

Proposed Submission Site Allocations Plan Representation Form



**Deadline for submitting representations:
5.00pm on Friday 20 September 2019**

You should use this form for submitting representations as this will assist all parties involved in the Examination process, in particular the Inspector, to understand what case you are making and, where applicable, how you wish the Plan to be modified.

Please submit your representation(s) in **ONE** of the following ways:

Do it online - use our INTERACTIVE DOCUMENT which allows you to click on specific sections and comment online or use the online Representation Form at www.stratford.gov.uk/siteallocations

Do it by email - download and fill in a Representation Form and email it to policy.consultation@stratford-dc.gov.uk

- Representation Form - pdf to download
- Representation Form - Word version (Save this RTF document as Word.doc to reduce memory size)

Do it by post – send your completed Representation Form to: Planning Policy, Stratford-on-Avon District Council, Elizabeth House, Church Street, Stratford-upon-Avon, CV37 6HX or print off and complete a Representation Form and hand it in at the District Council offices at Elizabeth House, Church Street, Stratford-upon-Avon, CV37 6HX

Guidance on completing this Form is available at: www.stratford.gov.uk/siteallocations

The Representation Form has two parts:

Part A: Contact Information

- You must provide a contact name and address.
- You do not need to complete Part A more than once but please ensure you state your name and organisation as applicable at the top of each Part B form you submit.
- Please tick whether you wish to be notified of subsequent stages of the Site Allocations Plan.

Part B: Your Representation

- Complete a separate Part B of the Representation Form for each representation you wish to make.
- Please include your name and organisation and the relevant question number on any additional sheets you submit.
- Please refer to the guidance notes on making representations so that they address issues of legal compliance and/or soundness.
- You should cover succinctly all the information, evidence and supporting information necessary to justify your representation and the suggested modifications, as there will not normally be a subsequent opportunity to submit additional material. Further submissions will only be accepted at the request of the Inspector, based on the matters and issues he/she identifies for examination.
- You must sign the declaration at the end of each Part B form you submit.

Please note that when representations are submitted to the Secretary of State with the Site Allocations Plan only Part B of the form will be published.

PART A: Contact Information

For official use only

Ref: /

You must provide a contact name and address.
Please complete Part A in BLOCK CAPITALS as appropriate.

Please use black font or pen throughout

	Person/Organisation	Agent (if applicable)
Title	MR	
First Name	JOHN	
Last Name	MILLS	
Job Title	PLANNING AND LANDSCAPE OFFICER	
Organisation	COTSWOLDS CONSERVATION BOARD	
Address	THE OLD PRISON	
	FOSSE WAY	
	NORTHLEACH	
	GLOUCESTERSHIRE	
Postcode	WR12 7PW	
Telephone	01451 862004	
Email	john.mills@cotswoldsaonb.org.uk	

Notification of subsequent stages of the Site Allocations Plan

Please specify if you wish to be notified of any of the following:

- | | | |
|---|---|-----------------------------|
| Submission of the Site Allocations Plan for independent examination | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| Publication of the recommendations of the person appointed to carry out an independent examination of the Site Allocations Plan | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| Adoption of the Site Allocations Plan | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

How we will use your details

Please note that your response will be published on the District Council's website. However, this will exclude the postal address, telephone number and email address of individual respondents. The details of respondents will only be retained by the District Council for the purposes of consulting on Development Plan and supplementary documents and will not be used for any other purpose.

PART B: Your Representation

Please use a separate form for each representation

Please use black font or pen throughout

For official use only

Ref: /

Duly Made: Yes
No

Name of Person / Organisation (if appropriate) making representation:

Name:	JOHN MILLS
Organisation	COTSWOLDS CONSERVATION BOARD

1. To which part of the Proposed Submission Site Allocations Plan does this representation relate?

Policy/Proposal Reference	Policy SAP.1 (Identifying Reserve Housing Sites)
Section/Paragraph Number	
Map Reference	
Annex / Appendix Number	

2. In respect of this part of the Plan, do you consider the Proposed Submission Site Allocations Plan is:

(a) Legally compliant?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
(b) Compliant with the Duty to Co-operate?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
(c) Sound?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

The considerations in relation to the Site Allocations Plan being compliant or sound are explained in the Guidance Note available at www.stratford.gov.uk/siteallocations.

