

## AONB Management Plan Revision

### Specimen text: policy and legal framework

Purpose and use of this document .....	1
1. Introduction .....	2
2. Legal framework .....	3
3. Responsibility for AONBs .....	5
4. The meaning of ‘natural beauty’ .....	5
5. History of AONB designation and milestone documents .....	6
6. The designation process .....	7
7. Planning and AONBs .....	7
8. The international context .....	8
9. The NAAONB and the purpose of the AONB ‘family’ .....	9
References .....	11

#### Purpose and use of this document

The next round of English AONB Management Plans (MP) are mostly due to be completed by April 2019. This document responds to requests for the NAAONB to produce some stock paragraphs of specimen text suitable for use in individual AONB Management Plans, relating to the policy and legal framework of AONBs and that clearly and succinctly state what AONBs are and how they are managed.

This document supplements the Support Paper<sup>1</sup> (‘SP17’) produced by the NAAONB for English AONBs in June 2017 to feed in to this process. SP17 is itself not intended to replace existing statutory guidance (2001<sup>2</sup>, 2006<sup>3</sup>) on AONB management planning. Rather it provides a background to the AONB designation process and an update on changes in the legislative and policy context

since the last AONB plans were produced in 2014. In each section, the specimen paragraphs presented here are cross-linked by page number to SP17.

Specimen paragraphs in this document assume a section on ‘the policy and legal framework’ of no more than 4 pages in length, in each AONB management plan. The paragraphs have been written in such a way that they apply to all AONBs. They could in principle be simply ‘pasted in’ (e.g. where plans are being prepared from scratch or where a new section is being entered to an existing management plan) or used to compare with or to modify existing text.

However, it is more likely that individual AONB partnerships<sup>1</sup> will wish to adapt selected text to their own circumstances, for example in relation to governance arrangements (for example Conservation Board, JAC or other committee, and to the local authorities involved). AONB partnerships may also want to integrate a specific local narrative (for example integrating the history of their own AONB with that of AONBs in general).

The paragraphs cover the following topics (the order and presentation of which is likely to vary between individual AONB Management Plans):

- Introduction [to a ‘Policy and Legal Framework’ section]
- Legal framework
- Responsibility for AONBs
- The meaning of ‘natural beauty’
- History of AONB designation and milestone documents
- The designation process
- Planning and AONBs
- The international context
- The NAAONB and the purpose of the AONB ‘family’.

AONB Management Plans need to be fully referenced. For clarity, references in this document are indexed by number to a concluding section from which they may be ‘pasted in’ as footnotes or endnotes to the appropriate paragraphs of each AONB management plan.

Though there is a common legislative basis for AONBs in England and Wales (distinct from that of Northern Ireland AONBs), the institutional and policy context differs in all three countries. This document (and SP17) relate to English AONBs.

## **1. Introduction**

[SP17 pp. 10-43]

The 46 Areas of Outstanding Natural Beauty (AONB) in England, Wales and Northern Ireland cover approximately 1/8<sup>th</sup> of the land surface.

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<sup>1</sup> AONB partnership with a lower case p, is the generic term used by the NAAONB to refer to an AONB Partnership, Joint Advisory Committee, Conservation Board or any other organisation recognized as the lead governance body for an AONB.

The distinctive character and natural beauty of AONBs make them some of the most special and cherished places in England. AONBs are living, working landscapes that contribute some £16bn every year to the national economy. Although home to less than half a million people (under 2% of England's population), over two thirds of England's population live within half an hour's drive of an AONB and around 150 million people visit English AONBs every year, spending in excess of £2bn.<sup>4</sup>

Together with National Parks, AONBs represent our most outstanding landscapes; unique and irreplaceable national assets, each with such distinctive character and natural beauty that they are recognised internationally as part of the global Protected Areas Family to be managed in the interest of everyone – local residents, businesses, visitors, and the wider public - and protected for future generations.

## 2. Legal framework

[SP17 Annexe 1 p47 on]<sup>2</sup>

AONBs exist within a legal framework which has been progressively strengthened since the first AONBs came into existence after the Second World War.

