

Item No 05:-

19/02239/FUL

**Garden Land At The Kudos
Garricks Head
Andoversford
Gloucestershire**

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New dwelling and associated works at Garden Land At The Kudos Garricks Head Andoversford Gloucestershire

Full Application 19/02239/FUL	
Applicant:	Mr James Deacon
Agent:	
Case Officer:	Hannah Rose
Ward Member(s):	Councillor Robin Hughes
Committee Date:	15th January 2020
RECOMMENDATION:	REFUSE

Main Issues:

- (a) Residential Development outside of a Principal and Non-Principal Settlement
- (b) Design
- (c) Landscape Impact
- (d) Ecology
- (e) Sustainability
- (f) Residential Amenity
- (g) Highway Safety

Reasons for Referral:

The application has been referred to Planning and Licensing Committee by Councillor Robin Hughes for the following reason:

"I have looked at the application details again, read the letter of objection and the letters supporting the application. It seems that there is overwhelming local support for this eco house because it is aiming to be carbon neutral with an innovative design. I also remember the original application for three houses on this site that came to Committee last year. At that time Members of the Committee clearly indicated that although they would not want to see three houses in this location, they would be minded to consider one house there."

1. Site Description:

The application site forms the front portion of the residential curtilage of the dwelling known as Dragonfly House, the former ancillary accommodation to The Kudos which was granted planning permission to be used as a dwelling in its own right in 2018. The site is located in open countryside approximately 450 metres to the south-west of Andoversford and is therefore situated outside of the settlement's Development Boundary. The surrounding area is characterised by a small post-war housing development and other scattered detached units set within large plots.

In visual terms, the site is an open parcel of land to the front of Dragonfly House. The site is enclosed by a high stone wall to the roadside and woodland to the north and east. The site is located within the Cotswold Area of Outstanding Natural Beauty (AONB). There is a Public Right of Way (PRoW) running along the western boundary of Dragonfly House.

2. Relevant Planning History:

05/00231/FUL - Demolition of dwelling and all buildings on site. Erection of two detached dwellings with garaging. Refused 18/05/2005

05/01944/FUL - Demolition of existing dwelling and all buildings on site and erection of replacement dwelling. Permitted 03/02/2006

06/01182/FUL - Demolition of existing dwelling and industrial units and the erection of two dwellings. Refused 07/09/2006, Appeal Dismissed 21/05/2007

06/02767/FUL - Removal of condition 24 (Demolition of existing dwelling and all buildings on site and erection of replacement dwelling) of CD.4120/R [05/01944/FUL]. Refused 08/01/2007

07/02224/FUL - Demolition of existing dwelling, industrial units and hardstanding and erection of replacement dwelling. Refused 23/10/2007

07/03017/FUL - Demolition of existing dwelling and derelict farm buildings and erection of one new dwelling. Permitted 13/05/2008

09/03067/FUL - Retention of entrance gates, piers and associated walling. Permitted 26/10/2009

17/03351/CLEUD - Certificate of Lawful Existing Use or Development under Section 191 of the Town and Country Planning Act 1990 for the erection of a dwelling and the construction of ancillary accommodation. Use of land as residential curtilage. Permitted 22/11/2017

18/03497/FUL - Change of use from ancillary accommodation to a separate dwelling. Permitted 01/11/2018

18/04953/FUL - Upper floor extension [at Dragonfy House]. Permitted 15/02/2019

18/01407/FUL - Three residential units. Refused 13/09/2018, Appeal Dismissed 06/03/2019.

19/01301/FUL - Lower ground floor and upper ground floor extensions and attached garage (Resubmission of 18/04953/FUL) [at Dragonfly House]. Permitted 31/05/2019

3. Planning Policies:

NPPF National Planning Policy Framework
DS4 Open Market Housing o/s Principal/non-Pr
EN1 Built, Natural & Historic Environment
EN2 Design of Built & Natural Environment
EN4 The Wider Natural & Historic Landscape
EN5 Cotswolds AONB
EN7 Trees, Hedgerows & Woodlands
EN8 Bio & Geo: Features Habitats & Species
INF4 Highway Safety
INF5 Parking Provision
INF10 Renewable & Low Carbon Energy Develop't
H1 Housing Mix & Tenure to meet local needs
H3 Rural Exception Site

4. Observations of Consultees:

Tree Officer: "The trees on the site appear to be outside the development area and are not likely to be affected. They need woodland management but this is a separate issue to the development. No objection subject to a condition requiring compliance with the submitted tree report of MDH arboriculture and the associated tree protection plan."

Biodiversity Officer: No objection. Full comments to date incorporated into Officer's Assessment.

5. View of Town/Parish Council:

No comments received.

6. Other Representations:

One Objection letter has been received from the occupier of Garrick House immediately north of the site which, in summary, raised the following concerns:

- i. Garrick's Head is not defined in the Local Plan as either a principal or non-principal settlement. The objector quotes the Appeal Inspector's comments in the appeal decision for the dismissal of three houses on the site which confirms that new housing in this location would be contrary to policy DS4;
- ii. Permission has already been granted for a new dwelling next to The Kudos which together forms 2 new open market dwellings on this site. This proposal would introduce a third open-market house which could too easily be repeated, and the cumulative effect would be in direct conflict with the housing strategy in the Development Plan;
- iii. The plans for the new house are the same as one of the three houses previously refused, except now it has been named 'eco-house';
- iv. The character of Garrick's Head is a rural one. 'The Kudos' site retains a rural character due to its open and green nature which contributes positively to the character and appearance of the AONB. The introduction of a third large, detached house on the site of 'The Kudos' would encroach into an area that is currently grass and trees, free from building development. The screening provided by the existing woodland would be destroyed and the proposed executive-style dwelling with glass balcony would be visible from the entrance point and road, from neighbouring houses. It would cause localised harm by urbanising this area of countryside and as such would undermine the rural character of the AONB.

