



**South Devon**  
National  
Landscape

# **Partnership Meeting**

to be held at

**10am on Friday 29 November 2024**

Repton Room at Follaton House and via Zoom

## **Agenda & Papers**

South Devon National Landscape team, Follaton House, Totnes, TQ9 5NE  
Telephone 01803 229330 Email [enquiries@southdevon-nl.org.uk](mailto:enquiries@southdevon-nl.org.uk)

## National Landscape Partnership Membership

**Members nominated by local authorities**

Devon County Council

Cllr Roger Croad  
Cllr Jonathan Hawkins  
(officer advising Doug Eltham)Plymouth City Council  
South Hams District Counciltbc following restructure  
Cllr Georgina Allen  
Cllr John McKay  
(officer advising Chris Brook)  
Cllr Christine Carter  
(officer advising Tracy Brooks)

Torbay Council

**Members nominated by statutory agencies**Environment Agency  
Forestry Commission  
Historic England  
Natural EnglandEmma Magee  
Joshua Bennett  
Ross Simmonds  
Eamon Crowe**Members co-opted by the Partnership Committee**Independent  
National Trust  
Plymouth University  
South West Coast Path Association  
Devon Campaign to Protect Rural EnglandPeter Sandover (Chair)  
Richard Snow  
John Martin (Vice Chair)  
Ken Carter  
Penny Mills**Community Representatives**Business community  
Coast and marine sector  
Community/voluntary groups  
Environmental organisations (NGOs)  
Landowning/farming community  
Parish Councils  
Tourism communityPeter Moore  
Richard Stones  
Jane Nichols  
Ed Parr-Ferris  
Leah Harris  
Peter Hinchliffe  
Laura Campbell*National Landscape team staff attending*Manager  
Office ManagerRoger English  
Vanessa Gray

## Agenda

Item 1	Public statements	
The formal meeting and live recording to YouTube will immediately follow any statements from members of the public.		
Item 2 (5 mins)	Introductions & apologies for absence	
Item 3	Declarations of Interests	
Item 4 (5 mins)	Minutes of the last Partnership Committee meeting (19 July 2024) for approval and any matters arising	Page 2
Item 5 (5 mins)	<b>South Devon National Landscape Partnership matters</b> 5a) Partnership Chair's report	Page 15
Item 6 (20 mins)	<b>Partner updates</b> – partner contributions to conserving and enhancing the natural beauty of the South Devon National Landscape and delivering on area of outstanding natural beauty Management Plan priorities – recent, current and planned.	Page 17 & verbal
Item 7 (10 mins) (10 mins) (5 mins)	<b>National Matters</b> 7a) Restoring 30 per cent of our land and sea by 2030 7b) National Landscapes Association briefing: Applying the CRoW Act section 85 duty “must seek to further the purpose” in National Landscapes 7c) National Consultation on Bathing Water reforms	Page 19 Page 25 Page 29
Item 8 (15 mins) (20 mins) (10 mins) (10 mins) (5 mins)	<b>South Devon National Landscape Management</b> 8a) Increasing Tree Canopy and Woodland cover within and linked to the National Landscape and its setting 8b) Review of the area of outstanding natural beauty Management Plan & South Devon National Landscape ‘Relevant Authorities’ 8c) South Devon National Landscape and Heritage Coast Planning Guidance 8d) Key Development Management matters for feedback 8e) Summary of National Landscape Core Funding Group September 2024	Page 32 Page 38 Page 51 Verbal Verbal
Item 9	<b>For Information</b> 9a) Planning applications - consultations	Annex

## ITEM 4 APPROVAL OF MINUTES & MATTERS ARISING

### MINUTES OF THE MEETING OF THE SOUTH DEVON NATIONAL LANDSCAPE PARTNERSHIP HELD AT FOLLATON HOUSE AND VIA ZOOM ON FRIDAY 19 JULY 2024

#### 1. BRIEFING

A briefing on Plymouth and South Devon Freeport was given to National Landscape Partnership members by Chris Brook, Director of Place and Enterprise, South Hams District Council.

#### 2. INTRODUCTIONS & APOLOGIES FOR ABSENCE

##### Those present were:

Kate Hind	KH	Devon County Council
Cllr Georgina Allen	GA	South Hams District Council
Cllr John McKay	JM	South Hams District Council
Chris Brook	CB	South Hams District Council ( <i>left meeting at 11:25</i> )
Cllr Christine Carter	CC	Torbay Council
Tracy Brooks	TB	Torbay Council
Matthew Odgers-Brown	MOB	Forestry Commission
Peter Sandover	Chair	Independent
Richard Snow	RS	National Trust
Penny Mills	PM	Representative: amenity groups
Natasha Bradshaw	NB	Representative: coast and marine ( <i>attended in part</i> )
Peter Hinchliffe	PH	Representative: parish and town councils
Laura Campbell	LC	Representative: tourism

##### Also attending

Elaine Hayes	EH	CEO Plymouth Sound National Marine Park
Kate Jury	KJ	Coastal Wildbelt Project Officer, National Trails UK

##### National Landscape staff attending:

Roger English	RE	NL Manager
Vanessa Gray		NL Office Manager (meeting assistance & notes)

##### Apologies for absence were received from:

Cllr Roger Croad	Devon County Council
Cllr Jonathan Hawkins	Devon County Council
Emma Magee	Environment Agency
Eamon Crowe	Natural England
Ken Carter	South West Coast Path Association
Ed Parr Ferris	Representative: environmental organisations
Leah Harris	Representative: Landowning & farming

##### Observers:

Observers were requested to follow the meeting live via YouTube. One observer attended in person.

