



Malvern Hills
National
Landscape



Position Statement 3: Landscape-led Development

A quick note on terminology

On 22 November 2023, the Malvern Hills Area of Outstanding Natural Beauty (AONB), was re-branded as the Malvern Hills National Landscape. National Landscapes are designated AONBs. Consequently, the name Malvern Hills National Landscape is commonly used throughout this document. However, since 'AONB' remains the legal name for the designation, this term is also used in appropriate places, for example, when referring to the Malvern Hills AONB Management Plan which is a statutory plan or when directly quoting from older documents. The name used for the partnership associated with the designation is the Malvern Hills National Landscape Partnership.

This Position Statement was endorsed by the Malvern Hills AONB Joint Advisory Committee at its meeting on 10 November 2023.

Please Note: This position statement has been amended following the introduction of the National Landscape brand on 22 November 2023 and to also reflect up-to-date planning policy and guidance, including a revised National Planning Policy Framework on 20 December 2023. This does not alter the position statement's content in any way.

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1. CONTEXT

- 1.1** The Malvern Hills National Landscape is a landscape whose distinctive character and natural beauty are so outstanding that it is in the nation's interest to safeguard it¹. The statutory purpose of its designation is to conserve and enhance the natural beauty of the area².
- 1.2** The Malvern Hills 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 AONB designation 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 AONB designation.
- 1.3** The Malvern Hills 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** 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 Plan³;
 - the proposals of the Government-commissioned Landscapes Review Report⁴;
 - the vision, outcomes, ambitions, and policies of the Malvern Hills AONB Management Plan;
 - efforts to restore and enhance the natural beauty of the Malvern Hills National Landscape;
 - design codes, which define and deliver design quality, in addition to design guides, planning briefs, heritage characterisation studies, standards and masterplans, as set out in the revised NPPF and Planning Practice Guidance;
 - the introduction of the 10% Biodiversity Net Gain requirement as proposed under the Environment Act 2021 for major development from January 2024, and smaller sites from April 2024; and

1 Section 82 of the Countryside and Rights of Way Act 2000.

2 Defra (2019) Areas of Outstanding Natural Beauty: technical support scheme (England) 2019 to 2020.

3 The Government's 25 Year Environment Plan 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'.

4 The 'Landscapes Review Final Report' set 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).

- the Government's assertions that:
 - (i) meeting housing need is never a clear reason to cause unacceptable harm to protected landscapes⁵; and
 - (ii) our AONBs will be protected as the places, views, and landscapes we cherish most and passed on to the next generation⁶; and
 - (iii) protecting and improving the environment and tackling climate change are central considerations in planning.

1.5 Planning policies and decisions should therefore:

- protect important natural, landscape and heritage assets, whilst also incorporating nature, landscape and public space into development and its surroundings;
- support habitat creation and nature recovery in ways which benefit nature and people. For instance, nature-based solutions can store carbon, assist adaptation (e.g. by reducing water run-off rates) and protect and enhance ecology;
- promote locational and design decisions that reduce exposure to pollution and hazards and respond to changing climate conditions, for example the risk of overheating, surface-water flooding, and water scarcity;
- enable renewable and low carbon energy production and distribution, at both a commercial and domestic scale; and policies for regulating carbon-generating extraction and energy generation;
- promote development locations, and designs and layouts, that contribute to healthier lifestyles, energy, and resource efficiency consumption, for example by reducing the need to travel, increasing public transport connectivity and accessibility, and promoting active travel i.e. walking, wheeling, and cycling; and
- bring together the spatial strategy for a place in a way which addresses all of the above in a holistic way and reflects its unique characteristics, whilst also providing a clear framework for development and regeneration⁷.

1.6 National planning policy and guidance help 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 issues⁸;
- the scale and extent of development in AONBs should be limited⁹;

5 Government response to the local housing need proposals in 'Changes to the current planning system' – updated 16 December 2020.

6 Statement by the Secretary of State for Housing, Communities and Local Government, when launching the consultation on the Planning White Paper in August 2020.

7 22 December 2022 Levelling-up and Regeneration Bill: reforms to national planning policy consultation statement.

8 Paragraph 182 of the revised National Planning Policy Framework (2023)

9 As above.

- 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 interest¹⁰;
- policies for protecting AONBs may mean that it is not possible to meet objectively assessed needs for housing and other development in full¹¹; and that
- AONBs are unlikely to be suitable areas for accommodating unmet needs arising from adjoining, non-designated areas¹².

