

APPLICATION NO: 13/01605/OUT		OFFICER: Mr Craig Hemphill
DATE REGISTERED: 17th September 2013		DATE OF EXPIRY : 7th January 2014
WARD: Leckhampton		PARISH: Leckhampton
APPLICANT:		
LOCATION:	Land At Leckhampton Shurdington Road Cheltenham	
PROPOSAL:	Residential development of up to 650 dwellings; mixed use local centre of up to 1.94ha comprising a local convenience retail unit Class A1 Use (400sqm), additional retail unit Class A1 Use for a potential pharmacy (100sqm), Class D1 Use GP surgery (1,200sqm,) and up to 4,500sqm of additional floorspace to comprise one or more of the following uses, namely Class A Uses, Class B1 offices, Class C2 care home, and Class D1 Uses including a potential dentist practice, childrens nursery and/or cottage hospital; a primary school of up to 1.72ha; strategic open space including allotments; access roads, cycleways, footpaths, open space/landscaping and associated works; details of the principal means of access; with all other matters to be reserved.	

**Highways Agency
31st October 2013**

Thank you for consulting the Highways Agency (HA) with regards to this application. We acknowledge this as a mixed use outline planning application seeking permission for 650 C3 Class dwelling houses; 400sqm retail unit Class A 1 Use; additional retail unit Class A1 Use for a potential pharmacy (100sqm): Class D1 Use GP surgery (1,200sqm,) and up to 4,500sqm of additional floorspace to comprise one or more of the following uses, namely Class A Uses, Class B1 offices, Class C2 care home, and Class D1 Uses.

Having considered the information prepared to support the proposed scheme, in particular the accompanying Transport Assessment (TA), and the Non-Residential and Residential framework Travel Plans, we acknowledge that transport analysis allows for a previously envisaged quantum of development. The TA therefore confirms that a strategic road network specific Addendum will be produced to reflect the impact of the proposed development mix (as identified above) in line with the requirements of the Department for Transport's recently adopted Circular 02/13 "The Strategic Road Network and the Delivery of Sustainable Development". For your information the HA is content that the applicant is working closely with us in developing agreeable assessment for inclusion in the Addendum report.

The Travel Plans appear to have the potential to mitigate the impact of increased car journeys on the strategic road network. However, the HA will need to understand the implications for the SRN, to be demonstrated in the Addendum, before the exact requirements of the Travel Plan can be known.

Whilst the HA awaits SRN specific assessment to be provided by way of an Addendum document we find it necessary to direct that planning permission not be granted for a period of time sufficient to allow for the provision and review of this information. I therefore attach a TR110 confirming our position.

If you have any questions regarding the points raised in this letter please do not hesitate to contact me.

**Contaminated Land Officer
4th October 2013**

Please can you add the standard contaminated land planning condition.

Standard Contaminated Land Planning Condition

Unless otherwise agreed by the Local Planning Authority, development shall not commence on site until the following condition has been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination until section iv) has been complied with in relation to that contamination.

i) Site characterisation

A site investigation and risk assessment shall be carried out to assess the potential nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report must include;

- a) a survey of the extent, scale and nature of contamination
- b) an assessment of the potential risks to;
 - human health
 - property (including buildings, crops, livestock, pets, woodland and service lines and pipes)
 - adjoining land
 - ecological systems
 - groundwaters and surface water
 - archeological sites and ancient monuments
- c) an appraisal of remedial options to mitigate against any potentially significant risks identified from the risk assessment.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11'

ii) Submission of a remediation scheme

Where remediation is required, a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be produced and will be subject to the approval of the Local Planning Authority prior to implementation. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2a of the Environmental Protection Act (1990) in relation to the intended use of the land after remediation.

iii) Implementation of approved remediation scheme

Any approved remediation scheme must be carried out in accordance with its terms prior to the commencement of the development, other than that required to carry out remediation. Following completion of measures identified in any approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval of the Local Planning Authority.

iv) Reporting of unexpected contamination

In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported immediately in writing to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with section i) and a remediation scheme submitted in accordance with section ii). Following completion of measures identified in the approved remediation scheme, a verification report must be produced in accordance with section iii).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

HMO Division

25th September 2013

Bedrooms should have floor areas no less than 7sqm for a single bedroom and 10.5sqm for a double bedroom.

The applicant should be advised that any residential accommodation must comply with the Housing Act 2004 and that any inadequate, insufficient or hazardous accommodation may be subject to enforcement action under the Housing Act 2004, which can include prohibition of use.

Subject to compliance with the above, I have no fundamental objection to this proposal.

Crime Prevention Design Advisor

31st October 2013

In my capacity as Crime Prevention Design Advisor for Gloucestershire Constabulary I would like to express concerns over the future design of this the planning application at Shurdington Road, Leckhampton, Cheltenham with reference number 13/01605/OUT. I would like to draw your attention to the PDF document attached to the carrying e-mail which should be read in conjunction with the following crime generating subjects.

Crime and Disorder Act

Gloucestershire Constabulary would like to remind the planning committee of their obligations under the Crime and Disorder Act 1998, Section 17 and their "Duty to consider crime and disorder implications

(1) Without prejudice to any other obligation imposed on it, it shall be **the duty of each authority** to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can **to prevent, crime and disorder in its area.**"

Design and Access Statement

This application's Design and Access Statement has briefly mentioned cycle security and the ODPM's Safer Places, but the statement fails to address crime prevention, designing out crime and site security. Future planning applications for this development should include further information about the creation of a safe environ across the whole development, while providing secure businesses and homes. **"Design and access statements for outline and detailed applications should therefore demonstrate how crime prevention measures have been considered in the design of the proposal and how the design reflects the attributes of safe, sustainable places set out in Safer Places- the Planning System and Crime Prevention."** (Paragraph 132, Guidance on information requirements and validation, Communities and Local Government 2010)

Planning Policy

Cheltenham Borough Council's Local Plan which contains Policy CP 4:

"Development will be permitted only where it would:

(c) make adequate provision for security and the prevention of crime and disorder; and

(b) not, by nature of its size, location, layout or design to give rise to crime or the significant fear of crime or endanger public safety."

"Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion." Paragraph 58, National Planning Policy Framework, DCLG 2012

Carbon Footprint of Crime

The carbon cost of crime is based on a formula created by Prof Ken Pease for converting the financial costs of crime into the energy expenditure of the emergency services and criminal justice service as they respond to criminal events. In Gloucestershire this roughly equates to 257,012 tonnes of CO₂ generated in 2012, with the Cheltenham responsible for 27% a total of 65,680 tonnes of CO₂. Over the past 12 months 274 crimes occurred in the Leckhampton area, generating 618 tonnes of CO₂.

Secured by Design

Secured by Design focuses on crime prevention of homes and commercial premises and can reduce crime by 60%. This can be achieved through the use of security standards for a wide range of applications and products; by removing the various elements that are exploited by potential offenders and ensure the long term management and maintenance of communal areas.

School

- The boundary and access treatment should encourage natural surveillance from the street scene and neighbouring houses.
- School access should be managed and locked, controlling access at the start and end to the school day
- Signage should be used at the entrance and around the car park to impart ownership of these areas
- Trespass onto the school grounds by the local community for their personal use should be discouraged at all times
- Access into the staff car park should be controlled; management practices should ensure the gates are closed during school hours and locked at all other times to minimise visitor footfall passing through the staff parking looking for a short cut.
- Visitor car parking should be sign posted at the entrance to instil Academy ownership, lit to BS5489-1:2003 and subject the natural surveillance
- Cycle storage should offer secure fixing and racks, while ensuring the area is subject to natural surveillance from classrooms and dusk till dawn lighting to remove the fear of crime.
- The reception desk should form an active part of the building's security plan by controlling access into the building, ensuring visitors sign in and by monitoring movement through the internal corridors.
- Designed and built following the Secured by Design publication "Schools - 2010" and the Zurich Insurance groups publication "School and Academy design - A guide to the design and protection of School and Academy buildings"

Local Centre

The layout

- The planting and boundary treatment should be designed to prevent the formation of desire lines and maintained to provide natural surveillance around the buildings, car park and through the landscaped areas
- Street parking should be avoided as this breaks down any natural surveillance and hinders the flow of traffic.
- The local centre should ensure natural surveillance is provided from each building and through the surrounding area, while incorporating CCTV and a monitored alarm system into the security
- Appropriate lighting levels should be incorporated across any parking area to reduce the fear of crime and restrict light pollution
- The combination of footpath, parking space and landscaping will need careful consideration to prevent accidental or intentional damage to parked vehicles.
- Outside of opening hours these community facilities will be vulnerable to crime and ASB
- Vehicle mitigation should be built into the car park boundary to prevent illegal access with clear closing time for the car park to discourage late night use
- Cycle racks should be provided and installed to offer the greatest level of security.
- Any medical or care facility should provide a secure environment for the residents and staff. The visitor access into the building should be controlled and monitored to increase the residents' security and well being

Buildings

- Any incubation business should benefit from crime prevention in the buildings and landscaping which has been designed to ensure their long term survival
- Each unit should be enclosed with a boundary treatment and secure gates to encourage security and create a defensible space. This will provide extra security for the employees and their possessions; the business, raw materials and final production output; and reduce the permeability through the development.
- Appropriate signage should be used to establish ownership and provide information to visitors.

Housing

- The windows and doors used during construction should meet the security standards BS PAS 24:2012 for doors and windows
- Housing should be grouped together to create perimeter blocking, creating rear garden security and restricted access
- Increased levels of permeability will allow offenders easy, concealed access to each property and convenient escape routes.
- An area of garden should be defined and to clearly separate and instil ownership, thereby creating a defensible space around the house and parked vehicles.
- Garden boundaries should be clearly defined with a 1.5m fence; this will create a defensible space, provide natural surveillance and offer views of the various vistas
- Each property should have sufficient fenestration to encourage natural surveillance across the street scene from high occupancy rooms
- The boundary abutting the POS should be reinforced with a line of defensive planting to restrict garden thefts and burglary

Public Open Space

- The design and layout of the play equipment should cater for a variety of age groups; construction and materials should prevent vandalism; seating should be provided to encourage parents/ guardians to stay longer; rules and responsible owners should be clearly displayed; area should remain unlit to discourage night time use as any play area presents a sinister purpose after sunset.
- The layout of the footpaths and the soft landscaping on either side should encourage natural surveillance in order to reduce the 'fear of crime'
- Footpath will need frequent maintenance to maintain the surface; ideally the planting should be cut back to ensure clear lines of sight. These areas will be frequented by dog walkers; therefore dog waste bins should be provided and emptied regularly.
- Any street furniture used should encourage legitimate use, but discourage street games or late night ASB.
- Street parking and public car parking spaces in adjoining public open spaces will attract dog walkers and family groups, increasing congestion in these areas
- Public areas, courtyards and play spaces should encourage natural surveillance and ownership; offering additional seating to encourage children and families to visit, offer security for cycles and include design features that restrict vandalism
- The landscaping should be managed and maintained to demonstrate ownership, ensure its long term future and prevent future incidents of ASB.
- The boundary treatment, footpaths exceeding 1.5m wide and road edging should include vehicle mitigations to prevent inappropriate access, fly tipping and the abandonment of vehicles.
- The water course will need regular maintenance to prevent localised flooding
- Each swale should be sign posted to warn of water hazards or boggy conditions
- The park space, playing fields and other public open space should be subject to a long term maintenance and management programme to retain passive surveillance and limit the opportunities for stalking or ambush.
- Allotment tool sheds need to be robustly constructed and secured to prevent the theft of equipment. Access should be controlled to reduce the garden's vulnerability to crime, reduce the threat of ASB and damage to the allotment produce

Developer Obligations

Please be aware that these representations are prepared by Gloucestershire Constabulary Crime Prevention Design Advisor to address Crime Prevention through Environmental Design (CPTED) and the 7 Attributes of Safer Places. A separate representation may be submitted by the Constabulary Estate's Department to seek developer obligations towards Police infrastructure through Section 106 and the Community Infrastructure Levy.

Conclusion

Gloucestershire Constabulary's Crime Prevention Design Advisors are more than happy to work with the Council and assist the developers with further advice to create a safe and secure development, and when required assist with the Secured By Design accreditation. Please feel free to contact me should you have any queries or wish to discuss these issues further.

SOUTH OF CHELTENHAM - ILLUSTRATIVE MASTERPLAN



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Notes
1. This drawing has been prepared in accordance with the scope of RPS's appointment with its client and is subject to the terms and conditions of that appointment. RPS assumes no liability for any use of this document other than by its client and only for the purposes for which it was prepared and issued.

Each unit should be enclosed with a boundary treatment and secure gates to encourage security and create a defensible space. This will provide extra security for the employees and their possessions; the business, raw materials and final production output; and reduce the permeability through the development.

Any incubation business should benefit from crime prevention in the buildings and landscaping which has been designed to ensure their long term survival.

The local centre should ensure natural surveillance is provided from each building and through the surrounding area, while incorporating CCTV and a monitored alarm system into the security.

Appropriate lighting levels should be incorporated across any parking area to reduce the fear of crime and restrict light pollution.

Street parking should be avoided as this breaks down any natural surveillance and hinders the flow of traffic.

The planning and boundary treatment should be designed to prevent the formation of desire lines and maintained to provide natural surveillance around the buildings, car park and through the landscaped areas.

School access should be managed and locked, controlling access at the start and end to the school day.

Visitor car parking should be sign posted at the entrance to instill Academy ownership, lit to BS5489-1:2003 and subject to the natural surveillance.

Designed and built following the Secured by Design publication 'Schools - 2010' and the Zurich Insurance groups publication 'School and Academy design - A guide to the design and protection of School and Academy buildings'.

Trespass onto the school grounds by the local community for their personal use should be discouraged at all times.

Signage should be used at the entrance and around the car park to impart ownership of these areas.

The boundary and access treatment should encourage natural surveillance from the street scene and neighbouring houses.

Each property should have sufficient fenestration to encourage natural surveillance across the street scene from high occupancy rooms.

Any medical or care facility should provide a secure environment for the residents and staff. The visitor access into the building should be controlled and monitored to increase the residents' security and well being.

Each swale should be sign posted to warn of water hazards or boggy conditions.

Appropriate signage should be used to establish ownership and provide information to visitors.

Cycle racks should be provided and installed to offer the greatest level of security.

Outside of opening hours these community facilities will be vulnerable to crime and ASB.

The combination of footpath, parking space and landscaping will need careful consideration to prevent accidental or intentional damage to parked vehicles.

An area of garden should be defined and to clearly separate and instill ownership, thereby creating a defensible space around the house and parked vehicles.

Garden boundaries should be clearly defined with a 1.5m fence; this will create a defensible space, provide natural surveillance and offer views of the various vistas.

The boundary abutting the POS should be reinforced with a line of defensive planting to restrict garden thefts and burglary.

Vehicle mitigation should be built into the car park boundary to prevent illegal access with clear closing time for the car park to discourage late night use.

The design and layout of the play equipment should cater for a variety of age groups; construction and materials should prevent vandalism; seating should be provided to encourage parents/guardians to stay longer; rules and responsible owners should be clearly displayed; area should remain unlit to discourage night time use as any play area presents a sinister purpose after sunset.

Street parking and public car parking spaces in adjoining public open spaces will attract dog walkers and family groups, increasing congestion in these areas.

Any street furniture used should encourage legitimate use, but discourage street games or late night ASB.

The landscaping should be managed and maintained to demonstrate ownership, ensure its long term future and prevent future incidents of ASB.

The layout of the footpaths and the soft landscaping on either side should encourage natural surveillance in order to reduce the 'fear of crime'.

The boundary treatment, footpaths and road edging should include vehicle mitigations to prevent inappropriate access, fly tipping and the abandonment of vehicles.

Allotment tool sheds need to be robustly constructed and secured to prevent the theft of equipment. Access should be controlled to reduce the garden's vulnerability to crime, reduce the threat of ASB and damage to the allotment produce.

Footpath will need frequent maintenance to maintain the surface; ideally the planting should be cut back to ensure clear lines of sight. These areas will be frequented by dog walkers; therefore dog waste bins should be provided and emptied regularly.

Access into the staff car park should be controlled; management practices should ensure the gates are closed during school hours and locked at all other times. Appropriate signage should be utilised.

Vehicle mitigation should be designed into the entrances of any footpath exceeding 1.5m wide.

Cycle storage should offer secure fixing and racks, while ensuring the area is subject to natural surveillance from classrooms and dusk till dawn lighting to remove the fear of crime.

Access to staff parking should be restricted to minimise visitor footfall passing through the staff parking looking for a short cut.

The reception desk should form an active part of the building's security plan by controlling access into the building, ensuring visitors sign in and by monitoring movement through the internal corridors.

The water course will need regular maintenance to prevent localised flooding.

Increased levels of permeability will allow offenders easy, concealed access to each property and convenient escape routes.

Public areas, courtyards and play spaces should encourage natural surveillance and ownership; offering additional seating to encourage children and families to visit, offer security for cycles and include design features that restrict vandalism.

The windows and doors used during construction should meet the security standards BS PAS 24:2012 for doors and windows.

Housing should be grouped together to create perimeter blocking, treating rear garden security and restricted access.

The park space, playing fields and other public open space should be subject to a long term maintenance and management programme to retain passive surveillance and limit the opportunities for stalking or ambush.

ROAD CLOSURE / DIVERSION INTO THE SCHEME FOOTWAY & CYCLEWAY ONLY ACCESS TO KIDNAPPERS LANE

Gloucestershire Constabulary
Community Engagement, Gloucestershire Constabulary, Police Headquarters, No 1 Waterwells, Quedgeley, Gloucester. GL2 2AN

Produced by
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The comments contained within this drawing have been generalised and should be applied to similar design principles across the development; these comments should be read in conjunction with the attached letter relating to 13/01605/OUT 30 October 2013

Drawn By
PM/AG

Scale @ A3
1:5000

Date Created
02.09.2013

Revised By
C

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We are supportive of allotment provision, our initial thoughts are that the percentage of green space currently shown as allotments could be increased, and the most obvious way of achieving this is to combine the area currently shown as "community orchard" into a larger allotment site.

In advocating this I would offer the following rationale:

We have plenty of evidence in our current Allotment Strategy to demonstrate that there is demand for allotments in the South of Cheltenham, but there is currently a shortage of land available for this purpose. In other words provision of allotments will help the council to meet this objective, and be welcomed at large, as well as meeting the needs of the new development.

The maintenance demands of green space when designated as allotments is considerably less per square meter than formal and informal green space. If set up and run correctly they generate income and run themselves.

It is mostly the case that fewer larger sites are easier to manage than more, but smaller ones, i.e. the arrangement of having a site warden and volunteer committee ends up replicating itself on each site irrespective of size.

Allotments offer lots of social benefits, i.e. exercise, healthy food, making friends etc.

Well managed allotments contribute to local biodiversity, although there is plenty of opportunity afforded for this elsewhere on the site, and surrounding countryside.

The demand and suitability of a community orchard is less evident, and in any event could be developed at a later date if demand materialises.

Severn Trent Water Ltd

14th October 2013

With reference to the above planning application the company's observations regarding sewerage are as follows.

I confirm that Severn Trent Water Limited has NO OBJECTION to the proposal subject to the inclusion of the following condition.

Condition

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

Natural England

30th October 2013

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

This reply comprises our statutory consultation response under provisions of Article 20 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 Regulation 61 (3) of the *Conservation of Habitats and Species Regulations 2010* (The Conservation Regulations) and Section 28(1) of the *Wildlife and Countryside Act 1981* (as amended).

The proposal is for 650 houses, retail space and public open space on 33.44ha of land at Shurdington Road, Leckhampton. This site is currently used for agriculture and small holdings and includes remnant orchard, wooded stream corridors, fields, trees, ditches and rights of way. The site is 200m from the boundary of the Cotswolds Area of Outstanding Natural Beauty (AONB) and visible from important public viewpoints within the AONB. It is 2km from the Cotswold Way National Trail and within 2km of Leckhampton Hill and Charlton Kings Common Site of Special Scientific Interest (SSSI).

The site is close to two parcels of land owned by Gloucestershire County Council and a parcel of land owned by MA Holdings which are also being considered as part of the draft Joint Core Strategy for the area. The MA Holdings land is adjacent to the AONB boundary. A proposal for 175 houses and mixed use development has already been submitted for Brizen Farm which is just to the west of the site. The whole area could be an urban extension to south Cheltenham with well over 1000 houses.

More Information needed for Natural England to be able to respond fully

Natural England is not able to comment fully as insufficient information has been provided on landscape and ecological impacts of all the development proposals for this area. Natural England is particularly concerned about the scale of the combined developments and the impact this will have on the setting and the Special Qualities of the AONB. The impact of all the proposals need to be considered as a whole and not as individual developments.

Joint Core Strategy

The Joint Core Strategy (JCS) for Cheltenham, Tewkesbury and Gloucester is out for consultation and is due to be adopted in 2014. Until the JCS is adopted and detailed proposals are presented for the adjacent and nearby sites (if allocated in the final JCS) it is not possible to properly assess the impacts on the AONB. Overall impacts on ecology will also need to be informed by development plans for the whole area and there is the potential for mitigation strategies proposed for one development to be undermined by subsequent and separately considered development.

Protected Landscape

This proposal is for a large development in close proximity to the boundary of the Cotswolds AONB. The site is a very sensitive location because it lies below and in open view from the Cotswold Escarpment. Views to and from the escarpment are a recognised Special Quality of the AONB. The development therefore has the potential to impact negatively on views towards the Escarpment and from the Escarpment, particularly from important public viewpoints, such as the Devil's Chimney, on the Cotswold Way National Trail within the AONB.

The Landscape and Visual Impact Assessment (LVIA) includes an illustrative masterplan and viewpoints for this site, the two Gloucestershire County Council sites and the MA Holdings site but does not include Brizen Farm. Natural England advises that detailed masterplans and viewpoints for all the sites are considered together. We also recommend that photomontages for all the sites are produced so that the cumulative impact on the AONB can be assessed.

The LVIA states that while the development will be visible from a number of viewpoints on the Cotswold Escarpment, these are not significant. It is not clear if this statement relates to the one proposal for 650 houses or for all the proposals considered in the LVIA. Natural England's view is that the scale of overall development could have a significant impact on the setting of the AONB, the Escarpment (a Special Quality of the AONB) and the National Trail.

The effects on the setting of the Cotswold AONB

The effect on the landscape character of this part of the Severn Vale is important because it forms part of the setting of the Cotswold AONB. The setting of an AONB is often significant to the conservation of its special qualities and this is certainly the case here. The proposed development site is 200m from the AONB boundary. Whilst the Vale is extensive, the area

including the application site is part of the setting of the AONB and contributes positively to the AONB's special qualities. The lower-lying rural landscape of the Vale below the escarpment is particularly sensitive to large scale built development.

The effects on the special qualities of the Cotswold AONB

The Cotswolds AONB is designated as a nationally important landscape to ensure that its special qualities are conserved and enhanced. The special qualities that could be significantly affected by this development are:

- The Cotswold Escarpment;
- The High Wolds – an elevated landscape with large open landscapes, commons, 'big' skies and long distance views.

