



# COTSWOLDS CONSERVATION BOARD

## DRAFT POSITION STATEMENT

### PLANNING AND DEVELOPMENT

#### CONTEXT

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>

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.

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.<sup>4</sup>

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 AONBs is in the national interest;
- the aspirations and goals of the Government's 25 Year Environment Plan;<sup>5</sup>
- the proposals of the Government-commissioned Landscapes Review;<sup>6</sup>
- the Government's stated aspiration for AONBs in the proposed planning reforms;<sup>7</sup>
- the vision, outcomes, ambitions and policies of the Cotswolds AONB Management Plan.<sup>8</sup>

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

- the scale and extent of development in Areas of Outstanding Natural Beauty (AONBs) should be limited;<sup>9</sup>
- there is a presumption that planning permission should be refused for major development in AONBs;<sup>10</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>11</sup>
- AONBs are unlikely to be suitable areas for accommodating unmet needs arising from adjoining, non-designated, areas.<sup>12</sup>

However, even with these policies and guidance in place, the natural beauty which led to AONBs being designated in the first place is still being lost.<sup>13</sup>

This is demonstrated, for example, by the massive declines in biodiversity, which is one of the factors that contribute to the natural beauty of the Cotswolds National Landscape, over recent decades.<sup>14</sup>

## OVER-ARCHING PRINCIPLES

In order to address the issues outlined above, this Position Statement advocates two over-arching principles for development within the Cotswolds National Landscape and its setting:

- **Development within the Cotswolds National Landscape and, where relevant, in its setting, should be 'landscape-led'.**
- **Development within the Cotswolds National Landscape should be based on robust evidence of local need arising within the National Landscape.**

## LANDSCAPE-LED APPROACH - CONTEXT

A 'landscape-led' approach to development, in the context of the Cotswolds National Landscape, is one in which development is conceived, designed, budgeted, assessed and implemented in such a way that:

- it does not exceed the capacity of the landscape to accommodate it without adverse effects;
- it is consistent with, demonstrably contributes to and delivers net-benefits for the statutory purpose of AONB designation (i.e. conserving and enhancing the natural beauty of the AONB).

This reflects the approach advocated in Policy CE11 of the Cotswolds AONB Management Plan 2018-2023 with regards to major development. However, in line with current best practice<sup>15</sup>, we consider that this approach should underpin all development in the Cotswolds National Landscape (and, where relevant, in its setting), not just major development. The complexity of this landscape-led approach should be proportionate to the nature, scale, setting and potential impact of the proposed development.

'Landscape-led' is not the same thing as 'landscape-considered'. In a landscape-considered scenario, landscape issues (including the purpose of designation) are just one of many competing considerations. In a landscape-led scenario, on the other hand, the objective of conserving and enhancing this natural beauty underpins all stages of the development process from initial thinking through to implementation. In this scenario, the outcome should be an enhancement of – or 'net-gain' for - the natural beauty of the Cotswolds National Landscape.

## LOCAL NEED ARISING WITHIN THE COTSWOLDS NATIONAL LANDSCAPE – CONTEXT

As indicated above, national planning policy clarifies that: the scale and extent of development AONBs should be limited; AONB policies may mean that objectively assessed needs cannot be met in full; and AONBs are unlikely to be suitable areas for accommodating unmet needs arising outside the AONB. On this basis, it is logical to conclude that development in the Cotswolds National Landscape should be based on needs arising within the National Landscape.

This principle is reflected in Policy CE12 of the Cotswolds AONB Management Plan, which states that:

- *Development in the Cotswolds AONB should be based on robust evidence of local need arising within the AONB.*<sup>16</sup>

It is also reflected in the planning policies of some local authorities that overlap with the Cotswolds National Landscape (for example, in the West Oxfordshire Local Plan, in relation to housing) and in other protected landscapes. Relevant case studies, in relation to housing, are provided in the Board's Housing Position Statement.

We recognise that there are multiple factors that feed into deciding how much development to allocate and / or permit in the Cotswolds National Landscape, not least, objectively assessed needs. However, robust evidence of local needs arising within the National Landscape should be a key factor to consider in this process.

## **ACHIEVING THE RIGHT BALANCE**

The Cotswolds Conservation Board recognises that achieving the right balance, in terms of the quantum and type of development that should be delivered in the Cotswolds National Landscape is a difficult challenge.