2. PURPOSE OF THE POSITION STATEMENT

- 2.1** The primary purpose of the Malvern Hills National Landscape Partnership's position statements is to expand on relevant policies in the current Malvern Hills AONB Management Plan. They provide further context, guidance, and recommendations in relation to specific policies and associated issues. They do not create new policies.
- 2.2** For this position statement, the most relevant Malvern Hills AONB Management Plan policies include (but are not restricted to):
- Policy LWP1: Produce and adhere to community-led plans, strategies, and statements (such as Neighbourhood Development Plans) that conserve and enhance the natural beauty of the AONB and encourage and maintain the vitality and diversity of rural community life.
 - Policy LWP4: Support the provision of a variety of housing that is appropriate to the character of the area and meets local community needs.
 - Policy BDP1: Allocations of land for development in the AONB and its setting should be informed by Landscape Sensitivity and Capacity Assessments (LSCAs), Landscape and Visual Impact Assessments (LVIAs), and/or Landscape and Visual Appraisals (LVAs) as appropriate¹³.

10 Paragraph 183 of the revised National Planning Policy Framework (2023)

11 Planning Practice Guidance – Natural Environment: paragraph 41.

12 Planning Practice Guidance – Natural Environment: paragraph 41.

13 Landscape Sensitivity and Capacity Assessments (LSCAs) is a systematic, evidence-based process. It provides an objective, impartial and transparent system for assessing the sensitivity of the landscape and its capacity to accommodate change, whilst also retaining the aspects of the environment which – for a variety of reasons – are valued. Such change is usually in the form of social and / or economic expansion, although the method can be applied to other forms of development such as polytunnels, or changes in land use, for example commercial forestry. There is published guidance for LSCA practitioners (Landscape Character Assessment Guidance for England and Scotland - Topic Paper 6: Techniques and criteria for judging sensitivity and capacity The Countryside Agency and Scottish Natural Heritage (2002)). Whilst this still underpins the overall LSCA approach, over time more specific methods have evolved, where the findings are required to inform a neighbourhood plan, for example, and will be used as a tool in future planning decisions.

Landscape and Visual Impact Assessments (LVIAs) can be key to effective planning decisions since it helps identify the effects of new developments on views and on the landscape itself. These effects can be quite different. Some developments can have visual effects but none on landscape character and some vice versa. A depth of analysis and understanding of these two interrelated aspects is required to produce a successful LVIA. With the support of IEMA, the Landscape Institute published the 3rd edition of Guidelines for Landscape and Visual Impact Assessment (GLVIA3) in April 2013 (purple cover). This book offers detailed guidance on the process of assessing the landscape and visual effects of developments and their significance.

Landscape and Visual Appraisals (LVAs) are a review of land and its sensitivity to accommodate development in landscape and visual terms, often when a client would like to understand more about the local landscape and the visibility of a Site. The LVA can enable a sensitive approach to development, or form part of a submission at site representation stages to

- Policy BDP2: Development in the AONB and its setting should be in accordance with good practice guidance including that produced by the AONB Partnership.
- Policy BDP3: Development in the AONB should be based on convincing evidence of local need. Priority should be given to the provision of affordable housing and enhancing local services.
- Policy BDP4: Development proposals that may affect land in the AONB, including those in its setting, should protect and/or enhance key views and landscape character. AONB guidance relating to views and development in views should be used where relevant.
- Policy BDP13: The cumulative impact of small-scale change and development will be monitored. Data gathered will be used to inform decisions and to revise and/or develop policy.
- Policy BDP14: Local Planning Authorities should consider identifying locally important landscape areas to conserve the special qualities and features of the AONB and their enjoyment by people.

2.3 The recommendations within the Position Statements intend to help local authorities, particularly plan-making bodies, as well as other relevant stakeholders, including those involved in decision-making and developers:

- have regard and positively contribute to the purpose of the AONB designation;
- ensure that the purpose of AONB designation is not compromised by development, and that the outstanding natural beauty of the Malvern Hills National Landscape is conserved and enhanced;
- fulfil the requirements of the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) (or, where relevant, National Policy Statements) with regards to AONB designation and the factors that contribute to their natural beauty;
- take account of relevant case law;
- have regard to and be consistent with the Malvern Hills AONB Management Plan and guidance published by the Partnership;
- emulate best practice in the Malvern Hills National Landscape and other protected landscapes; and
- develop a consistent and coordinated approach to relevant issues across the whole of the Malvern Hills National Landscape and its setting¹⁴.

