

## WYE VALLEY AONB JOINT ADVISORY COMMITTEE

### POSITION STATEMENT: LANDSCAPE-LED DEVELOPMENT

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#### 1.0 CONTEXT

1.1 The Wye Valley Area of Outstanding Natural Beauty (AONB) is a landscape whose distinctive character and natural beauty are so outstanding that it is in the nation's interest to safeguard it<sup>1</sup>. The statutory purpose of the AONB designation is to conserve and enhance the natural beauty of the area<sup>2</sup>.

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

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

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

- the statutory purpose of designation;
- the principle that safeguarding Areas of Outstanding Natural Beauty (AONBs) is in the national interest;
- the aspirations and goals of the UK Government's 25 Year Environment Plan and Net Zero Wales, as outlaid by Welsh Government<sup>3</sup>;

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<sup>1</sup> Section 82 of the Countryside and Rights of Way Act 2000

<sup>2</sup> Defra (2019) *Areas of Outstanding Natural Beauty: technical support scheme (England) 2019 to 2020*  
*Planning Policy Wales Edition 11 (2021) - Section 6.3.7*

<sup>3</sup> The Government's 25 Year Environment Plan aspires for us to be the first generation to leave the environment in a better state than we found it. As part of this aspiration, it proposes to embed an 'environmental net gain' principle for development. In addition, it sets a goal that 'we will conserve and enhance the beauty of our natural

- the proposals of the Government-commissioned Landscapes Review Final Report<sup>4</sup>;
- the vision, outcomes, ambitions and policies of the Wye Valley AONB Management Plan;
- efforts to restore and enhance the natural beauty of the Wye Valley AONB;
- the Government's assertions that:
  - (i) meeting housing need is never a clear reason to cause unacceptable harm to protected landscapes<sup>5</sup>; and
  - (ii) our Areas of Outstanding Natural Beauty (AONBs) will be protected as the places, views and landscapes we cherish most and passed on to the next generation<sup>6</sup> ; and
  - (iii) protecting and improving the environment and tackling climate change are central considerations in planning.

1.5 In principle, planning policies and decision-taking can support this in 6 main ways: protecting important natural, landscape and heritage assets, whilst also incorporating nature, landscape and public space into development and its surroundings; supporting habitat creation and nature recovery in ways which benefit nature and people. For instance, nature based solutions can store carbon, assist adaptation (e.g. by reducing water run-off rates) and protect and enhance ecology; promoting locational and design decisions that reduce exposure to pollution and hazards and respond to changing climate conditions, for example the risk of overheating, surface-water flooding, and water scarcity; enabling renewable and low carbon energy production and distribution, at both a commercial and household scale; and policies for regulating carbon-generating extraction and energy generation; promoting development locations, and designs and layouts, that contribute to healthier lifestyles, energy and resource efficiency consumption, for example by reducing the need to travel, increasing public transport connectivity and accessibility and promoting active travel i.e. walking, wheeling and cycling; and bringing together the spatial strategy for a place in a way which addresses these in a holistic way and reflects its

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environment ... by ... safeguarding and enhancing the beauty of our natural scenery and improving its environmental value while being sensitive to considerations of its heritage’.

Welsh Government's second emissions reduction plan for Carbon Budget 2 (2021 to 2025), sets the foundations to make Wales net zero by 2050.

<sup>4</sup> The ‘Landscapes Review Final Report’ sets out 27 proposals relating to our protected landscapes, including stronger purposes in law for our ‘national landscapes’ (proposal 23) and for AONBs to be strengthened with new purposes, powers and resources (proposal 24).

<sup>5</sup> UK Government response to the local housing need proposals in ‘Changes to the current planning system’ – updated 16 December 2020

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

unique characteristics, whilst also providing a clear framework for development and regeneration<sup>7</sup>.

1.6 Planning policies and guidance helps to address this issue by making it clear that:

- great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which, together with National Parks, which have the highest status of protection in relation to these issues;
- the scale and extent of development in AONBs should be limited;
- planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest;
- policies for protecting AONBs may mean that it is not possible to meet objectively assessed needs for housing and other development in full<sup>8</sup>;
- AONBs are unlikely to be suitable areas for accommodating unmet needs arising from adjoining, non-designated areas<sup>9</sup>.

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

2.1 The primary purpose of the position statements are to expand on relevant policies in the current Wye Valley AONB Management Plan. They provide further context, guidance and recommendations in relation to specific policies and associated issues. They are not intended to create new policies.

