

Relaxing the restrictions on the deployment of overhead telecommunications lines – Consultation Response

The National Association for Areas of Outstanding Natural Beauty (NAAONB) is a voluntary body whose membership includes all the AONB Partnerships/Conservation Boards in England and Wales, many of the Local Authorities with statutory responsibility for AONBs, a Trust which manages three AONBs in Northern Ireland, as well as a number of voluntary bodies and individuals with an interest in the future of these nationally designated landscapes.

A number of AONB Partnerships/Conservation Boards have responded individually to this consultation and the comments of the NAAONB should be seen as supportive and supplementary to these.

Thank you for the opportunity to input to this consultation. The NAAONB would like to make the following points to ensure that any relaxation of restrictions on the deployment of overhead telecommunication lines are compliant with statutory undertakings set out in Section 85 Section 86 of the Countryside and Rights of Way (CRoW) Act 2000 (see Notes *).

1) The National Association for Areas of Outstanding Natural Beauty (AONBs) fully recognises the economic and social benefits of developing the UK's communications infrastructure and supports the principle of improved connectivity, especially for rural areas where economic participation is essential for delivery of sustainability outcomes.

NAAONB is keen to reinforce the Electronic Communications Code Regulations 2003 that supports all new communications lines being placed underground. It is in the greater long-term public interest to conserve and enhance our natural and historic assets by placing both communication and power cables underground, particularly within Areas of Outstanding Natural Beauty and National Parks and their settings.

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2) Change to Regulation 4 through introduction of a financial test

The NAAONB considers that the Section 85 duty applies to both DCMS and telecommunications code systems operators. The duty is recognised by DCMS when referring to

- a) The continuing need for planning applications to be submitted for poles and wires within AONBs (paragraph 3.5 of Section 1) and
- b) The requirement to apply to a local planning authority to determine whether prior approval is needed also remains (paragraph 2.3 of Section 2).

However, the consultation indicates that the provision of broadband to rural areas may be regarded by the operators as 'not economically viable' and signals a Change to Regulation 4 through introduction of a financial test (see 1A[a]). Paragraph 3.4 of Section 1 states that 'new overhead infrastructure can only be erected if existing infrastructure cannot be shared' this is not borne out in the revisions to the regulations which introduce the financial test detailed above as an alternative.

As AONB landscapes are invariably rural in nature, the cost of provision may well be higher than in more urban settings and the NAAONB is concerned that economic-viability issues may result in pressure for new pole development.

The NAAONB considers that it will be difficult to challenge any proposal based on its commercial viability or otherwise and suggests that the financial test element should be removed from the revisions that have been published.

3) AONB Partnerships and Conservation Boards as “Qualifying Bodies”

Paragraph 2.5 of Section 2 recognises that some pole development may be necessary in order to achieve better connectivity. Where there is a case for new pole infrastructure, the NAAONB is pleased to see that communities and DCMS feel that 'full consultation' should take place. We consider it vital that impacts on the special qualities of the AONB landscapes are fully assessed, including a thorough investigation of all alternatives (including undergrounding) that might prove to be better solutions in the designated landscape.

The NAAONB is concerned that 'full consultation' has been narrowly interpreted by DCMS as applying only to 'relevant councils and qualifying bodies' (see Note **). The various AONB management bodies (Conservation Boards, Joint Partnerships and Joint Committees) for example are not included in the definition of 'qualifying bodies' and would not therefore be consulted on any proposals within their areas as a matter of course.

The NAAONB asks that, in order to comply with Section 85 duties, AONB bodies

(in all their forms) should be included as part of any consultation within an AONB or its setting for new pole developments.

4) Paragraph 3.7 in Section 3 states that 'telegraph poles and other overhead infrastructure is a common and often necessary feature across the landscape'. The NAAONB considers that this statement is ill thought out as telegraph and other utility poles and pylons are generally perceived as intrusive and incongruous features in our landscapes.

NOTES

** Ref No 149 – Defra 037 Countryside and Rights of Way Act 2000 Section 85: 'Duty to have regard to the purposes of Areas of Outstanding Natural Beauty – local authorities (and others) should take account of the statutory purposes of AONBs when coming to decisions or carrying out activities relating to or affecting land in these areas.'*

Current guidance relating to this duty is provided by two documents:

- 1. 'Duties on relevant authorities to have regard to the purposes of National Parks, AONBs and the Norfolk and Suffolk Broads', Defra Guidance Note, 2005, and*
- 2. 'England's statutory landscape designations: a practical guide to your duty of regard', Natural England, 2010 (NE243)*

The Section 85 duty applies to "relevant authority" and helps ensure that the actions of a wide range of organisations have a "Duty of Regard" to natural beauty. The term 'relevant authority' is defined in legislation as including any Minister of the Crown, any public body, any statutory undertaker and any person holding public office. Through the co-ordinating activities of AONB Partnerships the duty has facilitated efficient delivery of services, as well as responsibilities toward our national designated landscapes.

The Section 85 duty helps local authorities achieve conservation and enhancement of the nationally designated landscape lying within the authority's area. It is tailored to support the specific purposes of this national designation and provides a consistent approach across administrative boundaries.

*** Qualifying bodies are defined in Section 61E of the 1990 Town and Country Planning Act as 'a parish council or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development order to act in relation to a neighbourhood area as a result of Section 61F'*

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