

# COTSWOLDS CONSERVATION BOARD

## POSITION STATEMENT



## LANDSCAPE-LED DEVELOPMENT

### 1.0 CONTEXT

1.1. The Cotswolds National Landscape<sup>1</sup> is a landscape whose distinctive character and natural beauty are so outstanding that it is in the nation's interest to safeguard it.<sup>2</sup> The statutory purpose of its designation is to conserve and enhance the natural beauty of the area.<sup>3</sup>

1.2 The Cotswolds National Landscape is also a living and working landscape in which the social and economic well-being of local communities are important considerations. Maintaining vibrant and thriving local communities is essential to the long-term future of the National Landscape. As such, the National Landscape cannot be considered exempt from the need for new housing and other development. Indeed, the right development in the right place can potentially play a positive role in helping to conserve and enhance the natural beauty of the National Landscape.

1.3 The Cotswolds National Landscape also needs to play a role in addressing the current ecological and climate emergencies, for example, through the implementation of appropriate measures to mitigate and adapt to the impacts of climate change.

1.4 However, achieving these aspirations needs to be delivered in a way that is compatible with – and positively contributes to - the statutory purpose of designation. To not do so would undermine:

- the statutory purpose of designation;
- the principle that safeguarding Areas of Outstanding Natural Beauty (AONBs) is in the national interest;
- the aspirations and goals of the Government's 25 Year Environment Plan;<sup>4</sup>
- the proposals of the Government-commissioned Landscapes Review Final Report;<sup>5</sup>
- the vision, outcomes, ambitions and policies of the Cotswolds AONB Management Plan;<sup>6</sup>
- efforts to restore and enhance the natural beauty of the Cotswolds National Landscape;
- the Government's assertions that: (i) meeting housing need is never a clear reason to cause unacceptable harm to protected landscapes;<sup>7</sup> and (ii) our Areas of Outstanding Natural Beauty (AONBs) will be protected as the places, views and landscapes we cherish most and passed on to the next generation.<sup>8</sup>

1.5 National planning policy and guidance helps to address this issue by making it clear that:

- great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which, together with National Parks and the Broads, have the highest status of protection in relation to these issues;<sup>9</sup>
- the scale and extent of development in AONBs should be limited;<sup>10</sup>
- 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;<sup>11</sup>

- policies for protecting AONBs may mean that it is not possible to meet objectively assessed needs for housing and other development in full;<sup>12</sup>
- AONBs are unlikely to be suitable areas for accommodating unmet needs arising from adjoining, non-designated areas.<sup>13</sup>

## **2.0 PURPOSE OF THE POSITION STATEMENT**

2.1 The primary purpose of the Board’s position statements is to expand on relevant policies in the Cotswolds AONB Management Plan 2018-2023. They provide further context, guidance and recommendations in relation to specific policies and associated issues. They are not intended to create new policies.

2.2 For this position statement, the most relevant Cotswolds AONB Management Plan policies are Policies CC1, CC2 and CE11.<sup>14</sup>

2.3 The Board’s position statements are also intended to help local authorities, developers and other relevant stakeholders:

- to have regard to – and positively contribute to - the purpose of AONB designation;
- to ensure that the purpose of AONB designation is not compromised by development and that the natural beauty of the Cotswolds National Landscape is conserved and enhanced;
- to fulfil the requirements of the National Planning Policy Framework and Planning Practice Guidance (or, where relevant, National Policy Statements) with regards to AONBs and the factors that contribute to their natural beauty;
- to take account of relevant case law;
- to have regard to and be consistent with the AONB Management Plan and guidance published by the Board;
- to emulate best practice in the Cotswolds National Landscape and other protected landscapes;
- to develop a consistent and coordinated approach to relevant issues across the whole of the Cotswolds National Landscape and its setting.<sup>15</sup>

2.4 With regards to best practice, this position statement is particularly inspired by the landscape-led approach of the South Downs Local Plan<sup>16</sup> and the Arnside & Silverdale AONB Development Plan Document.<sup>17</sup> Appendix 1 of this position statement provides case studies of these documents.

## **3.0 THE STATUS OF THE POSITION STATEMENT**

3.1 The Board’s position statements are supplementary – and subsidiary - to the Cotswolds AONB Management Plan. However, it is worth noting that the Cotswolds AONB Management Plan 2018-2023 states that development proposals in the Cotswolds National Landscape and its setting should be compatible with the AONB Management Plan and with guidance produced by the Cotswolds Conservation Board, including the Board’s position statements.<sup>18</sup> As such, for development proposals to be compatible with the AONB Management Plan, they should also be compatible with the relevant position statements.