Views well beyond the AONB itself are therefore an integral part of the character and special qualities of the AONB. They are extremely important to many visitors' enjoyment of this nationally designated landscape. The special qualities of the AONB are also widely enjoyed by people when outside the designated area. Iconic views of the Cotswold Escarpment and High Wolds, from the Severn Vale, are of a nationally important English landscape feature which is protected by and managed through its AONB status. The potential impact of the proposed developments on views from, and therefore on the enjoyment of, the AONB; and views of the AONB could be long-term, significant and adverse.

There are viewpoints of the highest sensitivity along the Escarpment of the Cotswolds AONB, such as the Devil's Chimney. The view from the Devil's Chimney gives panoramic views across the Vale which would be interrupted by the proposed development. The scale of the potential development would significantly change the view from an open, rural expansive view to a predominantly urban view of the edge of Cheltenham.

The effects on the Cotswold Way National Trail

The Cotswold Way National Trail runs along the top of the Cotswold Escarpment to the south-east of the site. The enjoyment of views from the National Trail could be adversely affected to a significant degree as described above in relation to views from locations such as the Devil's Chimney.

We would also strongly encourage the Council to seek the views of the Cotswold Conservation Board regarding this development.

Green Infrastructure

Given the location of this large development in relation to the AONB, Natural England would recommend that substantial and well designed green infrastructure (GI) is provided to reduce the visual impact of the proposed development on the protected landscape. The proposal for 650 houses on 33.44ha includes approximately 14ha of GI. GI for the other sites is illustrative. Natural England advises that a GI masterplan for the whole site (including Brizen Farm) should be produced to maximise the effectiveness of GI in mitigating landscape impacts (screening and helping the development to blend into its wider landscape setting), and delivering ecological mitigation and enhancements.

Green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement,. Evidence and advice on green infrastructure, including the economic benefits of GI can be found on the Natural England Green Infrastructure web pages.

Protected Species

Surveys have been carried out for bats, badgers, dormice, water voles, otters, birds, reptiles, amphibians and invertebrates. The main impact on European protected species will be foraging and commuting bats: nine species were identified using the site including rare bats such as

Lesser Horseshoe. The hedgerows, streams and trees that provide foraging and commuting routes for bats should be retained. The layout of the development and the lighting should be designed to minimise impacts on bats, particularly the way the hedgerows are used as wildlife corridors.

We have not assessed the survey for domestic species: badgers, barn owls and breeding birds¹, water voles, white-clawed crayfish or widespread reptiles. These are all species protected by domestic legislation and you should use our protected species standing advice to assess the adequacy of any surveys, the impacts that may result and the appropriateness of any mitigation measures.

The advice we are giving at the present time relates only to whether, in view of the consultation materials presently before us (including with reference to any proposed mitigation measures), the proposal is likely to be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range (*i.e.* the '*Favourable Conservation Status*' test). We have not considered whether the proposal satisfies the three licensing tests or whether a licence would be issued for this proposal. This advice is based on the information currently available to us and is subject to any material changes in circumstances, including changes to the proposals or further information on the protected species.

If the LPA is aware of, or representations from other parties highlight the possible presence of a protected or Biodiversity Action Plan (BAP) species on the site, the authority should request survey information from the applicant before determining the application. The Government has provided advice on BAP and protected species and their consideration in the planning system.

Natural England Standing Advice is available on our website to help local planning authorities better understand the impact of development on protected or BAP species should they be identified as an issue for particular developments. This also sets out, when, following receipt of survey information, the authority should undertake further consultation with Natural England.

Biodiversity enhancements

The development should aim to enhance the biodiversity of the site through the retention and enhancement of the trees, hedges and water courses on the site. These features should be part of a connected mosaic landscape that links to linear landscape features outside the site to provide important commuting routes for wildlife.

The application provides opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats and the installation of bird nest boxes for house martins, house sparrows and swifts and habitat enhancement. The authority should consider securing measures to enhance the biodiversity of the site. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*'. Section 40(3) of the same Act also states that '*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.

Soils and Land Quality

From the documents accompanying the consultation we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha 'best and most versatile' agricultural land (paragraph 112 of the National Planning Policy Framework).

For this reason we do not propose to make any detailed comments in relation to agricultural land quality and soils, although more general guidance is available in Defra *Construction Code of*

Practice for the Sustainable Use of Soils on Construction Sites, and we recommend that this is followed. If, however, you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

For any queries relating to the specific advice in this letter only please contact Sally King on 07900 608 100. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Gloucestershire Centre for Environmental Records

3rd October 2013



GCER Report for planning application:

13_01605_OUT

Search area: 500m from easting and northings

Easting:363826), Northings(220156)

Species of conservation importance recorded within the area of search

Taxon group	Scientific name	Common Name	Grid Reference	Year last recorded	Distance from app point (m)	Location	Species Status
Legally Protected Species - International							
bird	Carduelis carduelis	European Goldfinch	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bern-A2
bird	Carduelis chloris	European Greenfinch	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bern-A2
bird	Cyanistes caeruleus	Blue Tit	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bern-A2
bird	Erithacus rubecula	European Robin	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bern-A2
bird	Parus major	Great Tit	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bern-A2
bird	Parus ater	Coal Tit	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bern-A2
bird	Prunella modularis	Hedge Accentor	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bern-A2, Bird-Amber
bird	Sturnus vulgaris	Common Starling	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bird-Red, BirdsDir-A2 2
bird	Troglodytes troglodytes	Winter Wren	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bern-A2
bird	Turdus iliacus	Redwing	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bird-Red, BirdsDir-A2 2, WACA-Sch1_part1
bird	Turdus philomelos	Song Thrush	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bird-Red, BirdsDir-A2 2
bird	Turdus pilaris	Fieldfare	SO934201	2012	480	Grdn, Cheltenham, Albans Close	Bird-Red, BirdsDir-A2 2, WACA-Sch1_part1
reptile	Anguis fragilis	Slow-worm	SO935204	2009	480	Leckhampton, Hazlewood Close	UK Priority Species 2007, Bern-A3, England NERC S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a, WACA-Sch5_sect9.5b
reptile	Anguis fragilis	Slow-worm	SO936203	1892	340	Warden Hill	UK Priority Species 2007, Bern-A3, England NERC S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a, WACA-Sch5_sect9.5b
bird	Dendrocoptes minor	Lesser Spotted Woodpecker	SO939197	2000	410	Leckhampton, Brien, FramSQ939197	Bern-A2, Bird-Red
bird	Carduelis carduelis	European Goldfinch	SO939203	1995	200	LECKHAMPTON GREEN	Bern-A2
bird	Erithacus rubecula	European Robin	SO939203	1995	200	LECKHAMPTON GREEN	Bern-A2
bird	Falco tinnunculus	Common Kestrel	SO939203	1995	200	LECKHAMPTON GREEN	Bern-A2, Bird-Amber
bird	Parus major	Great Tit	SO939203	1995	200	LECKHAMPTON GREEN	Bern-A2
bird	Prunella modularis	Hedge Accentor	SO939203	1995	200	LECKHAMPTON GREEN	Bern-A2, Bird-Amber
bird	Carduelis chloris	European Greenfinch	SO941203	1995	300	LECKHAMPTON GREEN	Bern-A2
bird	Cyanistes caeruleus	Blue Tit	SO941203	1995	300	LECKHAMPTON GREEN	Bern-A2
bird	Dendrocoptes minor	Lesser Spotted Woodpecker	SO941203	1994	300	LECKHAMPTON GREEN	Bern-A2
bird	Erithacus rubecula	European Robin	SO941203	1995	300	LECKHAMPTON GREEN	Bern-A2
terrestrial mammal	Meles meles	Eurasian Badger	SO941203	1995	300	LECKHAMPTON GREEN U	Bern-A3, Protection of Badgers Act (1992)
bird	Parus major	Great Tit	SO941203	1995	300	LECKHAMPTON GREEN	Bern-A2
bird	Picus viridis	Green Woodpecker	SO941203	1994	300	LECKHAMPTON GREEN	Bern-A2, Bird-Amber
bird	Prunella modularis	Hedge Accentor	SO941203	1995	300	LECKHAMPTON GREEN	Bern-A2, Bird-Amber
bird	Alcedo atthis	Common Kingfisher	SO942198	1965	450	LECKHAMPTON GREEN	Bern-A2, Bird-Amber, BirdsDir-A1, WACA-Sch1_part1
bird	Carduelis carduelis	European Goldfinch	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2
bird	Carduelis chloris	European Greenfinch	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2
bird	Cyanistes caeruleus	Blue Tit	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2
bird	Delichon urbicum	House Martin	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2, Bird-Amber
bird	Erithacus rubecula	European Robin	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2
bird	Falco tinnunculus	Common Kestrel	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2, Bird-Amber
bird	Hirundo rustica	Barn Swallow	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2, Bird-Amber
bird	Parus major	Great Tit	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2
bird	Picus viridis	Green Woodpecker	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2, Bird-Amber
bird	Prunella modularis	Hedge Accentor	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2, Bird-Amber
bird	Troglodytes troglodytes	Winter Wren	SO942198	1995	450	LECKHAMPTON GREEN	Bern-A2
bird	Carduelis carduelis	European Goldfinch	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bern-A2
bird	Chroicocephalus ridibundus	Black-headed Gull	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bird-Amber, BirdsDir-A2 2
bird	Cyanistes caeruleus	Blue Tit	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bern-A2
bird	Dendrocoptes minor	Lesser Spotted Woodpecker	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bern-A2
bird	Erithacus rubecula	European Robin	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bern-A2
bird	Parus major	Great Tit	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bern-A2
bird	Parus ater	Coal Tit	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bern-A2
bird	Prunella modularis	Hedge Accentor	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bern-A2, Bird-Amber
bird	Troglodytes troglodytes	Winter Wren	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bern-A2
bird	Turdus iliacus	Redwing	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	Bird-Red, BirdsDir-A2 2, WACA-Sch1_part1
Legally Protected Species - Britain							
bird	Passer domesticus	House Sparrow	SO934201	2012	480	Grdn, Cheltenham, Albans Close	UK Priority Species 2007, Bird-Red, England NERC S.41
bird	Cuculus canorus	Common Cuckoo	SO938200	1995	135	LECKHAMPTON GREEN	UK Priority Species 2007, Bird-Red, England NERC S.41
flowering plant	Hyacinthoides non-scripta	Bluebell	SO941203	1995	300	LECKHAMPTON GREEN	WACA-Sch8
bird	Passer domesticus	House Sparrow	SO941203	1995	300	LECKHAMPTON GREEN	UK Priority Species 2007, Bird-Red, England NERC S.41
bird	Passer domesticus	House Sparrow	SO942198	1995	450	LECKHAMPTON GREEN	UK Priority Species 2007, Bird-Red, England NERC S.41
bird	Turdus iliacus	Redwing	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Red, BirdsDir-A2 2, WACA-Sch1_part1
bird	Turdus pilaris	Fieldfare	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Red, BirdsDir-A2 2, WACA-Sch1_part1
bird	Passer domesticus	House Sparrow	SO943202	2012	435	Grdn, Cheltenham, Osprey Road	UK Priority Species 2007, Bird-Red, England NERC S.41
bird	Pyrrhula pyrrhula	Common Bullfinch	SO941203	1995	300	LECKHAMPTON GREEN	Bird-Amber
bird	Sturnus vulgaris	Common Starling	SO941203	1995	300	LECKHAMPTON GREEN	Bird-Red, BirdsDir-A2 2
bird	Anas platyrhynchos	Mallard	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Amber, BirdsDir-A2 1
bird	Apus apus	Common Swift	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Amber
bird	Larus argentatus	Herring Gull	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Red, BirdsDir-A2 2
bird	Larus calus	Mew Gull	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Amber, BirdsDir-A2 2
bird	Larus ridibundus	Black-headed Gull	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Amber, BirdsDir-A2 2
bird	Phylloscopus trochilus	Willow Warbler	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Amber
bird	Sturnus vulgaris	Common Starling	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Red, BirdsDir-A2 2
bird	Turdus philomelos	Song Thrush	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Red, BirdsDir-A2 2
bird	Turdus viscivorus	Mistle Thrush	SO942198	1995	450	LECKHAMPTON GREEN	Bird-Amber, BirdsDir-A2 2

UK Priority Species and other locally important species

Sites of conservation importance recorded within, or overlapping, the area of search

SPAs, SACs, Ramsar

None present within 500m

SSSIs

None present within 500m

Key Wildlife Sites

None present within 500m

Unconfirmed Sites

Site name	Reasons for selection	Distance from app point(m)
Leckhampton Green U	Phase one survey area: Improved, arable, orchards and semi-improved meadows with hedges	5

Search area location



Campaign to Protect Rural England
31st October 2013

Set out below are CPREs comments on the above application. In considering this application our comments cover a variety of concerns, including traffic issues, the impact upon the AONB and aspects of design and layout.

Introduction

The area is not within the Cheltenham Gloucester Green Belt or Cotswolds AONB, nevertheless this is a highly sensitive location. The outline application occupies part of a strategic land allocation identified as South Cheltenham ' Leckhampton Urban Extension in the Draft JCS for Gloucester, Cheltenham and Tewkesbury. The land allocation in the JCS identifies this area of South Cheltenham potentially as a suitable location for approximately 1,075 homes.

It is essential to stress that just because a site has been identified in the Draft JCS Consultation document it does not and should not lead to the presumption that any application submitted must be automatically approved. It must be considered on its own merits.

In this respect CPRE has three principal concerns namely:

- the effect that this scale of development would have in worsening traffic congestion along the A46 with consequential implications for existing employment in Cheltenham and elsewhere;
- the impact that the development would have on the setting of the Cotswolds AONB and the loss of high quality agricultural land. The site is highly visible from the escarpment to the south and in turn the view of the escarpment from the site is a highly valued feature of this part of Cheltenham, and
- the principles on which the design and layout have been based.

Traffic

CPRE is exceptionally concerned by the applicant's failure to provide a comprehensive analysis of the potential impact of the scheme on:

- traffic congestion on the A46
- junction capacities
- highway safety
- pedestrian routes and safety
- public transport including the physical ability of the A46 to accommodate a bus lane

Traffic congestion along the A46 (part of the strategic highway network) feeding into Bath Road, already causes very significant delays for existing commuters into and out of Cheltenham.

CPRE has noted and supports the concerns expressed by the Chamber of Commerce over increasing congestion along this route as a deterrent to existing and future employers locating in the town centre. In this respect the applicant's traffic projection of nearly a quarter (23%) increase requires the closest scrutiny.

Unfortunately the applicant has failed to provide a comprehensive analysis of future traffic movements, in particular around existing and proposed junctions in the area. The scheme can only compound problems of congestion along the Shurdington Road by the introduction of priority access junctions from the site to accommodate additional bus and vehicular movements.

Whilst some aspects of highway safety have been considered it appears that no consideration has been given to the likely impact of increased traffic flows on accident statistics. Of particular concern is the provision of safe pedestrian routes and crossings on the A46, including the physical challenge of providing a footpath on its southern side. We also note the failure to provide a full 'walking audit' to key facilities including schools.

To compound all these potential problems it appears that the Shurdington Road is incapable of being adapted to incorporate a dedicated bus lane or other public transport priority measures.

The overall lack of information, with its consequent failure to demonstrate the impact of this proposal, suggests that the applicant has been unable to find a workable solution to accommodate the additional traffic movements that will be generated by the development. As a

result the scheme clearly fails to meet the accepted standards on which to make a sound decision.

Setting of the AONB

Addressing the issue of landscape impact, we note that the applicant is proposing to protect, from future development, an area of open land to the south by way of a planning covenant as part of the s106 Planning Obligation. The application shows this area as allotments, a community orchard and strategic open space. It is essential that this open land is protected from development in perpetuity. Appropriate mechanisms could include designating the land as Local Green Space as provided for in the NPPF (paragraphs 76 and 77) or as a Village Green under Common Land legislation.

Additionally, a significant proportion of the site is classified as being of high quality and versatility ' Grade 2 and Grade 3a. Development here therefore clearly conflicts with paragraph 112 of the NPPF.

Policy S7 of the Draft JCS states that 'Development proposals in and adjacent to the AONB will be required to conserve and enhance landscape, scenic beauty, wildlife, cultural heritage and other special qualities of the Cotswolds AONB and be consistent with the policies set out in the Cotswolds AONB Management Plan.'

Further the Cotswolds AONB Management Plan LK3 states 'The surroundings of the AONB are also important to its landscape character and quality. Views out of the AONB and into its surrounding areas can be very significant. Development proposals that affect views in and out of the AONB need to be carefully assessed in line with Planning Policy Statement 7 (now superseded by the equally strong protected landscape policies contained in paras 115 and 116 of the NPPF) to ensure that they conserve and enhance the natural beauty and landscape character of the AONB.'

We note that Cheltenham CBC endorsed the Cotswolds AONB Management Plan (2008 - 13), and included the following paragraphs in the Cheltenham Local Plan:-

Para 7.22 - "In assessing proposals for development, the Council will be guided by the advice of the Cotswolds AONB Conservation Board" and in Para 7.23 ' that any revision of advice "issued by the Cotswolds AONB Conservation Board will be adopted by the Council and used as guidance for development control purposes". This formal policy must therefore form a key part of the Council's context for assessing the current application.

All the above provide excellent reasons upon which to base a refusal and in addition we would stress that in seeking to protect the setting of the AONB it is of equal importance to consider the invaluable role the site plays in terms of its local amenity value and its open views of the AONB escarpment as part of the setting of Cheltenham.

Design and layout

In the centre of the site the Residential Density Plan shows a density of 41 to 55 dwellings per hectare. Normally CPRE supports relatively high densities for urban areas as a means to assist in reducing the land take from open countryside. However, in this case the proposed density is clearly inconsistent with the landform, location and existing adjacent housing and is therefore unsympathetic to its surroundings. Indeed, the Design and Access Statement's claim that the average site density of 42dph is reflective of the nearby densities is highly questionable.

Whilst the general decrease in housing density across the site from north to south is welcome, the positioning of land uses and the resultant massing and density shown in the proposed layout takes little account of exceptionally important existing views across the site to the escarpment from Shurdington Road.

This concern is reinforced by the proposal that housing fronting Shurdington Road would be at the highest density (40 to 55dph) in order to create a 'strong sense of enclosure' and to reflect densities near the Bath Road. We believe that this is both an inappropriate approach to design on the site and a questionable analogy, as most areas adjacent to the Bath Road comprise retail uses with single storey storage or flats above.

The developer's intention is that some 2.5 storey homes (up to a maximum of 20% in the vicinity of the local centre) will be provided. It is also the intention that 33% of the total provision is limited to 2 storey buildings. The taller buildings (over 2 storeys) therefore will be taller than surrounding existing properties. These proposals will undoubtedly adversely affect views from existing housing on Shurdington Road, Kidnappers Lane and other surrounding residential areas.

The developers' claim to provide a view across the site along a main street which includes a square and runs from Shurdington Road towards the indicative open space needs close scrutiny. The presence of a square and 90 degree angle on this road would however obscure or prevent such a view being possible from the A46 to the area south of the site.

This loss of view will be further compounded by the proposal for office buildings of 2.5 stories on the site. The applicant seeks to justify the proposal as needed to ensure the development is viable and to reflect building heights on the Bath Road is questionable.

First, the analogy with Bath Road is entirely inappropriate on this part of the A46. It suggests the developer is clutching at straws in an attempt to justify the design.

Second, not only will the offices be visually intrusive but also the statement suggests that any change to their design will threaten the viability of the proposal to provide a range of services, facilities and a relatively high proportion of affordable dwellings. It is therefore essential that this application is closely scrutinised by the Borough Council in order to determine whether:-

- its 'offers' to provide facilities and services are economically viable and sustainable or whether
- if permission were to be granted, a series of alterations will end up being proposed to the site whereby it ultimately ends up merely providing market housing and few facilities.

Importantly, at present, the application proposes that 40% of the 650 homes will be affordable. We note from the JCS Consultation Report that if market conditions dictate the level of affordable housing provision it will be revised in accordance with future SHMA reports. The uncertainty over the number of affordable houses that could potentially be delivered by this site is exceptionally unhelpful and indicates a concern over whether this application should be deemed to be 'premature' at this time.

We also note that the application includes the provision of a care home and that some associated facilities are proposed to be provided on site, such as shops, a pharmacy and a doctor's surgery. However, the site is approximately 3km (1.8 miles) from other facilities provided in, or near, the town centre. Leisure facilities and the hospital for example are not readily accessible therefore this site may not be the best location for elderly residents.

The application also indicates that the existing doctors' surgery at Moorend Park Road, Leckhampton is intending to relocate to a purpose built facility as part of the local centre hub on this site. Importantly, this practice serves a large existing residential area and patients can currently walk to the surgery. Any relocation will increase journeys by car to the new facility which will be beyond easy walking distance for many existing patients.

Taken together the issues outlined above demonstrate that the application fails on many levels to provide a sustainable or sympathetic form of development on this site and would significantly detract from the amenities currently enjoyed by local residents and those accessing Cheltenham from the south.

Conclusion

CPRE Gloucestershire strongly recommends that the application be rejected on the grounds of its failure to provide a sustainable solution to the traffic issues highlighted in this representation, its impact upon the AONB and the local character and amenities of the area, or be deferred due to a lack of critical supporting information and its failure to meet the Draft JCS Consultation document requirement 'to demonstrate how the strategic allocation can be developed as a comprehensive urban extension'.

English Heritage

4th October 2013

Thank you for your letter of 20 September 2013 notifying English Heritage of the scheme for planning permission relating to the above site. Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion.

Recommendation

The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again on this application. However, if you would like further advice, please contact us to explain your request. We can then let you know if we are able to help further and agree a timetable with you.

Shurdington Parish Council

17th October 2013

We consider that many of our objections to the previous applications for this and the adjacent land in Shurdington (part of Tewkesbury borough), that is not included in this application, remain valid for this application even though things are moving on in the development of a draft JCS which is well advanced.

The Joint Core Strategy and Local plans are not yet complete. Therefore it is premature for Cheltenham Borough Council to decide on this application. At the very least it needs to be considered as part of an overall cohesive development plan.

In addition we reiterate some specific concerns:

If this application is allowed then how can further applications be rejected? Is this acceptable to Cheltenham Borough Council, as the result will be well on the way to complete the coalescence between Cheltenham and Shurdington village?

1. To preserve the setting and special character of historic towns. The fields are ancient arable lands with ridge and furrow ploughing to improve drainage with open views towards the Cotswold escarpment from the area. The setting is important for tourism in and around Cheltenham. The view from the AONB Cotswold escarpment will be negatively impacted.
2. Traffic congestion through Shurdington Village and along the A46 and Leckhampton Lane
3. The A46 trunk road was constructed in 1820 through Shurdington village and is still the original width and lined with houses. Shallow front gardens have restricted any widening of the carriageway.
4. In 2013 the A46 becomes more dangerous with each new development. Footways are inadequate or non-existent and the carriageway is too narrow and restricted by housing development for bus lanes or even cycle lanes. Standing at some of the bus stops is dangerous.
5. Access is now very difficult for cars and extremely hazardous for pedestrians and cyclists. Tragically two elderly parishioners have been killed since 2008 and there have been a number of serious injuries.
6. There is continuous traffic in both directions and long tailbacks at rush hours. When the M5 is diverted severe blockages result; often lasting several hours. The large developments at Brockworth have resulted in a significant traffic increase, both commercial and private.
7. All the potential new development seems to be assessed individually rather than looking at the overall problem. The Shurdington Rd is at a standstill in rush hours and traffic goes dangerously fast off peak. The amount of traffic using Leckhampton Lane has already increased significantly

and as such it is becoming more dangerous. Speed needs to be effectively controlled with or without any further development.