2.4 With regards to good practice, this Position Statement has been modelled significantly on the approaches adopted by several nationally designated Protected Landscapes, including the Cotswolds National Landscape, the South Downs Local Plan, West Oxfordshire Local Plans, Arnside & Silverdale AONB Development Plan, and the New Forest National Park Local Plan. Appendix 1 of this position statement provides case studies of both these latter documents.

a Local Plan as it will identify the key landscape and visual opportunities and constraints of a Site. The LVA is not an assessment of the effects of a development because it is addressing the principal of development rather than a fixed scheme.

14 Three local authority areas overlap with the Malvern Hills National Landscape, with each with local authority having its own development plan, one of which (Malvern Hills District Council) being in the form of a joint plan for South Worcestershire Councils (with Worcester City and Wychavon).

3. STATUS OF THE POSITION STATEMENT

- 3.1 The Partnership's position statements are supplementary to the Malvern Hills AONB Management Plan. However, it is worth noting that Policy BDP2 in the Malvern Hills AONB 2019-2024 states that *"development in the AONB and its setting should be in accordance with good practice guidance including that produced by the AONB Partnership"*. As such, for development proposals to be compatible with the AONB Management Plan, they should be compatible with the relevant position statements.
- 3.2 The Malvern Hills AONB Management Plan is a material planning consideration in decision-making. However, it must be acknowledged that, in a plan-led planning system, it is the policies of the relevant adopted local authority development plan that have the greatest weight. As such, within this planning system, the hierarchy is as follows:

The adopted development plan comprises the Local Planning Authority Development Plan, and any 'made' Neighbourhood Development Plan, in which decision-making is taken in accordance with these plans, unless material planning considerations indicate otherwise.

The Malvern Hills AONB Management Plan, like the National Planning Policy Framework, is a material planning consideration, but does not form part of the adopted development plan. Malvern Hills National Landscape Position Statements and guidance documents supplement the Malvern Hills AONB Management Plan.

4. ACHIEVING THE RIGHT BALANCE

- 4.1 The Malvern Hills National Landscape Partnership recognises that there are a range of other considerations that must be weighed 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 Malvern Hills National Landscape, and planning for and permitting new development. 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 183 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 interest¹⁵. We hope this position statement will help to ensure that the right balance is achieved across the whole of the Malvern Hills National Landscape.

15 R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin), 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...'*

5. CLIMATE AND ECOLOGICAL EMERGENCIES

- 5.1 All five of the local authorities that overlap with the Malvern Hills National Landscape have declared climate and/or ecological emergencies.
- 5.2 In principle, the Partnership supports measures to mitigate and adapt to climate change and to halt and reverse declines in biodiversity. These aspirations are reflected in the Malvern Hills AONB Management Plan 2019-2024, the Nature Recovery Plan (2022), and Guidance documents prepared and published by the Partnership¹⁶.
- 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 183 of the NPPF.
- 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.

6. LANDSCAPE-LED APPROACH – CONTEXT

- 6.1 At its most basic level, a landscape-led approach to development is one in which development within the Malvern Hills National Landscape and its setting¹⁷ 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 approach¹⁸, at this level, is promoted in the Malvern Hills AONB Management Plan 2019-2024, principally in Objective BDO1 *"The distinctive character and natural beauty of the AONB will be fully reflected in the development and implementation of consistent statutory land use planning policy and guidance across the AONB, and in decision making on planning applications for development"* and in policies BDP1, BDP2, BDP4, BDP13 and BDP14.

16 The Partnership is continually reviewing and updating its guidance to address these Climate Change by helping to reduce carbon emissions through mitigation and by supporting environmental adaptations to make the area more resilient to changing conditions. Such guidance

17 The Position Statement "Development And Land Use Change In The Setting Of The Malvern Hills National Landscape" defines the setting of the National Landscape as "the area within which development and land management proposals, by virtue of their nature, size, scale, siting, materials or design could be considered to have an impact, either positive or negative, on the natural beauty and special qualities of the Malvern Hills AONB and/or on peoples' enjoyment of it". Relevant considerations include potential of development outside the National Landscape on: views from and to the National Landscape; the dark skies of the National Landscape (e.g., light pollution); and the tranquility of the National Landscape (e.g., noise and traffic levels).

18 The 'iterative' approach to development and design is not a new concept - the benefits have been understood for many years, and the process is integral to many regulated areas such as EIA. What the landscape-led part of the approach helps to ensure is that the 'right type of development' is built 'in the right place', and that meaningful economic, social and environmental benefits are delivered. Guidance for carrying out landscape and visual assessments is contained in the Landscape Institute and IEMA's publication Guidelines for Landscape and Visual Impact Assessment (currently 3rd edition, commonly referred to as 'GLVIA3'). GLVIA3 explains that the iterative process 'has great strength because it links the analysis of environmental issues with steps to improve the siting, layout and design of a particular scheme... This approach can result in more successful and cost-effective developments and can reduce the time required to complete the assessment. Such an iterative approach is appropriate to any form of new development of whatever scale or type and applies equally to informal 'appraisal' of projects falling outside the EIA requirements'.