3.2 The AONB Management Plan may be a material consideration in planning decisions. However, we acknowledge that, in a plan-led planning system, it is the policies of the relevant local authority development plan that have the greatest weight in planning

decisions. As such, within this planning system, the hierarchy of development plans, AONB Management Plan and position statements is as follows:

1. Local authority development plan.
2. AONB Management Plan.
3. Position statements.

3.3 In some instances, some of the guidance and / or recommendations in the Board’s position statements might go further than the policies of current development plans. Hopefully, as new iterations of the local authority development plans are developed, we hope that the guidance and recommendations from the position statements will be incorporated into these new iterations.

## **4.0 ACHIEVING THE RIGHT BALANCE**

4.1 The Cotswolds Conservation Board recognises that there are a range of other considerations that must be weighted in the planning balance, including the climate and ecological emergencies (see below) and meeting housing needs and economic growth.

4.2 However, ideally, there should not have to be a binary choice between conserving and enhancing the natural beauty of the Cotswolds National Landscape and planning for and permitting new development. As outlined above, the aspiration should be to deliver new development in a way that is compatible with – and positively contributes to – the purpose of AONB designation.

4.3 It should be noted that, for major development (in the context of paragraph 172 of the NPPF), it is not simply a case of weighing all material considerations in a balance - planning permission should be refused unless it can be demonstrated that: (i) there are exceptional circumstances, and (ii) despite giving great weight to conserving the landscape and scenic beauty in the AONB, the development is in the public interest.<sup>19</sup>

4.4 We hope that this position statement will help to ensure that the right balance is achieved across the whole of the Cotswolds National Landscape.

## **5.0 CLIMATE AND ECOLOGICAL EMERGENCIES**

5.1 Since the Cotswolds AONB Management Plan 2018-2023 was adopted by the Board in December 2018, many of the local authorities that overlap with the Cotswolds National Landscape area have declared climate and / or ecological emergencies.

5.2 In principle, the Board supports measures to mitigate and adapt to climate change and to halt and reverse declines in biodiversity.<sup>20</sup> These aspirations are reflected in the Cotswolds AONB Management Plan 2018-2023.<sup>21</sup>

5.3 It should be possible to deliver many of these measures in a way that is compatible with the purpose of AONB designation. However, where relevant development proposals or allocations come forward that have the potential to have a significant adverse impact on the purpose of AONB designation, they should be deemed to be major development, in the context of paragraph 172 of the NPPF (see ‘Major Development’, below).

5.4 The priority given to these issues, through the declaration of the climate and ecological emergencies, would potentially make it easier to demonstrate ‘exceptional need’. However, as outlined below, exceptional need does not necessarily equate to exceptional circumstances. For example, there may be other, more suitable ways of mitigating the impacts of climate change or less harmful locations for the proposed development.

5.5 The Board is currently reviewing its Climate Change Strategy<sup>22</sup>, with the intention of adopting an updated strategy in June 2021. We will then review and update related guidance, such as Board’s Renewable Energy Position Statement<sup>23</sup> and Energy Guide<sup>24</sup>.

## 6.0 LANDSCAPE–LED APPROACH - CONTEXT

6.1 At its most basic level, a landscape-led approach to development is one in which development within the Cotswolds National Landscape and its setting<sup>25</sup> is compatible with and, ideally, makes a positive contribution to the statutory purpose of AONB designation, which is to conserve and enhance the natural beauty of the area. A landscape-led approach, at this level, is promoted in Policy CC1 of the Cotswolds AONB Management Plan 2018-2023.<sup>26</sup>

6.2 The first step in this process is to have regard to the purpose of AONB designation. ‘Relevant authorities’, including local authorities, have a statutory duty to have regard to the purpose of AONB designation in relation to any decisions or activities that may impact on an AONB.<sup>27</sup> Given that relevant authorities must have regard to the purpose of AONB designation in their decision-making, it would make sense for stakeholders who are putting forward development proposals to also have regard to this statutory purpose.