8. Some years ago when the proposal for a Shurdington bypass was removed from the plans, measures were promised to reduce the impact of high volumes of traffic. Nothing has happened. Now it is much worse and this application will add to the problems.

Other concerns

9. Housing development should be demand driven not developer driven.

10. We believe that it is important to protect agricultural green belt land, even lower grade land such as the Brizen site, for reasons of food security.

11. Flooding: apart from the serious floods of 2007 it is known that major flooding has occurred in the Chargrove / Brizen area in other years. Building will accentuate the problem of flood water which passes over the A46 onto houses and businesses on the opposite side of the road. Shurdington Parish Council has little confidence in the anti-flooding proposals.

Area Planning

Shurdington Parish Council considers that the JCS and local plan should be completed prior to consideration of this or any other large development. Consent should not be given on a piece-meal basis.

Shurdington Parish Council opposes any major housing developments which will further aggravate the present issues in the village and therefore opposes major housing development such as this just outside the parish.

Gloucestershire Bat Group

14th October 2013

Thank you for informing the Bat Group about this development, however, we do not comment on planning applications unless a particular bat issue is brought to our attention.

I would like to draw your attention to the fact that all our records are forwarded to the Gloucestershire Centre for Environmental Records. Should there be any doubt concerning the presence of bats in an area these records may be accessed by planning authorities free of charge. An absence of bat records should not be taken to imply an absence of bats.

National Planning Casework Unit

6th November 2013

We acknowledge receipt of your letter of 20 September 2013 enclosing the Environmental Statement for the above development.

Cheltenham Civic Society
2nd October 2013

We appreciate the need for more houses in Cheltenham, and we do accept that this is a suitable site for new housing. We are therefore broadly in favour of the development. Nevertheless, there are already important congestion issues in Church Road and Shurdington Road which need to be resolved, and which must not be allowed to get worse as the result of this development.

County Archaeology
1st October 2013

In connection with the above planning application I wish to make the following observations regarding the archaeological implications of development.

I advise that I have checked the application site against the County Historic Environment Record: the wider locality is known to contain extensive archaeological remains relating to later prehistoric, Roman and medieval activity and settlement.

I note that this planning application is supported by an Environmental Statement which is informed by reports presented in Appendix 7 on archaeological investigations comprising a heritage desk-based assessment (RPS Planning and Development, April 2010), a magnetometer survey (Archaeological Surveys Ltd, February 2011) and an archaeological evaluation (Cotswold Archaeology, January 2012).

The results of these investigations were positive in that the investigations identified a number of archaeological features indicative of activity and settlement for which dating evidence was generally sparse. However, the presence of a Roman ditch and a number of intercutting medieval ditches indicates a likely date range.

However, it should be noted that the consideration of archaeological impact is incomplete because there are large areas within the application site where no survey or evaluation was undertaken, and where the archaeological potential is therefore unknown. Areas for which no information is available include the majority of the land fronting onto Shurdington Road, as well as portions of the central and southern areas of the application site.

Therefore, in accordance with the NPPF, paragraph 128, I recommend that in advance of the determination of this planning application the applicant should provide the results of assessment and evaluation within those areas not previously investigated, so as to allow an informed planning decision to be made regarding archaeological impact within the whole of the application site.

I look forward to advising you further when this information is provided.

Planning application Ref: 13/01605/OUT
Proposal: Mixed development
Location: Shurdington Road, Leckhampton, Cheltenham

Response of the Cotswolds Conservation Board

The Cotswolds Conservation Board ('the Board') was established by Parliament in 2004.

The Board has two statutory purposes¹:

- a) to conserve and enhance the natural beauty of the AONB; and
- b) To increase the understanding and enjoyment of the special qualities of the AONB.

In fulfilling these roles, the Board has a duty to seek to foster the economic and social well-being of people living in the AONB.

1. The Board is of the view that the proposal lies within the setting of the Cotswolds AONB and significantly impacts upon one of the special qualities of the AONB as identified in the Cotswolds AONB Management Plan 2013-18².

"The Cotswolds escarpment, including views to and from it."

2. The Board therefore strongly supports the views of Natural England (NE) regarding this impact and potential cumulative impacts as set out in their letter dated 25th October 2013.
3. The Board notes that the applicant's Planning statement paragraph 4.5 suggests that "The NPPF does not contain policies that indicate development in this location should be restricted" and therefore implies that footnote 9 to paragraph 14 of the NPPF does not have to be considered in relation to this application.
4. The applicants Planning Statement contains no reference to paragraph 115 of the NPPF:

"115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty..."

5. The purpose of designation of AONBs is to conserve and enhance the natural beauty of the area. (Section 82(1) Countryside and Rights of Way Act 2000.)
6. Natural England is the government body responsible for advising the government regarding the designation of landscapes (AONBs and National Parks). NE has issued "Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England" (**APPENDIX 1**). Paragraphs 6.1 to 6.12 of the guidance set out the principles of assessing natural beauty and the factors to be considered with respect to a particular area. It is noted in 6.1 that *"Natural beauty is not exhaustively defined in the legislation"*.

¹ Section 87, Countryside and Rights of Way Act 2000, as amended by the NERC Act 2006.

² <http://www.cotswoldsaonb.org.uk/?page=managementplan>

7. A factor identified in the guidance relating to landscape quality is "scenic quality" (Table 3 *Factors related to Natural Beauty* - page 13).
8. It is clear therefore that the conservation and enhancement of the scenic quality of a designated area is part of the purpose of designation, and that a designated area is judged to have scenic quality.
9. The scenic quality of a designated landscape can be appreciated visually both from within the area and from outside it. Therefore proposals which potentially affect the appreciation of the scenic quality of the AONB have to be judged against the constraining affect of NPPF 115. This is the case here, contrary to the applicants Planning Statement.
10. The issue of the importance of the retention of views of the Cotswold escarpment was considered by the Planning Inspector with respect to appeal reference APP/G1630/A/12/2183317, a copy of which is attached to this response. **(APPENDIX 2)**
11. Paragraph 29 of that decision states:

"29. In views towards the AONB the visual effect of the development on Site A would be much more pronounced. This is due to the prominence of the topography and the construction of the housing on the elevated part of the site. At present Mount View Drive appears as two parallel rows of houses on the western side of Gretton Road. Whilst this development seems to me to be a highly evident feature it does nestle into its setting and the upper slopes of Langley Hill rise up behind to form a backdrop. It is the case that the new houses would interrupt that foreground view and be prominent to the observer standing outside the site in Greet Road. Whilst some of the upper slopes would be apparent the context of the rising hillside behind the town would be significantly diminished. **From Gretton Road the situation is likely to be even worse because the observer would find that views towards Salter's Hill and the AONB escarpment on the other side of the valley would be greatly impeded due to the proximity and elevation of the built development. The adverse impacts on the setting of the AONB would be significant.** [My emboldening] Whilst these impacts would be confined to limited viewpoints it seems unlikely that they would diminish in time, even with the proposed landscaping."
12. Paragraph 32 of that decision states:

"32. Of greater importance is the harm to the setting of the AONB arising from the housing on the elevated part of Site A. The latter plays a role in providing the foreground setting to Langley Hill within the adjoining AONB with which it shares a number of topographic and landscape features in common. The appeal development would interrupt westerly views thus adversely affecting the setting of the AONB. Furthermore views would be impeded in an easterly direction towards the Cotswold escarpment on the other side of the valley.

Planning application Ref: 13/01605/OUT

Proposal: Mixed development

Location: Shurdington Road, Leckhampton, Cheltenham

These impacts would be limited to those public viewpoints close to the east and west site boundaries. Nevertheless there would be significant harm to the setting of the AONB. *[My emboldening]* This would be contrary to development plan policy, including saved Policies S.6 and NHE.5 in the SP and saved Policy LND2 in the LP.

13. Paragraph 70 of that decision includes:

"...Whilst there would be significant landscape harm and conflict with development plan policy there would also be substantial benefits. Most notably these would include the contribution towards housing land supply in the face of a serious short term deficit."

14. This decision makes clear that the interruption of even very localised views of the AONB can cause significant harm to the setting of the AONB, contrary to Local Plan POLICY CO 2 - DEVELOPMENT WITHIN OR AFFECTING THE AONB

The supporting text to policy CO 2 provides further detail regarding impacts of developments outside but affecting the Cotswolds AONB:

"7.20 The Council confirms its support for these objectives. It considers it particularly important to protect the scarp as the dominant feature of Cheltenham's setting and is concerned at the cumulative effect of even small-scale development and of development in new locations within the AONB. The Public Local Inquiry Inspector took the view that the attractiveness of the scarp and its location on the urban fringe justify a restrictive policy. The Council, therefore, will not permit development which would harm the natural beauty of the landscape."

7.21 Development on sites outside but close to the AONB can also have an impact on its character. Such development should be designed and landscaped to avoid harming the natural beauty of the AONB. Special consideration should be given to the impact of proposals on the setting of the AONB and on views into or out of the area. See also policies CP 3 (sustainable environment) and CO 1 (landscape character)."

15. The Applicants LVIA shows the view currently available from Shurdington Road (viewpoint 5) with the Cotswolds AONB clearly forming an important landscape feature as a backdrop to the site. These views would immediately be blocked by the proposed "Local Centre" of up to 3 storeys in height, and the further areas of residential developments shown on the indicative masterplan both within and outside the application site itself would further interrupt these views.

16. Cotswold Way National Trail

As identified by Natural England the application site is clearly visible from the Cotswold Way National Trail "from locations such as the Devil's Chimney on Leckhampton Hill. The purpose of National Trails is to "offer some of the best walking, riding and cycling experiences in the country, officially designated by Natural England and the Countryside Council for Wales. The 15 Trails are based on the nation's favourite rambles and rides and provide more than

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4,000kms (2,500 miles) of well-managed routes across some of our finest countryside."³

Summary

The Board supports the contention of Natural England that the proposed development, together with those shown on the indicative masterplan, are likely to have significant adverse effects on the special qualities of the Cotswolds AONB and users of the Cotswold Way National Trail.

³ http://www.nationaltrail.co.uk/uploads/NE_National%20Trails%20tagged.pdf



Appeal Decision

Inquiry held on 4, 5, 9-11 April 2013

Site visits made on 3 and 11 April 2013

by Christina Downes BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 May 2013

Appeal Ref: APP/G1630/A/12/2183317

Land adj Gretton Road, Winchcombe, Gloucestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Redrow Homes Ltd against the decision of Tewkesbury Borough Council.
 - The application Ref 12/00464/OUT, is dated 30 April 2012.
 - The development proposed is residential development of up to 120 dwellings, vehicular access from Gretton Road, public open space, facilities for sport and recreation and other associated infrastructure.
-

Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 120 dwellings, vehicular access from Gretton Road, public open space, facilities for sport and recreation and other associated infrastructure on land adjacent to Gretton Road, Winchcombe in accordance with the terms of the application, Ref 12/00464/OUT, dated 30 April 2012, and the plans submitted with it, subject to the conditions on the Schedule at the end of this decision.

Procedural Matters

2. The Inquiry was originally intended to consider a second appeal proposal by Bloor Homes for 92 dwellings on land at Greet Road. However, following the submission of a new scheme with additional landscape information, planning permission was granted for that development and the appeal was withdrawn.
3. The proposal is in outline form with only access to be considered at this stage. The Council indicated that it would have refused planning permission had it been in a position to do so for nine reasons. Six of these related to the lack of provision for affordable housing, open space, education and other infrastructure. The Council is however satisfied that these matters have been addressed through the Planning Obligations by Agreement. These are considered later in the decision. The other putative reasons for refusal concerned the location outside the settlement boundary, the harm to the character and appearance of the landscape and the unsatisfactory nature of the form and layout relative to the prevalent urban morphology of the area.
4. The site comprises two parcels of land. The housing and open space proposal would occupy land between Gretton Road and Greet Road (Site A). The

proposed sport and recreation use would be on land to the east of Greet Road, north of Winchcombe School (Site B).

Reasons

Whether the proposal is needed to meet the housing requirements of the borough and contribute to the short term housing land supply deficit

5. The development plan currently comprises the Regional Planning Guidance for the South West (RPG10), the saved policies in the Gloucestershire Structure Plan Second Review (SP) and the saved policies in the Tewkesbury Borough Local Plan (LP). RPG10 was in the process of being reviewed and this had reached an advanced stage following an Examination in Public and proposed changes by the Secretary of State. However the proposed changes to the Regional Spatial Strategy for South West England (the draft RS) never progressed further due to the Government's stated intention to abolish regional strategies. The Order was laid before Parliament on 24 April and is due to come into force on 20 May 2013. It should be noted that all saved Structure Plan policies of relevance to this appeal will also be revoked at the same time. Whilst this occurred following the close of the Inquiry the pending revocation was considered by the parties and I am satisfied that there is no need to seek further comments on the matter.

Housing requirement

6. The Council prefers to use the housing target in the SP as the basis for its housing land supply calculations. Although this document is currently the statutory starting point it only covers the period to 2010 and is based on household projections dating back to the mid 1990's. In the circumstances the housing requirement in the SP is out of date and not fit for purpose. Whilst a Joint Core Strategy (JCS) is being prepared by Tewkesbury and Cheltenham Borough Councils and Gloucester City Council this is still at a relatively early pre-submission stage. Despite being commenced some years ago this document is not expected to be adopted until December 2014 at the earliest. Although some objectors considered that the appeal scheme was premature in advance of a settled local policy position, the early stage that the document has reached means that such arguments cannot be supported. The emerging JCS can be afforded little weight at the present time.
7. In the circumstances the most up to date and robust housing requirement is provided by the draft RS rather than the SP. The Secretary of State reached a similar conclusion in the recent appeal decision relating to Highfield Farm, Tetbury. Whilst this concerned a different local planning authority, the SP and the draft RS were the same as in the current appeal. The Framework requires an additional buffer of 5% or 20% to be moved forward in the housing trajectory in order to ensure choice and competition in the market for land. In this case the Council considered that a 20% buffer should be added to reflect the persistent under delivery of housing.

Housing supply

8. The main parties disagreed about the deliverability of some of the housing sites. However it is unnecessary to explore this further because even on the Council's assessment there would be a shortfall of 2,912 dwellings and a supply of only 2.7 years. The Secretary of State when granting planning permission for housing development at Bishop's Cleeve referred to the "pressing need" for

additional housing within Tewkesbury Borough in his decision. The shortfall referred to above takes account of the houses that would be delivered as a result of that decision and also the Bloor Homes planning permission.

9. The spatial strategy in the draft RS, which appears likely to be carried forward in the emerging JCS, is to concentrate housing within sustainable urban extensions around Gloucester and Cheltenham, including Bishop's Cleeve. However there is also a requirement for 2,900 houses in the "rest of Tewkesbury", which includes Winchcombe and Tewkesbury. Aside from the latter, in the 2011 audit of rural settlements undertaken as part of the evidence base for the JCS, the town was ranked second in terms of the overall level of services that it offers and its accessibility. Even on the basis of the whole borough, including Bishop's Cleeve, it was ranked fourth on this basis. The approval of the Bloor Homes development shows that the Council recognises Winchcombe as a sustainable settlement where further development can take place to contribute to the housing shortfall. Furthermore it has acknowledged in its Committee Report that the scale of the appeal proposal would not be prejudicial to the spatial strategy in the emerging JCS.
10. The appeal site is outside the current development boundary for Winchcombe. The proposal would thus not comply with saved LP Policy HOU4 which restricts new housing to limited purposes relating to affordable housing and rural activities. However Paragraph 49 of the Framework makes clear that where a 5 year supply of deliverable sites cannot be demonstrated, housing supply policies should not be considered up to date. It is clear that the Council will not be able to meet its housing commitments without breaching Policy HOU4 and this policy should not therefore be considered as a constraint. Insofar as saved Policies H.6 and S.4 in the SP seek to restrict housing development outside of rural settlements they should not be considered up to date either.
11. There was no dispute that the new houses could be ready for occupation within the next 5 years. Although the Bloor Homes development would add further homes to the local housing market within a similar time period there was no evidence that this would significantly slow down delivery on the appeal site. The Appellant indicated that there would be no objection to a foreshortening of the implementation period to ensure an expeditious start.
12. Winchcombe is undertaking a Neighbourhood Plan and it is creditable that local people involved with this plan are seeking to be pro-active with regards to future development, including the provision of housing and employment. I can understand their concerns that local choices could be limited if the appeal scheme goes ahead, especially in view of the recent Bloor Homes permission. Those involved in its production indicated that they would wish to see an organic growth of the town involving a number of small scale housing developments. This is in line with the *Winchcombe Town Design Statement*, which envisaged infill developments to meet local housing needs. However, notwithstanding the considerable amount of work that has already been done, the Neighbourhood Plan is still at a very early stage. It has not yet reached any consensus with regard to strategy or policy and can have very little weight as a material consideration at the present time.

Conclusions

13. Drawing together the above points, the appeal proposal is needed to meet the housing requirements of the Borough. Winchcombe is recognised as a

sustainable settlement where further housing development can be expected to take place. The scale of the deficit means that this is likely to occur on sites outside the current development boundary and that saved SP Policies H.6 and S.4 and saved Policy HOU4 in the LP are now out of date in this respect. In his decision, the Secretary of State commented that other than allowing the Bishop's Cleeve appeals there was no other credible way of reducing the 5 year housing land deficit. The same could be said in respect of the appeal scheme. Apart from mention by the Town Council of a proposal for more houses at Brockworth there was no evidence that any significant provision was in the pipeline elsewhere in the borough. Other objectors mentioned that sufficient brownfield land was available but there was no firm evidence that this is the case. The effect on the landscape will be considered under the next issue but the contribution that the scheme would make to help address the serious short term housing land supply deficit in Tewkesbury Borough is an important material consideration in its favour.

The effect of the proposal on the rural character of the area which is designated as a Special Landscape Area (SLA) and provides the setting for the Cotswolds Area of Outstanding Natural Beauty (AONB)

14. The planning application was accompanied by a Landscape and Visual Impact Assessment (LVIA). The Council also undertook its own LVIA for the purposes of the appeal. The methodology used in these assessments was based on the *Guidelines for Landscape and Visual Impact Assessment: Second Edition* and has not been challenged. The viewpoints within the Appellant's LVIA were agreed in advance by the Council. I visited most of these during my site visits, including seeing the site from the Gloucestershire Way, the Cotswold Way and the Wychavon Way within the AONB. I also saw the land from more local viewpoints within the SLA, including the approaches along both of the adjoining roads. I have taken all of this information into account in reaching my conclusions along with the oral and written landscape evidence to the Inquiry.

Policy context

15. There are several saved policies in the SP that seek to safeguard the quality of the landscape and the setting of settlements. Of particular relevance is saved Policy NHE.5 in the SP, which indicates that provision should not be made for development that would detract from the particular landscape qualities and character of the SLA. In the LP, saved Policy LND2 requires special attention to be paid to the protection and enhancement of the special landscape character of the SLA, which is of local significance. The supporting text explains that whilst the quality of the landscape is worthy of protection in its own right it also plays a role in providing the foreground setting for the adjacent AONB.
16. The Framework recognises the need to conserve and enhance the natural environment as a core planning principle. It also indicates that policies should set criteria against which proposals affecting landscape areas will be judged. The protection of designated sites should be commensurate with their status and great weight should be given to conserving the landscape and scenic beauty in AONBs. It seems to me that unlike saved LP Policy LND4, which relates to countryside protection in the non-designated areas, saved Policy LND2 is essentially criteria-based and permissive in its tone. There was some debate about whether the Council had used the policy to constrain the principle of development when considering the planning application. However that is clearly not what it purports to do as the Council accepted at the Inquiry.

Indeed the Bloor Homes site is also within the SLA and the Council clearly thought that the designation was not a barrier to granting planning permission. The correct construction of the policy is not at odds with the Framework, it does not seek to apply AONB controls to the SLA and it should not be considered out of date.

Effect on the morphology of Winchcombe

17. Winchcombe is a small town that has become established on the western side of the River Isbourne. Much of the settlement is on the lower slopes of the valley within the AONB and the remainder lies within the SLA. The town is surrounded by AONB countryside to the east, west and south and by the SLA to the north. Site A comprises farmed land and adjoins the northern boundary of the settlement. Both Site A and B are within the SLA and Site A adjoins the AONB boundary, which runs along Gretton Road at this point.
18. The northern boundary of the settlement is not even. Mount View Drive forms its current limit on the western side of Gretton Road whereas between Greet Road and the River Isbourne it is considerably further south. The Bloor Homes development will move this part of the settlement a little further northwards. The current settlement edge between Greet and Gretton Roads has a harsh appearance. New development to the west of Greet Road appears to have obliterated a stretch of important hedgerow¹ that previously existed near to that boundary and the view is of built development close to the development edge. The development of Site A would continue the pattern of development between the two roads out of the town but would offer the opportunity of a softer landscaped edge to the settlement provided by the field hedge that runs along the northern ridge and is roughly 5 metres high. With augmented planting there would be a considerable improvement to the setting of the town when approaching along either Greet or Gretton Roads from the north.
19. The housing development itself would occupy the western part of Site A. Its eastern boundary would have a diagonal alignment which is dictated by the presence of the subterranean remains of a Roman villa which is a Scheduled Monument (SM). SM Consent was granted in July 2012. One of the Council's concerns is that the proposed development would disrupt the strong rectilinear field pattern that is a particular feature of the area. However there are several instances of development at the edges of the town where the existing hedgelines have not been followed and boundaries are irregular in shape. One example relates to housing adjacent to the River Isbourne where the development edge has clearly been constrained by the need to avoid building on the flood plain. Another example is Mount View Drive which has straight boundaries that do not appear to follow any natural feature.
20. Although the SM is not to be excavated the proposal to include an informal recreation area and wildflower meadow within this part of the site would be beneficial to its protection. The existing ploughing regime has the potential for further damage to the subterranean remains. There would also be the advantage of display boards to allow people to understand a piece of history on their doorstep. If anyone were to question the diagonal alignment of the development boundary it would likely alert them to the archaeological

¹ The importance of the hedgerow is in terms of the Hedgerow Regulations 1977. The site visit revealed that much of the important hedgerow shown as H3 in Document 17 no longer exists.

significance of the site. For all of these reasons it is considered that the form and layout of the appeal development would integrate successfully with the existing urban morphology of the town.