- The **1949 National Parks and Access to the Countryside Act**<sup>5</sup> first established the AONB designation, provided AONBs with protection under planning law against inappropriate development and gave local authorities permissive powers to take action for '*preserving and enhancing natural beauty*'<sup>5 S88</sup> in them.
- The **Countryside Act 1968**<sup>6</sup> placed a responsibility on local authorities, the statutory conservation bodies, and civil servants, in exercising their functions under the 1949 Act (as amended by subsequent legislation) to '*have due regard to the needs of agriculture and forestry and to the economic and social interests of rural areas*'.<sup>6 S37</sup>  
Within AONBs, this means a responsibility to acknowledge and, where appropriate, to promote farming, forestry and the rural economic and social context wherever this can be done without compromising the primary purpose of conserving natural beauty.
- The **Environment Act 1995**<sup>7</sup> introduced the phrase 'conserve and enhance' in place of 'protect and enhance' in relation to duties of local authorities, the Environment Agency and other bodies. No statutory duties were placed on local authorities actively to manage AONBs in any particular way.
- The **Countryside and Rights of Way Act 2000**<sup>8</sup> (CRoW) subsumes and strengthens the AONB provisions of the 1949 Act. It confirms the purpose and significance of AONBs, clarifies the procedure for their designation, and created a firm legislative basis for their designation, protection and management.

In particular

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<sup>2</sup> An accessible summary of the legal framework is presented in CA23<sup>2</sup> pp. 72-75. An example of a brief summary of CRoW can be found on the High Weald AONB webpages at [www.highweald.org/look-after/planning/aonb-legislation.html](http://www.highweald.org/look-after/planning/aonb-legislation.html).

- Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty.
- Section 83 establishes the procedure for designating or revising the boundaries of an AONB, including Natural England’s duty to consult with local authorities and to facilitate public engagement.
- Section 84 confirms the powers of a local authorities to take *‘all such action as appears to them expedient’* to conserve and enhance the natural beauty of an AONB, and sets consultation and advice on development planning and on public access on the same basis as National Parks in the 1949 Act.
- Section 85 places a statutory duty on all ‘relevant authorities’ to *‘have regard to the purpose of conserving and enhancing the natural beauty’* of AONBs when coming to any decisions or carrying out activities relating to or affecting land within these areas. ‘Relevant authorities’ include all public bodies (including county, borough, district, parish and community councils, joint planning boards and other statutory committees); statutory undertakers (such as energy and water utilities, licensed telecommunications companies, nationalised companies such as Network Rail and other bodies established under statute responsible for railways, roads and canals); government ministers and civil servants.  
Activities and developments outside the boundaries of AONBs that have an impact within the designated area are also covered by the ‘duty of regard’.
- Sections 86 to 88 allow for the establishment in an AONB of a Conservation Board to which the AONB functions of the local authority (including development planning) can be transferred. Conservation Boards have the additional but secondary function of seeking to increase public understanding and enjoyment of the AONB’s special qualities. They also have an obligation to *‘seek to foster the economic and social well-being of local communities’* in co-operation with local authorities and other public bodies.<sup>3</sup>
- Sections 89 and 90 create a statutory duty on all AONB partnerships (local authorities and Conservation Boards) to prepare a Management Plan *‘which formulates their policy for the management of their area of outstanding natural beauty and for the carrying out of their functions in relation to it’*, and thereafter to review adopted and published Plans at intervals of not more than five years. Where an AONB involves more than one local authority they are required to do this *‘acting jointly’*.
- Section 92 makes clear that the conservation of natural beauty includes the conservation of *‘flora, fauna and geological and physiographical features.’*
- **The Natural Environment and Rural Communities Act 2006<sup>2</sup> (NERC):**
  - Section 99 formally clarifies in law that the fact that an area consists of or includes land used for agriculture or woodlands, or as a park, or *‘any other area whose flora, fauna or*

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<sup>3</sup> NB: Conservation Board management plans will need to expand this section.

*physiographical features are partly the product of human intervention in the landscape'* does not prevent it from being treated, for legal purposes 'as being an area of natural beauty (or of outstanding natural beauty).'

- Schedule 7 asserts that an AONB joint committee of two or more local authorities, or a conservation board, can constitute a 'designated body' for the performance of functions allocated to Defra.

