

REGULATION 19 REPRESENTATION

Save Snatchfield Group

Policy DP24, Shropshire Hills Area of Outstanding Natural Beauty

DRAFT FOR DISCUSSION

Regulation 19 Questions –

Q4 – Please give details of why you consider the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate.

Q5 – Please set out the modification(s) you consider necessary to make the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan legally compliant or sound in respect of any legally compliant or soundness matters you have identified at 4, above.

1. These representations are made on behalf of the Save Snatchfield Group and have been written and submitted by Jim Bunce. The Save Snatchfield Group is an informal grouping of 200 Church Stretton households, established following the publication of Shropshire Council's Preferred Sites documentation in November 2018. We have engaged extensively with communities within the Church Stretton Place Plan Area during the Local Plan process to date, through our website, door to door leaflet drops and one to one dialogue. While we have a wide range of skills and expertise within our informal grouping, we have also undertaken successful fundraising, allowing us to engage specialist Planning and Legal expertise.
2. The Save Snatchfield Group has published this document on our website and incorporated feedback from our website subscribers.
3. Before outlining our representations, the Save Snatchfield Group stress -
 - We recognise that Shropshire Council has proactively considered the Regulation 18 submissions of the Save Snatchfield Group, Strettons Civic Society, Shropshire Hills AONB Partnership, Church Stretton Town Council, All Stretton Village Society and individual residents. We welcome and support the decision to withdraw site CST021 (Snatchfield Farm) from the Draft Local Plan.
 - We welcome and support Shropshire Council's recognition that a major housing development in Church Stretton is not justified and that development should instead be focussed on a combination of windfall sites within the development boundary, including on Brownfield land, and through the likely delivery of exception and cross subsidy affordable housing sites.
 - We note that Shropshire Council do not wish to develop a separate Development Plan (DPD) for the Shropshire Hills AONB. This is disappointing and we will wish to pursue this option in the future. However, we acknowledge that draft policy DP24 is a significant step forward and contains positive intent and positive points. Only 9 respondents specifically commented on DP24 (previously DP26) during the Regulation 18 process.
4. Through our Regulation 19 representations, we aim to assist Shropshire Council to develop draft policy DP24 further. As such, the representations in this submission are made with the following in mind -
 - Shropshire Council's statutory duty to have regard to the purpose of the AONB designation
 - The requirements of the National Planning Policy Framework
 - The opportunity for Shropshire Council to adopt elements of exemplar best practice

Q4 – Please give details of why you consider the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate.

5. While we welcome that draft policy DP24 references Paragraph 172 of the NPPF, the omission of any reference to Paragraph 11 of the NPPF or the associated Planning Practice Guidance (Natural Environment) Paragraph 041 is significant. The application of NPPF policies that protect AONBs and a consideration of the adverse impacts of development (when assessed against NPPF policies) provide reason for restricting or refusing development in an AONB. This includes circumstances where Objectively Assessed Need (OAN) is not required to be met in full. **In its current form, draft policy DP24 is neither legally compliant nor sound.**
6. To be fully effective, DP24 must be clear that the framework of Legislation, Policies and Guidance (eg CROW Section 85, NPPF, PPG, Shropshire Hills AONB Management Plan etc) that impact development in the Shropshire Hills AONB will be proactively and fully considered by Shropshire Council at every stage of the planning process, including the earliest stages of plan-making, such as sustainability appraisal and preferred site options. This intent is not present in draft policy DP24. **In its current form, draft policy DP24 is neither legally compliant nor sound.**
7. Draft policy DP24 references other Local Plan policies. While such policies will have relevance to the AONB, specific AONB details and guidance are not included. There is the risk that what may be suitable outside the Shropshire Hills AONB may be harmful within it. DP24 must clearly note its inter-relationship with other policies. However, where there is conflict or ambiguity between DP24 and other policies, the primacy of DP24 must be clear. **In its current form, draft policy DP24 is neither legally compliant nor sound.**
8. Draft policy DP24 does not always adequately represent the wording and intent of NPPF policies. As examples,
 - The opening sentence of DP24 amalgamates parts of two separate sentences in NPPF Paragraph 172. By doing so, the intent of the full Paragraph is reduced. There are more appropriate sentences that could be used as the opening sentence to DP24. “The primary purpose of the Area of Outstanding Natural Beauty designation is to conserve and enhance natural beauty” is already used in 4.211 of DP24 and would be a better fit.
 - Policy Statement 1 begins “Planning proposals affecting the Shropshire Hills AONB are encouraged to positively and appropriately contribute towards conserving its natural beauty.” It would seem much more in keeping with the existing wording and intent of the NPPF to simply say ‘Planning proposals affecting the Shropshire Hills AONB must conserve and, where possible, enhance its natural beauty’.
 - Policy Statement 2 paraphrases elements of NPPF Paragraph 172 but changes its order and meaning. Leaving “Permission will be refused for major development” to the last point in the DP24 version lessens the intended clarity and impact of Paragraph 172. Policy Statement 2 also outlines that major development will be as defined as in Annex 2 of the NPPF. However, the NPPF (and the Shropshire Hills AONB Management Plan) are clear that developments smaller than defined in Annex 2 can be major in an AONB.