6.3 This ‘duty of regard’ applies from initial thinking through to more detailed planning and implementation, with the expectation that adverse impacts will be (i) avoided and (ii) mitigated where possible.<sup>28</sup> The duty of regard is addressed in Policy CC2 and Appendix 4 of the Cotswolds AONB Management Plan 2018-2023.<sup>29</sup>

6.4 The guidance and recommendations in this position statement are intended to help relevant authorities demonstrate this duty of regard. However, even if relevant authorities fulfil the duty of regard, there is still a risk that the resulting decisions and actions will not be compatible with the purpose of AONB designation. Therefore, the guidance and recommendations are also intended to help stakeholders progress from this ‘landscape-considered’ approach to a ‘landscape-led approach’, in which development is designed, located and implemented in a way that positively contributes to the purpose of AONB designation.

6.5 Taking a landscape-led approach is particularly important for major development<sup>30</sup>, as this scale of development has the greatest potential to adversely affect the purpose of AONB designation. The landscape-led approach, in this context, is addressed in Policy CE11 of the Cotswolds AONB Management Plan 2018-2023.<sup>31</sup>

6.6 Policy CE11 specifies that:

- *Any major development proposed in the Cotswolds AONB, including major infrastructure projects, should be ‘landscape-led’, whereby it demonstrably contributes to conserving and enhancing the natural beauty of the Cotswolds AONB and, where appropriate, to the understanding and enjoyment of its special qualities. This should include fully respecting and integrating the special qualities of the AONB into the*

*planning, design, implementation and management of the development, from the very beginning of the development's inception.*

- 6.7 Appendix 3 sets out ten steps for achieving a landscape-led approach for major development in the Cotswolds National Landscape.
- 6.8 Consideration of landscape and visual impacts is obviously a key consideration when taking a landscape-led approach. However, as outlined below, a landscape-led approach should also consider all of the factors that contribute to the natural beauty of the Cotswolds National Landscape.
- 6.9 In principle, the landscape-led approach is applicable to all development in the Cotswolds National Landscape and its setting, albeit to a degree that is proportionate to the nature, scale, setting and potential impact of the proposed development.

## **7.0 RECOMMENDATIONS - LANDSCAPE-LED APPROACH**

### **7.1 LANDSCAPE AND VISUAL SENSITIVITY AND CAPACITY:**

#### **7.1.1 At the planning policy stage (Local Plans and Neighbourhood Development Plans<sup>32</sup>):**

- A landscape and visual sensitivity and capacity study (LVSCS)<sup>33</sup> should be undertaken for all relevant sites (or land cover parcels) in the Cotswolds National Landscape and its setting where the potential for development is being assessed as part of the development plan process.<sup>34</sup>
- This study should assess the sensitivity of these sites to types and scales of development being considered.
- Where such studies identify that the sensitivity of the landscape to specific types and scales of development is high, or medium-high (and where any development impacts could not be fully mitigated), the development should be deemed to exceed the capacity of the landscape to accommodate that development.<sup>35</sup> Within the Cotswolds National Landscape, such sites should be deemed to be major development (see 'Major Development' below) and should not be allocated, except in exceptional circumstances.
- Where the identified landscape sensitivity is below these thresholds, assessments should be made of the specific quantum of development that could theoretically be accommodated on these sites, based on appropriate assumptions (for example, assumptions relating to design, density, layout, etc.).
- Where the 'land cover parcels' that are used in the assessment are refined to smaller scale potential allocation sites, a further, site specific iteration of the LVSCS should be undertaken.
- In order to maintain some landscape capacity for future development, not all of the sites that are considered to have landscape capacity for development should be allocated in one iteration of the development plan.

#### **7.1.2 At the development management stage:**

- Landscape and Visual Impact Assessments (LVIAs) should be undertaken for all development that requires an Environmental Impact Assessment (EIA).<sup>36</sup>
- Landscape and Visual Appraisals (LVAs) should be undertaken for other development in the Cotswolds National Landscape and its setting that have the potential to cause adverse landscape and visual impacts.<sup>37</sup>

- All LVIA and LVAs should be consistent with the guidance published by the Landscape Institute and the Institute of Environmental Assessment.<sup>38</sup>
- Where a LVIA or LVA identifies that a development in the Cotswolds National Landscape would have ‘significant’ or ‘moderate-significant’ effects, such development should be deemed to constitute ‘major development’ (see ‘Major Development’ below).
- LVIAs and LVAs should not compare the scale of the proposed development with the scale of the Cotswolds National Landscape as a whole or with the scale of its component landscape character types.<sup>39</sup>