Achieving the right balance is likely to become increasingly difficult, especially given, for example:

- the pressure on local authorities to allocate and permit more and more housing; and
- the need to mitigate the impacts of climate change, for example, through large-scale renewable energy schemes.

We also recognise that there may be exceptional circumstance in which development is permitted in the Cotswolds National Landscape, or its setting, that has the potential to have a significant adverse impact on the natural beauty of the National Landscape and / or meets needs arising elsewhere.<sup>17</sup>

However, we hope that this Position Statement will help to ensure that the right balance is achieved across the whole of the Cotswolds National Landscape, with an appropriate quantum of development being delivered in a way that is compatible with the purpose of AONB designation and which meets the needs of local communities within the National Landscape.

## **STATUS OF THE POSITION STATEMENT**

The Cotswolds AONB Management Plan 2018-2023 states that:

- Development proposals '*should ... be compatible with guidance produced by the Cotswolds Conservation Board, including the ... Cotswolds Conservation Board Position Statements*'.<sup>18</sup>

As such, if a proposed development is not compatible with the Position Statement, it is also not compatible with the policies of the AONB Management Plan. On this basis, the Position Statement should carry the same weight as the AONB Management Plan as a 'material consideration' in both planning policy and development management.

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

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

At the planning policy stage (Local Plans and Neighbourhood Development Plans):

- A landscape and visual sensitivity and capacity study (LVSCS) should be undertaken for all sites (or land cover parcels) in the Cotswolds National Landscape and its setting where the potential for development is being assessed.<sup>19</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>20</sup> In such cases, the site should not be allocated, except in exceptional circumstances. Within the Cotswolds National Landscape, such sites should be deemed to be major development (see 'Major Development' below).
- 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 relatively large scale 'land cover parcels' 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 plan.

At the development management stage:

- Landscape and Visual Impact Assessments / Appraisals (LVIAs) should be undertaken for all development that requires an Environmental Impact Assessment (EIA) and for other development in the Cotswolds National Landscape and its setting that has the potential to cause adverse landscape and visual impacts.
- LVIAs should be consistent with the guidance published by the Landscape Institute and the Institute of Environmental Assessment.<sup>21</sup>
- Where a LVIA identifies that a development in the Cotswolds National Landscape or its setting would have 'significant' or 'moderate-significant' effects, planning permission should normally be refused. In the National Landscape, such development should be deemed to constitute 'major development' (see 'Major Development' below).
- Even where a LVIA is not undertaken, great weight should still be given to landscape and scenic beauty.

At both stages:

- The Cotswolds National Landscape should be accorded the highest 'value' in the LVSCS and LVIA 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>22</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>23</sup>

#### **FACTORS THAT CONTRIBUTE TO NATURAL BEAUTY:<sup>24</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;
  - scenic quality / beauty;

- relative tranquillity (including ‘dark skies’);
- relative wildness;
- natural heritage (including ‘biodiversity’);
- cultural heritage (including ‘historic environment’);
- the special qualities of the Cotswolds National Landscape.<sup>25</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).

#### **MAJOR DEVELOPMENT:<sup>26</sup>**

- Proposed allocations<sup>27</sup> and / or 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>28</sup>
- The process for screening major development should be closely aligned to the Environmental Impact Assessment (EIA) process.
- The local planning authority should explicitly state whether they consider such allocations and / or proposals to constitute major development.
- There should be a presumption against granting planning permission for major development.<sup>29</sup>
- The mandatory major development ‘tests’ specified in paragraph 172 of the NPPF should be rigorously applied for all allocations / developments that are deemed to be major development.
- It should be recognised that ‘exceptional need’ does not equate to ‘exceptional circumstances’.<sup>30</sup>
- ‘Exceptional circumstances’ should be truly exceptional (i.e. unusual or rare<sup>31</sup>).
- The major development ‘tests’ should also be applied to allocations / development that are not considered to be major development (as an essential component of making a balanced planning decision), albeit to a degree that is proportionate to the type and scale of the proposed development.
- 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>32</sup>
- Major development proposals should implement the comprehensive landscape-led principles outlined in Appendix 3 of the supporting guidance.

#### **ENVIRONMENTAL IMPACT ASSESSMENT (EIA):<sup>33</sup>**

- Development in the Cotswolds National Landscape that is listed in Schedule 1<sup>1</sup> of the EIA regulations should be classed as major development (see ‘Major Development’ above), as should Schedule 2<sup>2</sup> development that is deemed to require an EIA.

