

MALVERN HILLS AONB JOINT ADVISORY COMMITTEE 6 NOVEMBER 2020

PLANNING MATTERS AND THE MALVERN HILLS AONB PLANNING REPORT 2019 - 2020

Recommendation

The Committee is recommended to:

- a) **Note the report; and**
- b) **Raise and discuss any issues arising.**

Background

1. There are five Local Planning Authorities (LPAs) who are responsible for planning applications within the Malvern Hills Area of Outstanding Natural Beauty (MHAONB): Herefordshire Council, Worcestershire County Council, Gloucestershire County Council, Malvern Hills District Council and the Forest of Dean District Council. It is these LPAs which create the Local Plans and policies that apply to the AONB and which determine planning permissions within the AONB.
2. National planning policy requires that conserving and enhancing landscape and scenic beauty must be given great weight in AONBs. The AONB may also be a consideration in development proposals outside the AONB boundary, if the proposals might affect the AONB itself.
3. The AONB Management Plan (2019-24) is a material consideration in planning within the AONB and its setting, so planners should refer to the Management Plan and supporting guidance when making their decisions on both planning applications and policy formulation. Developers are also encouraged to refer to these documents when drawing up plans and designs.

The role of the AONB Unit in planning

4. The Malvern Hills AONB Unit contributes to the planning process in the following ways:
 - Assistance in preparing Local Plans with Local Planning Authorities including strategy and planning policy development.
 - Providing specialist advice to LPAs on individual planning applications, for example, those that are classified as major developments and/or have a significant effect on the natural beauty of the AONB. We also comment on individual development proposals where they would have an impact on the character of the AONB or where they might establish a precedent for future applications. NB The National Landscapes review of 2019 recommended that AONB Partnerships become statutory consultees for planning applications within their boundaries and settings and a decision on this is awaited.

- Developing guidance on a range of planning related topics. AONB guidance amplifies the content of the Management Plan in relation to development in the AONB and so helps to deliver the plan.
- Supporting the preparation of Local Neighbourhood Plans (LNPs) which can contribute to the conservation and enhancement of the AONB.

5. The AONB Unit, via the National Association for AONBs, is also contributing to the national debate about planning; for example, by commenting on the development of planning white papers and proposed changes to the planning system.

Potential changes in National Policy

6. The government has published a new Planning White Paper to 'shake up' the English planning system and has suggested reforms to the existing planning system which will be steppingstones towards meeting the proposals in the Planning White Paper.

The four main proposals are:

1. changes to **the standard method** (a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic under-supply. The standard method identifies a minimum annual housing need figure (but does not produce a housing requirement figure) for assessing local housing need;
2. securing **First Homes**, sold at a discount to market price for first time buyers, including key workers, through developer contributions in the short term;
3. temporarily **lifting the small sites threshold** below which developers do not need to contribute to affordable housing, to up to 40 or 50 units to support SME builders as the economy recovers from the impact of Covid-19; and
4. extending the current **Permission in Principle** to major development so landowners and developers have a fast route to secure the principle of development for housing on sites without having to work up detailed plans first.

7. The National Association for AONBs (NAAONB) agrees that change is needed but has concerns about the effects of both the white paper and the planning reforms on protected landscapes. The ideas are also at odds with some of the key policies in the National Planning Policy Framework that 'protect areas or assets of particular importance which provide a strong reason for restricting the overall scale, type or distribution of development in the plan area.' After consulting with individual AONBs the NAAONB has responded as follows:

- The over-arching concern is that the 'build, build, build' focus of the reforms prioritises economic objectives over social and environmental objectives. Weight should be given to all three to achieve sustainable development and the level of protection afforded to AONBs should be increased.
- The new standard method is designed to greatly increase the number of new homes built each year. The over-riding pressure to meet these new housing figures would inevitably result in more housing being built in protected landscapes, especially where the local authority area includes large areas of protected landscapes. More does not necessarily mean 'better', and scant regard has been given to quality or real affordability. The 'broad brush' approach of producing housing numbers for the whole local authority area does

not allow for nuance or address the need for genuinely affordable housing for local people within AONBs. AONBs should be treated in the same way as National Parks and be exempt from general housing targets. This proposal also ignores the 'levelling up' agenda of the industrial strategy which suggests new homes are needed in the 'forgotten' towns and cities rather than the 'easy build and easy sell' houses on greenfield sites in rural areas.

