpoints 12, 16, 17 and 18).

The lack of photomontages or wireframe images is particularly important in the context of the proposed development. As indicated in the District Council's evidence base, one of the issues is the potential for development on this site to impinge on the skyline of the wold edge. Most development within Minchinhampton (including the adjacent Tynings development) is located within – and / or follows - the contour line of the 'plateau' on which Minchinhampton is located. The proposed development, on the other hand, would bring housing onto land that starts to slope down towards Golden Valley. Photomontages, or wireframe images, would therefore help to clarify the extent to which the proposed development would impinge on the skyline of the wold edge.

Photomontages would be particularly useful in relation to viewpoints 19, 20 and 22. For example, considering that the Tynings development can be seen from viewpoint 20, the proposed development (which would, in effect, be in front of the Tynings development) is likely to be much more prominent on the skyline. The proposed development would also potentially introduce built development into the skyline when viewed from viewpoint 19.

Given that the hedge and tree planting along the visually prominent north-western boundary will be at a lower elevation than the new housing, this will limit the extent to which this landscaping mitigates the adverse visual effects of the proposed development.

The conflation of sensitivity and magnitude of change also potentially undermines the landscape and visual impacts. For example, the very high sensitivity of receptors at Rodborough Common (Viewpoint 22) means that the significance of the visual effect would be at moderate / major even if the magnitude of change is low. Whilst we acknowledge that the site would form a relatively small component of the overall panoramic view from Rodborough Common, the open nature of the site provides an important contrast to the woodland dominated view along the Golden Valley.

With regards to the landscape character, the open, undeveloped and agricultural nature of the site reflects one of the key features / characteristics of the High Wold Dip Slope Landscape Character

Type. As such, we strongly disagree with the assertion in the LVIA that the proposed development would (arguably) provide a betterment.

We acknowledge the measures that are being proposed to mitigate adverse impacts, such as:

- the provision of open space, providing a line of sight through the development;
- 'copse' planting on the western boundary;
- enhanced on-site biodiversity.

However, even taking into account the proposed mitigation, we consider that the proposed development would have an adverse impact on the landscape and scenic beauty of the Cotswolds National Landscape. With regards to potential biodiversity benefits, it is important to note that these are an 'important' consideration, in the context of the National Landscape, whereas landscape and scenic beauty should be given 'great weight'.

APPENDIX 2. RELEVANT COTSWOLDS CONSERVATION BOARD GUIDANCE

Further guidance on relevant considerations is provided in the following Cotswolds Conservation 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 the 'key features / characteristics' of:
 - Landscape Character Type (LCT) 9 (High Wold Dip Slope), in which the proposed development would be located;
 - LCT 5 (Settled Valleys), which the development would impinge upon, both physically and visually; and
 - LCT 7 (High Wold), which the development would impinge upon visually.⁷
- Cotswolds AONB Landscape Strategy and Guidelines ([link](#)), particularly, in this instance, with regards to LCT 9 ([link](#)), LCT 5 ([link](#)) and LCT 7 ([link](#)), including Sections 9.1, 5.1 and 7.1 respectively.
- Cotswolds Conservation Board Position Statements ([link](#)).

⁷ It is worth noting that the long-distance views across and from the high wolds are one of the special qualities of the Cotswolds National Landscape. This would include the views from Rodborough Common.

APPENDIX 2: COTSWOLDS NATIONAL LANDSCAPE CONSULTATION RESPONSE IN RELATION TO
PLANNING APPLICATION S.20/2667/FUL, DATED 22 DECEMBER 2021



Simon Penketh
Stroud District Council
Ebley Mill
Ebley Wharf
Stroud
GL5 4UB

By email only to: planning@stroud.gov.uk

22 December 2021

Dear Simon,

APPLICATION NO: S.20/2667/FUL

DESCRIPTION: Development of 35 dwellings, creation of new access, green infrastructure and associated works.

LOCATION: Land Adjoining High Dale, The Knapp, Besbury, Minchinhampton

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

The Board originally commented on this proposal in January 2021; our response is appended below. The revised submissions appear to comprise a revised Design & Access Statement and Landscape Visual Impact Analysis, layout, landscaping, access and drainage plans floorplans and elevations of the proposed house types, street scenes limited to views within the development and two short-range CGI visualisations of the development.