Taken in isolation, these (and other) examples may be minor. However, collectively, they are significant. **In its current form, draft policy DP24 is neither legally compliant nor sound.**

Q5 – Please set out the modification(s) you consider necessary to make the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan legally compliant or sound in respect of any legally compliant or soundness matters you have identified at 4, above.

9. Add the following new Policy Statements to draft policy DP24.

- In accordance with NPPF Paragraph 11 and PPG (Natural Environment) Paragraph 041, there are clear circumstances in which there should not be a presumption in favour of permitting development and/or in which objectively assessed needs (OAN) do not need to be met in full. These circumstances include those where the application of NPPF policies relevant to housing development in the AONB provides –

A strong reason for restricting the overall scale, type or distribution of development in the plan area (with regards to plan-making);

A clear reason for refusing the development proposed (with regards to decision-taking)

Given that the requirement to meet objectively assessed needs (OAN) in full does not apply in AONBs, OAN will not be considered to equate to exceptional circumstances or being in the public interest. The Shropshire Hills AONB is unlikely to be a suitable area for accommodating unmet needs from adjoining (non-designated) areas.

- The framework of Legislation, Policies and Guidance (eg CROW Section 85, NPPF, PPG, Shropshire Hills AONB Management Plan etc) that impact development proposals in the Shropshire Hills AONB will be proactively and fully considered by Shropshire Council at every stage of the planning process, including the earliest stages of plan-making, such as sustainability appraisal and preferred site options.
- This Policy is specific to the Shropshire Hills AONB but has an inter-relationship with the Shropshire wide Strategic (SP) and Development (DP) Policies. Shropshire wide policies cannot be expected to cover every AONB context or every AONB situation. As such, and for the avoidance of doubt, where there is a policy conflict between DP24 and other Shropshire Council Policies this Policy has primacy.

10. Amend the existing Opening Sentence and existing Policy Statements in draft Policy DP24.

- **Opening Sentence** – Remove opening sentence and replace with ‘The primary purpose of the Area of Outstanding Natural Beauty designation is to conserve and enhance natural beauty’.
- **Policy Statement 1** – Replace existing first sentence with ‘Planning proposals affecting the Shropshire Hills AONB must conserve and, where possible, enhance its natural beauty’.
- **Policy Statement 2** – Remove existing Policy Statement 2. Replace with NPPF Paragraph 172 wording and order in full. Reference Annex 2 but also that developments smaller than defined in Annex 2 can still be considered major in an AONB and that the Shropshire Hills AONB Management Plan provides further guidance.

- **Policy Statement 4** – Replace the words ‘are likely to have’ with the words ‘have the potential to have’.

11. Amend the existing Explanation Paragraphs in draft Policy DP24.

- **4.217.** Remove “The AONB Management Plan may be used as a material consideration”. Replace with ‘The AONB Management Plan will be used as a material consideration’.
- **4.220.** Remove sentence referencing Annex 2 of NPPF. Add explanation of landscape led. ‘Landscape led: This reflects the requirements of exemplar, best practice Local Plans and Local Plan documents such as the Arnside & Silverdale AONB Development Plan Document (DPD) and South Downs National Park Local Plan. It is based on the principle of development being adapted to the local landscape character rather than vice versa. It is also based on the principle of not allowing development to exceed landscape capacity (ie the capacity of the landscape to accommodate development without causing significant adverse landscape and visual impacts)’. Add DP23 to policies list.
- **4.222.** Remove “Developments which, by virtue of their nature, size, scale, siting, materials or design are likely to have a significant adverse effect”. Replace with ‘Developments which, by virtue of their nature, size, scale, siting, materials or design have the potential to have a significant adverse effect’.