Effect on the SLA landscape

21. The *Gloucestershire Landscape Character Assessment* identifies the SLA as falling within the *Unwooded Vale: Teddington and Greet Vale Character Area*. Features include a relatively sparsely settled open agrarian landscape with rural villages and scattered farms, medium to small scale hedged fields, scarce woodland cover contrasting to the wooded backdrop of the Cotswold escarpments and broadly undulating, gentle or almost flat vale landscape. The character area also includes the northern part of the built up area of Winchcombe as well as other settlements in the SLA, including Greet.
22. Hedgerows enclosing medium sized fields are a defining feature of the character area. The appeal proposal would largely retain the existing well managed hedgerows around the boundaries of both sites and through the centre of Site A. The new housing would however result in a loss of openness which is another important characteristic of the vale landscape. The significance of the hedgerows would be diminished by the loss of the farm land that they enclose. The proposed wildflower meadow on Site A would be an attractive feature but would not be typical of the landscape within this particular character area. This part of the SLA however is affected by a number of urban influences, including the poorly screened and exposed settlement edge that adjoins the southern site boundary of Site A. There is also the substantial spread of school buildings on the eastern side of Greet Road. Whilst these are presently surrounded by farmland this will be replaced by formal playing pitches and housing once the Bloor Homes site is developed. So whilst there would be some adverse impact to the SLA landscape, this would be relatively slight.
23. The western part of Site A is at a higher level and there is a small local ridge near the northern site boundary. Notwithstanding the screening effect of the northern field hedge, the upper parts of the new houses would be seen when approaching along Greet or Gretton Roads towards the town. There would be some visual perception that the gap between Winchcombe and Greet had been diminished. However the existence of the other existing and future development mentioned above renders this impact of limited importance. Site B would remain largely open and reflect other sports uses on adjoining land. Overall, the relatively flat nature of the vale landscape and the prevalence of hedgerows and other vegetation would mean that any adverse visual impacts arising from the appeal proposal on the SLA would be small scale and localised.
24. There is in addition scope for mitigation in the form of additional planting so that over time the built development on Site A would become better integrated with its surroundings. Furthermore there is the opportunity to create a new softer landscaped edge to the town as referred to above. Overall I consider that whilst the appeal development on Site A would have an adverse impact on the character and appearance of the SLA this would be of limited significance, especially in the longer term.

Impact on the setting of the AONB

25. The "setting" of the AONB enjoys no particular protection as a designation in its own right. Nevertheless LP Policy LND2 indicates that the SLA plays a role in providing the foreground setting. The Cotswolds Conservation Board² in its Position Statement considers the setting to be the area where development can have a positive or negative impact on the natural beauty and special quality of the AONB. This is also a view endorsed by Natural England. Within the *Cotswolds AONB Landscape Character Assessment* and the associated *Cotswolds AONB Landscape Strategy and Guidelines* the land to the west falls within the *Escarpment Outlier: Langley Hill* character area. The character assessment points out that there is considerable variety within the landscape patterns of the various outliers and that this may even apply to different sides of the same hill. It is therefore relevant to consider whether the appeal site has features in common with the adjoining AONB in order to assess the importance of this part of the SLA in terms of setting.
26. The landscape of the AONB itself would remain unchanged by the development proposal. Nevertheless Site A does share topographic similarities with the AONB as the gradient of the lower slopes of Langley Hill continues east of Gretton Road. Unlike the well tended hedgerows along the other boundaries of Site A, the northern hedgerow is much taller, contains trees and is characteristic of the unmanaged hedges that feature on the adjoining slopes of Langley Hill. There are views across the appeal site towards the AONB in both directions due to its elevated position. This is in contrast to the vale landscape where the much flatter topography, hedgerows and vegetation restricts the line of view. It therefore seems to me that Site A shares a number of landscape characteristics with the AONB landscape of Langley Hill. This seems hardly surprising because the AONB boundary, which was established in 1966 well before the SLA came into being, is not defined by topographic or landscape features but rather by Gretton Road.
27. The AONB is crossed by a number of footpaths and both Site A and Site B can be seen from several elevated viewpoints on Langley Hill as well as from Salter's Hill on the other side of the valley. These are national trails which include the Gloucestershire Way, the Cotswold Way and The Wychavon Way. From these places one gains a clear understanding of the existing settlement pattern which has extended up the lower eastern slopes of Langley Hill within the AONB.
28. Site B would be seen within the context of the adjoining school and its sports fields. The new housing on Site A would be seen as an extension beyond the existing built confines of the town. However this would be within the context of existing development, including Mount View Drive. Furthermore as previously noted the settlement edge extends much further northwards west of Greet Road than east of it. Winchcombe School is also seen as a significant area of development which is level with the northern site boundary. Although at present I would agree it is distanced from the settlement edge this will become much less apparent when the Bloor Homes development is built. In any event from these elevated viewpoints within the AONB there is the mitigating effect

² The Cotswolds Conservation Board was set up by Parliament to conserve and enhance the natural beauty of the Cotswolds AONB and increase awareness and understanding of its special qualities.

of distance. The existing sense of tranquillity that people enjoy when using these footpaths would not significantly change. Taking all of this into account I consider that the impact on views out of the AONB would be insignificant.

29. In views towards the AONB the visual effect of the development on Site A would be much more pronounced. This is due to the prominence of the topography and the construction of the housing on the elevated part of the site. At present Mount View Drive appears as two parallel rows of houses on the western side of Gretton Road. Whilst this development seems to me to be a highly evident feature it does nestle into its setting and the upper slopes of Langley Hill rise up behind to form a backdrop. It is the case that the new houses would interrupt that foreground view and be prominent to the observer standing outside the site in Greet Road. Whilst some of the upper slopes would be apparent the context of the rising hillside behind the town would be significantly diminished. From Gretton Road the situation is likely to be even worse because the observer would find that views towards Salter's Hill and the AONB escarpment on the other side of the valley would be greatly impeded due to the proximity and elevation of the built development. The adverse impacts on the setting of the AONB would be significant. Whilst these impacts would be confined to limited viewpoints it seems unlikely that they would diminish in time, even with the proposed landscaping.

Conclusions

30. In reaching my conclusions I have had regard to the Local Plan Inspector's views that the development of this land would be prominent and harmful both from the elevated viewpoints of the AONB and from Greet and Gretton Roads. She was also concerned about coalescence between Winchcombe and Greet. Whilst the landscape clearly has not changed since she made her assessment there has been further development within the last 10 years and changes to the settlement edge, including the construction of Mount View Drive and the permission for 92 dwellings on the Bloor Homes land. The Inspector was also of course making her comments under a totally different national planning policy regime and within the context of there being alternative housing land available to meet housing requirements to 2011. It is relevant to note that the Bloor Homes land was not favoured for housing development either.
31. The appeal proposal would extend built development beyond the settlement edge resulting in a loss of countryside. However this in itself is not a bar to development in a situation where the development plan policies relating to the supply of housing are now out of date. Saved Policy LND2 does not prohibit housing development within the SLA in principle. There would be an adverse impact on the character of the SLA landscape itself but this would be localised and should be set against the benefits in terms of the provision of a softer settlement edge.
32. Of greater importance is the harm to the setting of the AONB arising from the housing on the elevated part of Site A. The latter plays a role in providing the foreground setting to Langley Hill within the adjoining AONB with which it shares a number of topographic and landscape features in common. The appeal development would interrupt westerly views thus adversely affecting the setting of the AONB. Furthermore views would be impeded in an easterly direction towards the Cotswold escarpment on the other side of the valley. These impacts would be limited to those public viewpoints close to the east and west site boundaries. Nevertheless there would be significant harm to the

setting of the AONB. This would be contrary to development plan policy, including saved Policies S.6 and NHE.5 in the SP and saved Policy LND2 in the LP.

Other Matters

Affordable housing

33. There is no dispute that within the borough there is a substantial undersupply of affordable housing. It is the case that within Winchcombe there have been several affordable housing schemes, including Mount View Drive. The Parish Housing Needs Survey of February 2012 indicates that 40 households with a local connection were in need of affordable housing. Most of these would be accommodated by the Bloor Homes scheme where 32 affordable homes would be built. However this does not mean that there is no further requirement for affordable housing within this area. Whilst locally derived needs should be met first, there are also many nearby parishes for which Winchcombe would be the nearest and most sustainable location in which to live. Furthermore the severe deficit that exists in the borough as a whole cannot be ignored. I was told that 129 households had specified Winchcombe as their preferred choice and that 75 of those have a proven local connection.
34. Saved Policy HOU13 in the LP seeks to negotiate appropriate levels of affordable housing although there is no development plan policy that is specific about level or mix. The proposal is for 35% provision with a mix of social rent, affordable rent and intermediate housing. The Council is satisfied that the quantum and mix would be acceptable to address current housing needs. The Planning Obligation includes the mechanism for provision and this is tied to the occupation of the market dwellings.

Congestion and highway safety

35. The Town Council and many local residents were concerned about the increase in traffic on local roads, including within Winchcombe itself which is a historic centre with narrow streets and tight junctions. During my visits to the town I experienced delays caused by parked cars, delivery vehicles and local buses. Whilst queues can quickly develop they are also quick to disperse. I have no doubt that on occasion local roads become congested for longer periods especially at peak times. The appeal development would inevitably add more traffic to the local highway network and this must be judged in combination with the 92 homes to be built by Bloor Homes, also on the northern side of the town. However the evidence shows that junctions within the town would remain well within capacity with both developments in place and that queues would not significantly increase. The Framework makes clear that development should only be refused on transport grounds where residual cumulative impacts are severe. That would not be the case here.
36. Gloucestershire County Council as Highway Authority has raised no objections to the appeal scheme on traffic grounds and this is a matter of considerable weight. The proposal would accord with the relevant development plan policies relating to transportation in accordance with the Framework.

Flooding

37. There have been local concerns about flood risk and additional surface water runoff arising from the appeal development. The sites are within Flood Zone 1

where there is a low risk of fluvial flooding. The exception is the eastern part of Site B where no change is proposed. The Flood Risk Assessment concludes that other sources of potential flood risk, including from ground and surface water, would also be low. The post development runoff rates are to be maintained at the existing greenfield level. It is proposed to employ a sustainable drainage system (SuDS) for the housing development at Site A although the SM will be a constraint to drainage infrastructure.

Tourism

38. It is appreciated that Winchcombe is a very attractive town within the AONB. Its economy relies on the many tourists that visit and attractions include the historic Sudeley Castle. The town especially welcomes walkers who enjoy the numerous national footpaths that descend into the town from the surrounding countryside. Whilst I have concluded that there would be some harm to the setting of the AONB this would be restricted to relatively limited viewpoints along Greet and Gretton Roads. The enjoyment of the footpaths themselves and the tranquil experience valued by walkers would not be unduly diminished.

Heritage Matters

39. Several of the hedgerows have been found to be important under the 1997 Hedgerow Regulations. These include the hedgerows along the northern and eastern boundary of the Site A as well as that running along part of the centre and the southern boundary. The hedgerow along part of the southern boundary of Site B is also important. The importance of the hedgerows on Site A is due to their association with the SM. The northern boundary hedgerow also gains importance as a historic parish delineation as does the southern hedgerow on Site B. None of these hedgerows are deemed important on account of their wildlife or landscape interest.
40. In the main the significance of the important hedgerows referred to above would not be affected by the appeal proposal, apart from where the central and eastern hedgerow on Site A would be punctuated to provide footpath access. However from my observation at the site visit there are gaps within the hedgerows that could accommodate the necessary pathways. As layout is a reserved matter and the Masterplan in the Design and Access Statement is illustrative it is considered that small adjustments could be made to ensure that no harm ensues to the significance of the undesignated heritage asset.

Whether the proposal would be sustainable development taking account of the three dimensions in the National Planning Policy Framework.

41. The Framework establishes that sustainable development should be seen as a golden thread running through both plan-making and decision-taking. It identifies three dimensions to sustainable development, economic, social and environmental. It makes clear these roles are mutually dependent and should not be taken in isolation.
42. There is no dispute that in order to address the serious short term land supply deficit new housing in Tewkesbury Borough will have to be built on greenfield sites. As one of the most sustainable settlements in the borough, Winchcombe can be regarded as a suitable location for further housing development. The town is within and adjacent to the AONB apart from the northern section which is within the SLA. All things being equal this locally designated landscape would be considered as a preferable location to the nationally important

landscape of the AONB. Although the Strategic Housing Land Availability Assessment states not to be a policy document it makes clear that sites within the AONB have been ruled out as unsuitable and would need to be considered through the development plan process. It is not an unreasonable proposition that sites close to the settlement edge are generally more sustainable than those further away from it. Having granted planning permission for the Bloor Homes housing scheme, the only remaining land contiguous to the settlement and outside the AONB is Site A.

43. The appeal proposal would result in harm both to the SLA landscape and to the setting of the AONB. The former would be limited due to its localised nature. The latter would be more significant and there would be conflict with policies in both the Structure and Local Plans. There would though also be environmental benefits. These would include the improvements to the SM as well as the provision of a soft landscaped edge to the northern boundary of the town. There would also be other advantages including carbon reduction measures and the use of SuDS techniques. Although there would be a loss of agricultural land this should be set against the gains to biodiversity from the open areas within Sites A and B, including the wildflower meadow.
44. In terms of the social role, the most important benefit would be the provision of market and affordable homes to help meet housing needs over the next five years. There is no reason why the scheme should not deliver a high quality built environment that integrates successfully with the host community. New residents would be able to walk, cycle or travel by bus for many of their journeys. Various measures have been proposed to increase the accessibility of the location, including a section of new footway, various pedestrian crossing points and a Travel Plan. Footpaths across Site A would allow people to walk through the site including across the open space to reach Winchcombe School. In addition there would be a significant contribution to the bus service. As well as benefiting the new population these measures would also deliver wider advantages to the existing population of the town. Site B would offer a substantial area of land adjacent to Winchcombe School for sports pitches. The *Winchcombe Town Design Statement* mentions that there is a need for further sports facilities in the town. It is recognised that the provision would provide mitigation for the recreational needs of the new population. Nevertheless it would also provide a wider benefit to the local community which should not be overlooked.
45. In terms of the economic role the appeal scheme would deliver land in a sustainable location to improve choice and competition in the market place. This would contribute to economic growth both directly and indirectly. There would be new employment created during the period of construction, which is estimated as being three years. It is likely that many would be local jobs and this would boost the local economy. Businesses connected with the construction industry would also benefit and some of these would be local suppliers and trades. Once the development is complete new residents would spend a proportion of their household income locally. Whilst some of these people may already live within the area others would be from elsewhere. The Appellant has estimated that an annual expenditure of £650,000 would be generated of which £160,000 would be spent locally. This seems a relatively conservative estimate given the assumptions on which it is based.

46. I have carefully considered the environmental harm against the advantages of the scheme, including helping to address the serious deficiency of housing land. I have come to the conclusion that taking the policies of the Framework as a whole the proposal represents a sustainable form of development. The policies for the supply of housing are out of date and the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits that would be gained. There are therefore material considerations that override the conflict with the development plan, including saved SP Policy NHE.5 and saved LP Policy LND2 in this case.

Planning Obligations

47. There are two fully executed Planning Obligations by Agreement dated 9 April 2013. The first is with Gloucestershire County Council relating to education, libraries and transportation. It includes a Bonding provision to ensure that the relevant payments are made. The other is with Tewkesbury Borough Council relating to recreation, community facilities, medical care and various other requirements. I observed that no sum had been inserted in either document relating to the respective councils' legal charges. However I was told that the relevant monies had already been paid. I am satisfied that both of the legal agreements are legally sound and fit for purpose.
48. The policy context for the infrastructure contributions is provided by saved Policy S.5 in the SP, which requires consideration of the need for community services, education, sport and leisure facilities and transport services, amongst other things. Saved Policy GN11 in the LP seeks infrastructure provision and public services necessary to enable development to take place. However it is necessary to consider whether the obligations meet the statutory requirements in Paragraph 122 of the Community Infrastructure Levy (CIL) Regulations in order to determine whether or not they can be taken into account in the grant of planning permission. The requirements are that the obligations must be necessary, directly related and fairly and reasonably related in scale and kind to the development in question. It is noted that the Planning Obligations do not contain a clause that the contributions are conditional on my finding that they comply with the CIL Regulations.

Obligations to the County Council

49. A contribution has been made towards early years and primary education. The evidence indicates that there is a shortfall in provision within the Winchcombe area. There is sufficient information to be satisfied that the level of the contributions is justified. The money would either be spent on improving the qualifications of existing childminders or else towards providing additional capacity at the local playgroup which is oversubscribed. Winchcombe Abbey Church of England Primary School has limited scope to expand. However one room within the building is available to be used as a classroom and the money would be spent to increase capacity in this way.
50. The library contribution is based on the size of the new population and the cost of providing new stock, electronic access and increasing opening hours. However the information does not clearly demonstrate why existing facilities could not meet the needs of new residents. Whilst I was told that the lending area at Winchcombe Library is to be reconfigured to make more space available there is little convincing evidence that this is necessary in order for the development to go ahead.

51. A contribution is included to improve various crossing points on walking routes between the site and the town through tactile paving and the like. The evidence has included a breakdown of the costs to undertake the work, which includes the installation of dropped kerbs and tactile paving. There is also a contribution towards upgrading one of the bus stops local to the site on the bus route that runs towards Cheltenham along Greet Road. The evidence has included a breakdown of the costs to undertake the work, which includes a new bus shelter and real time passenger information displays. The bus service contribution would provide a morning and evening peak hour service on a subsidised route which is not presently viable. The information provided is sufficient to justify the payment and the objective is to encourage new residents to use the bus thus confirming its viability at the end of the one year period. The Travel Plan monitoring contribution would cover the cost of checking modal shift targets during the period that the plan is current. This is in accordance with the County Council's *Travel Plan Guidance* and is necessary to promote sustainable travel.
52. For the reasons given above there is sufficient information to be satisfied that the education and various transportation related contributions meet the CIL tests and can therefore be taken into account. The library contribution however has not been adequately justified, does not meet the CIL tests and cannot be taken into account.

Obligations to the Borough Council

53. The provision of the affordable housing would be linked by triggers to the market housing delivery to ensure that the affordable units are constructed within a reasonable timescale. There would be two trigger points and the arrangement would be acceptable to ensure the timely delivery of the affordable housing element of the scheme. The obligation is necessary to meet local housing needs.
54. In accordance with saved Policy RCN1 in the LP the appeal scheme would be required to provide 0.34 hectares of open space. The open space on the eastern side of Site A around the SM, which would include a children's play area, would exceed this requirement. There is provision for a Management Company to be set up and this would be responsible for the long term maintenance of the open space. The company would be financed through annual contributions from each household and is necessary to ensure the open space is properly looked after for the benefit of all who use it.
55. The Council has a local standard for playing pitches in different parts of the borough and in accordance with its Playing Pitch Strategy the requirement here would be for 0.25 hectares and this would be on Site B. The intention would be for this to be used by the school and community although the Planning Obligation makes arrangements for the transfer of the land in the first instance to the Council. A contribution has been made for the laying out of the pitches and the provision of changing facilities. Bearing in mind that the sports land would be transferred for the charge of £1, the financial contributions, which are based on Sport England's cost multiplier, would be reasonable and necessary.
56. There are also contributions towards the Cascades swimming pool in Tewkesbury and towards Astroturf provision at Winchcombe School. Whilst the sums of money involved are based on the Sport England sports facility calculator I have considerable doubts about the justification for these additional

contributions towards recreational facilities. There was insufficient information to be satisfied that the improvements to the pool would be necessary to accommodate those new residents who wished to use it. Winchcombe School would benefit considerably from the pitch provision referred to above and it is difficult to see how a further payment towards Astroturf could be justified.

57. Representations from local people and from the healthcare provider make clear that the existing medical centre in Winchcombe is operating at capacity. The medical centre contribution would be used to extend the facility and is worked out on the basis of the number of GP's needed to serve the new population, the space to accommodate them and the build costs for this space. There is room on the site to extend the existing building.
58. A contribution has been made for community facilities. It seems that this was initially offered by the Appellant. Whilst I was told that it may go towards more allotments or extending existing burial facilities it is difficult to see how the sum of money was worked out and what specific project it is intended to address to meet the needs of the new population.
59. There are several contributions that relate to facilities for individual households. These include a contribution towards refuse and recycling containers and a contribution towards the Smart Water Scheme. The latter is an anti-theft mechanism and has been requested by the police. Whilst these contributions have been worked out on the basis of cost of provision it seems to me that they relate to items for which individual householders should be responsible themselves. It is difficult to conclude that they are necessary for the development to go ahead. The provision of dog bins and appropriate signage would though be necessary to ensure that the open space on the eastern side of Site A is a safe and pleasant place for all to use. The contributions relate to the cost of provision and are justified.
60. For the reasons given above there is sufficient information to be satisfied that the obligations relating to the affordable housing provision and Management Company and the contributions towards school sports provision, the medical centre, dog bins and signage meet the CIL tests and can therefore be taken into account. The contributions towards the swimming pool, Astroturf provision, community facilities, refuse and recycling and the Smart Water scheme have not been adequately justified, do not meet the CIL tests and cannot be taken into account.

Planning conditions

61. I have considered the planning conditions suggested by the main parties bearing in mind advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. I have reworded them where necessary in the interests of precision, relevance and enforceability. Wherever possible I have imposed conditions that reflect the Secretary of State's model conditions in the circular.
62. In order to contribute to the housing land supply shortfall in the short term it is reasonable to reduce the implementation period from that normally applied to outline proposals. The Design and Access Statement sets out the principles and parameters that the scheme would follow and against which the proposal has been assessed. This includes frontage development along Gretton Road and further details would be provided at reserved matters stage.

63. There are several conditions that require specific details to be submitted at reserved matters stage. These relate to such matters as materials, bin and cycle storage, planting schedules, hard surfacing as well as implementation. Whilst I can understand that the Council wishes to offer guidance to the developer they cover matters that relate to the reserved matters stage. It does not seem to me that these conditions pass the circular test of necessity. The exception concerns construction details of internal roads and footways and the details required to ensure that individual dwellings are not occupied before access to the public highway has been provided. Such details go beyond the reserved matter relating to layout and so I have worded these as stand alone conditions.
64. Hedgerows and associated trees are to be retained and a condition is required to ensure that they are protected during the construction period. The lower slopes of Langley Hill continue across Site A and details of site levels and slab levels are necessary to ensure that the new houses sit comfortably within the landscape. Such details would not necessarily be linked to appearance or layout and should be required through a stand alone condition.
65. The suggested drainage condition included foul drainage. However it is unnecessary to require details of this as the proposal is to connect to the main sewerage system and can be dealt with under other legislation. There is no suggestion that there is insufficient capacity to accommodate the new dwellings. It is proposed to dispose of surface water using SuDS techniques. The success of this approach in the longer term is particularly dependent on the effectiveness of the future management regime. A condition to cover these matters is therefore required. The sports pitches on Site B would not be provided by the Appellant and it seems likely that their development would require a further planning application by the end user. This would include consideration of the drainage works and so it is unnecessary for a condition relating to this matter to be imposed.
66. In the interests of the safety of future occupiers it is necessary to provide fire hydrants. Several improvements are proposed to pedestrian accessibility. These include a pedestrian crossing facility in Greet Road near to Winchcombe School and a new stretch of footway along the Gretton Road frontage. Conditions are required to ensure these improvements come about but requiring the footway to be maintained is not sufficiently precise and requiring it to be retained seems unnecessary.
67. Access is not a reserved matter but it is necessary to ensure that it is provided in accordance with the submitted details and surfaced satisfactorily prior to adoption. In order to ensure the free flow of traffic along Gretton Road it is appropriate to require a Construction Method Statement to cover matters such as operatives' parking and unloading arrangements. It will also include wheel washing arrangements to ensure excess mud is not deposited on the highway.
68. The Ecological Impact Assessment indicates that there are no designated sites of nature conservation value either on or adjacent to the appeal site. The hedgerows around and within the site would be largely retained and the proposal includes the creation of new grassland and a wildflower meadow in the vicinity of the SM. This would result in a gain to biodiversity but as suggested in the assessment an Ecological Management Plan is necessary for hedgerow enhancement and providing the new habitats on the eastern part of the Site A. The condition also specifies details for future management of these

areas although the open space would be looked after by the Management Company as specified in one of the Planning Obligations. Due to the archaeological importance of the site a programme of investigation and recording is required.