If you have answered **No** to Question 2(a), please go to Questions 3 and 4.

If you have answered **No** to Question 2(b), please go to Question 5.

If you have answered **No** to Question 2(c), please go to Questions 6, 7 and 8.

Otherwise, please go to Questions 9, 10 and 11.

3. In what way do you consider this part of the Site Allocations Plan is not legally compliant? Please be as precise as possible.

N/A

Continue on a separate sheet/expand box if necessary

4. What modification do you consider is necessary to make the Site Allocations Plan legally compliant? You should explain why this modification would make the Plan legally compliant.

It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

N/A

Continue on a separate sheet/expand box if necessary

Please ensure you sign the declaration at the end of the Form

5. In what way do you consider this part of the Site Allocations Plan is not compliant with the Duty to Co-operate? Please be as precise as possible.

It should be noted that any non-compliance with the Duty to Co-operate is incapable of being resolved through modification at the Examination.

N/A

Continue on a separate sheet/expand box if necessary

Please ensure you sign the declaration at the end of the Form

6. In what respect do you consider this part of the Site Allocations Plan is unsound?

- | | | |
|-------|-------------------------------------|--------------------------|
| (i) | Not positively prepared | <input type="checkbox"/> |
| (ii) | Not justified | √ |
| (iii) | Not effective | √ |
| (iv) | Not consistent with national policy | √ |

1. In what way do you consider this part of the Site Allocations Plan is unsound? Please be as precise as possible.

If you wish to comment on more than one of the four matters of soundness in relation to a specific aspect of the Plan, please complete a separate Part B sheet for each one.

THE COTSWOLDS CONSERVATION BOARD'S POSITION

Policy SAP.1 (Identifying Reserve Housing Sites) identifies four purposes for identifying reserve housing sites. The Cotswolds Conservation Board is of the opinion that:

- three of these purposes (i.e. purposes (b)–(d)) are not applicable or appropriate in the Cotswolds AONB;
- purpose (a) (relating to identified shortfalls in housing delivery in Stratford-on-Avon District) is only partially applicable in the Cotswolds AONB.

In addition, the Board is of the opinion that Policy SAP.1 (and the SAP as a whole) fails to meet the requirements of the statutory 'duty of regard', the National Planning Policy Framework (NPPF), the Government's Planning Practice Guidance (PPG) and the District's Core Strategy (including Policy CS.11 of the Core Strategy, which requires development proposals to be consistent with the objectives / policies of the Cotswolds AONB Management Plan), as outlined below.

Given the points outlined above (and explained in more detail below), the Board is of the opinion that this part of the SAP is:

- not justified, because it is not the most effective strategy;
- not effective, because there are regulatory and national planning barriers to delivery (e.g. the District Council would not be fulfilling its statutory 'duty of regard' under Section 85 of the Countryside and Rights of Way Act 2000);
- not consistent with national policy.

JUSTIFICATION / EVIDENCE BASE FOR THE BOARD'S POSITION

The Board's justification / evidence base is grouped under four headings:

1. The reasons why Reserve Housing purposes (b)-(d) do not apply in the Cotswolds AONB (and in settlements that overlap with – but extend beyond – the AONB boundary).
2. The reasons why Reserve Housing purpose (a) is only partly applicable in the Cotswolds AONB.
3. The reasons why Policy SAP.1 fails to meet the requirements of the 'duty of regard', the NPPF, PPG and the District's Core Strategy focussing on:
 - (i) Housing provision in the Cotswolds AONB
 - (ii) Major development
 - (iii) Great weight being given to conserving and enhancing landscape and scenic beauty in the AONB
 - (iv) The scale of development that is appropriate in the Cotswolds AONB

1. The reasons by Reserve Housing purposes (b)-(d) do not apply in the Cotswolds AONB (and in settlements that overlap with – but extend beyond – the AONB boundary

Purposes (b)-(d) relate to meeting needs arising outside of Stratford-on-Avon District (and, therefore, also outside of the Cotswolds AONB). However, the Board is concerned that Section 1.3 makes no reference to the principle (outlined in the Government's PPG) that it is not appropriate for the Cotswolds Area of Outstanding Natural Beauty (AONB) to accommodate unmet needs from areas outside the AONB.