#### 7.1.3 At both stages:

- The Cotswolds National Landscape should be accorded the highest ‘value’ in the LVSCS and LVIA / LVA assessments, albeit with some consideration being given to the degree to which the criteria and factors used to support the case for AONB designation are represented in the specific study area.<sup>40</sup>
- The area of landscape that needs to be covered in assessing landscape effects should include the site itself and the full extent of the wider landscape around it which the proposed development may influence in a significant manner.<sup>41</sup>
- Great weight should be given to landscape and scenic beauty, in line with paragraph 172 of the NPPF.<sup>42</sup>

## 7.2 FACTORS THAT CONTRIBUTE TO NATURAL BEAUTY:<sup>43</sup>

- All of the factors that contribute to the natural beauty of the Cotswolds National Landscape should be fully considered and assessed at all stages of the development process, including planning policy and development management. These factors are:
  - landscape quality / beauty;<sup>44</sup>
  - scenic quality / beauty;<sup>45</sup>
  - relative tranquillity<sup>46</sup> (including ‘dark skies’<sup>47</sup>);
  - relative wildness;
  - natural heritage (including ‘biodiversity’);<sup>48</sup>
  - cultural heritage (including ‘historic environment’);<sup>49</sup>
  - the special qualities of the Cotswolds National Landscape.<sup>50</sup>
- These factors should be assessed:
  - individually (i.e. in their own right, in the context of national planning policy and relevant best practice guidance);
  - collectively (i.e. in terms of their contribution to the AONB designation); and
  - cumulatively (i.e. in terms of the increasing level of significance associated with the presence of – or potential impacts on - multiple factors).

## 7.3 MAJOR DEVELOPMENT.<sup>51</sup>

- Potential allocations<sup>52</sup> and development proposals in the Cotswolds National Landscape should be fully assessed to see if they constitute major development in the context of paragraph 172 and footnote 55 of the NPPF.<sup>53</sup> The checklists provided in Appendix 5 of this position statement may be useful in this regard.
- The local planning authority should explicitly state whether they consider such allocations / proposals to constitute major development.

- The process for screening major development should be closely aligned to the Environmental Impact Assessment (EIA) screening process.
- There should be a presumption against granting planning permission for major development. In other words, the local planning authority should not simply weigh all material considerations in a balance, but should refuse an application unless they are satisfied that (i) there are exceptional circumstances, and (ii) it is demonstrated that, despite giving great weight to conserving the landscape and scenic beauty in the AONB, the development is in the public interest.<sup>54</sup>
- The mandatory major development ‘tests’ specified in paragraph 172 of the NPPF should be rigorously applied for all allocations / development proposals that are deemed to be major development.
- It should be recognised that ‘exceptional need’ does not necessarily equate to ‘exceptional circumstances’.<sup>55</sup>
- No permission should be given for major development save to the extent the development was needed in the public interest, met a need that could not be addressed elsewhere or in some other way and met that need in a way that to the extent possible, moderated detrimental effect on the environment, landscape and recreational opportunities.<sup>56</sup>
- A landscape-led vision, overarching design principles, scheme objectives and sub-objectives should be developed and agreed for major development proposals at an early stage in the process and applied in the design, budgeting, assessment and implementation of the scheme.<sup>57</sup>
- Major development proposals should implement the comprehensive landscape-led principles outlined in Appendix 3 of the supporting guidance.

#### 7.4 ENVIRONMENTAL IMPACT ASSESSMENT (EIA):<sup>58</sup>

- Development in the Cotswolds National Landscape that is listed in Schedule 1<sup>59</sup> of the EIA regulations should be classed as major development (see ‘Major Development’ above), as should Schedule 2<sup>60</sup> development that is deemed to require an EIA.
- Screening for development listed in Schedule 2 of the EIA regulations should be rigorously applied. Within the ‘sensitive area’ of the Cotswolds National Landscape, this should apply even for Schedule 2 development that is below the ‘applicable thresholds and criteria’.
- The process for screening of Schedule 2 development should be closely aligned with the process for screening major development.
- Schedule 2 developments that are deemed to constitute major development, in the context of paragraph 172 of the NPPF, are likely to merit an EIA.

#### 7.5 CONSERVING AND ENHANCING NATURAL BEAUTY:

- Development proposals should (be required to) make a positive contribution to conserving and *enhancing* the natural beauty of the Cotswolds National Landscape, over and above the baseline condition (i.e. delivering a net-benefit for natural beauty).<sup>61</sup>
- Measures to conserve and enhance the natural beauty of the Cotswolds National Landscape (to deliver a net-benefit for natural beauty) should be integrated into the planning, design, implementation and management of a proposed development from the development’s inception, particularly for major development.