### 3. DECLARATIONS OF INTERESTS

An interest in the planning support role item (an action from the previous meeting) was declared by the Chair of the SDNL Partnership. Interim planning support, to bridge the period until such time the role can be successfully recruited, will be provided by the Chair's wife, Jane Knight. However, there are no conflicts interest.

### 4. MINUTES OF THE 15 MARCH 2024 PARTNERSHIP MEETING FOR APPROVAL & ANY MATTERS ARISING

#### 4.1. TO APPROVE THE MINUTES OF THE PARTNERSHIP MEETING HELD 15 MARCH 2024

Proposed: Peter Hinchliffe  
Seconded: Cllr Christine Carter  
Resolved: No objections, the minutes were approved.

#### 4.2. Matters arising:

##### i. Planning support

- Recruitment: The shared role has not been advertised to date. A meeting to finalise details will take place between the SDNL Manager, Jenny Carey-Wood (North Devon NL) and Dan Wynn (East Devon NL) next week.
- Temporary support: Jane Knight will provide cover for the interim pending successful recruitment for a shared planning support officer. A contract is in place and an inception meeting has been held. The first applications have now been passed across for comment.

Following questions, the following were clarified:

- Temporary planning support is in place for South Devon National Landscape alone; Jane Knight is not providing a shared service.
- The shared planning role will go out to advert swiftly following next week's meeting. The period of time to get someone in post depends on additional factors such as the suitability of available candidates in the field at the time of advertising, the notice period (if any) and their availability to work.
- A ringfenced sum of £8,000 towards the planning support role from South Hams District Council remains in place. Subject to satisfactory outcomes over a 12-month period, there is a commitment for a further £8,000 for another year.

##### ii. Targets and Outcomes Framework for Protected Landscapes

- There was an action on Becky Hughes, Natural England, to arrange a meeting between the Devon, Cornwall & IoS National Landscapes to ensure a co-ordinated and consistent approach. Action complete; Becky joined the Devon Protected Landscapes Managers session which included the Isles of Scilly National Landscape.

##### iii. National Landscape team priorities

- The NL Manager has not received any significant feedback from Partnership members on 2024/25 team priorities to date. The NL Manager invites Partnership to contact him if they wish to discuss any aspect further.

## 5 PARTNER UPDATES

An opportunity for Partners to update Partnership on their projects contributing to conserving and enhancing the South Devon National Landscape and work towards area of outstanding natural beauty Management Plan priorities.

### 5.1. Updates provided in advance of the meeting

- i. Ken Carter, South West Coast Path Association
  - Provided a report that was included in the meeting papers.
- ii. Emma Magee, Environment Agency
  - a) In 23/24 we secured a good amount of WEIF investment into South Devon which supported 8 projects delivered by our fantastic South Devon partners. Building on this success 24/25 has seen record success for projects securing WEIF funding, more than doubling the amount secured last year for the delivery of projects to improve fish passage, create new habitat, improve water quality and join up working to deliver bigger and better outcomes for South Devon. Those within the SDNL that secured WEIF in 24/25 are:
    - The Living Dart: Dart Saltmarshes, delivered by Bioregional Learning Centre and Dart Harbour and Navigation Authority
    - Dart Catchment Action Plan, delivered by The Sharpham Trust
    - Erme Catchment Plan, still in development but special thanks to WATER
    - Yealm and Erme Non-Farming Landowners, still in development but this will build on work with YEM, WATER, DWT and Parklife

Thank you to everyone who has been involved in projects to date.

- b) The Environment Agency in collaboration with Forestry Commission and Catchment Sensitive Farming will be hosting an event at Totnes Civic Centre on October 21st to promote tree planting in the Dart catchment. This free event is aimed at landowners within the catchment who are interested in finding out more about funding, conservation planting, agroforestry and things to consider when planning a project. Booking will be necessary via Eventbrite. More details to follow. We would welcome any opportunity to promote this event through SDNL events and groups.
- c) We will be writing to every land manager in the Salcombe-Kingsbridge catchment next month to highlight the sensitivities of the estuary to nitrate run off. This has been seen to cause algal blooms which is damaging the protected habitats within the estuary. This letter will include practical advice on managing and reducing run off and signpost places for further advice including EA, CSF and FiPL officers. A copy of the letter can be provided to others working in the catchment upon request.

*Post meeting update: A letter was sent to circa 400 land managers/farmers in the Salcombe Kingsbridge catchment on 21 August.*

### 5.2. Kate Hind, Devon County Council

- i. Following Peter Chamberlain's departure, there has been restructure in progress within our team of fifty people. The team includes Climate, Carbon Plan, Historic Environment, Landscape, Natural Environment, and the trees people. The restructure is hoped to complete by September and will include looking at officer advising roles on partnerships and value for money.