Paragraph 172 of the National Planning Policy Framework (NPPF) specifies that the scale and extent of development in AONBs should be limited. Paragraph 172 The Government's Planning Practice Guidance (PPG) on landscape issues, as updated in July 2019, expands on this policy by making the following statement:

- *The National Planning Policy Framework makes clear that the scale and extent of development in these areas should be limited, in view of the importance of conserving and enhancing their landscapes and scenic beauty. Its policies for protecting these areas may mean that it is not possible to meet objectively assessed needs for development in full through the plan-making process, and they are unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas. Effective joint working between planning authorities covering designated and adjoining areas, through the preparation and maintenance of statements of common ground, is particularly important in helping to identify how housing and other needs can best be accommodated.*¹ (N.B. Underlining added for emphasis).

AONBs are designated as such because their distinctive character and natural beauty are considered to be so outstanding that it is in the nation's interest to safeguard them. As such, it would be highly inappropriate to accommodate the unmet housing needs of nearby cities, strategic employment sites and the wider Warwickshire area (as well as other parts of the District) in the Cotswolds AONB.

2. The reasons why Reserve Housing purpose (a) is only partly applicable in the Cotswolds AONB

Purpose (a) is 'to rectify any identified shortfall in housing delivery in order to maintain a 5 year supply of housing land in Stratford-on-Avon District'. However, as outlined above, the Government's PPG states that AONBs are 'unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas'. Adjoining (non-designated) areas includes the parts of the District that lie outside of the Cotswolds AONB.

Paragraph 11 and Footnote 6 of the NPPF also make it clear that AONBs are exempt from the requirement to meet objectively assessed needs (OAN) in full. This principle is enshrined in adopted Local Plans such as the South Downs National Park Local Plan and in relevant Development Plan Documents (DPDs) such as the Arnside and Silverdale AONB DPD.

As such, housing proposals in the Cotswolds AONB should not be required to help meet District-wide AONB in full. More specifically, the AONB should not be required accommodate housing needs arising from the parts of the District that lie outside of the AONB.

Further justification / evidence relating to housing provision is provided below.

3 (i). The reasons why Policy SAP.1 fails to meet the requirements of the 'duty of regard', the NPPF, PPG and the District's Core Strategy focussing on ...

¹ <https://www.gov.uk/guidance/natural-environment#landscape>

housing provision in the Cotswolds AONB

As indicated above, AONBs are exempt from the requirement to meet District-wide OAN in full and should not be required to accommodate needs arising outside the AONB. This then raises the question of what would be an appropriate level of housing provision in AONBs and, in this instance, the Cotswolds AONB specifically.

The Cotswolds AONB Management Plan 2018-2023 provides a useful starting point by stating, in Policy CE12 (Development Priorities and Evidence of Need), that:

- *'development in the Cotswolds AONB should be based on robust evidence of local need arising from within the AONB';* and
- *'priority should be given to the provision of affordable housing'.*

The West Oxfordshire Local Plan (and the associated Local Plan Inspector's Report) provides some useful additional guidance, which further clarifies the evidence base required for housing developments in the Cotswolds AONB. For example, paragraph 5.39 of the Local Plan states that *'within the Cotswolds AONB, windfall housing proposals ... will only be supported where there is convincing evidence of a specific local housing need such as needs identified through a neighbourhood plan or affordable housing needs specific to a particular settlement, for example through a rural exception site'.*

