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Mr Julian Glover,
Glover Review of England's National Parks and
Areas of Outstanding Natural Beauty
c/o Department for Environment, Food and Rural Affairs.

14th December 2018

Dear Mr Glover,

Review of England's National Parks and Areas of Outstanding Natural Beauty (AONB) – Call for Evidence

1. Introduction

1.1 We are CPRE Sussex, the Sussex branch of the Campaign to Protect Rural England, a separate charity in our own right, with similar objects. The South Downs National Park, the High Weald AONB and the Chichester Harbour AONB all sit partially within our beautiful county. We were intimately involved in the campaign to secure the designation of the South Downs National Park in 2010.

1.2 In response to your call for evidence, we would like to supplement the response you will be receiving from CPRE's National Office (to which we contributed) on a few points that we think are of particular significance. I am afraid that our comments do not readily fit your questionnaire format.

1.3 We very much appreciate that you have been asked by the Government to undertake an open-minded consultation on the future of our most treasured national landscape assets in anticipation of the 70th anniversary of the legislation that allowed for the designation of national parks. AONBs and, especially, national parks punch well above their weight; and your Review provides a rare and real opportunity to propose changes needed to ensure that national parks and AONBs remain fit to continue providing their public service for the next generation, and beyond. In our view, though, AONBs are hobbled by their limited purposive brief, by unsuitable governance structures and by woefully inadequate funding from operating as effectively for the public good as they could and should.

1.4 The issues that we address in this submission are:

- The scope of the purposes for which AONBs are established (section 2) in response to your questions 8, 9, 10 and 12;
- The governance of AONBs (section 3) in response to your questions 8 and 15;

- Housing pressures within national parks and AONBs and the acute need to support the local rural economy by encouraging more (and more types of) affordable housing for local people (section 4) in response to your questions 13 and 14;
- The need for further Government guidance on the protection of the landscape and natural beauty of both national parks and AONBs from major development, with examples borne of our experience here in Sussex (sections 5 and 6) in response to your questions 11 and 14.

1.5 We are not calling for either of our two Sussex AONBs (High Weald and Chichester Harbour) to be designated as National Parks. We do, though, ask you below to consider other changes to their, and other AONBs, governance to improve their independence and their ability to deliver effectively their statutory purposes and (currently) non-statutory functions.

2. The scope of the purposes for which AONBs are established

2.1 We note that the questions on which you seek evidence are phrased on the apparent premise that both national parks and AONBs enjoy the same purposes and both perform similar functions. In practice, as far as our local experience is concerned, the latter practicality is broadly true, with the High Weald AONB stepping up the plate with, for example, a staffed educational programme (<http://www.highweald.org/learn-about/education.html>).

2.2 You will know, though, that whilst both national parks and AONBs have similarly worded statutory purposes of conserving and enhancing the natural beauty of their area, AONBs have a rather narrower remit, because they do not share the statutory purposes of national parks to conserve their native wildlife or their cultural heritage, nor to foster the economic and social well-being of their local communities; and that only the two AONBs that are constituted as Conservation Boards are under a legal duty to increase the understanding and enjoyment by the public of the special qualities of those areas of outstanding natural beauty. These are significant differences in the statutory purposes for which AONBs are established and for which those who manage them must have regard and be accountable.

2.3 We do not in any way seek to downplay the very valuable “non-statutory” functions voluntarily performed by our and many other AONBs for the public good. But the significance of the distinction between statutory purposes and non-statutory functions matters: in a world of such constrained finances, the duty on AONB managers has, quite properly, to be on the prioritisation of the performance of the purpose(s) set out in the Countryside & Rights of Way Act 2000 (CRoW Act) over, and potentially at the expense of, other non-statutory good deeds. It is not sustainable long-term to expect AONB managers to maintain high quality public benefit services which they are neither required nor resourced to provide.