Four letters of Support have been received which, in summary, state the following:

- i. It is exciting that someone wants to build an Eco house and in our opinion this is the perfect location for it. CDC has a policy to support self-build applications from what we have read and this is exactly that;
- ii. Although the settlement at Garricks Head is deemed to be outside of Andoversford by a few hundred metres it is very much part of this developing village within the Cotswolds and it would be nice to see some consistency as recent applications that have been passed for planning at 'The Mount, Andoversford' and 'Land East Of Kilkenny Inn, Andoversford' where both approved on their own merits;
- iii. Surely a secluded site such as the proposed surrounded by mature trees, hedgerows and tall Cotswold stone walls, will only add to the modern feel of the village of Andoversford, providing good sized housing with all the green credentials whilst not being visible from any vantage points from the local area and thus not affecting the AONB, but providing another good size family home on the edge of our relatively modern and growing village?;
- iv. "Also to quote some more of the CDC development plan; "In response to requests from some of the District's more rural communities we are also proposing a new Rural Housing Policy to enable limited development in other settlements, subject to defined criteria." I would like to think that this well thought out design, meets these criteria's on its green credentials and self-build register approach."

7. Applicant's Supporting Information:

Supporting Information dated 15/08/2019
Supporting Information dated 27/09/2019
Additional Eco-Credentials dated 14/10/2019
Ecological Appraisal from 18/01407/FUL
Aboricultural Method Statement from 18/01407/FUL

8. Officer's Assessment:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.' The starting point for the determination of this application is therefore the current development plan for the District which is the adopted Cotswold District Local Plan 2011-2031.

The Council must also have regard to other material considerations when reaching its decision. In particular, it is necessary to have regard to guidance and policies in the National Planning Policy Framework (NPPF).

Background and Proposal

The site has an extensive planning history as laid out in section 2 of this report. The site, along with the dwellings known as The Kudos and Dragonfly House, also in ownership of the applicant, was a former mushroom farm and was functional and utilitarian in character and appearance.

Numerous planning applications were refused on the site for residential development due to its unsustainable location and the harm that would be caused to the AONB. Planning permission was eventually granted for the demolition of the derelict farm buildings and the construction of one dwelling to replace the agricultural workers' dwelling in 2008.

The house was not built in accordance with the approved plans and additional underground accommodation was also built alongside the dwelling. In November 2017, a Certificate of Lawfulness of Existing Development was granted which regularised the construction of the dwelling in situ known as The Kudos, the construction of the ancillary accommodation and use of the whole site as garden land (ref. 17/03351/CLEUD).

A planning application was refused in September 2018 for three new open market dwellings on the site alongside the Kudos in place of the ancillary accommodation (ref.18/01407/FUL) and the appeal (ref. APP/F1610/W/18/3212172) was dismissed in March 2019 on the grounds that the location was unsuitable for new open market dwellings and for the harm that would be caused to the AONB.

Simultaneously, the ancillary accommodation was granted planning permission to be used as an independent dwelling in November 2018 (ref. 18/03497/FUL), as were a series of extensions to the property in May 2019. This property is now known as Dragonfly House.

The applicant is now seeking planning permission to erect an additional open market dwelling to the front of Dragonfly House. The house is identical in location, scale and design to that proposed in plot 1 in the appeal that was dismissed in March 2019 for three new units. The proposed dwelling would measure 21m wide and 14m deep at its widest points with a detached open fronted car port situated alongside the dwelling and would provide a large living area and guest suite on the ground floor and four large bedrooms with en-suites on the first floor. The dwelling would have a modular, flat roof form with curved walls to the front and a wraparound balcony to the northern side. The dwelling would be constructed in natural stone with green roofs. The

dwelling would have a contemporary design and include a series of eco-credentials which are discussed in more detail in section (e) below.

(a) Residential Development outside of a Principal and Non-Principal Settlement

The Local Plan's Development Strategy seeks to promote sustainability by focussing most growth in 17 principal settlements, notably Cirencester (Policy DS2), while facilitating small-scale residential development in non-principal Settlements (Policy DS3). The Strategy facilitates sufficient development within development boundaries to meet, in full, the District's objectively assessed housing needs over the Plan period.

Proposals for residential development in open countryside outside of Principal or Non-Principal Settlements are assessed under Local Plan Policy DS4 which states that 'New-build open market housing will not be permitted outside Principal and Non-Principal Settlements unless it is in accordance with other policies that expressly deal with residential development in such locations'.

The site comprises residential land. For the purposes of Policy DS4, any land that falls outside Development Boundaries and Non-Principal Settlements is referred to as countryside, even if it is technically previously developed land.

Besides the provisions of paragraph 79 of the NPPF, which makes an exception for country houses that are truly outstanding or innovative, the Local Plan has policies that potentially allow for certain types of housing development in the countryside including: affordable housing on rural exceptions sites (Policy H3); housing for rural workers (Policy H5); accommodation for gypsies and travellers (Policy H7); and conversion of rural buildings (Policy EC6).

The application site is located approximately 450 metres from Andoversford, which is defined as a Principal Settlement in the Local Plan. In the previous appeal for three new residential units on the site and land adjoining (ref. APP/F1610/W/18/3212172), the Inspector considered that:

"Whilst there are small clusters of buildings that form a hamlet at Garricks Head, the evidence indicates that they are not defined in the Local Plan as either a principal or non-principal settlement, and as such the area is expressly identified as countryside even if the site meets the definition of previously developed land in the NPPF.

The Local Plan sets out a strategy for meeting its housing requirements that precludes open market housing in the countryside, save for some specific exceptions, in order to direct growth towards identified sustainable locations, and to protect the countryside for its intrinsic value. The evidence submitted does not demonstrate that the proposal falls within any of the express exceptions set out in policy DS4."

It is clear, that the site is not located within a Principal Settlement. It is, therefore, first necessary to establish whether the site is located within a Non-Principal Settlement.