- 6.2** 'Relevant authorities,' including local authorities, have a statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of an AONB when exercising or performing any functions in relation to, or so as to affect, land in such an area¹⁹. Given that relevant authorities must do this, it would make sense for those who are putting forward development proposals to be aware of and informed by this requirement.
- 6.3** This duty 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. All relevant Local Development Plans now recognise the need for development proposals to be informed by [the Malvern Hills AONB Management Plan].
- 6.4** The guidance and recommendations in this position statement are intended to help relevant authorities demonstrate that they have met this legal duty. 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 can be particularly important for major development²⁰, as this scale of development has the greatest potential to adversely affect the purpose of AONB designation. However, one of the biggest threats identified to the Malvern Hills National Landscape comes also from the cumulative impact of numbers of small developments and even from the cumulative impact of minor building works that do not require an application for planning permission, but which proceed as 'permitted development.' Every change of appearance or use of property in the Malvern Hills National Landscape has the potential to have either a positive or negative effect. For example, the replacement of a locally distinctive property boundary with ubiquitous close board fencing may not have a big impact in itself. However, a number of such actions will erode local character over time.
- 6.6** In principle, the landscape-led approach is therefore applicable to all development in the Malvern Hills National Landscape and its setting, albeit to a degree that is proportionate to the nature, scale, setting and potential impact of the proposed development. However, the cumulative impact of even small-scale change and development should also be considered.
- 6.7** Consideration of landscape character and visual effects is obviously a key consideration when taking a landscape-led approach. However, a landscape-led approach should also consider all of the factors that contribute to the natural beauty of the Malvern Hills National Landscape. The latest NPPF also introduces a new emphasis on beauty and placemaking: "*Strategic policies should set out an overall strategy for the pattern, scale and design quality of places (to ensure outcomes support beauty and placemaking)*"²¹. This has led to the renaming of Section 12 of the NPPF to 'Achieving well-designed and beautiful places'.

19 Section 85 of the Countryside and Rights of Way Act (2000), as amended under the Levelling Up and Regeneration Act (2023).

20 Major development, in this context, primarily relates to the definition of major development in footnote 64 of the revised NPPF (2023) i.e. '*For the purposes of paragraphs 182 and 183, 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 outlined in this position statement and in Chapter 7 of the Malvern Hills AONB Management Plan 2019-2024, with particular regard to Objective BDO1. 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.

21 National Planning Policy Framework (2023) Paragraph 20.

- 6.8** Several documents are relevant to such considerations including the “*Malvern Hills AONB Environs Landscape and Visual Sensitivity Study*” (May 2019) produced for the South Worcestershire Development Plan, the Malvern Hills AONB Management Plan, and guidance papers such as the Malvern Hills National Landscape Partnership’s “*Position Statement 1: Development And Land Use Change In The Setting Of The Malvern Hills AONB*”, “*Identifying and Grading Views and Viewpoints*” and “*How Development can respect Landscape in Views*”.
- 6.9** The role of heritage within the Malvern Hills National Landscape is also important, particularly the need to protect, conserve and enhance heritage assets, historic landscapes, and features, as per Section 16 of the NPPF, especially with regards to their setting, heritage landscape and associated heritage features.

7. LANDSCAPE-LED APPROACH

7.1 Landscape and Visual Sensitivity and Capacity

Recommendations:

7.1.1 At the planning policy stage (Local Plans and NDPs²²):

- a Landscape and Visual Sensitivity and Capacity study (LSCA)²³, or a Landscape and Visual Impact Assessment (LVIA), or a Landscape and Visual Appraisal (LVA), should be undertaken for all relevant sites (or land cover parcels) in the Malvern Hills National Landscape, and its setting, where the potential for development is being assessed as part of the development plan process²⁴;
- with regards to LSCAs and LVIAs, these studies should assess the sensitivity of these sites to types and scales of development being considered. The cumulative impact of development of the sites should also be assessed, taking into account existing built form, planning permission granted (but not built out) and other sites that may be proposed in the plan making;
- 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 LSCA should be undertaken and
- 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.

22 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.