69. The Council suggested a condition requiring a minimum of 10% of the energy supply to be secured by decentralised and renewable or low carbon energy sources. This is not supported by any specific development plan policy and the Appellant's Energy Statement indicated that carbon reductions would be delivered by other means such as insulation of dwellings. It seems to me that the suggested condition, which requires a 30% improvement in carbon reduction above that required under Building Regulations would serve a similar purpose and allow greater flexibility as to how the savings could be achieved.

Overall conclusions

70. For all of the reasons given above the appeal proposal comprises sustainable development. Whilst there would be significant landscape harm and conflict with development plan policy there would also be substantial benefits. Most notably these would include the contribution towards housing land supply in the face of a serious short term deficit. I have taken account of the appeal decisions proffered by the Council where the lack of a 5 year housing land supply was found insufficient to outweigh the harm to the countryside. However each case is different and here I have found that the balance of considerations is clearly in favour of granting planning permission, notwithstanding the policy conflict. I have considered all other matters that have been raised but have found nothing that alters my conclusion that the appeal should succeed.

Christina Downes

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Paul Cairnes	Of Counsel instructed by Ms S Freckleton, Borough Solicitor
<i>He called</i>	
Mr R Eaton BA(Hons) MTPL MRTPI	Planning Consultant with RJE Planning
Mr J Overall BA(Hons) CMLI	Landscape Architect with Ryder Landscape Consultants

FOR THE APPELLANT:

Mr Jeremy Cahill	Of Queen's Counsel instructed by Mr P Stacey, Turley Associates
<i>He called</i>	
Mr D Archer BA(Hons) DipTP MA MRTPI	Director of pad Design
Mr A Cook BA(Hons) MLD CMLI MIEMA CEnv	Director of Pegasus group
Mr P Finlayson BSc CEng MICE MIHT MCIWEM	Managing Director of PFA Consulting Ltd
Mr P Stacey BA DipTP CertArch MRTPI	Planning Director of Turley Associates

ROUND TABLE DISCUSSIONS ON CONDITIONS AND PLANNING OBLIGATIONS

Mrs K Riossi	Senior Solicitor with Gloucestershire County Council
Mr R Pitts	Senior Development Valuer with Gloucestershire County Council
Mr M Glaze	Development Co-ordinator for the Tewkesbury Area with the Highways Division of Gloucestershire County Council
Mrs F Evans BA MCIH	Housing Enabling Manager with Tewkesbury Borough Council
Mr A Sanders BA(Hons)	Leisure and Culture Manager with Tewkesbury Borough Council
Mr G Spencer LLB	Locum Solicitor with Tewkesbury Borough Council
Mr A Ross	Turley Associates
Mr A White	Planning Officer with Tewkesbury Borough Council

INTERESTED PERSONS:

Mrs A Telling	Local resident
Mr R Harrison	Chairman of Winchcombe Town Council
Mr D Bayne	Secretary and Trustee of the Campaign to Protect Rural England (CPRE) Gloucestershire

Mr J Mason	Branch and Secretary of CPRE Cheltenham, Gloucester and Tewkesbury District Local Borough Councillor for the Winchcombe Ward
Mr R Wakeford MRTPI (Hon)	Local resident, Co-ordinator of the Winchcombe Neighbourhood Plan, Town Councillor and Member of the Cotswolds Conservation Board
Mr M Watt MRTPI CMLI FArbor	Planning Officer with the Cotswolds Conservation Board

DOCUMENTS

- 1 Council's notification of the Inquiry and list of persons notified.
- 2 Statement delivered orally by Mrs Telling (local resident)
- 3 Statement delivered orally by Mr Bayne (CPRE)
- 4 Statement delivered orally by Mr Watt (Cotswolds Conservation Board)
- 5 Letter submitted by Mr and Mrs A J Brown, local residents
- 6 Draft conditions
- 7 Table prepared by the Borough Council showing CIL compliance of planning obligations
- 8 Correspondence from Natural England
- 9 Scheduling information for the Scheduled Monument on the eastern part of the site
- 10 Covering letter and extracts from the Inspector's Report into objections to the Tewkesbury Borough Local Plan
- 11 Statement delivered orally by Mr Harrison (Winchcombe Town Council)
- 12 Statement delivered orally by Mr Wakeford
- 13 Statement delivered orally by Councillor J Mason
- 14 Table prepared by the County Council showing CIL compliance of planning obligations (education and libraries)
- 15 Table prepared by the County Council showing CIL compliance of planning obligations (highways)
- 16 Briefing Note by Nathaniel Lichfield & Partners to explain the eVALUATE approach on behalf of the Appellant
- 17 Hedgerow Review submitted by the Appellant
- 18 Planning Obligation by Agreement between the owners, the Appellant and the County Council including the consent of Clydesdale Bank as Chargee
- 19 Planning Obligation by Agreement between the owners, the Appellant and the Borough Council including the consent of Clydesdale Bank as Chargee

PLANS

- A Application plans
- B Topography plan with the urban area marked
- C Plan showing AOBB/ SLA boundary
- D Approved layout of the Bloor Homes (Western) development, east of Greet Road, Winchcombe

SCHEDULE OF CONDITIONS

1. The development for which permission is hereby granted shall not be begun before detailed plans thereof showing the layout, scale and external appearance of the buildings, and landscaping thereto (hereinafter referred to as "the reserved matters") have been submitted to and approved by the Local Planning Authority.
2. Applications for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 12 months from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of 12 months from the date of approval of the last of the reserved matters to be approved.
4. Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and identified in the revised Design and Access Statement dated August 2012.
5. No development shall take place until details, which show how the existing trees and hedgerows that are to be retained will be protected during the course of construction, have been submitted to and approved in writing by the local planning authority. The details shall accord with BS 5837: *Trees in Relation to Construction*. All approved tree and hedge protection measures shall be in place prior to the commencement of construction and shall be retained thereafter until construction has been completed.
6. No development shall take place until details of existing and proposed ground levels and ground floor slab levels of the buildings relative to Ordnance Datum Newlyn have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
7. No development shall take place until a comprehensive and detailed drainage scheme for the disposal of surface water incorporating sustainable drainage principles and rain water harvesting (where possible), have been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the submitted Flood Risk Assessment and Drainage Strategy dated March 2012 and shall include details of future management and maintenance and a timetable/phasing plan. Development shall be implemented in accordance with the approved drainage scheme.
8. No development shall take place until details of the provision of fire hydrants served by mains water supply, including a timetable for their provision, have been submitted to and approved in writing by the local planning authority. The fire hydrants shall be provided in accordance with the approved details and timetable.
9. No development shall take place until the applicant, or their agents or successors in title, has secured and implemented a programme of

- archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
10. No works shall commence on site until details of a pedestrian crossing facility across Greet Road have been submitted to and approved in writing by the local planning authority. The works shall be completed in accordance with the approved details prior to occupation of any of the proposed dwellings.
 11. No development shall take place until full details of all roadways within the site have been submitted to and approved in writing by the local planning authority. Details shall include drainage, surfacing, construction, visibility splays, turning heads, street lighting, footways, road gradients and a timetable for provision. Development shall be in accordance with the approved details and timetable.
 12. Before any dwelling is first occupied the road between that dwelling and Gretton Road shall be constructed to binder course or surface course level and shall be retained in that condition until and unless the road is adopted as highway maintainable at public expense.
 13. No dwelling shall be occupied until the footway along the frontage of Gretton Road has been provided in accordance with plan no R281/1 E.
 14. No development shall take place until the proposed access off Gretton Road has been provided in accordance with plan no R281/1 E. The first 20 metres of the access road from Gretton Road shall be surfaced in a bound material and retained in that condition until and unless the road is adopted as highway maintainable at public expense
 15. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel washing facilities
 - v. measures to control the emission of dust and dirt during construction
 16. No development shall take place until an Ecological Management Plan (EMP) has been submitted to and approved in writing by the local planning authority. The EMP shall be in accordance with the mitigation and enhancement measures in the Ecological Impact Assessment (dated April 2012). It shall include a timetable for implementation, details for monitoring and review and how the areas concerned will be maintained and managed. Development shall be in accordance with the approved details and timetable in the EMP.
 17. A 30% improvement in carbon reduction above the 2010 Building Regulations requirement shall be secured across the development as part of the reserved matters submissions under Condition 1. This shall provide details of how the proposal will contribute to achieve aggregate reduction in carbon emissions in accordance with an agreed delivery trajectory.

End of conditions

Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England

This document contains guidance on the relevant legislation and its application in practice, sets out Natural England's general approach to designation and summarises the relevant governance and statutory procedures. It also contains a suggested method for applying the legislation to the practical assessment of landscapes in designation decision-making.

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Guidance for assessing landscapes for designation

Foreword

This guidance is intended, primarily, for use by Natural England specialist staff to help identify whether land is likely to meet the statutory criteria for AONB or National Park designation. We are, however, making it available on request to external audiences who may find it useful as an aid to understanding how decisions to designate are reached.

We will consider and respond to any formal proposal to designate or vary the boundary of an AONB or National Park but will, at all times, retain discretion as to which if any proposals to take forward, and how and when to do so. In any case which may proceed, Natural England will form its own view on whether or not the statutory criteria are met. The final extent of the area to be the subject of any consequential designation or variation order will also be entirely at Natural England's discretion.

This guidance will only be applied once a decision to commit resources to an assessment of an area of landscape against AONB or National Park designation criteria has been made. In coming to this earlier decision Natural England will have regard to a range of factors including:

- The extent/quality of evidence submitted that land might meet designation criteria;
- The reason(s) for the proposal;
- Evidence of local consensus that designation is appropriate;
- Benefit/positive impact of proposal balanced against the likely cost of designation;
- The relative importance of the proposal compared against other corporate priorities.

Guidance for assessing landscapes for designation

1. Introduction

1.1. This document explains how Natural England normally expects to:

- assess landscapes against the statutory designation criteria for National Park or Area of Outstanding Natural Beauty (AONB) designation;
- identify detailed boundaries for any areas that are considered to meet these criteria; and
- implement any Designation or Variation Orders necessary to give effect to this.

1.2. The assessment process described in this document effectively constitutes the **second** phase of a potential designation or variation project. This guidance will only be used once a decision to commit to undertaking a designation assessment has already been reached by Natural England. This earlier decision will take into account a number of factors including the likely availability of resources to execute a designation order, and its relative importance when compared against other work priorities.

1.3. This guidance updates and supersedes previous approaches developed by the former Countryside Agency for National Park and AONB assessment and boundary definition. It takes account of recent changes in the legislative framework relating to landscape designations as well as the outcome of the South Downs National Park Public Inquiry.

1.4. Although written for use by Natural England officers and their advisers, the document is also intended to be available to assist local authorities, landowners and other stakeholders when considering issues relating to the inclusion of land in a National Park or AONB.

1.5. Most of the conclusions which need to be drawn during an assessment following this guidance, and any decision-making on landscape designation rely on expert, professional judgments and the weighing of considerations, depending on the particular circumstances of each case. These decisions should be informed by professional advice where appropriate as well as information submitted by statutory consultees, the public and stakeholders. Natural England has a wide discretion in deciding what land should be designated, subject to review by the Secretary of State. This discretion is conferred upon it by statute. These matters are not readily susceptible to detailed guidance. This document can therefore only go part of the way towards seeking to offer guidance to those involved in the assessment of landscapes for designation. It is not intended to be complete or exhaustive guidance and it will be possible to depart from this guidance where the circumstances demand it. Above all, it is the actual words of the relevant statutory provisions which need to be applied in decision-making on designations.

2. Legal Framework

2.1. The statutory framework for protected landscapes in England was first established in the National Parks and Access to the Countryside Act 1949 ("NPAC 1949"). The legislation has been amended and added to many times since then. Today, land to be included in a National Park or AONB must meet the statutory designation criteria that are set out in the National Parks and Access to the Countryside Act 1949 (for National Parks) or the Countryside and Rights of Way Act 2000 (for AONBs). These are reproduced in Appendix 1 and summarised below. They apply whether a new designation is made or the boundaries of an existing National Park or AONB are varied.

2.2. The requirements for designation can be summarised as follows (with the differences between National Park and AONB highlighted in bold):

Guidance for assessing landscapes for designation

	AONB	National Park
Technical criteria	Natural beauty	Natural beauty Opportunities for open-air recreation
Desirability	Desirable to designate ... for the purposes of... (defined below)	Especially desirable to designate ... for the purposes of... (defined below)
Designation	AONB (normally with AONB Partnership or exceptionally a Conservation Board)	National Park (with National Park Authority)
Purposes	Conserving and enhancing its natural beauty	Conserving and enhancing its natural beauty, wildlife and cultural heritage Promoting understanding and enjoyment of its special qualities by the public

National Park

2.3. Section 5(2) of the National Parks and Access to the Countryside Act 1949 defines a **National Park** as an extensive tract of country in England which it appears to Natural England that, by reason of its:

natural beauty and the opportunities it affords for **open-air recreation**, having regard to both its character and its position in relation to centres of population, it is especially desirable that it is **designated for National Park purposes**.

2.4. The purposes of a National Park are set out in section 5(1) as follows:

- conserving and enhancing its natural beauty, wildlife and cultural heritage, and
- promoting understanding and enjoyment of its special qualities by the public.

2.5. Some further clarification is provided in the legislation:

- Reference to conservation and enhancement of natural beauty includes conservation of its flora, fauna and geological and physiographical features (s.114(2) NPAC 1949; this provision applies to National Park purposes and not the assessment of natural beauty as such, however see the note to paragraph 6.3).
- When considering the natural beauty of an area, account may be taken of its wildlife and cultural heritage (s.5(2A)(a) NPAC 1949).
- Land is not prevented from being treated as of natural beauty by the fact that it is used for agriculture, or woodlands, or as a park, or that its physiographical features are partly the product of human intervention in the landscape (s.99 Natural Environment and Rural Communities Act 2006 ("NERC")).
- When considering opportunities afforded for open-air recreation, account may be taken of the extent to which it is possible to promote opportunities for the understanding and enjoyment of an area's special qualities by the public (s.5(2A)(b) NPAC 1949).

Guidance for assessing landscapes for designation

Area of Outstanding Natural Beauty (AONB)

2.6. Section 82(1) of the Countryside and Rights of Way Act 2000 ("CROW") defines an AONB in England as an area that is not in a National Park but which appears to Natural England to be of such outstanding **natural beauty** that it is desirable that the protective provisions of Part IV of CROW should apply to it for the purpose of conserving and enhancing the area's natural beauty. In such circumstances Natural England may, by order, designate the area as an AONB.

2.7. Some further clarification is provided in the legislation:

- Reference to conservation of natural beauty includes conservation of its flora, fauna and geological and physiographical features (s.92(2) of the CROW Act; this provision applies to the AONB purpose and not to the assessment of natural beauty as such, however see paragraph 6.3).
- Land is not prevented from being treated as of natural beauty by the fact that it is used for agriculture, or woodlands, or as a park, or that its physiographical features are partly the product of human intervention in the landscape (s.99 NERC).

Distinguishing National Park from AONB

2.8. The differences, at the designation stage, between National Park and AONB may be summarised as follows:

- AONBs need only meet the natural beauty test, National Parks must also meet the recreation test (see further paragraph 7.1);
- the test for desirability is different, with National Parks requiring the standard of 'especially' desirable (para. 8.6);
- AONB purposes do not include promoting understanding and enjoyment of the area's special qualities (para 8.8) except in the case of AONB Conservation Boards (para 8.8);
- in practice local authorities in many AONBs make a big contribution to promoting understanding and enjoyment; however, it is not a statutory purpose that can be taken into account at designation (para 8.9)

2.9. It is Natural England's view that the practical application of the natural beauty criterion is identical in National Park and AONB designation, despite there being differences in the degree to which the criterion is clarified in the legislation (para. 6.1ff. and 8.6).

Practical application

2.10. As can be seen from the preceding section, the legislation contains no exhaustive definitions of some important concepts: natural beauty, opportunities for open-air recreation, the desirability of designation or how to determine the detailed boundaries of designations.

2.11. Natural England has therefore considered in detail the way in which these concepts have been applied previously in designating National Parks and AONBs. The most recent designation, and the only one which takes into account the NERC Act, is in relation to the South Downs National Park and that has accordingly been taken into account. Natural England has also taken this opportunity to record the current 'best practice' techniques that have been developed in recent years to facilitate robust, rigorous and transparent assessment of landscapes for designation.

2.12. The remainder of this document addresses some particular aspects of the relevant statutory provisions and then sets out guidance on how Natural England normally expects to apply the statute and assess key factors.

Guidance for assessing landscapes for designation

3. Natural England's approach to designation

Principles

3.1. Natural England may decide to use its statutory powers to designate tracts of land as either AONB or National Park in furtherance of its general purpose of conserving and enhancing the landscape. We will use these powers judiciously, and future designation work within the current legal framework is likely to be confined to a limited number of particularly important boundary variations.

3.2. Natural England intends to select areas for future consideration, and to prioritise these using transparent criteria. Once a project reaches a stage where the designation criteria need to be considered in detail, this guidance should be used. It explains how Natural England normally expects to apply the statutory designation criteria in practice when assessing landscapes for designation.

3.3. In considering whether to take forward a designation or variation project Natural England acts under Government guidance provided in 2004 that remains extant. This guidance states that "ultimately, boundary changes should be rarely needed" and "In considering responses to a consultation, the Countryside Agency [now Natural England] will have regard to local authority (or other) requests to extend or reduce the area being put forward for designation, but the final extent of the area to be the subject of a designation order will be entirely at Natural England's discretion. We would not expect consultation on a limited boundary variation to lead to wholesale re-evaluation of boundaries elsewhere.

3.4. In the simplest possible terms, the consideration of designating land under the legislation raises the following questions:

- Does this landscape have sufficient natural beauty?
- Does this landscape offer sufficient opportunities for open-air recreation?
- Is it desirable to designate this landscape as National Park or AONB?
- Where should the detailed boundary be drawn?

3.5. The main technique used to answer these questions is landscape character assessment. The document *"Landscape Character Assessment: Guidance for England and Scotland"* (Countryside Agency and Scottish Natural Heritage, 2002, under review at the time of writing) specifies two distinct stages for assessing landscapes: **characterisation** and **evaluation**. It also defines the key terms that are used in such assessments.

Guidance for assessing landscapes for designation

Table 1 Some key terms from Landscape Character Assessment (LCA)

Character: A distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different from another, rather than better or worse.

Characteristics: Elements, or combinations of elements, which make a particular contribution to distinctive character.

Elements: Individual components which make up the landscape, such as trees and hedges.

Features: Particularly prominent or eye-catching elements, like tree clumps, church towers, or wooded skylines. their character.

Characterisation: The process of identifying areas of similar character, classifying and mapping them and describing

3.6. Both characterisation and evaluation can use the techniques of landscape character assessment to gather information in a structured way. The characterisation stage (stage A below) divides the landscape into smaller areas (the 'spatial framework') and provides relatively value-free descriptions of the area. At the evaluation stage (stages B to E), judgments are made about the value of the landscapes within that spatial framework and the course of action that should be taken.

3.7. In the context of AONB and National Park designation, the **value** that is being assessed equates to the designation criteria for National Parks or AONBs as the case may be and in particular the 'technical criteria' of natural beauty and opportunities for open-air recreation. The considerations relevant to these statutory criteria should be stated clearly and then subjected to assessment. For those areas that pass this threshold, a judgment also then needs to be made as to whether it is desirable to designate the land concerned as AONB or National Park.

3.8. Once Natural England is satisfied that it has identified an area that should be taken forward for designation it is necessary to define a boundary in detail. This should be done employing the guidance on detailed boundary setting contained in this document at Section 5 and Appendix 4.

Practical application

3.9. In general terms, once a broad area of land potentially suitable for designation has been identified, the practical steps involved in assessing land for designation are as follows (see also the diagram below):

Guidance for assessing landscapes for designation

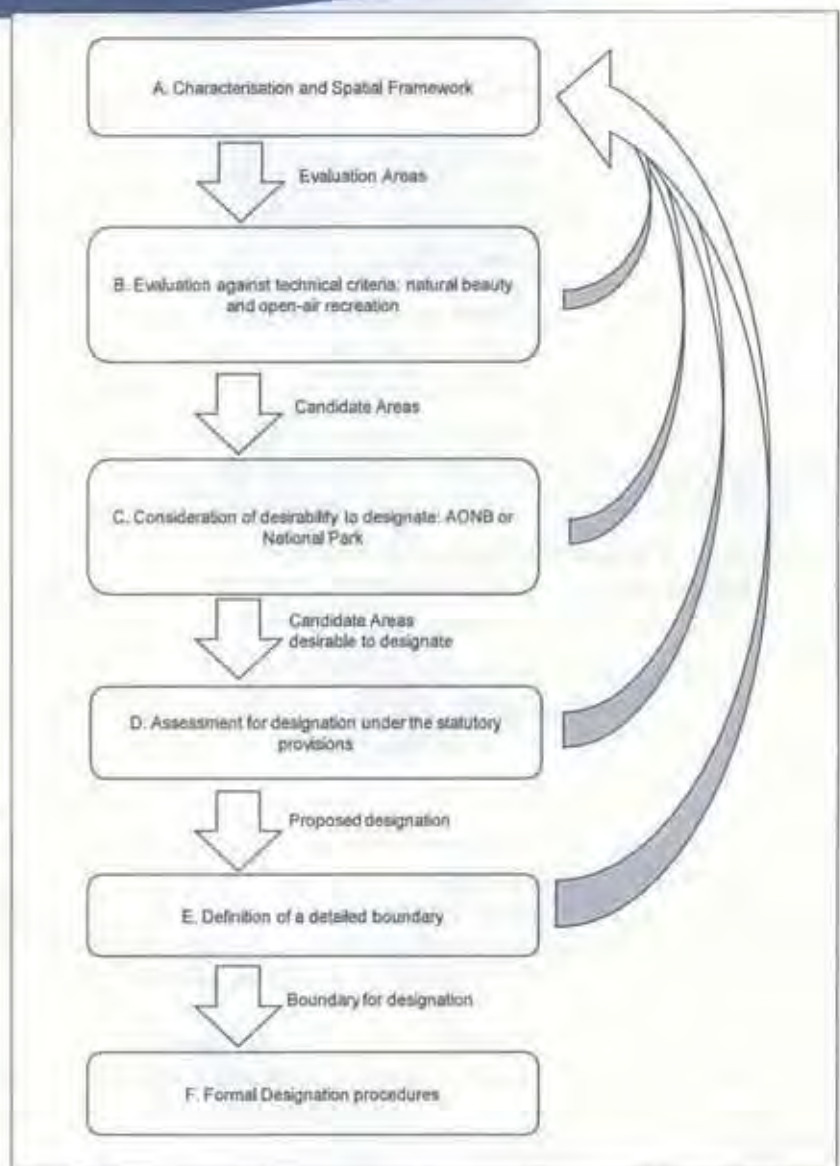
A. Characterisation and Spatial Framework (para 4.1ff): This is undertaken at an appropriate scale resulting in:

- a spatial framework of **Evaluation Areas** which are defined below; and
- a description of the character of these Evaluation Areas.

