

The Revised NPPF (2018)
The meaning of “valued landscape”

Sasha Blackmore

September 2018

NPPF (2012) v NPPF (2018)



NPPF 2012

109. “The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils...

NPPF 2018

Para 170 “Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)

Valued Landscape =
Requires “Defined Physical
Attributes”

?

Valued Landscapes - *Stroud DC v SSCLG and Gladman (2)* Ouseley J



- *“The NPPF is clear: that designation is used when designation is meant and valued is used when valued is meant and the two words are not the same”*
- *“In particular, the key passage is ... the site to be valued had to show some demonstrable physical attribute rather than just popularity”*
- *“It is not difficult to see that the sort of demonstrable physical attributes which would take this site beyond mere countryside... but into something below that which was designated”*
- *“The views of the site from the AONB were carefully considered those aspects were dealt with and he did not regard those as making the land a valued piece of landscape.”*
- Being in the setting of the AONB should not *“be a demonstrable physical attribute when the site has not fallen within the policy designation designed to protect land beyond the AONB”*

Valued Landscapes - *Stroud DC v SSCLG and Gladman (3) Ouseley J*



- As to the land representing a wedge of countryside extending right into the hearts of the settlement: *“that issue itself was considered”* but
- *“It is a feature of the land but it is impossible to see that the Inspector would not have had that aspect in mind if he thought it was something that demonstrated its attributes. It was crisscrossed by well-used public footpaths and from those public footpaths it is evident that you can see the escarpment of the Cotswolds AONB and that the housing development on the site was going to impose considerable limitations. But the Inspector was entitled to regard that sort of factor as falling below the level required for demonstrable physical attributes in order for countryside to be “valued” but not designated countryside. I have no doubt that in paragraph 18, in his description of demonstrable physical attributes needing to be shown rather than just popularity, he was not remotely persuaded that the points made by Ms Kirby demonstrated that it had attributes that took it out of the ordinary, but did not warrant formal policy designation”*

Valued Landscapes - *CEG Land Promotions v SSCLG [2018] EWHC 1799 (Admin)*



- Ouseley J explained *Stroud DC v SSCLG and Gladman* had been misunderstood:
I was not laying down or purporting to lay down any principle of the sort which Mr Strachan attributed to me. Indeed, although he submitted that had I done so, I would inevitably have been right because the alternative was illogical, I rather disagree. The concept of "demonstrable physical attributes" was simply the phrase adopted by the Inspector in the Stroud case. He examined them in relation to the site. The argument in the case was whether he was right or wrong in law in his conclusions that the site did not possess them. The case was argued in that way, simply adopting his language for the purposes of disputing his conclusions. At [17] of my judgment, I considered an argument about the role of the site in the wider landscape. I rejected it, not because a role in the setting of the AONB was incapable of falling within the concept of the site's "demonstrable physical attributes", as if that should be confined to an examination of the site itself, but because the specific policy dealing with the setting of the AONB did not cover the site. So, the Inspector's conclusion that that was not a "demonstrable physical attribute" of the site was not unlawful.

Valued Landscapes - CEG Land v SSCLG – (2)

Ouseley J:

- (1) A site's role in the wider landscape does not depend on “demonstrable physical attributes” of a particular site – *“It would be bizarre if the way in which the red line was drawn, defining the site on whatever basis was appropriate, and which need have nothing to do with landscape issues, crucially affected landscape evaluation. It would be equally bizarre to adopt a wholly artificial approach to landscape evaluation where, in most cases, a development site is but part of a wider landscape”*.
- (2) Stroud decided that the concept of "valued landscapes" in [109] of the Framework is not confined to landscapes which have a particular designation;
- (3) Cases are almost always decided on the basis of their facts and the arguments presented.

Valued Landscapes - CEG Land v SSCLG – (3)

The judgment is useful for other quotations from the Inspector's report, including:

- (1) *“one first has to consider the extent of the land which makes up the landscape under consideration before examining whether or not there are features which make it valued. Developments and appeal sites vary in size*
- (2) *“a small site sitting within a much larger field/combination of fields which comprise a landscape and which have demonstrable physical characteristics taking that landscape out of the ordinary. The small site itself may not exhibit any of the demonstrable physical features but as long as it forms an integral part of a wider 'valued landscape' it would deserve protection*
- (3) *“To require the small site itself to demonstrate the physical features in order to qualify as a valued landscape [is]... a formulaic, literal approach to the interpretation of the question and an approach which could lead to anomalies. It could lead to individual parcels of land being examined for physical characteristics deterministic of value. Adjoining parcels of land could be categorised as valued landscapes and 'not valued landscapes' on this basis...”*

Valued Landscapes - CEG Land v SSCLG – (3)



Inspector's Report quotations, continued:

(4) *"I find some difficulty in ascribing the term landscape to an appeal site comprising one large agricultural field. To my mind the term 'landscape' denotes an area somewhat wider than the appeal site in this case..."*

(5) *"I note the reference of my colleague ... to the GLVIA definition of landscape as ' an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors '. I endorse the view that ' it is about the relationship between people and place, and perceptions turn land into the concept of landscape' "*

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NPPF 2012

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“Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.”

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