*Post meeting update: We were notified on 21 August the officer providing support to South Devon National Landscape Partnership will be Doug Eltham, Head of Environment at Devon County Council.*

5.3. Cllr John McKay, South Hams District Council

- i. Looking into the possibility of developing a food hub at The Cider Press Centre, Dartington to showcase local food, shorten supply chains and encourage eco agricultural practices. A Food and Agriculture Officer has been recruited and is now in post.
- ii. South Brent Community Forest:  
A meeting of stakeholders has been scheduled for next week.
- iii. Rivers briefing will take place in either August or September. South Devon Catchment Partnership and other interested parties are invited to attend and let the District Council know the work they are doing.
- iv. Active Travel Scheme in Totnes: If this goes ahead, it will be the first SHDC run e-bike scheme.
- v. The District council commissioned a report on farming and food production in South Hams. This went through all the soil types and what we produce. The report also included what we could do if we concentrated on regenerative/agri-ecological farming. A copy has already been sent to the NL Manager, happy for this to be circulated.

**ACTION 1 (RE): Circulate the report on farming and food production in South Hams to members of this Partnership.**

5.4. Cllr Georgina Allen, South Hams District Council

- i. There is a discussion on having e-bikes at Dartington Estate and linking up certain cycle paths towards Buckfastleigh and Ashburton. There is some progress on getting the National Cycle Link to be joined up again, crossing the Dart between the old steam railway on the Totnes side.
- ii. South Hams Festival is taking place next year. The festival theme for 2025 is climate change.

**ACTION 2 (GA): Speak with the NL Manager initially about the 2025 South Hams Festival. The ongoing SDNL contact would be Nicky Bailey, Communities Officer and Life on the Edge Volunteering and Learning Coordinator.**

5.5. Tracy Brooks, Torbay Council

- i. Torbay Council has appointed consultants (Stephenson Halliday Limited) to carry out a Strategic Rural and Urban Landscape Study that will provide a comprehensive analysis of the rural landscape and seascape features, value, and characteristics of the Torbay area. This assessment is required to provide robust landscape evidence to support the Local Plan Update. The Study will include a review the existing Landscape Character Assessment (Parts 1& 2) carried out by Enderby Associates (2010), as well as Landscape Sensitivity Assessment (LSA) of potential local plan growth areas, (including scope for renewable energy) and an assessment of potential locally valued landscapes. The study will include a review some local designations within the urban areas included in the current Local Plan and Neighbourhood Plans. Stakeholder engagement is planned as part of this process.

5.6. Matthew Odgers-Brown, Forestry Commission

- i. Devon LNRS Woody Habitats

- a) Ross Kennerly is now leading the Devon LNRS work related to all woody habitats (also supporting drafting of the Plymouth and South Devon Community Forest Plan). It would be great to ensure join up/consistency between woody elements of LNRS, the draft management plan and your proposed figures related to targets and outcomes framework for protected landscapes.
  - ii. New FC officers in post (Partnership members requiring the email addresses are requested to contact the SDNL team)
    - a) Holly Savage, Agroforestry Woodland Officer (Devon & Cornwall)
    - b) Fraser Bradbury, Deer Officer (SW)
  - iii. Tree and woodland creation
    - a) Delivered 474Ha in the South West in 2023/24. Hoping to get figures for National Landscapes, National Parks and Local Authorities in the future.
  - iv. Devon Woodland Creation Working Group (Partnership members requiring the email addresses are requested to contact the SDNL team)
    - a) Working group created to co-ordinate woodland and tree establishment ensuring we work together in a coordinated and cohesive manner. Also endeavouring to ensure landowners are not contacted multiple times by different groups.
    - b) Jo Garlick (FC Land Use Advisor)
    - c) Elliot Saloman-Carter (DCC Woodland Creation Officer) *FC Woodland Creation Accelerator post – until March 25*
  - v. SW Rainforest Alliance. Plymouth University Conference. Report & Mapping
    - a) Report and mapping of outputs will come out in September followed by a meeting and seminar/conference (see below).
    - b) Temperate Rainforest Alliance event<sup>1</sup>, taking place on 3 September 2024 from 09:30–17:00.
    - c) Lead officer/co-ordinator – Woodland Trust Outreach Manager, Eleanor Lewis (Partnership members requiring the email address are requested to contact the SDNL team)
  - vi. Thinking around restoration of ‘wildlife rich’ woodland habitats i.e. delivering pro-active management or informed non-intervention within priority habitat woodlands
    - a) A new application has been launched, updating, and making available for use on mobile devices the Sylva ‘Woodland Condition Assessment’.<sup>2</sup>
    - b) There are training and information packs for landowners and practitioners to support these assessments<sup>3</sup>
    - c) It is worth noting that these condition assessments will provide baseline data for BNG and are likely to be pre-requisite for woodland related ELM incentives (currently in use for Landscape Recovery Schemes.
  - vii. Tree Challenge Fund closed in June.
  - viii. Accelerator Fund ending at the end of this year.
- 5.7. Richard Snow, National Trust
- i. National Trust strategy launched ten years ago with a focus on delivering improvements on our land for nature, sequestering carbon and supporting our farm tenants through that period of change.