2.2 The Wye Valley AONB Partnerships' position statements are also intended to help plan-making bodies (such as local authorities and neighbourhood plan groups), developers and other relevant stakeholders:

- to have regard to – and positively contribute to - the purpose of AONB designation;
- to ensure that the purpose of AONB designation is not compromised by development and that the natural beauty of the Wye Valley AONB is conserved and enhanced;
- to fulfil the requirements of the National Planning Policy Framework, Planning Policy Wales, Planning Practice Guidance (or, where relevant, National Policy Statements), and Technical Advice Notes, with regards to AONBs and the factors that contribute to their natural beauty;
- to take account of relevant case law;
- to have regard to and be consistent with the AONB Management Plan and guidance published by the Partnership;

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

<sup>8</sup> Planning Practice Guidance – Natural Environment: paragraph 41

<sup>9</sup> Planning Practice Guidance – Natural Environment: paragraph 41

- to emulate best practice in the Wye Valley AONB and other protected landscapes;
- to develop a consistent and coordinated approach to relevant issues across the whole of the Wye Valley AONB and its setting<sup>10</sup>.

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

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

3.1 The Partnership's position statements are supplementary – and subsidiary - to the Wye Valley AONB Management Plan. For development proposals to be compatible with the AONB Management Plan, they should also be compatible with the relevant position statements.

3.2 The AONB Management Plan may be a material consideration in planning decisions. However, we acknowledge that, in a plan-led planning system, it is the policies of the relevant adopted local authority development plan that have the greatest weight. As such, within this planning system, the hierarchy of development plans, AONB Management Plan and position statements is as follows<sup>11</sup>:

- Local authority development plan and neighbourhood development plans (NDPs are applicable to England only).
- AONB Management Plan.
- Position statements.

### **4.0 ACHIEVING THE RIGHT BALANCE**

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<sup>10</sup> Three local authority areas overlap with the Wye Valley AONB, with each with local authority having its own development plan.

<sup>11</sup> In England, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states: "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise." The National Planning Policy Framework is itself a significant material consideration, although it is acknowledged regarding the presumption in favour of sustainable development under Paragraph 11, particularly in relation to plan-making and decision-making.

In Wales, national planning guidance prepared by the Welsh Government, is taken into account as a material planning consideration.

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

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

4.3 It should be noted that, for major development (in the context of paragraph 177 of the NPPF and 6.3.10 of PPW), it is not simply a case of weighing all material considerations in a balance<sup>12</sup>.

4.4 We hope that this position statement will help to ensure that the right balance is achieved across the whole of the Wye Valley AONB.

## **5.0 CLIMATE AND ECOLOGICAL EMERGENCIES**

5.1 All three local authorities that overlap with the Wye Valley AONB area have declared climate and / or ecological emergencies.

5.2 In principle, the Partnership supports measures to mitigate and adapt to climate change and to halt and reverse declines in biodiversity. These aspirations are reflected in the Wye Valley AONB Management Plan 2021-2026, and associated projects undertaken on behalf of the Wye Valley AONB Partnership.

5.3 It should be possible to deliver many of these measures in a way that is compatible with the purpose of AONB designation. However, where relevant development proposals or allocations come forward that have the potential to have a significant adverse impact on the purpose of AONB designation, they should be deemed to be major development, in the context of paragraph 177 of the NPPF, and 6.3.10 of PPW.

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

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<sup>12</sup> R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin), paragraph 51: 'The planning committee are required, not simply to weigh all material considerations in a balance, but to refuse an application unless they are satisfied that...'

## **6.0 LANDSCAPE-LED APPROACH – CONTEXT**

6.1 At its most basic level, a landscape-led approach to development is one in which development within the Wye Valley AONB and its setting<sup>13</sup> is compatible with and, ideally, makes a positive contribution to, the statutory purpose of AONB designation, which is to conserve and enhance the natural beauty of the area. A landscape-led approach, at this level, is promoted as part of the five main themes within the Wye Valley AONB Management Plan 2021-2026 and numerous strategic objectives throughout the Wye Valley AONB Management Plan 2021-2026.

6.2 The first step in this process is to have regard to the purpose of AONB designation. ‘Relevant authorities’, including local authorities, have a statutory duty to have regard to the purpose of AONB designation in relation to any decisions or activities that may impact on an AONB<sup>14</sup>. Given that relevant authorities must have regard to the purpose of AONB designation in their decision-making, it would make sense for stakeholders who are putting forward development proposals to also have regard to this statutory purpose.