- Where a net-benefit for natural beauty cannot be achieved on-site, consideration should be given to measures to enhance the natural beauty of the Cotswolds National Landscape off-site.<sup>62</sup>

## **7.6 COTSWOLDS AONB MANAGEMENT PLAN AND OTHER CONSERVATION BOARD GUIDANCE:**

- Development in the Cotswolds National Landscape and its setting should have regard to, be consistent with and help to deliver the Cotswolds AONB Management Plan and other guidance published by the Cotswolds Conservation Board,<sup>63</sup> including:
  - Cotswolds AONB Landscape Character Assessment;<sup>64</sup>
  - Cotswolds AONB Landscape Strategy & Guidelines;<sup>65</sup>
  - Cotswolds AONB Local Distinctiveness and Landscape Change;<sup>66</sup>
  - Cotswolds Conservation Board Position Statements.<sup>67</sup>

## **8.0 SUPPORTING INFORMATION**

8.1 In addition to the 'end notes' provided below, this Position Statement is supported by a number of appendices (as a separate document), which provide:

- Case studies of best-practice with regards taking a landscape-led approach (Appendix 1).
- A commentary explaining why it is not appropriate to compare the size of a proposed development with the size of the Cotswolds National Landscape (and its component landscape character types) as a whole (Appendix 2).
- 10 landscape-led principles for major development (Appendix 3).
- A flowchart of how natural beauty, major development, EIA, national planning policy, the Cotswolds AONB Management Plan and Conservation Board guidance should be addressed in development proposals and decision making (Appendix 4).
- A checklist to help identify: (i) relevant issues relating to potential impacts on the purpose of designation and the nature, scale and setting of the proposed development; and (ii) whether a proposed development constitutes major development in the context of paragraph 172 and footnote 55 of the NPPF (Appendix 5).



## END NOTES:

N.B. These end notes can be accessed directly from the main body of the text by double-clicking on the end note number in the main text (or they can be viewed by hovering the cursor over the end note number in the main text). The reader can return to the main body of the text by double-clicking on the end note number in the end notes.

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<sup>1</sup> Cotswolds National Landscape is the new name for the Cotswolds Area of Outstanding Natural Beauty (AONB). The new name takes forward one of the proposals of the Government-commissioned 'Landscapes Review' to rename AONBs as 'National Landscapes'. This change reflects the national importance of AONBs and the fact that they are safeguarded, in the national interest, for nature, people, business and culture.

<sup>2</sup> Section 82 of the Countryside and Rights of Way Act 2000 ([link](#)). See also Appendix 1 of the Cotswolds AONB Management Plan 2018-2023 for further information ([link](#)).

<sup>3</sup> Defra (2019) *Areas of Outstanding Natural Beauty: technical support scheme (England) 2019 to 2020* ([link](#)).

<sup>4</sup> The Government's 25 Year Environment Plan ([link](#)) aspires for us to be the first generation to leave the environment in a better state than we found it. As part of this aspiration, it proposes to embed an 'environmental net gain' principle for development. In addition, it sets a goal that '*we will conserve and enhance the beauty of our natural environment ... by ... safeguarding and enhancing the beauty of our natural scenery and improving its environmental value while being sensitive to considerations of its heritage*'.

<sup>5</sup> The 'Landscapes Review Final Report' ([link](#)) sets out 27 proposals relating to our protected landscapes, including stronger purposes in law for our 'national landscapes' (proposal 23) and for AONBs to be strengthened with new purposes, powers and resources (proposal 24).

<sup>6</sup> Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)).

<sup>7</sup> Government response to the local housing need proposals in 'Changes to the current planning system' – updated 16 December 2020 ([link](#)).

<sup>8</sup> Statement by the Secretary of State for Housing, Communities and Local Government, when launching the consultation on the Planning White Paper in August 2020 ([link](#)).

<sup>9</sup> National Planning Policy Framework (NPPF) ([link](#)): paragraph 172.

<sup>10</sup> NPPF ([link](#)): paragraph 172. See also Appendix 9 of the Cotswolds AONB Management Plan 2018-2023.

<sup>11</sup> NPPF: paragraph 172 ([link](#)).

<sup>12</sup> Planning Practice Guidance – Natural Environment: paragraph 41 ([link](#)).