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<sup>1</sup> [Temperate Rainforest Futures: Dreams, needs and opportunities \[University of Plymouth\]](#)

<sup>2</sup> [New high-tech app to streamline woodland surveys for landowners \[SYLVA Foundation\]](#)

<sup>3</sup> [Woodland Condition Assessments \[Field Studies Council\]](#)



- ii. Now in the final phase of tree planting scheme at Wembury supported by Community Forest. Phase three, the last phase, sees 40,000 more trees being planted this winter bringing the total to 120,000 trees covering around 170Ha. The majority of this being wood pasture – a mix of trees and grazing in the same landscape.
- iii. NT are trying to improve our grasslands and one of the ambitions is to try to move away from monoculture rye grass and trying to create species rich grassland. Created our first seed donor site in South Devon three years ago. The first field looks fantastic and is about to be harvested for the first time. The donor seed will be shared with other NT land, neighbours and other interested landowners. Support from the FiPL programme has provided tools and equipment such as a seed harvester.
- iv. We have been experimenting with no fence collars, an initiative supported through the FiPL programme.
  - a) Keen to have grazing animals on our coastal cliffs, a sustainable way to manage some of our SSSI coastline.
  - b) Interaction with people is a challenge but hope trial of no fence collars helps
  - c) Eighty collars, majority East Soar farm and some to Wembury
- v. The current National Trust strategy comes to an end at the end of the calendar year. The new strategy will be launched in January 2025.

5.8. Penny Mills, representative for amenity groups

- i. I understand that CPRE nationally are going to produce new tranquillity maps plotting light pollution etc.

5.9. Peter Hinchliffe, representative for parish and town councils

- i. We are trying to initiate a new footpath/cycle path and wondered whether the National Landscape could be a source of funding.  
NL Manager: We have a small amount of access funding from Defra available this year and there may be potential to fund this from Defra's capital fund.

## 6A PARTNERSHIP CHAIR'S REPORT

The report provided a summary of activity over the last few months undertaken on behalf of the National Landscape Partnership by the Chair, Peter Sandover.

Partnership members are recommended to note the report and are encouraged to provide brief reports where possible in advance of scheduled meetings to assist with the Partner updates agenda item.

- 6a.1 Since writing the report, and following an emailed reminder of the offer to visit, a further four parishes have now responded.
- 6a.2 The Holbeton meeting will have a Life on the Edge focus with two members of the project team also attending: Rob Skinner, LotE Project Manager and Stuart Riddle, LotE Community Officer.
- 6a.3 Stuart Riddle will brief the National Coastwatch Institution on the Life on the Edge project and engagement in September.

## **6B UPDATES TO PARTNERSHIP TERMS OF REFERENCE / ELECTION OF COMMUNITY REPRESENTATIVES**

This item, in conjunction with the circulated Appendix, introduces proposed updates to the Partnership's terms of reference, in recognition of the rebranding to National Landscapes, and other timely updates to reflect the current operating position.

Following a discussion, the following points were clarified:

- i. With CPRE co-opted onto the South Devon National Landscape Partnership, the proposal is for the community and voluntary groups representative to also represent amenity groups going forward. Penny Mills said she would continue to represent amenity groups until the community and voluntary role is filled.
- ii. A change is needed in the proposed terms of reference as part 4 iii still refers to eight community representatives instead of seven.

### **TO APPROVE THE REVISED TERMS OF REFERENCE WITH ANY ERRORS CORRECTED**

Resolved: No objections, the terms of reference will be revised as proposed.

## **7A THE COASTAL WILDBELT PROJECT**

Kate Jury, Coastal Wildbelt Project Officer for National Trails UK, gave a presentation on the Coastal Wildbelt initiative.

### **7a.1 Presentation extracts:**

- i. National Trails UK<sup>4</sup> is part of the newly formed Protected Landscapes Partnership. NTUK lead on two broad workstreams across the PLP: Equity, Diversity & inclusion and Nature Recovery. NTUKs newly appointed Nature Recovery Officer is Hannah at PLP.
- ii. The King Charles III England Coast Path covers 2,700 miles of coastline.
- iii. Coastal Wildbelt is a new national initiative for people and nature along the coastline.
- iv. The Marine and Coastal Access Act 2009 required the creation of Coastal Margin generally described as 2 metres inland from path to the seaward foreshore. By default, with a few exemptions, this is open access land. The creation of Coastal Margin introduces a new right of access to the public. You can find Coastal Margin, shaded a magenta colour, on OS maps.
- v. Coastal Wildbelt is embracing the opportunity of what the Coast Path and newly designated Coastal Margin can offer and drive forward protection, improvement and enhancement of conditions for people and nature. We are looking to identify opportunities, challenges, frameworks to best advocate and expand the delivery for more nature for people along the coast.
- vi. Coastal Wildbelt is currently funded for the 2024-25 Scoping phase. Initial timeline:
  - 2024-25 Scoping phase (current funding)
  - 2025-27 Development phase
  - 2027-32 Delivery (phase 1)
- vii. At present we are scoping along the England coast. This is a huge undertaking in one year. To help, we are looking at two case studies in a more depth to find out what is already going on in those areas:
  - What already exists? People, partnerships, projects