### 3. Responsibility for AONBs

[SP17 legislative sections as above and whole]

The formal legal responsibility for both development control and for management of AONBs (including the duty to prepare an AONB Management Plan) lies with the local authorities in whose area(s) the AONB exists, except in two instances (the Chilterns and the Cotswolds AONB) where this is the responsibility of a statutory Conservation Board.

In addition, the duty of all public bodies and statutory undertakers to 'have regard'<sup>10</sup> places an obligation on a wide range of organisations not just to consider any detrimental impacts of their policies and activities outside as well as within the boundaries of any AONB, but positively to consider how they might benefit the AONBs special qualities.

Statutory guidance for the production of AONB Management Plans is contained in CA23<sup>2</sup> and CA221<sup>3</sup>. These make it clear that preparation needs actively to engage and gain the support of all key stakeholders, who will assist in its delivery. The AONB Management Plan is a place-based plan derived through local consensus. It seeks to define the approach to conserving and enhancing the natural beauty of the AONB through the application of local solutions to local challenges that also respect the national and international importance of the AONB. It is a plan not for the partnership but for the AONB as a whole.

### 4. The meaning of 'natural beauty'

[SP17 Annexe 1 p 49]

The term 'natural beauty' first gained currency in a legislative context in the 1907 Act which gave legal status to the National Trust ('for Places of Historic Interest and Natural Beauty'). It has been the basis for the designation of both AONBs and National Parks since the 1949 National Parks and Access to the Countryside Act in which, however the term was not defined.

In June 2000 the Government confirmed that AONBs and National Parks are of equal status with regard to landscape quality and that they share the same level of protection. In the same year, the CRoW Act formally stated that natural beauty includes conservation of *'flora, fauna and geological and physiographical features'*.<sup>8 Section 92</sup>

Natural beauty goes well beyond scenic or aesthetic value. The natural beauty of an AONB is to do with the relationship between people and place. It encompasses everything - 'natural' and human -

that makes an area distinctive. It includes the area's geology and landform, its climate and soils, its wildlife and ecology. It includes the rich history of human settlement and land use over the centuries, its archaeology and buildings, its cultural associations, and the people who live in it, past and present.<sup>2; 11; 12; 13</sup>

## 5. History of AONB designation and milestone documents

[SP17 Annexe 1 p 49. *Individual AONBs are likely to want to focus on their own specific history of designation starting with the early recognition of their landscapes' distinctive and valued qualities and moving to the more recent history of formal designation.*]

AONBs emerged from the mood of civic renewal which characterised the decades following the end of the Second World War - the 1949 National Parks and Access to the Countryside Act was one amongst many – including health, education, agriculture and development planning – which established the basis for a 'new Britain'.

The need to designate special areas of the countryside against inappropriate development, to celebrate and conserve their distinctive features, encourage sustainable agriculture and foster local economic well-being was recognised well before the Dower (1945) and Hobhouse (1947) reports which led to the establishment of AONBs and National Parks.

Since their establishment by the 1949 Act there has been continuous development in the policy and legislative context of AONBs, shaped by a number of key policy documents including

- Areas of Outstanding Natural Beauty - A Policy Statement (Countryside Commission & Countryside Council for Wales, 1991)<sup>14</sup>
- Areas of Outstanding Natural Beauty - A Guide for Members of Joint Advisory Committees (Countryside Commission & Countryside Council for Wales, 1994)<sup>15</sup>
- Protecting our finest countryside: Advice to Government (Countryside Commission, 1998)<sup>16</sup>
- Areas of Outstanding Natural Beauty Management Plans: A Guide (Countryside Agency, 2001)<sup>2</sup>
- Areas of Outstanding Natural Beauty. A Guide for AONB partnership members (Countryside Agency, 2001)<sup>11</sup>
- Guidance for the Review of AONB Management Plans (Countryside Agency, 2006)<sup>3</sup>
- Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England (Natural England, 2011)<sup>17</sup>
- Guidance for assessing landscapes for designation as National Park or Area of Natural England Designations Strategy (Natural England, 2012)<sup>18</sup>

Seventy years after the 1949 Act, the production and implementation of revised AONB Management Plans will help to ensure that AONBs are leaders in developing and promoting the intentions of the 1949 Act in a rapidly changing modern context.

