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Dear Ms Feeney,

**BABERGH AND MID SUFFOLK JOINT LOCAL PLAN EXAMINATION IN PUBLIC  
SUBMISSION TO EXAMINATION (INSPECTOR'S MATTERS AND QUESTIONS)  
MATTER 7 - ENVIRONMENT POLICIES**

We act on behalf of The Stour and Orwell Society, and previously submitted representations on their behalf in December 2020 to the Joint Local Plan Regulation 19 Stage consultation. Our representations focussed solely on Policy LP20 - Area of Outstanding Natural Beauty (AONB).

This submission addresses Matter 7.6 of the Inspector's Matters and Questions concerning Policy LP20 - AONB. It provides additional material for the Inspector's consideration and supplements the Stour and Orwell Society's previously submitted representations at both the Regulation 18 and 19 Stages.

**a) Is policy LP20 consistent with national policy?**

No. In our previous representations, we raised strong concerns that the proposed policy wording as drafted is inconsistent with the NPPF. Our chief concern was that the policy wording is too permissive. This approach is inappropriate when one considers that NPPF 172 requires "*great weight should be given to conserving and enhancing landscape and scenic beauty ... in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues*".

And that "*The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest*".

Therefore, national policy is clear that development within AONBs should be restricted. Policy LP20 should reflect this national approach. To be consistent with national policy, policy LP20 should highlight the importance of AONBs and provide clear reasons as to why the scale and extent of development within

AONBs will be limited and development restricted. Policy LP20 should explain that planning permission will be refused for major development within AONBs other than in exceptional circumstances, per the required national approach.

Whilst local planning policies should be positively prepared, the structure of Policy LP20 which begins by stating that the councils will support development in or near the AONBs provided that certain criteria are met, is inappropriate when contrasted with the national policy approach, which is clear that development should be limited, and major development approved only in exceptional circumstances. Policy LP20 makes no attempt to restrict or limit development consistent with the requirements of NPPF 172. Therefore, it is not consistent with national policy.

Since our previous representations, the Monkhill case<sup>1</sup> judgement has been handed down by the Planning Court of Appeal. The judgement provides important guidance on the way NPPF 172 should be applied, insofar as it confirms that harm to the qualities of an AONB can provide a clear reason for refusing permission for development within an AONB. The judgement highlights the imperative of ensuring the protection given to AONBs within NPPF 172 is recognised in decision making. It represents a new material consideration, in relation to the preparation of the Joint Local Plan, since the Plan was submitted for examination.

In January 2021, MHCLG published for consultation proposed changes to the NPPF. Of relevance, this introduces new text which states that in relation to AONBs, “*any development within their settings should be sensitively located and designed to avoid adverse impacts on the designated landscapes*”. Whilst this consultation document is not yet adopted policy, and supersedes the submitted Joint Local Plan, it highlights the Government’s proposed approach.

Our concerns with the draft policy, outlined within this submission, could be mitigated through alternative policy wording. We are aware of an AONB policy included within the Central Bedfordshire Local Plan, which has now been through Examination and is nearing adoption. For reference, the policy wording is as follows:

*The Chilterns Area of Outstanding Natural Beauty (AONB) is a nationally designated landscape and as such permission for major developments in the Chilterns AONB will be refused unless exceptional circumstances prevail as defined by national planning policy.*

*Planning permission for any proposal within the AONB, or affecting the setting or appreciation of the AONB, will be restricted to proposals that:*

- *conserve and enhance the Chiltern AONB’s special qualities, distinctive character, tranquillity and remoteness in accordance with national planning policy and the overall purpose of the AONB designation;*

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<sup>1</sup> Monkhill Ltd, R (On the Application Of) v Secretary of State for Housing, Communities and Local Government & Anor [2021] EWCA Civ 74 (28 January 2021)  
<https://www.bailii.org/ew/cases/EWCA/Civ/2021/74.html>

- *are appropriate to the economic, social and environmental wellbeing of the area or are desirable for its understanding and enjoyment;*
- *meet the aims of the statutory Chilterns AONB Management Plan, making practical and financial contributions towards management plan delivery as appropriate;*
- *avoid adverse impacts from individual proposals (including their cumulative effects), unless these can be satisfactorily mitigated.*

*Developments in the Chilterns AONB and its setting should respond to the landscape character (having considered all the relevant landscape character assessments) and be informed by landscape and visual impact assessment to understand the impacts of the proposed development on landscape character, and what options for mitigating negative impacts are possible.”*

The Central Bedfordshire policy is more consistent with national policy since it references the high thresholds set by national policy, refers to the need for the AONB Management Plan aims to be met, and calls for Landscape and Visual Impact Assessments (LVIA) to be submitted. These are all points raised by the Inspector’s Questions in respect of LP20, which we provide our response to below.

**b) Are the requirements of the policy clear, and would they be effective?**

No. As highlighted, the policy wording does not consistently reflect the national approach, since it contains no reference to how major development will be treated, or development within the settings of the AONB. Therefore, the policy requirements are not clear, when read alongside national policy. For the same reasons, the policy requirements will not be effective either since they will not regulate development proposals in accordance with the required national approach.

The requirements of policy LP20 are set out in a criteria-based approach, however it is not clear from the policy wording whether, to be acceptable, development proposals must comply with all relevant criteria. This is the approach that should be taken, since it reflects the fact that under the national approach, to give great weight to conserving and enhancing landscape and scenic beauty, the scale and extent of development should be limited, and major development only approved in exceptional circumstances. The policy wording should make it clear that proposals will only be considered if all the relevant criteria are met, to ensure these thresholds are upheld.

We also have concerns with the structure of policy LP20, since it contains a separate limb (paragraph 2), against which tourism and visitor related development will be considered. The requirements are not clear or effective because it is not clear whether tourism and visitor related development, needs

to be assessed against the first limb of the policy also. National planning policy makes no distinction between tourism and visitor related development, and non-tourism and visitor related development, because all development within the AONB must be treated the same (i.e., the scale and extent should be limited), in order that great weight is given to conserving and enhancing landscape and scenic beauty.

Tourism and visitor related development can be of a scale whereby it meets the definition of major development. In these circumstances, national planning policy states that it should be refused, unless there are exceptional circumstances. As presently drafted policy LP20 appears to invite tourism and visitor related development, whether major development or not, and sets a lower threshold against which such proposals will be assessed. This is neither clear nor effective and additionally, is inconsistent with national planning policy. As the NPPG states, *“All development in National Parks, the Broads and Areas of Outstanding Beauty will need to be located and designed in a way that reflects their status as landscapes of the highest quality.”*

**c) To be found sound does the policy:**

**i) Need to identify how development in the project areas and in the setting of the AONB will be assessed?**

Yes. To be found sound, the policy must be consistent with national planning policy. Therefore, we consider the suggested change is necessary due to the proposed changes to the NPPF which have been published for consultation (referred to above). These changes seek to elevate the importance of the settings of AONBs, and consideration of development proposals which affect these. Policy LP20 should reflect the direction of travel of national policy.

Additionally, the national planning practice guidance recognises that poorly located or designed development within the settings of AONBs can do significant harm. The NPPG states that *“Land within the setting of these areas often makes an important contribution to maintaining their natural beauty, and where poorly located or designed development can do significant harm. This is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary. Development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account.”*

Both the proposed changes to the NPPF, and the guidance contained within the NPPG, reveal the national planning policy approach and it is expected that local planning policy is consistent with this, to be found sound.

**ii) Refer to the need to conserve quality views and the distinctiveness of the AONB and to AONB management plans?**

Yes. Under Section 89 of the Countryside and Rights of Way Act (2000), a statutory duty is placed on local authorities to adopt and publish a plan for nationally designated areas such as AONBs.

National planning policy requires that *“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.”* The landscape and scenic beauty of these areas, which are recognised to be of national importance by virtue of their designation under the National Parks and Access to the Countryside Act (1949), plainly includes the quality views that exist, either within the AONBs, adjacent to them, or from within their settings.

The Suffolk Coast & Heaths AONB Management Plan 2018-2023, and the Dedham Vale AONB and Stour Valley Management Plan 2016-2021 were prepared to fulfil these duties and they outline how relevant authorities will pay regard to the purposes of the AONB. The latter was consulted on earlier this year, and both are up-to-date documents. No reference is made to the AONB Management Plans within the first limb of policy LP20. Although reference is made within the second limb, as highlighted above this has the potential to create uncertainty as to whether or not the requirements of limb one apply to tourism and visitor related development and vice versa. Within both Management Plans, the quality of views is highlighted as being of particular value.

**iii) Refer to potential future extensions to the AONB?**

Yes. Whilst the supporting text to policy LP20 at paragraph 15.27 recognises the existence of such areas which are not formally designated as AONB, and therefore do not enjoy the same protections, there is support for the extension of the AONB to include part of the Stour Valley Project Area, and an application to vary the boundary of the Dedham Vale AONB has been registered.

Evidence exists to show that the areas meet the criteria for designation, therefore for these reasons, and to avoid uncertainty should the designated area change, it would be appropriate for policy LP20 to recognise that the AONBs may be subject to extension in future, and that if this occurs, policy LP20 will apply to the AONB areas as extended.

iv) **Require that proposals are accompanied by a Landscape and Visual Impact Assessment?**

Yes. As presently worded, the requirements of policy LP20 contain criteria which require planning applications to demonstrate, for example, that the proposed development “*conserves and enhances the landscape and scenic beauty*”. Since such matters are subjective, and these areas are of national importance which should benefit from “*the highest status of protection*”, there must be a consistent and rigorous approach to the assessment of development, and the impacts of development.

LVIA's are commonplace elsewhere where development is proposed within highly sensitive natural or historic environments, since they provide an appropriate and clear framework for impacts to such areas to be described, assessed, and understood. This approach benefits applicants, local planning authorities, members of the public, consultees and interested parties, and decision makers.

Policy LP20 should be amended to introduce a requirement for all development proposals within the AONBs, adjacent to the AONBs, and within the settings of the AONBs, to submit an LVIA so that the impacts of development proposals can be described and assessed. This approach is justified and would ensure that policy LP20 is effective, in order to be found sound.

We trust that the Inspectors will take this submission, submitted on behalf of the Stour and Orwell Society, alongside our earlier representations at the Regulation 19 stage, into account. We look forward to discussing these at the forthcoming Examination.

Yours sincerely,

[Redacted Signature]

**Martin Robeson**

[Redacted Address]