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<sup>4</sup> [National Trails UK website](#)

- How are these delivering?
- What would a national initiative help on that locale?
- viii. The regional case study area is the South West in collaboration with the SWCPA.
- ix. What we have found out so far
  - There is a gap in championing the national opportunities and intersections of peoples access, nature recovery and engagement with climate change, environmental and human pressures in the newly designated Coastal Margin
  - Our coastline is heavily designated, however there is a gap in a description that supports projects and policies to capture the dynamism of the coast
  - Delivery is happening but there are gaps, often outside of protected landscapes that would benefit from support
  - The intertidal area is often overlooked with catchment and coastal coordination
  - Resources are stretched thin along the coast and would benefit from a one-stop shop toolkit or facilitator to support more national advocacy and enable more regional and local delivery
- x. How you can help:
  - Tell us what you are up to  
We have a mapping system with an easy form to start mapping all the different projects taking place across the region. We can work out with partners the best route to get projects added to the map
  - Fill in the ArcGIS Survey (coming soon)
  - Include the KCIIIECP and Coastal Margin in LNRS opportunities for people and nature
  - Watch out for further communications and opportunities to engage in workshops (hoping to hold these in the autumn)
  - If you are interested in talking more on the subject, reach out direct to Kate whose case study area is the South West region; Partnership members should contact the SDNL team for contact details

#### 7a.2 Following a discussion, the following points were clarified

- i. Information sharing between National Trails UK, SWCPA and SDNL is ongoing, with regular contact also taking place between Kate and the SDNL Manager and Life on the Edge Project Manager.
- ii. Planning was raised and how this gets picked up in the planning system, given both the SWCPA and National Trails UK are not statutory consultees. As the project is still in the scoping phase, Kate is exploring what advocacy and national guidance could look like.

**ACTION 3 (TB/KJ): Have a conversation to discover what standing advice may be most helpful.**

## 7B TARGETS AND OUTCOMES FRAMEWORK - APPORTIONMENT

The National Landscape Manager gave a presentation on the Targets and Outcomes Framework.

### 7b.1 Some points from the presentation:

- i. Targets in the framework are set at a national level for all 44 landscapes as a collective and these extend beyond five years (more than one management plan cycle).
- ii. Natural England will work with Protected Landscape bodies to apportion three targets:

- Target 1: Restore or create more than 250,000 hectares of a range of wildlife-rich habitats within Protected Landscapes, outside protected sites, by 2042 (from a 2022 baseline).
  - Target 7: Refers to peat so does not involve South Devon National Landscape.
  - Target 8: Increase tree canopy and woodland cover (combined) by 3% of total land area in Protected Landscapes by 2050 (from a 2022 baseline).
- iii. The NL Manager went through a timeline.
- Workshops are planned in August and early September. We understand there will be eight (regional) workshops that will provide advice to Protected Landscape bodies and their local partnerships.
  - Final guidance is expected October/November.
  - Summer 2025: Numeric targets will be apportioned amongst 44 Protected Landscapes

## 8A PLYMOUTH SOUND NATIONAL MARINE PARK & THE HORIZONS PROJECT

Elaine Hayes, National Marine Park CEO, gave a presentation.

**ACTION 4 (EH): Share slides and video with the NL Manager for distribution to members of the SDNL Partnership.**

### 8a.1 Presentation extracts:

- i. National Marine Park, partial timeline
  - Declared in 2019 by the Leader of Plymouth City Council
  - CEO appointed in 2022
  - £22m bid to NLHF Horizons Fund to develop and deliver the UK's first National Marine Park secured at the beginning of 2024
  - Working locally and nationally to deliver a roadmap for NMPs'
  - Developing a 5-year Delivery Plan and sustainable funding model
  - A 'State of the Sound' report has been commissioned, reviewing over 70 parameters to monitor to evidence impact. Also about to agree a suite of metrics that can serve as impact measures.
  - Phase 2 will look at gaps in knowledge to build a project pipeline (subject to funding)
- ii. Horizons Project
  - £22m project
    - £1m + on nature
    - £1m + to create the world's first digital marine park
    - £5m on connecting people to planet
  - Capital regeneration
    - Mount Batten – tower, pontoon, changing rooms
    - Mount Edgcumbe – opening of the garden battery
    - Tinside – refurbish and repurpose terrace, floor 1 and building B as well as planned maintenance.
    - Ernesettle and Firestone Bay – improve access, nature and interpretation
  - Create an entire city of marine citizens and connect with 10m people worldwide.
  - Activity plan
    - Ranger service
    - Schools programme

- Young people programme
- Student engagement
- NMP Social Enterprise support
- Community grants programmer
- NMP Swim Safe
- Pathways to the Sea
- Sea in the City
- NMP Festival
- Projects and pipeline
  - Rewilding the foreshore (Nov 2023 – Mar 2024)
  - Rivers as Citizens (Jan 2024)
  - Horizons delivery Digital and nature lead (2024 – 2028)
  - Recruiting 2 PhD students (2024)
  - NMPs, national advocacy (Feb 2024)
  - Biogenic reef restoration bid
- Elaine also set out the wider NMP interests
  - Innovation in improving water quality
  - UAV technology and the role of AI in improving environmental decision making
  - Invasive Non Native Species mapping and monitoring
  - Natural capital
  - Seascape projects
  - Marine species
  - Blue wellbeing
- National Marine Park website<sup>5</sup> is due to be updated autumn 2024.