- The NAAONB welcomes the option of First Homes because in AONBs housing tends to be expensive but wages are often low. Social rented housing is in high demand but often unavailable. The current 'rural exceptions' policy for AONBs is no longer delivering the social housing it should and needs addressing but granting exceptions for First Homes is not the solution and could be very damaging to a protected landscape. New homes should be aligned to new infrastructure and workplaces where possible. There is a need for the housing mix to reflect actual local need and AONBs should be exempt from the 25% First Homes policy unless this is specifically required, especially since any First Homes which cannot be marketed to local people can then be offered elsewhere. This makes them, in effect, lower cost market homes for general sale rather than a housing solution for local people.
- The delivery of genuinely affordable homes is critical to improving affordability within the rural housing market. The smaller site thresholds for delivering affordable housing should be retained.
- Providing a 'permission in principle' (PiP) will inevitably result in negotiating details at later stages of the planning process. The cumulative effects of these negotiations will be time consuming and it will be difficult to make sure that they do not erode the protection and enhancement of protected landscapes. AONBs should be exempted from any expansion of the PiP regime and ideally from that which is already in place.

Local strategy and planning policy development

8. The planning system in England is structured around a plan-led system, aimed at managing development whilst balancing economic development and environmental quality. The Development Plan is the key tool for the successful implementation of these aims at the local level and is made up of a portfolio of documents, covering what can be built and where; creating policies protecting the built and natural environment and delivery good design; implementing the Local Development Scheme; ensuring economic competitiveness; and monitoring the efficiency of the plans and policy.

9. The South Worcestershire Development Plan (covering Worcester City and Malvern Hills and Wychavon Districts) came into effect on 25 February 2016 and is currently being reviewed, in line with Government requirements that local plans should be updated every five years. A revised SWDP is required by 2021 and the review will provide an updated plan period to the year 2041.

10. In furtherance of the review the Malvern Hills AONB Unit has supported the development of a Landscape Sensitivity and Capacity Assessment (LSCA) to inform the selection of possible sites for future development in the setting of the AONB. It has also contributed to various formal consultation documents - including the Preferred Options consultation - and has had follow-up discussions with the planning authorities with regards to addressing the issues raised. In addition, the Unit is currently exploring, with Natural England, Historic England and the Malvern Hills Trust, a new piece of evidence for the next Local Plan relating

to recreational impacts on the Malvern Hills and Commons and how these can be managed and mitigated.

11. The Herefordshire Local Plan was adopted in October 2015, and superseded the previous Unitary Development Plan. The key document in the Local Plan is the Core Strategy, which provides the strategic planning framework for the county's future development needs up to 2031. A range of policies sets out how these needs can be met while at the same time achieving social and environmental objectives. A review of the Local Plan is expected to commence shortly and the Malvern Hills AONB Unit will engage in this as appropriate.

12. The Forest of Dean Local Plan sets out an overall strategy and policies to guide development across the District until 2026. Initial consultation has taken place and work is underway to collect evidence for the next Local Plan. A draft will be ready for consultation by summer 2021 and the Malvern Hills AONB Unit will engage with this.

Neighbourhood Development Plans

13. Neighbourhood Development Plans (NDPs), along with Local Plans, are a key part of the statutory planning framework. They set out the vision for an area and the planning policies for the use and development of land within a parish or Neighbourhood Area, giving communities an increased ability to influence planning. NDPs must have regard to national planning policy and be in general conformity with strategic policies in the development plan for the local area, but they can respond to local needs and aspirations and provide the 'detail' often missing at a broader scale.

14. Over a period of many years now the Malvern Hills AONB Unit has been actively supporting Parish and Town Councils in the development of NDPs. A key focus for this work has been to ensure that NDPs in the AONB are 'landscape-led', with potential development sites identified via a process of Landscape Sensitivity and Capacity Assessment and with NDP policies informed by the AONB Management Plan and guidance documents. The AONB Unit has worked with Wellington Heath, Cradley, Colwall, Malvern Wells, Little Malvern and Welland Parish Councils and with Malvern and Ledbury Town Councils on Neighbourhood Plan development.

A short review of planning application casework 2019/20

15. The AONB Unit comments on up to around 90 planning applications a year where our input can add value to decisions being made about an application. The Unit has two Landscape Architects with planning experience who are supported by planners from Worcestershire County Council. Planning comments are made in the context of policies which protect and enhance the special landscape of the AONB and its setting; this includes applications which are for large scale developments, or small scale developments which will impact on the landscape, such as the conversion of traditional vernacular buildings for equestrian or residential use, or developments which are in open countryside outside towns and villages.

16. Planning casework is identified through the Weekly Lists prepared by each of the Local Planning Authorities and agreed by the AONB Unit. The tables below summarise the planning applications identified as being within the AONB or relevant to the AONB setting for 2019-2020. The numbers in brackets represent numbers of applications recorded last year (2018-2019) for comparison purposes.

