

## Position Statement

### Planning for Housing within Areas of Outstanding Natural Beauty (AONBs) in England

The National Association of Areas of Outstanding Natural Beauty (NAAONB) is the collective voice of the AONB Partnerships and Conservation Boards and represents the AONB network on issues of strategic national importance.

#### Key Messages

- Evidence shows that the amount of housing approved in AONBs in southern England has significantly increased since 2012;
- The new national housing need calculator has resulted in local plans proposing even higher housing numbers in southern England, including major development within and in the setting of AONBs;
- National planning policies can justify lower housing numbers if the scale or distribution of development adversely impacts the purposes for which AONBs were designated;
- National planning policy says development within AONBs should normally be limited and small scale, and major development within AONBs should only be allowed in exceptional circumstances and in the public interest;
- The provision of affordable housing should be the priority in AONBs and community-led housing should be particularly supported.

It is recommended that local planning authorities carry out a transparent assessment demonstrating how they have had regard to the purpose of conserving and enhancing the natural beauty of the AONB in deciding the level of housing provision proposed, the type of homes and the distribution of those homes. This should demonstrate how

- great weight has been given to conserving and enhancing landscape and scenic beauty in the AONB;
- the conservation and enhancement of wildlife and heritage has been taken into account; and
- the scale and extent of development within the AONB has been limited.

Decisions on allocating sites within AONBs should be 'landscape led'. This requires a robust understanding of landscape including the key characteristics, history and settlement patterns of the wider landscape. Landscape Sensitivity and Capacity Assessments and Landscape and Visual Impact Assessments can contribute to this understanding but need to be supplemented by studies such as historic landscape characterisation. AONB Management Plans are key documents to understanding what makes the area special and therefore what qualities need to be conserved and enhanced when deciding the location, scale and design of new development. Local planning authorities also need to consider the cumulative impact of the proposed sites and such development occurring within multiple Local Plan areas in an AONB.

## **Introduction**

In recent years Government has had an increased focus on housebuilding. The Ministry of Housing, Communities and Local Government, which is the part of Government responsible for planning, lists four responsibilities on its website, two of which are driving up housing supply and increasing home ownership. The consequences of the priority given to housebuilding on Areas of Outstanding Natural Beauty are documented in 'An Independent Review of Housing In England's Areas of Outstanding Natural Beauty 2012-2017' jointly commissioned by the National Association for AONBs and the CPRE and published in November 2017. This report demonstrates that AONBs, particularly in southern England, have seen significant increases in housebuilding since the original National Planning Policy Framework (NPPF) was published in 2012.

Despite the continued focus on increasing housebuilding in the revised NPPF 2019, policy on AONBs has not been weakened in any way, indeed it has been strengthened, with a new twice repeated instruction in paragraph 172 for AONBs to be enhanced, as well as conserved, bringing the policy in line with the primary legislation relating to AONB, the Countryside and Rights of Way Act 2000. In addition, a new sentence has been introduced into the NPPF which requires that the scale and extent of development within AONBs should be limited. Planning Practice Guidance (PPG) has also been updated with clearer advice that NPPF policies for protecting AONBs may mean that it is not possible to meet objectively assessed needs for development in full through the plan-making process, and they are unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas.

This Position Statement has been created to collate the relevant national policies, and how they have been interpreted by Local Plan Inspectors, so that local planning authorities can make appropriate decisions about the levels, scale and distribution of housing in AONBs that support the purposes for which they were designated as nationally important landscapes – i.e. to conserve and enhance natural beauty.

## **Legal Requirements**

The 1949 National Parks and Access to the Countryside Act made provision for the designation of AONBs to 'preserve and enhance natural beauty'. The Countryside Act 1968 stated that 'the preservation of the natural beauty of an area shall be construed in the same way as references in the Act [1968] to the conservation of the natural beauty of an area.' Thus, the purpose of an AONB is to 'conserve and enhance natural beauty'.

Section 85 of the Countryside and Rights of Way Act 2000 placed a statutory duty on all relevant authorities requiring them to have regard to the purpose of AONBs when coming to decisions or carrying out their activities relating to or affecting land within these areas. This is known as the 'duty of regard'.

Section 84 of the same Act states that a local planning authority whose area consists of or includes the whole or any part of an AONB has power to take all such action as appears to them expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty of that area.

## **Objectively Assessed Needs for Housing**

Since November 2018 there has been a national standard methodology for calculating 'objectively assessed housing needs' which local planning authorities must use "unless exceptional circumstances justify an alternative approach" (paragraph 60). However, this does not mean that this is the number of homes that should be provided in a local planning authority's area. The appropriate 'housing provision' number will also need to take into account other factors such as any unmet needs from neighbouring areas which could increase the number and any 'assets of particular importance' in the area that could reduce the number of homes and other development that can be accommodated without damaging those assets.

## **Housing Provision**

NPPF paragraph 11 says that local planning authorities should provide for objectively assessed needs for housing and other uses, as well as any unmet needs from neighbouring areas, unless "the application of

policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area”.