8a.2 Following a discussion, the following points were clarified:

- i. We are working with South West Water. A number of measures are published on SWW's WaterFit Live<sup>6</sup> including data about storm overflows, and whether they are impacting the quality of bathing waters as well as how SWW are investing in an area.
- ii. Devon County Council are hoping to have a meeting in September/October to help join up Ocean Literacy that is occurring in pockets across the county.

## **8B PROGRESS TOWARDS A DEVON LOCAL NATURE RECOVERY STRATEGY**

The item provides brief updates on key project delivery programmes in support of South Devon area of outstanding natural beauty Management Plan priorities.

Partnership members are recommended to note the scope and scale of work undertaken by the National Landscape team and partners through projects and to note the strong partnership work delivering impactful actions of mutual benefit.

8b.1 Kate Hind went through her report included with the meeting papers.

8b.2 DCC are developing an easy-to-use mapping platform to highlight areas where actions should be focused. Will share a website draft with the NL Manager when available.

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<sup>5</sup> [National Marine Park website \[plymouthsoundnationalmarinepark.com\]](https://plymouthsoundnationalmarinepark.com)

<sup>6</sup> [WaterFit Live \[Southwestwater.co.uk\]](https://southwestwater.co.uk)

**ACTION 5 (KH): Share website link when available****8C MANAGEMENT PLAN DELIVERY PLAN – HIGHLIGHTS FROM KEY ACTIONS**

The item provides brief updates on key project programmes in support of South Devon area of outstanding natural beauty Management Plan priorities.

This report provides brief updates on key project programmes in support of South Devon AONB Management Plan priorities.

**8c.1 Farming in Protected Landscapes**

An update was provided in the meeting papers.

Matters arising

- i. The Partnership Chair congratulated the team on reallocating some admin funding to the project delivery pot.
- ii. The South Devon National Landscape website has information on some of the projects supported through the Farming in Protected Landscapes programme<sup>7</sup>.
- iii. **ACTION 6 (NL Manager): Provide a run through of the types of projects supported by the Farming in Protected Landscapes Programme at the next Partnership meeting.**

**8c.2 South Devon Farm Connectivity Facilitation Group**

An update was provided in the meeting papers.

Matters arising

- i. Correction to meeting papers: the soil health event, to improve water quality of the Dart, took place in June (not July).

**8c.3 Life on the Edge**

An update was provided in the meeting papers.

Matters arising

- i. A partner launch event is taking place at Brixham laboratory on Monday.  
Chair: Sending apologies for the event. I am also away for the Project Advisory Board meeting.

**ACTION 7 (all): Advise the NL Manager if you are able to represent the Partnership Chair at the Life on the Edge Project Advisory Board meeting taking place after the Partner launch on Monday.**

**8D SUMMARY OF THE CORE FUNDING GROUP MEETING APRIL 2024**

The item provides Partnership with a brief update on the most recent Core Funding Group meeting.

Partnership members are recommended to note the update.

**8E REVIEW OF THE 2019-2025 AREA OF OUTSTANDING NATURAL BEAUTY MANAGEMENT PLAN****8e.1 The NL Manager gave a presentation.**

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<sup>7</sup> [FiPL projects \[South Devon NL\]](#)

- 8e.2 We have received a short summary document, outlining a few mandatory elements and recommendations, however we still await full guidance on what a Management Plan should contain from Natural England.

Mandatory elements:

- Ambition, action and targets to further Protected Landscape statutory purposes
- Protected Landscapes Targets and Outcomes Framework
- 30by30
- Local Nature Recovery Strategies
- Climate Change Adaption Plans
- Strategic Environmental Assessments and Habitat Regulations Assessments
- Interconnectedness of the above elements
- Equity, diversity and inclusion and progress reporting should also be considered as part of Management Plan development and implementation

- 8e.3 Currently in an information gathering phase. The NL Manager will speak to Elaine Hayes regarding their 'State of' work.

**ACTION 8 (EH): Provide the NL Manager with a copy of the 'State Of' report.**

- 8e.4 Looking at reserves and how to use them to support Management Plan project activity. The last two reviews were 'light touch' however this will be a root and branch review with lots of activity.
- 8e.5 Management Plan review will be covered in more detail at our next meeting. There will be a series of dedicated workshops and sessions in lead up to and after the next Partnership meeting.
- 8e.6 The NL Manager will be in touch with Partnership members with tailored invitations to a series of workshops. For now, the NL Manager is keen to hear what you would like to be considered during the review and to have your feedback on the following:

**ACTION 9 (all): The NL Manager would like you all to consider these two questions over the summer period (4-6 weeks), with responses back by Monday 9 September latest:**

**Q1: Thinking about the last two iterations of the Management Plan (current 2019-25 and prior 2014-2019), including annexes, what elements of the plan were:**

- ❖ Least useful?
- ❖ Most useful?

