

# Reviewing the Plan for Purbeck's future

Purbeck Local Plan Review  
Area of Outstanding Natural Beauty (AONB)  
Background Paper, January 2018



Thriving communities in balance  
with the natural environment

## Executive summary

The Council has prepared this background paper in order to:

- describe how it will interpret and apply planning policy and guidance relating to the Area of Outstanding Natural Beauty (AONB); and
- summarise whether the criteria in planning policy have been satisfied at possible sites for development that are being considered through the review of the Purbeck Local Plan Part 1 (here after referred to as the Local Plan Review).

To address these aims Section 1 of this paper: summarises relevant law, planning policy and guidance relating to the AONB (this part of the paper specifically summarises the Council's interpretation of paragraphs 115 and 116 of the National Planning Policy Framework's (NPPF)). It also describes the evidence that the Council has used to assess whether: development is likely to have a detrimental effect on the AONB, if these detrimental effects can be moderated, and summarises how local plan inspectors' have interpreted and applied national policy when examining local plans elsewhere. The first part of the paper also includes a summary of relevant case law from the courts.

The second part of this paper focuses on assessing whether development at sites, which the Council is considering as part of the Local Plan Review, within the AONB is likely to address the criteria in national planning policy. These sites have been shortlisted following: previous consultations and after analysing evidence prepared as part of the Local Plan Review. The paper systematically analyses each site against the criteria in national planning policy and concludes by indicating whether it is possible to demonstrate that there are exceptional circumstances justifying development.

The assessments in the second part of this paper demonstrate that the Council has given great weight to conserving landscape and scenic beauty in an AONB when taking decisions that are likely to affect the AONB. The Council believes that this background paper sets out clear reasoning behind its conclusions and that the recommendations are therefore robust.

The paper makes the following recommendations:

- That there are not exceptional circumstances for allocating land to the West Wareham through the Local Plan Review.
- The proposed SANG at Wool; and land at Sandford Lane in Wareham do not constitute major development in the AONB.
- Further information is required to: a) ascertain the need for the Norden Park and Ride scheme and the sensitivity of the surrounding landscape to this development; and b) ascertain the potential impacts on landscape character and the setting of the heritage from development at the Corfe Castle depot site, in order for the Council to fully assess whether it would meet the NPPF's tests.

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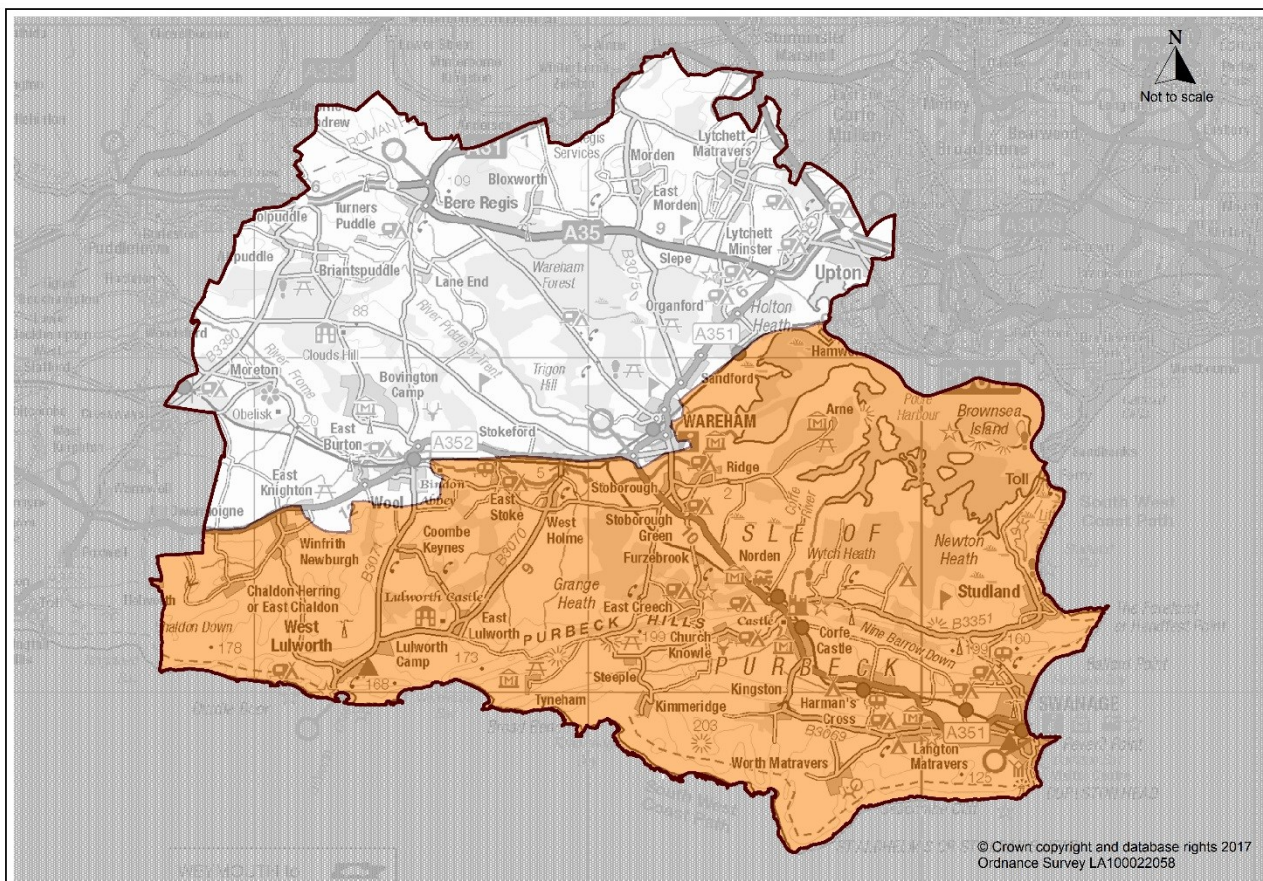
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## Introduction

1. There are 46 Areas of Outstanding Natural Beauty (AONB) in England, Wales and Northern Ireland. The Dorset AONB was designated in 1959 and covers 112,900ha. The area that falls within Purbeck covers 24,250ha and includes countryside and washes over settlements, including Swanage (one of the largest towns in the district). The northern side of the AONB fringes the edges of Wareham and the villages of Sanford and Wool. The AONB covers around 60% of the district.



Map 1: Dorset Area of Outstanding Natural Beauty in Purbeck

2. The Council is currently undertaking a review of the Purbeck Local Plan Part 1 (PLP1). The planning inspector who assessed the soundness of the PLP1 considered that the Council was not fully meeting its objectively assessed development needs in relation to housing. To address this the Council agreed to carry out the Local Plan Review to see if there were any additional development opportunities in the district. The 2015 Strategic Housing Market Assessment (SHMA) indicated that there was a need for around 238 homes per year between 2013 and 2033 in addition to the allocations in the PLP1.
3. During summer 2016, the Council consulted on options for the Local Plan Review, with a proposed development strategy for a 'new infrastructure-led approach, with a focus on sustainable locations, wherever possible'. The possible sites for

development that were presented through the consultation were selected to address a need for around 3,080 homes over a plan period between 2013 and 2033. The Council's consultation report<sup>1</sup> summarises responses to the possible options presented in the consultation. Respondents were concerned about the housing number and the district's capacity for additional development. As well as concerns over infrastructure, many felt that the Council needed to clearly set out whether there were exceptional circumstances for major development at possible sites in the AONB. In response the Council resolved to:

'Produce an AONB background paper to discuss developing sites in the context of the requirements of national planning policy. The paper should include recommendations on AONB sites for consideration by the [Council's Local Plan] Review Advisory Group.'

4. Since making this resolution the Council has prepared and published further evidence as part of the Local Plan Review. 'Purbeck OAN Update 2017' (October 2017) provides an updated interim assessment of housing need in Purbeck between 2013 and 2033. The housing need assessment is based on projected household growth and an estimate of the number of new homes needed to house the workforce from forecast new jobs. The total number of new jobs which are forecast to be created between 2013 and 2033 has fallen since the last Strategic Housing Market Assessment (SHMA) in 2015. The OAN update states that:

'...the demographic based need figure of 173 dpa per annum would be sufficient to support economic growth in Purbeck without the need for a further adjustment.' (paragraph 3.6)

5. Government has also consulted (September 2017) on a new method for assessing housing needs. Using the method in government's consultation around 168 homes would be needed each year to meet the district's housing need between 2016 and 2033.
6. Taking account of the further evidence that has been published the first part of this paper (Section 1):
  - summarises relevant law, planning policy and planning guidance relating to the AONB;
  - identifies evidence, in Dorset AONB Landscape Character Assessment and Dorset AONB Management Plan, which has been used when applying planning policy; and
  - describes how other councils', local plan inspectors', and the courts have interpreted and applied planning policy.

Taking account of the of the first part of this paper the second part (Section 2):

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<sup>1</sup> <https://www.dorsetforyou.gov.uk/article/423962/Purbeck-Local-Plan-Partial-Review-Advisory-Group---2-November-2016>

- assesses whether the criteria in planning policy for development in the AONB could be addressed at possible development sites being considered through the Local Plan Review; and
  - makes recommendations about whether there are likely to be exceptional circumstances to justify development in the AONB.
7. The Council has applied an inclusive definition of landscape from the European Landscape Convention (ELC) 2002, and assessed the effects of development on the AONB by referencing landscape character assessments, the Dorset AONB Management Plan, and consultations from the Dorset AONB Partnership and Natural England (NE), (the statutory body responsible for the AONB).
  8. The Council has taken the recommendations in this paper into consideration when preparing its site selection background paper. The Council has applied the presumption in favour of sustainable development, together with its spatial development strategy, when selecting possible sites for the latest Local Plan Review consultation (scheduled for early 2018). By taking the recommendations from this paper into consideration the Council has taken account of one of the specific policies in the National Planning Policy Framework which might indicate that development should be restricted (paragraph 14 National Planning Policy Framework).

## Section 1

9. This section provides the background and context that underpins the Council's method for site assessments and recommendations made in Section 2.

### Relevant laws

10. The Countryside and Rights of Way Act 2000 includes provisions relating to the AONB. Section 85 includes a general duty for Council's in relation to the AONB. It states that:

'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.

(2)The following are relevant authorities for the purposes of this section—

- (a)any Minister of the Crown,
- (b)any public body,
- (c)any statutory undertaker,
- (d)any person holding public office.'

11. To comply with Section 85 the Council must have regard to the purpose of conserving and enhancing the natural beauty of the AONB when plan-making.

### National planning policy

12. The National Planning Policy Framework (NPPF) refers to the AONB at paragraph 14 in the policy relating to 'Achieving sustainable development' and more specifically in chapter 11 (paragraphs 115 to 116) relating to 'Conserving and enhancing the natural environment'. At paragraph 14 the NPPF states that:

'For plan-making this means that:

local planning authorities should positively seek opportunities to meet the development needs of their area'

13. It goes onto state that councils' should meet objectively assessed need (with flexibility to adapt to rapid change) unless 'specific policies in this Framework [referring to the NPPF] indicate development should be restricted'. These specific policies includes those relating to the AONB. The Council will use the recommendations from this paper to guide the site selection background paper when applying the presumption favour of sustainable development.

14. Paragraphs: 115 and 116 in the chapter relating to 'Conserving the Natural Environment' include more specific policies relating to the AONB.

15. Paragraph 115 of the NPPF states:



‘Great weight should be given to conserving 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. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.’

16. This paragraph of the NPPF imposes a general obligation to give great weight to conserving the landscape and scenic beauty of the AONB. This policy is equally applicable to decision-taking and plan-making. Paragraph 115 does not state that the AONB should be treated as an absolute restriction on all development. The Council has assessed whether development on a particular site conserves landscape and scenic beauty on a case by case basis. Different parts of the AONB may be more sensitive to development than others depending on their characteristics. Paragraph 115 also states that wildlife and cultural heritage are important considerations in the AONB but should only be given great weight in National Parks and the Broads.

17. Paragraph 116 of the NPPF states in relation to National Parks, the Broads and the AONB:

‘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. Consideration of such applications should include an assessment of:

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

18. The next part of this paper sets out how the Council has interpreted and applied paragraph 116 to assess whether there are exceptional circumstances for major development in the AONB when considering allocations through the Local Plan Review.

### **Do the requirements in paragraph 116 relate to plan-making**

19. Paragraph 116 begins by referring to the grant or refusal of planning permission. The paragraph refers to decision-taking rather than plan-making. This paper has been prepared as evidence to guide the review of the Purbeck Local Plan Part 1. The conclusions on individual sites presented in Section 2 of the paper are not decisions per se but they will be used as part of the process selecting the most appropriate possible sites for development to meet the district’s housing needs. The Council is obliged to take deliverability of development into consideration when making allocations through its local plan. If a site is not suitable for development, because of the potential impacts on the natural beauty of the AONB, it should not be selected.