SUMMARY STATISTICS FOR PLANNING APPLICATIONS APRIL 2019 TO MARCH 2020

Table 1 - Number of planning applications identified between April 2019 and March 2020

Local Authority	No. of applications identified	In the AONB	In the AONB setting
Malvern Hills District Council	105 (108)	82 (90)	23 (18)
Herefordshire Council	133 (136)	109 (127)	24 (9)
Forest of Dean District Council	2 (2)	2 (1)	0 (1)
Gloucestershire County Council	0 (0)	0	0
Worcestershire County Council	1 (0)	0 (0)	1 (0)
Totals	241 (246)	193 (218)	48 (28)

Table 2 - Number of written responses to planning applications made by the AONB Unit April 2019 to March 2020

Local Authority	No. of written responses	In the AONB	In the AONB setting	No. of objections
Malvern Hills District Council	45 (24)	30 (23)	10 (1)	4 (6)
Herefordshire Council	43 (26)	38 (22)	5 (4)	8 (5)
Forest of Dean District Council	1 (0)	1 (0)	0 (0)	0 (0)
Gloucestershire County Council	0 (0)	0 (0)	0 (0)	0 (0)
Worcestershire County Council	1 (0)	0 (0)	1 (0)	0 (0)
Totals	90 (50)	74 (45)	16 (5)	12 (11)

(2018-19 figures in brackets)

17. The total number of applications identified as being registered in the AONB in 2019 - 20 was slightly lower than in 2018-2019, a decrease split evenly between Malvern Hills District Council and Herefordshire Council. Applications in the Forest of Dean district remained low. Approximately 48% (117) of these were assessed by the Unit against relevant planning policies, the AONB Management Plan and guidance.

18. The number of written responses to planning applications increased significantly (44% increase) when compared to last year's numbers, with 21 additional responses submitted to Malvern Hills District Council and 17 to Herefordshire Council. There was also one response submitted to Forest of Dean District Council and one to Worcestershire County Council. This increase was largely due to the submission of a larger number of shorter responses to more minor applications.

19. Each of these responses was subsequently followed up, to find out the decision made and to identify whether the decision was informed by the AONB Unit's comments.

20. Table 3 (below) shows the number of AONB Unit's comments in this report period taken into account by planning officers and, in some cases, conditions suggested by the AONB Unit (in particular in relation to materials, colour and lighting) which have been included within approvals. There is also evidence of case officers advising applicants to improve their designs or respond to other concerns raised by the AONB Unit.

21. The statistics suggest a decrease in the percentage of responses where AONB responses have been positively applied in the planning decisions. These results have been raised and discussed with the AONB Steering Group.

Table 3 – Summary statistics for planning decisions April 2019 to March 2020

Local Authority	No. of written responses	Approved/ Prior approval not required	Refused/ Prior approval/ permission required/ Appeal dismissed	Withdrawn	Pending/Pre-app/ Determination declined etc.	% successful*	Compliance**
Malvern Hills District Council	45 (24)	30 (9)	9 (8)	0 (5)	6	53% (75%)	😊
Herefordshire Council	43 (26)	25 (18)	11 (2)	3 (0)	4	34% (56%)	😞
Forest of Dean District Council	1 (0)	0 (0)	(0)	0 (0)	0	100%	😊
Gloucestershire County Council	0 (0)	0 (0)	0 (0)	0 (0)	0	N/A	N/A
Worcestershire County Council	1 (0)	1 (0)	1 (0)	0 (0)	0	100%	😊
Totals	90 (50)	56 (27)	21 (10)	3 (5)	10	52% (65%)	😊

(2018-19 figures in brackets)

* % of planning decisions which refused proposals due to their potential impact on the AONB and planning decisions which included full mitigation of potential impacts on the AONB

** < 50% = 😞, 50% - 75% = 😐, ≥ 75% = 😊

Objections

22. The AONB Unit objected to twelve planning proposals last year (13% of all written responses submitted). In all but two of these cases (84%) the decision made was in accordance with the AONB Unit's recommendations. They fell into the following categories:

- planning permission was refused;
- planning permission was approved but only based on improved development details or details secured by relevant conditions;
- prior approval was refused; or

- the planning application was withdrawn.

Overarching trends

23. The following trends have been identified in the last year:

Agricultural buildings/Permitted development applications

24. It appears that the AONB Unit's comments are not always taken into account when considering applications for prior approval of agricultural buildings. For example, in the case of a large agricultural development at Thumpers Patch, Mathon Herefordshire; the AONB Unit was concerned with the location, scale and materials proposed for this development but the Officer's report did not include the matters highlighted by the AONB Unit.