The Planning Inspector's report for the West Oxfordshire Local Plan stated that *'there is little case for the plan to provide for more [dwellings] than the already completed / committed 774 dwellings in the Burford-Charlbury sub-area [i.e. the Cotswolds AONB section of West Oxfordshire] ... simply to ensure that the district-wide housing needs are met. Moreover, in the absence of a specific housing need figure for the sub-area, it is not possible to identify that new dwellings, over and above existing completions and commitments, are as a matter of principle, necessary specifically in the context of the AONB or the Burford-Charlbury sub-area'.* The report went on to state that *'the allocation in the plan of housing sites, and the reliance on additional windfall housing development, in the Burford - Charlbury area, over and above existing completions and commitments, would not be sound'.*

The Board regards the approach taken by the West Oxfordshire Local Plan (and by the Local Plan inspector) as a benchmark of best practice for AONBs. We strongly advocate for this approach to be adopted as standard practice across the whole of the Cotswolds AONB and the family of AONBs.

Applying this approach to the SAP would mean that the SAP would be unsound unless it can be demonstrated that there is convincing / robust evidence of need (particularly affordable housing need) specific to the AONB part of the District and to the individual settlements / parishes where site allocations are being proposed.

The District's Core Strategy requires affordable housing to comprise 35% of the homes provided in housing developments. However, it also allows for higher percentages of affordable housing. Higher percentages of affordable housing would be appropriate in the Cotswolds AONB (including the settlements that overlap with – but extend beyond – the AONB boundary). The Board considers that an appropriate level of affordable housing provision would be 50%, ideally for developments of two or more dwellings (as required in the Arnside and Silverdale AONB Development Plan Document). For rural exception sites, the affordable housing provision should increase to 100%. The SAP should set these higher thresholds in the AONB.

3(ii). The reasons why Policy SAP.1 fails to meet the requirements of the 'duty of regard', the NPPF, PPG and the District's Core Strategy, focussing on ... major development

Paragraph 172 of the NPPF specifies that '*planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest*'. Footnote 55 of the NPPF defines what is meant by 'major development', in this context (i.e. '*a matter for the decision maker, taking into account [the proposed development's] nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated*') (i.e. to conserve and enhance the natural beauty of the AONB).

The wording used in paragraph 172 is framed in a development management context. However, it has become established best practice in protected landscapes to address the issue of major development at the plan-making / site allocating stage of the planning process (for example, in the South Downs Local Plan's '*Assessment of Site Allocations Against Major Development Considerations*' (2015 and 2017)). This is because if a site that is allocated in a local plan is subsequently considered to be major development, it should not be permitted² and the site would be undeliverable. A local plan which allocates such undeliverable sites would be unsound. Making an assessment, at the plan-making stage, of whether an allocation constitutes major development would help to resolve this issue. This approach to the major development issue reflects the legal opinions provided to the South Downs National Park Authority by Toby Fisher³ and, separately, by James Maurici QC⁴, both of Landmark Chambers. It is worth noting that Mr Fisher's legal opinion concluded that :

- *It would arguably amount to an error of law to fail to consider paragraph 116⁵ at the site allocations stage of plan making for the National Park.*

The SAP and the supporting documentation provide no indication that the proposed housing sites have been assessed to see if they would constitute major development. On this basis, the Board is of the opinion that the SAP is unsound.

3(iii). The reasons why Policy SAP.1 fails to meet the requirements of the 'duty of regard', the NPPF, PPG and the District's Core Strategy focussing on ... great weight being given to conserving and enhancing landscape and scenic beauty in the AONB

The Board acknowledges that Cotswolds AONB considerations have been an integral part of the Sustainability Appraisal (SA) and the Strategic Housing Land Availability Assessment (SHLAA) and that some sites have been filtered out due to related adverse effect. However, the Board is of the opinion that the SAP has not: (i) given sufficiently great weight to conserving and enhancing landscape and scenic beauty in the AONB; or (ii) afforded the AONB the highest status of protection, as required by paragraph 172 of the NPPF. As such, the Board is also of the opinion that the SAP has not adequately addressed the statutory 'duty of regard'.