20. It would be inconsistent for the Council not to take the tests in paragraph 116 into consideration when assessing the suitability of possible sites for development<sup>2</sup> (in advance of allocation through the local plan) when any subsequent planning application would need to be assessed against this policy.
21. For these reasons the Council has assessed the suitability of some of the sites it is considering for allocation (focusing on large sites) taking account of the criteria in paragraph 116. The recommendations of this paper will in turn be used when selecting the most appropriate sites for development as part of the Local Plan Review.
22. The Council is also considering a generic criteria based 'small sites policy'. It is possible that this policy could be applied to sites in the AONB. If the plan is updated to include this policy applicants / the Council will need to consider whether proposals in the AONB constitute major development on a case by case basis. While not planning policy this background paper will be useful in making the assessment.

### Major developments

23. The policy, and criteria, in paragraph 116 need only be applied to major developments. The Town and Country Planning (Development Management Procedure) Order 2015 'prescribes procedures connected with planning applications, consultations in relation to planning applications, the determination of planning applications, appeals, local development orders, certificates of lawful use or development and the maintenance of registers of planning applications and related matters.' (Explanatory Note from the Order). The Order states that planning applications for 10 or more homes should be treated as 'major development'. The courts<sup>3</sup> have stated that the thresholds for major development should not be used to assess whether development is 'major' in the AONB when applying policy in NPPF. The courts have suggested that councils are entitled to give a 'natural meaning' (derived from the English language) when interpreting the term 'major development' in paragraph 116. Planning Practice Guidance (PPG)<sup>4</sup> states interpreting the term 'major will be a matter for the relevant decision taker, taking into account the proposal in question and the local context'.
24. Taking decisions from the courts and PPG into consideration the Council has not applied a strict or precise definition to the term major development<sup>5</sup> when applying

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<sup>2</sup> The Council has also taken the underlying context in favour of sustainable development, and the need to identify specific developable sites or locations for development (first, second and third bullet point of paragraph 47), into consideration as relevant context when interpreting the wording of paragraph 116.

<sup>3</sup> Deborah Jane Ashton, Westcott Meadow Action Group Ltd v The Secretary of State for Communities and Local Government, Mole Valley District Council, Taylor Wimpey UK Ltd [2013] EWHC 1936. Mr Justice Wyn Williams states at paragraph 94 of his judgement '...that the meaning of the phrase major development was [in reference to a planning inspectors decision] that which would be understood from the normal usage of those words. Given the normal meaning to be given to the phrase the Inspector was entitled to conclude that the Third Defendant's application to erect 14 dwelling-houses on the appeal site did not constitute an application for major development.'

<sup>4</sup> Reference ID: 8-005-20140306

<sup>5</sup> For example <http://www.chichester.gov.uk/CHttpHandler.ashx?id=22528> paragraph 43

policies in paragraph 116. The Council will assess whether development is likely to be: important/serious/significant, having regard to:

- nature and scale of the proposed development (taking account of considerations including the potential scale of any buildings/structures and the layout/intensity of development);
- the characteristics of the development site and its sensitivity to change; and;
- the characteristics of the surrounding landscape and its sensitivity to change.

25. Planning inspectors appear to have adopted a similar interpretation when assessing whether proposals constitute 'major development' based on an analysis of the specific circumstances. When considering an appeal for 14 homes at Reddings Lane in the Forest of Dean<sup>6</sup> an inspector concluded that the proposals constituted 'major development'. In contrast an inspector who was considering an application for 35 homes in Swanage<sup>7</sup> was satisfied that these proposals did not constitute major development.

### **Exceptional circumstances and public interest**

26. Paragraph 116 is explicit that planning permission should be refused for major development in the AONB except in exceptional circumstances and where it can be demonstrated they are in the public interest.

27. To apply this policy the Council must exercise planning judgement when considering: i) whether there are exceptional circumstances justifying development at a particular site; and ii) whether development at a particular site would be in the public interest? In order to answer these questions the NPPF states that councils' should take account of a number of further criteria (the drafting of paragraph 116 does not necessarily prevent the Council from taking account of other considerations which may be relevant to these questions). The assessment criteria are presented under three bullet points. The Council's interpretation of this part of the NPPF is consistent with that of the National Trust in its 'AONBs and Development paper'<sup>8</sup> and the courts<sup>9</sup>.

### **First bullet point in paragraph 116: 'the need for the development, including in terms of national considerations, and the impact of permitting it, or refusing it, upon the local economy'**

28. Councils are legally obliged to take account of the objective of contributing to achieving sustainable development when plan-making and decision-taking. The

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<sup>6</sup> Appeal ref: APP/P1615/A/13/2204158 (23<sup>rd</sup> June 2014)

<https://acp.planninginspectorate.gov.uk/ViewDocument.aspx?fileid=5354298>

<sup>7</sup> Appeal ref: APP/B1225/A/13/2198739 (12<sup>th</sup> Sept 2014)

<https://acp.planninginspectorate.gov.uk/ViewDocument.aspx?fileid=4339625>

<sup>8</sup> <https://www.nationaltrust.org.uk/documents/national-trust-areas-of-outstanding-natural-beauty-and-development.pdf>

<sup>9</sup> See *Wealden District Council v Secretary of State for Communities and Local Government & Anor* [2016] EWHC 247 (Admin), paragraph 120

NPPF states that for plan-making this means positively seeking opportunities to meet development needs of their areas.

- Need for Homes: the 'Purbeck OAN Update 2017' indicates that there is a need for around 170 new homes each year. The objectively assessed housing need in Purbeck has fallen since the last published Strategic Housing Market Assessment (2015) because of a reduction in the number of homes needed to accommodate people in the new jobs in Purbeck between 2013 and 2033.
- Need of businesses: the NPPF states that councils 'should plan proactively to meet the development needs of business and support an economy fit for the 21st century' (paragraph 20). Bournemouth, Dorset and Poole Workspace Strategy<sup>10</sup> says under the 'planned growth scenario' that eastern Dorset will require around 172.7ha of employment land over the plan period. This number is not broken down to district level (the findings of the study may need to be updated to take account of the 'Purbeck OAN Update 2017').
- Need for retail/leisure flood space: the 'Poole and Purbeck Town Centres Retail and Leisure Study' 2014 outlines the need for retail/leisure flood space between 2014 and 2031.

29. National considerations might include military development or significant infrastructure projects.

30. The first bullet point also states that councils should consider the impact of any decision on the local economy. This will include an examination of the economic benefit(s) the development would bring, or the economic benefit(s) that would be forgone by resisting the development. The NPPF does not clarify what it means by 'impact'.

31. Each assessment will involve the Council taking account of this consideration along with each of the other elements in the bullet points. For example any positive contribution that development might make to the local economy or meeting the Districts housing needs may not be sufficient to outweigh particularly severe detrimental effects on the landscape. Each potential site will need to be assessed on its merits, taking account of the nature of the development and any site specific considerations.

**Second bullet point in paragraph 116: 'the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way'**

32. This part of the policy refers to the 'cost' and 'scope' for 'development elsewhere' and the possibility of meeting the need for the development 'in some other way'. This will involve considering whether there are alternative sites for the development. The NPPF does not prescribe how alternative sites are to be assessed or define whether alternatives should be considered from the whole of the district, neighbouring districts, or localised area in the vicinity of the site.

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<sup>10</sup> <https://www.dorsetforyou.gov.uk/article/405217/Bournemouth-Dorset-and-Poole-Workspace-Strategy-and-Study>



33. The Council has interpreted 'cost' to mean financial cost, rather than any environmental costs. This is because the environment is mentioned in the final bullet of the paragraph. When assessing the scope to meet the needs of development elsewhere the Council will take account of:
- the availability of suitable land elsewhere which is capable of meeting the same development needs (taking account of other planning considerations and the presumption in favour of sustainable development); and
  - whether it is viable to achieve development on the alternative site<sup>11</sup>.
34. Depending on the need for development it is possible that this need could be addressed 'elsewhere' in Purbeck or 'elsewhere outside' Purbeck. For example when considering whether there is scope for the need for homes to be addressed outside Purbeck (through the duty to co-operate) the Council will need to take account of constraints and limitations relating to other councils and their progress with their local plans (other councils may be unable to say with certainty that they have capacity to address the need).
35. Through the Local Plan Review, the Council has commissioned evidence<sup>12</sup> that looks at the viability of proposed sites in the context of likely development costs and infrastructure payments. The evidence concludes that development is viable across the district, including contributions towards affordable housing.

**Third bullet point in paragraph 116: 'any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated'**

36. This part of the policy requires the Council to assess the potential detrimental impact of development on the environment, landscape and recreational opportunities. This part of the policy also states that the Council will need to consider whether any detrimental impacts arising from development can be moderated. The Council has taken this to mean that it should consider whether detrimental effects from development could be diminished (this assessment will vary from site to site).
37. The next section explains how the Council has interpreted the words: environment, landscape and recreational opportunities, when applying this part of the paragraph 116 of the NPPF.
38. Environment: this is clearly intended to signal something other than landscape and recreation impacts, as they are mentioned separately. The Council interprets this to mean effects from factors such as: use of resources (soil/water/biodiversity), production of waste and pollution/waste (including noise, light and air pollution).

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<sup>11</sup> The NPPF is clear that development must be viable and therefore deliverable. Therefore, development 'should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened' (paragraph 173)

<sup>12</sup> <https://www.dorsetforyou.gov.uk/media/214777/viability-assessment/pdf/viability-assessment.pdf>

39. The Council has previously reviewed the environmental impacts of development at the sites being considered in this paper through its Sustainability Appraisal on the 2016 options consultation as part of the Local Plan Review<sup>13</sup>.

40. Potential effects could be moderated through design and layout of development. For example, noisy uses could be located towards a less sensitive edge of a site; diffusers in street lights can help reduce glare; and development can be in locations that reduce the dependency on private cars, reducing the potential for air pollution.

41. Landscape: The European Landscape Convention (ECL) (2002)<sup>14</sup> includes an inclusive definition of landscape. Article 2 states:

‘Subject to the provisions contained in Article 15, this Convention applies to the entire territory of the Parties and covers natural, rural, urban and peri-urban areas. It includes land, inland water and marine areas. It concerns landscapes that might be considered outstanding as well as every day or degraded landscapes.’

42. This paper specifically relates to designated landscape in the AONB which is recognised for its outstanding natural/scenic beauty. Referring to evidence, and responses from expert consultees, this paper considers the potential effects of development on landscape (with particular reference to landscape character<sup>15</sup>) and whether these effects can be moderated.

43. Recreational opportunities: the Council interprets this to mean existing opportunities, not those that may be proposed alongside a development. This is an important distinction because large-scale development in Purbeck is required to deliver public open space, which could result in recreation in the AONB. However, such a new recreational opportunity would only be as a consequence of the development and not an existing opportunity. Further opportunities for recreation may also be taken into account as an ‘other consideration’ in the assessment.

44. Recreational opportunities may be limited or restricted through accessibility (not all land which the Council will be considering through this paper can be publicly accessed). The Council will take account of accessibility when considering this part of the policy.

## Conclusion on national planning context

45. The Council will apply a logical framework (based on each specific element of the policy described in paragraphs 115 and 116 of the NPPF) to ensure great weight is given to conserving landscape and scenic beauty when considering possible sites for development and assessing whether there are exceptional circumstances (and if it would be in the public interest) for major development at possible sites in the AONB (the effects on landscape are considered through the third bullet point in

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<sup>13</sup> <https://www.dorsetforyou.gov.uk/planning/purbeck-partial-review-options-consultation>

<sup>14</sup> <https://www.coe.int/en/web/landscape/home>

<sup>15</sup> For the purposes of this paper landscape character is the site specific interplay between physical, natural and cultural. It includes the aesthetic aspects of the landscape and takes account of the statutory purpose described in the Countryside and Rights of Way Act 2000.

paragraph 116 of the NPPF). Section two of the paper uses the subheadings from this part of the paper to analyse possible development sites which are being considered through the Local Plan Review.

46. The final parts of Section 1 summarises the evidence the Council will use to help assess whether major development is likely to have a detrimental effect on the environment/landscape/recreational opportunities and provides a summary of how planning inspectors and the courts have interpreted specific policy relating to the AONB in the NPPF.

## Landscape Character Assessment and Dorset AONB Management Plan

48. The part of the paper summarises the content of two supporting pieces of evidence that the Council has used to help assess whether major development is likely to have a detrimental effect on: landscape, environment or recreational opportunities.

### Landscape character assessment

49. The PPG<sup>16</sup> says that landscape character assessments may be appropriate to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place. The Dorset AONB Landscape Character Assessment<sup>17</sup> looks at the AONB across the county.

50. The assessment draws out the key characteristics of each character area, noting features including: landscape and structure; soils and vegetation; settlement and land cover; historic character; visual character and perceptions; strength of character and condition. Rather than going through each character area here, relevant parts of the document have been referenced in the site assessments in section 2 of this paper.

### Dorset AONB Management Plan

51. The PPG<sup>18</sup> says that 'local planning authorities and neighbourhood planning bodies should have regard to management plans for National Parks and Areas of Outstanding Natural Beauty... the management plans highlight the value and special qualities of these designations'

52. The Dorset AONB Management Plan<sup>19</sup> contains a number of objectives relating to various themes. These include: landscape quality; biodiversity; geodiversity; coast and sea; historic and built environment; cultural landscape; living, working and enjoying; land management and local products; exploring, enjoying and learning; planning highways and infrastructure; and community action. The scope of the management plan means that it is potentially relevant each of the three bullet points. The management plan also notes at page 102 how incremental development and the resultant increase in traffic can have cumulative impacts on the AONB.

