

AONBs and development



National
Trust

England's 34 Areas of Outstanding Natural Beauty (AONBs) are designated nationally, and given the highest state of protection in law and Government policy for their landscapes and scenic beauty

September 2015

Summary

The distinctive character and natural beauty of Areas of Outstanding Natural Beauty (AONBs) make them some of the most special and loved places in England. Over two thirds of England's population live within half an hour's drive of an AONB, and it is estimated there are more than 260 million visitors to AONBs and National Parks annually who spend in excess of £6 billion.¹

The Government has a clear commitment to protect AONBs. Existing legislation and policy contain strong protections, and the 2015 Conservative Party manifesto states that the Government 'will protect the Green Belt, and maintain national protections for Areas of Outstanding Natural Beauty, National Parks, Sites of Special Scientific Interest and other environmental designations'.

The National Trust recognises the need to build more houses, and we support development in line with locally agreed plans. AONBs are living and working landscapes where local needs can be met through high quality development in appropriate locations.

However, in the light of evidence that AONBs are coming under increased pressure from unplanned, inappropriate development², the Trust commissioned research from planning consultants Green Balance, which looks at case studies where significant development has been approved in AONBs. The research finds some shortcomings in the way existing planning policy is being applied on the ground.

We recognise that local authorities are facing increasing resource pressures. Our report seeks to assist them by proposing a series of tests for decision makers to apply in AONB cases, as a brief practical tool to help ensure that policy is applied correctly. It sees no need for changes to the main policies, but makes some suggestions to Government on how it can better deliver on its welcome commitment to our most important landscapes.

England's



Areas of Outstanding Natural Beauty (AONBs) are designated nationally



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260 million



visitors to AONBs and National Parks every year

Background

AONBs benefit from important protections set out in law and policy.

AONBs were originally established under the National Parks and Access to the Countryside Act 1949, though the legislation was reformulated in the Countryside and Rights of Way Act 2000. Section 85 of the Act contains a general duty on all relevant authorities to 'have regard to the purpose of conserving or enhancing the natural beauty' of AONBs when coming to any decisions or carrying out activities relating to or affecting land within these areas. Activities and developments outside the boundaries of AONBs that have an impact within the designated area are also covered by the 'duty of regard'.

The National Planning Policy Framework (NPPF) is the principal document setting out the Government's national policies on land use planning, and contains policies specific to protected landscapes (including AONBs) at paragraphs 115 and 116. These make a distinction between major developments and other proposals. Planning Practice Guidance (PPG) helps provide further clarity on policies set out in the NPPF.



NPPF policy on AONBs

'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. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.

116. Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- 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;
- the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.'

1. National Association for AONBs/National Parks England – So much more than the view (June 2015)

2. CPRE 'Going, going, gone? England's disappearing landscapes' (November 2013). URS for Natural England, Housing Development and AONBs (April 2014). Cotswolds Conservation Board Written Evidence to the House of Commons Communities and Local Government Committee's Operation of the NPPF inquiry (May 2014). High Weald AONB Partnership Written Evidence to the House of Commons Communities and Local Government Committee's Operation of the NPPF inquiry (May 2014).

The NPPF also emphasises that for all areas, including AONBs, the local plan is the starting point for deciding planning applications, and that it is highly desirable for local planning authorities to have an up-to-date local plan in place.

Where a local plan is 'absent, silent, or relevant policies are out-of-date', the NPPF's presumption in favour of sustainable development applies in most areas – meaning that the proposal should normally be granted unless the adverse impacts would 'significantly and demonstrably' outweigh the benefits of the proposal, when assessed against the policies in the NPPF taken as a whole.

However, in AONBs (and in other protected areas), separate policies – those in paragraphs 115 and 116 – apply instead of the presumption in favour of granting permission. This is made clear in paragraph 14 and footnote 9 of the NPPF.