## 6. The designation process

[SP17 Annexe 1 As with S5 above, each AONB is likely to want to document its own individual designation which is likely to predate the current designation process as prescribed by the Countryside and Rights of Way Act 2000.]

AONBs are designated in law following a prescribed process which includes an objective appraisal of landscape quality, statutory assessments by the national conservation agencies and wide consultation with stakeholders including local landowners, residents and businesses. Following initial proposals for an AONB there is the opportunity for all stakeholders including visitors and the wider public to make representations, either in regard to the AONB itself or to proposed boundaries.

The basic stages in the current AONB designation process as prescribed by the Countryside and Rights of Way Act 2000<sup>8582-84</sup> are as follow:

1. Identify Candidate Area (for a new AONB or extension to an existing AONB) that meets the criteria for Natural Beauty
2. Ascertain issues relevant to the desirability of designation
3. Undertake required statutory assessments (including any requirement for SEA & EqIA)
4. Identify draft detailed boundaries within Candidate Area
5. Undertake statutory and wider consultations
6. Make any required amendments to the proposals and boundaries
7. Submit to Natural England Board for approval
8. If approved, NE produces draft legal Orders
9. Draft Order is put 'on deposit' - opportunity for all to make written representations (objecting, supporting or suggesting amendments)
10. NE finalise Orders & submit to the Secretary of State
11. SoS may order a public Inquiry
12. SoS may confirm the Orders, with or without modifications
13. Confirmation Order specifies any modifications and timetable
14. A period of 'Notice' follows during which the decision is open to challenge.

## 7. Planning and AONBs

[SP17 pp. 8-9, 14, Annexe 1 p34]

Areas of Outstanding Natural Beauty enjoy the same levels of protection from development as those of UK National Parks. Responsibility for planning policy in AONBs lies with the relevant local authority (in National Parks it lies with the National Park Authority). This means that while AONB Management Plans themselves do not form part of any local development plan they are, nevertheless, vitally important documents in the planning system. They are

- the basis for identifying those aspects of the AONB which are critical in contributing to its natural beauty and potentially influential in development planning policy and
- a 'material consideration' in the determination of individual planning applications and at appeal.



In particular, following changes in the planning system consequent on the introduction of the National Planning Policy Framework (NPPF) in 2012, the AONB Management Plan can:

- Propose criteria for judging what might count as sustainable development within the AONB. NPPF paragraph 14 asserts a *'presumption in favour of sustainable development'*. Footnote 9 refers to 'specific policies' which may negate this presumption, stating that *'Local plans should meet objectively assessed needs'* and *'where the development plan is absent or silent permission should be granted'* unless *'specific policies in this framework indicate development should be restricted. For example ...those policies relating to ...sites protected under the birds and habitats directives [...] an AONB. [...].or within a National Park.'*
- Identify the particular components of the AONB's landscape and scenic beauty. NPPF para 115 requires that in any decision *'[g]reat weight should be given to 'conserving landscape and scenic beauty' in AONBs which (together with National Parks) 'have the highest status of protection in relation to landscape and scenic beauty.'*

The intention is that NPPF should be reflected in local plans, produced in conformity with the Framework's guidance. However under half the area of England is covered by post-NPPF local plans, as a consequence of which a number of planning applications in AONBs where there is no recent local plan have been allowed, or refusal overturned on appeal.

NPPF Para 116 states that *'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.'*<sup>19</sup> This applies only to developments proposed within an AONB and not to developments proposed in its setting that might impact on the AONB.<sup>20</sup> This makes it even more important that AONB management plans should influence new local plans as they are produced.

## 8. The international context

[SP17 Annexe 1 p43, 47, 48]

English AONBs are part of the international Protected Area Family. As cultural landscapes, produced through the interaction of humans with nature over time, they have a special significance (together with UK National Parks) as being recognised by the International Union for the Conservation of Nature (IUCN) as *'Category V - Protected Landscapes'*.<sup>21:22</sup>

Category V protected landscapes are defined by IUCN as: *'A protected area where the interaction of people and nature over time has produced an area of distinct character with significant ecological, biological, cultural and scenic value: and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values.'*<sup>23</sup>

IUCN emphasises their importance as cultural landscapes - in distinction to Category I (Strict Nature Reserves and Wilderness Areas) and Category II National Parks (which for IUCN are large natural or near-natural areas, unlike UK national parks).