B. Technical Criteria (para 5.1ff): Each Evaluation Area is evaluated against the following technical criteria:

- natural beauty (paras 6.1ff) and opportunities for open-air recreation (para 7.1ff) in the case of National Parks; and
- natural beauty only in the case of AONBs.
- An area that appears likely to be able to meet the technical criteria is included in a Candidate Area.

C. Desirability to Designate (para 8.1ff): For each Candidate Area, consideration is given to whether it would be desirable to designate the area as part of a National Park or an AONB. At this stage, it may also be necessary to decide between the options of designating National Park or AONB.



3.10. This process can then be repeated, if necessary, at more detailed scales for those areas that qualified under the technical criteria (stage B) and are considered desirable to designate (stage C). The intention of this process is to undertake practical evaluation of landscapes to judge whether the building blocks of a potential designation are present.

D. Assessment for designation under the statutory provisions (para 8.20): For a potential designation area, it is necessary to stand back and ask in relation to the area as a whole whether it meets the tests set out in statute for designation, both the technical criteria and the desirability of designation consideration.

E. Definition of a Detailed Boundary (para 9.1ff): The areas identified for designation are examined to define a detailed boundary which encloses them.

F. Formal Designation Procedures (para 10.1ff): Designation or Variation Orders are made and submitted to the Secretary of State for confirmation.

Guidance for assessing landscapes for designation

4. Characterisation and Spatial Framework

4.1. In order to aid the practical evaluation of a broad area of land potentially suitable for designation and to make evaluation a more manageable process, the broad area is divided into units of an appropriate scale to provide a spatial framework of landscape units which have been termed Evaluation Areas in this guidance.

4.2. Evaluation Areas should normally be defined, at least initially, using recognised landscape character assessment techniques described in national guidance¹. Each evaluation area is characterised, resulting in character descriptions which provide a relatively objective and value-free evidence base for the next stage (evaluation). The characterisation covers not only landscape character (including the factors relevant to natural beauty) but also recreation.

4.3. The starting point should be a broad character assessment (eg at National Character Area level), followed by local character assessments (such as Landscape Character Assessments and Historic Landscape Characterisations prepared at County or District Council level, or local seascape analyses) to inform more detailed evaluation. It is important that the most up-to-date and reliable character assessment information is used. Ideally the character assessment should also have been subject to stakeholder consultation, indicating that it is supported by a broad consensus of opinion. A character assessment that provides a consistent spatial framework across the whole area under consideration is also helpful.

4.4. The use of Evaluation Areas is intended merely to make the practical work of detailed evaluation of landscapes more manageable. It is not intended to lead to the designation or exclusion from designation of any land merely because of the way in which Evaluation Areas have been defined. That is why the process is intended to be flexible and iterative in its application.

5. Technical Criteria: General

Principles

5.1. The technical criteria for designating National Parks are natural beauty and opportunities for open-air recreation. In the case of AONBs it is only natural beauty.

	AONB	National Park
Technical criteria	Natural beauty	Natural beauty Opportunities for open-air recreation

5.2. Natural England considers the practical application of the natural beauty criterion to be identical for both National Park and AONB, despite the fact that there is a difference in the extent to which it has been expressly set out in the legislation (see paragraph 6.5 for further details). Accordingly, the only technical difference² between areas capable of being designated National Park or AONB is that, in order to be designated National Park, an area must meet the recreation criterion.

5.3. The following general guidance is given as to how the technical criteria should normally be applied.

¹ Landscape Character Assessment: Guidance for England and Scotland (2002)

² Apart from that relating to desirability of designation.

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- Natural England considers the practical application of the natural beauty criterion to be identical for both National Parks and AONBs, despite the fact that there is a difference in the extent to which it has been expressly clarified in the legislation.
- It is not necessary for the land to be included in a proposed designation to be of the same or similar character.
- In the case of National Parks, there should normally be a degree of concurrence between the land which meets the natural beauty criterion and land which meets the recreation criterion. However it is not necessary that they overlap completely.
- Field-by-field evaluation is not appropriate.
- There is no requirement that every parcel of land must meet either or both of the criteria (ie there may be, and is very likely to be, land which meets neither).
- The decision to include land that does not itself meet the technical criteria depends on the location, scale and effect of that land. Particular care is required at the margins of a designation. Within the main body of a National Park or AONB there is likely to be greater scope for the inclusion of sizeable areas of land which do not themselves meet the technical criteria.
- If an area is fragmented by land which does not meet the technical criteria to such an extent that it affects the ability of the area as a whole to meet the technical criteria, then the entire evaluation area is unlikely to qualify.
- Section 99 of the NERC Act clarifies that landscapes that are partly the product of human intervention can still have natural beauty and may be included in designations. This principle is very significant in the context of English landscapes.
- A designation can 'wash over' (ie include) a tract of land even though that land does not itself meet the designation criteria, even close to the boundary of a designated area³.
- It is not necessary to identify a precise 'hard' boundary for an area in relation to which the technical criteria are considered at the initial evaluation stage. However, gradual or sudden changes in quality or character near the margin of an Evaluation Area should be recorded, as they may be important for subsequent detailed boundary setting.

Practical application

5.4. Each Evaluation Area is evaluated against the technical criteria. An area that appears likely to be able to meet the technical criteria (either by itself or with other areas as part of a larger designated area) is included in a Candidate Area.

Table 2 Candidate Areas

Appears likely to meet technical criteria for:

Natural Beauty	Open-air recreation	Candidate Area for...
yes	yes	National Park or AONB
yes	no	AONB only
no	yes	Not a Candidate Area
no	no	Not a Candidate Area

³ This approach was applied in the Secretary of State's decision on the South Downs National Park and was described as "the 'washed-over' principle" (Letter on behalf of the Secretary of State for Environment, Food and Rural Affairs, 31 March 2009, "Proposed South Downs National Park" at paragraph 65).

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5.5. At a subsequent stage (addressed under 'Desirability' at para 8.20), it is necessary to consider whether a number of Candidate Areas together, or Candidate Areas and an existing designation in the case of a boundary review, form an extensive tract that satisfies the National Park designation criteria, or an area which satisfies AONB designation criteria. This is significant because the statutory criteria for designating land as a National Park or AONB apply to the *extensive tract* or the *area* in question. It is the National Park or AONB as a whole which must satisfy the relevant technical criteria.

5.6. As is explained in paragraph 4.1ff, in practical terms it is simpler and more manageable to make the initial evaluation in relation to parts of a potential National Park or AONB area or extension area – ie the Evaluation Areas – rather than for the National Park or AONB area as a whole. This is not, however, a substitute for the assessment of whether a potential designation area as a whole complies with the relevant statutory provisions.

5.7. The result of the initial evaluation stage of the assessment is that all or part of each Evaluation Area that appears likely to be able to meet the technical criteria (either by itself or with other areas as part of a larger designated area) is identified as a **Candidate Area** for potential National Park and/or AONB designation. In cases where the judgment is not clear cut one way or the other, the area may be identified for further and more detailed scrutiny.⁴

5.8. Below we set out our recommended approach to evaluating the technical criteria in detail. It is based on factors, sub-factors and indicators which taken together tend to show whether or not a criterion is satisfied. However, the assessment of a landscape against the two technical criteria is not a simple 'tick box' exercise. Once appraisal in relation to the listed factors and indicators has been undertaken it will be necessary to stand back and ask whether, having regard to all relevant considerations, the land has sufficient natural beauty and opportunities for open-air recreation, in line with the relevant statutory provisions. The listed factors and indicators are not intended to alter or replace the statutory criteria but merely to provide practical guidance for the assessment of areas against the criteria.

6. Natural Beauty

Principles

6.1. Natural beauty is not exhaustively defined in the legislation. It is also a very subjective characteristic of a landscape and ultimately involves a value judgment. In deciding whether an area has natural beauty, Natural England must therefore make a judgment as to whether people are likely to perceive a landscape as having sufficient natural beauty. In order to make these judgments (some of which are subjective) in a transparent and consistent way, this Guidance sets out which criteria Natural England intends to use.

6.2. In England it is widely accepted that the beauty of all our most cherished landscapes is in part due to human intervention such as agriculture and forestry. It has long been the practice to include such factors in the assessment of natural beauty. This is now clarified in statute, and in the case of both AONBs and National Parks land is not prevented from being treated as being of natural beauty by the fact that it is used for agriculture, or woodlands, or as a park, or that its physiographical features are partly the product of human intervention in the landscape (s.99 of NERC Act).

⁴An Evaluation Area may contain land that meets the criteria to varying degrees. Such variations should be identified. A decision can then be made on whether to exclude the non-qualifying parts of the Evaluation Area from the potential National Park or AONB designation or whether in the context of the area as a whole they can be included. Alternatively, the extent of an Evaluation Area may be adjusted, so that a revised area of land is then re-considered against the technical criteria.

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6.3. It is Natural England's view that fauna and flora (i.e. wildlife), geological and physiographical features⁵ and cultural heritage can contribute to the natural beauty of all landscapes and that any assessment of natural beauty must take these factors into consideration, whether in relation to a National Park or an AONB designation.⁶ For example, the presence of particular wildlife or cultural heritage features can make an appreciable contribution to an area's sense of place and thereby heighten the perception of natural beauty. There is now express statutory clarification that wildlife and cultural heritage may be taken into account in assessing natural beauty for National Park designations (s.59(1)) of NERC).

6.4. During the passage of the NERC Bill through Parliament, Lord Bach for the Government explained that "the intention, and the current practice, is that wildlife and cultural heritage considerations are factored into the natural beauty assessments rather than being free-standing tests in their own right"⁷. Whilst this statement was made in connection with National Parks, past and present practice has been to treat the practical assessment of natural beauty in National Parks and AONBs in the same way.

6.5. Notwithstanding the differences in the express statutory provisions, the Government's formal position during the passage of the NERC Act was that the natural beauty required of a National Park and an AONB are the same.⁸ Natural England considers that there is no material difference between the requirements in practical terms of the natural beauty criterion in the two pieces of legislation. Accordingly, if an area meets the natural beauty criterion, Natural England will normally consider it to have natural beauty of a standard suitable for either National Park or AONB designation.

Practical application

6.6. The systematic evaluation of natural beauty can be a complex exercise requiring careful assessment and judgment. Natural England has developed a list of **factors that contribute to natural beauty**. It provides a practical framework for an evidence-base which assists in making judgments about natural beauty in a rigorous and transparent way. The suggested factors (see Table 3) have been drawn from the landscape value criteria included in the Landscape Character Assessment Guidance 2002. They have been restated in Table 3 to show more explicitly which factors relate to natural beauty and which to other aspects of the statutory criteria⁹.

6.7. The factors listed in this guidance for the two technical criteria are the main relevant factors. The lists are not intended to be exhaustive and other factors may be relevant in some circumstances. Not all factors will be relevant in every case.

6.8. Each of these factors is itself divided into sub-factors, which are judged by indicators (see **Appendix 1**). The indicators are statements of the features, characteristics and qualities which tend to indicate whether a particular factor is present. The factors, sub-factors and their indicators in Appendix 1 are not presented in order of importance.

⁵ This view does not rely on the 'extended definition' of natural beauty contained in s.114(2) NPAC and s.92(2) CROW which refer specifically to the purpose of 'conserving and enhancing' natural beauty.

⁶ The European Landscape Convention defines landscape as *an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors*.

⁷ Lords Hansard 27 Feb 2006 (Col 79)

⁸ See Lords Hansard 20 Mar 2006 (Col 51) and Commons Hansard 13 June 2000 (Col 556W). That the natural beauty criterion was the same for National Parks and AONBs was also accepted by the Inspector in the re-opened South Downs National Park inquiry.

⁹ The LCA guidance sets out a list of tests for 'landscape value'. In this approach, all the factors in the list are retained, but they have been disaggregated to show how they relate to the different components of the statutory criteria, including the consideration of the desirability of designation.

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Table 3 Factors related to Natural Beauty

Landscape quality

This is a measure of the physical state or condition of the landscape.

Scenic quality

The extent to which the landscape appeals to the senses (primarily, but not only, the visual senses).

Relative wildness

The degree to which relatively wild character can be perceived in the landscape makes a particular contribution to sense of place.

Relative tranquillity

The degree to which relative tranquillity can be perceived in the landscape¹⁰.

Natural heritage features

The influence of natural heritage on the perception of the natural beauty of the area. Natural heritage includes flora, fauna, geological and physiographical features.

Cultural heritage

The influence of cultural heritage on the perception of natural beauty of the area and the degree to which associations with particular people, artists, writers or events in history contribute to such perception

6.9. The sub-factors and associated indicators should be regarded as a "menu" of examples (developed from past designations and subsequent consultation) from which those appropriate to the character of the landscape under consideration should be chosen, adapted or added to. There is no "scoring" involving accumulations of indicators and it is possible for a landscape to exhibit natural beauty or offer opportunities for open air recreation even a number of the indicators suggested in **Appendix 1** are not present.

6.10. It is useful to highlight some general points on the application of the natural beauty criterion:

- There is no need for a National Park or AONB to display a distinctive or coherent identity. A designation can contain different landscapes so long as the designation as a whole satisfies the natural beauty criterion.¹¹

¹⁰ See MacFarlane, R., Haggett, C., Fuller, D., Dunsford, H. and Carlisle, B. (2004). Tranquillity Mapping: developing a robust methodology for planning support, Report to the Campaign to Protect Rural England, Countryside Agency, North East Assembly, Northumberland Strategic Partnership, Northumberland National Park Authority and Durham County Council, CESA, Northumbria University. See also <http://www.cpre.org.uk/campaigns/landscape/tranquility>

¹¹ The criterion is one of natural beauty, not 'characteristic natural beauty'. This is clearly laid out in paragraphs 2.45 to 2.48 of the Report into the South Downs National Park, Inspector's Report (2), 28 November 2008

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- **Not all factors or indicators have to be present across a designation.** Different parts of a designation can satisfy the natural beauty criterion for different reasons, provided that overall the area is of sufficient natural beauty to be designated as a National Park or an AONB.
- The weight and relative importance given to different factors or indicators may vary depending on the geographic context. For example, in the South Downs, less weight was given to relative wildness and more to relative tranquillity and natural and cultural heritage features, reflecting the area's lowland, settled character and proximity to major centres of population. Comparisons are not to be made to other designated areas or adjacent areas but against wider countryside¹².

6.11. The effect of **settlements** and other major developments are assessed on their individual merits by considering their particular character and qualities and their relationship to the adjoining landscape. It is recognised that many settlements have cultural heritage qualities that can make a positive contribution to natural beauty. While this could be said to be true regardless of settlement size, in some cases a settlement may detract from the landscape to such an extent that it should be considered an incongruous feature.

6.12. The effects of **incongruous features** are assessed for the extent to which they detract from the natural beauty of an area under consideration. It is relevant to take into account whether a feature is temporary or transient. If an incongruous feature does not adversely affect natural beauty, it is not relevant that the feature does not in itself have natural beauty. It is a matter of judgment whether an incongruous feature has such an adverse effect that the whole potential designation fails to meet the natural beauty criterion (even though the area might, in the absence of the detractor, qualify) or whether it can be included. The cumulative impact of such features and the degree to which qualifying parts of the potential designation are fragmented may be relevant to the assessment.

7. Opportunities for Open-Air Recreation

Principles

7.1. This criterion only relates to designating National Parks. AONBs may fulfil a recreational role but they are not designated for any recreational opportunities they may offer.

7.2. The statute provides simply that the type of recreational opportunities to which consideration should be given are "open-air recreation". The statute excludes "organised games" but is no more restrictive than that. In considering opportunities for open-air recreation, the statute requires that regard be had in particular to the character of the land. This suggests that the character of the land has an important bearing on whether the opportunities for open-air recreation are sufficient to warrant designation. However, a 'markedly superior recreational experience' (see below) does not necessarily rely on the land having any particular character. Nor does the statute provide that particular types of open-air recreation can or cannot be taken into account (save for organised games). Provided that the landscape satisfies the natural beauty criterion, the question of whether or not it offers a markedly superior recreational experience should be assessed on its merits having regard to all relevant considerations.

7.3. Recreational opportunities to be taken into account should normally be consistent with the conservation and enhancement of the area's natural beauty, wildlife and cultural heritage. Quiet outdoor recreation is therefore likely to be the most weighty consideration under this criterion.

¹² In the course of the reopened South Downs public inquiry the Inspector repeatedly used the term "ordinary countryside" to describe wider countryside that was currently undesigned. For example see paragraph 2.53 of the Inspector's Report (2), 28 November 2008

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7.4. The statute also requires that regard is had to the position of the potential designation in relation to centres of population. This suggests that the accessibility of the potential designation to urban areas also has an important bearing on whether an area should be designated by reason of the opportunities it affords for open-air recreation.

7.5. Opportunities for open-air recreation are not limited to present facilities, but include an ability to look to the future – opportunities is equivalent to the land's potential.

7.6. It is not just the quantity of opportunities that is relevant, but also their quality, which should exceed that normally available in the wider countryside.

Practical application

7.7. This criterion is normally evaluated in practice by considering a number of **factors that contribute to the presence of sufficient opportunities for open-air recreation** (see Table 4). The factors provide a practical framework for the detailed expert work of assembling an evidence base for making judgments about opportunities for open-air recreation. In assessing land against these factors, it is relevant to consider the type, quality and quantity of opportunities available.

7.8. In considering these factors, the extent to which it is possible to promote opportunities for the understanding and enjoyment of the area's special qualities may be taken into account. It is therefore permissible to look to the future, beyond present potential, to consider whether it is possible to initiate further opportunities in the future, bearing in mind National Park purposes, the duty on public bodies to have regard to these purposes, and the powers and duties of a National Park Authority with regard to recreation. It is important that improvements in future recreation and understanding are not merely vague, speculative or unrealistic aspirations. The potential for improvements must therefore be a realistic possibility within a reasonable time scale.

7.9. It is not necessary that all factors or indicators be present across a designation, as different parts of a designation can satisfy the recreational criterion for different reasons. Overall, there should be a weight of evidence that an area of countryside has (or is capable of providing) sufficient **opportunities for open-air recreation** to such an extent that it provides a markedly superior recreational experience. Comparisons are not to be made to other designated areas or adjacent areas but against ordinary countryside.

7.10. Particular attention should be paid to public access to the land. While it is a matter of judgment whether a lack of public access to an area of land precludes satisfaction of the statutory criterion in a particular case, it is clearly unreasonable as a matter of principle to expect all land to be accessible, whether situated within the main body of a National Park or at its margins. Where there is no access, land may still be visually appreciated and enjoyed by those engaged in open-air recreation elsewhere in the National Park. It has been established that a designation may 'wash over' (ie include) an area of land even when there is no public access to it for recreational purposes.

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Table 4 *Factors related to Opportunities for Open-Air Recreation in National Parks*

The area must be able to deliver a markedly superior recreational experience. This is an overall assessment, to which amongst others the following factors can contribute:

- **Access to high quality landscapes:** the presence of natural beauty and in particular relative tranquillity and relative wildness. There is no particular type of natural beauty that is more suitable for recreation in National Parks. Weight should be given to accessibility from centres of population.
- **Features of interest:** access to a wide range of **natural or cultural heritage features or cultural associations**. This includes landmarks and features of recognised value, appropriate to the enjoyment of open-air recreation. The presence of such features can enrich the landscape experience and sense of place and may enhance people's perception/appreciation of natural beauty and understanding of the special qualities of the area.
- **Good recreation provision:** The area should provide, or have the potential to provide, a range of recreation opportunities, a **diversity** of experiences and the opportunity for high **quality** open-air recreation including in particular that which is consistent with the special qualities of the area and does not detract from the enjoyment of the area by others. Particular regard should be had to the **accessibility of the provision from centres of population**.

7.11. The factors, sub-factors and indicators are given in **Appendix 2**. They are not in order of importance.

8. Consideration of Desirability of Designation

Principles

8.1. The decision whether it is desirable to designate lies at the heart of the legislation. An area of land that satisfies the natural beauty and recreational opportunities criteria is capable of being included in a National Park or AONB. Designation does not, however, follow automatically: it is for Natural England to exercise its judgment as to whether the desirability test is met, i.e. whether an area, which meets the relevant technical criteria should become a National Park or AONB in order to

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achieve the purposes of that designation. The following are the fundamental practical questions to address in considering each type of designation:

- Is it especially desirable to create a National Park (with a National Park Authority, management plan and certain duties on public bodies) in order to conserve and enhance the area's natural beauty, wildlife and cultural heritage and promote the understanding and enjoyment of its special qualities by the public?
- Is it desirable to create an AONB (with an AONB Partnership or statutory conservation board, management plan and certain duties on public bodies) in order to conserve and enhance the area's natural beauty?

Purposes of designation

8.2. The objective of giving landscapes National Park or AONB designation is to ensure that the purposes of designation are pursued. The purposes are:

	AONB	National Park
Purposes	Conserving and enhancing its natural beauty	Conserving and enhancing its natural beauty, wildlife and cultural heritage Promoting understanding and enjoyment of its special qualities by the public

8.3. National Parks and AONBs have the purpose of conserving and enhancing the area's natural beauty, which encompasses its flora, fauna, geological and physiographical features.¹³ The Government considers this to confer "the highest status of protection as far as landscape and natural beauty is concerned."¹⁴ In National Parks, this purpose also encompasses the conservation and enhancement of its wildlife and cultural heritage.

8.4. National Parks have the second purpose of promoting the understanding and enjoyment of its special qualities (see para. 8.16) by the public. If there is a conflict between the first and the second purpose, the 'Sandford' principle requires that greater weight should be given to the first purpose¹⁵.