In addition, AONBs are required to have Management Plans, and Planning Practice Guidance states that these should be taken into account in local plans and neighbourhood plans, and may also be material considerations in determining individual planning applications.

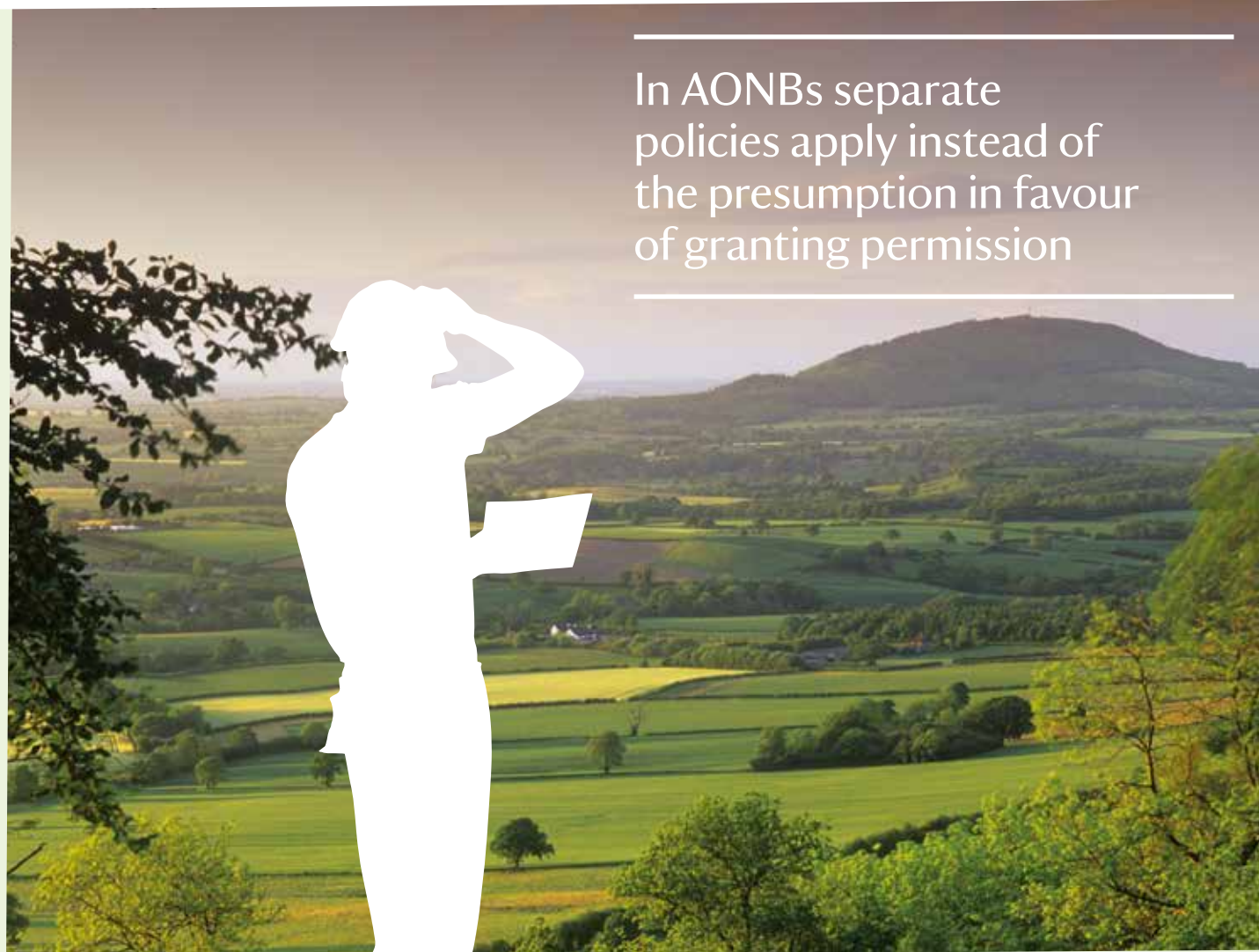
Where this applies, the Government's planning policies and guidance do not offer any more detail on what constitutes 'major development' or how to treat development in the setting of AONBs. These are matters for the decision-maker's discretion.