The assets referred to are listed in footnote 6 and include Areas of Outstanding Natural Beauty. The most relevant policy in the Framework for AONBs is paragraph 172, the first part of which states:

“Great weight should be given to conserving and enhancing 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 these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads<sup>54</sup>. The scale and extent of development within these designated areas should be limited”.

Planning Practice Guidance, revised July 2019, states “The National Planning Policy Framework makes clear that the scale and extent of development in these areas should be limited, in view of the importance of conserving and enhancing their landscapes and scenic beauty. Its policies for protecting these areas may mean that it is not possible to meet objectively assessed needs for development in full through the plan-making process, and they are unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas. Effective joint working between planning authorities covering designated and adjoining areas, through the preparation and maintenance of statements of common ground, is particularly important in helping to identify how housing and other needs can best be accommodated...Paragraph: 041 Reference ID: 8-041-20190721.

AONBs, along with National Parks and the Broads, have the highest status of protection in relation to landscape and scenic beauty. For National Parks “the Government recognises that the Parks are not suitable locations for unrestricted housing and does not therefore provide general housing targets for them. The expectation is that new housing will be focused on meeting affordable housing requirements, supporting local employment opportunities and key services” . This principle should apply equally to AONBs but, in the absence of a Circular for AONBs, this relies on paragraph 11 of the NPPF being applied robustly to ensure that the scale and extent of development proposed does not harm the purposes for which these areas were nationally designated.

### **Allocating housing sites in an AONB**

#### **General Approach**

Part of the consideration of the appropriate level of housing within an AONB will be assessing potential sites for allocation. This will normally be undertaken as part of the Strategic Housing and Economic Land Availability Assessment process. However, for sites within an AONB this assessment should be expanded to take into account the impact of potential sites on the purposes of the designation, taking into account the relevant AONB Management Plan. In considering allocations, para 170 of the NPPF states that planning policies should protect and enhance valued landscapes in a manner commensurate with their statutory status. The NPPF also highlights the need for local planning authorities to differentiate between land of the highest environmental quality and that of lesser quality, and to allocate development accordingly to areas of lesser environmental value (paragraph 171).

Decisions on allocating sites within AONBs should be ‘landscape led’. This requires a robust understanding of landscape including the key characteristics, history and settlement patterns of the wider landscape. The PPG advises that “To help assess the type and scale of development that might be able to be accommodated without compromising landscape character, a Landscape Sensitivity and Capacity Assessment can be completed. To demonstrate the likely effects of a proposed development on the landscape, a Landscape and Visual Impact Assessment can be used” (Paragraph: 037 Reference ID: 8-037-20190721). These documents need to be supplemented by studies such as historic landscape characterisation. AONB Management Plans are key documents to understanding what makes the area special and therefore what qualities need to be conserved and enhanced when deciding the location, scale and design of new development. Local planning

authorities also need to consider the cumulative impact of the proposed sites and such development occurring within multiple Local Plan areas in an AONB.

### Major Development

The second part of paragraph 172 says “Planning permission should be refused for major development<sup>55</sup> other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated”.

Footnote 55 says: “For the purposes of paragraphs 172 and 173, 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”.

Whilst this part of the paragraph specifically refers to planning permissions, it has also been considered relevant by Local Plan Inspectors to allocations within Local Plans. Legal advice provided to the South Downs National Park Authority by Landmark Chambers also concluded that “it would arguably amount to an error of law to fail to consider paragraph 116 (now 172) at the site allocations stage of plan making for the National Park. The consequence of doing so would be to risk allocating land for major development that was undeliverable because it was incapable of meeting the major development test in the NPPF” . Tests a and b are indeed more appropriate to determine at plan-making stage when the needs for development are established and alternative options for provision fully considered. The scope for this to be done at planning application stage is much more restricted.

The starting point of this policy is that major development should only be permitted in an AONB “in exceptional circumstances, and where it can be demonstrated that the development is in the public interest”. This is a separate requirement to the tests below and is a very high bar. In southern England high levels of housing need/demand are the rule rather than the exception, and the public interest must also take into account the value that people place on nationally important landscapes.

When applied at Local Plan stage test a) should not assume that general housing needs must be met within the AONB. To justify major development on the basis of meeting objectively assessed housing needs for the local planning authority area is a circular argument at plan-making stage because the impact of the scale and distribution of development on the AONB should be taken into account in deciding the level of housing provision. If such levels can only be achieved by allocating major development, which by definition will have “a significant adverse impact on the purposes for which the area has been designated” then this is a good indicator that the impact on the AONB provides “a strong reason for restricting the overall scale, type or distribution of development in the plan area” (NPPF paragraph 11).

The assessment for test a) should rather be based on robust evidence that directly relates to the AONB and relevant settlements within it. This is supported by the findings of the Inspector for the West Oxfordshire Local Plan, who recommended deleting four allocations in the Burford – Charlbury sub-area, which forms part of the Cotswolds Area of Outstanding Natural Beauty (AONB) on the basis that there was no housing need figure for this specific sub-area and that that “soundly-based decisions on the balance of the benefits and harms of further housing development in this area can only reasonably be reached based on the detailed evidence submitted as part of specific planning applications” .