No material considerations have arisen since the appeal was determined in March 2019 that would be likely to alter the Inspector's view that the site is located outside of a Principal and Non-Principal Settlement. Officers therefore continue to consider that the site is located outside of a Principal and Non-Principal Settlement.

The applicant has made reference to two new open market dwellings permitted in different locations in open countryside; a dwelling was permitted at Land East Of Kilkenny Inn, Andoversford (17/04910/FUL) in March 2018 and allowed at appeal at The Mount, Gloucester Road Andoversford (ref. 18/02478/FUL & APP/F1610/W/18/3217856) in April 2019.

With regard to the planning application at Land East of Kilkenny Inn, the Planning and Licensing Committee permitted the application against the Officer recommendation to refuse on the grounds that, "whilst the location of the site was considered unsustainable, the addition of a further single dwelling was not material to its unsustainability, and given the lack of harm caused to the AONB,

and the benefit of the social role of the area by adding to the supply of bungalow accommodation." This decision was made when the currently adopted Local Plan was still emerging and could not be given full weight. The applicant made reference to this application within the appeal case for the three dwellings, to which the Inspector gave limited weight.

With regard to the appeal at The Mount, the site was located in between two separate development boundaries of Andoversford. The Inspector considered that the appeal site was close to existing houses, very close to a primary school, public house and bus stop and appeared visually and physically as part of the village. The Inspector acknowledged that the proposal was in conflict with Policy DS4 but concluded that in this case, as there was no harm that would result from the conflict, the limited benefits of one house were sufficient to warrant a departure from the Council's delivery strategy.

Following receipt of the appeal decision for the new dwelling at The Mount, the Council has received numerous appeals that have been dismissed for new open market housing outside Principal and Non-Principal Settlements solely because it conflicted with the housing strategy laid out in Development Plan. For example, an appeal against the refusal of a new dwelling 120 metres from the Development Boundary of Bourton-On-The-Water was dismissed on 09/07/2019 (ref. 18/02675/FUL and APP/F1610/W/19/322218). The Inspector stated that, "I have had regard to the economic benefits during construction; the contribution that new housing can make to supporting services and facilities within the nearby settlement; and, the improvements to the appearance of the site by replacing an industrial workshop with a house designed in the local vernacular. However, the benefits would not outweigh the harm that the proposal would cause, and that would arise if this type of proposal were permitted elsewhere, in terms of undermining the policies of the development plan and the effectiveness of its housing strategy in meeting local needs." Officers are therefore now relying on the consistency of the latter appeal decisions in applying the housing strategy, rather than on the interpretation of the single earlier inconsistent appeal decision.

The applicant has also stated in the application submission that he is on the Council's Self-Build Register and considers this to be a material consideration in favour of the application. Officer's acknowledge that the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) imposes certain duties on planning authorities, one of which is to keep a register of all individuals and organisations who are interested in acquiring a self-build/custom-build site. The planning authority must give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding. It goes on to clarify that 'development permission' is "suitable" if it is permission in respect of development that could include self-build and custom housing.

The Council holds a Self-Build and Custom Register and Local Plan Policy H1 relates to housing mix and states that, 'Proposals of more than 20 dwellings will be expected to provide 5% of dwelling plots for sale as serviced self or custom build plots unless demand identified on the Self-Build and Custom Register, or other relevant evidence, demonstrates that there is a higher or lower level of demand for plots.' Accordingly, the Local Plan as a whole, supports the provision for self-build dwellings, providing they are in suitable locations, as identified in Local Plan Policies DS1, DS2, DS3 and DS4. The Self-build and Custom Housebuilding Act 2015 is not one which encourages development in otherwise unsuitable locations.

The Council was required to provide 66 serviced self or custom build plots by 31st October 2019 in order to meet the number of people on the Self-Build Register on the 30th October 2016 and this was achieved. The Council is now required to provide 69 plots by 31st October 2020 plots to meet the number of people on the register on the 30th October 2017. At present, the Council does not have a shortfall in the supply of self-build plots. There is no requirement for the Council to allow development for people who are on the register and there is therefore currently no need to release land in DS4 locations for new build open market self-build plots. This view is consistent with the Inspector in appeal reference APP/U2235/W/19/3232269 determined on 31st October 2019.

Local Plan Policy H3 relates to rural exception sites and states that, 'single self-build plots may be brought forward as rural exception sites within, adjoining, or closely related to the built up areas of villages where the applicant meets all of the following criteria: a. is in housing need; b. is unable to access a suitable home currently available on the open market in the parish (or within 5km of the site); c. has a need to live locally; and d. has strong local connections to the Parish.'

As previously mentioned, the Local Plan facilitates sufficient development within development boundaries to meet, in full, the District's objectively assessed housing needs over the Plan period. There is, therefore, no housing need for a dwelling in open countryside. Furthermore, the applicant currently occupies/owns the adjoining two properties known as The Kudos and Dragonfly House and has no demonstrable need for the dwelling. The proposal therefore fails to comply with H3 in this regard.

Finally, paragraph 79 (e) allows for the development of isolated homes in the countryside where, 'the design is of exceptional quality, in that it is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area'. The site is in an area outside of a Principal and Non-Principal Settlement but is not considered to be isolated and so this policy is not necessarily applicable and the Inspector did not apply paragraph 79 to the three dwellings proposed in planning application 18/01407/FUL. Notwithstanding this, it is of note that while the design is considered to accord with Local Plan Policies EN1 and EN2 and the design considerations in the NPPF, as explained in section (b), Officers consider that the scheme would not meet the exceptionally high standards of design and innovation, or that it would significantly enhance its immediate setting, both of which are required in order to meet the requirements of paragraph 79.