8.5. The lead role in achieving the purposes of designation rest with the National Park Authority, AONB Partnership or Conservation Board. However, a duty to have regard to the purposes of designation applies to all relevant bodies, which includes Government departments and agencies, public bodies, statutory undertakers and persons holding public office.¹⁶

Distinguishing National Park and AONB

¹³ S.114(2) NPAC and s92(2) CROW

¹⁴ English National Parks and the Broads: Government Vision and Circular 201 (Defra, 2010), para. 20

¹⁵ S.11A(2) NPAC

¹⁶ Guidance on this duty is available in Duties on relevant authorities to have regard to the purposes of National parks, AONBs and the Norfolk and Suffolk Broads (Defra, 2005) and England's statutory landscape designations: a practical guide to your duty of regard (NE, 2010)

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8.6. **Different thresholds** apply to AONB and National Park designation. The implication of the word 'especially' is that the threshold of desirability for the designation of land as a National Park is higher than that for an AONB. This may be justified because a National Park designation brings with it more significant changes in the administration of the area.¹⁷

8.7. In both cases though, Natural England intends to apply a high threshold, in recognition of the fact that National Park / AONB represent the highest level of landscape protection. Areas should be nationally significant in order to be considered desirable to designate, and there should be confidence that the mechanisms, powers and duties resulting from designation are necessary to ensure the delivery of National Park / AONB purposes.

8.8. National Parks and AONBs have **different purposes**. AONBs do not have the statutory purpose of promoting the understanding and enjoyment of the area's special qualities to the public. AONB Conservation Boards¹⁸ are a special case, having the additional purpose of "increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty" (CROW s.87). In all AONBs there is no duty on relevant authorities (other than the Conservation Board) to have regard to the understanding and enjoyment of the area's special qualities.

8.9. In practice, AONB partnerships have been encouraged to promote understanding and enjoyment of the area's special qualities. Currently in many cases local authorities use their powers to do this. This contrasts with National Parks mainly in the scale, resources and expertise available, and in the fact that in National Parks it is an entrenched purpose to which all public bodies must have regard under statute.

8.10. There is also an apparent difference in the first purpose: both designations share the purpose of conserving and enhancing natural beauty (including flora, fauna, geological and physiographical features), but for AONBs this does not expressly include the purpose of conserving and enhancing wildlife or cultural heritage. In fact, 'wildlife' is practically equivalent to 'flora and fauna'. Furthermore, Natural England considers that 'cultural heritage' often contributes to the perception of natural beauty of the area (see Table 3) and so forms part of the AONB purpose to the extent that this is the case.

Practical application

8.11. In order to help assess whether it is desirable to designate an AONB or a National Park a number of questions can usefully be posed.¹⁹ These are detailed below in Table 5.

Table 5: Is it Desirable to Designate?

Is there an extensive tract that satisfies the National Park technical criteria, or an area which satisfies AONB technical criteria?

Is the area of such **significance** that National Park or AONB **purposes** should apply to it?

What are the issues affecting the area's **special**

¹⁷ When considering the desirability of designation of land as either a National Park or an AONB, the actual words used in the statute should be applied in decision-making. However, in this guidance 'desirable' is used as shorthand to refer to the concept relating to both types of designation.

¹⁸ As at March 2011 there are two Conservation Boards: for the Chilterns AONB and the Cotswolds AONB.

¹⁹ It should always be remembered however that the assessment of land for designation must be made by reference to the actual words of the relevant statutory provision.

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qualities and understanding and enjoyment?

Can National Park or AONB purposes be best pursued through the management **mechanisms, powers and duties** which come with National Park or AONB designation?

Are there **other relevant factors** which tend to suggest whether it is or is not desirable to designate the area?

8.12. The considerations relating to AONBs can be applied if the technical criterion of outstanding natural beauty is met. The considerations relating to National Park designation may only be applied if both the natural beauty criterion and the opportunities for open-air recreation criterion are met. It is also necessary to consider whether the Candidate Areas together, or Candidate Areas together with an existing designation in the case of a boundary review, are capable of forming an extensive tract that satisfies the National Park designation criteria, or an area which satisfies the AONB designation criterion. It is advisable, on completion of the "desirability" assessment, to verify whether any desirability factors could affect the overall composition of the proposed designation.

8.13. When considering **significance**, it is useful to take into account the following:

- **Special qualities:** the area's special qualities, ie those aspects of the area's natural beauty, wildlife and cultural heritage, which make the area distinctive and are valuable, particularly at a national scale.
- **Understanding and enjoyment:** the opportunities to promote the understanding and enjoyment of the area's special qualities.
- **Consensus:** Where there is a consensus of opinion that an area meets the statutory criteria or should be designated, this helps in determining whether it is accorded a special value that should be recognised. Views of stakeholders and the public can be strong indicators as to whether there is consensus about the value of a landscape. Evidence of past and present recognition of the importance of the landscape is therefore relevant. Care should be taken to ensure adverse change has not occurred in the landscape since consensus was reached.
- **Rarity or representativeness:** If a landscape, or an element within it, is rare or representative of a particular type of landscape, it may add weight to the judgment that an area should be represented within a National Park or AONB, although this is not an essential requirement.

8.14. Natural England should use these considerations help to judge whether or not an area is of **such national significance** that special purposes should apply to it, i.e.:

- **National Park purposes:** its natural beauty, wildlife and cultural heritage should be conserved and enhanced; **and** the understanding and enjoyment of its special qualities should be promoted;
- the **AONB purpose** alone: its natural beauty should be conserved and enhanced; or
- not of such national significance that those purposes should not apply.

8.15. To assist with decision-making, consideration should be given to whether these purposes can be delivered effectively using current arrangements, or as part of a nationally designated landscape. This assessment may be made by first considering the issues affecting the area's special qualities and options available to address them.

8.16. **Issues affecting special qualities and understanding and enjoyment:** These include current and longstanding issues and the significant forces for change which affect an area's natural

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beauty, recreational opportunities, and special qualities, and the ability to promote their understanding and enjoyment. The scale and impact of issues and likely changes should be assessed. Both current and possible future issues are potentially relevant.

8.17. Mechanisms, powers and duties: Consideration should be given to an appropriate response to issues identified above. The following factors may be relevant (Appendix 3 gives more detail):

- **Management arrangements:** the extent to which current and alternative management arrangements address the issues affecting the area and deliver National Park / AONB purposes. Management in pursuance of National Park or AONB purposes can deliver wider environmental benefits such as climate change mitigation and adaption, and improved connectivity of wildlife habitats. In cases where AONB designation is an option, consideration should be given to whether, due to the size of the area or its administrative complexity, establishment of a statutory Conservation Board might be justified.
- **Funding:** Current and expected future funding that contributes to National Park / AONB purposes should be considered against likely future funding under alternative scenarios. Concerns regarding the immediate availability of funds to support management of a National Park or AONB should not normally outweigh other consideration considerations of desirability. Designation represents a long term commitment which is likely to outlast current funding and detailed management arrangements.
- **Regulation and development control:** This refers to the ability of statutory regulation powers, and development control powers, to contribute to National Park / AONB purposes.
- **Integrated management for the future:** The degree to which strategic planning (such as Local Development Frameworks, Rights of Way Improvement Plans, NP / AONB Management Plans etc) could contribute to National Park / AONB purposes.
- **Duties and incentives for statutory bodies and others:** Here it is relevant to consider what duties there are on public bodies to deliver National Park / AONB purposes, and what incentives exist for others to contribute to delivering National Park / AONB purposes.

8.18. This is not an exhaustive list of considerations: **other factors** may be relevant if they can reasonably be said to relate to the judgment as to whether it is desirable that a particular area of land should be designated as National Park or AONB.²⁰ The more directly or substantially a factor bears upon the achievement of National Park or AONB purposes the more weight Natural England is likely to give it in the decision whether or not it is desirable to designate.

8.19. Natural England recognises that designation may have impacts beyond the statutory purposes. Common issues raised include democratic representation, impacts on housing markets and local economies. Natural England, in designating, must bear in mind that Parliament has put in place the basic framework of National Parks and AONBs which addresses some of these issues. In addition, Government policy influences how National Parks and AONBs operate in relation to wider policy areas, such as housing, the economy and planning. Any matters beyond those relevant to the consideration of the desirability of designation may rightly form the basis of Natural England's advice to Government.

8.20. Natural England must then look at all these matters as a whole to satisfy itself whether it is **especially desirable** to designate the area as National Park, or whether it is **desirable** to designate it as AONB. The decision is not taken on the basis of Evaluation Areas or Candidate Areas but rather on the whole area of a potential designation – an "extensive tract of country" in the case of National

²⁰ As to other relevant factors which may bear on whether it is desirable to designate land, in relation to the South Downs National Park the Secretary of State considered that it was especially desirable to designate that land because it was in relatively close proximity to major population centres in the South East.

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Parks and an "area" in the case of AONBs. A potential designation may be comprised of land that was, for practical evaluation purposes, contained in part or all of one or more Evaluation Areas. If ultimately the question of designation is to be formally posed, then the whole area to be subject to designation should be considered in its proper context against the actual text of the relevant statutory provisions themselves. In the case of National Parks this is section 5 of the National Parks and Access to the Countryside Act 1949, and in the case of AONBs this is section 82 of the Countryside and Rights of Way Act 2000.

9. Definition of a Detailed Boundary

Principles

9.1. The principal purpose of setting a detailed boundary is to determine where it is desirable that the designation of a particular National Park or AONB should begin and end.

9.2. When defining the detailed boundary there may be more scope for excluding particular areas of land that do not satisfy the criteria where they are located close to the boundary rather than within the main body of the designation. This should not however normally require a field-by-field assessment of land at the margins of the designation.

Practical application

9.3. Natural England will normally apply the guidelines set out in **Appendix 4** when setting a boundary. It is important that decisions reached when defining the boundary are made consistently along its length.

10. Formal Designation Procedures

10.1. Natural England has statutory powers to designate National Parks and AONBs²¹ and also to vary their boundaries.²² It does this by making statutory orders, which take effect only if confirmed by the Secretary of State (who may also amend them, or refuse to confirm them). The Secretary of State also has freestanding powers to vary or revoke designations. The following procedures apply equally to new designations as they do to variations to existing boundaries.

10.2. Before any formal orders are made, the legislation specifically requires that all county councils, district councils, National Park Authorities and parish councils, who have land within the area to be designated (or in the National Park or AONB to be varied), must be consulted prior to a designation order being made. As a matter of good practice, Natural England will also throughout the process seek engagement with key stakeholders and the general public.

10.3. Consultation responses may present new evidence to justify the inclusion or exclusion of land, identify further considerations as to the desirability of designation or identify specific boundary issues which need review. Therefore, after consultation, Natural England normally reviews its evidence and produces a revised proposal if necessary. The relevant stages of the process of evaluating land for designation set out above may therefore be repeated as necessary as part of an iterative process.

10.4. Following review and possible refinement, the land proposed for designation and the associated boundary may be formally adopted by Natural England. This final decision is reserved for the Board of Natural England.

²¹ s.5(3) NPAC 1949 and s.82(1) CROW 2000

²² s.45 Wildlife and Countryside Act 1981 and s.83(7) CROW 2000

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10.5. In the case of an AONB, a draft Designation Order is drawn up and placed on deposit for anyone to make representations to Natural England. Only then is it *made* (ie given formal legal existence) and submitted to the Minister with a copy of any representations. In the case of a National Park, a Designation Order is *made*, submitted to the Minister and then placed on deposit for anyone to make representations to the Minister. In both cases, the deposit period is publicised widely and documents and maps will be available for inspection.

10.6. If there are objections from a local authority which are not withdrawn, the Minister must hold a public inquiry. In this context 'local authority' does not include a parish council. The Minister may also hold a public inquiry or afford alternative ways to allow people to make further representations in any event.

10.7. The Minister may or may not confirm a Designation Order, with or without modifications, having considered any representations received and, in the event of a public inquiry, having considered the report of the inspector. If minded to confirm, the Minister makes a Confirmation Order, which contains details of any modifications to the original Order, and specifies when any new designation comes into effect.

10.8. Confirmation of the designation is made by the Minister once he or she has considered any representations to the Designation Order, or following receipt of an inspector's report in the event of a public inquiry. Where any modifications made by the Minister add land to the National Park or AONB not affected by the original designation order, notice must be given that the additions have been made and opportunity provided to hear representations on or objections to them.

10.9. The Secretary of State will need to make an establishment Order in the case of a new National Park to create the National Park Authority and in the case of an AONB if a new Conservation Board is to be created. It may also be necessary to vary establishment Orders in the case of National Park or Conservation Board boundary variations if a new local authority is added to the existing area. Detailed provisions are contained in section 63 and Schedule 7 Environment Act 1995 and section 86(7) CROW.

11. Further information

11.1. While this paper deals only with the designation of National Parks and AONBs, Natural England has a wider role to further the role of protected landscapes. Its Protected Landscapes Position (2010) sets out the position Natural England will adopt in this regard and its related advisory and guidance activities, both now and in the immediate future. It provides Natural England's approach to new and amended designations, and sets out how it will continue to work in partnership with the organisations representing the national family of protected landscapes.

11.2. Relevant documents:

- Landscape Character Assessment, Guidance for England and Scotland (SNH & CA, 2002)
- English National Parks and the Broads: UK Government Vision and Circular 2010 (Defra, 2010)
- Natural England's Position on Landscape (NE, 2008)
- Natural England's Position on Protected Landscapes (NE, 2010)
- National Park Management Plans, CA216 (CA, 2005)
- Guidance for the review of AONB management plans, CA221 (CA, 2006)
- AONB Management Plans: A guide, CA23 (CA, 2001)

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- Duties on relevant authorities to have regard to the purposes of National parks, AONBs and the Norfolk and Suffolk Broads (Defra, 2005)
- England's statutory landscape designations: a practical guide to your duty of regard (NE, 2010)

Appendix 1:

Evaluation Framework for Natural Beauty Criterion

The sub-factors and associated indicators should be regarded as a "menu" of examples (developed from past designations and subsequent consultation) from which those appropriate to the character of the landscape under consideration should be chosen, adapted or added to. There is no "scoring" involving accumulations of indicators and it is possible for a landscape to exhibit natural beauty or offer opportunities for open air recreation even if a number of the indicators shown in this appendix are not present.

Factor	Example sub-factor	Example Indicator
Landscape quality	Intactness of the landscape in visual, functional and ecological perspectives	Characteristic natural and man-made elements are well represented throughout
	The condition of the landscape's features and elements	Landscape elements are in good condition
	The influence of incongruous features or elements (whether man-made or natural) on the perceived natural beauty of the area	Incongruous elements are not present to a significant degree, are not visually intrusive, have only localised influence or are temporary in nature
	A distinctive sense of place	Landscape character lends a clear and recognisable sense of place
Scenic quality	Striking landform	Landform shows a strong sense of scale or contrast
		There are striking landform types or coastal configurations
	Visual interest in patterns of land cover	Land cover and vegetation types form an appealing pattern or composition in relation to each other and/or to landform which may be appreciated from either a vantage point or as one travels through a landscape
	Appeal to the senses	Strong aesthetic qualities, reflecting factors such as scale and form, degree of openness or enclosure, colours and textures, simplicity or diversity, and ephemeral or seasonal interest
Relative wildness		Memorable or unusual views and eye-catching features or landmarks
		Characteristic cognitive and sensory stimuli (e.g. sounds, quality of light, characteristic smells, characteristics of the weather)
		Relatively few roads or other transport routes
	A sense of remoteness	Distant from or perceived as distant from significant habitation
		Extensive areas of semi-natural vegetation
	A relative lack of human influence	Uninterrupted tracts of land with few built features and few overt industrial or

Factor	Example sub-factor	Example Indicator
		urban influences
	A sense of openness and exposure	Open, exposed to the elements and expansive in character
	A sense of enclosure and isolation	Sense of enclosure provided by (eg) woodland, landform that offers a feeling of isolation
	A sense of the passing of time and a return to nature	Absence or apparent absence of active human intervention
Relative tranquility	Contributors to tranquility	Presence and/or perceptions of natural landscape, birdsong, peace and quiet, natural-looking woodland, stars at night, stream, sea, natural sounds and similar influences
	Detractors from tranquility	Presence and/or perceptions of traffic noise, large numbers of people, urban development, overhead light pollution, low flying aircraft, power lines and similar influences
Natural heritage features	Geological and geo-morphological features	Visible expression of geology in distinctive sense of place and other aspects of scenic quality
		Presence of striking or memorable geo-morphological features
	Wildlife and habitats	Presence of wildlife and/or habitats that make a particular contribution to distinctive sense of place or other aspects of scenic quality
Cultural heritage		Presence of individual species that contribute to sense of place, relative wildness or tranquility
	Built environment, archaeology and designed landscapes	Presence of settlements, buildings or other structures that make a particular contribution to distinctive sense of place or other aspects of scenic quality
		Presence of visible archaeological remains, parkland or designed landscapes that provide striking features in the landscape
	Historic influence on the landscape	Visible presence of historic landscape types or specific landscape elements or features that provide evidence of time depth or historic influence on the landscape.
		Perceptions of a harmonious balance between natural and cultural elements in the landscape that stretch back over time
	Characteristic land management practices	Existence of characteristic land management practices, industries or crafts which contribute to natural beauty
	Associations with written descriptions	Availability of descriptions of the landscape in notable literature, topographical

Factor	Example sub-factor	Example Indicator
		writings or guide books, or significant literature inspired by the landscape.
	Associations with artistic representations	Depiction of the landscape in art, other art forms such as photography or film, through language or folklore, or in inspiring related music
	Associations of the landscape with people, places or events	Evidence that the landscape has associations with notable people or events, cultural traditions or beliefs

Appendix 2:

Evaluation Framework for Recreation Criterion

The sub-factors and associated indicators should be regarded as a "menu" of examples (developed from past designations and subsequent consultation) from which those appropriate to the character of the landscape under consideration should be chosen, adapted or added to. There is no "scoring" involving accumulations of indicators and it is possible for a landscape to exhibit natural beauty or offer opportunities for open air recreation even if a number of the indicators shown in this appendix are not present.

Factor	Example sub-factor	Example indicator
Access to high quality landscapes	Opportunities to enjoy outstanding natural beauty	Good access (physically and/or visually) to areas that satisfy the natural beauty criterion (see Natural Beauty criterion)
	Opportunities to enjoy relative tranquillity and relative wildness	Good access (physically and/or visually) to areas that offer an experience of tranquillity or wildness (see Natural Beauty criterion)
Natural or cultural heritage features or cultural associations	Presence of a range of natural or cultural heritage features or cultural associations	Presence of natural features which enrich the experience of the landscape or contribute to understanding of special qualities or sense of place
	Landmarks and other features	Presence of cultural features or cultural associations which enrich the experience of the landscape or contribute to understanding of special qualities or sense of place
Good recreation provision	High quantity of appropriate recreation provision	Presence of recognised or valued landmarks or other features of interest which enrich the experience of the landscape or contribute to understanding of special qualities or sense of place
	Diversity of good quality provision for quiet enjoyment	Presence of extensive network of rights of way or extent of open access land over much of the area
Accessibility	Accessibility to centres of population	Opportunities to enjoy a range of high quality landscape experiences
	Potential for appropriate enhancement of enjoyment and understanding	Opportunities to enjoy a range of different provision for quiet recreation activity
Potential for enhancement	Accessibility to centres of population	Transport links to centres of population
	Potential for appropriate enhancement of enjoyment and understanding	Availability of sustainable transport options providing links to centres of population
Potential for enhancement	Accessibility to centres of population	Possible plans to improve provision for access to or quiet enjoyment of the landscape so as to provide opportunities for the understanding and enjoyment of the area's special qualities, by new provision or improved management of existing
	Potential for appropriate enhancement of enjoyment and understanding	

Appendix 3:

National Park and AONB Mechanisms, Powers and Duties

National Park

- **National Park purposes** must be considered by all public bodies in decisions affecting National Parks.
- If there is a conflict between the two purposes, greater weight should attach to the conservation and enhancement of the natural beauty, wildlife and cultural heritage of the area (**Sandford principle**).
- There will usually be a dedicated **National Park Authority (NPA)** which must pursue the purposes of designation.
- There must be a **National Park Management Plan** to ensure proactive and co-ordinated management of the area.
- NPAs exercise **countryside management functions**.
- NPAs exercise **planning and development control functions**.
- There is greater protection from inappropriate development through **planning policy**.
- NPAs **manage access (physical and intellectual)**.
- An **NPA** must seek to foster the economic and social well-being of local communities within the National Park.
- There is a dedicated government **funding** stream for the NPA over and above the funds that local authorities will continue to receive funding for their remaining functions.

Area of Outstanding Natural Beauty

- **AONB purpose** must be considered by all public bodies in decisions affecting AONBs.
- AONB purpose is normally delivered through a dedicated **AONB partnership** made up of the local authorities and other stakeholders.
- There must be an **AONB Management Plan** which sets out the policy for the management of the area and which includes an action plan for carrying out activity in support of the purposes of designation.
- Most AONBs have a small core team (the **AONB unit**) which coordinate, facilitate and sometimes delivers **countryside management functions**.
- There is greater protection from inappropriate development through **planning policy**.
- There is additional **funding** for the delivery of AONB purposes through Natural England and the local authorities plus opportunities for discretionary funding from other sources.
- It is possible to establish a **statutory conservation board** where this would be desirable. This would have the additional purpose of increasing the understanding and enjoyment by the public of the special qualities of the AONB and, as with National Parks, the Sandford principle applies where this purpose comes into conflict with the purpose of conserving and enhancing the natural beauty of the area.
- AONB Conservation Boards have a duty to seek to foster the social and economic well being of local communities

Appendix 4:

Boundary Setting Considerations

Transition areas: The boundary should not be expected to be a sharp barrier between areas of differing quality. Often there will be a transition of natural beauty and opportunities for open-air recreation across a sweep of land; in those cases the boundary chosen should be an easily identifiable feature within this transition. The boundary should be drawn towards the high quality end of the transition in a manner that includes areas of high quality land and excludes areas of lesser quality land ie it should be drawn conservatively. Visual associations may also be used to help define the extent of land for inclusion in these circumstances.

Types of boundary: Wherever possible, an easily distinguishable permanent physical boundary should be chosen. Boundaries should not if possible be overly complex or convoluted. Where a boundary follows a road, the road verges and embankments may be included in the designation where they blend into the wider landscape²³.

Other administrative boundaries: Where local government boundaries follow suitable lines, it may be administratively convenient to adopt them. In the majority of cases, however, they will be unsuitable. Similarly, land ownership is not itself a reason for including or excluding land from designation – there will often be instances where part of a landholding sits within the designated area and part sits outside.

Inclusion of settlements: A settlement should only be included if it lies within a wider tract of qualifying land (whether or not this is part of the same designation), having regard to the influence of the settlement on the land in question. Settlements should be assessed on their individual merits and particularly on their character, qualities and relationship to adjoining countryside. The extent to which countryside penetrates the built-up area may also be relevant.

Integrity of settlements: Towns or villages should not normally be cut in two by a National Park/AONB boundary. The ability of a settlement to act as a gateway to a designated area is not dependent on its inclusion with a designation. A settlement does not equate to a parish and the division of parishes is acceptable in drawing a boundary.

Incongruous development: Unsightly development on the edge of a National Park/AONB should generally be excluded unless it is of a temporary or transient nature.