2.4 So it seems to us that, looking forward, a choice has to be made between asking AONBs to stick to their limited remit as set out in the CRoW Act, and expect them to focus their efforts and limited financial resources on their vital but limited natural beauty conservation brief; or alternatively whether their managers should now be tasked with wildlife and/or cultural heritage and/or local community benefit and/or public enjoyment and education duties, to broaden their statutory purposes accordingly. That second alternative is, in our view, only a viable option if AONB public funding is increased commensurately with the additional legal burdens imposed on them. For our

part we would love to see fit-for-purpose AONBs resourced sufficiently to play a play a full environmental and public access/education/health role to ensure that they can make a stronger public service contribution in the coming decades, even though this would require legislative change. We hope that you and your colleagues will weigh up these options positively in making your own recommendations to Government.

3. The governance of AONBs

3.1 As regards the purpose of preserving and enhancing the landscape and natural beauty of their designated areas the legislation affords substantially the same level of protective rights for national parks and AONBs.

3.2 In practice, though, it is widely acknowledged that AONBs are the poor relations of National Parks in terms of both the quality of their protection and their financing. That stark inequality in the level of achievement of statutory objectives as between AONBs and national parks, which the NPPF claims collectively “have the highest status of protection” in planning terms, should not be accepted as inevitable. In this section we highlight what we see as the principal causes of this inequality and make what we hope are cost-effective suggestions to alleviate those causes.

3.3 The single most significant cause of this inequality of protective achievement arises, in our view, from the structural contrast between the unitary authority regime that determines the strategic planning for, and supportive cultural, social and economic objectives of, individual national parks on the one hand, and the conflicts of objectives that arise from the hydra-headed local authority system that governs many AONBs on the other. In the case of the High Weald AONB, for example, there are 15 different planning authorities involved, with the management of the High Wealds being delegated to a “Joint Advisory Committee” with very limited powers¹. Each of the 15 local planning authority is responsible for developing its own individual area plan policies for the AONB based on their individually developed evidence base and (usually) as part of a wider development plan that covers the whole of the district for which they are responsible.

3.4 By contrast, the whole of an individual national park planning authority’s area is statutorily designated, enabling the park’s planning authority to focus all its planning policies, priorities and resources on the achievement of that national park’s purposes of conserving and enhancing its natural beauty and its cultural functions within an economically dynamic climate. In so doing it is understood that the level of new development is significantly environmentally constrained: national parks (but not AONBs) are expressly exempted from the NPPF expectation that their strategic plan must seek to meet their area’s objectively assessed housing need (OAN²). Conversely, the multiplicity of authorities whose responsibilities include AONB protection and enhancement all have conflicting priorities and pressures, especially housing delivery pressures, which in practice significantly weaken their ability to fulfil their statutory protective function:

¹ see: <http://www.highweald.org/downloads/publications/2101-revised-constitution-for-the-joint-advisory-committee-for-the-high-weald-area-of-outstanding-natural-beauty/file.html>.

² NPPG Paragraph: 013 Reference ID: 2a-013-20180913.