Having reviewed the revised submission and notwithstanding the amendments made by the applicant, the Board maintains its previous **objection** to the proposed development.

The Board wishes to reiterate its support for the provision of affordable housing in the Cotswolds National Landscape where this provision is based on robust evidence of local need arising within the National Landscape. We also acknowledge that there is robust evidence of affordable housing need in Minchinhampton although, as outlined in our original response, we would question the affordable housing need identified by the applicant.

The provision of such housing should be delivered in a way that is compatible with the purpose of conserving and enhancing the natural beauty of the Cotswolds National Landscape. Notwithstanding the amendments made by the applicant, we still do not consider that this proposal would achieve this outcome.

Moreover, the Board wishes to reiterate that we also do not consider that the proposal demonstrates the exceptional circumstances and public interest that would be required to permit development that is not compatible with the purpose of conserving and enhancing the natural beauty of the Cotswolds National Landscape. In addition, we consider that the proposed development would conflict with national and current and, in particular, emerging local planning policy.

Cotswolds Conservation Board

The Old Prison, Fosse Way, Northleach
Gloucestershire GL54 3JH
01451 862000
info@cotswoldsaonb.org.uk

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

Our key considerations in reaching this opinion continue to comprise:

- whether the proposed development constitutes ‘major development’;
- the need for the proposed development;
- alternative options to the proposed development, particularly in relation to the provisions of the Stroud Local Plan Review, now submitted for examination; and
- the detrimental effects of the proposed development.

These considerations are outlined in more detail below.

Major Development

When determining such planning applications, one of the primary considerations is whether the proposed development constitutes major development, in the context of paragraph 177 and footnote 60 of the National Planning Policy Framework (NPPF, 2021).

For the reasons outlined in Appendix 1 of our previous response, we consider that the proposed development *should* be considered to be major development. Furthermore, it is noted from the Local Plan Review’s housing requirement that a windfall development of 35 dwellings would comprise almost 50% of the annual ‘small sites’ (windfall) allowance for the entire District, this being 75 dwellings per annum. A further key consideration, in this regard, is the fact that the Council’s own evidence base, compiled in support of its Local Plan Review which has now been submitted for examination and which notably does not allocate this site, maintains that *‘the site is not suitable for development because of the likely high landscape impact’*.¹

For proposals that are deemed to be major development there should be a presumption against granting planning permission and the revised information submitted by the applicant has not altered the Board’s view that this proposal constitutes major development.

Need

For major development proposals, paragraph 177 of the NPPF requires an assessment of the need for the development, including in terms of national considerations, and the impact of permitting it, or refusing it, upon the local economy.

The main justification that the applicant has provided for the proposed development, in the Executive Summary of their Planning Statement, is the assertion that the housing requirement for Stroud District has increased from 638 homes per annum to 786 per annum. However, the Government has subsequently confirmed that it will not be implementing the revised standard methodology for calculating housing need on which this increase is based and consequently the Local Plan Review submitted for examination in October 2021 provides for 630 homes per annum. As such, the principal justification given for the development in the Executive Summary remains no longer valid.

The affordable housing need identified by the applicant for the Plan period represents an 11-fold increase on the affordable housing need identified in the Minchinhampton Housing Need Survey (HNS) and a five-fold increase on the annual affordable housing need identified in the Minchinhampton Neighbourhood Development Plan (NDP). Appendix 1 of the Board’s original response provides further details.

¹ White Consultants (2016) *Stroud District Landscape Sensitivity Assessment – Final Report for Stroud District Council*. ([Link](#)). Further information provided in Appendix 1 below.

Such a large divergence from the figures in the HNS and NDP seems excessive and calls into question the validity of the applicant's housing need assessment. Given this significant divergence from the NDP and as explained below, the emerging Local Plan Review, the proposed development would not be plan-led in this regard.

Case law has clarified that even if exceptional need is identified, this does not equate to exceptional circumstances or being in the public interest. This is because, consideration still has to be given to alternative options and to any detrimental impacts.²

Alternative Options and Provisions of the Local Plan Review

For major development proposals, paragraph 177 of the NPPF requires an assessment of the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way. However, the applicant has still made no such assessment.