6.3 This ‘duty of regard’ applies from initial thinking through to more detailed planning and implementation, with the expectation that adverse impacts will be (i) avoided and (ii) mitigated where possible<sup>15</sup>. The duty of regard is addressed in the Wye Valley AONB Management Plan 2021-2026, as part of Theme 5. This clarifies that the Wye Valley AONB Joint Advisory Committee have endorsed the Management Plan and relevant local authorities have formally adopted it; “All relevant Local Development Plans now recognise the need for development proposals to be informed by [the Wye Valley AONB Management Plan]”.

6.4 Full engagement with the AONB Partnership will enable public bodies to demonstrate that they are delivering part of their ‘duty of regard for the AONB’ and are in line with the WFG legislation, as they will be working with the long term perspective; with approaches that take an integrated approach; planning to take action now in order to prevent problems occurring or getting worse in future; involving all parts of the community; and collaborating with other organisations in order to achieve these wider benefits.

6.5 However, even if relevant authorities fulfil the duty of regard, there is still a risk that the resulting decisions and actions will not be compatible with the purpose of AONB designation. Therefore, the guidance and recommendations are also intended

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<sup>13</sup> The setting of the Wye Valley AONB is defined in Section 4.5 of the Wye Valley AONB Management Plan 2021-2026.

<sup>14</sup> Section 85 of the Countryside and Rights of Way Act

<sup>15</sup> Natural England (2010) England’s statutory designated landscapes: a practical guide to your duty of regard. It is worth noting that fulfilling the duty of regard does not necessarily mean that decisions or activities will be compatible with the purpose of AONB designation.

In Wales particularly, but not exclusively, proposals will also need to deliver benefits under the Wellbeing of Future Generations (WFG) seven goals.

to help stakeholders progress from this 'landscape-considered' approach to a 'landscape-led approach', in which development is designed, located and implemented in a way that positively contributes to the purpose of AONB designation.

6.6 Taking a landscape-led approach can be particularly important for major development<sup>16</sup>, as this scale of development has the greatest potential to adversely affect the purpose of AONB designation. However, one of the biggest threats identified to the Wye Valley AONB comes also from the cumulative impact of numbers of small developments and even from the cumulative impact of even minor building works that do not require an application for planning permission but which proceed as 'permitted development'. Every change of appearance or use of property in the AONB has the potential to have either a positive or negative effect. For example, the replacement of a locally distinctive property boundary with ubiquitous close board fencing may not have a big impact in itself but a number of such actions will erode local character over time.

6.7 In principle, the landscape-led approach is therefore applicable to all development in the Wye Valley AONB and its setting, albeit to a degree that is proportionate to the nature, scale, setting and potential impact of the proposed development. However, the cumulative impact of even small-scale change and development should also be considered.

6.8 Consideration of landscape and visual impacts and effects are obviously a key consideration when taking a landscape-led approach. However, a landscape-led approach should also consider all of the factors that contribute to the natural beauty of the Wye Valley AONB.

6.9 A number of documents are relevant to such considerations. These include the Wye Valley AONB Management Plan.

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<sup>16</sup> Major development, in this context, primarily relates to the definition of major development in footnote 60 of the NPPF (i.e. 'For the purposes of paragraphs 176 and 177, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined") However, that status is only clarified once a planning application has been submitted and the case officer has assessed the application. That is too late a point in the process to apply the landscape-led approach outlined in this position statement. Therefore, we recommend that the landscape-led approach for major development should be applied to major development as defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

In the case of Wales, we refer to Section 6.3.10 of Planning Policy Wales Edition 11 (2021).

## 7.0 RECOMMENDATIONS – LANDSCAPE-LED APPROACH

### 7.1 Landscape and Visual Sensitivity and Capacity

7.1.1 At the planning policy stage (Local Plans and Neighbourhood Development Plans<sup>17</sup>):

- A landscape and visual sensitivity and capacity study (LSCA)<sup>18</sup> and/or Landscape Visual Impact Assessment (as appropriate) should be undertaken for all relevant sites (or land cover parcels) in the Wye Valley AONB and its setting where the potential for development is being assessed as part of the development plan process<sup>19</sup>.
- This study should assess the sensitivity of these sites to types and scales of development being considered. The cumulative impact of development of the sites should be considered.
- Where such studies identify that the sensitivity of the landscape to specific types and scales of development is high, or medium-high (and where any development impacts could not be fully mitigated), the development should be deemed to exceed the capacity of the landscape to accommodate that development<sup>20</sup>.
- Where the identified landscape sensitivity is below these thresholds, assessments should be made of the specific quantum of development that could theoretically be accommodated on these sites, based on appropriate assumptions (for example, assumptions relating to design, density, layout, etc.).
- Where the 'land cover parcels' that are used in the assessment are refined to smaller scale potential allocation sites, a further, site specific iteration of the Landscape and Visual Sensitivity and Capacity Study should be undertaken.
- In order to maintain some landscape capacity for future development, not all of the sites that are considered to have landscape capacity for development should be allocated in one iteration of the development plan.