Until recently, the AONB designation was regarded (together with that of UK National Parks) as an anomaly in the international protected area system which prioritised 'naturalness' as a criterion of value. In the last quarter-century, however they have come to be recognised, particularly within Europe, as leaders in the move towards area-based sustainable development. <sup>24:25:26</sup> AONBs in particular, as 'working' landscapes, lead the way in pioneering new approaches to integrated



countryside management based on voluntary partnerships engaging and working with local communities to secure common goals.

The new, multidisciplinary, multifunctional concept of landscape is encapsulated in the European Landscape Convention (ELC). Adopted by the Council of Europe in 2000 (it is not an EU directive and will remain unaffected by Brexit) and applicable to the UK since March 2007. ELC promotes a definition of landscape which usefully underpins the rationale for AONBs: *'An area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors'*<sup>27</sup>, a rich concept that encompasses but goes beyond sectoral (geomorphological, ecological, archaeological, historical or aesthetic) approaches. ELC makes it clear that people are at the heart of all landscapes (the commonplace and 'degraded' as well as the eminent) each of which has its own distinctive character and meaning to those who inhabit or visit it.

The ELC places obligations on signatory states to recognise landscape *'as an essential component of people's surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity.'*<sup>28</sup> Obligations include a requirement to identify the diversity and range of landscapes, the important features of each, and to engage with local communities, private bodies and public authorities in their planning and management. This includes raising awareness and understanding of the character, value and functions of landscape and the way these are changing. There is also a requirement to provide training in landscape-related skills. AONBs and their managing organisations are a very significant contributor to delivering on the UK's obligations under ELC.

## **9. The NAAONB and the purpose of the AONB Family**

The National Association for AONBs (NAAONB) is a charity that provides a strong collective voice for the UK's 46 Areas of Outstanding Natural Beauty (AONBs). Its objectives are to

- promote the conservation and enhancement of AONBs,
- advance the education, understanding and appreciation by the public of AONBs, and
- promote the efficiency and effectiveness of those promoting or representing AONBs, other protected areas and those areas for which designation might be pursued.

It does this by taking a collaborative and partnership-based approach to working with our membership and other organisations at a national level to achieve shared goals. For more information: Web: [www.landscapesforlife.org.uk](http://www.landscapesforlife.org.uk) Twitter: @naaonb @AONBFamily

Charity members are involved in the planning and management of around 8,000 square miles of outstanding and cherished landscapes in England, Wales and Northern Ireland. Membership includes most of the AONB partnerships, as well as some of those Local Authorities with statutory responsibility for AONBs, together with a number of voluntary bodies, businesses, and individuals with an interest in the future of these iconic landscapes.

### **Charity Vision**

The vision of the Charity is that the natural beauty of AONBs is valued and secure.

## Charity Mission

The Charity's mission is to support and develop a network of ambitious AONB partnerships with a strong collective voice.

Through the NAAONB, the following high level objectives have been adopted as the common national purpose of the AONB Family:

- Conserve and enhance the natural and cultural heritage of the UK's Areas of Outstanding Natural Beauty, ensuring they can meet the challenges of the future,
- Support the economic and social well-being of local communities in ways which contribute to the conservation and enhancement of natural beauty,
- Promote public understanding and enjoyment of the nature and culture of Areas of Outstanding Natural Beauty and encourage people to take action for their conservation,
- Value, sustain, and promote the benefits that the UK's Areas of Outstanding Natural Beauty provide for society, including clean air and water, food, carbon storage and other services vital to the nation's health and well-being.

**Richard Clarke**

 [rich@cepar.org.uk](mailto:rich@cepar.org.uk)


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[www.westminster.ac.uk/about-us/our-people/directory/clarke-richard](http://www.westminster.ac.uk/about-us/our-people/directory/clarke-richard);

[www.bbk.ac.uk/arts/politics/our-staff/visiting-staff/richard-clarke](http://www.bbk.ac.uk/arts/politics/our-staff/visiting-staff/richard-clarke);

[www.hlf.org.uk/users/richard-clarke](http://www.hlf.org.uk/users/richard-clarke)

**4, Penn Road, London, N7 9RD**

 0207 609 0245

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