Overall, Officers consider that the proposal does not fall into any of the categories of DS4 where housing development is allowed in the countryside and as such, the principle of residential development of the site is not supported. The proposal would introduce an open market dwelling in the countryside in direct conflict with the housing strategy in the Local Plan. There is insufficient justification as to why the development plan strategy should not be consistently applied in this case. This assessment is consistent with the Inspector's consideration of three new residential units covering the site in appeal ref. APP/F1610/W/18/3212172.

(b) Design

Local Plan Policy EN1 seeks where appropriate, to promote the protection, conservation and enhancement of the historic and natural environment. Local Plan Policy EN2 states that 'Development will be permitted which accords with the Cotswold Design Code. Proposals should be of design quality that respects the character and distinctive appearance of the locality.' The Cotswold Design Code (Appendix D within the Local Plan) requires that development should be environmentally sustainable and designed in a manner than respects the character, appearance and local distinctiveness of the Cotswold District with regard to style, setting, harmony, street scene, proportion, simplicity, materials and craftsmanship.

More specifically, paragraph D.29 of the Cotswold Design Code states that, 'original and innovative proposals that reinforce a sense of place and help raise the standard of design generally are welcomed'. Paragraph D.31 states that, 'the massing and elevation of buildings of contemporary design should be broken, to avoid a brutal or monolithic appearance'. Paragraph D.32 states that, 'the use of local materials, especially stone, will help ensure that contemporary developments harmonise with their surroundings', although paragraph D.33 further states that, 'the use of modern, non-local materials, can sometimes contribute towards the quality of a contemporary design'.

With regard to national policy, section 12 of the NPPF seeks to achieve well-designed places. Paragraph 124 states that, 'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make

development acceptable to communities.' Paragraph 127 of the NPPF also sets out a series of good design principles that reflect the objectives of the Local Plan Policies EN1 and EN2.

As previously mentioned, the proposed dwelling is identical to that proposed in plot 1 in planning application 18/01407/FUL that was dismissed at appeal. The contemporary dwellings were considered to accord with the Council's Design Code and section 12 of the NPPF. The proposed dwelling is overtly contemporary in its design and form; the building would have a flat roof and the massing is broken with two curved portions to the front elevation. The dwelling would be in keeping with the design, scale and form of Dragonfly House and The Kudos. Portions of the roof would be green and others with solar PV panels and the walls would be clad in natural stone which would provide a reference to local context.

Officers therefore continue to be satisfied that the proposed dwelling would accord with the Cotswold District Design Code and Local Plan Policy EN2 and paragraphs 124 and 127 of the NPPF.

(c) Landscape Impact

The site is located within the Cotswolds AONB. Section 85 of the Countryside and Rights of Way (CROW) Act 2000 states that relevant authorities have a statutory duty to conserve and enhance the natural beauty of the AONB.

Policy EN4 the Local Plan states that development will be permitted where it does not have a significant detrimental impact on the natural and historic landscape (including the tranquillity of the countryside) of Cotswold District or neighbouring areas. This policy requires that proposals will take account of landscape and historic landscape character, visual quality and local distinctiveness. They will be expected to enhance, restore and better manage the natural and historic landscape, and any significant landscape features and elements, including key views, settlement patterns and heritage assets.

Policy EN5 within the Local Plan states that in determining development proposals within the AONB or its setting, the conservation and enhancement of the natural beauty of the landscape, its character and special qualities will be given great weight.

The new Design Code (Appendix D within the Local Plan) reinforces and expands upon these principles. D.9 states that development should respond to its context, and its specific landscape setting. D.17 states that excessive or uncharacteristic bulk should be avoided and that new buildings should generally not dominate their surroundings, but should complement the existing structures or landscape, and sit comfortably within their setting.

Section 15 of the NPPF requires us to have regard to the conservation and enhancement of the natural environment. Paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty. Paragraphs 170 and 172 of the NPPF reflect Local Plan Policies reflect policies EN4 and EN5 respectively.

The site is bordered by The Kudos to the south, Garrick House to the north, Clock House Square road to the east and Dragonfly House to the west. The site is enclosed by a high stone wall to the roadside. The site itself makes up part of the domestic curtilage associated with Dragonfly House. Public views would be available from Clock House Square road at the proposed access and the top of the buildings are visible above the existing stone wall. Furthermore, the site can also be seen in glimpse views from the PRoW which follows a route through the existing woodland to the north and the west of the site.

Whilst there are scattered clusters of residential development within the vicinity, the overriding character is a rural one. The special and sensitive character of the AONB at this point is derived in part from the pattern of surrounding fields, hedgerows, woodland and stone walls. When describing the site in March 2019, the Appeal Inspector stated that, 'The appeal site retains a

rural character due to its open and green nature which contributes positively to the character and appearance of the AONB at this point.' When considering the scheme for three dwellings, the Inspector concluded, 'Whilst I accept that the proposal, largely due to the woodland, topography and stone boundary wall would not feature in prominent wider views in the AONB, I nevertheless find that it would cause localised harm by urbanising this area of countryside and as such would undermine the rural character of the AONB at this point. This would be the case notwithstanding the contemporary designs, green roofs and steps to minimise the lighting that would be employed as part of the proposal.'

Although in residential use, the site retains a rural character due to its open and green nature. The Inspector held this view taking into account the extension that had been permitted in above ground at Dragonfly House in February 2019. Officers acknowledge that a further extension was permitted in May 2019, which is shown in the proposed plans of the current application. Officers are of the opinion that owing to the spacious character of the plot, the extension could be accommodated on the site without eroding the open, rural character of the site.

The proposal seeks to develop plot 1 of the dismissed appeal scheme which would be located in between Dragonfly House and the highway. In public views from the highway, the scheme would urbanise the character of the site to the same degree and result in the same level of harm as the appeal scheme, by virtue of the introduction of a new dwelling and associated lighting and domestic paraphernalia into a green gap immediately in front of the existing dwelling which currently helps to reinforce the rural character of the hamlet. This would erode the rural character of the AONB at this point and detrimentally impact localised public views from the highway. The proposed mitigation planting of a native hedgerow around the borders of the site is considered not to be sufficient to overcome Officers' objections. Accordingly, the proposal would have a harmful impact upon the special qualities of the Cotswold AONB and would therefore be harmful to the character and appearance of the area contrary to policies EN2, EN4 and EN5 of the Local Plan and section 15 of the NPPF.