53. Not all of the management plan's objectives will relate directly to every potential development site in Purbeck, so those that are relevant are drawn upon in the site assessments in section 2 of this paper.

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<sup>16</sup> Ref ID: 8-001-20140306

<sup>17</sup> <http://www.dorsetaonb.org.uk/our-work/landscapework/landscape-character>

<sup>18</sup> Ref ID: 8-004-20140306

<sup>19</sup> <http://www.dorsetaonb.org.uk/the-dorset-aonb/management-plan>



## Other councils' approaches and local plan inspectors' approach to applying national policy

54. AONBs cover various parts of England, Northern Ireland and Wales and cross many different administrative areas. For example, the Dorset AONB falls within North Dorset, Purbeck, South Somerset, West Dorset and Weymouth and Portland councils' boundaries. Each council that includes an element of AONB will have an approach to dealing with plan making in the designation. It would be impractical for this paper to review every council's approach in the country, so instead it focusses on English councils<sup>20</sup> whose plans have been through examination since the NPPF was introduced in 2012 and those councils in the south of England. Appendix 1 summarises the Council's desktop review of local plans considered for this paper.

55. As the policy assessment for development (paragraph 115) and major development (paragraph 116) described in the NPPF has to be taken on a case by case basis none of the examples presented in this part of the paper are directly relevant, or act as precedent, to the assessments in the second part of the paper. They provide useful examples of how planning inspectors have exercised their planning judgement based on the specific circumstances relating to each example.

### **Bath and North East Somerset Core Strategy (2014)**

#### Plan approach to AONB

56. The Bath and North East Somerset (BANES) plan area is one housing market area. The plan includes the large settlements of Bath and Keynsham, where development is focussed. Of the plan's four strategic allocations, three are in the green belt and one (on the edge of Bath at a location called Odd Down) is for 300 dwellings in the AONB, green belt and on the edge of a conservation area and world heritage site. The plan is supported by an AONB landscape and visual impact assessment.

#### Inspector's report

57. The inspector notes at paragraph 163 of his report<sup>21</sup> that the figure of 300 dwellings at the site at Odd Down should not be viewed as a limit, if place-making principles can be met. At paragraph 164, he goes on to recognise that the allocation would be at the most sustainable town / city in the district. He noted that there were no acceptable alternative sites at Bath that could replace the contribution to housing that this site would make. At paragraph 165, he clarifies:

'I consider that there are the exceptional circumstances to justify removing land from the Green Belt and for major development within the AONB. The need for housing and the benefits of additional housing in this location at Bath outweigh the harm that would arise, taking into account the great weight that must be given to protecting the AONB and heritage

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<sup>20</sup> Northern Ireland and Wales have different planning systems

<sup>21</sup> [http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/Core-Strategy/cs\\_pins\\_final\\_report.pdf](http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/Core-Strategy/cs_pins_final_report.pdf)

assets. The Council's decision to allocate this site represents positive planning and is justified. This allocation is needed to make the plan sound.'

58. The Council was originally looking to allocate another site in the AONB at Weston for 150 dwellings. The inspector discusses this site at paragraph 183 of his report, recommending its removal from the plan because 'there would be a loss of Green Belt; significant (albeit, still less than substantial) harm to the AONB, the world heritage site and conservation area'. Despite the site having the potential to develop at the most sustainable town/city in the district; 40% affordable housing where need is greatest; and that there were no acceptable alternative sites at Bath, he concluded that the benefits would not clearly outweigh the combination of harm that would arise to the AONB, the world heritage site and the conservation area. As such, there were no exceptional circumstances for major development within the AONB.

### Key points arising

- In considering alternatives, the inspector only references Bath and no mention is given of elsewhere in the plan area. This seems at odds with paragraph 116 of the NPPF, which specifically refers to the scope for developing elsewhere outside the designated area.
- The inspector's distinction between substantial and significant harm to the AONB is interesting. The NPPF cites 'significant' harm as a reason to resist development in various non-AONB related circumstances<sup>22</sup>. However, he infers that substantial harm would not fail the policy tests of the NPPF.

## **Chichester Local Plan (2015)**

### Plan approach to AONB

59. Chichester forms part of the Sussex Coast housing market area. The plan's evidence base is supported by a district-wide landscape capacity study. Roughly a third of the plan area is in the Chichester Harbour AONB, but no development is proposed within it because the landscape was deemed to be too sensitive (although major development is proposed within the AONB's setting). The area is particularly sensitive – not just in landscape terms, but also in terms of transport – and the plan does not meet its objectively assessed housing needs.

60. The plan recognises that rural communities in the AONB have development needs that should be met, so there is a policy to allow for planning applications to be assessed on their merits (rather than allocations through the local plan).

### Inspector's report

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<sup>22</sup> E.g. town centre viability (paragraph 27), telecoms infrastructure (paragraph 44), biodiversity (paragraph 118) and health and quality of life (paragraph 123)

61. The inspector did not accept the Council's argument that it could not meet its development needs in full because of constraints and required an immediate partial review to look for additional growth opportunities.
62. Whilst AONB is touched on in the inspector's report<sup>23</sup>, it is not discussed in particular detail. She accepts that the sensitive landscape areas of the AONB are a legitimate constraint to development, but does not appear to discuss the extent to which less sensitive areas should form part of the consideration for the council's partial review. At paragraph 47 of her report, she does note that neighbourhood plans will identify small (i.e. not major) sites in rural areas. She does not rule out AONB from this potential.

### Key points arising

- Although the plan area forms part of a wider housing market area, the inspector makes it clear that the council needs to be meeting its own needs.
- The council's landscape capacity study appears to have been a key piece of evidence. This reinforces the importance of Purbeck District Council's evidence base relating to landscape impacts.

## **East Devon Local Plan (2016)**

### Plan approach to AONB

63. The only AONB allocation in the East Devon is for 5ha of employment land at Sidmouth. The plan's housing and other allocations are all outside the designation. Sidmouth has a population of around 12,500 and therefore has around twice the size of Wareham's population. There are other settlements in the district that are much larger, at Exmouth Honiton and Seaton.

### Inspector's report

64. The inspector<sup>24</sup> considered the 5ha employment allocation in light of paragraph 116 of the NPPF, indicating that he believed it constituted a major proposal. At paragraph 90 of his report, he noted that the town had seen a relatively high level of residential development in recent years and that the lack of employment could put pressure on the AONB through car journeys to employment elsewhere. He supported the attempt to align jobs with housing and considered that the need for the employment site was demonstrated.
65. The inspector went on to consider three alternatives for the allocation at paragraph 92 and could find no suitable sites on the edge of the town. He noted at paragraph 93 how the landscape impact of the preferred site would inevitably be significant, but there would be potential for mitigation.
66. The inspector notes at paragraph 99 how the Council's original approach to AONB development was unduly restrictive, as the plan had contained a policy that

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<sup>23</sup> <http://www.chichester.gov.uk/article/24684/New-Local-Plan-2014---2029---latest-update>

<sup>24</sup> <http://eastdevon.gov.uk/media/1450925/east-devon-report-v1-2.pdf>

prohibited all development in the designation, unless it could be demonstrated that it could not be accommodated outside the AONB. He requested a modification that would align the policy to the NPPF and allow AONB development.

### Key points arising

- In considering alternative sites, it is interesting to note that the inspector only looked at alternatives within and on the edge at Sidmouth, indicating that the priority was the sustainability of that part of the district.
- It is inappropriate to treat AONB as an absolute constraint to development.

### **Purbeck Local Plan Part 1 (2012)**

#### Plan approach to AONB

67. Purbeck falls within the Eastern Dorset housing market area. The Purbeck Local Plan Part 1 (PLP1) looked to allocate land at several towns and key service villages across the district. This included 200 dwellings on the edge of Swanage in the AONB, the locations for which were to be determined through the Swanage Local Plan.

68. It is important to note that shortly after submitting the plan for examination, the NPPF was released and therefore the plan was prepared without reference to its paragraphs 115 or 116 (although the plan was declared sound, which shows that it is NPPF compliant). As a result, the Council did not set out in an explicit way how 200 homes on the edge of Swanage would meet the NPPF's tests.

#### Inspector's report

69. The inspector's report<sup>25</sup> does not give specific mention to paragraph 116 or exceptional circumstances for major development in the AONB. However, at paragraph 68, he does say that 'bearing in mind the need for housing throughout the area, it can be concluded that the Council's approach is reasonable and sound.' In paragraph 109, he goes on to consider landscape in the context of paragraph 115 of the NPPF, saying that a proposed modification 'emphasises the need to consider the impact of development on the AONB in Swanage and demonstrates consistency with national policy'.

70. In paragraph 65 of his report, he does mention the need to consider impacts of any potential development to the west of Wareham on its setting, but does not provide a view as to whether or not development would pass the tests of paragraph 116 of the NPPF.

### Key points arising

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<sup>25</sup> <https://www.dorsetforyou.gov.uk/article/404312/Purbecks-Core-Strategy-Examination-in-Public>



- There is a notable lack of reference to paragraph 116 of the NPPF in the inspector's report, but he did support a major allocation for 200 homes on the edge of Swanage in the AONB.

### **West Dorset District Council and Weymouth and Portland Borough Council (2015)**

#### Plan approach to AONB

71. West Dorset and Weymouth and Portland constitute one housing market area. However, within this are three sub market areas, each of which required development to support it. These are at Sherborne / Yeovil; Weymouth / Dorchester; and Bridport. These latter two sub areas feature land in the AONB. It is worth noting that Weymouth is bounded by AONB to the north, but only part of Dorchester is bounded by the designation to the south.

72. The plan was informed by various landscape assessments and the case for exceptional circumstances was set out in the Councils' responses to matters raised by the local plan inspector.

73. In summary, the plan allocates:

#### Bridport (washed over by AONB)

- Vearse Farm: greenfield site outside the settlement boundary for 760 homes, plus 4ha employment and a new school.
- Land off Skilling Hill Road: existing primary school site in settlement boundary, so predominantly brownfield. It is to close and be relocated to Vearse Farm. The site can then be developed for 40 homes.
- East of Bredy Vet Centre: greenfield site outside the settlement boundary for 40 homes.
- St Michael's Trading Estate: brownfield site. Mixed use proposal, including 105 homes.

Total greenfield = 800 homes; 4ha employment; and new school.

Total brownfield = 145 homes.

Overall total = 945 homes; 4ha employment; and new school.

#### Beaminster (washed over by AONB)

- North of Broadwindsor Road: greenfield site outside the settlement boundary for 120 homes; and 0.5ha employment.
- End Farm off Tunnel Road: mix of fields and existing farm buildings outside the settlement boundary (technically not brownfield) for 0.7ha employment.

Total greenfield: 120 homes; and 1.2ha employment.

### Lyme Regis (washed over by AONB)

- Land at Woodbury Down: greenfield site outside the settlement boundary for 90 homes plus employment

Total greenfield: 90 homes; and some employment.

### Weymouth (AONB abuts the town)

- Littlemoor urban extension: greenfield site outside the settlement boundary for 500 homes; at least 12ha of employment land; an extended local service centre; public open space; and a new primary school.
- Land at Icen and Weyside Farms: brownfield site outside the settlement boundary for redevelopment for employment. No figure given on site size.

Total greenfield: 500 homes; at least 12ha of employment land; an extended local service centre; public open space; and a new primary school.

Total brownfield for employment unknown.

74. In summary, the plan allocates 1,510 homes; 17.2ha employment; and two schools on greenfield land in the AONB. There are an additional 145 homes plus some unspecified employment proposed on brownfield land in the AONB.

75. The plan took a view that the largest allocation at Bridport would be in a fairly well contained parcel of land within the bypass and it included some significant landscape mitigation. There were no other significant opportunities within the housing market sub area.

76. 500 homes were proposed at Littlemoor on the edge of Weymouth. There were other alternative sites outside of the AONB close by, however Littlemoor offered some significant benefits with the alternatives being of a smaller scale. The site offered an opportunity to significantly enhance an 'untidy' urban edge (beyond the town's bypass); there was an opportunity to provide employment uses in an area where they were needed; and the site was adjacent to the existing highway network.

### Inspector's report

77. At paragraph 34 of his report<sup>26</sup>, the inspector notes that 'despite physical and environmental restrictions the Councils have concluded that allocations in parts of the AONB are unavoidable', taking into account paragraph 115 of the NPPF and the presumption in favour of sustainable development's mentioning of AONB.

78. In paragraph 35, he continues:

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<sup>26</sup> <https://www.dorsetforyou.gov.uk/article/421782/West-Dorset-Weymouth--Portland-Adopted-Local-Plan-Inspectors-Report>

‘There has been widespread opposition to a number of proposals in the [local plan], particularly where allocations have been put forward within the AONB. It is difficult to see how some incursions can be avoided if the Councils are to adhere to sustainable development principles and meet the needs of rural communities. Apart from areas to the east and north of Dorchester and those around Sherborne most of the remaining parts of the Plan area are subject to AONB designation and it would be unsustainable and perverse to reject suitable options.’

79. He then goes on to note in paragraph 36 that:

‘Concentrating development in the larger settlements means there is access to existing services and facilities...’

80. The inspector specifically considered the site at Littlemoor, concluding at paragraph 129:

‘Having regard to the overall level of housing need and the availability, size and merit of other sites on the periphery of the Weymouth urban area, I am satisfied it would be less visually harmful when compared to the release of a number of smaller sites. In coming to this conclusion I also recognise the development would provide an opportunity to improve the transition in between the countryside and urban area.’

81. The allocation at Bridport is considered from paragraph 172. Here, he reaffirms that the largest settlement in the area is the most suitable location for development. He notes at paragraph 173 how the number of new homes challenges the exceptional circumstances tests of the NPPF, concluding that the need to provide homes and jobs to meet future needs and to ‘adhere to sustainable development principles it is inevitable that some areas in the AONB will be affected.’

82. The inspector considers public views of the site, but feels that harm could be mitigated. He also notes that it is relatively well contained, bounded the A35 bypass, the B3162 to the north and the current western limits to the town to the east.

83. Taking all these factors into account – and noting that the site is a crucial element of the councils’ housing land supply – the inspector supported the allocation.

### Key points arising

- The site at Bridport is the largest example of AONB development that the Council identified in the course of researching this paper.
- In the case of the Bridport site, the Councils’ approach to looking for alternatives appeared to be limited to within the identified housing market area sub areas, rather than looking outside the designation or outside the plan area.
- Paragraph 116 needs to be interpreted in the context of the presumption of favour of sustainable development. The inspector took account of the

sustainability of the sites that the council was proposing should be allocated for homes.

- When assessing scope/cost for alternatives to meet the housing need the inspector was only concerned with the local context. In other words, meeting the development need within the plan area, and not resisting it on the basis of more sustainable locations in the sub-region or beyond.
- Having regard to the site at Littlemoor in Weymouth, it is interesting that the inspectors assessment references the level of overall housing need in the plan area and when considering the scope for alternatives to meet this need the lack of suitable sites on the periphery of the settlement in question.
- Weymouth and Dorchester form part of the same housing market sub area and the Councils' SHLAA27 included several significant non-AONB sites on the edge of Dorchester that are suitable for development. The inspector did not appear to question why these were not investigated further as alternatives to the site at Littlemoor.
- Also of note is that the inspector did not question the extent of the search area when considering the scope for developing elsewhere in another sub area, or require the councils to approach neighbouring councils to meet the need elsewhere.
- Advantages in terms of tidying the urban edge can be viewed as part of a justification of allocating a site.
- The ability to moderate visual impacts is a key aspect.
- The degree of containment within the landscape is a key aspect.
- Exceptional circumstances can include meeting the housing supply target. This ties in with other inspectors' decisions<sup>28</sup> and a Court of Appeal judgment (see below) that the lack of a five-year housing land supply is an exceptional circumstance.

### **West Somerset Local Plan (2016)**

#### Plan approach to AONB

84. The plan area falls within the wider Northern Peninsula housing market area. Only a small area of the district falls within the AONB, with several large settlements located outside the designation that already accommodate two thirds of the district's population. The plan does not need to allocate any land for development in the AONB, as it can be accommodated within existing settlement boundaries and on the edge of the larger settlements.

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<sup>27</sup> <https://www.dorsetforyou.gov.uk/local-plan-document-list-part-4>, appendix C (2014)

<sup>28</sup> E.g. Station Road, Bourton-on-the-Water in Cotswold district - appeal reference APP/F1610/A/13/2196383 <https://acp.planninginspectorate.gov.uk/ViewDocument.aspx?fileid=5992315>

### Inspector's report

85. The inspector says in paragraph 138 of his report<sup>29</sup> that a new AONB policy<sup>30</sup> was needed in the plan in order to provide consistency with the NPPF and PPG. Essentially, it reflects the national policy and guidance in terms of having regard to the AONB's statutory purposes and ensuring that development conserves or enhances natural beauty. As part of the justification for the policy, he states 'the policy is not intended to prevent the principle of development within the AONB... it does require that the character of such areas, should be treated as an important factor when designing and deciding on development proposals'.
86. Unlike other inspectors, this particular inspector does not explicitly mention supporting rural communities within the AONB. However, his required policy would facilitate major and minor development in the designation.

### Key points arising

87. There are no key points arising from this case study.

### **Vale of White Horse (2016)**

#### Plan approach to AONB

88. This plan is currently at a 'further consultation' stage, but the inspector has submitted a report on his initial findings<sup>31</sup>.
89. The district falls within the Oxfordshire housing market area. The plan originally proposed two sites adjacent to Harwell Campus for 550 and 850 dwellings respectively. The campus is nationally important as an enterprise zone and a key site for the plan's economic growth strategy. Linking the housing to the employment site was seen to be essential to bring forward economic growth and that it would be a sustainable approach to development.

### Inspector's report

90. In section 9 of his initial findings, the inspector found no compelling evidence that housing was essential to bring forward economic growth and nor was there any evidence that the lack of housing in this location would have an adverse impact on the economy.
91. The inspector went on to consider the scope for developing outside of the AONB and said there was little evidence to suggest alternative sites outside the designation could not be found.
92. He also commented on landscape and recreational impacts and found that, despite being adjacent to the campus, the sites would be prominent from the roads and

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<sup>29</sup> <https://www.westsomersetonline.gov.uk/Docs/WSLP-Examination-documents/ED69-Final-Report-WSLP.aspx>

<sup>30</sup> Policy NH14 of the adopted plan

<sup>31</sup> [http://www.whitehorsedc.gov.uk/java/support/dynamic\\_serve.jsp?ID=569048742&CODE=3CF9F39D0C5141387D2927E4E29B57D8](http://www.whitehorsedc.gov.uk/java/support/dynamic_serve.jsp?ID=569048742&CODE=3CF9F39D0C5141387D2927E4E29B57D8)

footpaths bounding them. A landscaping scheme would obscure views of the dwellings themselves, but it would:

‘all but eliminate the current, attractive wide open views across agricultural fields to the Downs beyond from these footpaths. Harm would thus be caused to the landscape of this particular part of the AONB and to the recreational opportunities it provides.’

93. In summary, the inspector concluded that the exceptional circumstances for the housing sites did not exist. He even considered an alternative site within the campus that would be significantly less harmful to the landscape, but also dismissed it, partly because of the lack of evidence that housing is needed in the AONB.

94. The inspector therefore recommended the removal of these sites from the plan, but in doing so noted that the Council would still be able to demonstrate a five-year supply of housing and that part 2 of the local plan could look to identify alternative sites.

### Key points arising

- The inspector appeared to give each of the criteria in paragraph 116 equal weight. Notwithstanding the council’s failure to present a strong economic argument, the inspector looked at it separately to landscape impacts, indicating that one does not outweigh the other.

### **Duke’s Park, Woodbridge, Suffolk**

95. The Council has also included a summary in this section of the paper of an appeal decision from an inspector relating to proposals for up to 140 homes in Suffolk<sup>32</sup>. The development site lies between the AONB and a Special Landscape Area on land referred to as a sensitive gap between settlements, where urban influences are low key.

96. As the site was not within the AONB the inspector considered that neither paragraph 115 nor 116 of the NPPF should apply, given that they both refer to development in designated areas. Therefore, footnote 9 of the NPPF, which talks about specific policies in the NPPF (such as relating to AONB) that indicate where development should be restricted when applying the presumption in favour of sustainable development was not relevant to this assessment. Despite this the setting of the AONB was considered an important material planning consideration.

97. The inspector noted a significant area of dispute between parties over the likely impact of planting proposed as part of a landscaping scheme. Although the inspector held that structural planting was likely to mitigate the effect of coalescing the settlements together, there would still be a clear perception of the site, at odds with the established landscape character area. The sandy soils in the area meant that rapid plant growth would not be a realistic prospect and this, along with the

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<sup>32</sup> APP/J3530/W/16/3165730 <https://acp.planninginspectorate.gov.uk/ViewDocument.aspx?fileid=21025673>



rising level of the land, would lead to moderate and adverse effects, even after a number of years.

98. The inspector noted the presence of low density development and employment uses close by, but considered them minor influences on the landscapes character. The inspector also considered the influence of a railway (to the south) and roads on the landscapes character (she took account of noise from the road). He noted that the site would be clearly seen from a number of well used footpaths within the AONB.
99. The inspector concluded that the proposal would introduce long term harm to the character of the area of a moderate magnitude, with long term harm to visual qualities of moderate to major magnitude. Therefore, despite his recognition of the economic and limited social benefits of the development (including delivering housing where the District Council was unable to demonstrate a five-year supply of housing), he believed the proposal would cause significant environmental harm and dismissed the appeal.

### Key points arising

- Paragraphs 115 and 116 of the NPPF specifically relate to development sites within the AONB
- The impacts of development outside the AONB on its setting should be taken into account as material planning consideration in plan-making<sup>33</sup>.
- The mitigating effects of soft landscaping need to be carefully considered, taking account of site specific considerations (including how quickly plants are likely to mature and mitigate any detrimental impacts from the development).
- The perceived coalescence of settlements can harm the setting of the AONB.

### **Conclusions on other councils' approaches and inspectors' reports**

100. The Council has noted the different approaches to assessing whether there is need for the development in the inspectors decisions. In most instances this relates to the need for homes. Purbeck is a sub area of the Eastern Dorset Housing Market Area. The review of inspectors' reports has shown that even where a plan area falls within a wider housing market area, inspectors are requiring councils to meet the needs of the sub areas in the first instance. Such discussions are a vital part of plan making to make sure overall housing needs are met, but inspectors appear to be advocating an approach where councils need to look at their own areas first before looking elsewhere. This reflects other inspectors' interpretations, for example the Brighton and Hove Local Plan<sup>34</sup>. Here, the inspector said she needed to be satisfied that the Council had left 'no stone unturned' in seeking to meet as much of the housing need as possible within the

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<sup>33</sup> Ref ID: 8-004-20140306

<sup>34</sup> [https://present.brighton-hove.gov.uk/Published/C00000689/M00005091/AI00041735/20141007125949\\_006049\\_0026347\\_Appendix1InspectorsInitialConclusionsLetterandSubsequentCorrespond.pdf](https://present.brighton-hove.gov.uk/Published/C00000689/M00005091/AI00041735/20141007125949_006049_0026347_Appendix1InspectorsInitialConclusionsLetterandSubsequentCorrespond.pdf)

plan area and required the council to 'undertake a more rigorous analysis' of potential development sites before enquiring with neighbouring councils under the Duty to Cooperate. This may also effect the extent of investigations to establish whether there is scope for developing elsewhere.

101. The Council recognises that each site must be considered on its own merits and that other councils' approaches and inspectors' reports which describe how paragraphs 115 and 116 have been interpreted relate to specific sites / locations and circumstances. For these reasons it would not be appropriate to make direct comparisons between these decisions and the assessments in Purbeck. What is clear from these decisions is that the policy in the NPPF relating to the AONB should not be treated as an absolute constraint to development (including major development). Major development may be appropriate if there are exceptional circumstances and where it can be demonstrated that the development is in the public interest. The Council's approach to this matter through this paper is to thoroughly assess (taking account of relevant evidence) whether the tests in the NPPF can be satisfied at the possible development sites that are under consideration as part of the Local Plan Review.

### Case law

102. The Council has reviewed post-NPPF case law in relation to major development in the AONB to help guide the interpretations and assessments in the second part of this review. The Council has already directly referenced some of the relevant cases in this part of the paper, there is a further summary of other relevant case law below.

#### **Farthlingoe, Dover District**

103. Dover is a town of around 40,000 inhabitants. In 2013, developers secured planning permission for 521 new homes and a 90-resident retirement village at Farthlingoe on the edge of Dover in Kent. Proposals for 31 homes, a hotel and conference centre on a prominent hill, were also approved by Dover District Council.

104. The plans were opposed by the Kent branch of the Campaign to Protect Rural England (CPRE), which took legal action against the approvals. The case was considered by the Court of Appeal<sup>35</sup> in 2016.

105. The conclusions of two senior judges were that councillors' reasons for granting planning permission were 'not legally adequate', as they had not given sufficient weight to preserving the area's scenic beauty and the exceptional circumstances tests. Instead, councillors had 'struck a balance' between the harm to the protected landscape and the economic and other benefits of the proposals. One of the judges felt that councillors' belief that screening of the development would reduce the level of harm to the AONB was 'fragile at best'.

106. Describing it as an unusual case, the judge said the unprecedented scale of the plans obliged committee members to give clear reasons for their decision, which they had not. As a result, the planning permission was quashed.

#### Key points arising

- The ruling shows that when taking a decision councils should seek to evidence (through clear reasoning) that they have given great weight to conserving the landscape and scenic beauty of the AONB.
- The court reviewed the legal process of Dover District Council's decision not the substantive nature of the decision itself. The developer would be entitled to resubmit a planning application which the Council could consider afresh on its merits (in accordance with proper process). Provided the Council properly followed the processes it is possible that planning permission could be given.

#### **Highfield Farm, Tetbury, Cotswold District**

107. Tetbury is a rural market town with around 5,500 inhabitants, which is comparable in size with Wareham. In 2013, Cotswold District Council launched a

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<sup>35</sup> R on the Application of CPRE Kent v Dover District Council. Case Number: C1/2016/0076

judicial review<sup>36</sup> in the High Court to appeal against the planning inspector's, and Secretary of State's, decision to allow 300 homes on a greenfield site in the AONB.

108. The appeal inspector had said that development:

'would detract from the significance of Highfield Farmhouse, a designated heritage asset. It would also harm the AONB through replacing open fields with built development, thereby resulting in the loss of some of the natural beauty of the landscape. But importantly, in terms of the harm that would be caused to the AONB, I have not been provided with any evidence to suggest that there is anything other than very limited scope indeed to provide housing within the District on sites that are not part of the AONB.'

109. When considering 'other challenges to the inspectors decision the court examined the inspectors interpretation of paragraph 116 of the NPPF. Mr Justice Lewis quoted the following extract from the appeal inspectors report:

'there is a clear and pressing need for more housing; locally in terms of the severe shortfall that currently exists in the Cotswold District ... and, nationally, in terms of the need to get the economy growing... In my view, these amount to exceptional circumstances, where permitting the proposed development can reasonably be considered to meet the wider 'public interest', in the terms of the Framework.' (paragraph 14.69 of the inspectors report)

110. With reference to this paragraph Mr Justice Lewis was satisfied that the inspector:

'...correctly interpreted the paragraph [with reference to paragraph 116 of the NPPF] and applied it to the facts. Her judgement on those matters was accepted by the Secretary of State. There was no misinterpretation or unlawfull application of paragraph 116 of the Framework.' (paragraph 74)

### Key points arising

- The need to build homes, and the associated benefits to the economy, recognised as exceptional circumstances which were also in the public interest.

### **Steel Cross, Crowborough, Wealdon District**

111. Crowborough is a town in East Sussex of around 20,000 inhabitants. In 2016, Wealdon District Council challenged an inspector's decision in the High Court<sup>37</sup> to grant permission for a site of 103 dwellings. The challenge was on two grounds, one of which was that the Council contended that the Inspector failed to take into account relevant evidence or acted unreasonably in his consideration of

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<sup>36</sup> Cotswold District Council v Secretary of State for Communities and Local Government, Fay and Son Limited; Cotswold District Council v Secretary of State for Communities and Local Government , Hannick Homes and Development Limited; The Queen on the application of Cotswold District Council v Secretary of State for Communities and Local Government v Hannick Homes and Development Limited [2013] EWHC 3719 (Admin) 27th November 2013

<sup>37</sup> Wealden District Council v Secretary of State for Communities and Local Government & Anor [2016] EWHC 247 (Admin)

alternatives to development in the AONB, where the appeal site was located, pursuant to paragraph 116 of the NPPF. In particular, he did not adequately assess the alternative sites that were available, either within Crowborough or the wider district.

112. The court found that although the inspector accepted the Council's argument that the search for alternative sites outside the AONB could extend beyond Crowborough, he did not adequately assess sites outside Crowborough; and did not properly investigate whether the development could be located within Crowborough either.
113. It is important to note, though, one of the inspector's original conclusions was that 'in the absence of adequate housing land to meet the full [objectively assessed needs], let alone the [affordable housing] requirements, I find that there is a need for the development.' In responding to this, the judge concluded that 'for the purposes of NPPF 116, it was sufficient for him to assess and record the need in the broad terms in which he did'. In other words, the inspector's approach was correct to cite unmet housing needs as exceptional circumstances.

### Key points arising

- This case shows the importance for considering alternative sites outside the designation, both within settlements and elsewhere.

## Conclusions on section 1

115. Section 1 of this paper has set out the national policy and guidance when considering development (and more specifically major development) in the AONB. One of its key messages, which is also reflected in planning appeal decisions, is that an appreciation of local context is paramount in concluding whether or not a proposed site would constitute major development and therefore be subject to paragraph 116 of the NPPF.
116. The subheadings, described in this paper's analysis of paragraph 116, provide a basis for assessing whether development (of a particular type and intensity) at a specific site would constitute 'major development'. Where relevant evidence in the Dorset AONB Landscape Character Assessment and the Dorset AONB Management Plan will need to be considered as part of the site assessments.
117. When assessing the suitability of potential sites against the criteria in national planning policy the Council has noted the assessments described in the decisions from inspectors when examining local plans elsewhere. The decisions describe how decision makers have exercised their planning judgement when applying the policies in the NPPF in a way which takes account of local circumstances and the underlying context arising from the presumption in favour of sustainable development and the need to identify and meet development needs.
118. More specifically after reviewing these decisions the Council has noted that:
- When assessing whether there was scope for development elsewhere (outside designated areas) inspectors focus on the plan area first.
  - The BANES and the West Dorset / Weymouth and Portland inspectors' reports note that exceptional circumstances can include meeting housing needs target. (It is a matter of planning judgement for the decision maker, taking account of the considerations (and potentially other considerations as the criteria in paragraph 116 are not exclusive) in paragraph 116, to decide whether this need is an exceptional circumstances which would be in the public interest).
119. The Council has sought to apply the policies relating to the AONB in the NPPF 'objectively in accordance with the language used, read as always in its proper context'<sup>38</sup>. The underlying context (or 'golden thread') in the NPPF is the presumption in favour of sustainable development. For plan-making this means that 'local planning authorities should positively seek opportunities to meet the development needs of their area' (paragraph 14, NPPF) The appeal inspector who considered the West Dorset / Weymouth and Portland local appears to have taken account of this context when he noted that 'it is difficult to see how some incursions [in the AONB] can be avoided and it would be unsustainable and perverse to reject suitable options'.

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<sup>38</sup> Paragraph 18 from Lord Reed's judgement on Tesco Stores Limited v Dundee City Council [2012] UKSC 13



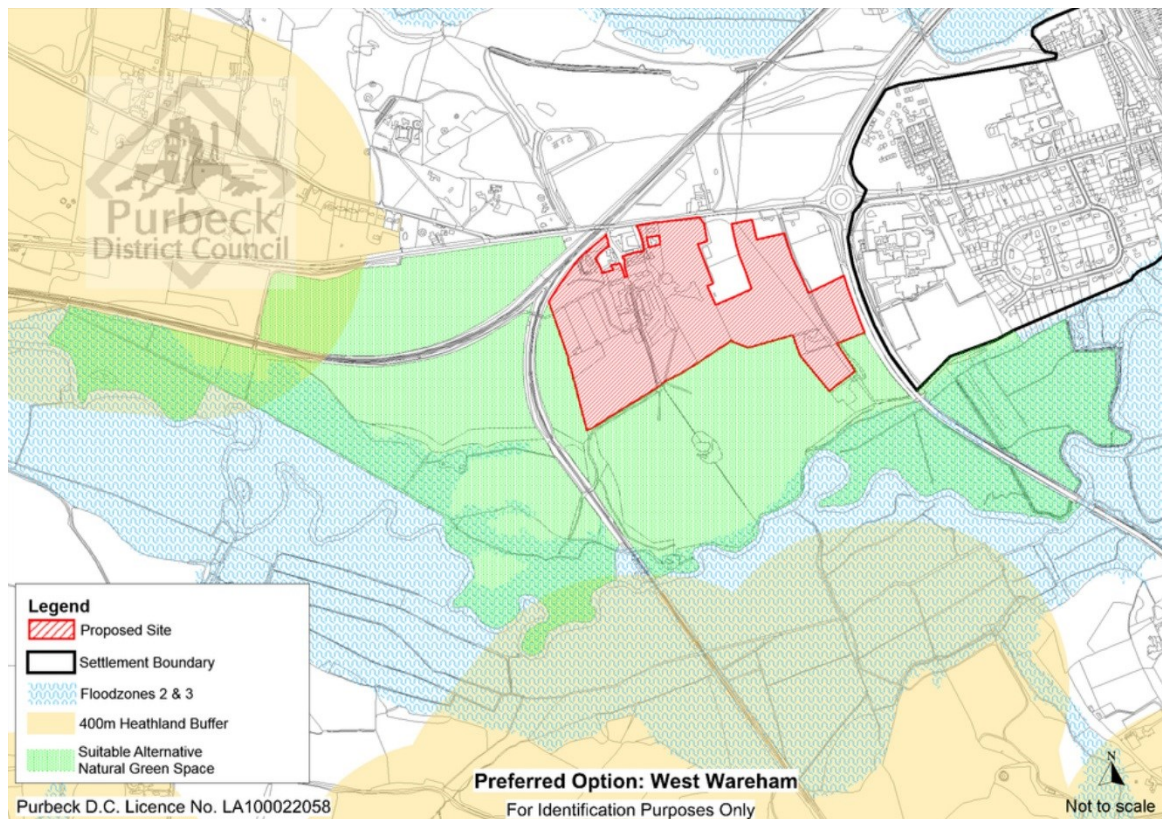
## Section 2

120. This section of the paper uses the context set out in section 1 and applies it to sites being considered for development in the AONB, along with sites which are likely to affect the setting of the AONB, through the Local Plan Review. To do this, it presents an analysis of each site and considers development being considered through the Local Plan Review against the policy criteria of paragraphs 115 and 116 of the NPPF. Where relevant, assessments refer to the Dorset AONB Landscape Character Assessment; the Dorset AONB Management Plan, and case law. Assessments are followed by a summary table.
121. The Council considers that the site assessments below demonstrate that it is applying 'great weight' to conserving landscape and scenic beauty, as required by paragraph 115 of the NPPF and the PPG in relation to the AONB's setting.
122. The Council is also considering a small sites policy as part of Local Plan Review which would permit small numbers of homes across the district provided certain criteria were satisfied. The criteria include: limiting the number of homes permitted by the policy (to up to 30); requiring the homes to be positioned close to the buildings in existing towns and villages; and development not causing harm to the a town / villages character or landscape character. The Council has not suggested that this policy should exclusively relate to land outside the AONB. For proposed development on sites within the AONB this means that the Council would also need to decide on an individual basis whether an application also needed to be assessed against the policy criteria of paragraphs 115 and 116 of the NPPF.
123. Development on small sites which the Council has previously consulted on (summer of 2016) at Langton Matravers and Harmans Cross could be considered as part of the policy if it is taken forward. For these reasons this paper has not re-considered whether development at these sites is likely satisfy the criteria in paragraphs 115 and 116 of the NPPF.

## Site assessments: exceptional circumstances for major development

124. The Council consulted on a number of these sites during the 2016 Local Plan Review options consultation. Where appropriate the Council has taken these consultation responses into consideration as part of this assessment.

### West of Wareham



### Site characteristics

125. The site which the landowner / developer is promoting for homes covers around 19.9ha (or approximately 16% of the total site area). The landowner / developer is also proposing that a further 94ha (the remaining 84% of the site area) should be used as Suitable Alternative Natural Greenspace (SANG). Ground levels fall from the north western corner of the site toward the south eastern corner. The southern side of the site faces the floodplain of the River Frome and the Purbeck ridge (around 5km from the site).

126. There is a cluster of agricultural buildings on the western side of the site and a number of buildings immediately to the north (including Worgret Manor Farm and bed / breakfast). Some of the fields in the western side of the site appear to be used to store agricultural equipment and machinery. Electricity lines run across the centre of the site along a north / south axis. The eastern side of the site is largely undeveloped farm land (comprising large fields, water meadows and a cemetery) and as a consequence has a close affinity with the undeveloped floodplain to the south. The northern, eastern and western sides of the potential development site are enclosed by the A351, A352 and railway lines. The proposed SANG spreads

further eastward (over the A351) and westward (to the west of Swanage Railway Line) than the site which is promoted for development (the northern side of this site faces the edge of the A352). There are records of non-designated heritage assets in Historic Environment Records and Worgret Manor Hotel (now used for bed / breakfast) and Worgret Farm House to the north of potential development site are grade II listed buildings.

127. There is capacity for around 500 homes on the land that is promoted for development. During the last consultation the Council also indicated that there could be potential for a new local centre (comprising small scale employment and retail), a new primary school, allotments, play areas and other open space on the development site.
128. A planning application was submitted in 2004 (ref 6/2004/0213) to develop a larger area (which overlapped the land that is currently being promoted for development) for a mixed use comprising homes (approximately 1,000 units), commercial, retail (supermarket), education (first school) and recreational uses, together with transport infrastructure improvements. This application was withdrawn before it was determined.
129. The PLP1 inspector's report<sup>39</sup> specifically mentions development in this area, saying at paragraph 65 that while it 'may in the future be an 'area of search' for the Council, weight will have to be attached to the impact of any potential development on the setting of Wareham'.

### Do proposals constitute major development?

130. The land is being promoted for 500 dwellings along with a new local centre (including employment and retail uses), a new primary school, allotments, play areas and other open space. Wareham (the town and North Wareham) has around 2,900 homes within the settlement boundary. As a proportion, 500 homes would amount to a 17% increase in the size of the town.
131. The development being promoted by the landowner / developer covers a large site area. The 500 homes being promoted represent a significant proportion (around a third) of the district's overall additional housing need between 2016 and 2033. The development site is located in the AONB, and as a designated landscape the Council is obliged to conserve and enhance the natural beauty of the AONB when preparing its local plan. The extent and amount of development being promoted may potentially have significant landscape and visual effects on the AONB.
132. The Council considers that the 500 homes (and associated development) being promoted constitute major development in the context of the site and its relationship with the surrounding landscape.

### Exceptional circumstances and public interest

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<sup>39</sup> <https://www.dorsetforyou.gov.uk/article/404312/Purbecks-Core-Strategy-Examination-in-Public>

**First bullet point in paragraph 116: ‘the need for the development, including in terms of national considerations, and the impact of permitting it, or refusing it, upon the local economy’**

133. **Need for the development:** There is a need for around 170 homes per year between 2016 and 2033. Making allowances for existing allocation (in PLP1 and the Swanage Local Plan), existing planning permissions, sites on the Council’s Brownfield Register, and an estimation of windfall development the Council has calculated that in order to meet the remaining housing need it should attempt to allocate land for around 1,700 homes over the plan period.
134. The need for homes has diminished from around 3,080 since the last objective assessment (Strategic Housing Market Assessment, 2015) and the Council’s last options consultation (2016). Taking this into consideration the 500 homes being promoted by the landowner / developer would make a positive contribution toward the district’s housing needs.
135. **Impact of promoted homes on the local economy:** Wareham has a number of existing facilities and services. Homes at the development site would indirectly support these existing facilities and services, but the Council has not been able to accurately quantify these indirect benefits for the purposes of this assessment (it is possible that the occupants of the promoted homes would also travel to the neighbouring Bournemouth / Christchurch / Poole conurbation for facilities and services).
136. The small proposed local centre may provide jobs, and make a positive contribution to the local economy. The promoted homes might also indirectly contribute to employment development being considered at Holton Heath (5.9ha) and Sandford Lane (1ha) industrial estates by housing the additional people that are employed as a consequence of this potential growth.
137. In the short term (over the course of building the homes and associated development) the promoted development is likely to make some positive direct contributions to the local construction industry through people employed as builders and trades people.
138. Permitting the development may have an effect on tourism in the AONB both directly through further vehicular congestion and indirectly if people visiting the AONB judge that it has had a harmful impact on the landscapes natural beauty. The Council has not been able to accurately quantify these direct and indirect potentially harmful impacts on the AONB.
139. The Council does not have any evidence to suggest that the local economy would suffer if the promoted homes and associated development was not built. There may be some indirect impacts on the growth of local businesses (in terms of loss of homes for prospective employees) which may also encourage less sustainable commuting from outside the district.
140. The Council has not been able to accurately and precisely quantify all the potential effects of promoted development on the economy. On the basis of the

available information and taken as a whole the promoted homes are likely to have a positive effect on the local economy.

**Second bullet point in paragraph 116: ‘the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way’**

141. **Cost of developing elsewhere:** the Council’s district wide viability report indicates that market and affordable homes can be achieved across the district. On the basis of existing evidence there do not appear to be site specific constraints at the other sites which the Council is considering elsewhere which would make development prohibitively expensive and unviable.
142. **Scope to develop elsewhere:** the Council considers that it is likely that it will be able to meet its housing needs within the district. For the purposes of this assessment the Council has therefore only considered whether there is scope to provide 500 homes elsewhere in the district.
143. There is scope for deliverability of:
- between 470 and 800 homes at Wool (around 8km by road to the west of the site);
  - between 440 and 600 homes at Redbridge Pit / Moreton Station (around 14km by road to the west of the site);
  - approximately 90 homes at Upton (around 12km by road to the north east of the site);
  - approximately 150 homes at Lytchett Matravers (around 10km by road to the north of the site);
  - approximately 200 homes on other sites at Wareham to be allocated through their neighbourhood plan; and
  - approximately 105 homes on other sites at Bere Regis to be allocated through their neighbourhood plan.
144. Taking account of the diminished housing need, the Council’s evidence indicates that there are sites outside the AONB that are capable of meeting all of the district’s housing needs. The Council is satisfied that there is scope for the 500 promoted homes to be delivered elsewhere.

**Third bullet point in paragraph 116: ‘any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated’**

145. **Potential detrimental effects on the environment and possible moderation:** development is likely to give rise to short-term negative effects relating to noise and consumption of natural resources. In the longer term, there remains potential for air pollution (primarily relating to traffic movements), light pollution, and the continued consumption of natural resources. These impacts



could be moderated with energy efficient design and promotion of alternative sustainable means of transport e.g. public transport, cycle routes and footpaths.

146. New homes are likely to have adverse effects on protected heathland and Poole Harbour (both European sites). These adverse impacts could be mitigated through the suggested SANG. NE has not confirmed that the proposed SANG is likely to moderate these detrimental environmental effects.
147. **Potential detrimental effects on the landscape and possible moderation:** the Dorset AONB landscape character assessment identifies that the site is in the Frome Valley Pasture landscape character area (LCA)<sup>40</sup>. The description of the LCA mentions the strong local character; the distinct and recognisable pattern of features including:
- grazed valley floor pasture;
  - historic water meadows;
  - long open views; and
  - the tranquil nature of the landscape.
148. It also notes that the area is largely unaffected by development with a continuation in open landform, and a sense of visual unity. These elements are present, to a lesser and greater extent, on the site being promoted.
149. The landscape character assessment contains planning guidelines. Relevant guidelines include:
- Monitor development around main settlements to ensure planting and built form is both sympathetic and complementary to landscape character. Resist development in open locations.
  - Improve recreational links from main urban centres into the surrounding countryside, with the provision of functional greenspace.
  - Minimise small scale incremental change such as signage, fencing or improvements to the road network which could change the peaceful, rural character of the landscape.
150. The guideline relating to development in open locations is particularly relevant to the eastern side of the site being promoted for homes because of its character (the large fields, cemetery and water meadows in this part of the site open out onto the floodplain of the River Frome). By contrast the western side of the site is more closely contained by roads and railway lines. Parts of this side of the site have also been developed with agricultural buildings.

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<sup>40</sup> <http://www.dorsetaonb.org.uk/our-work/landscapework/landscape-character>



151. The Council has received a number of assessments on the potential landscape and visual effects of development from:

- The Dorset AONB Partnership (provided a consultation response to the 2016 options consultation);
- Barton Willmore acting as a consultant for the landowner / developer; and
- The Council's Senior Landscape Architect.

152. The Dorset AONB Partnership considers that development is likely to have a detrimental effect on the landscape because:

'The physical effect of the development on the character area in which it is located would be to transform the site, which is of largely undeveloped rural character in an open location, into an outlying urban extension to Wareham.'

153. The AONB partnership also suggest development will have a detrimental visual effect on views through the landscape, and detrimental effects on landscape by: introducing light pollution, introducing further noise which will impact tranquillity, harming the landscapes appearance. The AONB partnership suggest that the benefits (in terms of improving accessibility between the countryside and 'urban centres' – which is identified as an objective in the AONB Landscape Character Assessment) do not outweigh the harmful effects on the landscape.

154. Barton Willmore's assessment includes: site analysis; landscape and visual appraisal (along with a separate technical note); cropped 75mm equivalent single frame images; zone of theoretical visibility (ZTV) bare earth; ZTV visual barriers; ZTV visual barriers with proposed planting; site context photos land use plan; and a concept masterplan.

155. Barton Willmore note that there would be '...direct localised adverse change...' (paragraph 6.12, 'Worgret Manor: Landscape and Visual Technical Note', August 2016). The severity of the detrimental effects is moderated by: the size and position of the site, and its existing character (a proportion of the western side of the site is partly covered in agricultural buildings / hardstanding). Barton Willmore argue that detrimental effects could be further moderated through sensitive layout (which reflects the position of other settlements at the top of the terrace either side of the river valley), soft landscaping, and screen planting in the lower part of the SANG in the floodplain of the River Frome. Barton Willmore suggest that visual effects from development on panoramic views can be moderated through sensitive layout, scale and screen planting / soft landscaping. Barton Willmore conclude that the detrimental landscape and visual effects can be moderated to appropriate levels.

156. The Council's Senior Landscape Architect has also considered the sensitivity of the site to new homes. She specifically considered the sensitivity of the site promoted for development. After assessing the landscape effect of development (by making reference to a number of assessment criteria) she concludes that the promoted sites sensitivity to housing development varies to a greater degree than suggested by the Barton Willmore study.

157. She does not consider that the detrimental landscape effects of housing development in the more open eastern half of the site could be appropriately moderated. After analysing the character of the landscape of the western half of the site she considers that this part of the site has a moderately sensitive to housing development and that the detrimental landscape effects could be moderated through sensitive design, layout, landscaping and strategic screen planting.
158. After reviewing the assessments and their conclusions the Council considers that on balance, the detrimental landscape effects could be satisfactorily moderated if development is limited to the western side of the development site (as in the position described by the Senior Landscape Architect).
159. **Potential detrimental effects on recreational opportunities and possible moderation:** There is private access to the site for fishing and shooting, and small pleasure boats can navigate up the river. The development site is however separated from the river by the proposed SANG, development is not likely to have a detrimental effect on existing recreational opportunities.

### The 'presumption in favour of sustainable development'

160. The NPPF says at paragraph 17 that planning should 'focus significant development in locations which are or can be made sustainable.' The PLP1 has adopted Policy LD, which categorises Wareham in the top tier of Purbeck's settlement hierarchy. The Council recognises that the site is a sustainable location for development.
161. After considering the sustainability of alternative sites (Wool, Redbridge Pit / Moreton, Lytchett Matravers, and Upton) that are being looked at as options through the Local Plan Review, the Council is satisfied that the housing need can be addressed elsewhere. The Council has taken account of the underlying presumption in favour of sustainable development but in this instance (for the reason above) this presumption does not outweigh the policy in paragraph 116 of the NPPF.

### Other considerations

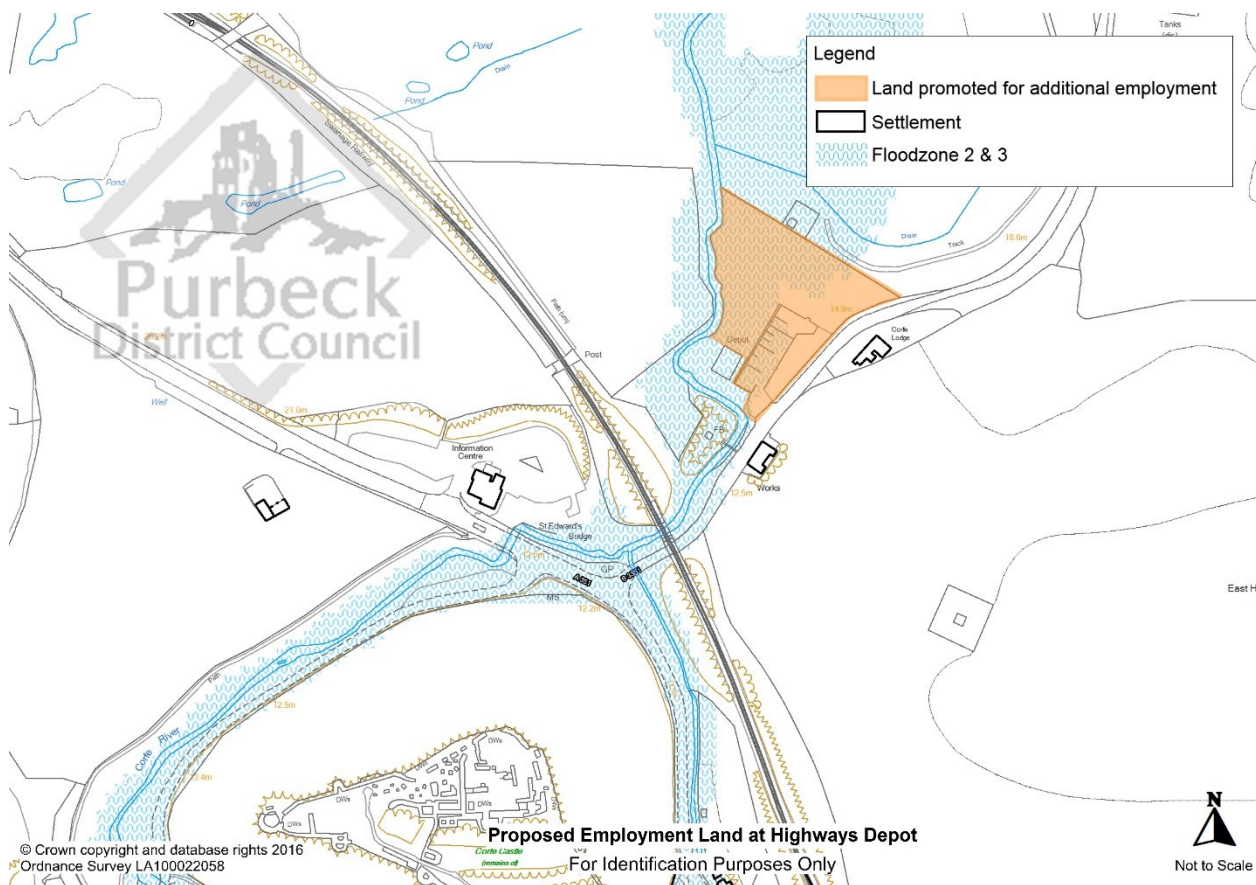
162. The SANG gives the opportunity of enhancing recreational opportunities in a way that is consistent with the Frome Valley Pasture Character Landscape Area by: increasing the quality of a number of features and the recreational opportunities for enjoying the AONB.'

