High Weald AONB Unit – Respondent Number 1167399

Matter 2: Vision and Objectives and Local Plan Growth – Issue 4: Whether the approach to development within the High Weald Area of Outstanding National Beauty is justified, effective and consistent with national policy?

Introduction

The High Weald AONB Unit objected to proposed allocations RUGA 2 Ghyll Road, Heathfield and RUGA 8 Land at Foxhole Farm, Wadhurst partly on grounds that they were unjustified major development in the AONB and therefore contrary to paragraph 116 of the 2012 NPPF. The Unit also suggested changes to policy EA5 to clarify that development within AONBs should be limited to local needs and should not be meeting strategic needs from elsewhere in the district or outside the district.

In response to this and other representations, including those from Natural England, Wealden District Council produced a background paper on ‘Development in the High Weald AONB’. The following hearing statement includes the AONB Unit’s comments on this background paper.

These comments are the professional views of the AONB Unit’s Planning Advisor and are not necessarily the views of the High Weald AONB Joint Advisory Committee which includes a representative of Wealden District Council as well as other local authority members, Natural England and rural organisations.

46. Having regard to the core planning principles set out within the Framework, and the exceptional circumstances and public interest tests set out in paragraph 116 of the document, is the development proposed within the AONB, including that which could take place within extended settlement boundaries, soundly based?

Meeting Housing Needs

In the first sentence of the background paper it says:

“This assessment has been undertaken in the context of preparing a new Wealden Local Plan for the Wealden District. Work on assessing the Objectively Assessed Needs (OAN) for housing and economic development, and development sites to meet those needs, has acknowledged that it is necessary to identify sites within the High Weald Area of Outstanding Natural Beauty (AONB) to ensure that the full development needs of the District can be met”.

The work on assessing Objectively Assessed Needs (OAN) is separate to that which establishes the correct level of housing provision. OAN assesses housing needs (and demand) rather than constraints, and cannot establish the distribution of such development. Presumably the reference to work on development sites to meet those needs refers to the SHELAA and Sustainability Appraisal. However, it is not clear how or where this
work establishes “that it is necessary to identify sites within the High Weald Area of Outstanding Natural Beauty (AONB) to ensure that the full development needs of the District can be met”.

In national policy the requirement to meet OAN is caveated by the proviso that such provision does not conflict with policies that restrict development, including those relating to AONBs. The relevant paragraphs from the 2012 and 2019 NPPFs are appended to this statement with the relevant phrases in bold.

Once the OAN has been established, an LPA should therefore consider whether the environmental constraints of the Plan area should result in the overall scale, type or distribution of development in the plan area being restricted. In the case of Wealden district, the fact that over half of the area is AONB is clearly a significant constraint. However, it is not clear where or if this assessment has taken place. Instead there seems to be an assumption that the full OAN for the district must be met.

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”\(^1\). This principle should apply equally to AONBs but, in the absence of a Circular for AONBs, this relies on paragraph 14 of the NPPF being applied robustly to ensure that the scale of development proposed does not harm the purposes for which these areas were nationally designated.

**Major Development**

Even if it is necessary to identify sites within the AONB that does not mean that such provision should be in the form of major development sites. The new NPPF provides a useful definition of ‘major development’ within the context of AONBs in footnote 55, which states

“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”.

The [High Weald AONB Management Plan](#) has been adopted by all the relevant local authorities, including Wealden District Council, as their policy for the management of the area and for the carrying out of their functions in relation to it. The Management Plan defines the natural beauty of the AONB in its Statement of Significance and identifies the key landscape components of the High Weald. The Management Plan then sets objectives for these components and identifies actions that could conserve and enhance the AONB.

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\(^1\) Paragraph 78 English National Parks and the Broads UK Government Vision and Circular 2010
Settlement is one of these landscape components and the objectives for this component are:

- Objective S1: To reconnect settlements, residents and their supporting economic activity with the surrounding countryside;
- Objective S2: To protect the historic pattern and character of settlement; and
- Objective S3: To enhance the architectural quality of the High Weald and ensure development reflects the character of the High Weald in its scale, layout and design.

One of the actions for objective S2 is to “Seek to prioritise the delivery of new housing primarily through small-scale development and a mix of housing sizes that responds to local needs”.

The Management Plan describes the High Weald as “an area of ancient countryside and one of the best surviving Medieval landscapes in Northern Europe... At first glance the High Weald appears to be a densely wooded landscape but closer examination reveals a detailed agricultural tapestry of fields, small woodlands and farmsteads. Everything in the High Weald landscape is human scale”(p8). The High Weald is characterised by irregular shaped fields and woodlands accommodating dispersed development of farmsteads, hamlets, trading villages and the small town of Battle. Small scale carefully designed development can be accommodated successfully in this landscape whilst retaining this character, but large scale developments are much more challenging to integrate successfully without detrimental effects.