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<sup>17</sup> For Neighbourhood Development Plans, it may be possible to utilise relevant information from landscape and visual sensitivity and capacity assessments that have been undertaken as part of the Local Plan evidence base.

<sup>18</sup> Relevant guidance is provided in Natural England's 'An approach to landscape sensitivity assessment – to inform spatial planning and land management'

<sup>19</sup> For example, Landscape and Visual Sensitivity and Capacity Studies should be undertaken as part of the Strategic Housing and Employment Land Availability Process and when identifying suitable areas for renewable energy. Such studies would then form part of the development plan evidence base, available on the relevant local authority website.

<sup>20</sup> This approach is applied in the South Downs National Park, as outlined in paragraph 4.19 of the Landscape Background Paper for the South Downs Local Plan: '*A site assessed as having high landscape sensitivity, or medium-high landscape sensitivity where any development impact could not be fully mitigated, were generally found unsuitable for housing development*'.



### 7.1.2 At the development management stage:

- Landscape and Visual Impact Assessments (LVIAs) should be undertaken for all development that requires an Environmental Impact Assessment (EIA)<sup>21</sup>.
- Landscape and Visual Appraisals (LVAs) should be undertaken for other development in the Wye Valley AONB and its setting that have the potential to cause adverse landscape and visual impacts<sup>22</sup>. The nature of such appraisals should be proportionate to the likely potential for adverse impact.
- All LVIA and LVAs should be consistent with the guidance published by the Landscape Institute and the Institute of Environmental Assessment.
- The cumulative impact of the development proposals, in the context of previous development and small scale changes, on the AONB should be considered.
- Where a LVIA or LVA identifies that a development in the Wye Valley AONB would have 'significant' or 'moderate-significant' effects, such development should be deemed to constitute 'major development' and national planning policy (paragraph 177 of NPPF/Paragraph 6.3.10 of PPW) should apply.
- A landscape-led vision, overarching design principles, scheme objectives and sub-objectives should be developed and agreed for major development proposals at an early stage in the process and applied in the design, budgeting, assessment and implementation of the scheme.

### 7.1.3 At both stages:

- The Wye Valley AONB should be accorded the highest 'value' in the Landscape and Visual Sensitivity and Capacity Studies and Landscape and Visual Impact Assessment / Landscape and Visual Assessments, albeit with some consideration being given to the degree to which the criteria and factors used to support the case for AONB designation are represented in the specific study area<sup>23</sup>.

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<sup>21</sup> LVIAs should comply with the requirements of the Environmental Impact Assessment (EIA) Regulations and with the Landscape Institute's 'Guidelines for Landscape and Visual Impact Assessment' 3rd Edition (GLVIA3 - 2013).

<sup>22</sup> The format of such an appraisal may not need to satisfy the formal requirements of an EIA but should, as a minimum set out any effects on the landscape and views, and proposed mitigation, in a rational way so that it can be fully considered through the planning process.

<sup>23</sup> The Landscape Institute's 'Guidelines for Landscape and Visual Impact Assessment' identify that 'landscapes that are nationally designated [including AONBs] will be accorded the highest value in the assessment' (paragraph 5.47), albeit that some consideration should be given to the 'degree the criteria and factors used to support the case for designation are represented in the specific study area' (paragraph 5.23). So, for example, if the value of the landscape receptor is classed as 'very high' (because of the AONB designation) and the susceptibility to the proposed change is classed as 'medium', then the overall sensitivity of the landscape receptor would be 'high'. The (very) high 'value' of the AONB designation means that the adverse effects of a development proposal within an AONB are likely to be more significant than an equivalent development proposal, in an equivalent landscape character area, outside the AONB.

- The area of landscape that needs to be covered in assessing landscape effects should include the site itself and the full extent of the wider landscape around it which the proposed development may influence in a significant manner<sup>24</sup>.
- Great weight should be given to landscape and scenic beauty, in line with paragraph 176 of the NPPF and 6.3.7 of PPW<sup>25</sup>.
- The mandatory major development 'tests' specified in paragraph 177 of the NPPF and 6.3.10 of PPW should be rigorously applied for all allocations / development proposals that are deemed to be 'major development'.
- It should be recognised that 'exceptional need' does not necessarily equate to 'exceptional circumstances'.