23 Relevant guidance is provided in Natural England’s ‘An approach to landscape sensitivity assessment – to inform spatial planning and land management’. Capacity is NOT dealt with in NEs approach to landscape sensitivity assessment, there is currently no published guidance.

24 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. It is acknowledged that Capacity is NOT dealt with in Natural England’s approach to landscape sensitivity assessment and that there is currently no published guidance for that.

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)²⁵;
- Landscape and Visual Appraisals (LVAs) should be undertaken for other development in the Malvern Hills National Landscape and its setting that have the potential to cause adverse landscape and/or visual effects²⁶. The nature of such appraisals should be proportionate to the likely potential for adverse effects;
- all LVIA and LVAs should be consistent with the guidance published by the Landscape Institute and the Institute of Environmental Assessment;
- the cumulative impact of the development proposals, in the context of previous development, permissions granted (but not built out) and small-scale changes, on the Malvern Hills National Landscape should be assessed and
- 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.

7.1.3 At both stages:

- the Malvern Hills National Landscape should be accorded the highest 'value' in the LSCA/LVIA/LVA assessments, with 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 area²⁷;
- 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 manner²⁸;

25 LVIAs 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).

26 The format of such an appraisal may not need to satisfy the formal requirements of an EIA but 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.

27 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.

28 This definition is provided in paragraph 20 of Appeal Decision APP/R3650/W/16/3165974 and re-iterated 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).

- great weight should be given to landscape and scenic beauty in AONBs, in line with paragraph 182 of the NPPF²⁹;
- the mandatory major development 'tests' specified in paragraph 183 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 and
- the requirement for all landscape assessments – whether undertaken in support of a specific planning application or an allocation at the plan making stage – should be based on evidence of landscape and visual matters. Judgements should be supported by clear reasoning which is linked to evidence.

7.2 Natural Beauty³⁰

Recommendations:

7.2.1 All of the factors that contribute to the natural beauty of the Malvern Hills 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')³¹; and
- the special qualities of the Malvern Hills National Landscape³².

29 This applies to development within the Malvern Hills National Landscape and to development outside the Malvern Hills National Landscape that has the potential to adversely affect views to or from the Malvern Hills National Landscape.

30 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.' When consideration is given to the Malvern Hills 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. Other 'effects' on a landscape's experiential qualities/people's experiences of a landscape include factors such as noise, odour, dust and other forms of pollution, and tranquility, which includes factors such as sense of calm and safety. As such, all these issues should be addressed in the context of their contribution to the natural beauty of the Malvern Hills National Landscape as well as in their own right, both individually and cumulatively.

31 The themes and approaches of Historic England Good Practice Advice Note 3: The setting of heritage assets should be considered, as well as the historic environment being a part of the valuable landscape which needs protecting, conserving and enhancing, reflecting Section 16 of the NPPF.

32 As identified within the Malvern Hills AONB Management Plan.

7.2.2 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).

7.2.3 Development proposals should (be required to) make a positive contribution to conserving and enhancing the natural beauty of the Malvern Hills National Landscape, over and above the baseline condition (i.e. delivering a net-benefit for natural beauty)³³.

7.2.4 Measures to conserve and enhance the natural beauty of the Malvern Hills 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.

7.3 Environmental Impact Assessment (EIA)³⁴

Recommendations:

7.3.1 Development in the Malvern Hills National Landscape that is listed in Schedule 1³⁵ of the EIA regulations should be classed as major development (see 'Major Development' above), as should Schedule 2³⁶ development that is deemed to require an EIA.

7.3.2 Screening for development listed in Schedule 2 of the EIA Regulations should be rigorously applied. Given that the Malvern Hills National Landscape should be considered as 'a sensitive area,' this should apply even for Schedule 2 development that is below the 'applicable thresholds and criteria'.

7.3.3 The process for screening of Schedule 2 development should be closely aligned with the process for screening major development.

7.3.4 Schedule 2 developments that are deemed to constitute major development, in the context of paragraph 183 of the NPPF, are likely to merit an EIA.

33 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'. For example, mitigating measures such as planting to screen views cannot be double counted as landscape enhancements.