### Conclusions

163. There is a need for homes in the district, but this need has diminished since the last Local Plan Review consultation in 2016. It is not clear that the potential detrimental effects on the environment (specifically European sites) could be avoided. The detrimental landscape effects could be moderated, but this will affect the sites capacity and the level of housing need it can address.

164. Notwithstanding these assessments there is scope to develop at sustainable sites elsewhere outside the AONB. After taking these considerations into account the Council is not satisfied that the promoted development is justified by exceptional circumstances or that it would be in the public interest to allocate the land for development through the Local Plan Review.

## Corfe Castle Depot



### Site characteristics

165. This is a brownfield site of around 0.6ha in the AONB. It is positioned in depression between high ground to the south and north. There is road running next to the eastern side of the site. Mature trees growing in the site, and on adjacent land, screen views from the surrounding countryside (including a public right of way running next to the edge of the A351).

### Do proposals constitute major development?

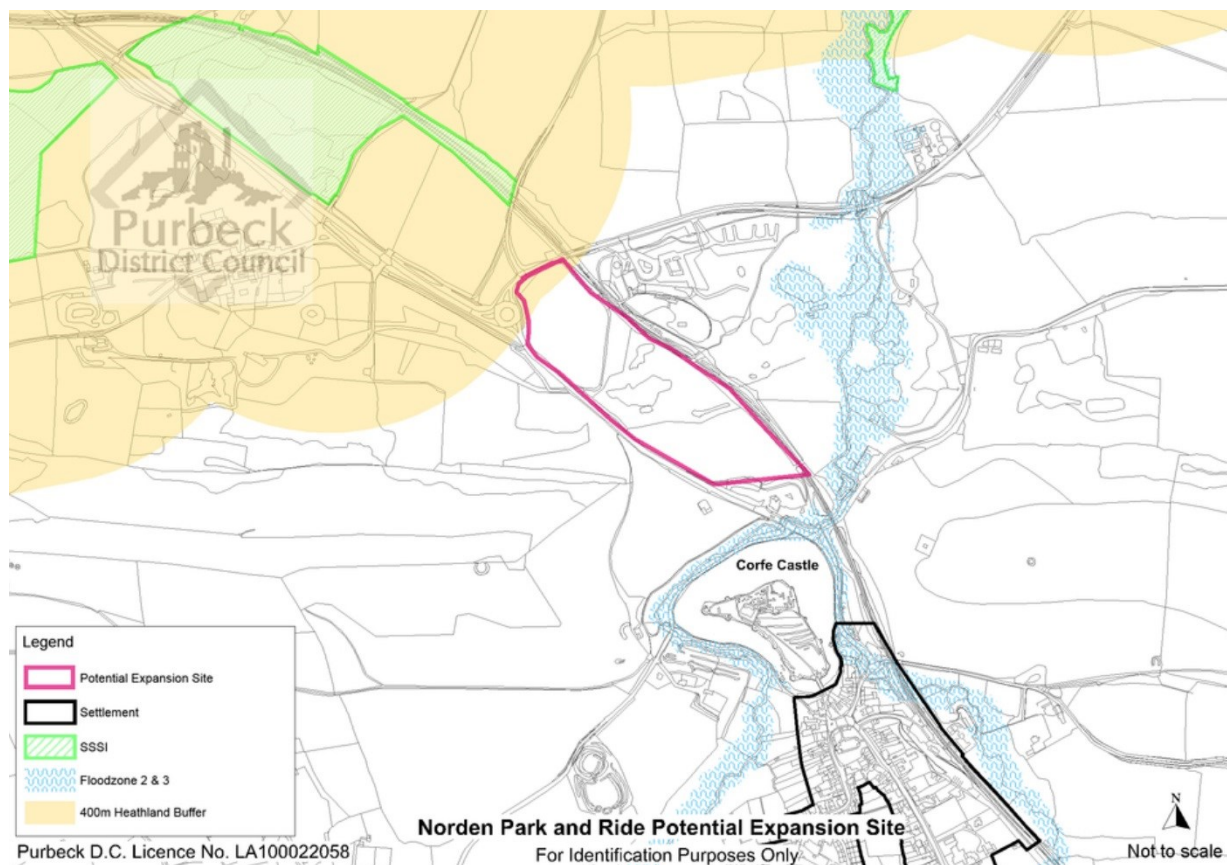
166. This 0.6ha site does not abut the edge of the village of Corfe Castle. It does not relate to any nearby built form but it has previously been used as an operating depot (it is covered in hard standing and there are a number of concrete walls used as clamps for retaining / storing material). It is currently an untidy site and so its sympathetic redevelopment could provide an opportunity to improve this part of the AONB.

167. After considering the size of the site, its characteristics and sensitivity to change, and the characteristics and sensitivity of the surrounding landscape the Council is satisfied that re-development of the site would not constitute major development.

### Conclusion

168. The Council does not consider that exceptional circumstances test in paragraph 116 of the NPPF needs to be addressed because the re-developing the site would not constitute major development. The Council would need to give great weight to the purpose of conserving the landscape and scenic beauty of the AONB (paragraph 115) before deciding to allocate the land for development through the Local Plan Review.
169. After taking account of the landscapes characteristics, and the existing use of the site, the Council considers that subject to a more detailed assessment of potential impact on landscape character and the setting of the heritage assets, appropriate design, layout and landscaping that there is some scope to re-develop the site whilst conserving the natural beauty of the AONB.

## Norden Park and Ride – car park



### Site characteristics

170. This site in the AONB is around 7.76ha in size, and the ground falls gently across the site from the north west to the south west. Ground levels rise toward the chalk ridge and Corfe Castle to the south. The site is undeveloped with two large agricultural fields separated by wooded copse in the centre of the site. The site has a close relationship with elements (the chalk ridge and Corfe Castle) that make a significant contribution to the landscape character of this part of the AONB.

171. The Council is considering allocating the site to allow for an expansion of Norden Park and Ride car park into this land.

### Do proposals constitute major development?

172. Development in this location would involve changing the use of substantial area of agricultural land to a park and ride facility. This would mean new roads and possibly areas of hardstanding, as well as other features such as bus stops. These would have a clear built presence in an open part of the AONB, which the Council believes would constitute major development.

### Exceptional circumstances and public interest



**First bullet point in paragraph 116: ‘the need for the development, including in terms of national considerations, and the impact of permitting it, or refusing it, upon the local economy’**

173. **Need for development:** Dorset County Council is considering the scheme as it is necessary to compensate for the loss of car parking at Studland (owing to coastal erosion), at present it is not clear whether the loss of this car parking justifies the development. The Dorset AONB Partnership believes the case is more based on scale / viability and also having bus access that would not require crossing the railway track. At present it is not clear that there is a need for the proposed development.
174. Further analysis is also needed to assess whether a park and ride in this location would help alleviate identified traffic congestion on the A351, which would also have wider benefits for the AONB.
175. Impact of change in use on the local economy: allocating land for a park and ride facility could help provide employment for people involved in managing /administering the facility. It could also encourage greater use of the Swanage Railway, which has a halt in this location. Any indirect effects on limiting traffic congestion could have a positive effect on the local economy, as less congestion could encourage more tourists to the area.
176. Resisting a park and ride facility could mean traffic congestion would continue and this could be viewed negatively by tourists. But it is unclear if fewer tourists would visit as a result.
177. On balance, the Council believes that the development could lead to moderate economic gains.

**Second bullet point in paragraph 116: ‘the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way’**

178. **Cost of developing elsewhere:** cost is not relevant consideration when assessing whether there development could take place elsewhere.
179. **Scope to develop elsewhere:** by necessity, the search area is limited because of the specific problem that needs addressing. Other locations have been considered at Studland, but have been ruled out because of their potential impact on European sites. Other sites have been considered around Norden, including beyond the railway, but these were discounted for health and safety reasons, associated with increased traffic over the crossing. As a result, the Council does not believe there is any scope to locate this development elsewhere in the district.
180. **Could the need be addressed in another way elsewhere:** it is possible that after completing the analysis on whether there is a need for the development that the County Council may identify an alternative approach for addressing the impacts which the development seeks to address.

**Third bullet point in paragraph 116: ‘any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated’**

181. **Potential detrimental effects on the environment and possible moderation:** use of the park and ride may generate short-term negative effects in relation to air quality, noise and consumption of natural resources, but in the longer term (subject to use) there are opportunities to reduce air pollution relating to traffic movements between Corfe Castle and Swanage. In light of this longer term potential gain, the Council considers that development would not lead to a detrimental effect on the environment.
182. It is possible that use of the park and ride may have harmful impact on European sites because of a potential increase in the use of bikes hired from the nearby bike hire facility. Careful promotion of bike routes may be necessary to avoid adverse impacts.
183. **Potential detrimental effects on the landscape and possible moderation:** the Dorset AONB landscape character assessment states that the Rempstone Wooded Pasture LCA is heavily influenced by the imposing Purbeck Ridge to the south with a gradual transition of heathland scrub towards the conifer plantations of Newton and Rempstone Heath in the north. Part of the interest of this farmed landscape includes occasional glimpses of Corfe Castle. The assessment’s planning guidelines suggest the following:
- Avoid further interruption of the characteristic open views (although this is in relation to pylons and masts, it nevertheless notes that open views are important).
  - Avoid further intrusive development in open locations.
  - Encourage the use of native planting in any landscape scheme associated with new development and consider removal of unsympathetic species.
  - Conserve the character of rural lanes and features such as finger posts and street furniture. Remove excessive signage and seek alternatives to infrastructure associated with urban development and out of scale traffic management schemes.
  - Protect important views of the surrounding open heathlands and views towards the Purbeck Ridge.
184. The site is close to Corfe Castle (a scheduled monument) and Historic Environment Records indicate that it may have previously been used for Roman shale working/occupation. The relationship between the site and Corfe Castle and its previous use all affect the sites sensitivity to development.
185. The Dorset AONB Partnership and NE consider that it would be necessary to limit development to the northern portion of the site and to implement a careful design with considerable tree planting in order to moderate the effects of the proposal to an acceptable level. In addition, NE believes it would be desirable to

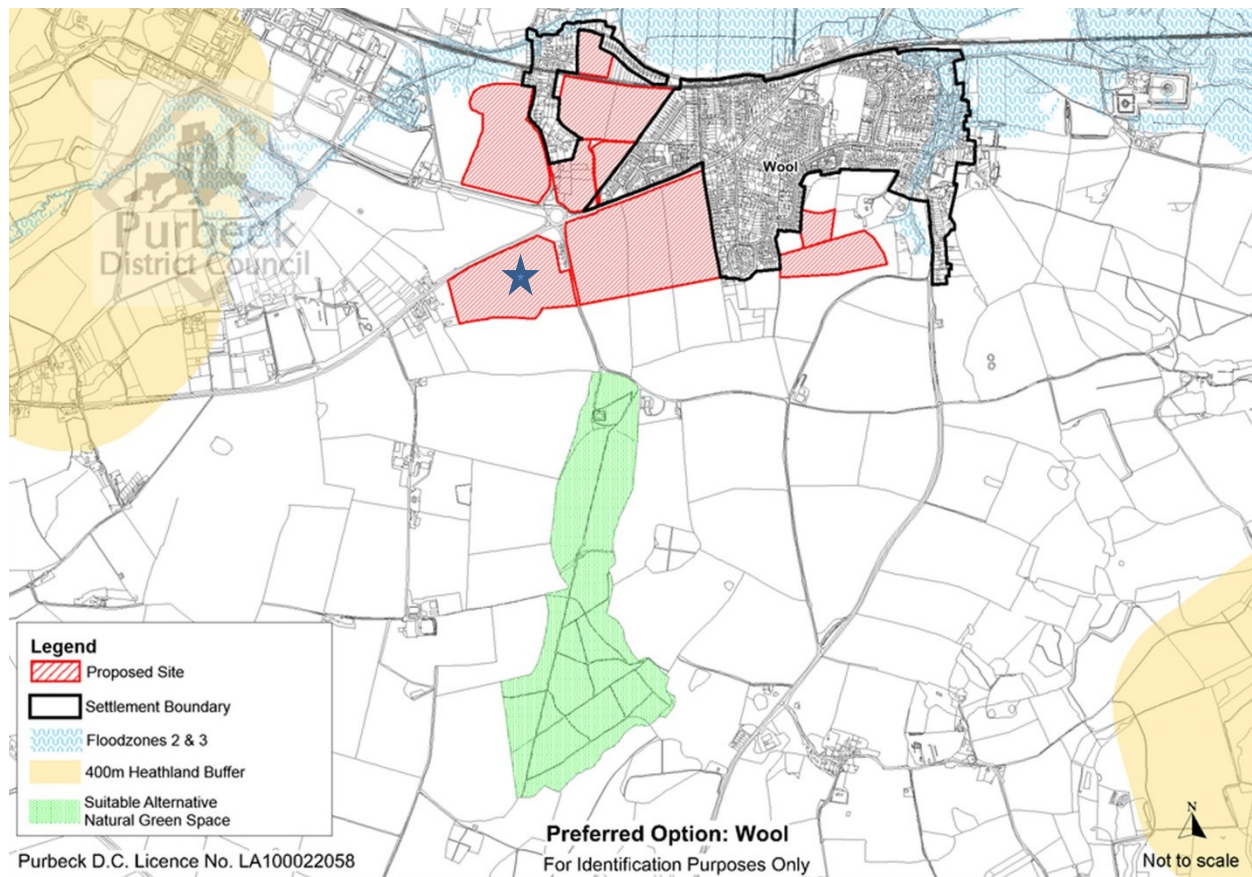
provide a viewpoint to encourage visitors to enter the car park and dissuade cars from stopping on or close to the roundabout.