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

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

- 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.

#### **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>34</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.
- 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.

#### **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>35</sup> including:
  - Cotswolds AONB Landscape Character Assessment;<sup>36</sup>
  - Cotswolds AONB Landscape Strategy & Guidelines;<sup>37</sup>
  - Cotswolds AONB Local Distinctiveness and Landscape Change;<sup>38</sup>
  - Cotswolds Conservation Board Position Statements.<sup>39</sup>

#### **RECOMMENDATIONS – LOCAL NEED**

- The evidence base for proposed allocations and / or development proposals should include robust evidence of local need arising within the Cotswolds National Landscape, based on the hierarchy of:
  - the specific settlement / parish;
  - sub-areas of the National Landscape within the relevant local authority area;
  - the whole of the National Landscape within the relevant local authority area.
- Proposals for windfall development (i.e. development not allocated in the Local Plan or Neighbourhood Development Plan) should only be permitted where there is robust evidence of local need arising within the Cotswolds National Landscape, based on the above hierarchy.
- The Cotswolds National Landscape should not normally be required to accommodate unmet needs arising from outside the National Landscape, including unmet needs arising from: (i) urban areas adjacent to the National Landscape; and (ii) local authority areas that do not overlap with the National Landscape.

## RECOMMENDATIONS – LANDSCAPE-LED APPROACH v EVIDENCE OF NEED

- Where the development need arising within the Cotswolds National Landscape (or the objectively assessed need) exceeds the landscape capacity, the amount of development allocated / permitted should not normally exceed the landscape capacity.
- Where the development need arising within the Cotswolds National Landscape is less than the landscape capacity, development should be based on the development need.
- Where restrictions relating to development in the Cotswolds National Landscape mean that objectively assessed needs cannot be met in full, local authorities should work with neighbouring authorities, through the duty to cooperate and statements of common ground, to identify how these unmet housing needs can best be accommodated outside the AONB.<sup>40</sup>

## CONSULTING THE COTSWOLDS CONSERVATION BOARD ON DEVELOPMENT MANAGEMENT CASES

The Cotswolds Conservation Board has limited resources to deal with development management cases and other planning-related matters across the 2,000km<sup>2</sup> of the Cotswolds National Landscape and the 15 local authority areas that overlap with it. As such, we need to effectively prioritise and manage our development management workload in a consistent way across the whole of the National Landscape.

In order to do this, we have developed a set of consultation criteria which have evolved through consultation with the local planning authorities – see Appendix 5 for details.

The consultation criteria prioritise:

- development covered by Schedule 1 and Schedule 2 of the EIA regulations;
- development defined as ‘major development’ in Article 2 of the Town and Country Planning (Development Management Procedure) Order (England) 2015;<sup>41</sup>
- isolated dwellings (as defined in paragraph 79 of the NPPF).

This does not mean that development proposals that fall below these thresholds do not have the potential to have significant adverse impacts on the purpose of AONB designation. It just means that these criteria provide appropriate thresholds for effectively prioritising the Board’s development management workload.

As indicated in Appendix 5, the Board will endeavour to respond to consultations on such proposals (and other proposals that are considered significant) within 21 days of being consulted.

## SUPPORTING INFORMATION

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).
- Criteria / thresholds for consulting the Cotswolds Conservation Board on development management cases (Appendix 5);
- Additional context on the purpose of the Development & Planning Position Statement (Appendix 6).
- 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 7).

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## 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> In light of the climate emergency, the Cotswolds Conservation Board is currently (November 2020) reviewing its Climate Change Strategy. As part of this process we will also be reviewing our position statements and guidance on relevant topics such as renewable energy. In light of the ecological emergency, we are actively working with other stakeholders to identify and develop nature recovery networks across the Cotswolds National Landscape and beyond.

<sup>5</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>6</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>7</sup> The Secretary of State for Housing, Communities and Local Government, when launching the consultation on the Planning White Paper in August 2020, stated that *'protected land will be just that - our ... Areas of Outstanding Natural Beauty ... will be protected as the places, views and landscapes we cherish most and passed on to the next generation'* ([link](#)). In a similar vein, the Planning White Paper ([link](#)) itself states that AONBs *'would justify more stringent development controls to ensure sustainability'* (paragraph 2.8).

<sup>8</sup> Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)).