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

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

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

7.4 Malvern Hills AONB Management Plan & Other Partnership Guidance

Recommendations:

- 7.4.1 Development in the Malvern Hills National Landscape and its setting should have regard to, be consistent with, and help to deliver the Malvern Hills AONB Management Plan and other guidance published by the Partnership³⁷, including:
- Malvern Hills AONB *Landscape Strategy and Guidelines*;
 - Malvern Hills AONB *Guidance on Identifying and Grading Views and Viewpoints*;
 - Malvern Hills AONB *Guidance on How Development can respect Landscape in Views and Viewpoints*;
 - Malvern Hills AONB *Building Design Guide*;
 - Malvern Hills AONB *Guidance on the Selection and Use of Colour*;
 - Malvern Hills AONB *Guidance on Lighting* and
 - Other Malvern Hills AONB Partnership Position Statements.
- 7.4.2 Other relevant information includes:
- Malvern Hills District Council *Malvern Hills AONB Environs Landscape and Visual Sensitivity Study* (May 2019, White Consultants),

8. SUPPORTING INFORMATION

- 8.1 This Position Statement is supported by two appendices which provide case studies of good practice with regards taking a landscape-led approach (Appendix 1), and a flowchart of how natural beauty, major development, EIA, national planning policy, the Malvern Hills AONB Management Plan and Partnership guidance should be addressed in development proposals and decision making (Appendix 2).

³⁷ As part of the re-brand to National Landscapes, the guidance documents identified below will be updated to the Malvern Hills National Landscape brand in due course.

APPENDIX 1: LANDSCAPE-LED CASE STUDIES

This appendix provides three case studies of where a landscape-led approach has been developed in protected landscapes:

1. South Downs Local Plan
2. Arnside & Silverdale AONB Development Plan Document
3. A417 'Missing Link' road scheme (Cotswolds National Landscape): Landscape-led vision, design principles, objectives and sub-objectives

LANDSCAPE-LED CASE STUDY 1: SOUTH DOWNS LOCAL PLAN³⁸

The South Downs Local Plan is explicitly underpinned by a landscape-led approach. Key extracts from the Local Plan that articulate this landscape-led approach, are outlined below.

- **Foreword:** [The Local Plan] looks different from most other local plans, because at its heart is the requirement to conserve and enhance the nationally important landscapes of the South Downs.
- **Key Messages:**
 - This is a landscape led Local Plan ...looking at the South Downs as a whole with National Park purposes and our duty to the fore.
 - Allocations and policies are ... landscape capacity led, not target driven. This complies with the National Planning Policy Framework.
 - We have searched thoroughly and rigorously for suitable development sites; it is just that in carrying out this work landscape conservation takes the primary role.
 - We are ... determined to ensure the quality of new build reflects the landscape within which it sits and is of a standard befitting a National Park as an exemplar of rural planning.
- **Paragraph 1.16 (How have the Local Plan policies been prepared):** All the Local Plan policies have been formulated putting landscape first and then peoples' interaction with it. This is in line with the purposes of national parks ... The Local Plan and its policies require development proposed to conserve and enhance various aspects of natural beauty, wildlife and cultural heritage.
- **Paragraph 5.22 (A Landscape-Led Approach):** Development should enhance, respect and reinforce the landscape through a landscape-led design approach.
- **Paragraph 7.18 (Housing):** Provision of housing to meet local needs is crucial to ensure the sustainability and vitality of communities within the national Park ... However, the provision of housing should not be at the expense of a nationally protected landscape. The NPPF cites national parks as areas where development should be restricted and objectively assessed need not met.

- **Paragraph 7.121 (Employment):** A Local Plan objective ... is to protect and provide for local businesses that are broadly compatible with and relate to the landscapes and special qualities of the National Park.
- **Paragraph 7.215 (Infrastructure):** All infrastructure development proposals should reflect the nationally protected landscapes, be appropriately designed and consider carefully the impact upon the natural beauty, wildlife and cultural heritage of the area.
- **Paragraphs 7.270 (Climate Change):** The use of renewable energy rather than fossil fuels will help to reduce carbon emissions and this reduce climate change ... However, the landscape character of the National Park is a finite and precious resource that the National Park is charged with conserving and enhancing. Development of renewable energy, therefore needs to be suitably constrained so as not to compromise the special qualities.
- **Paragraph 8.5 (Need for the Development):** There is a need for development to take place to meet growth needs, as far as it is compatible with the National Park purposes and the overarching ecosystem services led approach.