186. **Potential detrimental effects on recreational opportunities and possible moderation:** the adjacent site provides recreational opportunities in the form of access to a halt on the Swanage railway and an existing car park, which has various connections into the countryside, including a public right of way to the south east of the site. Given that the proposal here would be located on land that is currently agricultural, and that it would expand the car park to include park and ride facilities, it would be difficult to raise any objections in terms of effects on recreational opportunities, provided existing opportunities are broadly maintained.

### Conclusions

187. Although major development here passes some of the NPPF's tests, further work is required to: a) set out the specific need for the development; b) find out whether there is scope to address this need outside the AONB; and c) complete a more detailed assessment of the impacts on the setting of Corfe Castle and non-designated heritage assets within the site. Without establishing these, the Council is not currently in a position to draw an in-principle conclusion on whether there are exceptional circumstances justifying the development.

Wool



★ this represents the site NE has raised concerns about (see below)

Site characteristics

188. This assessment primarily relates to whether a heathland infrastructure project (Suitable Alternative Natural Green Space (SANG)) amounts to major development in the AONB, but the Council has also considered the impacts of homes around the edge of Wool on the setting of the AONB. These sites are being considered as part of the Local Plan Review.

189. The land which their owners are promoting for development with homes is around 60.35ha in total and spread across several parcels shaded in red in the plan above. All this land falls outside the AONB but has the potential to affect its setting. An area of proposed public open space (SANG) at Coombe Wood of around 40ha would be in the AONB (this site is shaded in green).

190. Natural England has raised concerns about the landscape impacts of allocating land for homes to the south west of the Burton Cross roundabout (marked with a blue star on the map above). NE did not precisely clarify what these concerns were, but the Council presumed that they related to the effect of development on landscape character and the setting of the AONB.

191. During the consultation, the developer submitted a landscape and visual appraisal, which the Council has since forwarded to NE. NE has since responded

that an appropriate amount of green space should mitigate the site's AONB impacts.

192. Taking account of these responses the Council considers that the harmful impacts of development on landscape character and the setting of the AONB would also be reduced if development was limited to the northernmost half of the site marked with a star on the map above. Land levels in the site rise to the south and any development here would appear more prominent and obtrusive in the landscape. The Dorset AONB Partnership has not raised any concerns in respect of development here.

### Do proposals constitute major development?

193. As the proposed housing development at Wool falls outside of the AONB, paragraph 116 of the NPPF does not apply to these sites. However, the SANG is in the AONB and its creation will involve changing the use of an area of woodland to informal recreation. Planning law says that development includes changes of use and therefore the Council considers that paragraph 116 of the NPPF should apply to the SANG.
194. The creation of SANG would not involve the construction of any buildings but will require the creation of paths through the woodland and the formalisation of an existing area of parking. The Council believes that such works would not have any physical presence that could harm the AONB. It is also worth bearing in mind that the SANG would return coniferous woodland back to broadleaf species, which would be a landscape improvement. This accords with one of the planning guidelines of the South Dorset Downs landscape character area<sup>41</sup>, which includes the following recommendation: 'to restore and extend native habitats of chalk grassland, ancient broadleaved oak woodland and calcareous meadows'. Another planning guideline is to improve recreational links from main urban centres into the surrounding countryside, with the provision of functional greenspace.
195. Whilst the change of use would lead to additional footfall at the site, it would be spread throughout the day and it might be difficult to argue that this could have a harmful effect on the AONB, given that there is an existing public right of way through the site.
196. As a result, the Council does not consider that the proposed development would constitute major development in the AONB and the exceptional circumstances tests of paragraph 116 should not apply.

### Conclusion

197. The Council does not consider that paragraph 116 of the NPPF applies to the change in use of the woodland to the south of the village to a SANG.

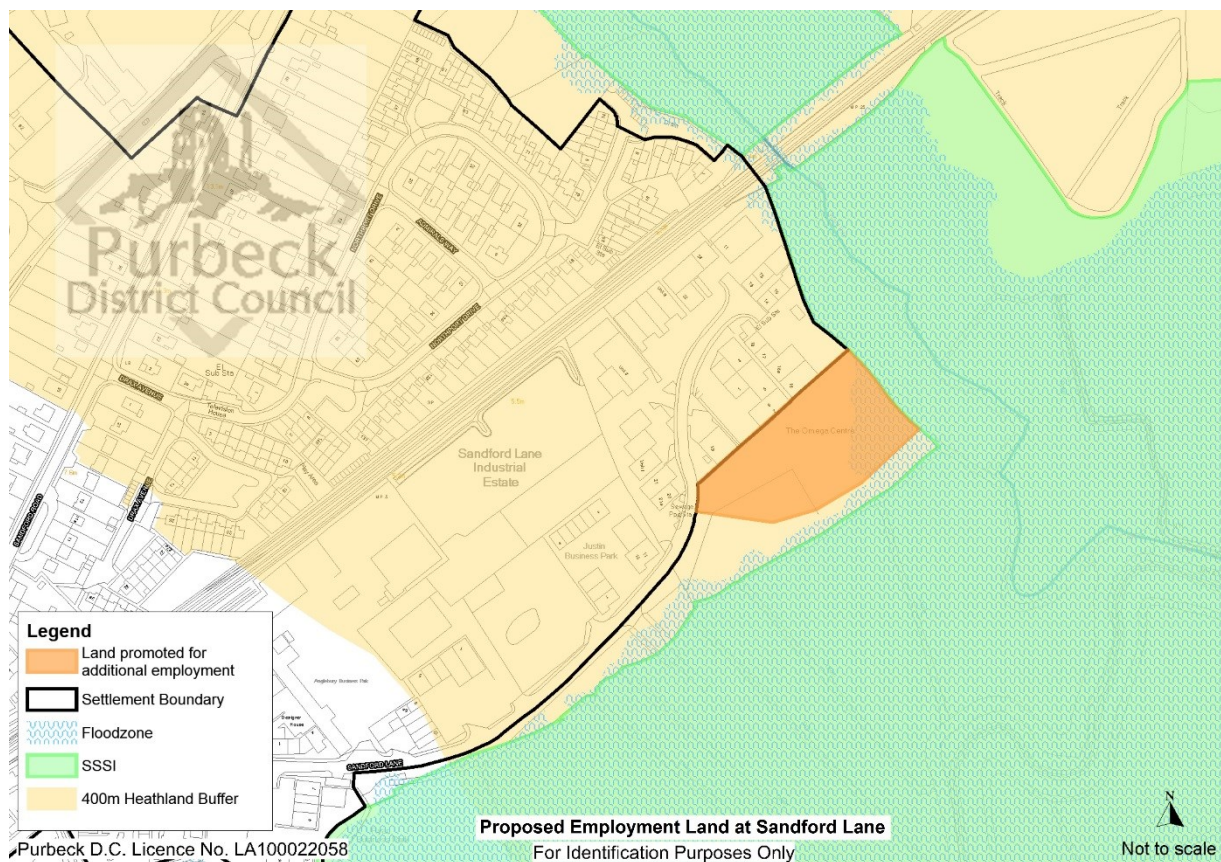
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<sup>41</sup> [http://www.dorsetaonb.org.uk/assets/downloads/Landscape\\_Character/LCA\\_valley\\_pasture.pdf](http://www.dorsetaonb.org.uk/assets/downloads/Landscape_Character/LCA_valley_pasture.pdf)



## Site assessments: potential impacts on the setting of the AONB

### Sandford Lane



198. This site is around 1ha in size and is proposed as an extension to Sandford Lane industrial estate. It falls on the edge of the AONB and therefore within its setting. Neither the Dorset AONB Partnership nor NE provided any landscape-related comments regarding this site.

199. The site relates well to the existing industrial estate and is bounded by vegetation to contain it. The Council does not believe that there would be impacts from development here that would cause harm to the landscape and scenic beauty of the nearby AONB. As the site does not fall within the AONB, paragraph 116 of the NPPF does not apply.

### Conclusion

200. The Council does not consider that paragraph 116 of the NPPF applies, but the Council will need to take account of the potential impacts on the setting of the AONB before deciding whether to allocate this land as part of the Local Plan Review.



## Conclusions on site assessments

201. The NPPF paragraph 116 assessment of sites are summarised in table 1 below.

Site	Major development in AONB?	Is there a need for the development?	Impacts on the local economy?	The costs and scope of developing elsewhere outside the AONB, or meeting need in some other way	Any detrimental effect on the: environment?	Any detrimental effect on the: landscape?	Any detrimental effect on: recreational opportunities?	Exceptional circumstances?
<b>West of Wareham</b>	Yes	Yes	Some direct benefits to the local economy	Sustainable sites for meeting housing needs outside the AONB	NE have not confirmed adverse impact on European sites can be avoided	Some, but can be moderated	No issue	Not able to demonstrate exceptional circumstances and in the public interest
<b>Wool (SANG)</b>	No	N/A	N/A	N/A	N/A	N/A	N/A	Tests do not apply
<b>Sandford Lane</b>	N/A – not in AONB	N/A	N/A	N/A	N/A	N/A	N/A	Tests do not apply
<b>Corfe Castle Depot</b>	No	N/A	N/A	N/A	N/A	N/A	N/A	Tests do not apply
<b>Norden Park and Ride</b>	Yes	Case not currently clear	Moderate gain if permitted	No reasonable alternatives	Some, but can be moderated	None	No issue	Currently does not pass tests – further information required

Table 1: site assessment summary

## Conclusions

202. The Council has produced this background paper in order to set out how proposed development sites in Purbeck meet the tests set by national planning policy and guidance in relation to the AONB.
203. To do this, section 1 provided the national and local contexts, dealing specifically with the Council's interpretation of paragraphs 115 and 116 of the NPPF's requirements for AONB development. It also looked at the evidence that the Council has used to take these assessment. Section 1 then analysed relevant local plan inspectors' reports and case law to see how the NPPF is being interpreted and applied in practice.
204. This led to an analysis in section 2 of possible development sites being considered through the Local Plan Review in the context of the findings of section 1. Looking at each of the NPPF's specific requirements separately, it provided a breakdown of each site and a clear conclusion as to whether exceptional circumstances could be demonstrated. A summary table is provided at the end of section 2.
205. Case law shows the importance for councils to provide clear justifications in order to demonstrate that they have given great weight to conserving landscape and scenic beauty in an AONB. The Council believes that this background paper sets out clear reasoning behind its conclusions and therefore forms a sound basis for justifying its decisions.

## Recommendations

206. This paper recommends the following:
- That there are not exceptional circumstances for allocating land to the West Wareham through the Local Plan Review.
  - The proposed SANG at Wool; and land at Sandford Lane in Wareham do not constitute major development in the AONB.
  - Further information is required to: a) ascertain the need for the Norden Park and Ride scheme and the sensitivity of the surrounding landscape to this development; and b) ascertain the potential impacts on landscape character and the setting of the heritage from development at the Corfe Castle depot site, in order for the Council to fully assess whether it would meet the NPPF's tests.

## Appendix 1: desktop review of post-NPPF local plans that cover AONB

Plan	Status	Cover in this paper?
Adur and Worthing Local Plan.	Emerging. Therefore, no inspector's report.	No.
Bath and North East Somerset Core Strategy	Adopted 2014.	Yes.
Blandford Neighbourhood Plan.	Emerging. Therefore, no inspector's report. However, it is worth noting that 400 dwellings and a school are proposed in the AONB.	No.
Chichester Local Plan.	Adopted 2015.	Yes.
Cornwall Council Site Allocations DPD	Emerging. Therefore, no inspector's report.	No.
East Devon Local Plan.	Adopted 2016.	Yes.
North Devon and Torridge Local Plan.	Emerging. Therefore, no inspector's report.	No.
North Dorset Local Plan Part 1.	Sites in the AONB will be considered through part 2 of the local plan, including a site for 800 dwellings at Blandford.	No.
Purbeck Local Plan Part 1	Adopted 2012. Includes 200 homes on the edge of Swanage in the AONB.	Yes.
Rother Local Plan.	Adopted 2014, but does not allocate sites. A forthcoming site allocations plan will.	No.
South Hams Local Plan.	Emerging. Therefore, no inspector's report.	No.
Sedgemoor Local Plan.	Emerging. Therefore, no inspector's report.	No.
Shepway Local Plan.	Adopted 2013, but does not allocate sites. A forthcoming site allocations plan will.	No.
Vale of White Horse Local Plan.	Inspector's interim findings issued.	Yes.
West Devon Local Plan.	Emerging. Therefore, no inspector's report.	No.
West Dorset Local Plan.	Adopted 2015.	Yes
West Somerset Local Plan.	Inspector's report issued, but not adopted.	Yes.