

Defra Consultation on the Government Response to the Landscapes Review

[Closes: 9 April 2022]

Briefing Note - February 2022

Introduction

1. In September 2019, the independent report led by Julian Glover, [Landscapes review: National Parks and AONBs](#) was published. Its purpose was to look at whether the protections for National Parks and Areas of Outstanding Natural Beauty (AONB) were still fit for purpose. Defra has now published its [response](#) to that report. The [consultation on these proposals](#) is open until 9 April 2022.

Proposals

2. New structure: The *2019 Landscapes Review* proposed a new 'National Landscape Service' a new public body that would represent bringing both National Parks England and the National Association for AONBs under one roof. The Government has not favoured this. Rather, it proposes to encourage closer working by:
 - Uniting the existing bodies by way of a partnership.
 - Renaming AONBs as 'National Landscapes'.
 - Amending the statutory purposes for National Parks Authorities (NPA) and AONBs.
 - Providing strategic direction via a new national landscape strategy.
3. The partnership is proposed to share knowledge, promote tourism and generate additional private income through green finance initiatives and joint funding bids. These may either encourage development proposals in their own right or otherwise bring forward or arise from development ambitions.
4. General power of competence: NPAs rely on specific statutory powers to carry out activities. The Government are considering giving them a general power of competence (similar to that given to local authorities in [s.1 Localism Act 2011](#)) to allow them to act innovatively and reduce their legal risks.
5. New statutory purpose: The *Landscapes Review* concluded that the current statutory purpose of 'conserving and enhancing' National Parks (s.5 [National Parks and Access to the Countryside Act 1949](#)) and AONBs ([s.82 Countryside and Rights of Way Act 2000](#)) was not strong enough. It is not thought to reflect the urgency of the environmental position. Accordingly, the Government proposes to amend the current statutory purpose so that there is a single set of statutory purposes for both National Parks and AONBs that reflect the following:
 - A core function of protected landscapes to drive nature recovery.
 - A revised purpose should be more specific with regards to nature outcomes and explicitly mention biodiversity (which would be consistent with emerging legal and policy requirements).
 - The principle of natural capital should also be included to capture the societal value of nature in our protected landscapes and encompass a broader range of ecosystem services.
6. Increased planning role for AONB teams: The *Landscapes Review* highlighted the important role of the NPAs planning powers in delivering high quality and

sustainable development. Therefore, the Government is consulting on the proposal to make AONB teams a statutory consultee for planning applications.

7. Permitted development rights: The *Landscapes Review* highlighted the important role of the NPAs' planning powers in delivering high quality and sustainable development. The Government states that it does not currently have plans to curtail permitted development rights in protected landscapes.
8. Affordable housing: The review found that more sites are available which could be granted planning permission than are currently being utilised to build affordable homes in some areas. It observed that National Parks have the power to create housing but it is not widespread and so recommended a new, publicly funded housing association to build affordable homes specifically in protected landscapes.
9. The Government's view is that such an association would not be more effective. Instead, it proposes to address the issue by alternative means, namely:
 - Rural Exception Sites: I.e. small sites used for affordable housing in perpetuity where sites would not normally be used for housing (NPPF).
 - Homes England's funding: Reference is made to the 2021-26 Affordable Homes Programme to support the delivery of rural housing.
10. Natural England will take on a bigger role: Natural England (NE) will take on a more important role in supporting designated landscapes, advising on their proper management and protection. The government also proposes that NE should monitor progress on the delivery of a 'national landscapes strategy'.
11. Managing Visitor Pressure (Pg 16 & Q13): Greater enforcement powers are being offered to NPAs to manage visitor pressures including the ability
 - Issue Fixed Penalty Notices for byelaw infringements
 - Make Public Space Protection Orders (PSPOs)
 - Issue Traffic Regulation Orders (TROs) to control the amount and type of traffic on roads
12. Local Nature Recovery Strategies: The government will explore ways for protected landscapes to support responsible authorities in preparing and delivering LNRs.
13. Public bodies: Review-Proposal 3 highlighted that the existing duties for public bodies to 'have regard' to the statutory purposes are too weak. The current duties also provide for the creation of a management plan but not for its implementation. Defra propose strengthening the wording of these statutory duties so that they are given greater weight when exercising public functions. The government will produce guidance for public bodies on the application of the strengthened duties, clarifying when and how they should be discharged in respect of public functions.

Conclusion and implications

14. Management Plans: With two AONBs and a National Park in West Sussex, the strengthened statutory duties and increased role in preparing and implementing management plans will result in additional resource implications for the County Council. Whilst the impact has yet to be evaluated, its general principle has

already been conveyed to Defra along with a request to see a financial impact assessment to support any future bills put before parliament.

15. Traffic Regulation Orders (TRO): The three enforcement powers proposed will likely result in additional resource pressures for NPAs as they seek to administrate, monitor and enforce the proposed new powers. However, a new enforcement power allowing NPAs to issue TROs has recently been raised as a potential issue and is therefore examined more closely here.
16. The proposed power is highly limited in its extent. Defra are only seeking a method to control the misuse of 'green lanes' by off-road vehicles. It's proposed to either grant greater discretion for NPAs and local highway authorities to use existing powers to restrict use on a case-by-case basis. Or the government could restrict the use of certain motor vehicles on unsealed roads through legislation. Currently the Highway Authority has no legal power to prevent excessive use of affected green lanes. We will be liaising with South Downs NPA and asking that any new TRO making powers are only used in consultation with the Highway Authority.
17. Currently, enforcement of most moving traffic restrictions on the highway is the responsibility of Sussex Police, though local authorities will be given some additional powers later this year. If NPAs are given the power to restrict vehicles on unmade routes, other legislative provisions for enforcement would need to be made and we would hope this does not put an extra enforcement responsibility on the County Council or Sussex Police, which we are not resourced to fulfil.
18. Going forward a firm definition is required of the type of routes to which this power is being applied to avoid the NPA becoming embroiled in requests to remove unsuitable vehicles (particularly HGVs) from the rural highway network.
19. Power of competence: NPAs are likely to welcome the power of competence, but it remains to be seen whether the Government will seek to revise and improve upon the wording in the Localism Act 2011 through subsequent legislation.
20. Greater planning role: The increased planning role for AONBs is likely to be welcomed by local residents and AONB teams. However, the Government acknowledges the resource implications, evidence is emerging that AONB teams do not feel sufficiently well-resourced to respond to such consultations effectively. One of the main concerns for all AONB partnerships is the capacity of the core teams (generally four FTE in each team), which is one of the primary limits on what they can achieve. An increase in resources is critical to the viability and resilience of the local AONB teams. Note, WSCC routinely consults the two West Sussex AONB boards on relevant development.
21. Local Nature Recovery Strategies: The proposals create a clear role for protected landscape organisations in the preparation of LNRS. The Sussex Nature Partnership already benefits from their views and utilises their expertise to highlight landscape-scale opportunities within protected landscapes. Further proposed alignment of their statutory management plans as proposed will help to integrate the important work of the protected landscape organisations into LNRS.
22. Keeping permitted development rights as is within the protected landscapes is likely to be seen as good news for developers but less so for local residents.

Next Steps

23. Defra have recently indicated that a Bill to enact some its proposals 'may' come forward at the end of the calendar year.
24. We will continue to engage with Defra through their series of 'deep dive' events during the consultation period.
25. A response to this consultation will be returned to Defra and supported by a supplementary letter that will expand on items of concern related to the proposals.
26. We will continue to work closely with our colleague authorities and engage with our AONB and SDNPA partners to ensure we have a complete understanding of the implications arising from the proposals.

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