LANDSCAPE-LED CASE STUDY 2: ARNSIDE & SILVERDALE AONB DEVELOPMENT PLAN DOCUMENT³⁹

- The Arnside & Silverdale AONB Development Plan Document (DPD) is the first DPD for an AONB in the country. Like the South Downs Local Plan, it sets out a landscape-led approach to development in the protected landscape. As stated in the DPD itself, *'it is a pioneering and innovative approach and has been followed closely by AONB Partnerships up and down the country as an example of how an AONB Partnership, councils and communities can work together to produce the best outcomes for an AONB'* (paragraph 1.2.6).
- **Foreword:** The AONB DPD complements the Management Plan for the AONB, for which the underlying principle is to work collaboratively to help conserve and enhance the landscape of the area. The AONB DPD places the landscape at the heart of shaping development over the next 15 years.
- **Paragraph 2.1.2 (Vision):** Within the Arnside & Silverdale AONB, housing, employment, services, infrastructure and other development is managed to contribute towards meeting the needs of those who live in, work in and visit the area in a way that:
 - conserves and enhances the landscape, the natural beauty, and the Special Qualities of the AONB; and
 - creates vibrant, diverse and sustainable communities with a strong sense of place; and
 - maintains a thriving local economy.

- **Policy AS01 (Development Strategy):** A landscape capacity-led approach to development will be taken in the AONB ... All development in the ... AONB should be sustainable, consistent with the primary purpose of AONB designation and support the Special Qualities of the AONB as set out in the AONB Management Plan.
- **Paragraph 3.1.2:** The primary purpose of the AONB designation is to conserve and enhance the landscape and natural beauty of the area. It is therefore entirely appropriate that the Development Strategy identifies a landscape-capacity led and criteria-based approach to development, consistent with this primary purpose and the AONB's Special Qualities. A strategy that did not put the conservation and enhancement of the landscape central to the approach to development would compromise the primary purpose and undermine the national designation and the value of the AONB in the national interest. Where a development proposal would create conflict between the primary purpose of the AONB and other uses of the AONB, greater weight will be attached to the purpose of conserving and enhancing the landscape and natural beauty of the AONB.
- **Paragraph 3.1.4:** In the AONB, the priority should be to meet identified affordable and other local housing needs within the capacity of the landscape.
- **Paragraph 3.1.7:** The Development Strategy ensures that only development that can be accommodated without harm to the AONB's primary purpose will be permitted, whilst maintaining a positive approach, recognising that appropriately located and designed development can contribute to conserving and enhancing the landscape and settlement character, including where opportunities for regeneration and redevelopment can be delivered.
- **Policy AS02 (Landscape):** Within the Arnside & Silverdale AONB, development proposals will be required to demonstrate how they conserve and enhance the landscape and natural beauty of the area. Proposals will not be permitted where they would have an adverse effect upon the landscape character or visual amenity of the AONB.
- **Paragraph 3.1.22:** All development within the AONB should conserve and enhance the natural beauty of the area and must reflect the capacity of the landscape to accommodate it without harm to key features and characteristics and without compromise to the statutory purpose.

LANDSCAPE-LED CASE STUDY 3: A417 MISSING LINK ROAD SCHEME

- The A417 Missing Link road scheme is the most significant infrastructure scheme that is currently being proposed in the Cotswolds National Landscape. In recognition of its location in this sensitive and nationally important landscape, Highways England, the Cotswolds Conservation Board and other stakeholders developed and agreed a landscape-led vision, design principles and objectives for the scheme in 2017. The vision and design principles, together with the objectives and sub-objectives that relate specifically to landscape and / or natural beauty, are outlined below.
- **Vision:** A landscape-led highways improvement scheme that will deliver a safe and resilient free-flowing road whilst conserving and enhancing the special character of the Cotswolds AONB; reconnecting landscape and ecology; bringing about

landscape, wildlife and heritage benefits, including enhanced visitors' enjoyment of the area; improving local communities' quality of life; and contributing to the health of the economy and local businesses.