Test b) should robustly explore all available options outside the AONB, and whether the need can be met in another way, such as on smaller sites within the AONB. Test c) can be harder to apply at Local Plan stage when the details of the scheme are not known, but sites that are significantly constrained by environmental, landscape or recreational factors should be avoided. Again Landscape Capacity / Sensitivity Studies and Landscape and Visual Impact Assessments carried out in the context of Strategic Environmental Assessments or Sustainability Appraisals can be useful tools to inform this test if used alongside other relevant evidence such as ecological and heritage studies.

### **The setting of AONBs**

Another consequence of the higher housing numbers being proposed in Local Plans is a significant increase in the amount of development being proposed in areas outside of but close to the boundary of AONBs. This includes significantly expanded existing towns and villages and wholly new settlements, sometimes branded as ‘Garden Villages or Towns’, of several thousand homes.

The Section 85 ‘duty of regard’ requires all relevant authorities to have regard to the purpose of AONBs when coming to decisions or carrying out their activities relating to or affecting land within these areas. The PPG says of AONBs “Land within the setting of these areas often makes an important contribution to maintaining their natural beauty, and where poorly located or designed development can do significant harm. This is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary. Development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account” (Paragraph: 042 Reference ID: 8-042-20190721, revised 21 07 2019).

Impacts will not just be confined to the visual or physical effects such as on habitats or watercourses connecting the AONB with its surroundings, but will also add to the visitor numbers using the AONB and the traffic travelling through it, affecting the sense of naturalness, remoteness, tranquillity and dark skies.

### **Community Led Affordable Housing**

Affordability of housing is often an issue within AONBs because they are attractive places and in high demand as locations to live and particularly to retire to. They may also be holiday destinations and have a high level of second home ownership. As a result, open market house prices and rents are often out of reach of local people, particularly younger people and those who work in land-based industries such as agriculture and forestry. This distorts the social balance of communities within AONBs, both in terms of income and age, and has severe implications for the future land management of AONBs.

The answer to this affordability problem is not building more open market houses which are priced out of reach of younger people and land-based workers. Even so-called ‘affordable housing’, provided by developers as a proportion of larger housing sites, is often priced at 80% of market rents, which in southern England is still unaffordable for a large portion of the population.

As a result, community-led housing schemes have become more common across the country, often led by Community Land Trusts that are run by local people and provide genuinely affordable housing in perpetuity to meet local needs. ‘A Planner’s Guide to Community Led Housing’ by Jo Lavis MRTPI defines community-led housing as having the following characteristics:

- “1. There is meaningful community engagement and consent occurs throughout the development process. The community does not necessarily have to initiate and manage the process, or build the homes themselves, though some may do;
2. The local community group or organisation owns, manages or stewards the homes in a manner

of their choosing. This may be done through a mutually supported arrangement with a Registered Provider (RP) that owns the freehold or leasehold for the property; and

3. The benefits to the local area and/or specified community must be clearly defined and legally protected in perpetuity”.

Jo Lavis provides examples of local planning authorities that have developed policies to support community-led housing, which include the recently adopted South Downs Local Plan Strategic Policy SD29: Rural Exception Sites which states:

“1. Proposals for new residential development of 100 per cent affordable housing outside of settlement boundaries as shown on the Policies Map will be permitted, provided that the following are met:

- a) Affordable housing is provided in perpetuity;
- b) The site selection process has considered all reasonable options, and the most suitable available site in terms of landscape, ecosystem services and overall sustainability has been chosen;
- c) The scale and location relates well to the existing settlement and landscape character; and
- d) It is shown that effective community engagement has fed into the design, layout and types of dwellings proposed.

2. The size (number of bedrooms), type and tenure, (for example, social and affordable rented, intermediate, shared ownership or older people’s housing) of affordable homes for each proposal will be based on robust and up-to-date evidence of local community need.

3. Occupancy conditions and local connection criteria will be applied to affordable housing to ensure local needs are met. Specific criteria will be determined by the Authority, in close partnership with established community led and legally constituted organisations or CLTs where applicable”.

This approach is considered to be best practice in a protected landscape and is recommended to any local planning authority with land in an AONB.

### **Conclusion**

The Government’s focus on increasing housing supply often seems to dominate local planning authorities’ thinking during Local Plan preparation, and results in an assumption that objectively assessed housing needs must be met, or exceeded, at all costs. There are also financial imperatives, because the funding of local government is largely based on the amount of housing and economic growth accommodated, and because local plan examination costs are likely to be higher if housing numbers are not met due to opposition from housebuilders.

This Position Statement provides the evidence that national planning policy does not require development that causes harm to nationally designated landscapes and is intended to give local planning authorities the confidence to plan for a more appropriate scale of development in the AONB. The statement also provides advice on best practice for the provision of affordable housing in protected landscapes.