(d) Ecology

Local Plan Policy EN8 states that, 'Development will be permitted that conserves and enhances biodiversity and geodiversity, providing net gains where possible.'

Paragraph 170 of the NPPF states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of ecological value and minimising impacts on and providing net gains for biodiversity.

Paragraph 175 states that local planning authorities should apply the following principles:

- (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- (b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- (c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- (d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

The applicant has submitted the Ecology Appraisal from the dismissed scheme for three dwellings. The ecological survey is still valid; however, the assessment is based on the previous

proposal and no updated assessment of the current proposed development has been submitted. Notwithstanding this, the Council's Biodiversity Officer considers that due to the type of habitats present, the small size of the site and the previous disturbance of the adjacent construction site, an updated assessment is not required in this case.

The proposal would result in the loss of maintained grassland. Habitats to be created within the site include species-rich native hedgerows, wildlife ponds as well as wildflower meadow planting to the roofs. Bat and bird boxes would also be incorporated into the proposed dwelling. The proposed measures are considered to compensate for the loss of grassland, but a landscaping scheme and management plan would be required, which can be approved by condition. As such, the scheme is considered to conserve and enhance the biodiversity of the site in accordance with Local Plan Policy EN8 and paragraphs 170 and 175 of the NPPF.

(e) Sustainability

Local Plan Policy INF10 seeks positively to encourage renewable and low carbon energy development while ensuring any adverse impact is satisfactorily addressed. Applications therefore need to demonstrate that any adverse impacts individually and/or cumulatively, including; visual amenity; landscape character; heritage assets; biodiversity; water quality and flood risk; highways; residential amenity, including shadow flicker, air quality and noise, are or can be satisfactorily mitigated.

Local Plan Policy INF10 also requires applications to demonstrate that proposals are of an appropriate type, scale, and design for the location and setting and are compatible with surrounding land uses.

Specifically, paragraphs D.59 - D.62 of the Cotswold Design Code provide guidance regarding sustainable design and states that 'the potential impacts of climate change can be addressed through a variety of means, from the incorporation of better insulation and renewable energy technologies, to adaptations for severe weather events, and the use of local and recycled building materials.' The Design Code also stresses that sustainable design needs to be responsive to the character of the area and the sensitivities of the site.

The applicant states that the proposed dwelling would be constructed with an airtight membrane which improves the air tightness of the building and that the openness would ensure natural light, reducing the need for electric lights. No heating will be provided for the dwelling; water would be heated by an underground heat pump. Photovoltaic panels are proposed on the roof of the carport which the applicant states would be sufficient to power an electric car and photovoltaic cells would be integrated into areas of glazing. The dwelling would have a green roof comprising wildflower meadow planting. A sewerage treatment system and reed bed is also proposed, as well as a composting toilet within the garden. Although no supporting data has been provided, the applicant states that the development would be carbon neutral.

The eco-credentials of the scheme are welcomed and supported. Officers however, consider that the benefits of these eco-credentials would not outweigh the harm that the proposal would cause in terms of undermining the policies of the development plan and the effectiveness of its housing strategy in meeting local needs, as well as the cumulative harm that would arise if this type of proposal were permitted elsewhere.

(f) Residential Amenity

Policy EN2 of the Local Plan supports development that accords with The Cotswold Design Code (Appendix D within the Local Plan). The Cotswold Design Code requires the interface between a new development and any existing adjacent properties to respect the amenity of existing residents and to ensure that the existing and new development is well integrated. The Design Code also requires new dwellings to be provided with appropriately sized private space such as gardens.

Section 12 of the NPPF seeks to achieve well-designed places. In part, paragraph 127 of the NPPF ensures that development create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

The new dwelling would be located immediately to the front of Dragonfly House which is a partially subterranean dwelling, with extant extensions permitted that have not yet been implemented, but are shown on the proposed site plan. The new dwelling would be located approximately 27m in front of the existing dwelling at Dragonfly House and would be 15m in front of the subterranean garage that has been permitted on the site. These separation distances are considered sufficient not to cause any issues regarding loss of privacy or daylight.

Outside of the dwellings in ownership of the application, the closest residential dwelling to the site is Garrick House which borders the north of the application site. The proposed dwellings are considered to be located a sufficient distance away from the existing dwelling not to cause any issues regarding loss of privacy or daylight. The dwellings will all be provided with appropriately sized private gardens.

Taking the above into account, the proposal is considered not to result in harm to residential amenity in accordance with the amenity considerations within Policy EN2 of the Local Plan and Section 12 of the NPPF.

(g) Highway Safety

Local Plan Policy INF4 (Highway Safety) supports development that is well integrated with the existing transport network and beyond the application site, avoiding severance resulting from mitigation and severe impact upon the highway network. Developments that create safe and secure layouts and access will be permitted.

Local Plan Policy INF5 (Parking Provision) seeks to ensure sufficient parking provision to manage the local road network.

Section 9 of the NPPF advocates sustainable transport, including safe and suitable accesses to all sites for all people. However, it also makes it clear that development should only be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network are severe.

The scheme would provide ample space for parking and turning within the site and would utilise an existing residential access. As such, the proposal is considered to be in accordance with Policies INF4 and INF5 of the Local Plan and Section 9 of the NPPF and is acceptable in regards to any highways and parking impacts.