Land allocated for development: Land on the margins of a National Park/AONB identified in development plans (both adopted and emerging²⁴), or having the benefit of planning permission, for major built developments (including the extraction of minerals and other deposits) should normally be excluded from the Park/AONB, unless the land will be developed or restored to a land use and quality which contributes to Park/AONB purposes. Land should not be included merely to seek to protect it from specific development proposals.

Features of interest: Areas and features of wildlife, geological, geomorphological, historic, cultural or architectural value which are situated on the margins of a National Park/AONB should be included where practicable providing that they are situated within a tract that meets the statutory criteria.

Marine boundaries: In coastal areas where a marine boundary is to be drawn, the boundary should follow the mean low water mark or the County boundary in the case of estuaries.

²³ The metalled surface of a road normally remains outside the National Park.

²⁴ Proposed development schemes included in emerging development plans will be afforded varying weight depending on the extent to which they have progressed through the development plan preparation process and also the extent to which any adopted plans may remain relevant.

Appendix 5:

Statutory Provisions for Designating Landscapes

This appendix reproduces extracts of legislation relevant to designating landscapes. It does not exhaustively cover all legislation relating to National Parks or AONBs.

The legislation is as it currently reads (as at October 2009) and does not show earlier versions or amendments. Provisions not specifically relevant have been left out. When required, the currently applicable legislation should always be referred to directly.

National Parks and Access to the Countryside Act 1949 (as amended)

Section 5 National Parks

- (1) The provisions of this Part of this Act shall have effect for the purpose—
 - (a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and
 - (b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.
- (2) The said areas are those extensive tracts of country in England ... as to which it appears to Natural England that by reason of—
 - (a) their natural beauty and
 - (b) the opportunities they afford for open-air recreation, having regard both to their character and to their position in relation to centres of population,it is especially desirable that the necessary measures shall be taken for the purposes mentioned in the last foregoing subsection.
- (2A) Natural England may
 - (a) when applying subsection (2)(a) in relation to an area, take into account its wildlife and cultural heritage, and
 - (b) when applying subsection (2)(b) in relation to an area, take into account the extent to which it is possible to promote opportunities for the understanding and enjoyment of its special qualities by the public.
- (3) The said areas, as for the time being designated by order made by Natural England and submitted to and confirmed by the Minister, shall be known as, and are hereinafter referred to as, National Parks.

Section 6 General duties of Natural England in relation to National Parks

- (1) It shall be the duty of Natural England from time to time, to consider what areas there are in England ... falling within sub-section (2) of the last foregoing section, to determine in what order they should be designated under subsection (3) of that section, and to proceed with their designation at such times as Natural England may determine.

Section 7 Designation and variation of National Parks

- (1) Before making an order designating a National Park Natural England shall consult with every joint planning board and local authority whose area includes any land in the area to be designated a Park.
- (2) Any such order shall describe the area to be designated a Park by reference to a map and such other descriptive matter as may appear to Natural England to be requisite.
- (3) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of any order designating a National Park.
- (4) The Minister may by order made after consultation with Natural England vary an order designating a National Park.
- (5) Before making an order under the last foregoing subsection the Minister shall consult with any National Park authority for the Park in question and with every such board and council as aforesaid whose area, or any part of whose area, is comprised in the National Park, whether as existing or as proposed to be varied; and the provisions in that behalf of the First Schedule to this Act shall apply to any order under the last foregoing subsection.

- (6) It shall be the duty of Natural England to secure that copies of any order such as is mentioned in this section shall be available, at the office of Natural England, at the offices of each joint planning board and local authority specified in subsection (1) or subsection (5) of this section, as the case may be at the offices (where the order is for the variation of an order designating a Park) of any National Park authority for the Park in question, and at such other place or places in or near the Park in question as Natural England may determine, for inspection by the public at all reasonable times.
- (7) In this Section and Schedule 1 "local authority" means—
 - (a) in relation to England, a county council, district council or parish council;
 - (b) in relation to Wales, a county council, county borough council or community council.

Section 11A Duty of certain bodies and persons to have regard to the purposes for which National Parks are designated

- (1) A National Park authority, in pursuing in relation to the National Park the purposes specified in subsection (1) of section five of this Act, shall seek to foster the economic and social well-being of local communities within the National Park, and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of the National Park.
- (2) In exercising or performing any functions in relation to, or so as to affect, land in any National Park, a relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.
- (3) For the purposes of this section "relevant authority" means—
 - (a) any Minister of the Crown,
 - (b) any public body,
 - (c) any statutory undertaker, or
 - (d) any person holding public office.
- (4) In subsection (3) of this section—
 - "public body" includes—
 - (a) any local authority, joint board or joint committee;
 - (b) any National Park authority;
 - "public office" means—
 - (a) an office under Her Majesty;
 - (b) an office created or continued in existence by a public general Act of Parliament; or
 - (c) an office the remuneration in respect of which is paid out of money provided by Parliament.
- (5) In subsection (4) of this section, "joint board" and "joint committee" mean—
 - (a) a joint or special planning board for a National Park reconstituted by order under paragraph 1 or 3 of Schedule 17 to the Local Government Act 1972, or a joint planning board within the meaning of section 2 of the Town and Country Planning Act 1990;
 - (b) a joint committee appointed under section 102(1)(b) of the Local Government Act 1972.
- (6) In this section, "local authority"—
 - (a) in relation to England, means a county council, district council or parish council;
 - (b) in relation to Wales, means a county council, county borough council, ... or community council.

Section 114 Interpretation

- (1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—
 - "area of outstanding natural beauty" means an area designated under section 82 of the Countryside and Rights of Way Act 2000;
 - "the Council" means the Countryside Council for Wales;
 - "drainage authority" means the Environment Agency or an internal drainage board;

"interest", in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting rights;

"land" includes land covered by water and as respects Scotland includes salmon fishings;

"the Minister" as respects England and Wales means the Minister of Town and Country Planning, and as respects Scotland means the Secretary of State;

"National Park" has the meaning assigned to it by subsection (3) of section five of this Act;

"open-air recreation" does not include organized games;

"owner", in relation to any land, means, except in Part III of this Act or in relation to Scotland, a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let, and, in Part III of this Act, as respects England and Wales means any person being either entitled to the fee simple or being a mortgagee in possession of the land and as respects Scotland has the meaning assigned to it by section twenty-six of this Act;

"vehicle" does not include a vessel, except any vessel adapted for use on land while it is being so used;

"waterway" means any lake, river, canal or other waters, being (in any case) waters suitable, or which can reasonably be rendered suitable, for sailing, boating, bathing or fishing;

- (2) References in this Act to the preservation, or the conservation of the natural beauty of an area shall be construed as including references to the preservation or, as the case may be, the conservation of its flora, fauna and geological and physiographical features.
- (3) References in this Act to the planting of trees shall be construed as including references to the planting of bushes, the planting or sowing of flowers and the sowing of grass and the laying of turf.
- (4) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment including this Act.

SCHEDULE 1

PROVISIONS AS TO MAKING, CONFIRMATION, COMING INTO OPERATION AND VALIDITY OF CERTAIN INSTRUMENTS

Part I

Orders designating National Parks, Public Path Orders, Diversion Orders and Extinguishment Orders, and Access Orders

- 1 (1) Before—
 - (a) an order designating a National Park, ...is submitted to the Minister for confirmation, the authority by whom the order was made shall give notice in the prescribed form stating the effect of the order and that it has been made and is about to be submitted for confirmation, naming places in the locality to which the order relates where copies of the order and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Before the Minister makes an order varying an order designating a National Park, ... or an access order, he shall prepare a draft of the order and shall give notice stating that he proposes to make the order and the effect thereof, naming places in the locality to which the draft relates where a copy of the draft and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the draft may be made.
- (3) The notice to be given under either of the two foregoing sub-paragraphs shall be given—
 - (a) in the case of an order designating a National Park or an order varying such an order, by publication in the London Gazette, in two newspapers circulating in the country generally and in at least one local newspaper circulating in every county or county borough which includes any of the land to which the order relates:

(3A) Where under this paragraph any notice is required to be given by any person in respect of any land which is already in a National Park for which a National Park authority is the local planning authority, that person shall serve a copy of that notice on that authority.

- 2 (1) If no representations or objections are duly made, or if any so made are withdrawn, the Minister may, if he thinks fit, confirm or make the order, as the case may be, with or without modifications.
- (2) If any representation or objection duly made is not withdrawn, the Minister shall, before confirming or making the order, as the case may be, if the objection is made by a local authority cause a local inquiry to be held and in any other case either—
- (a) cause a local inquiry to be held, or
 - (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose,
- and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm or make the order, as the case may be, with or without modifications:
- (2A) In sub-paragraph (2) "local authority" does not include, in relation to an order designating a National Park in England, a parish council.
- (3) Notwithstanding anything in the foregoing provisions of this paragraph, the Minister shall not confirm or make an order so as to affect land not affected by the order as submitted to him or the draft order prepared by him, as the case may be, except after—
- (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days) within which and manner in which representations or objections with respect to the proposal may be made;
 - (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose; and
 - (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be, ...
- (4) Where, in the case of an access order, it is represented by the Environment Agency or a water undertaker being a water undertaking, that any land comprised in the order as submitted to the Minister or in the draft order prepared by him, as the case may be (or, where notice of a proposed modification has been given under head (a) of the last foregoing sub-paragraph, and land to which the proposed modification relates), should be excluded from the operation of the order on the ground that by reason of—
- (a) the proximity of the land to any reservoir used for the purposes of the statutory undertaking carried on by that Authority or, as the case may be, undertaker, or
 - (b) any other physical factor affecting the flow of water from the land into any such reservoir, the operation of section sixty of this Act as respects that land would be likely to involve danger to the purity of the water supply which could not be prevented by the taking of any reasonable measures, sub-paragraph (2) of this paragraph, or head
 - (c) of the last foregoing sub-paragraph, as the case may be, shall have effect in relation to that representation as if it provided for the consideration of the report therein referred to by the Minister and the Secretary of State acting jointly.
- (5) If, as the result of any representations or objections considered, or inquiry or other hearing held, in connection with the confirmation of an order designating a National Park or the making of an order varying such an order, the Minister is of opinion that Natural England, the Council a National Park authority, county planning authority or, in Wales, the local planning authority or any other person ought to be consulted before he decides whether to confirm or make the order either with or without modifications, he shall consult Natural England, the Council, authority or other person but, subject to the provisions of sub-paragraph (3) of this paragraph, shall not be under any obligation to consult any other person, or to afford any opportunity for further representations or objections or to cause any further inquiry or other hearing to be held.

- 3 As soon as may be after any such order as is mentioned in paragraph 1 of this Schedule has been confirmed or made by the Minister, the authority by whom the order was made, or, in the case of an order made by the Minister, the Minister, shall publish, in the manner required in relation to the class of order in question by sub-paragraph (3) of paragraph 1 of this Schedule, a notice in the prescribed form describing the effect of the order, stating that it has been confirmed or made, and naming a place where a copy thereof as confirmed or made may be inspected at all reasonable hours, and—
- (a) where under the said sub-paragraph (3) notice was required to be served shall serve a like notice and a copy of the order as confirmed or made on any persons on whom notices were required to be served under that sub-paragraph or under sub-paragraph (3A) or (4) of paragraph 1 of this Schedule; and
 - (b) where under the said sub-paragraph (3) a notice was required to be displayed, shall cause a like notice to be displayed in the like manner as the notice required to be displayed under that sub-paragraph:
- Provided that no such notice or copy need be served on a person unless he has sent to the authority or Minister (according as the notice or copy would require to be served by an authority or by the Minister) a request in writing in that behalf specifying an address for service.
- 3A An order designating a National Park shall have effect as from such time as may be determined by the Minister and specified in the notice of the confirmation of that order.
- 4 (1) The Minister may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the submission and confirmation of orders to which this Part of this Schedule applies as appears to him to be expedient.
- (3) In this Part of this Schedule the expression "prescribed" means prescribed by regulations made by the Minister.

Wildlife and Countryside Act 1981

Section 45 Power to vary orders designating National Park

- (1) Natural England (as well as the Secretary of State) shall have power to make an order amending an order made under section 5 of the 1949 Act designating a National Park, and—
- (a) section 7(5) and (6) of that Act (consultation and publicity in connection with orders under section 5 or 7) shall apply to an order under this section as they apply to an order under section 7(4) of that Act with the substitution for the reference in section 7(5) to the Secretary of State of a reference to Natural England; and
 - (b) Schedule 1 to that Act (procedure in connection with the making and confirmation of orders under section 5 or 7) shall apply to an order under this section as it applies to an order designating a National Park.

Countryside and Rights of Way Act 2000

Part IV Areas of Outstanding Natural Beauty

Section 82 Designation of areas

- (1) Where it appears to **Natural England** that an area which is in England but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, **Natural England may**, for the purpose of conserving and enhancing the natural beauty of the area, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.
- (2) ...[Wales only]
- (3) In this Part "area of outstanding natural beauty" means an area designated under this section as an area of outstanding natural beauty.

Section 83 Procedure for designation orders

- (1) Where **Natural England** or the Council propose to make an order under section 82, or the Council shall consult every local authority whose area includes any part of the area to which the proposed order is to relate.
- (2) Before making the order, **Natural England** or the Council shall then publish, in the London Gazette and in one or more newspapers circulating in the area of every such local authority, notice that they propose to make the order, indicating the effect of the order and stating the time within which and manner in which representations with respect to the proposed order may be made to **Natural England** or the Council (as the case may be), and shall consider any representations duly made.
- (3) An order under section 82 shall not come into operation unless and until confirmed—
 - (a) in the case of an order made by **Natural England**, by the Secretary of State, or
 - (b) ...
- (4) The Secretary of State or the National Assembly for Wales may confirm an order submitted to him or it under this section either as submitted or with such modifications as the Secretary of State or the Assembly thinks expedient.
- (5) Before refusing to confirm an order under section 82, or determining to confirm it with modifications, the Secretary of State shall consult **Natural England** and every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.
- (6) Before refusing to confirm an order under section 82, or determining to confirm it with modifications, the National Assembly for Wales shall consult the Council and every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.
- (7) An order under section 82 may be revoked or varied by a subsequent order under that section.
- (8) Without prejudice to the powers of **Natural England** or the Council to vary an order under section 82, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order vary any order under that section made by **Natural England** or the Council; and subsection (1) applies to any order under section 82 made by the Secretary of State or the Assembly by virtue of this subsection with the substitution for references to **Natural England** of references to the Secretary of State and for references to the Council of references to the Assembly.
- (9) It is the duty of **Natural England** and the Council to secure that copies of any order under section 82 relating to England or, as the case may be, to Wales, are available for inspection by the public at all reasonable times—
 - (a) at the office of **Natural England** or, as the case may be, the Council,
 - (b) at the offices of each local authority whose area includes any part of the area to which the order relates, and
 - (c) at such other place or places in or near that area as **Natural England** or, as the case may be, the Council may determine.

Section 86 Establishment of conservation boards

- (1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may—
 - (a) in the case of any existing area of outstanding natural beauty, or
 - (b) in connection with the designation of any area as an area of outstanding natural beauty, by order establish a board (in this Part referred to as "a conservation board") to carry out in relation to that area the functions conferred on such a board by or under this Part.
- (2) Schedule 13 (which relates to the constitution of conservation boards) has effect.
- (3) Where the Secretary of State or the National Assembly for Wales considers it expedient for either of the purposes mentioned in section 87(1), an order under subsection (1) may—
 - (a) provide for the transfer to the conservation board to which the order relates of any of the functions of local authorities, so far as relating to the area of outstanding natural beauty in question, or

- (b) provide for any function of a local authority, so far as relating to the area of outstanding natural beauty in question, to be exercisable concurrently by the local authority and by the conservation board.
- (4) Subsection (3) does not apply to functions of a local authority under Part II, III, VII or XIII of the Town and Country Planning Act 1990 [or under Part 2 or 6 of the Planning and Compulsory Purchase Act 2004].
- (5) An order under subsection (1) may make further provision as to the constitution and administration of the conservation board to which it relates, including provision with respect to—
 - (a) the appointment of members,
 - (b) the removal and disqualification of members,
 - (c) the conduct of members,
 - (d) proceedings of the board,
 - (e) the appointment of staff,
 - (f) consultation with other public bodies,
 - (g) records and documents of the board,
 - (h) the provision of information by the board, and
 - (i) complaints of maladministration.
- (6) Before making an order under subsection (1) in relation to an area of outstanding natural beauty in England, the Secretary of State shall consult—
 - (a) **Natural England**, and
 - (b) every local authority whose area consists of or includes the whole or part of the area of outstanding natural beauty, and shall not make the order unless satisfied that the majority of those local authorities consent.
- (8) An order under subsection (1) which amends or revokes a previous order under that subsection establishing a conservation board—
 - (a) may be made only after consultation with the conservation board to which it relates (as well as the consultation required by subsection (6) or (7)), and
 - (b) in the case of an order revoking a previous order, may provide for the winding up of the board.
- (9) Subject to any order under subsection (10), where there is a variation of the area of an area of outstanding natural beauty for which there is or is to be a conservation board, the area of outstanding natural beauty for which that board is or is to be the conservation board shall be taken, as from the time when the variation takes effect, to be that area as varied.
- (10) Where provision is made for the variation of the area of an area of outstanding natural beauty for which there is or is to be a conservation board, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order make such transitional provision as he or it thinks fit with respect to—
 - (a) any functions which, in relation to any area that becomes part of the area of outstanding natural beauty, are by virtue of the variation to become functions of that conservation board; and
 - (b) any functions which, in relation to any area that ceases to be part of the area of outstanding natural beauty, are by virtue of the variation to become functions of a person other than that conservation board.

Section 87 General purposes and powers

- (1) It is the duty of a conservation board, in the exercise of their functions, to have regard to—
 - (a) the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and
 - (b) the purpose of increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty,
 but if it appears to the board that there is a conflict between those purposes, they are to attach greater weight to the purpose mentioned in paragraph (a).
- (2) A conservation board, while having regard to the purposes mentioned in subsection (1), shall seek to foster the economic and social well-being of local communities within the area of outstanding natural beauty, shall for that purpose co-operate with local authorities and public

bodies whose functions include the promotion of economic or social development within the area of outstanding natural beauty.

- (3) Sections 37 and 38 of the Countryside Act 1968 (general duties as to the protection of interests of the countryside and the avoidance of pollution) apply to conservation boards as they apply to local authorities.
- (4) The powers of a conservation board include power to do anything which, in the opinion of the board, is calculated to facilitate, or is conducive or incidental to—
 - (a) the accomplishment of the purposes mentioned in subsection (1), or
 - (b) the carrying out of any functions conferred on it by virtue of any other provision of this Part or by virtue of any enactment not contained in this Part.
- (5) The powers conferred on a conservation board by subsection (4) do not include—
 - (a) power to do anything in contravention of any restriction imposed by virtue of this Part in relation to any express power of the board, or
 - (b) power to raise money (whether by borrowing or otherwise) in a manner which is not authorised apart from that subsection, but the things that may be done in exercise of those powers are not to be treated as excluding anything by reason only that it involves the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights.
- (6) Schedule 14 (which relates to the supplemental and incidental powers of conservation boards) has effect.
- (7) An order under section 86(1) may—
 - (a) make further provision with respect to the supplemental and incidental powers of the conservation board to which it relates or the limits on those powers, including provision relating to the borrowing of money, and
 - (b) provide for any enactment which relates to or limits the supplemental or incidental powers or duties of local authorities or relates to the conduct of, or transactions by, local authorities to apply in relation to the conservation board with such modifications as may be specified in the order.

Section 88 Orders establishing conservation boards

- (1) Any power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) is exercisable by statutory instrument.
- (2) No order shall be made under section 86(1) by the Secretary of State unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (3) A statutory instrument containing an order made under section 86(10) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) If a draft of an order made under section 86(1) by the Secretary of State would, apart from this section, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.
- (5) The power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) includes power to make such incidental, supplemental, consequential and transitional provision as the person making the order thinks necessary or expedient.
- (6) The power of the Secretary of State or the National Assembly for Wales by an order under section 86(1) or (10) to make incidental, supplemental, consequential or transitional provision includes power for any incidental, supplemental, consequential or, as the case may be, transitional purpose—
 - (a) to apply with or without modifications,
 - (b) to extend, exclude or modify, or
 - (c) to repeal or revoke with or without savings, any enactment or any instrument made under any enactment.
- (7) The provision that may be made for incidental, supplemental, consequential or transitional purposes in the case of any order under section 86(1) or (10) which—
 - (a) establishes a conservation board or provides for the winding up of such a board, or
 - (b) otherwise has the effect of transferring functions from one person to another or of providing for functions to become exercisable concurrently by two or more persons or

to cease to be so exercisable, includes provision for the transfer of property, rights and liabilities from one person to another.

- (8) The power of the Secretary of State or the National Assembly for Wales under section 86(1) or (10) to provide by order for the transfer of any property, rights or liabilities, or to make transitional provision in connection with any such transfer or with any order by which functions become or cease to be exercisable by any conservation board, includes, in particular, power to provide—
- (a) for the management and custody of any transferred property (whether real or personal);
 - (b) for any liabilities transferred to include liabilities under any enactment;
 - (c) for legal proceedings commenced by or against any person to be continued by or against a person to whom property, rights or liabilities are transferred or, as the case may be, any board or other authority by whom any functions are to become exercisable;
 - (d) for the transfer of staff, compensation for loss of office, pensions and other staffing matters; and
 - (e) for treating any person to whom a transfer of property, rights or liabilities is made or, as the case may be, by whom any functions are to become exercisable as, for some or all purposes, the same person in law as the person from whom the transfer is made or the authority by whom the functions have previously been exercisable.
- (9) The power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) includes power to make different provision for different cases, including different provision for different areas or localities and for different boards.
- (10) In this section "enactment" includes an enactment contained in an Act passed after this Act.

Section 92 Interpretation of Part IV and supplementary provision

- (1) In this Part, unless a contrary intention appears—
- "the 1949 Act" means the National Parks and Access to the Countryside Act 1949;
 - "area of outstanding natural beauty" has the meaning given by section 82(3);
 - "conservation board" has the meaning given by section 86(1);
 - "the Council" means the Countryside Council for Wales;
 - "liability", in relation to the transfer of liabilities from one person to another, does not include criminal liability;
 - "local authority" means a principal council within the meaning of the Local Government Act 1972;
 - "principal area" has the same meaning as in the Local Government Act 1972.
- (2) Any reference in this Part to the conservation of the natural beauty of an area includes a reference to the conservation of its flora, fauna and geological and physiographical features.
- (3) This Part does not apply in relation to any of the lands mentioned in section 112(1) of the 1949 Act (Epping Forest and Burnham Beeches).

Natural Environment and Rural Communities Act 2006

99 Natural Beauty in the Countryside

The fact that an area in England or Wales consists of or includes —

- (a) land used for agriculture or woodlands,
- (b) land used as a park, or
- (c) any other area whose flora, fauna or physiographical features are partly the product of human intervention in the landscape,

does not prevent it from being treated, for the purposes of any enactment (whenever passed), as being an area of natural beauty (or of outstanding natural beauty).