A key consideration in this regard is whether there are more appropriate locations in the local area (i.e. within Minchinhampton parish) to meet the affordable housing need arising within Minchinhampton, particularly with regards to the affordable housing need identified in the Minchinhampton Housing Need Survey and in the Minchinhampton NDP.

The obvious alternative option is the draft site allocation PS05 (East of Tobacconist Road) where 80 dwellings are proposed. It is notable that this is the only site allocated by the Council in Minchinhampton in its Local Plan Review, now submitted for examination following several rounds of public consultation and which is, in the Board's view, a material consideration in the determination of this application.

The Local Plan Review is clear that *"the preferred direction of housing growth in landscape terms is to the east"* (page 81) rather than to the north where this proposal is located. The Development Strategy for Minchinhampton outlines how in addition to the allocated site, *"infill and re-development is permitted inside the SDL and (exceptionally) adjacent to the SDL (subject to policy criteria)"*. Development of this site, which lies outside of the SDL, would not constitute infill or re-development and therefore does not comply with the Council's current or emerging development strategy.

Indeed, the submission Local Plan Review states at paragraph 3.1.9 that *"housing needs for the Plan period arising within the AONB at Minchinhampton will be met through modest infill development within settlement development limits and at site PS05, land to the east of Tobacconist Road."* This proposal is not a modest infill development and is not located within the settlement development limits. Paragraph 3.1.10 of the Local Plan Review then continues that *"land to the south of allocated site PS05 has been assessed in landscape terms as the most appropriate location for future housing growth at Minchinhampton, if further greenfield land should be required at the next Local Plan review. The site is therefore safeguarded for potential allocation at the next Local Plan review, subject to evidence of local housing need and the site performing best against reasonable alternatives"*.

Therefore, the Local Plan Review, which constitutes the Council's own planning policy to 2040, not only fails to allocate this site but also safeguards a second separate site, also considered a more appropriate location for housing growth, for the next plan-making period. Consequently, grant of planning permission for this proposal would appear to contradict the Local Plan Review's development strategy for Minchinhampton and there is clearly more than one site in the local area which the Council considers to be sequentially more appropriate for housing development.

² R (Mevagissey Parish Council) v Cornwall County Council [2013] EWHC 3684 (Admin) Hickinbottom J. Paragraph 53.

Detrimental Effects

For major development proposals, paragraph 177 of the NPPF requires an assessment of any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which this could be moderated.

Even if the proposal is not considered to be major development, great weight should still be given to conserving and enhancing the landscape and scenic beauty of the Cotswolds National Landscape. In addition, any assessment of whether the development would be in the public interest should bear in mind the fact that it is in the national interest to safeguard the natural beauty of the National Landscape.

The Board acknowledges the further measures that the applicant has taken to mitigate adverse impacts and notes that an addendum to the previously-submitted Landscape and Visual Impact Analysis (LVIA) has been provided to assess the revised site design and landscape mitigation. Therefore, it is disappointing that many of the Board's recommendations relating to the original LVIA have not been included in this revision and the Board maintains its view that the LVIA fails to adequately assess adverse landscape and visual impacts. For example, there remain no wireframe images or photomontages of the proposed development, or even demarcating the proposed development on the viewpoint photographs. We continue to consider that these adverse impacts are likely to be more significant than the LVIA suggests.

It is also notable that the conclusions of the LVIA addendum are almost identical to those included in the original LVIA, as are the assessments of the proposal from viewpoints away from the site boundary. This leads the Board to conclude that the revisions have done little to improve the potential adverse impact of the development in key wider views within the AONB.

As outlined above, Stroud District Council's own evidence base indicates that the site is not suitable for development because of the likely high landscape impact. Even taking into account the revised scheme and landscape mitigation, the Board continues to support this conclusion.

Our previous response further expanding on the points raised above is appended below. If you have any queries regarding the Board's comments please do get in touch.

Yours sincerely,



Simon Joyce

Planning Officer

simon.joyce@cotswoldsaonb.org.uk | 07808 39122