It is the view of the High Weald AONB Unit that major development cannot be accommodated within the AONB without damaging the purposes of the designation. The wording of the new NPPF paragraph 172 supports this stance by saying that “the scale and extent of development within these designated areas should be limited”.

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47. In particular: (a) what is the need for the development proposed, including in terms of national considerations? (b) what is the likely impact of permitting, or refusing, the housing development on the local economy? (c) is there scope for providing for the housing development outside of the AONB, or meeting the need for it in some other way? (d) what is the likely effect of the development on the environment, landscape and recreational opportunities having regard to the potential for moderation?

In section 4 of the background paper, tables are provided for each allocated site in the AONB providing the justification for each against the assessment criteria in NPPF paragraph 116.

a) the need for development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy.

The justification provided by the Council relies on the district-wide housing needs set out in WLP1 and a Housing Needs Survey Report for the AONB. However, the former is not specific about the needs of the AONB part of the district and the latter only relates to affordable housing, which in all cases is substantially less than the number of new units proposed. Neither method provides an assessment of the total need for housing development within the AONB or within specific settlements in the AONB. However, it is considered that the affordable housing need is a better indicator than any breakdown of the OAN because it is based on the needs of people living and working within the area rather than the historic demand for people to move in to the area from outside the AONB.

There is a second part of the justification which relies on the ‘settlement hierarchy’ in the Local Plan, the SHELAA and Sustainability Appraisal to argue that there are benefits to developing in this particular settlement in the AONB compared to other settlements within the district. It is not clear how this information relates to test a).

b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way.

For Heathfield, the argument is that there is limited capacity for development within the town and most of the land adjacent to the town is within the AONB. Development at the nearest settlement outside the AONB, Horam, would not meet the housing needs of Heathfield. For Wadhurst and Mayfield the arguments seem to be similar, that there is insufficient capacity on previously developed land within the villages and development outside of the AONB (such as at Tunbridge Wells) would not meet the needs of these settlements.

In both cases the SHELAA is used to demonstrate that other sites in the area have been considered and discounted. However, most of the other sites listed are also within the AONB. It would be more relevant to test whether the capacity of other sites outside the AONB had been maximised.
In the absence of a specific need figure for these settlements (or indeed any of the other settlements in the AONB that do not have allocations) it is difficult to judge whether there is sufficient capacity on sites within Heathfield, outside the AONB, or previously developed sites within Mayfield or Wadhurst to meet these needs. Since the only identified need for these settlements is for affordable housing then this need would more appropriately be met by allocating sites for 100% affordable housing to meet local needs, for instance by delivery through a community land trust. Such provision would not need to be major in scale to meet the identified needs.

c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

These details are site specific and will be addressed when the site allocations themselves are considered later in the examination. For the purposes of this matter it is sufficient to say that all the sites have some degree of detrimental effect on the landscape, which can only be expected when developing green field sites in an AONB. These impacts range from loss of semi-improved grassland, loss of tranquility / sense of remoteness, impact on historic field boundaries, trees, ponds and other landscape features, to impact on Ancient Woodland and public rights of way. Suggested mitigation often takes the form of ‘buffering’ or ‘containing’ the development. This fails to acknowledge the impact of the loss of such landscape features to the AONB, regardless of whether they or the development can be seen from public viewpoints. The Courts\(^2\) have held that the fact that a development is not viewable by the general public does not mean that there is no harm to the intrinsic character of an AONB. This is particularly relevant in a largely enclosed landscape such as the High Weald where the cumulative impact of such developments would be significant.

Conclusion

In summary, the High Weald AONB Unit considers that the Council’s approach to development within the High Weald Area of Outstanding National Beauty is not justified or consistent with national policy. Exceptional circumstances for major development in the AONB have not been demonstrated and the development is not in the public interest because it will damage the purposes of the AONB designation.

\(^2\)Great Trippetts Estate Ltd v Secretary of State for Communities & Local Government [2011] EWCA Civ 203 26 Jan 2011
Appendix

2012 NPPF Paragraph 14

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

Footnote 9 For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.

2019 NPPF Paragraph 11:

Plans and decisions should apply a presumption in favour of sustainable development.

For plan-making this means that:

a) plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change;

b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:

i. 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; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 5 The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal erosion.