

What constitutes Major Development in an AONB?

1 Introduction

Woodcote is a compact village (with approximately 1,000 houses) that is located entirely within the Chilterns AONB (the AONB) in South Oxfordshire. The village is located on the Chilterns Escarpment with some parts visible from the North Wessex Downs AONB.

The emerging South Oxfordshire Local Plan 2033 (SOLP33) suggests that up to 160 new homes should be built in the village. There is no open land in the village and thus to comply with the suggestions in the SOLP33 would require substantial loss of greenfield sites in the Chilterns AONB.

National and local planning policies seek to protect designated areas such as Areas of Outstanding Natural Beauty (AONBs). There is a presumption against approval of major developments in an AONB unless there are exceptional circumstances. Development in Woodcote is not significant nationally nor does the SOLP33 advance any exceptional circumstances thus the determination of what is, or is not, a suitable site hinges on what can be considered 'major development'.

Unfortunately, planning policy does not define major development. Instead it is left to planners to decide whether a planning application represents a major development and to those allocating development sites in an AONB to make a reasoned and reasonable judgement.

This document considers the policies, legal and policy decisions and recent local planning and appeal decisions to identify criteria that can be used to assess whether a development is major in the context of Woodcote and further identifies how these may be used for evaluation of sites for Woodcote's updated Neighbourhood Plan.

2 Planning Policy

Paragraph 11 of the latest version of the **National Planning Policy Framework (NPPF)** states that there is a presumption in favour of sustainable development unless policies in the NPPF provide strong reasons for restricting development. This applies to both decision making and plan making. Paragraphs 176 and 177 place great weight on conserving and enhancing landscape in AONBs and indicate that planning permission should be refused for major developments:

'176. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.'

'177. When considering applications for development within a National Park, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

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

The Planning Practice Guidance on the Natural Environment¹ restates the NPPF requirements for AONBs and says that:

Planning permission should be refused for major development in a National Park, the Broads or an Area of Outstanding Natural Beauty except in exceptional circumstances and where it can be demonstrated to be in the public interest

The **South Oxfordshire Local Plan 2035** also requires the conservation of landscape in AONBs and protects against major developments and includes policy **ENV1: Landscape and countryside**² which states *'The highest level of protection will be given to the landscape and scenic beauty of the Chilterns and North Wessex Downs Areas of Outstanding Natural Beauty (AONBs)..... South Oxfordshire's landscape, countryside and rural areas will be protected against harmful development. Development will only be permitted where it protects and, where possible enhances, features that contribute to the nature and quality of South Oxfordshire's landscapes.'*

3 Legal Opinion and Appeal Decisions

The question of what constitutes a major development in an AONB has been tested judicially, at appeal and by seeking legal opinion.

3.1 Court Decisions

The Town and Country Planning (Development Management Procedure) Order 2010 Article 2 includes in its definition of major development³ the provision of *dwelling-houses where the number of dwelling-houses to be provided is 10 or more or the development is to be carried out on a site having an area of 0.5 hectares or more, and development carried out on a site having an area of 1 hectare or more.'*

In **Aston v Secretary of State for Communities and Local Government** [2013] EWHC 1936 (Admin)⁴,

The judge concluded that:

- *'the word major has a natural meaning in the English language albeit not one that is precise'; and*
- *'to provide a precise definition would mean that the phrase has an artificiality which would not be appropriate in the context of national planning policy'.*

In another judgement, in **R. (Forge Field Society) v Sevenoaks DC** [2014] EWHC 1895 (Admin)⁵, the judge affirmed the approach taken in the Aston case in defining "major development" according to "the normal meaning to be given to the phrase" and confirmed that the decision as to whether or not a development was "major development" was a matter of planning judgement.

These judgements would appear to confirm that the determination of whether an application is "major development" is fact-specific and a matter of judgment for the decision maker. In so doing, and as the judge in the Aston case refers to the natural meaning of the word major in the English language, then the Oxford English Dictionary definition which is "Important, serious or significant" is relevant.

3.2 Appeal Decisions

A review of various appeal decisions that have addressed the meaning of major development makes it clear that size alone is not a sufficient indication of whether a development is a major

¹ Attachment A1

² Attachment A2

³ Attachment A3

⁴ Attachment A4

⁵ Attachment A5

development. The context must also be taken into consideration. Factors such as the location and size of the settlement affect the decision.

- i. In APP/Y2736/A/13/2197184, Land to the rear of Station Road, Ampleforth (decision dated 13 November 2013), a development of 30 housing units was found not to constitute a major development in the context of the existing village development⁶.
- ii. In APP/D3830/A/13/2198213, Land at Handcross, West Sussex (decision of 1 May 2014), a development of between 75 – 90 dwellings, with accompanying care home, was proposed in an AONB. The Secretary of State agreed with his Inspector that the proposal was “major development” for the purposes of paragraph 116 of the NPPF.⁷
- iii. In APP/U1105/A/14/2211701, Land adjacent to Badger Close, Newton Poppleford, Devon (decision of 11 June 2014) a development of c.46 dwellings was proposed within an AONB. In dismissing the appeal, the Inspector noted that when deciding what was a major development in the AONB it was matter for the relevant decision taker, taking into account the proposal in question and the local context and that the Council’s view that the size (approximately 5% of the size of the existing settlement), visibility, site levels and landform meant that the requirements of paragraph 116 of the Framework apply⁸.
- iv. In APP/P1615/A/13/2204158, Land off Reddings Lane, Staunton, (Coleford) Gloucestershire (decision of 23 June 2014), 15 residential units were proposed with public open space within an AONB. The Inspector refused the appeal commenting on the substantial harm to the AONB arising from the relative size of the development and to the location and extent of development in recent years⁹
- v. In APP/C3621/A/11/2159362. Land to the rear of Springfield Road, Dorking (decision of 30 April 2012) the Inspector considered that “major development” may include both published and “common sense” criteria. He found that a development of 14 dwellings was not “major development” on any criteria.¹⁰
- vi. In App/L3815/A/13/2208162. Land to the south of Church Lane, Birdham, West Sussex (46 dwellings) (decision 21 July 2014) the inspector concluded that a development of this scale, in a village in an AONB, and particularly within the open and semi-rural, transitional part of the village adjacent to its historic core, can reasonably be concluded to be major development¹¹.
- vii. In App/Q3115/W/16/3146109. Land at Manor Road, Goring-on-Thames, Oxfordshire (35 dwellings) (decision 21 September 2016) the Inspector concluded that 35 dwellings compared with a core strategy requirement of 105 dwellings represented a significant proportion of the requirement and, therefore, concluded that this was “major development”.¹²
- viii. In App/ V3120/W/16/3153209. Land to the north of Lower Road, Chilton, Oxfordshire, OX11 ORR (40 dwellings) (decision of 4 November 2016) the Inspector considered that an increase of 11% of the size of the settlement presented a “major development” and that there were no exceptional circumstances to justify the development.¹³

⁶ Attachment A6

⁷ Attachment A7

⁸ Attachment A8

⁹ Attachment A9

¹⁰ Attachment A10

¹¹ Attachment A11

¹² Attachment A12

¹³ Attachment A13

3.3 Legal Opinion

In 2014, the South Downs National Parks Authority asked James Maurici QC for a legal opinion on the determination of whether an application is ‘major development’ as written in para. 116 of the NPPF. He set out¹⁴ a set of principles – derived from the caselaw, guidance and appeal decisions - to be used by decision makers when making that judgement. In essence his view is that:

- The overarching principle is that the determination of whether a proposal amounts to “major development” for the purposes of paragraph 116 of the NPPF is a matter of planning judgment to be decided by the decision maker in light of all the context of the application site.
- The decision maker must consider the application in its local context. In so doing it is important to keep in mind the ordinary, common sense, meaning of the word “major”.
- The decision maker may consider whether the development has the potential to have a serious adverse impact on the natural beauty of the AONB by reason of its scale, character or nature. However, that does not require (and ought not to include) an in-depth consideration of whether the development will have such an impact. A *prima facie* assessment of the potential for such impact, in light of the scale, character or nature of the proposed development is sufficient.

4 Assessing the Potential Impact

The conclusion from the above legal opinion and appeal decisions is that ‘major development’ cannot be determined by scale alone but requires an assessment rooted in the local context. To provide this context the Woodcote Neighbourhood Plan considers the factors listed below to identify ‘major development’:

4.1 Contiguity

Anything more than a few houses on a site that is not contiguous with the existing built area of a settlement in an AONB has the potential for a significant impact on the AONB greater than the development as it creates opportunities for significant infill and must be considered as a major development.

4.2 Relative size

The size of a development is not enough to define it as major. The size must be taken in context, particularly in relation to the current size of the settlement. A development that would be considered as major in a medium sized village may not be significant in a large town. The Inspector in the Poppleford appeal decided that a 5% increase in the size of village (46 dwellings) should be considered as major development but noted that a second development of 39 dwellings (4% increase) in another location in the same village had not been considered by the LPA to be a major development because of the location of the development away from the main entrance into the village.

In the Goring appeal, the Inspector decided that 35 houses out of a core strategy requirement for 105 houses represented a significant proportion of the requirement for additional housing and, therefore, constituted major development.

In addition, when evaluating sites for inclusion in a Neighbourhood Plan, consideration must be given to proximity to other possible development sites which would combine to form one much larger site which would then be a major development.

¹⁴ Attachment A14

4.3 Location

The location of the development relative to the built-up area is critical in assessing whether an application is major. If the site is enclosed within the built area it is unlikely to have a significant impact on the AONB. A development that extends the boundary of a settlement (such as backland development) is more likely to have an impact on the AONB. Between these extremes, development that fills a gap in the built frontage but does not extend beyond the rear of the curtilages of adjacent properties is less likely to have an impact on the AONB unless it is a large development.

4.4 Visibility

The visibility of a development in the AONB, particularly from public rights of way, suggests that the development has a potential impact on the AONB. Similarly, if views from the settlement into the AONB would be affected, this would also imply that there is a potential impact on the AONB. Note that mitigation measures to hide the view into a development may resolve the visibility issue but do not change the fact that landscape in the AONB has been lost.

4.5 Landscape character

If the landscape in the immediate vicinity of the settlement is typical of the landscape character in the AONB then even small developments will potentially have a significant impact on the AONB causing loss of typical landscape character.

4.6 Greenfield vs brownfield

The requirement to conserve and enhance the natural beauty of the landscape means brownfield sites will normally have less impact on the AONB and be more acceptable than greenfield sites.

4.7 Residents opinion

Although local opinion carries very little weight in determining planning applications, it is relevant when evaluating sites for inclusion in a Neighbourhood Plan where the plan must pass a referendum. Protection of valued views, a preference for smaller sites, and local impact on infrastructure are all factors that contribute to the local context.

5 Implications for Woodcote

Woodcote is classed as a large village (with approximately 1,000 houses) that is located entirely within the Chilterns AONB with parts visible from the North Wessex Downs AONB. The village is located on the Chilterns Escarpment. According to the South Oxfordshire Landscape Assessment (SOLA) the escarpment is characterised by:

- *flat or gently sloping landform dissected by valleys, particularly in the northern section around Crowell Hill;*
- *strong structure of woodland and valley landform creates an attractive, intimate and enclosed character;*
- *dominance of semi-natural broad-leaved woodland of high nature conservation value;*
- *generally rural character but with some intrusion of built development around Woodcote; and*
- *low intervisibility.*

The mixture of woodland and enclosed intimate spaces is typical of the immediate surroundings of the village. This characteristic was noted and was a key consideration in the appeal APP/Q3115/A/14/2223330 Land at 'Goats Gambol', off Beech Lane, Woodcote. The Inspector observed that:

24. *The landscape of the Chiltern escarpment in South Oxfordshire is described in the Character Assessment report as the most visually distinctive in the district, with gentle slopes and a mosaic of woodland, scrub and open grassland, which give it an intimate, enclosed character. The appeal site*

comprises an enclosed area of grass paddocks, bounded by woodland and a tree belt, and thus exhibits several of these characteristics. As such, it seems to me that the site represents a good example of the type of landscape that the AONB designation, and CS Policy CSEN1, are intended to recognise and protect.

25. *The effect of the development would be to change the site from its present mainly undeveloped state, into a fully developed housing site with roads and buildings. This would mean the loss of those characteristics which best reflect the local landscape's prevailing character and distinctiveness. The effect would thus be damaging to the AONB, and to the character and appearance of the area generally.*

Two sites that were the subject of planning applications were considered to be major developments by SODC:

- Hilltop Field. This is large site on the edge of the village, partially enclosed by existing housing. The site is visible from the Chilterns AONB and parts of the North Wessex Downs AONB. The application was for 115 houses and was refused by SODC in 2011.
- Land behind Bridle Path. This is another large site located behind the row of houses in Bridle Path. It is therefore backland development that extends the boundary of the village into the typical landscape of the AONB. The application was for 65 houses and was rejected by SODC in 2016.

6 Implications for Woodcote NP Site Evaluation

The evaluation of sites submitted for development in Woodcote uses 41 criteria. Within these are 13 criteria used to determine whether development of the site would represent a major development and/or have a significant impact on the AONB. These are derived from the considerations set out in section 4 and consist of the following questions.

- Is the site contiguous with the built area of the Village?
- Is the size larger than 1.5HA?
- Is the landscape designated and characteristic of AONB?
- Is the site bounded by development or natural boundaries for at least 75%?
- Does the site abut another potential or allocated site?
- Does the site extend the boundary of the village beyond the existing build line?
- Does the site have features that detract from local character?
- Does the site have attractive natural features that would be affected by development?
- Is the site visible from nearby public open spaces?
- Would the development impact important views out of the village?
- Would the development impact upon an important view into the village?
- Is the site brownfield (i.e. currently developed)?
- Have planning applications in the last 10 years been refused because of the impact on the AONB (ie has the local planning authority previously determined that the development is either major or has a significant impact on the AONB)?

As a result of this evaluation process, a number of medium and large sites on the periphery of the village were identified as major developments and eliminated from the list of potential sites for development. A number of smaller sites that do not significantly extend the boundary of the village have been identified.

ATTACHMENTS

Attachment A1

The Planning Practice Guidance on the Natural Environment contains the following paragraph (NB reference to paragraph 116 relates to the previous version of the NPPF – this has been replaced by paragraph 176 in the latest version):

‘How is major development defined in National Parks and Areas of Outstanding Natural Beauty, for the purposes of the consideration of planning applications in these areas?’

Planning permission should be refused for major development in a National Park, the Broads or an Area of Outstanding Natural Beauty except in exceptional circumstances and where it can be demonstrated to be in the public interest. Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable.

Paragraph: 005 Reference ID: 8-005-20140306

Revision date: 06 03 2014’

Attachment A2

The emerging South Oxfordshire Local Plan 2033 also supports the conservation of landscape in AONBs and protects against major developments and includes policy **ENV1: Landscape and countryside** which requires that

1. *The highest level of protection will be given to the landscape and scenic beauty of the Chilterns and North Wessex Downs Areas of Outstanding Natural Beauty (AONBs).*
 - a. *Development in an AONB or affecting the setting of an AONB will only be permitted where it conserves, and where possible, enhances the character and natural beauty of the AONB;*
 - b. *Development in an AONB will only be permitted where it is appropriate to the economic and environmental wellbeing of the area or promotes understanding or enjoyment of the AONB;*
 - c. *Major development in an AONB will only be permitted in exceptional circumstances and where it can be demonstrated to be in the public interest; and*
 - d. *Development proposals that could affect the special qualities of an AONB (including the setting of an AONB) either individually or in combination with other developments, should be accompanied by a proportionate Landscape and Visual Impact Assessment.*

AONB Management Plans will be a material consideration in decision making.

2. *South Oxfordshire’s landscape, countryside and rural areas will be protected against harmful development. Development will only be permitted where it protects, and where possible enhances, features that contribute to the nature and quality of South Oxfordshire’s landscapes, in particular:*
 - i) *Trees (including individual trees, groups of trees and woodlands), hedgerows and field boundaries;*

- ii) *Irreplaceable habitats such as ancient woodland and aged or veteran trees found outside ancient woodland;*
 - iii) *The landscapes, waterscapes, cultural heritage and user enjoyment of the River Thames, its tributaries and flood plains;*
 - iv) *Other watercourse and water bodies;*
 - v) *The landscape setting of settlements or the special character and landscape of Oxford;*
 - vi) *Topographical features;*
 - vii) *Areas or features of cultural and historic value;*
 - viii) *Important views and visually sensitive skylines; and*
 - ix) *Aesthetic and perceptual factors such as tranquility, wildness, intactness, rarity and enclosure.*
3. *Development which supports economic growth in rural areas will be supported provided it conserves and enhances the landscape, countryside and rural areas.*
4. *The Council will seek the retention of important hedgerows. Where retention is not possible and a proposal seeks the removal of a hedgerow, the Council will require compensatory planting with a mixture of native hedgerow species.*

Attachment A3

The Town and Country Planning (Development Management Procedure) Order 2010 Article 2 defines major development as development involving any one or more of the following:

- ‘(a) the winning and working of minerals or the use of land for mineral-working deposits;*
- (b) waste development;*
- (c) the provision of dwelling-houses where –*
- (i) the number of dwelling-houses to be provided is 10 or more; or*
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);*
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or*
- (e) development carried out on a site having an area of 1 hectare or more.’*

Attachment A4

In ***Aston v Secretary of State for Communities and Local Government*** [2013] EWHC 1936 (Admin), Mr Harwood QC argues that this definition should apply to the interpretation of major development in paragraph 116 of the NPPF and that the Inspector in the related appeal had been wrong to treat a development of 14 houses as not being a major development.