12. A revised version of DP24 – Shropshire Hills Area of Outstanding Natural Beauty, incorporating the suggested changes outlined in **Paragraphs 9-11** of these representations is included as Appendix 1.

DP24. Shropshire Hills Area of Outstanding Natural Beauty

DRAFT FOR DISCUSSION

The primary purpose of the Area of Outstanding Natural Beauty designation is to conserve and enhance natural beauty.

1. Planning proposals affecting the Shropshire Hills AONB must conserve and, where possible, enhance its natural beauty. In particular, opportunities to deliver the highest quality design (in accordance with Policies SP5 and DP16) which respects the natural beauty and built heritage of the Shropshire Hills AONB; enhances the sense of place and local character; and enables better management of wildlife sites, heritage assets or the wider countryside; should be maximised.
2. In considering Planning proposals concerning the Shropshire Hills AONB, Shropshire Council will have due regard to NPPF Paragraph 172, which outlines -

“Great weight should be given to conserving and enhancing 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 these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

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

Guidance regarding what may constitute major development is included in NPPF Annex 2. However, whether a proposed development is considered major development will be a matter for the relevant decision maker. Shropshire Council will adopt a landscape led approach. In an AONB landscape, even smaller-scale proposals may be considered to be major development, depending on the local context. In determining whether a proposed development constitutes major development Shropshire Council will consider whether by reason of its location, scale or massing, form, character or nature, the proposed development has the potential to have a significant adverse impact on the natural beauty of the AONB. Criteria set out in the AONB Management Plan will be used as a guide.

3. In considering Planning proposals concerning the Shropshire Hills AONB, Shropshire Council will have due regard to NPPF Paragraph 11 and PPG (Natural Environment) Paragraph 041, which explain that there are clear circumstances in which there should not be a presumption in favour of permitting development and/or in which objectively assessed needs (OAN) do not need to be met in full. These circumstances include those where the application of NPPF policies relevant to housing development in the AONB provides –

A strong reason for restricting the overall scale, type or distribution of development in the plan area (with regards to plan-making);

A clear reason for refusing the development proposed (with regards to decision-taking)

Given that the requirement to meet objectively assessed needs (OAN) in full does not apply in AONBs, OAN will not be considered to equate to exceptional circumstances or being in the public interest. The Shropshire Hills AONB is unlikely to be a suitable area for accommodating unmet needs from adjoining (non-designated) areas.

4. Where major development is permitted in the Shropshire Hills AONB, mitigation and compensation measures to offset any residual environmental, landscape or recreational impacts will be required in line with policies DP12, DP14, DP15, DP16, DP17, DP18, DP19 and DP22. These measures should be compatible with the conservation of the designated area and the priorities set out in Shropshire Hills AONB Management Plan and must be demonstrably capable of being implemented to ensure that harm is minimised.
5. Planning proposals for minor development in the Shropshire Hills AONB and all development proposals outside the designated area which have the potential to have a significant adverse effect on the special qualities of the AONB (as set out in the AONB Management Plan) will be resisted in the interests of conserving the area's natural beauty.
6. The framework of Legislation, Policies and Guidance (eg CROW Section 85, NPPF, PPG, Shropshire Hills AONB Management Plan etc) that impact development proposals in the Shropshire Hills AONB will be proactively and fully considered by Shropshire Council at every stage of the planning process, including the earliest stages of plan-making, such as sustainability assessment and initial evaluation of preferred site options.
7. This Policy is specific to the Shropshire Hills AONB but has an inter-relationship with the Shropshire wide Strategic (SP) and Development (DP) Policies. Shropshire wide policies cannot be expected to cover every AONB context or every AONB situation. As such, and for the avoidance of doubt, where there is a policy conflict between DP24 and other Shropshire Council Policies this Policy has primacy.

Explanation

4.211. Areas of Outstanding Natural Beauty (AONB) represent areas of the highest scenic quality, and, in landscape terms, are deemed in government policy to have equal landscape quality and protection to National Parks. The primary purpose of the Area of Outstanding Natural Beauty designation is to conserve and enhance natural beauty.