**Q2: What do you particularly want to see from the new Management Plan?**

The Chair encourages all groups and partners to contribute to this process in the early stages.

- 8e.7 At the Core Funding Group meeting held in April, there was support and commitment for a graduate Management Plan support officer. Our project Officer retired at the end of May; we will go out to advert shortly for that role. This is instrumental in boosting capacity for Management Plan review.

## 9A PLANNING UPDATE

This is a 'for information' item. A planning annex paper was circulated prior to the meeting.

## 8. PARTNERSHIP MEETING DATES

Remaining meeting date in 2024

- 29 November, Follaton House Repton Room and online via Zoom

**9. AOB**

Peter Hinchliffe, representative for parish and town councils: A plea for meeting papers to come out earlier. Parish clerks often only work on three days of the week and late papers mean I usually miss their working days.

Chair: Although meeting papers are getting earlier, I appreciate they were late however there has been a lot happening. I advise parish councils that although a lot of things are picked up in my meetings with them, they can also raise anything with me between meetings too.

NL Manager: I would add that the draft agenda comes out a month before a meeting with clear topics, which is hopefully the opportunity for parish councils to provide input, thereby allowing us to shape the final agenda around interest.

**MEETING CLOSED**



## ITEM 5 South Devon National Landscape Partnership Matters

### 5A. Partnership Chair's Report

ITEM FOR	INFORMATION & FEEDBACK	REPORT BY	Peter Sandover, South Devon NL Partnership Chair
<b>SUMMARY</b>	This report provides a summary of activity over the last few months undertaken on behalf of the National Landscape Partnership by the Chair, Peter Sandover		
<b>MANAGEMENT PLAN THEMES</b>	<b>All PARTNERSHIP:</b> Awareness & communication; Management, organisation & partnerships. <b>Others</b> – underpins and links to all other Management Plan themes.		
<b>RECOMMENDATION</b>	Partnership members are recommended to: <ol style="list-style-type: none"> <li>Note the report and are encouraged to provide brief reports where possible in advance of scheduled meetings to assist with Item 6 Partner updates.</li> </ol>		

### New Partnership representatives

1. A warm welcome to the newly elected Community representatives to the Partnership and welcome back returning representatives. The community representatives play a very important role on the Partnership by promoting our work and projects to the community at large and providing updates from their sectors, feedback on our impact and any areas we can improve on. I also welcome Doug Eltham our new Devon County Council representative.

### Parish council meetings

2. This quarter I met Parish Councils at South Pool, Cornworthy, Holbeton, Malborough, and South Brent, I am scheduled to meet Aveton Gifford and Stoke Gabriel before the end of this year, West Alvington and South Milton early next year. My discussions with PCs are now becoming more focused on the Life on the Edge project and I was extremely grateful to our Project Manager Rob Skinner for joining myself and Peter Hinchliffe at the Holbeton meeting to help explain the project objectives and tasks in detail and outline opportunities for community funding. Discussions are also starting on the management plan review. Issues discussed with PCs also included sensitive planning applications, potential links to the South Hams Festival next year, the partnership's position on renewable energy.

### Management Plan review

3. I hope by now members have provided their initial thoughts on what should be addressed in the Management Plan Review. Our input is essential for a robust plan for the next 5 years.

### National Planning Policy Framework (NPPF) reforms

4. I attended the South Ham Society's recent event on affordable housing by SHDC and this links to another forthcoming event on their and SHDC's responses to the Government's proposed reforms to the National Planning Policy Framework (NPPF). Both these issues have a direct bearing and impact on the National Landscape. The National Landscape Association produced a comprehensive response to the proposed NPPF reforms on behalf all the National Landscapes. A copy of this will be made available to members. There is a shared view that Government's aspiration to build more homes and development in rural areas like ours will likely result in significant harm to the natural beauty of our and all other National Landscapes. All development should be delivered in a way that is compatible with and positively contributes

to the recently enhanced statutory purpose of conserving and enhancing the natural beauty of a National Landscape. The response has made recommendations that would be less harmful.

**MP's visit**

5. I was pleased to be involved on 1st November in a meeting and farm visits with Caroline Voeden MP, this gave her the opportunity to ask questions of us and Roger and Diane to brief her on partnership and team working, key priorities, duties, current and future projects. We visited Croft Farm, West Charleton and Coleridge Farm and dairy, both of which have been the recipients of FiPL funding. Many thanks to Jo Rogers and Matt Darke for hosting us and for Caroline and caseworker Rachel for spending the morning with us. The visit was held shortly after the Budget so there was first hand feedback from local farmers on the inheritance tax announcements.

Item Ends.