- **Design Principles:**

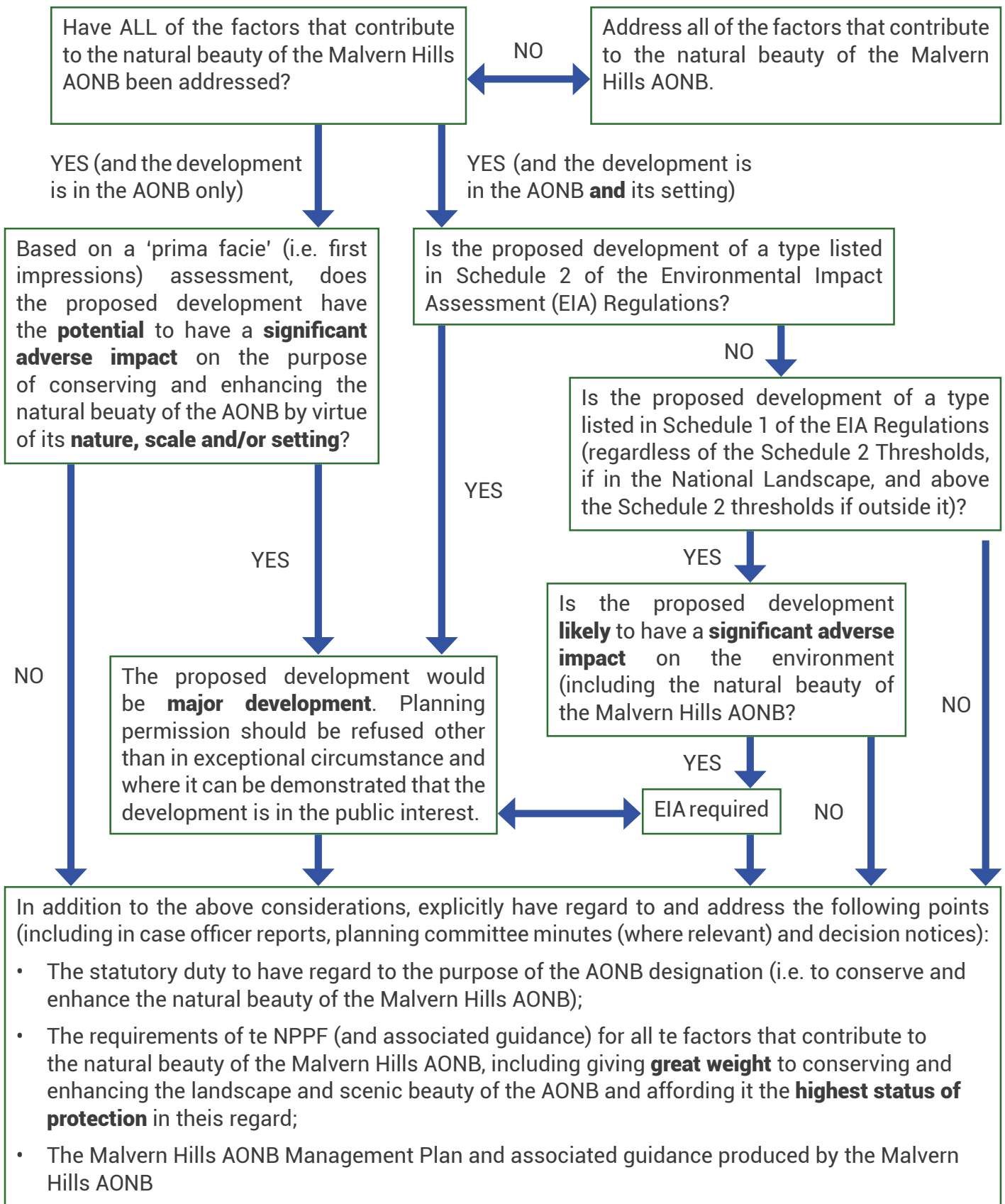
- Any solution involving a new road must ensure that the scheme is designed to meet the character of the landscape, not the other way round.
- Any scheme should bring about substantial benefits for the Cotswolds landscape and environment as well as people's enjoyment of the area.
- Any scheme must have substantially more benefits than negative impacts for the Cotswolds AONB.

- **Objectives:** Improving the natural environment and heritage: to maximise opportunities for landscape, historic and natural environment enhancement within the Cotswolds AONB and to minimise negative impacts of the scheme on the surrounding environment.

- **Sub-Objectives**

- The Scheme will have an identity which reflects, conserves and enhances the character of the local landscape.
- The Scheme will improve landscape and ecological connectivity through landscape and habitat restoration and creation.
- The horizontal and vertical alignments of the Scheme will pay due regard to the nature of the local landform.
- The siting and form of structures, cuttings, embankments and landscape mounding will reflect local topography and landform.
- The design of structures will be of lasting architectural quality.
- The Scheme will avoid significant interruption to groundwater flows or negative impacts on the aquifer, springs and watercourses.
- The Scheme will avoid or, where absolutely necessary, minimise the direct loss of National Trust land, other areas owned and managed for conservation, open access land and country parks and at the same time minimise intrusion upon such land.
- The Scheme will enable enhanced preservation of heritage assets and their settings and adopt designs that reflect and enhance the historic character of the area.
- The Scheme will minimise road noise by applying sensitive noise mitigation measures where required.
- The Scheme will minimise light pollution through sensitive structural, junction, and lighting design and sign illumination.

APPENDIX 2. FLOWCHART OF CONSIDERATIONS FOR DEVELOPMENT IN THE MALVERN HILLS NATIONAL LANDSCAPE AND ITS SETTING⁴⁰



The following bodies provide core grant support to the Malvern Hills AONB Partnership:



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