For example, the SA and SHLAA identify a number of reserve housing sites in the AONB (and in settlements that overlap with – but extend beyond – the AONB boundary) where the significance and effect on landscape is deemed to be 'major negative' major' and /

² Unless exceptional circumstances applied and the development was shown to be in the public interest.

³ <https://www.southdowns.gov.uk/wp-content/uploads/2018/04/Core-11-Major-Development-Advice-2017.pdf>

⁴ <https://www.southdowns.gov.uk/wp-content/uploads/2015/01/Guidelines-on-Significance-for-SDNP-Planning-Applications---Supplementary-Advice-October-2014.pdf>

⁵ The paragraph 116 referred to here is now paragraph 172.

or the sites have a 'high' or 'medium-high' landscape sensitivity. The Board is of the opinion that housing provision in the Cotswolds AONB should be 'landscape-led'. In other words, housing should not be located at sites - or at a scale / density - that would have a significant (or significant-moderate) landscape or visual effect (and, by extension, a significant (or significant-moderate) adverse impact on the purpose of AONB designation). This approach has become standard practice in a number of protected landscapes, such as the South Downs National Park and the Arnside and Silverdale AONB.

Not taking this approach would undermine the statutory purpose of AONB designation and the value of the AONB in the national interest. It is, therefore, an essential component of fulfilling the statutory 'duty of regard'. However, the Board is of the opinion that the SAP has not (fully) taken this approach. As such, the Board is of the opinion that the SAP is unsound.

3(iv). The reasons why Policy SAP.1 fails to meet the requirements of the 'duty of regard', the NPPF, PPG and the District's Core Strategy focussing on ... the scale of development that is appropriate in the Cotswolds AONB

A key consideration when assessing the potential impacts of a proposed development on the Cotswolds AONB (including the purpose of AONB designation) is the scale of the proposed development, both in isolation and in the context of the existing settlement where it would be located.

The Board's Landscape Strategy and Guidelines repeatedly makes the recommendation that '*new development is proportionate and does not overwhelm the existing settlement*'. Policies CE10 of the Cotswolds AONB Management Plan 2018-2023 states that development proposals in the Cotswolds AONB and in the setting of the AONB should '*be compatible with ... the Cotswolds AONB Landscape Strategy and Guidelines*'. Policy CS.11 of the District's Core Strategy states that development should be consistent with the objectives of the AONB Management Plan. Therefore, if a development proposal is not consistent with the Landscape Strategy and Guidelines it is also not consistent with the Core Strategy. Policy CS.15 of the Core Strategy itself states that development in Local Service Villages should be of a scale that is appropriate to the scale and character of the settlement.

Paragraph 71 and Footnote 33 of the NPPF (which relate to entry-level exception sites) provide a useful reference point for defining 'proportionate'. Paragraph 71 states that entry-level exception sites should be proportionate in size to the existing settlements that they are adjacent to. Footnote 33 clarifies that such sites should not be larger than one hectare in size of exceed 5% of the size of the existing settlement.

The Board is of the opinion that this is an appropriate threshold to use in the Cotswolds AONB for assessing whether or not proposed developments are proportionate. In other words, the Board would consider development that increase the size (or number of dwellings) of a settlement by more than 5% to be disproportionate. By extension, the Board would, as a 'rule of thumb' consider such developments to have an adverse impact on the purpose of AONB designation, including the AONB's landscape and scenic beauty. By further extension, the Board would also consider such sites as having the potential to have a significant adverse impact on this purpose (i.e. potentially major development in the context of paragraph 172 of the NPPF).

This opinion is further justified that the South Downs National Park Authority has used a similar threshold in its assessment of proposed allocations against major development considerations. For example, that assessment identified that a proposed allocations that would increase the number of dwellings in a settlement by approximately 5.6% would clearly be major development in terms of its scale.