## 7.2 Natural Beauty<sup>26</sup>

7.2.1 All of the factors that contribute to the natural beauty of the Wye Valley AONB should be fully considered and assessed at all stages of the development process, including planning policy and development management. These factors are:

- landscape quality / beauty;
- scenic quality / beauty;
- relative tranquillity (including 'dark skies') ;
- relative wildness;
- natural heritage (including 'biodiversity');
- cultural heritage (including 'historic environment');
- the special qualities of the Wye Valley AONB

7.2.2 These factors should be assessed:

- individually (i.e. in their own right, in the context of national planning policy and relevant best practice guidance);
- collectively (i.e. in terms of their contribution to the AONB designation); and

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<sup>24</sup> This definition is provided in paragraph 20 of Appeal Decision APP/R3650/W/16/3165974 and re-iterated in paragraph 21 of the High Court decision for Monkhill Ltd v Secretary of State for Housing, Communities And Local Government [2019] EWHC 1993 (Admin)

<sup>25</sup> This applies to development within the Wye Valley AONB and to development outside the AONB that has the potential to adversely affect views to or from the AONB.

<sup>26</sup> An explanation of 'natural beauty', the factors that contribute to it and its relationship with 'landscape' is provided in the Natural England publication 'Guidance for assessing landscapes for designations as National Park or Area of Outstanding Natural Beauty in England'. When consideration is given to the MH AONB in planning applications and planning decisions, this consideration tends to focus almost exclusively on landscape and visual impacts. However, the statutory duty to have regard to the purpose of AONB designation relates to all of the factors that contribute to the area's natural beauty, including cultural heritage and natural heritage. As such, these issues should be addressed in the context of their contribution to the natural beauty of the Wye Valley AONB as well as in their own right, both individually and cumulatively.

- cumulatively (i.e. in terms of the increasing level of significance associated with the presence of – or potential impacts on - multiple factors).

7.2.3 Development proposals should (be required to) make a positive contribution to conserving and enhancing the natural beauty of the Wye Valley AONB, over and above the baseline condition (i.e. delivering a net-benefit for natural beauty)<sup>27</sup>.

7.2.4 Measures to conserve and enhance the natural beauty of the Wye Valley AONB (to deliver a net-benefit for natural beauty) should be integrated into the planning, design, implementation and management of a proposed development from the development's inception.

### **7.3 Environmental Impact Assessment (EIA)<sup>28</sup>**

7.3.1 Development in the MH AONB that is listed in Schedule 1<sup>29</sup> of the EIA regulations should be classed as major development (see 'Major Development' above), as should Schedule 2<sup>30</sup> development that is deemed to require an EIA.

7.3.2 Screening for development listed in Schedule 2 of the EIA regulations should be rigorously applied. Within the 'sensitive area' of the Wye Valley AONB, this should apply even for Schedule 2 development that is below the 'applicable thresholds and criteria'.

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

7.3.4 Schedule 2 developments that are deemed to constitute major development, in the context of paragraph 177 of the NPPF and 6.3.10 of PPW, are likely to merit an EIA.

## **8.0 SUPPORTING INFORMATION**

This Position Statement is supported by two appendices (as a separate document), which provide:

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<sup>27</sup> The Landscape Institute's 'Guidelines for Landscape and Visual Impact Assessment' (paragraph 4.35) explains that 'enhancement', in the context of individual development proposals, means improving 'the [natural beauty] of the proposed development site and its wider setting, over and above its baseline condition' (N.B. Underlining added for emphasis).

<sup>28</sup> Appendix 4 provides a flowchart of how natural beauty, major development, EIA regulations, national planning policy and the Wye Valley AONB Management Plan should be addressed in relation to development proposals in the Wye Valley AONB and its setting.

<sup>29</sup> <https://www.legislation.gov.uk/ukxi/2017/571/schedule/1/made>

<sup>30</sup> <https://www.legislation.gov.uk/ukxi/2017/571/schedule/2/made>

- Case studies of best-practice with regards taking a landscape-led approach (Appendix 1).
- A flowchart of how natural beauty, major development, EIA, national planning policy, the Wye Valley AONB Management Plan and Partnership guidance should be addressed in development proposals and decision making (Appendix 2).

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