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

<sup>10</sup> NPPF: paragraph 172 ([link](#)).

<sup>11</sup> Planning Practice Guidance – Natural Environment: paragraph 41 ([link](#)).

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

<sup>13</sup> Landscapes Review Final Report ([link](#)).

<sup>14</sup> See, for example, the 'State of Nature 2019' report by the State of Nature Partnership ([link](#)).

<sup>15</sup> For example, the South Downs Local Plan ([link](#)) and the Arnside & Silverdale AONB Development Plan Document ([link](#)) – please refer to the 'Landscape-Led Case Studies' in Appendix 1 for further information.

<sup>16</sup> Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)).

<sup>17</sup> In planning appeals where planning permission has been granted, relevant circumstances have included a combination of factors, including:

- a significant shortfall in housing provision compared to the local authority's housing requirement figure and / or five year housing supply figure;
- a lack of alternative, viable options for locating the development outside the Cotswolds National Landscape or in a less sensitive location within the National Landscape;
- a lack of alternative, viable options for meeting the need in some other way;
- the development having to take place on a particular site, for example, in order to renovate a heritage asset on the site;
- the site providing a sustainable location in terms of its proximity to transport hubs, services, etc.; and
- the proposal maximising beneficial effects for the natural beauty of the National Landscape and minimising adverse effects (even though there might not be a net-benefit);
- the special qualities of the Cotswolds National Landscape and / or the key features / characteristics of the relevant landscape character type not being represented on the site or in its vicinity.

However, such development should only be permitted in truly exceptional circumstances *and* where the public interest of doing so outweighs: the fact that safeguarding the natural beauty of AONBs is in the national interest; and the great weight that must be given to conserving and enhancing landscape and scenic beauty and the fact that AONBs have the highest status of protection in this regard. Even where this is the case, steps should be taken to maximise any beneficial effects and minimise any adverse effects on the natural beauty of the National Landscape.

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

<sup>19</sup> Relevant guidance is provided in Natural England's 'An approach to landscape sensitivity assessment – to inform spatial planning and land management' ([link](#)).

<sup>20</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>21</sup> The Landscape Institute and the Institute of Environmental Management (2013) *Guidelines for Landscape and Visual Impact Assessment*. Third edition.

<sup>22</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'.

<sup>23</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>24</sup> An explanation of 'natural beauty', the factors that contribute to 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 7 of this Position Statement 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

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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>25</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>26</sup> Further information on major development is provided in Appendix 9 of the Cotswolds AONB Management Plan 2018-2023 ([link](#)).

<sup>27</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>28</sup> Appendix 7 provides a checklist of relevant considerations.

<sup>29</sup> As specified in the NPPF, paragraph 172, and in relevant case law (R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin) ([link](#)), paragraphs 7 and 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>30</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 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'*. Other case law reiterates and expands on this principle. For example, R (Advearse) v Dorset Council v Hallam Land Management Ltd [2020] EWHC 807 ([link](#)), paragraph 35: *'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>31</sup> As specified in relevant case law (R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin) ([link](#)), paragraphs 7 and 72).

<sup>32</sup> The A417 Missing Link Case Study in Appendix 1 provides an example of this approach being applied in the Cotswolds National Landscape.

<sup>33</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>34</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>35</sup> This recommendation reflects the requirements of Policies CC1, CE1 and CE10 of the Cotswolds AONB Management Plan 2018-2023.

<sup>36</sup> Cotswolds Conservation Board (2004) *Cotswolds AONB Landscape Character Assessment* ([link](#)).

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<sup>37</sup> Cotswolds Conservation Board (2016) *Cotswolds AONB Landscape Strategy & Guidelines* ([link](#)).

<sup>38</sup> Cotswolds Conservation Board (2003) *Local Distinctiveness and Landscape Change* ([link](#)).

<sup>39</sup> <https://www.cotswoldsaonb.org.uk/our-landscape/position-statements-2/>

<sup>40</sup> Planning Practice Guidance – Natural Environment (paragraph 041) ([link](#)).

<sup>41</sup> The Cotswolds Conservation Board acknowledges that this is not the same definition of ‘major development’ as that provided in paragraph 172 and footnote 55 of the NPPF. However, the Development Management Procedure Order provides an appropriate threshold for consultation. It is our responses to consultations that fit this criteria that we report on to the National Association of AONBs (NAAONB) and, through them, to Defra.

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