9. Conclusion:

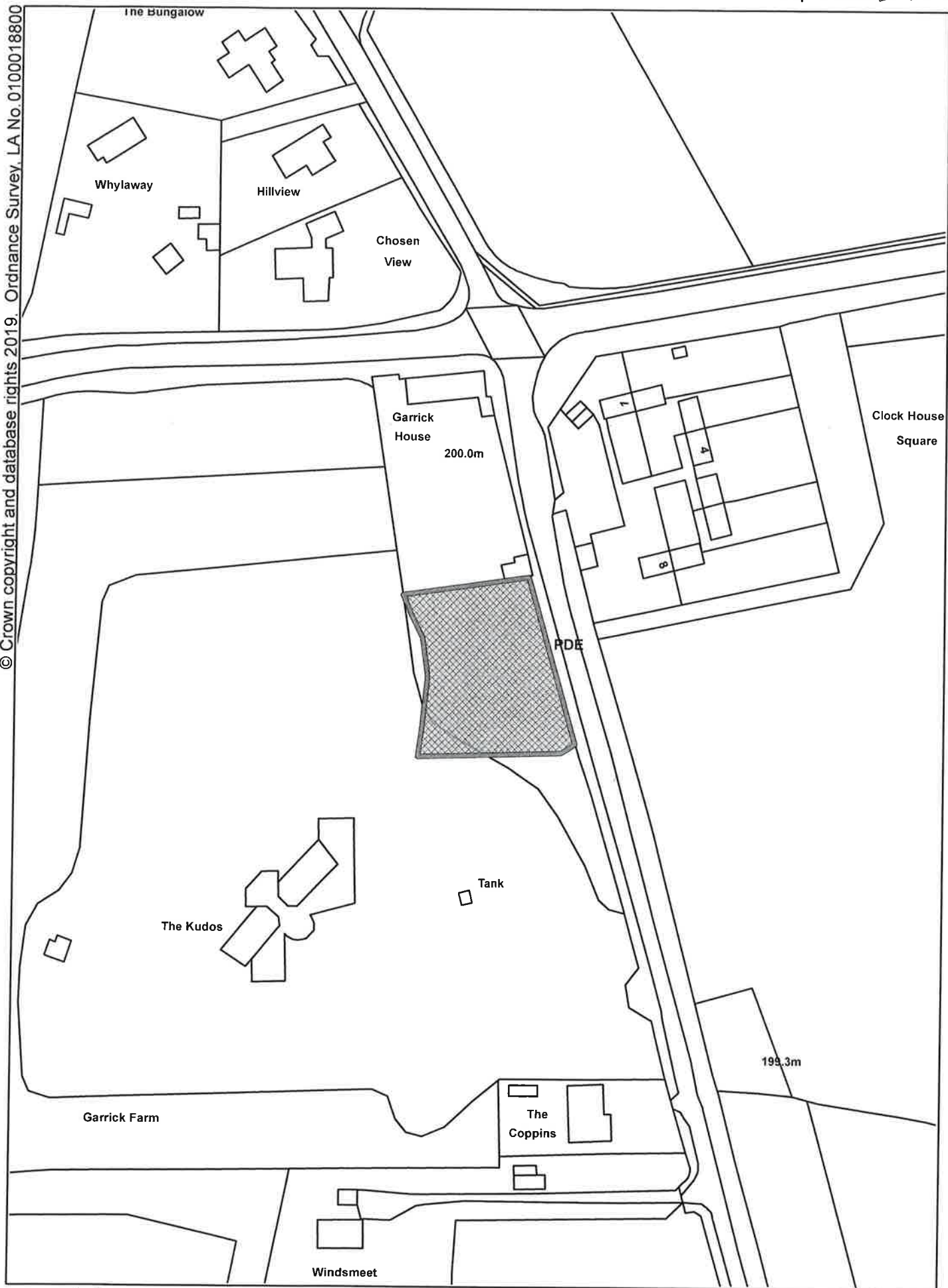
The proposed development would result in the erection of a new-build open market dwelling outside of a Principal or a Non-Principal Settlement that fails to meet any of the exceptions set out in Local Plan policy DS4 or paragraph 79 of the NPPF.

The site lies within the Cotswolds AONB, wherein the Local Planning Authority is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape. The proposal would infill a green gap that currently positively contributes to the rural character of the hamlet. The new dwelling and associated lighting and domestic paraphernalia would have an urbanising impact on the character and appearance of the landscape which would erode the rural character of the AONB at this point and negatively impact localised public views from the highway. The proposal would have a harmful impact upon the special qualities of the Cotswold AONB and would therefore be harmful to the character and appearance of the area contrary to policies EN2, EN4 and EN5 of the Local Plan and section 15 of the NPPF.

It is therefore recommended that planning permission should be refused.

10. Reason for Refusal:

The proposed development would result in the erection of a new-build open market dwelling outside of a Principal or a Non-Principal Settlement that fails to accord with the criteria set out in Local Plan policy DS4 and paragraph 79 of the NPPF. The site lies within the Cotswolds AONB, wherein the Local Planning Authority is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape. The proposal would infill a green gap that currently positively contributes to the rural character of the hamlet. The new dwelling and associated lighting and domestic paraphernalia would have an urbanising impact which would erode the rural character and appearance of the AONB at this point and negatively impact localised public views from the highway. The proposal would have a harmful impact upon the special qualities of the Cotswold AONB and would therefore be harmful to the character and appearance of the area contrary to policies EN2, EN4 and EN5 of the Local Plan and section 15 of the NPPF.