Decisions on whether or not to grant planning permission for developments in AONBs are taken by the relevant local planning authority, which generally would be a District Council or Unitary Authority. This is the key difference between AONBs and National Parks. In the latter, the National Park Authority itself is also the local planning authority.

If the local planning authority refuses to grant permission for a development, the applicant can appeal. A Planning Inspector, who is independent of the local authority and the applicant, acting on behalf of the Secretary of State, will then decide the case instead of the local planning authority (unless the case is so important that it is recovered for the Secretary of State's own decision).

Image below: A tree-framed view of the Wrekin beyond the Cheshire Vale from Wenlock Edge

In AONBs separate policies apply instead of the presumption in favour of granting permission



Key findings

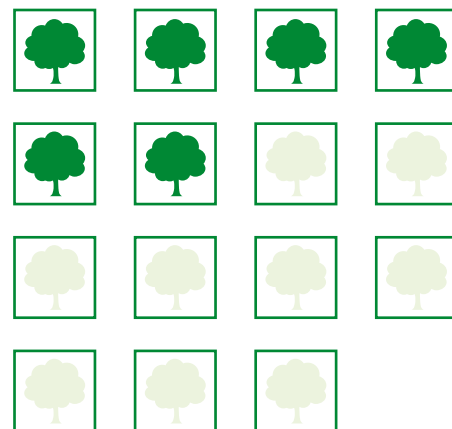
Decision-making process

From the case studies, it is not clear that national policy and procedure is adequately being taken into account in some decisions.



In 10 of the 15 cases the 'duty of regard' for AONBs was not formally noted in planning reports.

Although most planning reports identified that 'great weight' should be given to AONBs as a matter of NPPF policy, decisions in at least 10 of the 15 cases did not demonstrably do so in practice.



Of the six cases where the local plan was not up-to-date, it appears the correct national AONB tests were not applied in deciding four planning applications. The most frequently occurring mistake was to fail to identify the NPPF policy under which AONBs are exempted from the presumption in favour of granting permission for sustainable development.



In the majority of 'major development' cases the need to show 'exceptional circumstances' and that the development was 'in the public interest' was carried out only weakly.



In one of the two strategic housing land allocations studied, the Local Plan inspector omitted reference to the NPPF policy which allows for objectively assessed development needs not to be met in AONBs.

In 4 of the 14 development management cases the question of whether the development was 'major' or not was not properly addressed.

Wider Lessons

AONBs can suffer in cases where the availability of non-AONB development sites within the local authority area is very limited.



Local Authorities with less than five year housing land supplies were the main cause of pressures to release land for development in sensitive locations in AONBs or their settings.

There are examples of decision makers giving significantly less weight to the qualities of an AONB than the AONB Partnerships and Conservation Boards would expect.

Image below: A narrow path wends its way between gorse and flowering heather amongst the grasses on the windswept summit of Hardown Hill.

In some areas the integrity of AONBs is being challenged by incremental and cumulative development, where one poor development justifies the next.



The legal precedent of the Highfield Farm, Tetbury case (that it is possible for a pressing need for housing as a matter of principle to override the landscape protection that AONB policy normally provides, where there is a limited availability of alternative sites outside the AONB in the same authority) is proving problematic for AONBs.



Tests to apply in AONBs and their settings

Key



Within AONBs



In AONB Setting



Plan Making

In light of the problems identified in the case studies, the following tests, prepared by Green Balance, are a useful tool to assist local authorities in applying law and policy in AONBs:

1. Has the duty to have regard to the statutory purposes of AONBs to 'conserve or enhance the natural beauty of their area' been carried out?



This often-overlooked legal requirement is to consider whether an AONB will be 'enhanced' by a proposal as well as 'conserved' by it.

2. Has the AONB Management Plan been taken into account?



Every local authority covered by an AONB must adopt one of these. A management plan is likely to be a material consideration in planning decisions.

3. NPPF paragraph 115 requires that in any decision "great weight should be given to conserving landscape and scenic beauty" in AONBs. This applies not only to developments proposed within an AONB but if proposed in its setting such that the AONB would be affected.



The height of the hurdle to be crossed by the 'great weight' requirement is a matter of judgement in individual cases, but the High Court has clarified that it must be taken seriously.

4. Would the development be 'major' development within the AONB for the purposes of applying NPPF paragraph 116?



This is a matter of judgement in the circumstances of the case – there is no set definition. Reasons for the choice should be given, especially where the matter is in dispute between parties.

5. If the development is 'major', permission should be refused unless the two requirements in paragraph 116 have been met. These are that there are 'exceptional circumstances' to justify permission and that the development is 'in the public interest'.



Neither of these two separate terms is defined. NPPF paragraph 116 gives three assessments that should be applied as assistance.

6. Is the local planning authority's development plan sufficient as the primary basis for evaluating development proposals (principally that it is up-to-date)?



If so, test (9) applies. Otherwise, test (7) applies.

7. Is the decision arising from test (6) above that "the development plan is absent, silent or relevant policies are out-of-date"?



In these cases, development should only be permitted if there are sufficiently compelling arguments to outweigh the 'great weight' given to AONBs (and, if relevant, also if it satisfies the 'major development' assessments in NPPF paragraph 116).

8. Has the development plan included criteria-based policies which reflect the highest level of landscape protection afforded to AONBs, in line with NPPF paragraph 113?



This is the principal opportunity for local authorities to set out appropriate policy for protecting the setting of an AONB, in addition to detailed policies to apply within AONBs.

9. Have development plan policies been applied?



This is necessary when the development plan is up-to-date. Other material considerations must also be taken into account.

Recommendations

The Green Balance recommendations set out below address some key problems highlighted in this report:

1. **Decision makers in AONBs should apply the tests identified above** when deciding planning applications for development within (and in the setting of) AONBs.
2. **Ministers should make clear how they intend to deliver their commitment to the proper protection of AONBs through a Ministerial Statement**, consistent with the manifesto pledge.
3. **Government should consider whether a version of the tests set out in this document would be a useful addition to Planning Practice Guidance.**
4. **Government should ensure that practitioners are trained to improve the implementation of AONB law and policy.** Professional advice should be provided by local authorities' own staff, supplemented by each AONB Partnership or Conservation Board. **The necessary resources should be provided** to enable AONB Partnerships and Conservation Boards to make their case effectively as necessary in writing, and orally at public inquiries, hearings and Local Plan Examinations.

Ministers should make clear how they intend to deliver their commitment to the proper protection of AONBs through a Ministerial Statement

Image below: Visitors in woodland at Dunwich Heath and Beach, Suffolk.



Case studies

The National Trust asked Green Balance to look for examples of where planning decisions may not have properly represented AONB interests since the adoption of the NPPF in March 2012.

By including these cases here, the National Trust is not stating that the decisions should be revisited. In any event there is no further scope in law either for review of the planning merits of these cases or for challenge in the Courts.³ The views summarised here are those of planning consultants Green Balance, taken from their report, *Development in and affecting AONBs*. Their analysis is designed to learn lessons from past cases to assist future decision-making in AONBs.

The 15 case studies presented on the following pages highlight some of the shortcomings Green Balance found in their analysis. Eight of the case studies relate to housing. Of the seven non-housing cases, two were solar arrays, and there were several business or agricultural developments. Two schemes were brownfield redevelopments.

AONB coverage in England



15 case studies

8 relate to housing

Solar array

Canada Farm,
Winterbourne Stickland,
Dorset (Dorset AONB)

15.3

hectare
(34,600
panel) solar
array

A proposal for a 15.3 hectare (34,600 panel) solar array which the AONB Partnership considered would challenge the special qualities of the AONB, including its undeveloped rural character, uninterrupted panoramic views and sense of tranquillity and remoteness. This was recommended for refusal by the local authority officer on AONB grounds, but approved by members who felt the development 'would not particularly dominate [the] wider landscape'. Their reasons for disagreeing with officers in AONB terms were unclear.

Agricultural development

Corfton Farm,
nr. Craven Arms
(Shropshire Hills AONB)

An application
to construct

4

poultry
sheds (for
approximately
185,000 birds)

An application to construct four poultry sheds (for approximately 185,000 birds in total) and associated development was approved by members following a positive recommendation from the planning officer, despite objections from the AONB Partnership, which noted that 'more intensive methods, alternative crops and large agricultural buildings... have particular potential to cause harm to the landscape quality of the area.' It is not clear that the tests for allowing 'major' development were applied properly.

Housing development

Station Road,
Bourton-on-the-Water
(Cotswolds AONB)

100

dwelling
proposal
granted

A planning inspector granted planning permission for this 100 dwelling proposal after a public inquiry. The local authority had refused the application on the grounds the scheme 'would have a significant adverse impact on the character of the AONB'. The Planning Inspector disagreed and cited the lack of a five year land supply as an exceptional circumstance for allowing development. He disagreed with the Cotswolds Conservation Board, the District Council and a previous Local Plan Inspector on the development's visual impact and effect on countryside character.

Case studies (continued)

Solar array

Reydon, Waveney
(Suffolk Coast and
Heaths AONB)



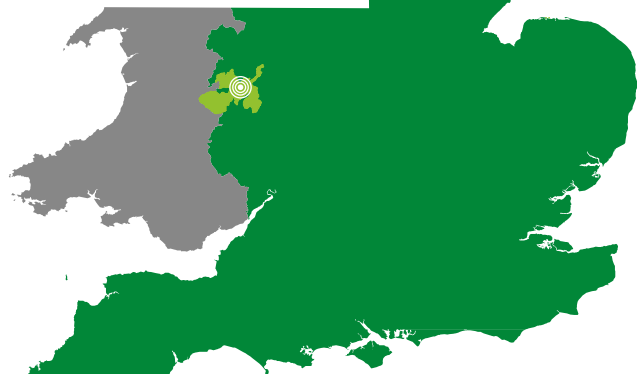
10.7

hectares
18,000 solar
panels

The AONB Partnership objected to a proposal for a solar array covering 10.7 hectares with 18,000 panels as the proposal would introduce industrial scale development to the protected landscape. The officer agreed that the 'proposal constitutes a conspicuous feature that is alien to the character and appearance of the local landscape', and recommended refusal. Members approved the proposal, however, but used reasons for departing from their officers' recommendation which did not properly apply national AONB policy.

Business development

Lea Quarry, Wenlock
Edge (Shropshire
Hills AONB)



6

hectares
of land and
buildings at a
former quarry

A proposal for a change of use of six hectares of land (mostly in the AONB) and buildings at a former quarry to a woodchip business, including erection of two storage buildings and extension of another, and the management of the wider 65ha site. The AONB Partnership objected strongly to an inappropriate use in a highly sensitive location, alongside the National Trust and Natural England. The decision to approve appears to have given little weight to AONB issues but much to the economic benefits.

Housing development

Hill Hay Close, Fowey
(Cornwall AONB)



An

82

dwelling
development
was approved
by the local
authority

An 82 dwelling development was approved by the local authority, despite the AONB Partnership's objection that the proposal did not have sufficient regard to the sensitivity and capacity of the AONB for this form of development. Several aspects of national AONB policy were not properly presented in the decision.

Housing development
Heathfield
(High Weald AONB)

115
home
development

This 115 home development (40% affordable) was objected to by the AONB Partnership on several grounds, including that it would affect the grassland and ancient woodland components of natural beauty identified by the Management Plan, that it would be contrary to an adopted local plan, and it was a greenfield site within the AONB. In this case AONB designation appears to have been treated as an impediment to housing delivery rather than a matter to which 'great weight' was given in practice.

Business development
Duckhaven,
Westward Ho! (North
Devon Coast AONB)

**A proposal
for a single
storey office
building**

A proposal for a single storey office building. The AONB Partnership objected on grounds of cumulative development, as other consents had previously been given on the same site with some yet to be implemented. The development would result in large scale new development in a sensitive area of the AONB. The officer concluded that the latest development would cause no material landscape harm where visible, but did not address the incremental and cumulative effects of development.

Housing development
Timber Hill, Lyme Regis
(Dorset AONB)

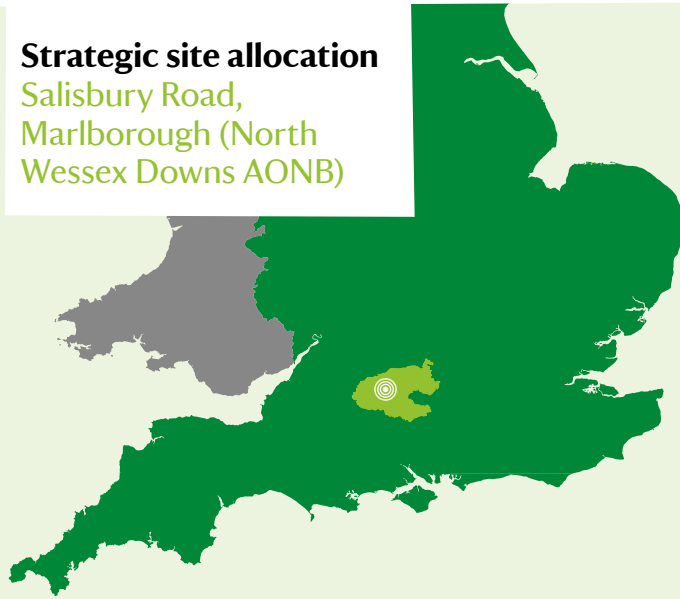
15
unit 'rural
exception
site' proposal

This 15 unit 'rural exception site' proposal on a hillside was objected to by the AONB Partnership as it would be detached and isolated from the town, and so would be uncharacteristic of its countryside location and wider setting, and highly visible. Local authority officers recommended refusal for reasons which included visual impact, though the analysis omitted aspects of national AONB policy. The need for affordable housing and support of the town council were felt by members to outweigh these concerns.

Case studies (continued)

Strategic site allocation

Salisbury Road,
Marlborough (North
Wessex Downs AONB)

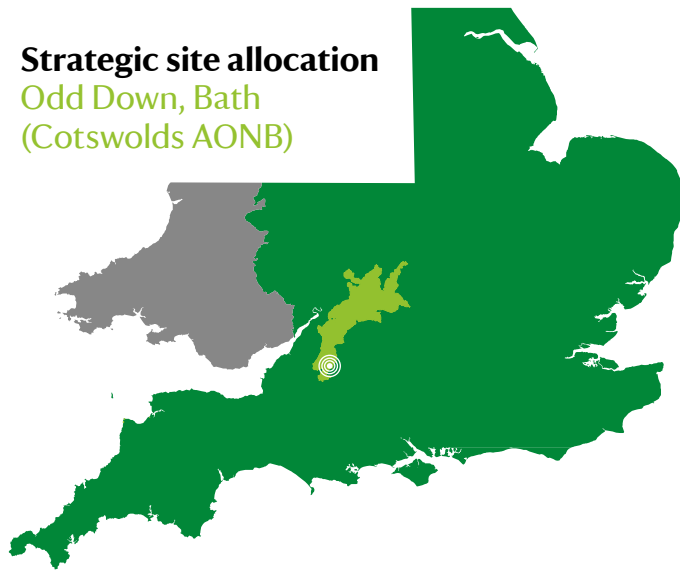


220
dwellings site
'would not
conserve
the special
qualities
and natural
beauty' of
this AONB

The AONB Partnership advised that a 220 dwelling site allocation on the southern edge of Marlborough 'would not conserve the special qualities and natural beauty' of the AONB. The Planning Inspector agreed in part with these concerns but agreed with the allocation, stating that 'the undue limitation of housing for an existing market town, such as would be secured by not having a modest degree of growth, would not satisfy the strategic objectives of the Core Strategy as a whole'. The policy tests for making allocations in an AONB barely featured in this assessment.

Strategic site allocation

Odd Down, Bath
(Cotswolds AONB)



300
home
allocation
within a
World
Heritage
Site

A 300 home site to the South West of Bath, also within the Green Belt and a World Heritage Site. The inspector found that 'the need for housing and the benefits of additional housing in this location at Bath outweigh the harm that would arise, taking into account the great weight that must be given to protecting the AONB and heritage assets'. However, the Cotswolds Conservation Board felt 'exceptional circumstances' had not been demonstrated and, importantly, that there were more suitable alternative sites.

Housing development

Gretton Road,
Winchcombe (in setting
of Cotswolds AONB)

120

dwelling and
associated
sports
facilities

120 dwellings and associated sports facilities on a site three times refused permission and previously rejected by a Local Plan Inspector due to being overlooked from many viewpoints within the AONB. The officer's report concluded that in landscape terms the proposed development would have a significant harmful adverse impact in conflict with the NPPF and local plan policies. On appeal the inspector accepted the significant harm to the AONB setting but concluded that the important contribution to housing supply was a substantial benefit which outweighed this.

Housing development

Penland Farm, Haywards
Heath (in setting of High
Weald AONB)

210

houses
proposed

210 houses proposed outside the built-up area of Haywards Heath in the Strategic Gap with Cuckfield. The AONB Partnership's principle reason for objecting was the closing of the gap between the AONB and Haywards Heath, as the separation maintains the rural open character of the AONB. Members refused the application, but on appeal the inspector found there would be no material harm to the landscape and scenic beauty of the AONB as the affected part of the AONB, though visually very attractive, was neither remote nor tranquil and the site was visible from only one point in the AONB. As the Council had a shortage of housing land supply, the housing was a significant benefit attracting substantial weight.

Case studies (continued)

Brownfield redevelopment

CABI site, Wallingford,
Oxfordshire
(Chilterns AONB)

3.7
hectare
Wallingford
site for
offices, an
extra-care
home and
associated
housing

The Chilterns Conservation Board argued that this proposal to redevelop CABI's 3.7 hectare Wallingford site for offices, a care home and associated housing would more than double the floor area of buildings on the site, was remote from services and would increase traffic. This would neither conserve nor enhance the AONB. The officer's report advised that this was not a site where housing would normally be encouraged and the care home was only acceptable to secure the CABI offices redevelopment. The report found the detrimental effects of the scheme were not significant and the harm would not outweigh the significant economic benefits, but the AONB tests were applied only weakly.

Brownfield redevelopment

Headlands Hotel,
Port Gaverne,
(Cornwall AONB)

A redevelopment
of a derelict

11
Bedroom
hotel

A redevelopment of a derelict 11 bedroom hotel, with a 50% larger footprint but lower building height. The AONB Partnership supported the redevelopment but objected to the design of the development which it felt would jar with surroundings and erode the character of the landscape. The planning officer judged the adverse implications of the development did not significantly and demonstrably outweigh the benefits when assessed against NPPF policies as a whole (though this appears to be an incorrect application of national policy in an AONB). Members narrowly supported the development principally for its positive impact on economic growth.

Image below:
A view of the shingly
inlet at Port Gaverne,
Cornwall.