- 4.212. 'Natural beauty' encompasses the natural and human elements that make the AONB distinctive – geology and landform, climate and soils, wildlife and ecology, the history of human settlement and land use, archaeology and buildings, cultural associations and people. In line with national policy, great weight will be given in planning decisions to the purpose of AONB Regulation and account taken of the policies and guidance within the AONB Management Plan as a material consideration.
- 4.213. The legal framework for Areas of Outstanding Natural Beauty is set out in Part IV of the Countryside and Rights of Way Act 2000 (CROW). Section 85 of the CROW Act places a legal duty on the Council: "In exercising or performing any functions in relation to, or so as to affect, land in an Area of Outstanding Natural Beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the Area of Outstanding Natural Beauty."
- 4.214. The National Planning Policy Framework (NPPF) advises that "great weight should be given to conserving and enhancing 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" but also that due regard is had to the economic and social well-being of all rural communities.
- 4.215. This policy reflects the strategic objectives of this legal framework, giving priority to the natural beauty of the Area of Outstanding Natural Beauty.
- 4.216. The Shropshire Hills Area of Outstanding Natural Beauty is a living landscape encompassing a variety of character areas and a range of settlements. The key components of the AONB landscape are the hills, farmed countryside, woodlands, rivers and river valleys. Other special qualities are found across the whole designated area and include, geology, wildlife, heritage assets, environmental and scenic quality, tranquillity, culture and opportunities for enjoyment.
- 4.217. The Shropshire Hills AONB covers two local authority areas: Shropshire and Telford and Wrekin. The Councils work together to safeguard the future of this shared nationally protected area through the Shropshire Hills AONB Partnership. The AONB Partnership prepares the statutory 5-year AONB Management Plan and this is then formally approved by both local authorities. The AONB Management Plan will be used to as a material consideration in the determination of planning applications.
- 4.218. All development in the AONB should be sustainable, consistent with the primary purpose of the designation and support the special qualities of the AONB as set out in the AONB Management Plan.
- 4.219. Section 1 of policy expects all development affecting the Shropshire Hills AONB to conserve the area's natural beauty. Development should also, wherever possible, provide for positive enhancement. The Council recognises that not all development can enhance natural beauty, but where there are opportunities to do so, then these should be taken.

- 4.220. Section 2 of the policy is taken from paragraph 172 of the NPPF which sets out a public interest exception test for major development.

Landscape led: This reflects the requirements of exemplar, best practice Local Plans and Local Plan documents such as the Arnside & Silverdale AONB Development Plan Document (DPD) and South Downs National Park Local Plan. It is based on the principle of development being adapted to the local landscape character rather than vice versa. It is also based on the principle of not allowing development to exceed landscape capacity (ie the capacity of the landscape to accommodate development without causing significant adverse landscape and visual impacts).

In applying this policy, the Council will require developers to provide an assessment proportionate to the scale of the proposal and effect, for all major development within the AONB. Reference should be made to the relevant sections of the AONB Management Plan in preparing this assessment and to other policies in this plan which cover natural and historic assets, landscape and visual amenity, design of development and green infrastructure (SP5, DP12, DP14, DP15, DP16, DP17, DP18, DP19, DP22 and DP23).

- 4.221. Section 4 of the policy covers those instances where major development passes the tests set out in section 2 and is permitted. In these circumstances, any harm remaining after the detrimental effects on the environment, the landscape and recreational opportunities have been moderated, will require mitigation measures in the first instance and compensation measures in the second. The AONB Management Plan contains information on such measures. Applicants should also be able to demonstrate that all mitigation and compensation measures do not cause harm in themselves and are capable of being implemented, preferably before work commences, but in any event, during the lifetime of the permission.
- 4.222. Section 5 of the policy relates to minor development in the AONB and any type of development outside the designated area which is likely to have a significant adverse effect on the AONB's special qualities. Section 85 of the CROW Act requires the Council to have regard to Area of Outstanding Natural Beauty purposes in the exercise of their functions not only in relation to land within the AONB itself but also as they might affect land in an AONB. For example, views into and out of the Area of Outstanding Natural Beauty from key visitor viewpoints can be very significant. Developments which, by virtue of their nature, size, scale, siting, materials or design have the potential to have a significant adverse impact, on the natural beauty and special qualities of the Shropshire Hills AONB will be resisted. Where less than significant adverse effects are identified, it must be remembered that these still erode natural beauty and moreover, they may accumulate over time to create a significant effect in combination. All such lesser adverse effects should be minimised wherever possible.