GARDEN LAND AT THE KUDOS ANDOVERSFORD

Organisation: Cotswold District Council

Department:

Date: 31/12/2019

Scale: 1:1250



grass roof more detail

Gloucester Road



Public Footpath Access Road 9

style

House

Bus Stop

Perimeter planting retained

adjoining garage and parking area

existing access approx location

SAM

Dragonfly House (Approved dwelling)

Ecotrust

Shared Private Drive Gravel surface permeable base

Site Layout Scale 1: 500 @ A1



stone boundary wall retained splayed in to new entrance

Native hedgerow boundaries

verge of proposed drive meadow grass + wild flower mix

Kudos

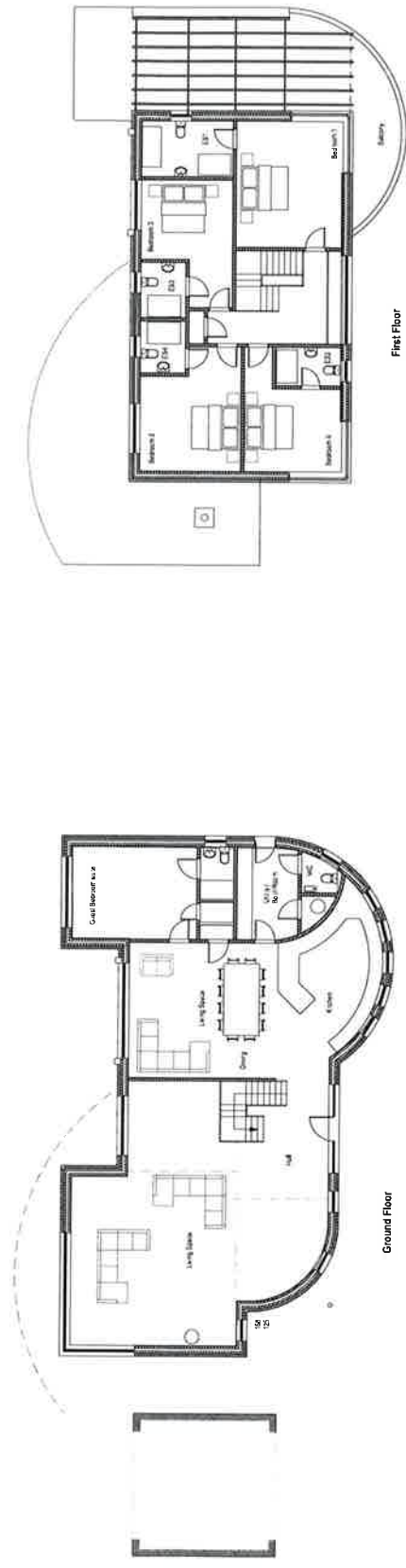
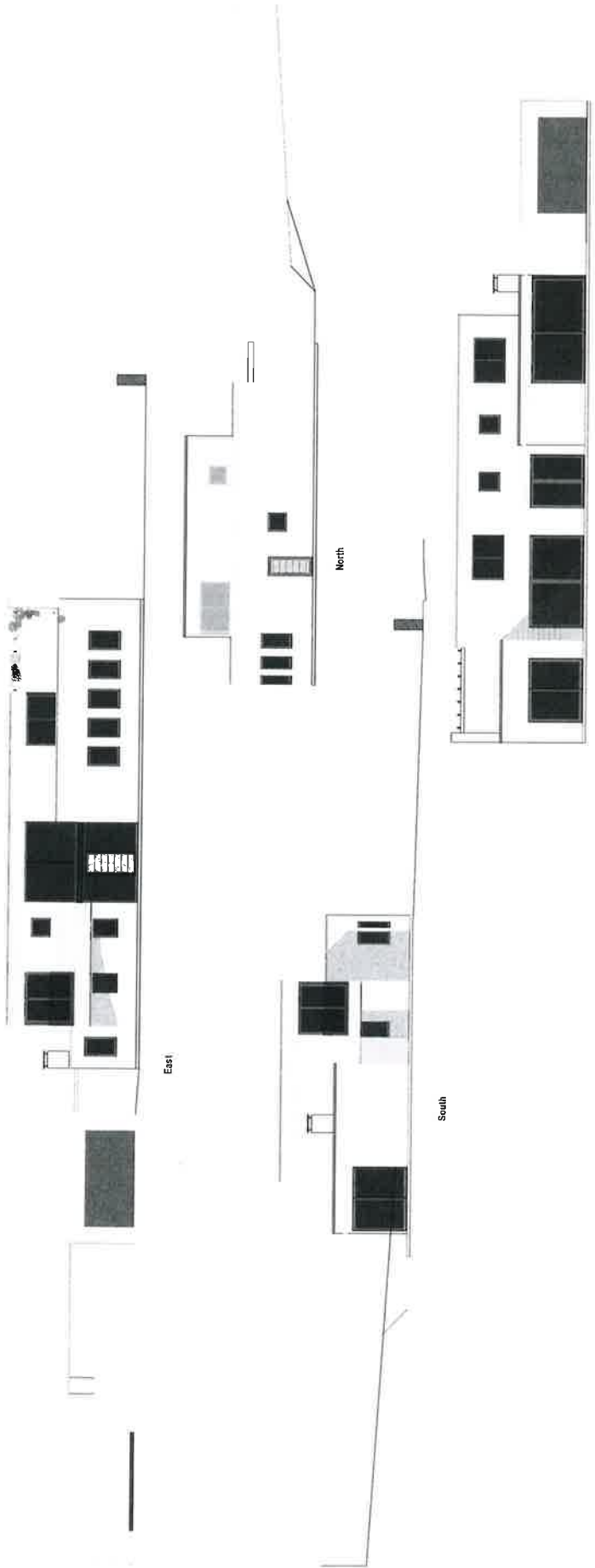
Kudos 1

Tank

Kudos Retained Site Area 1552sqm (3.8A)

The Coppins

Garrick Farm



Appeal Decision

Site visit made on 15 January 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2019

Appeal Ref: APP/F1610/W/18/3212172

**Honeysuckle Nook, Haven and Dragonfly House, Cheltenham,
Gloucestershire GL54 4LH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Deacon against the decision of Cotswold District Council.
 - The application Ref 18/01407/FUL, dated 18 April 2018, was refused by notice dated 13 September 2018.
 - The development proposed is for three residential units on brownfield land to the north eastern corner of The Kudos, GL54 4LH.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the site is in a suitable location for housing, and the impact of the proposal on the character and appearance of the area with particular reference to the Cotswold Area of Outstanding Natural Beauty.