25. We recognise the limitations of the permitted development process and pressures put on Case Officers to make decisions within 21 days, however, we feel that more consideration should be given to the siting of these structures within the AONB. Badly designed agricultural buildings can permanently damage the special qualities of the AONB as these structures are often large and highly visible.

26. At the same time, it should be recognised that Herefordshire Council did 'back up' the AONB Unit's concerns in relation to a new agricultural building at Chances Pitch. In this case HC decided that Prior Approval was required for the new building and this precipitated an appeal by the applicant. The appeal was allowed by a Planning Inspector, albeit that conditions re. materials were placed on the development.

Materials and colours

27. As with the previous year, on several occasions conditions in relation to materials and colours suggested by the AONB Unit have been included within approvals. Whilst this guarantees some control over choices, the conditions very rarely include a requirement for a specific material or a specific colour. This means that there was often a need for additional AONB Unit involvement during the discharge of conditions stage.

Affordable housing

28. The AONB Unit expressed their concerns over the lack of affordable housing provision on larger development sites located within and in the setting of the AONB. Whilst we noted that there are a number of factors contributing to calculating affordable housing on sites, such as local policies and local housing needs assessments, there is a shortage of affordable housing within AONBs nationally. Good practice within other protected landscapes suggests that on rural exception sites 100% affordable housing should be the starting point and 75% should be the absolute minimum, with at least 50% of any affordable housing that is provided being affordable in perpetuity (e.g. social-rented housing). We understand the need for projects to be affordable/profitable for applicants, but this should not be at the expense of the provision of affordable housing for the AONB's communities.

Ledbury Viaduct Planning Inquiry

29. One proposed planning application which may be worth singling out at this time is the appeal by Bloor Homes Western, in respect of land North of Ledbury Viaduct.

30. On 11th December 2019 Herefordshire Council's Planning Committee made a decision (contrary to Officers' recommendations) to refuse planning permission for a mixed used development including the erection for up to 625 homes (including affordable housing), up to 2.9 hectares of B1 employment land, a canal corridor, public open space (including a linear park), access, drainage and ground modelling works and other associated works (planning reference 171532). Bloor Homes (the Appellant) appealed to the Planning Inspectorate pursuant to Section 78 of the Town and Country Planning Act 1990 against the Council's decision.

31. On 18th February 2020 Herefordshire Council (following legal advice of the Solicitor to the Council and Monitoring Officer) made a decision to withdraw the reasons for refusal of the planning permission made on 11th December 2019. It was determined that pursuing the defence of the reasons for refusal by the Council could be seen as unreasonable, given there was no technical evidence to support the grounds for refusal. Herefordshire Council recorded that it was also having difficulty securing technical experts who would provide their evidence in support of the Council's decision to refuse the planning application. This decision was taken to both mitigate the reputational damage to the Council and to limit the very significant costs that the Council could incur.

32. The proposed development site is on the edge of the Malvern Hills AONB and the Unit objected to the proposed development on the basis that it could give rise to a significant increase in vehicular traffic in the area, which would be contrary to Policy TRP6 of the AONB Management plan ('Ensure that new developments on the periphery of the AONB do not give rise to significant traffic increases and associated effects on tranquillity and enjoyment. Seek compensation for such effects where relevant.') Impacts on the AONB were cited by Herefordshire Council's Planning Committee as one of the reasons for refusing planning permission on 11th December 2019.

33. Following the decision made by Herefordshire Council on 18th February 2020 Ledbury Town Council decided to act as a Rule 6 party at the Public Inquiry, meaning that they would take a very active part in opposition to the appellants. Ledbury Town Council asked Paul Esrich (on behalf of the AONB Unit) to appear as an expert witness at the PI. After due consideration the AONB Steering Group decided that this would not be appropriate since it may be interpreted by some parties as a 'conflict of interest' with that of the formal position taken by Herefordshire Council – one of the AONB Partnership's contributing local authorities. However, the AONB Unit did provide a written representation to the Planning Inspectorate (PINS) in support of its original objection and provided answers to questions and points of clarification to Ledbury Town Council as it prepared Proofs of Evidence.

34. A delayed Public Inquiry (PI) took place virtually, the first part in July 2020 and the second part in September 2020. The PI is now complete. Whilst the Inquiry was conducted by a Planning Inspector it has been decided that the Secretary of State for Planning, Communities and Local Government will make the appeal decision, taking

into account the Inspector's recommendation. At the time of writing an appeal decision has not been made.

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