

## **MALVERN HILLS AONB JOINT ADVISORY COMMITTEE 8 NOVEMBER 2019**

### **DEVELOPMENT AND LAND USE CHANGE IN THE SETTING OF THE MALVERN HILLS AONB – a DRAFT JAC POSITION STATEMENT**

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#### **Recommendation**

- 1. The Committee is recommended to discuss and endorse the proposed Position Statement**

#### **Introduction**

2. Areas of Outstanding Natural Beauty are designated by the Government for the purpose of ensuring that the special qualities of the finest landscapes in England and Wales are conserved and enhanced. In policy terms they have the same planning status as National Parks.

3. The Malvern Hills AONB Joint Advisory Committee (JAC) is the body responsible for coordinating, on behalf of the constituent local authorities, the management of the Malvern Hills Area of Outstanding Natural Beauty (AONB). The principal purpose of the JAC is to enable the relevant local authorities, 'acting jointly', to fulfil their duties under Part IV of the Countryside and Rights of Way Act 2000 (the CRoW Act) to conserve and enhance the natural beauty of the Malvern Hills AONB.

#### **Purpose**

4. This Position Statement is intended to provide guidance to local planning authorities, landowners, developers, Parish and Town Councils and other interested parties in connection with the need to consider the impacts on the AONB of development and land management proposals which lie outside it but within its 'setting'.

5. The Position Statement has been produced because of growing pressure for development in these areas. For example, the area of land approved for housing in the setting of the English AONBs increased nine-fold between 2012 and 2017, with 60% of this on greenfield land.<sup>1</sup> The towns of Malvern and Ledbury – which fringe parts of the Malvern Hills AONB boundary - are subject to considerable development pressure with some 1500 new houses the subject of current<sup>2</sup> planning applications in the setting of the AONB around Ledbury alone. The Position Statement also reflects land uses changes such as an increase in the use of plastic and fleece used in agricultural operations outside of the AONB, including some distance from its boundary.

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<sup>1</sup> CPRE (2017) Beauty betrayed: how reckless housing development threatens England's AONBs

<sup>2</sup> September 2019

6. This Statement aims to clarify and expand upon issues raised in the Malvern Hills AONB Management Plan 2019-24 and seeks to assist in the implementation of that plan, in particular with reference to the special qualities of the AONB, the significance of the setting of the AONB and a number of key issues and plan policies as set out in Appendix 1 to this Position Statement. It also seeks to reflect key changes in national and local guidance which have been introduced since the Management Plan was adopted.

### **The setting of the Malvern Hills AONB**

7. The setting of the Malvern Hills AONB can be defined as the area within which development and land management proposals, by virtue of their nature, size, scale, siting, materials or design could be considered to have an impact, either positive or negative, on the natural beauty and special qualities of the Malvern Hills AONB and/or on peoples' enjoyment of it. In terms of landscape character it can be considered to include the area outside the AONB whose character compliments that of the AONB, either through similarity or contrast. In terms of views it can be considered to include those areas which are visible from the AONB and which offer views towards it (i.e. are intervisible). The Malvern Hills AONB Management Plan lists dramatic scenery and spectacular views as one of the area's special qualities. In a recent visitor survey 48% of all respondents cited the 'beautiful/great views' when asked what they particularly liked about the area, making it the most popular response.<sup>3</sup>

8. It is inevitable that the Malvern Hills themselves provide much of the focus in any discussion on setting. The Hills form a highly distinctive and iconic feature in the region and exert a strong and widespread influence on the landscape in all directions. They are the most visited part of the AONB and the views they afford are highly valued. However, the setting of the AONB exists all the way around the designated landscape, including those areas which are less obvious and less visited.

9. The setting of the Malvern Hills AONB has not been defined geographically by a line on a map and such a line would probably be all but impossible to draw. The extent of the setting of the AONB varies depending on the nature and location of the change being proposed. For example, a very tall, prominent structure with moving parts such as a tall wind turbine which is visible from high ground may be considered to be in the setting of the AONB even if it is many kilometres from the AONB boundary. By contrast, a much smaller, discrete development close to the edge of the AONB may have little impact. However, a similar sized development in the same location which is brightly coloured and/or highly reflective of sunlight may have an impact on the special qualities of the AONB and/or peoples' enjoyment of the area.

### **Legislation, National Policy Planning Policy Framework and National Planning Practice Guidance**

10. No legislation makes a direct reference to the setting of designated landscapes. However, Section 85 of the Countryside and Rights of Way (CROW) 2000 Act imposes a duty on all public bodies to have regard to the purpose of conserving and enhancing the natural beauty of an AONB '...in exercising or performing any functions

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<sup>3</sup> Malvern Hills and Commons Visitor Survey 2018, The Research Solution 2018

in relation to, or so as to affect, land in an AONB'. The words 'so as to affect' in this context include, in our consideration, developments of significance in the setting of the AONB.

11. The National Policy Planning Policy Framework (NPPF) constitutes government policy for England and how this is expected to be applied by local planning authorities and decision-takers in drawing up plans and in determining applications. Section 15 of the National Planning Policy Framework sets out a range of measures through which planning policies and decisions should contribute to and enhance the natural and local environment. Whilst these do not directly allude to the setting of designated landscapes they do refer to 'valued landscapes' (which are undefined) as well as to the need to ensure that new development is appropriate for its location, takes into account the potential sensitivity of the site and the wider impacts that could arise from development.

12. National Planning Practice Guidance (NPPG) supports the NPPF and adds further context to it. It is intended that these two documents are read together. NPPG for the Natural Environment makes clear that, whilst AONB Management Plans do not form part of the statutory development plan they do help to set out the strategic context for development. They provide evidence of the value and special qualities of these areas, provide a basis for cross-organisational work to support the purposes of their designation and show how management activities contribute to their protection, enhancement and enjoyment. Further, it states that they may contain information which is relevant when preparing plan policies, or which is a material consideration when assessing planning applications.

13. Recent changes to National Planning Practice Guidance introduced in July 2019 make direct reference to the setting of designated landscapes, as follows.

*'How should development within the setting of National Parks, the Broads and Areas of Outstanding Natural Beauty be dealt with?*

*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

Revision date: 21/07/2019

## **Examples of adverse impacts on the setting of the Malvern Hills AONB**

14. Examples of adverse impacts on the setting of the Malvern Hills AONB could include:

- development which would have a disruptive visual impact on views out of the AONB, into the AONB or between parts of the AONB, including consideration of the cumulative effect of several similar forms of development;
- loss of tranquillity through the introduction or increase of lighting and or noise (including consideration of the cumulative effect of several similar forms of development);
- other environmental impact and forms of pollution like dust;

- introduction of abrupt change of landscape character (including the addition of tall structures, masts, wind turbines etc);
- loss or harm to heritage assets and natural landscape, particularly if these are contiguous with the AONB;
- impact on special associations and interrelationships of settings (for example between the Malvern Hills AONB and Bredon Hill or the Cotswolds Escarpment);
- change of use of land where of a significant enough scale to cause harm to landscape character;
- development individually or cumulatively giving rise to significantly increased traffic flows to and from the AONB (resulting in loss of tranquillity and erosion of the character of rural roads and lanes);
- inappropriate use of external materials, external colours, reflective surfaces, and inappropriate landscaping.

### **Conserving and enhancing the Malvern Hills AONB and its setting**

15. A number of measures can be taken to ensure that development in the setting of the Malvern Hills AONB does not impact on the natural beauty, special qualities and/or enjoyment of the designated area. Some measures are a legal requirement or relate to the discharge of local policies. The Malvern Hills AONB Joint Advisory Committee supports the following:

- Introduce policies in statutory plans, including Core Strategies and Neighbourhood Development Plans which protect the setting of the AONB, including policies which seek to protect key views.
- Carry out Landscape Sensitivity and Capacity Assessments to inform the allocation of land for development/identify sites which have the highest capacity in landscape and visual terms.
- Ensure that Landscape and Visual Impact Assessment work related to potential development in the area around the AONB includes a detailed consideration of effects on the designated landscape itself, as well as on views to and from it.
- Ensure that new development is in accordance with relevant guidance produced by the AONB Partnership, in particular 'Guidance on how development can respect landscape in views'<sup>4</sup>. This will help to ensure that the effects of new development are minimised through good orientation, layout, landscaping etc.
- Ensure the considered use of existing landform and landscaping and the provision of new appropriate landscaping to help screen local views of development which is further afield, including agricultural fleece, polytunnels etc.
- Where new landscaping is proposed ensure it is of sufficient quantity and quality and has a suitable agreed management plan to ensure its long-term effectiveness.
- Avoiding external lighting or, if this is required, ensuring its effects are minimised through the use of 'dark night skies' compliant design and timing switches to ensure it is switched off when not needed. Adherence to the AONB

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<sup>4</sup> Published August 2019

Partnership's Guidance on Lighting could be used to help reduce the effects of lighting.

## **Appendix 1 - Excerpts from the Malvern Hills AONB Management Plan (2019-24) relevant to the setting of the AONB.**

- AONB special quality - 'Dramatic scenery and spectacular views arising from the juxtaposition of high and low ground.'
- AONB Special quality – 'A sense of remoteness and tranquillity, underpinned by dark night skies and limited noise and disturbance. People feel calm and spiritually refreshed.'
- 'Views are a crucial component of setting, being associated with the visual experience and aesthetic appreciation of the wider landscape. Views are recognised as being of particular importance in the AONB because of the juxtaposition of high and low ground and because recreational users value them so highly. This was confirmed in a visitor survey of the Malvern Hills which took place in summer 2018 when 48% of all respondents cited the 'beautiful/great views' when asked what they particularly liked about the area. This was by far the most popular response to the question, with just 24% of respondents mentioning the next most popular response.'
- 'The extent of the setting of the AONB has not been defined and is not fixed but will vary depending on issues being considered.'
- 'If the quality of the setting declines then the appreciation and enjoyment of the AONB diminishes.'
- 'Without careful management views within, from and to the AONB may be lost or degraded as vegetation grows or structures are built.'
- 'Inappropriate development adjacent to the AONB can influence landscape character within the designation, for example through associated noise and disturbance.'
- Objective LO1 is the overarching objective relating to landscape in the plan, it sets out to: 'Conserve and enhance the distinctive landscapes of the AONB and its setting, particularly those that are most sensitive or have little capacity for change.'
- Objective BDO1 is the overarching objective relating to built development in the plan, it states: 'The distinctive character and natural beauty of the AONB will be fully reflected in the development and implementation of consistent statutory land use planning policy and guidance across the AONB and in decision-making on planning applications for development.'
- 'Policy BDP2: Development in the AONB and its setting should be in accordance with good practice guidance including that produced by the AONB Partnership.'
- 'Policy BDP4: Development proposals that may affect land in the AONB, including those in its setting, should protect and/or enhance key views and landscape character. AONB guidance relating to views and development in views should be used where relevant.'

## Appendix 2 – Selected Planning Appeals

A small selection of planning appeals which reference the importance of the setting of protected landscapes in a positive way is provided below.

### Planning Appeal 1

- **Appeal Ref: APP/W1850/W/17/3180531**
- **Oak Tree View, Beggars Ash Lane, Wellington Heath, Herefordshire HR8 1LN (on the other side of the road from the MHAONB boundary).**
- **Change of use of land outside of the village of Wellington Heath from agriculture to a one-family traveller site including stationing of 2 mobile homes, 2 touring caravans, treatment plant, sheds and associated parking/turning/hardstanding and new access**
- **Planning Inspectorate Decision Date: 29<sup>th</sup> March 2018**

The Planning Inspector dismissed the appeal against a refusal to grant planning permission. Selected excerpts from the appeal decision are as follows:

‘Although the site is not within the Malvern Hills Area of Outstanding Natural Beauty (AONB), it lies immediately adjacent to it and the AONB Management Plan recognises the importance of protecting views, and sets out specific policies addressing the protection of the setting of the AONB. These include Policies BDP1 and BDP2. While the site may not benefit from the statutory duties afforded to AONBs, nonetheless its role in the setting of the AONB must be considered and, as set out in the Framework, great weight should be given to conserving the landscape and scenic beauty.’

‘Although adjacent to the village welcome sign, the site is well separated from the village with only a few sporadic properties visible on higher land. It reads as open countryside with a distinctly rural character, and is a component of an important wider landscape that provides a setting for both the AONB and the village. Importantly, it is part of a landscape that is not degraded by the commercial activities to the edge of Ledbury or the fruit farming to the west.’

‘My own observation and the evidence supporting the NP lead to a conclusion that this is an important and sensitive landscape, contributing to the setting of the village and the AONB.’

‘I must consider the development plan as a whole and the proposal would conflict with Policies LD1 and SS6 of the Core Strategy. These policies seek development that is influenced positively by the character of the landscape and which conserves and enhances the scenic beauty of important landscapes and those environmental assets that contribute to distinctiveness.....Due to the sensitivity of the landscape here and the scale and nature of the development, I give this harm substantial weight.’

‘I have found that the use of the land as a residential caravan site of this scale would have a substantial adverse effect on the character and the appearance of the area here, which I have found to be a sensitive and important landscape contributing to the setting of the village and the adjacent AONB. Consequently, the development would conflict with Core Strategy Policies LD1 and SS6 in this regard and I have attached substantial weight to this harm.’

## Planning Appeal 2

- **Appeal Ref: APP/C1625/W/15/3007972**
- **Land off Shakespeare Road, Dursley, Gloucestershire**
- **The proposal is for the development of up to 100 dwellings including affordable housing and open space; creation of new access to Shakespeare Road and internal roads, footpaths and landscaping (the Cotswolds AONB abuts the southern edge of the appeal site and is about ½ kilometre from its western boundary)**
- **Planning Inspectorate Decision Date: 2 September 2015**

The Planning Inspector dismissed the appeal against a refusal to grant planning permission. Selected excerpts from the appeal decision are as follows:

‘I consider the main issue is the effect of the proposed development on the character and appearance of the area, including the adjacent Cotswolds Area of Outstanding Natural Beauty.’

‘The appellant has endeavoured to show how the impact of the development can be minimised. Given its scale, I consider its impact on short and medium distance views would be modest. Even so, the scheme would reduce the contribution the site, together with the rest of the valley, makes in framing views of the lower slopes and higher outcrops of the Cotswold escarpment.’

‘Despite the modest extension which is proposed, the scheme would consolidate existing development and reduce the gap between the town and the AONB. In my opinion the open character of the appeal site makes an important contribution in restricting the encroachment of the town into the countryside. The development would neither protect nor enhance an area of land whose features are characteristic of the landforms on the edge of the Cotswolds plateau and whose proximity to it contributes to the setting of the AONB.’

‘I therefore find that in relation to the main issue, the proposal would detract from the open qualities of the landscape and reduce views to the countryside and AONB beyond the site. As a result the scheme would be contrary to saved policy NE10 of the adopted LP and emerging policy ES7 of the draft LP and objectives in both the NPPF and PPG for conserving the natural environment, including landscapes.’

‘I do not consider there is a compelling case for supporting the proposal because the benefits, in my view, would not outweigh the adverse impact on the setting of the AONB and the harm that would result from the development.’

‘The scheme would represent sustainable development next to a higher order settlement and provide additional housing which is capable of meeting both market and affordable needs. On balance, however, I do not consider that further housing in this location would outweigh the adverse impact the development would have on the wider landscape in the vicinity of the appeal site. Together with its effect on the setting of the nearby AONB this would be contrary to relevant development plan policies and objectives in the NPPF and PPG. For the reasons given above and having regard to all other matters, I dismiss the appeal.’



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