Reasons

Location of housing

3. The appeal site is located approximately 450 metres from Andoversford, which is defined as a principal settlement in the adopted Cotswold District Local Plan 2011-2031, August 2018 (LP). Whilst there are small clusters of buildings that form a hamlet at Garricks Head, the evidence indicates that they are not defined in the LP as either a principal or non-principal settlement, and as such the area is expressly identified as countryside even if the site meets the definition of previously developed land in the National Planning Policy Framework (NPPF).
4. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The LP sets out a strategy for meeting its housing requirements that precludes open market housing in the countryside, save for some specific exceptions, in order to direct growth towards identified sustainable locations, and to protect the countryside for its intrinsic value. The evidence submitted does not demonstrate that the proposal falls within any of the express exceptions set out in policy DS4.

5. The appellant considers that the site should be considered against the criteria set out in policy DS3 of the LP and references a recent development for one dwelling permitted by the Council at Kilkenny. However, policy DS3 applies where the site is located within a defined non-principal settlement which is not the case here, and decisions about such designations are made through the development plan process, no doubt taking into consideration numerous factors of which I am not fully aware. Furthermore, whilst I do not have the full circumstances of the case at Kilkenny it was considered at a time when the local plan policies were still emerging rather than adopted as part of the development plan. Accordingly, it only attracts limited weight in my decision.
6. The appellant points to permission reference 18/03497/FUL whereby an additional dwelling has recently been granted permission at the site. I have few details of this case but note that it is described by the Council as a change of use from ancillary accommodation to a separate dwelling in contrast to the introduction of new built form. On that basis it is readily distinguishable from the appeal proposal and therefore is of limited weight.
7. I have further had regard to permission reference 18/04953/FUL whereby the Council recently permitted an upper floor extension to the converted dwelling. Notwithstanding that policy DS3 was listed as relevant in the case officer's delegated report, there is little indication in the assessment that it was a determinative policy in the consideration of the extension, or the conditions imposed. As such, I am not persuaded that this reference is of significance such that the appeal site should be considered as within a non-principal settlement.
8. The proximity to facilities at Andoversford and the location of bus stops have been pointed out such that the location of appeal site would offer a degree of choice as to the means of travel to future occupants. In addition, the proposal would derive some support from the NPPF in respect of the development of brownfield sites. I have also had regard to the comments in support of the proposal which point out the need for housing generally, and the social and economic benefits that 3 additional houses would contribute to Garricks Head. Nevertheless, it conflicts with the development plan policies which seek to restrict residential development in locations such as this and with the underlying objective of those policies.
9. Although there is reference to the modest scale of the proposal for 3 dwellings such that the strategic intent of the settlement policies of the development plan would not be seriously undermined, it could too easily be repeated elsewhere, and the cumulative effect would be to reduce the effectiveness of the Council's strategy which the evidence indicates is currently providing a sufficient supply of homes for the district.
10. The proposal would introduce 3 open market houses in the countryside in direct conflict with the housing strategy in the development plan and I have found insufficient justification as to why the development plan strategy should not be consistently applied in this case. Therefore, I find that the appeal site would not be a suitable location to introduce housing and would be contrary to policy DS4 of the LP which seeks to prevent open market housing outside of the principal and non-principal settlements as part of the adopted wider strategy towards sustainable housing growth in the district.

Character and appearance of the area

11. The proposal is for 3 detached houses within the extensive grounds of The Kudos, a large detached house located in the Cotswolds Area of Outstanding Natural Beauty (AONB). Whilst there are scattered clusters of primarily residential development within the vicinity, the overriding character is a rural one. The special and sensitive character of the AONB at this point is derived in part from the pattern of surrounding fields, hedgerows, woodland and stone walls.
12. The appeal site retains a rural character due to its open and green nature which contributes positively to the character and appearance of the AONB at this point. In this context, the introduction of 3 large detached houses would encroach into an area that is currently free from built form. Notwithstanding the screening provided by the existing woodland this would nevertheless be visible in glimpses from the adjacent public right of way to the north and west of the site. Furthermore, despite the stone boundary wall, the proximity of Honeysuckle Nook to the eastern boundary would result in this dwelling in particular, being apparent from the proposed entrance point and road.
13. Whilst I accept that the proposal, largely due to the woodland, topography and stone boundary wall would not feature in prominent wider views in the AONB, I nevertheless find that it would cause localised harm by urbanising this area of countryside and as such would undermine the rural character of the AONB at this point. This would be the case notwithstanding the contemporary designs, green roofs and steps to minimise the lighting that would be employed as part of the proposal.
14. Accordingly, I find that the proposal would have a harmful impact upon the special qualities of the Cotswold AONB and would therefore be harmful to the character and appearance of the area contrary to policies EN2, EN4 and EN5 of the LP. These policies seek to, amongst other matters, protect the character of the natural environment and the Cotswold AONB in particular.

Other matters

15. The appellant has referred to the time taken for the planning application to be validated, and thereafter determined within which time the LP was adopted. The length of time taken is not a matter I can comment on within the scope of this decision, but I am satisfied that when the formal decision was taken it was appropriate to do so against the development plan policies in force at that point.
16. The absence of objections in relation to other matters including highway impact, and in terms of bio-diversity does not overcome the harm I have identified in relation to the main issues.
17. The Screening Opinion (SO) undertaken in respect of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA) concluded that the development was not likely to have significant environmental impacts for the specific purposes of determining whether an Environmental Statement should accompany the proposal. The SO does not purport to consider the merits of the proposal against the development plan policies, or national policy in the NPPF. Therefore, a finding that the proposal

does not amount to EIA development is not of itself evidence that the proposal is acceptable in all other respects.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector