

# Frequently Asked Questions July 2022

## The Chilterns Area of Outstanding Natural Beauty Boundary Review Project



### Introduction

It is Natural England's statutory responsibility to designate National Parks and AONBs.

In July 2021 Natural England announced a new programme for landscape, working with stakeholders, communities, and government. This includes determining four proposals for either new AONBs, or extensions to existing AONBs. One of these is to consider a proposal for an extension to the Chilterns AONB.

The purpose of this Frequently Asked Questions document is help inform the public about AONBs and the Chilterns AONB in particular; the designations process and Natural England's role; as well as some of the implications for any area that is designated as an AONB. As such it provides outline information.

For more detailed information on the designation process see the Natural England Guidance on [Assessing landscapes for designation](#) at the AONB website

### 1. Background

#### **Q. What is an AONB?**

**A.** An [Area of Outstanding Natural Beauty](#) (AONB) is land protected by the Countryside and Rights of Way (CRoW) Act 2000. Section 82(1) of the CRoW Act defines an AONB as "an area which appears to Natural England to be of such outstanding natural beauty that it is desirable that the protective provisions of Part IV of the Act should apply to it for the purpose of conserving and enhancing the area's natural beauty." There are currently 34 [AONBs in England](#).

The Chilterns AONB was first designated in 1965 under legislative provisions originally set out in the National Parks and Access to the Countryside Act 1949 ([www.chilternsaonb.org/about-chilterns.html](http://www.chilternsaonb.org/about-chilterns.html))

#### **Q. Who makes decisions with regard to new landscape designations?**

**A.** Natural England has a discretionary power under S.82 of the CRoW Act, to designate Areas of Outstanding Natural Beauty (AONB) or to vary the boundary of an existing AONB by a subsequent Order (a variation Order). Any decision will be made by Natural England's Board, having considered the evidence and the results of the statutory consultation and the statutory Notice period. The Orders do not take effect however unless and until they are confirmed by the Secretary of State (Defra). The Secretary of State has the power to call a Public Inquiry under the Inquiries Act 2005 if minded to do so.

#### **Q. What is Natural England's remit?**

**A.** Natural England is the government's independent adviser on the natural environment, with special responsibilities for creating National Parks and Areas of Outstanding Natural Beauty and reviewing their boundaries. We also have a wide range of other responsibilities for the natural environment. More information about our work is at [www.gov.uk/government/organisations/natural-england](http://www.gov.uk/government/organisations/natural-england).

**Q. How does Natural England decide which areas should be designated as AONBs?**

**A.** In deciding whether to designate an AONB, or to vary an existing AONB boundary, Natural England must first consider whether the land has outstanding natural beauty and then whether designation is desirable for the purpose of conserving and enhancing the area's natural beauty. This decision requires Natural England to address three broad questions:

1. Does the landscape have sufficient natural beauty to be considered outstanding?
2. Is it desirable, to designate this landscape as AONB in order to conserve and enhance its natural beauty?
3. Where should the boundary be drawn?

Further details are given in subsequent sections below on the ways in which these three questions are addressed in practice.

**Q. How is the Chilterns AONB managed?**

**A.** The Chilterns Conservation Board is the public body established to conserve and enhance the Chilterns Area of Outstanding Natural Beauty and was established by Parliamentary Order in 2004. It has 27 members drawn from local communities in the Chilterns. It leads on the preparation, monitoring and review of the AONB Management Plan on behalf of its constituent bodies and other partner organisations. The Management Plan provides a vision and policies to help guide the work of landowners, land managers and all those who have an influence over land in the AONB, as well as those who live, work, and enjoy leisure time there. The Conservation Board also plays a leading role in developing an image and sense of identity for the Chilterns AONB and developing and supporting initiatives that implement the AONB Management Plan policies.

The Conservation Board is based in Chinnor, Oxfordshire. The staff team take forward a range of initiatives that promote the special character of the Chilterns, establish partnerships, secure funding, ensure implementation and monitor effectiveness. In recognition that the Chilterns AONB is a nationally important landscape, 80% of the Unit's core costs are funded by central government through DEFRA with 20% of core costs from the nine local authorities to reflect their statutory responsibilities towards the AONB.

**2. Review of the boundary Chilterns AONB**

**Q. What areas are currently within the Chilterns AONB?**

**A.** The Chilterns AONB covers 833 square km of countryside, stretching from the River Thames in southern Oxfordshire up through Buckinghamshire and Bedfordshire to Hitchin in Hertfordshire ([www.chilternsaonb.org/about-chilterns.html](http://www.chilternsaonb.org/about-chilterns.html)).

**Q. Why is the boundary of the Chilterns AONB being reviewed?**

**A.** The Chilterns Conservation Board has long considered that the AONB should be extended into adjacent areas that it considers meet the criteria for designation as an AONB. Representations to this effect have been made to Natural England and predecessor bodies over a number of years.

**Q. Why is this work starting now?**

**A.** The Rt Hon George Eustice MP, Secretary of State (Defra), made a Written Ministerial Statement on the 24<sup>th</sup> of June 2021 which included reference to Natural England taking forward the government's commitment to designate additional protected landscapes with specific reference considering the designation of the following four new areas.

- Yorkshire Wolds AONB
- Cheshire Sandstone Ridge AONB
- An extension to the Surrey Hills AONB
- An extension to the Chilterns AONB

This followed the publication of the government commission Landscapes Review, in September 2019 (the 'Glover Review').

**Q. What are the next steps and expected timescales?**

**A.** Natural England is currently in the process of appointing consultants experienced in this area of work who will assist in undertaking the technical assessment of natural beauty, working with local stakeholders to ensure that we have access to the best available evidence.

The following is a summary of the practical steps to be followed in order to fulfil the legislative requirements (with indicative timescales for each):

- Procure consultants to carry out the project on behalf of Natural England including all technical assessments of natural beauty and considerations of the desirability for designation. Expect consultants to begin work October 2022.
- Review all available evidence relevant to the assessment of natural beauty and to the desirability of designation, engaging with stakeholders with regard to evidence gathering and consideration of relevant issues: by the end of March 2023.
- Informal opportunity for local engagement from statutory bodies and key stakeholder organisations on the identified Candidate Areas (areas where natural beauty has been identified as being present): by end of May 2023.
- Assess evidence and determine the desirability of designating qualifying areas and revise proposals as required following the informal consultation: by end of July 2023.
- Identifying proposed boundaries: by end of October 2023.
- Submission to the NE Board of assessments on whether Natural England should vary the boundary of the existing Chilterns AONB for approval to undertake a statutory and public consultation: by end of December 2023

- Prepare documentation for and subsequent undertaking of the formal statutory and public consultation. this is the main opportunity to provide formal responses about the proposal when the background technical documentation will be made available to inform responses: by end of February 2024.
- Complete statutory consultation by end of April 2024
- Review responses to the statutory consultation prior to seeking Natural England Board approval of a draft Order with regard to amending the boundary of an existing AONB and approval to proceed to a formal period of Notice: by end of June 2024.
- If the proposal is changed to include additional land as a result of representations made at the formal statutory and public consultation, a further period of statutory consultation is required on the changes.
- Plan and proceed with the formal period of notice. This provides a formal opportunity for public comment. This is in effect a further round of statutory and public consultation: by end of August 2024.

Analyse representations received during the formal Notice period, potentially amend technical assessments and proposal, followed by seeking approval from Natural England's Board for the making and submitting an Order to the Secretary of State (Defra) to vary the boundary of the Chilterns AONB: by end of October 2024.

**Q. When is the boundary review expected to be completed?**

**A.** A national landscape designation (AONB/ National Park) is a significant undertaking requiring robust evidence gathering, engagement and consultation with local and national communities and stakeholders and is therefore rightly not a quick process. We expect each designation to take 2-3 years. Previous designations have taken three to five years from commencing technical assessments to the submission of a designation order for confirmation by the Defra Secretary of State. The time until the Minister confirms an order varies according to several factors including whether a public inquiry is deemed necessary.

Assuming the above timetable is followed, and the Natural England Board determines that a boundary variation should be made following the technical assessments and statutory consultation, Natural England would expect to submit a variation Order to the Secretary of State for a decision by approximately the end of October 2024.

It is not possible to say how long the Secretary of State's decision will take following submission or whether a Public Inquiry will be called.

**Q. How will local people be able to engage?**

**A.** Natural England will work collaboratively with local partners to ensure there are good engagement opportunities throughout the process. This could include opportunities to contribute to evidence gathering as well as through informal consultation.

**Q. Could the review result in the designated area being reduced?**

**A.** Natural England is considering whether there are further areas that might have potential to be designated as extensions to the existing Chilterns AONB. Natural England is not

considering removing land from the existing AONB and will not be recommending that any areas are de-designated.

### **3. The Designation Process in more detail**

#### **Q. How does Natural England go about fulfilling this statutory responsibility?**

**A.** Natural England's *Guidance on Assessing Landscapes for Designation* was updated in June 2021 and sets out how we evaluate natural beauty as well as the desirability of designation and the criteria we use to identify detailed boundaries. The guidance can be accessed [here](#)

#### **Q. How is the assessment of Natural Beauty undertaken?**

**A.** Once an area has been selected for consideration for designation, it will be considered in detail, using the guidance referred to above. This guidance explains how Natural England normally expects to apply the statutory designation criteria in practice when assessing landscapes for designation.

Natural beauty is not exhaustively defined in the legislation. It is also a subjective characteristic of landscape and ultimately involves a value judgment. In deciding whether an area has outstanding natural beauty, Natural England must therefore make a judgment as to whether people are likely to perceive a landscape as having outstanding natural beauty.

In order to make these value judgments (some of which are subjective) in a transparent and consistent way, the Guidance sets out clear factors Natural England uses, reflecting precedent from past designations as to what has been accepted as relevant to natural beauty. These include landscape and scenic quality, relative wildness, relative tranquillity, and the contributions made to natural beauty by natural and cultural heritage features.

#### **Q. Does land already have to have outstanding natural beauty in order to be included in an AONB or can 'potential' natural beauty be taken into account.**

**A.** The test which has to be applied is stipulated in the legislation and is whether the area "is of such outstanding natural beauty that...". The test is in the present tense. Thus, as a whole, the area must be deemed to be already of outstanding natural beauty. The assessment is not however carried out at a field-by-field level and there may be small pockets within it which do not fulfil the designation criterion in their own right. The decision to include non-qualifying land depends on the location, scale and effect of that land, with more scope within the body of a large qualifying area than towards the margins. In rare cases, where there is confidence and a high degree of certainty that an existing, well-developed initiative will enhance a non-qualifying area to a qualifying standard, that may be taken into account. Large urban areas are however excluded. It is also possible to have 'outliers', as part of an AONB, these are areas of qualifying land which sit outside the main body of a designation but are separated from it by non-qualifying land. These areas would however need to be of sufficient scale to make this desirable.

The statutory designation purpose, ie the conservation and enhancement of natural beauty becomes relevant once an area is designated and projects and investment to enhance the natural beauty of the area will be actively encouraged throughout the area.

**Q. How does Natural England decide whether it is desirable to designate land as an AONB?**

**A.** It is an important principle in designation, however that just because an area is assessed as meeting the natural beauty criterion, it does not mean that it will necessarily be designated. Natural England must also deem it to be **desirable** to designate it for the purpose of conserving and enhancing its natural beauty.

Factors that are considered relevant to the ‘desirability’ of designation include:

- Is there an area which satisfies AONB technical ‘outstanding natural Beauty’ criterion?
- Is the area of such national significance that the AONB purpose should apply to it?
- What are the issues affecting the area’s special qualities and how could these be affected by designation?
- Can AONB purposes be best pursued through the management mechanisms, powers and duties along with access to possible additional funding, volunteers, marketing opportunities, which come with AONB designation?
- Are there other relevant factors which tend to suggest whether it is or is not desirable to designate the area

For example, if land already subject to development consent, we would need to consider what stage is that consent in the planning process and how likely is that consent to be implemented, if land has been identified in an adopted local plan or if there is a planning proposal has been submitted, then this would most likely result in the land not being proposed for designation. The scale and nature of the proposal would need to also be taken into account. If a development proposal is in the body of an area proposed for designation it may be included. If it is on the edge of a proposed designation, it would be excluded at boundary setting, when most up to date information on planning allocations is used.

The more closely that any issue raised, relates to the statutory purpose (the conservation and enhancement of natural beauty), then the greater its relevance and importance.

**Q. How does Natural England identify new boundaries for a proposed extension?**

**A.** If Natural England decides that an area has sufficient natural beauty and that it is desirable to designate, the last step prior to statutory consultation is to identify a detailed boundary and justify it. Boundaries will normally follow a permanent physical feature which ideally is clearly visible on the ground, such as a wall or hedged field boundary, road, or the built edge of a settlement. There is clear Ordnance Survey Guidance and much relevant precedent on what constitutes a good boundary.

Landscape and scenic quality rarely change suddenly and one of the boundary considerations established through precedent is that where there is an area of transition in landscape or scenic quality, a boundary should be drawn towards the high-quality end of the area of transition, to include areas of high-quality land and exclude areas of lesser quality. In other words, the boundary should be drawn conservatively.

**Q. At the time of the statutory consultation who are the statutory consultees?**

**A.** The CRoW Act requires that Natural England undertakes a statutory consultation of the principal local authorities covering the area prior to reaching a final decision, but in practice Natural England will open this consultation to anyone who might have an interest in the project.

**Q. Why would a Public Inquiry be called**

**A.** The Secretary of State may if so minded, call a Public Inquiry to assist in their decision making in relation to whether the designation should be confirmed or not, or amended. A Public Inquiry provides a further opportunity to explore any remaining unresolved objections to assist in the Secretary of State in their decision making.

**4. The Implications of Designation**

**Q. What will change as a result of designation as an AONB?**

**A.** The provisions of the Countryside & Rights of Way Act will immediately apply i.e.:

- S84 (4) specifically provides for a local authority whose area consists of or includes the whole or any part of an Area of Outstanding Natural Beauty to have the power to take all such action as appears to them expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty of the area.
- S85(1) confers a General Duty to have regard to the purpose of AONB designation as follows: “In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”
- S85(2) defines ‘relevant authorities’ for these purposes as encompassing any Minister of the Crown, any public body, any, statutory undertaker and any person holding public office.
- S87 1 – 7 confers general duties and powers on the Chilterns Conservation Board.
- S87 (1) confers a duty on the Conservation Board to have regard to its twin purposes “a) the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and b) the purpose of increasing the understanding and enjoyment of the public of the special qualities of the area of outstanding natural beauty, but if it appears to the board that there is a conflict between the purposes, they are to attach greater weight to the purpose mentioned in paragraph (a)”.
- S87 (2) confers a duty on the Conservation Board to “seek to foster the economic and social wellbeing of local communities within the AONB by co-operating with local authorities and public bodies whose functions include the promotion of economic and social development within the AONB”.
- S87 (3) confers general duties as to the protection of interests of the countryside and the avoidance of pollution.

- S87 (4) confers general duties to undertake anything calculated to facilitate or conducive or incidental to the accomplishment of the purposes mentioned in S87(1) and other functions conferred by the Act.

**Q. What are the wider implications if designation goes ahead?**

**A.** Any areas that become a part of the Chilterns AONB will have the benefit of the national status that designation brings and the statutory protection this provides. They will be fully reflected in future AONB Management Plans and benefit from the resources and skills of the Conservation Board team. In recent years, the Conservation Board has secured in excess of £20m of project funding benefitting the AONB, in addition to its Defra grant and contributions from local authorities.

Unlike most AONBs, the Chilterns AONB is managed by a Conservation Board. Like National Parks Conservation Boards have two purposes which they have the duty to deliver. The first is 'The conservation and enhancement of natural beauty' and the second is 'Increasing understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty'.

**Q. How will AONB designation affect planning and development?**

**A.** Designation has no effect on who makes decisions on applications for planning or development consent. For example, all planning applications will continue to be determined by the relevant local planning authorities, who will also continue to prepare and adopt local plans in line with the National Planning Policy Framework which provides the highest level of planning protection for AONBs.

In an AONB, great weight would be given to conserving and enhancing landscape and scenic beauty, the scale and extent of development would be likely to be limited and planning permission refused for major development unless in exceptional circumstances where it is in the public interest. Development promoters and decision-makers will be advised to refer to the AONB Management Plan and to technical and design guidance published by the Conservation Board to demonstrate how their proposals promote the conservation, enhancement, understanding and enjoyment of the AONB.

Some Permitted Development Rights are withdrawn, requiring affected proposals to be subject to the full planning application process.

**Q. How will designation affect landowners and other land managers?**

**A.** Ownership of land remains unchanged within an AONB, and there is no restriction on how land can be farmed. There is also no impact on Single Farm Payments to farmers and landowners. Historically farmers and landowners have been able to benefit from past agri-environmental schemes which were specifically targeted at land in designated landscapes, most recently the Farming in Protected Landscapes Scheme. Landowners and managers within the AONB may in the future also benefit from greater access to new agri-environmental measures being announced by DEFRA as part of the ELMs programme.

**Q. How will designation affect nature conservation?**

**A.** The natural beauty of an AONB encompasses contributions made by both natural and cultural heritage features. Future management of the area will thus seek to ensure that the wildlife and habitats that are so intrinsic to its natural beauty, are conserved and enhanced.

This is also the case with cultural heritage features. The integrated management approach taken by the Chilterns Conservation Board will also assist with the management of any potential conflicts which may arise between wildlife, cultural heritage, and recreation.