<sup>13</sup> Planning Practice Guidance – Natural Environment: paragraph 41 ([link](#)).

<sup>14</sup> Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)).

<sup>15</sup> Fifteen local authority areas overlap with the Cotswolds National Landscape<sup>15</sup>, with each with local authority having its own development plan. Four of these local authorities are County Councils, whose development plans primarily deal with minerals and waste issues. Eight of the local authorities are district or borough councils whose development plans deal with issues other than minerals and waste, with housing provision being a key priority. Three of the local authorities are unitary authorities whose development plans deal with all of the above issues.

<sup>16</sup> South Downs National Park Authority (2019) *South Downs Local Plan*. Adopted 2 July 2019 (2014-33) ([link](#)). Please refer to the 'Landscape-Led Case Studies' in Appendix 1 for further information.

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<sup>17</sup> Lancaster City Council & South Lakeland District Council (2019) *Arnsdale & Silverdale Area of Outstanding Natural Beauty (AONB) Development Plan Document (DPD)*. Adopted Version 28 March 2019 ([link](#)). Please refer to the ‘Landscape-Led Case Studies’ in Appendix 1 for further information.

<sup>18</sup> Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Policy CE10 (Development and Transport).

<sup>19</sup> R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin) ([link](#)), paragraph 51: ‘*The planning committee are required, not simply to weigh all material considerations in a balance, but to refuse an application unless they are satisfied that...*’

<sup>20</sup> The Board’s support for such measures is reflected in Policies CC7 (Climate Change – Mitigation), CC8 (Climate Change – Adaptation) and CE7 (Biodiversity).

<sup>21</sup> Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). For example, Policies CC7 (Climate Change – Mitigation), CC8 (Climate Change – Adaptation) and CE7 (Biodiversity).

<sup>22</sup> Cotswolds Conservation Board (2012) *Climate Change Strategy for the Cotswolds Area of Outstanding Natural Beauty* ([link](#)).

<sup>23</sup> Cotswolds Conservation Board (2014) *Renewable Energy Position Statement* ([link](#)).

<sup>24</sup> Cotswolds Conservation Board (2014) *Traditional Cotswold Buildings – Saving Energy: Guidance for households on energy efficiency and generation measures suitable for traditionally constructed buildings in the Cotswolds* ([link](#)).

<sup>25</sup> The Board’s ‘Development in the Setting of the Cotswolds AONB’ Position Statement ([link](#)) defines the setting of the AONB as ‘*the area within which development and land management proposals, by virtue of their nature, size, scale, siting materials or design can be considered to have an impact, positive or negative, on the landscape, scenic beauty and special qualities of the Cotswolds AONB*’. Relevant considerations include potential impacts of development outside the AONB on: views from and to the AONB; the dark skies of the AONB (e.g. light pollution); and the tranquillity of the AONB (e.g. noise and traffic levels).

<sup>26</sup> Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Policy CC1 (Developing a Consistent, Coordinated and Landscape-led Approach across the Cotswolds).

<sup>27</sup> Section 85 of the Countryside and Rights of Way Act 2000 ([link](#)).

<sup>28</sup> Natural England (2010) *England’s statutory designated landscapes: a practical guide to your duty of regard* ([link](#)). See also Appendix 4 of the Cotswolds AONB Management Plan 2018-2023 ([link](#)) for further information. It is worth noting that fulfilling the duty of regard does not necessarily mean that decisions or activities will be compatible with the purpose of AONB designation.

<sup>29</sup> Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Policy CC2 (Compliance with Section 85 of the Countryside and Rights of Way Act (the ‘Duty of Regard’)).

<sup>30</sup> Major development, in this context, primarily relates to the definition of major development in footnote 55 of the NPPF (i.e. ‘*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*’). However, that status is only clarified once a planning application has been submitted and the case officer has assessed the application. That is too late a point in the process to apply the landscape-led approach for major development outlined in this position statement and in Policy CE11 of the Cotswolds AONB Management Plan 2018-2023. Therefore, we recommend that the landscape-led approach for major development should be applied to major development as defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 ([link](#)).

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<sup>31</sup> Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Policy CE11 (Major Development)).

<sup>32</sup> For Neighbourhood Development Plans, it may be possible to utilise relevant information from landscape and visual sensitivity and capacity assessments that have been undertaken as part of the Local Plan evidence base.

<sup>33</sup> Relevant guidance is provided in Natural England's '*An approach to landscape sensitivity assessment – to inform spatial planning and land management*' ([link](#)).