The Judge Wyn Williams disagreed:

‘Despite Mr Harwood’s persuasive submissions I do not accept that the phrase “major development” should have a uniform meaning wherever it may appear in a policy document, procedural rule or Government guidance provided the context is town and country planning and, I presume, no contrary meaning is provided in the policy document, rule or guidance. Rather, it seems to me much more appropriate that the term should be construed in the context of the document in which it appears. In my judgment the context of the NPPF and paragraphs 115 and 116 in particular militate against the

precise definition which Mr Harwood QC suggests should attach to the phrase “major development”. The word major has a natural meaning in the English language albeit not one that is precise. In my judgment to define “major development” as precisely as suggested by Mr Harwood QC would mean that the phrase has an artificiality which would not be appropriate in the context of national planning policy. As Mr Kolinsky points out in his skeleton argument the Regulations in which the phrase major development is defined are procedural in nature as is the guidance contained within Circular 02/2009 which is also relied upon by Mr Harwood QC – a point with which Mr Harwood QC did not disagree. I do not consider it appropriate to import a definition which may be sensible and desirable in Regulations or guidance concerned with procedural matters into a document intended to form a detailed policy framework.

I am satisfied that the Inspector made no error of law when he determined that the meaning of the phrase major development was 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.'

This appears to confirm that the determination of whether an application is “major development” is fact-specific and a matter of judgment for the decision maker.

Attachment A5

This was also confirmed in **R. (Forge Field Society) v Sevenoaks DC** [2014] EWHC 1895 (Admin), where Lindblom J affirmed the approach adopted by Wyn Williams J in defining “major development” according to “the normal meaning to be given to the phrase” and confirmed that the decision as to whether or not a development was “major development” was a matter of planning judgement. The judge said:

‘In his “Late Observation Sheet” the officer referred to the presumption against “major developments” in Areas of Outstanding Natural Beauty. He noted that the NPPF “does not define major development”, but that the Town and Country Planning (Development Management Procedure) Order 2010 (“the Development Management Procedure Order”) “defines major residential development as 10 or more dwelling houses”. On this definition he did not regard the scheme as major development of the kind to which paragraph 116 of the NPPF would apply.

*Mr Strachan made two main submissions on this ground... Mr Strachan's second submission was that the officer also misdirected the committee on the question of whether the proposal was for “major development” in the AONB. As was held in **R. (on the application of Aston) v Secretary of State for Communities and Local Government** [2013] EWHC 1936 (Admin), this is not a question to be decided merely by using the definition of major development in article 2(1) of the Development Management Procedure Order.*

I cannot accept either of those submissions.

Mr Strachan's second submission, that the Council ought to have treated this development of six affordable dwellings as a “major development” in the AONB, is not an attractive argument either. Nor, in my view, is it supported by the decision of Wyn Williams J. in Aston.

*The officer's advice in the “Late Observation Sheet” that the proposed development was not “major development” within the scope of policy in paragraph 116 of the NPPF was consistent with common sense, and also with the view of the inspector in **Aston** that a scheme for 14 dwellings was not “major development”. In his judgment in that case (at paragraphs 91 to 95) Wyn Williams J. rejected the submission that the term “major development” when used in paragraph 116 of the NPPF had the same meaning as it does when used in the Development Management Procedure Order. As he said (at paragraph 91), the NPPF “does not define or seek to illustrate the meaning of the phrase “major developments”. In his view, with which I agree, that concept should be understood in the context of*

the document in which it appears, and in paragraphs 115 and 116 of the NPPF the context militates against importing the definition of “major development” in the Development Management Procedure Order. In this context I think “major developments” would normally be projects much larger than six dwellings on a site the size of Forge Field. But in any event it was clearly open to the Council to conclude that the proposed development in this case was not a major development to which the policy in paragraph 116 applied. This too was an entirely reasonable exercise of planning judgment, and the court should not interfere with it.

I therefore reject this ground of the claim.’

Since the judge in Aston refers to the natural meaning of the word major in the English language, it is relevant to consider the definition of the word major in the Oxford English Dictionary which is “Important, serious or significant”.

Attachment A6

Several appeal decisions have addressed this question of the meaning of major development.

In APP/Y2736/A/13/2197184, Land to the rear of Station Road, Ampleforth (decision dated 13 November 2013), a development of 30 housing units was proposed on a 1ha agricultural site within an AONB, abutting, but outside of, the existing built up area as defined in the Local Plan. Relying on **Aston**, the Inspector rejected the submission that the “major development” should be construed in line with the 2010 Order. She found that “this development of 30 houses, in the context of the existing village development does not constitute major development for the purposes of paragraph 116 of the Framework”.

Attachment A7

In APP/D3830/A/13/2198213, Land at Handcross, West Sussex (decision of 1 May 2014), a development of between 75 – 90 dwellings, with accompanying carehome, was proposed in an AONB. In finding that the proposal was “major development” for the purposes of paragraph 116 of the NPPF, the Secretary of State agreed with the following reasoning by his Inspector:

‘87. Para 116 of the NPPF indicates that permission should be refused for major developments in the AONB other than in exceptional circumstances where the proposal is in the public interest. There is no agreed definition of “major development” and whether a proposal falls into this category is a matter of fact and degree, and subject to the context of the site. It is certainly the case that the Cuckfield appeal decision concluded that it referred to projects of national significance in relation to the definition in the Planning Policy Statement 7 which applied at the time. On the other hand, the judicial opinion quoted by the Council in the “Aston” Case suggests that “major” should take on its natural meaning. In the present context, a scheme of 75 or 90 houses would fall into the normal interpretation of the word “major” in relation to the size of the village. There is not a compelling case that para 116 refers only to schemes of national or regional significance and, on balance, there is adequate reason to consider that these schemes are major developments to which the paragraph applies.

88. In reaching this conclusion, account is taken of the appellants’ suggestion that para 116 is intended to capture schemes which have a major effect on the AONB, which they consider does not apply to the present appeals. However, the wording of para 116 refers to major developments rather than effects. It lies with the assessment carried out in accordance with the third bullet point of the paragraph to establish the level of any effect. A limited degree of harm, or the potential for mitigation, would clearly count in favour of the proposal when establishing whether exceptional circumstances apply.’

Attachment A8

In APP/U1105/A/14/2211701, Land adjacent to Badger Close, Newton Poppleford, Devon (decision of 11 June 2014) a development of c.46 dwellings was proposed within an AONB. In dismissing the appeal, the Inspector noted:

'At paragraph ref. 8-005-20140306, the national Planning Practice Guidance (PPG) states that the matter of whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. It is the Council's view that the appeal scheme comprises a major development in these terms. It was stated at the Hearing that a development of the size of the appeal scheme would be approximately 5% of the size of the existing settlement of Newton Poppleford. In the context of the village, and in the light of the scheme's visibility from a main approach road as described in respect of viewpoint 3, this seems to me to be a significant addition. Accordingly, I agree with the Council's assessment of this matter. The requirements of paragraph 116 of the Framework therefore apply.

26. It was stated at the Hearing that the Council took a different view when assessing the King Alfred Way scheme, which as already noted would be of a similar size to that now proposed. Clearly, that is a matter for the Council. However, I note that, unlike the present scheme, the King Alfred Way does not adjoin a main approach road into the village: it also differs from the appeal site in terms of its site levels and landform. While the appellant refers to an appeal decision in Tetbury within the Cotswold AONB, where a 39 dwelling scheme was deemed to not comprise major development, my assessment is based upon the local context of the present proposal, as is required by the PPG.'

Attachment A9

In APP/P1615/A/13/2204158, Land off Reddings Lane, Staunton, (Coleford) Gloucestershire (decision of 23 June 2014), 15 residential units were proposed with public open space within an AONB. The Inspector found that the development would cause substantial harm to the AONB. He then noted as follows:

'20. There were differences of views at the inquiry on whether the proposal represented a "major" scheme in the context of paragraph 116 of the Framework and the appellant referred to a number of decisions in support of their argument that it was not major. However, relative to the limited size of Staunton and to the location and extent of development in recent years, I regard the proposal to represent a major scheme for which planning permission should be refused.'

Attachment A10

In APP/C3621/A/11/2159362. Land to the rear of Springfield Road, Dorking (decision of 30 April 2012) the Inspector considered that "major development" may include both published and "common sense" criteria. He found that a development of 14 dwellings was not "major development" on any criteria.

Attachment A11

In App/L3815/A/13/2208162. Land to the south of Church Lane, Birdham, West Sussex (46 dwellings) (decision 21 July 2014) the inspector considered whether the application represented major development and made the following comments:

39. The harm I have identified must be considered in terms of the scale of the development and whether it should be viewed as major development. I consider that this is not solely a function of the effect it may have, albeit the scale of the development is relevant in terms of the potential for impact. Nor can there be a simple overarching definition, such as that set out in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

40. *There is no definition of major development in the Framework, and the Planning Practice Guidance, published in March 2014, sets out that whether a development can be considered major will be a matter for the relevant decision taker, taking into account the proposal in question and the local context.*

41. *The Council officers originally concluded that it should not be considered as a major development. In their report they commented on a Secretary of State decision near Tetbury, where 39 dwellings in the AONB were not considered to represent major development, although I note in this case there was common agreement between the parties on this matter. The report also refers to the scale of the scheme being local rather than strategic and the lack of a requirement for Environmental Impact Assessment. This conclusion is now challenged by the Council and the Rule 6 parties.*

42. *The officers' approach was reflective of a number of other Inspector or Secretary of State decisions to which I was referred, albeit there seems to have been a range of criteria considered to reach conclusion on this matter. That focussing on schemes being of national rather than local scale is not one that I support, nor is it supported by the most recent guidance. Indeed the most recent Secretary of State decisions⁷ at Handcross, where 75 or 90 houses and a care home were both found to be major development, considered that 'major' should be taken on its natural meaning, and refers to the development rather than its effects.*

43. *The Council and Rule 6 parties argue that 46 houses in a village the size of Birdham and within such a small AONB should properly be considered major development. In the context of the Planning Practice Guidance, I consider that it is reasonable to consider the scale of development against the capacity of the local area for development. Thus a direct comparison with scale of the Tetbury decision, 39 houses, or the Handcross decision, 75 houses, would not be correct and an understanding of the context is necessary.*

44. *In this case, I consider that a development of this scale, in a village in an AONB, and particularly within the open and semi-rural, transitional part of the village adjacent to its historic core, can reasonably be concluded to be major development. In light of this conclusion the development must be considered against Framework paragraph 116. This sets out an assessment for major development that includes the need for the development, the cost of, or scope for developing elsewhere and the detrimental impact on the environment, landscape or recreational opportunities and the extent to which that could be moderated.*

Attachment A12

In App/Q3115/W/16/3146109. Land at Manor Road, Goring-on-Thames, Oxfordshire (decision of 21 September 2016) the Inspector considered whether the development represented major development and made the following comments:

17. *As Goring is a village within the Chilterns AONB and the surrounding countryside also comprises a part of that area, development which harms the setting of the village and the immediate rural character harm that part of the AONB. The Framework, at paragraph 115 advises that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty. Paragraph 116 goes on to state that major developments in these areas should be refused except in exceptional circumstances and where it can be demonstrated they are in the public interest. I am satisfied that as a development of up to 35 dwellings, in the context of a Core Strategy requirement of some 105 dwellings, this represents a significant proportion of the total requirement that may be needed for the village and in these terms represents major development. Even with the requirement of the Core Strategy being out of date and the present indications that increases on a district wide basis would be required, the number of units proposed is likely to represent a significant proportion of any increase allocated to Goring village.*

18. *In terms of exceptional circumstances that appellant lists these and includes the additional housing provided in the absence of a 5 year housing land supply, the extent of the shortfall, the*

economic benefits and the necessity for Goring to make provision for housing to meet the overall strategic aim of directing development to larger villages, amongst other matters. These however are circumstances which would be relevant to any development in and around this location and are not exceptional circumstances. Whilst attention has been drawn to other housing sites around Goring the development plan and neighbourhood plan have not reached a stage where they can be afforded significant weight and I have no robust evidence to demonstrate the merits of one site against another in terms of the impact on the AONB in this locality.

Attachment A13

In App/V3120/W/16/3153209. Land to the north of Lower Road, Chilton, Oxfordshire, OX11 0RR (decision of 4 November 2016) the Inspector considered whether the development constituted major development and made the following comments:

16. In this case, the Council calculated that the proposal would represent an increase in the population of Chilton of some 11 %. This calculation was based on the population of the whole of the Parish but did not include that of the recently built Chilton Fields housing. The Council also calculated that development of the appeal site would increase the spatial extent of the built-up area of the main village by some 10%. In this context, the appeal proposal for up to 40 dwellings appears to me to represent a major development. Mr Flood, for the Council, provided an analysis of 6 appeal decisions in various AONBs where this issue has been considered. The cases included proposals for 29 and 39 dwellings, comprising population increases of 0.6% and 1.2% respectively, which were not considered 'major'. They also included proposals for 14, 31, 46 and 125 dwellings, comprising population increases of 4%, 4%, 5% and 12% respectively, which were considered to be 'major'. Whilst I recognise that the site-specific circumstances of each case must differ, my view appears consistent with these other examples.

17. Having concluded that the proposal represents a major development in the context of the village and its surrounds to the east of the A34, planning permission should be refused unless there are exceptional circumstances and the development would be in the public interest.

18. Given the acknowledged shortfall in the 5 year supply of housing land, and of affordable housing, there is clearly a need for additional housing. However, the present supply position of 4.1 years does not indicate to me an exceptional, or even an unduly harmful shortfall, given that the emerging LP2031 is at an advanced stage and provides for a 'step change' in housing provision. Although its timescale for adoption and its final content cannot be guaranteed, the timescale set out in para. 7 above does not appear unrealistic, given the Inspector's generally positive Interim Findings. Although the Council's 'Ring Fence' approach to part of the District has not been formally resolved, this would not appear to give rise to a risk of a housing land shortfall. Therefore, it is my view that any current shortfall is likely to be short-lived.

19. Moreover, the new housing provision will have been made in accordance with the plan-led strategic approach set out in paras.8 & 9 above, which takes account of the aim to provide a concurrent and congruent supply of housing, jobs and infrastructure. Therefore it appears unlikely that the 40 proposed dwellings would significantly benefit, or conversely that their loss would be unduly harmful to, the local economy.

Attachment A14

2014 South Downs National Parks Authority Advice

- 1. The overarching principle is that the determination of whether a proposal amounts to "major development" for the purposes of paragraph 116 of the NPPF is a matter of planning judgment to be decided by the decision maker in light of all the circumstances of the application and the context of the application site.*

2. *The phrase “major development” is to be given its ordinary meaning. Accordingly, it would be wrong in law to:*
 - a. *Apply the definition of major development contained in the 2010 Order to paragraph 116 of the NPPF.*
 - b. *Apply any set or rigid criteria to defining “major development”.*
 - c. *Restrict the definition to proposals that raise issues of national significance.*
3. *In making a determination as to whether the development is “major development”, the decision maker may consider whether the development has the potential to have a serious adverse impact on the natural beauty and recreational opportunities provided by a National Park or AONB by reason of its scale, character or nature. However, that does not require (and ought not to include) an in-depth consideration of whether the development will in fact have such an impact. Instead, a prima facie assessment of the potential for such impact, in light of the scale, character or nature of the proposed development is sufficient.*
4. *As a matter of planning judgement, the decision maker must consider the application in its local context. This is made clear in the PPG, but also appears implicit in the caselaw. In **Forge Field**, for instance, Linblom J noted that “major developments” would normally be projects much larger than six dwellings on a site the size of Forge Field.’ In so observing, he appears to have contemplated the possibility that, depending on the local context, there may be circumstances in which a project of six dwellings could amount to major development on a site the size of Forge Field. Accordingly, in principle, the same development may amount to “major development” in one National Park, but not in another; or in one part of a National Park, but not in another part of the same National Park.*
5. *The application of criteria such as whether the development is EIA development, whether it falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (as amended), whether it is “major development” for the purposes of the 2010 Order, or whether it requires the submission of an appraisal/ assessment of the likely traffic, health, retail implications of the proposal will all be relevant considerations, but will not determine the matter and may not even raise a presumption either way.*
6. *Fundamentally, in making a determination, it is important to keep in mind the ordinary, common sense, meaning of the word “major”. Although Lindblom J appears to have contemplated the theoretical possibility of 6 dwellings amounting to “major development” he noted (rightly in my opinion), that in ordinary language a “major development” will normally be much larger than 6 housing units. Accordingly, having considered all the circumstances, including the local context, the decision maker must take a common sense view on whether the proposed development can appropriately be described – in ordinary language - as “major development”.*