The Board has undertaken a 'light touch' assessment of the extent to which the proposed reserve housing sites in the AONB (including settlements that overlap with – but extend beyond – the AONB boundary) would increase the size of the settlements. For some settlements, the proposed reserve housing sites would collectively increase the number of dwellings in the settlement by more than 20%. This is, clearly, highly disproportionate to the existing settlement and would not be appropriate.

For these reasons, the Board considers that the SAP is unsound in relation to the scale of the proposed reserve housing sites.

Continue on a separate sheet/expand box if necessary

Please ensure you sign the declaration at the end of the Form

2. What modification do you consider is necessary to make the Site Allocations Plan sound, having regard to the test you have identified at Question 6?

You should explain why this modification would make the Site Allocations Plan sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

To address the issues outlined above – and to ensure that the SAP is sound - the Board recommends that reserve housing sites should only be considered for the Cotswolds AONB (including settlements that overlap with – but extend beyond - the AONB boundary) if:

- There is **robust evidence of affordable housing need arising from within the AONB**, including evidence that is specific to the individual settlements / parishes and the AONB sub-areas ((i.e. the parts of the Cotswolds AONB that overlap with the District). This evidence should, ideally, be based on up-to-date Rural Housing Needs Surveys and / or 'made' Neighbourhood Development Plans. Data from choice-based lettings systems, such as Home Choice Plus, should not be used as a measure of housing need. Affordable housing provision

should focus on housing that is affordable in perpetuity (e.g. social rented housing), in order to meet the needs of AONB residents and workers who are most in need. Ideally, the SAP should set high levels of affordable housing for reserve housing sites in AONB settlements (e.g. 50%, rising to 100% for rural exception sites)

- They have been **assessed as not being major development**, in the context of paragraph 172 of the NPPF.
- They have not been identified in the SA and the SHLAA as having⁶:
 - **major negative significance / effects** on factors that contribute to natural beauty (e.g. landscape, heritage and biodiversity)
 - **high landscape sensitivity**;
 - minor negative significance / effects on multiple factors that contribute to natural beauty.
- **The scale of the reserve housing sites (both individually and cumulatively) is proportionate** to the existing settlement⁷.

Continue on a separate sheet/expand box if necessary

Please ensure you sign the declaration at the end of the Form

3. In what way do you support the legal compliance or soundness of the Site Allocations Plan?

Continue on a separate sheet/expand box if necessary

Please ensure you sign the declaration at the end of the Form

4. Does your representation relate to another document associated with the Site Allocations Plan, e.g. Sustainability Appraisal, Strategic Housing Land Availability Assessment? If so, please specify below with your comments on it.

⁶ In some instances, it may be necessary to undertake a more comprehensive Landscape and Visual Sensitivity Study in order to clarify the scale of the likely landscape and visual effects.

⁷ The Board has an Excel spreadsheet template that could potentially be used to assess the proportionality of the proposed reserve housing sites, both individually and collectively.

This representation relates to those sections of the Sustainability Appraisal and the Strategic Housing Land Availability Assessment that relate to the local service villages of:

- Brailes
- Ilmington
- Long Compton
- Quinton
- Tysoe

Continue on a separate sheet/expand box if necessary

Please ensure you sign the declaration at the end of the Form

5. Do you wish to express an interest to participate in the Examination?

Yes, I wish to participate at the oral Examination

No, I do not wish to participate at the oral Examination

If you wish to participate at the oral part of the Examination, please outline why you consider this to be necessary. Only where a modification is sought to the Site Allocations Plan is it appropriate for the representation to be heard at an Examination hearing session. Please note that the Inspector, not the District Council, will decide who should be invited to speak at the Hearing sessions and also which topics are to be covered at them.

To support the arguments and recommendations made in this representation.

Continue on a separate sheet/expand box if necessary


Declaration

I understand that all representations submitted will be made available for public inspection and will be identifiable to my name and organisation (if applicable).

Signature:

Date: 20/09/19

Stratford-on-Avon District Council Proposed Submission Site Allocations Plan
Representation Form – August/September 2019

	
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