- 3.4.1 Each involved planning authority produces individual plan policies for its slice of the AONB cake as part of their wider individual district plans. There is no requirement that those policies be consistent, yet alone the same. Not only that, but the system involves wasteful duplication of effort and expense;
- 3.4.2 Involved planning authorities are not required to work from the same holistic evidence base. In the case of the High Weald AONB individual planning authorities have developed and argued over inconsistent policies based on incompatible underlying fact-gathering methodologies and evidence. They have even challenged the soundness of each other's development plans at their public examinations and have taken each other and Natural England to court;
- 3.4.3 Within any individual Local Planning Authority (LPA) there is inevitable tension as to the location of new development to meet high housing delivery targets. That tension is in practice exacerbated by the low level of planning inspector acceptance of the presence of an AONB as a justifiable constraint on the deliverable level of new development, and by the absence of any exemption from the LPA's duty to meet in full its OAN and, potentially the needs of neighbouring authorities. In Mid Sussex district, for example, 50% of which is within the High Weald AONB, the Inspector of its recently adopted local plan reported that he would only declare that plan to be legally sound if Mid Sussex DC committed in its plan to meet its full OAN and, in addition, a significant number of additional houses to satisfy the unmet housing needs of Crawley District. As discussed in more detail in section 4, that puts LPAs under intolerable pressure to compromise their AONB conservation duty by treating AONBs as a last resort housing allocation resource.
- 3.4.4 LPAs cannot, in this situation, be expected to have the same focussed attention on their statutory AONB protective responsibilities; and, as CPRE's 2017 "*Beauty Betrayed*" report amply demonstrates, and as we discuss further in section 5 below, the planning system is currently insufficiently robust to protect them and the AONB when they do not. We can demonstrate our point locally with two examples:
- firstly, by the Pease Pottage example described in CPRE's recent *Beauty Betrayed* report where 600 new homes are being built on a site wholly within the AONB on a site allocated for the purpose in Mid Sussex DC's new local plan – overriding the advice of both Natural England and the High Weald AONB Unit that real and significant harm would be caused to the High Weald's natural beauty;
 - secondly, Wealden DC is proposing in its draft plan to allocate a site within the High Weald AONB at Heathfield for a major development of over 100 houses, despite a formal objection from Natural England on the ground that such a major development within the High Weald would run contrary to Wealden's duty only to permit development that conserves and seeks to enhance this nationally important landscape. Natural England's advice was that the development would be unsuitable, with adverse impacts on a nationally important landscape that could not be mitigated. This allocation is one of 800 homes proposed for Heathfield. Similarly, at Wadhurst, also within the High Weald AONB, 70 homes are proposed in the new Local Plan, across two sites, against the advice of the High Weald Unit.

Whatever one may think of these specific examples, they highlight the reality that LPAs managing AONBs face inherent conflict of duties. This is a pressure that national park planning authorities do not face because of their unitary nature and holistic local plan; and, as discussed in section 5,

planning rules do not sufficiently guide them (or the Planning Inspectorate) on how to prioritise those conflicting pressures.

3.4.5 The current devolved structure results in each LPA considering individual planning applications that fall within their individual remit in accordance with their individual priorities and separate individual plan policies. The result is nonsensical inconsistency in application of the single AONB's protective regime, the probability of conflict with the LPA's other different plan objectives, and dilution of expertise.

3.4.6 The management structure for many AONBs is typically such that those responsible for an AONB's management, whether at Board or operational level, have no more than an advisory say in respect of planning decisions taken by an LPA. That is true of the so-called Joint Advisory Committee (JAC) that manages the High Weald AONB and even more true of the AONB Unit of specialists/experts who administer the High Weald on the JAC's behalf. That administrative directorate, who are the conservation experts, are not even automatically consulted, and are not statutory consultees on AONB land use development. No special weight has to be given to their advice on the implications of proposed development for the AONB's conservation purpose, and their advice, when given, all too often does not affect the LPA's decision. In the case of the JAC, for example, only local authority board representatives on its Committee are entitled to vote on issues with a financial implication. The LPA-dominated management board system effectively precludes any effective independent voice for AONB protection in decision making. This situation does not arise in the same way with unitary national park planning authorities.

3.4.7 Longer term security of financing of AONBs from LPA contributions is especially difficult, and often opaque. There does not appear to be a requirement to publish an audited annual financial statement of accounts for an AONB unless structured as a Conservancy Board.

3.5 This structural reality guarantees the underachievement of AONB protective goals. It is also economically wasteful by reason of the duplication, diversion and disparity of effort: expense that could much more profitably be applied to boost AONB budgets.

3.6 In our view real, and much needed, improvement in AONB preservation and enhancement can only be achieved with significant structural change. We would encourage your review panel to consider structural reforms including:

3.6.1 Requiring LPAs which share responsibility for the protection of an AONB to collaborate to produce a single strategic development plan specifically for the whole of that AONB consistent with its statutory designation purposes, and based on a single robust evidence base. That plan should set single market housing, affordable housing and business development targets for the whole AONB compatible with its AONB designation, and also contain a consistent policy as to the impact of development external to the AONB which is liable to affect its setting. The exemption enjoyed by national parks from the NPPF requirement to meet their area's full OAN should be extended to the holistic AONB strategic plans. That strategic Plan should be subject to public examination in the ordinary way.

Adoption of a single AONB Plan would accord with the guidelines for land use plans of protected landscapes published by the International Union for Conservation of Nature.

3.6.2 The development and implementation of that single plan should be under the control of a board that can demonstrate sufficient independence from the LPAs involved to assure the removal, so far as possible, of conflicts of an LPA's objectives or between individual planning authorities. See para 3.7 below for a discussion of options.

3.6.3 Insofar as implementation of an AONB Plan involves determination of individual planning applications, the use of a single planning office resource will assist in achieving consistency of planning decisions affecting the AONB. Properly accounted for, we suspect that this could also provide significant cost savings to the member LPAs and the promotion of relevant specialist expertise, especially to those LPAs who might not otherwise be able to employ such specialisms.

3.7 At para 3.6.2 we call for the management of all AONBs to be more independent from the planning authorities in whose area the AONBs sit. Clearly there are various model board structures whose suitability could be explored as part of this review. We would encourage your panel to examine, as one option, the potential merits of promoting wider use of independent statutory Conservation Boards under s.86 of the CRoW Act, provided that they include sufficient independent representation. The Cotswolds and Chilterns AONBs are already so structured and appear to enjoy a degree of independence and accountability that is lacking in the case of the majority of AONBs. We have no direct experience of their effectiveness to maintain a level of independence, but it is noticeable that the Management Plans of those two AONBs are, in our opinion, far more ambitiously focussed on achieving their statutory purposes than is typically the case elsewhere. Both AONBs appear to be particularly successful, with substantial membership and volunteering schemes (by contrast neither of Sussex's AONBs operates any membership scheme). And both AONBs have ambitious management and public access/education plans that are demonstrably focussed, thorough, and forward-looking. We are a little surprised to note that DEFRA guidance on AONB Conservation Boards was withdrawn last year and has not been replaced³.

3.8 We are also concerned about inadequate transparency, and hence public accountability, in respect of the finances of AONBs. As most AONBs are not independent bodies there is no compunction on their LPA managers to publish annual financial statements for the AONB accounting for their income, expenditure and reserves. In the case of the High Weald, for example, all that is published is a pie chart summary. The two AONBs constituted as Conservation Boards, by contrast, and the South Downs National Park Authority do publish financial statements that are drawn up to a recognised public accounting standard – another advantage of AONB Conservancy Board status. Given that we are dealing with major public assets, financed in large part with public money, should not all AONBs be obliged to publish annually a single set of audited financial statements, in the interests of transparency and accountability, with those accounts being prepared according to a

single standard such as the National Association of Local Council's Joint Practitioners Advisory Group Code of Practice for Smaller Authorities as used by the Conservancy Board AONBs?

3.9 Changes of the kind proposed here stop short of creating unitary planning authorities for AONBs equivalent to those that have been so successful in conserving national parks - we assume that would not be realistic in the current climate. However we do consider it vital to press the case for a single unitary

³ See: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/608734/aonb-cbguidance-withdrawn.pdf.

strategic plan for each AONB, achieved through collaboration between involved LPAs, and a more independent management board. We would expect that changes on the lines we suggest here would facilitate a significant improvement in the achievement of the worthy statutory conservation purposes for which AONBs have been designated, and that they could be achieved in a cost-effective manner and, at the same time, improve transparency, consistency and expertise without detriment to AONBs' public cultural and social functions.

3.10 We recognise too that such proposals are liable to be unpopular with some local planning authorities as they would undercut their control over the administration of part of their planning areas and their planning flexibility. We do not consider that, in itself, should justify not advocating meritorious systematic improvements.

4. Housing pressures within national parks and AONBs

4.1 The South Downs National Park (SDNP) is an exception to the original general concept that national parks exist in more remote and unpopulated areas where housing pressures tend to be less acute. AONBs, by contrast, tend to be less remotely located and, like the SDNP, are at the sharp end of that development and house price pressure. Our High Weald and Chichester Harbour AONBs are no exception, and for reasons explained in section 3, are relatively ill equipped to deal with it. The whole purpose of the legislation creating national park and AONB designation status is to protect our most precious landscapes and habitats from the ever-increasing pressures of encroachment and damaging adjacent development. The legislation must not be found wanting where it is most needed. In sections 5 and 6 below we explain (with local examples) why the current system is failing to deliver reliably on its goals and offer suggestions aimed at remedying the worst of the defects. In this section 4 we look at the need for more focussed prioritisation of the types of housing that is most needed within and around designated areas to meet local need and to ensure a flourishing local rural economy.

4.2 In environmentally constrained areas, it is all the more important to focus new development on the types and scale of development that are most needed to support a vibrant local rural economy. Local people desiring to live and work locally need genuinely affordable housing that is available for both rent and shared equity purchase. This is a core undersupplied need within our specially designated areas. The Government does not currently provide sufficiently focussed planning tools or financial support to encourage the release of suitable land for rural exceptional site development (despite most LPAs having policies to encourage the building of affordable homes on such sites) or the prioritisation of the building of a sufficient proportion of affordable homes in rural areas where there is particular need. Primary reliance on private developers of market housing to fund a proportion of affordable homes isn't delivering, and the problem is exacerbated by resistance to allowing authorities to prioritise local communities' needs.

4.3 Our national parks and AONBs are not well served if locally needed workers and skills are starved out of the area by a paucity of affordable housing. That will create a sterile economic environment that will impoverish the whole area.

4.4 We appreciate that this is a complex and technical planning issue, the detail of which is liable to stretch beyond your Panel's brief. But we call on you and your colleagues to add your voices to the call on Government to re-examine its strategic policies on affordable homes so as to give greater priority to helping national parks and AONBs to secure their own economically healthy future through focussed

affordable home-building measures designed specifically to provide the opportunity for local people, and others seeking employment within these rural communities, to set up home and remain.

5. Major development in national parks and AONBs

5.1 Our proposals in section 3 seek to create a level of independence, and focussed planning, for AONBs that will go part way to addressing the priority conflict problem between more housing and landscape conservation within statutorily designated areas. But, on their own, they do not address the problem of the prioritisation between housing need and landscape protection when national park or an AONB is involved. LPAs are left to make their own determination, without national guidance, as to whether a housing supply shortage is a justifiable exceptional circumstance for NPPF para 172 purposes, or where the public interest lies, and there is no consistency nationally as to what the answer should be.

5.2 Sussex's three designated areas are all located in close proximity to urban conurbations, areas where there is an acute housing shortage. Few of the local authorities are able to meet their own objectively assessed housing needs, and those that can are required to absorb overspill from their neighbouring authorities that cannot. The planning system requires a quart to be fitted into a pint pot. It is inevitable therefore that the planning pressure is on to maximise the number of homes that get built within, or in striking distance of, our protected landscapes, and to subordinate the nationally and locally significant public interest in their conservation to the demand for more housing. In our view the evidence plainly demonstrates that the balance is inappropriately tilted against the conservation and enhancement of our most significant and important designated landscapes. That balance needs to be, and can be, readjusted.

5.3 As the examples we have given you at para 3.4.4 and CPRE's recent *Beauty Betrayed* report graphically illustrate, the legislation and NPPF/NPPG regime for the protection of national parks and AONBs is being applied inconsistently by different LPAs, often as regards the protection of the same designated area). Our main concern should be as to the way in which what is now para 172 of the National Planning Performance Framework (NPPF) is being applied in respect of major development within a national park or AONB. Para 172 says that "*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.*" Some LPAs facing housing supply or delivery challenges have been encouraged by the requirement, in evaluating the exceptional circumstances and public interest tests, to decide that "*the need for the development ...*" by itself amounts to an exceptional circumstance that justifies a major development within an AONB or national park. It should not.

5.4 Given the large number of planning authorities facing housing delivery pressures the whole protective purpose of national park or AONB designation would be holed below the waterline if a housing supply or delivery shortfall were sufficient to permit major development within a designated area despite it supposedly enjoying the highest level of protection. We urge your report to Government to press for clarification (possibly within the NPPG, but preferably within NPPF para 172 itself) that, in the case of national parks, AONBs and the Broads, environmental protection for them as set out in statute trumps housing shortfalls, and that the public interest in conserving them

is not subordinate to the public interest in building more homes at their expense. Without that prioritisation of environmental protection over housing there is no point in national park or AONB designation. There is statutory precedent for such guidance in s.87(1) of the CRoW Act (albeit in a slightly different context) where the two duties of Conservation Boards (a) to conserve and enhance the natural beauty of an AONB and (b) to increase public understanding and enjoyment are set out and supplemented by the statement that "*if it appears to the board that there is a conflict between those purposes, they are to attach greater weight to the purpose mentioned in paragraph (a)*".

5.5 As discussed in section 3 above, we consider that it also needs to be made clear that, for strategic planning purposes, the conservation of statutorily designated areas requires to be recognised as a valid constraint on a planning authority's obligation to meet its objectively assessed housing need. It is incongruous that national park authorities are exempt from the requirement to meet their areas' objectively assessed housing need whereas LPAs responsible for managing AONBs are not, despite the same degree of statutory protection supposedly applying to both, and the strain on AONBs being greater.

5.6 The examples that we have quoted also demonstrate that advice from authoritative expert bodies as to the adverse impact of a development proposal, and its scale, on an AONB's statutory purposes is all too often not afforded the weight that it deserves. In order to strengthen the protective purpose of the relevant legislation, we would like to suggest two other reforms, namely:

5.6.1 making AONB Units statutory consultees on any material planning application in or potentially affecting the AONB (to the extent that there is no single unified AONB plan for the whole AONB) coupled with additional guidance that the advice of Natural England and AONB Units on the impact of planning proposals on the delivery of the AONB's statutory purposes is to be given significant weight; and

5.6.2 giving enhanced powers/responsibility for the Secretary of State to intervene where planning authorities are minded to approve a planning application involving a national park or AONB contrary to the advice of Natural England or the authority's own designated area experts as to its impact on the area's designated purpose(s).

6. The A27 Arundel By-pass

6.1 The South Downs National Park Authority last year had to write to Highways England about the proposed route for the Arundel Bypass to remind them of the requirement to consider a route which avoids damaging the national park. This shows a lack of understanding by Highways England as to the requirements of the guidance and Policy. We would like Highways England to be reminded that 'the planning of the Strategic Road Network should encourage routes that avoid National Parks.' (National Policy Statement for National Networks, para 5.152.).

6.2 This further example demonstrates the importance of putting beyond doubt the lack of clarity as to the proper prioritisation of environment over development where harm from major development schemes threatens the integrity of a national park or AONB, as we call for in section 5.

Your welcome review affords a real opportunity to provide bold but practical recommendations to ensure that all the country's specially designated areas are in the best health, and adequately resourced, to continue to serve their beneficial public purpose for the foreseeable future and in particular that will help to raise the level of protective achievement for AONBs.

If we can provide any further information to assist your important review, please feel free to contact me or (after 3rd January) our Director, Kia Trainor. Meanwhile I can confirm that we do not seek confidentiality for this response, and do not object to your quoting from it in your report if you wish to do so.

Yours sincerely,

Michael A. Brown

on behalf of the Campaign to Protect Rural England, Sussex Branch CIO