

15<sup>th</sup> July 2016

Dear Mrs Arnold

**WEST SOMERSET LOCAL PLAN MAIN MODIFICATIONS CONSULTATION - RESPONSE TO MM26**

Thank you for consulting Exmoor National Park Authority on the Main Modifications to the West Somerset Local Plan.

We note that the main modifications do not include a proposed change to incorporate the market figure arising from within the West Somerset area of the National Park within the housing provision figure for the West Somerset Local Plan as previously requested by the National Park Authority as part of Duty to Co-operate discussions.

National Park purposes are to conserve and enhance their natural beauty, wildlife and cultural heritage and to promote opportunities for the understanding and enjoyment of their special qualities by the public. National Parks and Areas of Outstanding Beauty have the highest status of protection in relation to landscape and scenic beauty<sup>1</sup>.

National guidance states that the legislation underpinning AONBs and National Parks (Section 85 of the Countryside and Rights of Way Act 2000) and Section 11A(2) of the National Parks and Access to the Countryside Act 1949), require that 'in exercising or performing any functions in relation to, or so as to affect, land' in National Parks and Areas of Outstanding Natural Beauty, relevant authorities 'shall have regard' to their purposes. A list of the public bodies and persons covered under "relevant authorities" is found in Defra guidance on the 'have regard' duty. It adds that Natural England has published good practice guidance on the 'have regard' duty.

It notes that this duty is particularly important to the delivery of the statutory purposes of protected areas. The duty applies to all local planning authorities, not just national park authorities. The duty is relevant in considering development proposals that are situated

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf), paragraph 115

outside National Park or Area of Outstanding Natural Beauty boundaries, but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas.<sup>2</sup>

Exmoor National Park Authority welcomes the insertion of new policy NH11: Nationally Designated Landscape Areas as a main modification. Its inclusion in the Local Plan is consistent with the above guidance<sup>3</sup>

While welcoming the policy, the National Park Authority considers that the policy wording requires amendments in order to properly reflect the legal framework governing protected areas and to be effective. It therefore suggests the following changes which are set out below. In particular the changes seek to ensure that regard will be had to the specific and different statutory purposes of the AONB and National Park, to avoid harm and to ensure that the impacts of development proposals on the protected areas and their setting will be acceptable. As such it is not considered necessary or effective to set out different tests for ‘major’ and ‘small scale’ development for areas outside the National Park. The reference to ‘significant’ in paragraph 2 is considered to be unclear and could result in development which would conflict with the statutory purposes of the AONB or National Park.

### **Policy NH11: Nationally Designated Landscapes and their Settings**

**MAJOR DEVELOPMENT PROPOSALS WITHIN THE QUANTOCK HILLS AREA OF OUTSTANDING NATURAL BEAUTY WILL ONLY BE SUPPORTED WHERE THEY CAN DEMONSTRATE THAT;**

- A. THERE IS AN OVER-RIDING ESSENTIAL NEED FOR IT IN THAT LOCATION; AND,**
- B. IT CANNOT BE PROVIDED IN ANOTHER, MORE SUSTAINABLE LOCATION; AND,**
- C. THE DETRIMENTAL IMPACT ON THE ENVIRONMENT, LANDSCAPE AND, RECREATIONAL OPPORTUNITIES CAN BE MODERATED.**

**WHERE DEVELOPMENT IS LIKELY TO AFFECT THE QUANTOCK HILLS AONB OR EXMOOR NATIONAL PARK, REGARD WILL BE HAD TO THEIR STATUTORY PURPOSES.**

**DEVELOPMENT WHICH WILL CONFLICT WITH THE ACHIEVEMENT OF THE STATUTORY PURPOSES OF THE AONB OR THE NATIONAL PARK, OR THEIR SETTINGS OR WHICH WILL ADVERSELY AFFECT THE UNDERSTANDING OR ENJOYMENT OF THE NATIONAL PARK’S SPECIAL QUALITIES, WILL NOT BE PERMITTED. APPLICATIONS FOR DEVELOPMENT SHOULD HAVE REGARD TO LOCATION, SITING, ORIENTATION, AND LANDSCAPING TO ACHIEVE HIGH QUALITY DESIGN AND TO ENSURE THAT THE PROPOSALS CONSERVE OR ENHANCE THE**

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<sup>2</sup> CLG (2012) National Planning Policy Framework paragraph: 003 Reference ID: 8-003-20140306

<sup>3</sup> Section 11A (2) of the Environment Act 1995 states that “in exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the [National Park purposes specified in subsection (1) of section five of this Act] and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park”



**NATURAL BEAUTY, WILDLIFE, CULTURAL HERITAGE AND TRANQUILLITY OF THE AONB OR THE NATIONAL PARK AND THEIR SETTINGS.**

Yours sincerely

*David Wyborn*

David Wyborn

Head of Planning & Sustainable Development