<sup>34</sup> For example, Landscape and Visual Sensitivity and Capacity Studies should be undertaken as part of the Strategic Housing and Employment Land Availability Process and when identifying suitable areas for renewable energy. Such studies would then form part of the development plan evidence base, available on the relevant local authority website.

<sup>35</sup> This approach is applied in the South Downs National Park, as outlined in paragraph 4.19 of the Landscape Background Paper ([link](#)) for the South Downs Local Plan: '*A site assessed as having high landscape sensitivity, or medium-high landscape sensitivity where any development impact could not be fully mitigated, were generally found unsuitable for housing development*'. A relevant example for the Cotswolds National Landscape would be the '*Cotswolds (Wychavon) AONB and Environs – Landscape and visual sensitivity study*' ([link](#)), which forms part of the evidence base for the South Worcestershire Development Plan.

<sup>36</sup> These LVIA's should comply with the requirements of the Environmental Impact Assessment (EIA) Regulations and with the Landscape Institute's '*Guidelines for Landscape and Visual Impact Assessment*' (GLVIA).

<sup>37</sup> When undertaking such an appraisal, practitioners typically follow the Landscape Institute's GLVIA guidance in order to follow a logical process. The format of such an appraisal may not need to satisfy the formal requirements of an EIA. However, it should, as a minimum set out any effects on the landscape and views, and proposed mitigation, in a rational way so that it can be fully considered through the planning process. ([Link](#)).

<sup>38</sup> The Landscape Institute and the Institute of Environmental Management (2013) *Guidelines for Landscape and Visual Impact Assessment*. Third edition.

<sup>39</sup> Further guidance on this issue is provided in Appendix 2 of this position statement.

<sup>40</sup> The Landscape Institute's '*Guidelines for Landscape and Visual Impact Assessment*' identify that '*landscapes that are nationally designated [including AONBs] will be accorded the highest value in the assessment*' (paragraph 5.47), albeit that some consideration should be given to the '*degree the criteria and factors used to support the case for designation are represented in the specific study area*' (paragraph 5.23). So, for example, if the value of the landscape receptor is classed as 'very high' (because of the AONB designation) and the susceptibility to the proposed change is classed as 'medium', then the overall sensitivity of the landscape receptor would be 'high'. The (very) high 'value' of the AONB designation means that the adverse effects of a development proposal within an AONB are likely to be more significant than an equivalent development proposal, in an equivalent landscape character area, outside the AONB.

<sup>41</sup> This definition is provided in paragraph 20 of Appeal Decision APP/R3650/W/16/3165974 ([link](#)) and reiterated in paragraph 21 of the High Court decision for *Monkhill Ltd v Secretary of State for Housing, Communities And Local Government* [2019] EWHC 1993 (Admin) ([link](#)). Further comments on this principle and how it relates to the size of the Cotswolds National Landscape (and individual landscape character types) as a whole are provided in Appendix 2.

<sup>42</sup> This applies to development within the Cotswolds National Landscape and to development outside the National Landscape that has the potential to adversely affect views from the National Landscape.

<sup>43</sup> An explanation of 'natural beauty', the factors that contribute to it and its relationship with 'landscape' is provided in the Natural England publication '*Guidance for assessing landscapes for designations as National Park or Area of Outstanding Natural Beauty in England*' ([link](#)). A summary of this information is also provided in Appendix 2 of the Cotswolds AONB Management Plan 2018-2023. Appendix 5 of this position statement

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provides additional, relevant information. When consideration is given to the Cotswolds National Landscape in planning applications and planning decisions, this consideration tends to focus almost exclusively on landscape and visual impacts. However, the statutory duty to have regard to the purpose of AONB designation relates to *all* of the factors that contribute to the area’s natural beauty, including cultural heritage and natural heritage. As such, these issues should be addressed in the context of their contribution to the natural beauty of the Cotswolds National Landscape as well as in their own right, both individually and cumulatively.

<sup>44</sup> See also Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Policy CE1 (Landscape).

<sup>45</sup> See also Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Policy CE1 (Landscape).

<sup>46</sup> See also Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)), Policy CE4 (Tranquillity), and the Board’s Tranquillity Position Statement ([link](#)). Relevant assessments would include noise assessments and traffic assessments.

<sup>47</sup> See also Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)), Policy CE5 (Dark Skies), and the Board’s Dark Skies & Artificial Light Position Statement ([link](#)) and its appendices A ([link](#)), B ([link](#)) and C ([link](#)). Relevant assessments would include light pollution assessments.

<sup>48</sup> See also Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)). Policy CE7 (Biodiversity). Relevant assessments would include Habitats Regulations Assessments (where relevant) and Ecological Impact Assessments. Key considerations will include the extent to which development proposals deliver net-gains in biodiversity and contribute to the objectives of Nature Recovery Strategies and Nature Recovery Plans. It is likely that the Board will develop a new ‘Planning & Biodiversity’ Position Statement once the new requirements of the Environment Act have been implemented.

<sup>49</sup> See also Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)), Policies CE6 (Historic Environment and Cultural Heritage) and CC4 (Natural and Cultural Capital and Ecosystem Services), and the Board’s ‘Conserving and Celebrating Cultural Capital in the Cotswolds AONB’ Position Statement ([link](#)).

<sup>50</sup> The ‘special qualities’ of the Cotswolds National Landscape are listed in Chapter 2 of the Cotswolds AONB Management Plan 2018-2023. These special qualities are the aspects of the area’s natural beauty that make the area distinctive and which are particularly valuable, including at a national scale. They are also the key attributes on which the priorities for the area’s conservation, enhancement and management should be based.

<sup>51</sup> Further information on major development is provided in Appendix 9 of the Cotswolds AONB Management Plan 2018-2023 ([link](#)). See also endnote 30 of this position statement.

<sup>52</sup> Paragraph 172 of the NPPF specifically addresses the issue of major development in the context of planning permissions (i.e. as part of the development management process). However, legal opinion has stated that ‘*it would arguably amount to an error of law to fail to consider [paragraph 172] at the site allocations stage of plan making for the National Park. The consequence of doing so would be to risk allocating land for major development that was undeliverable because it was incapable of meeting the major development test in the NPPF*’ ([link](#)). The ‘Assessment of Site Allocations Against Major Development Considerations’ undertaken by the South Downs National Park Authority in 2015 and 2017 as part of their Local Plan process is an excellent case study in this regard ([link 1](#) and [link 2](#)).

<sup>53</sup> Appendix 7 provides a checklist of relevant considerations.

<sup>54</sup> R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin) ([link](#)), paragraph 51: ‘*The planning committee are required, not simply to weigh all material considerations in a balance, but to refuse an application unless they are satisfied that...*’

<sup>55</sup> This principle is recognised in relevant case law (R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin) ([link](#)), paragraph 52): ‘*Even if there were an exceptional need ... that would not necessarily*

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*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’.*

<sup>56</sup> R (Advearse) v Dorset Council v Hallam Land Management Ltd [2020] EWHC 807 ([link](#)). Direct quote from paragraph 35.

<sup>57</sup> The A417 Missing Link Case Study in Appendix 1 provides an example of this approach being applied in the Cotswolds National Landscape.

<sup>58</sup> Appendix 4 provides a flowchart of how natural beauty, major development, EIA regulations, national planning policy and the Cotswolds AONB Management Plan and associated guidance should be addressed in relation to development proposals in the Cotswolds National Landscape and its setting.

<sup>59</sup> <https://www.legislation.gov.uk/ukxi/2017/571/schedule/1/made>

<sup>60</sup> <https://www.legislation.gov.uk/ukxi/2017/571/schedule/2/made>

<sup>61</sup> The Landscape Institute’s ‘Guidelines for Landscape and Visual Impact Assessment’ (paragraph 4.35) explains that ‘enhancement’, in the context of individual development proposals, means improving ‘*the [natural beauty] of the proposed development site and its wider setting, over and above its baseline condition*’ (N.B. Underlining added for emphasis).

<sup>62</sup> For example, consideration could be given to restoring dry stone walls and other locally distinctive features in the local vicinity.

<sup>63</sup> This recommendation reflects the requirements of Policies CC1, CE1 and CE10 of the Cotswolds AONB Management Plan 2018-2023.

<sup>64</sup> Cotswolds Conservation Board (2004) *Cotswolds AONB Landscape Character Assessment* ([link](#)).

<sup>65</sup> Cotswolds Conservation Board (2016) *Cotswolds AONB Landscape Strategy & Guidelines* ([link](#)).

<sup>66</sup> Cotswolds Conservation Board (2003) *Local Distinctiveness and Landscape Change* ([link](#)).

<sup>67</sup> <https://www.cotswoldsaonb.org.uk/our-landscape/position-statements-2/>