## ITEM 6. Partner Updates

ITEM FOR	INFORMATION & FEEDBACK	REPORT BY	Members of the South Devon NL Partnership
<b>SUMMARY</b>	This report provides a summary of partner contributions to conserving and enhancing the natural beauty of the South Devon National Landscape and delivering on area of outstanding natural beauty Management Plan priorities – recent, current and planned		
<b>MANAGEMENT PLAN THEMES</b>	<b>All PARTNERSHIP:</b> Awareness & communication; Management, organisation & partnerships. <b>Others</b> – underpins and links to all other Management Plan themes.		
<b>RECOMMENDATION</b>	Partnership members are recommended to: <ol style="list-style-type: none"> <li>Note the report(s) provided and are encouraged to provide brief reports where possible in advance of scheduled meetings to assist with this Item, Partner updates.</li> </ol>		

### Ken Carter, Chair South West Coast Path National Trail Partnership

#### Overview

1. This report outlines some of the Coast Path issues relevant to the Partnership.

#### Volunteers

2. Volunteers working for the charity that champions the South West Coast Path have been recognised through the **King's Award** for Voluntary Service for 2024. This is the highest award a voluntary group can receive in the UK and is equivalent to an MBE. The Coast Path would not be what it is today without the input of the hundreds of volunteers both past and present who have dedicated their time to care for and cherish the path. We are really proud that our volunteers have been nationally recognised for all the amazing work they do to protect one of the world's great.

#### SWCP Trail Partnership

3. The Partnership met in October and considered the implications of extending the Partnerships remit to cover the King Charles III England Coast Path (KC3ECP) in the South West. Discussions with Somerset, North Somerset, Bristol, South Gloucestershire and Bournemouth are taking place with generally positive response to the proposal. These discussions with Natural England include how the KC3ECP grant will be administered and works coordinated around the region. The Association is also considering changes to its constitution wording to include ref to the KC3ECP so that it can fund raise and support the route. The SWCP route, Minehead to Poole, will remain as a National Trail in its own right and established through the 49 Act. Defra have confirmed a single year maintenance grant for 2025 with the final settlement not known until Spring 2025.

#### King Charles III England Coast Path

4. The KC3ECP access route for Cremyll to Kingswear has been approved and Natural England grant support is being sought for projects to establish and improve the route at Stoke Fleming, Blackpool Sands, Mothecombe and possibly Wembury. (Verbal update can be provided at the meeting). Other project improvements include Hope Cove and Mothecombe surface repairs. The total cost of these projects is approximately £150K.

## **Coast Path Connectors**

5. The (NLHF) Lottery funded Coast Path Connectors Project has been externally evaluated highlighting some excellent results. The project aims to encourage walking the trail, at hubs around the region, with people who might normally never do so due to various barriers. Walks have been led by over 60 volunteers and almost 4,500 people have participated, 300 socially prescribed with 435 being referred by NHS professionals. Evaluation shows that health and wellbeing benefits have exceeded targets and funding is being secured to extend the initiative to the end of 2025 and beyond. Macmillan Cancer Group, Kingsbridge, has requested future walks to be organised to support recovery by group members.

## **Photographer of the Year**

6. The 2024 SWCP Photographer of the Year exhibition has been on display at Paddington Station and new corporate arrangements established with GWR. The exhibition was also available to view mid Oct – 4th November at Royal William Yard.

## **Planning**

7. Natural England's standard response regarding the Trail has been changed to include ref to the KC3ECP and making the NTO aware of development proposals effecting the route of the path. Nationally there are conversations within NE about a stronger stance on planning through the NE strategy review. SWCPA fed back into the NTUK response for the NPPF consultation. We have also started a conversation with NE about formulating a purpose for National Trails which would then give a duty on public bodies to further that purpose (similar to National Parks and the Levelling-up and Regeneration Act.) A meeting of our Planning officer volunteers is planned and that links to National Landscape Planning officers can be established in order to coordinate responses to planning applications.

## **World Trails Conference**

8. The World Trails Conference was held in Ottawa during October and presentations were made on our work to promote equity of access through the Coast Path Connectors Project plus Coastal Wildbelt and access in the UK. The SWCPA and the Bruce Trail (Canada's oldest long distance trail starting at Niagara falls and running north to Tobermory on Lake Huron) have launched a 'Friendship Trail' forging links using the World Trails Network Friendship Trail Programme.

## **Office Move**

9. The Association's planned move to new offices on the Coast Path at Royal William Yard is progressing with a new lease agreed and NHLF bid submitted for funding to support the establishment of a visitor centre and community hub for volunteers. This work will involve fitting out of offices, the Centre and delivery of a volunteers development strategy. The anticipated timeframe is for the offices to be available by April and the Centre launch planned for June 2025.

## **National Parks and Access to the Countryside Act – 75<sup>th</sup> Anniversary**

10. We have taken part in a NE podcast to be launched around the 75th Anniversary of the National Parks and Access to the Countryside Act and attended the House of Lords reception as part of the celebrations with speeches from the Environment Minister, CEO and Chair of NE.

Item Ends.

## ITEM 7. National Matters

### 7A. Restoring 30 per cent of our land and sea by 2030

ITEM FOR	CONSIDERATION & FEEDBACK	REPORT BY	Roger English, National Landscape Manager
<b>SUMMARY</b>	This item introduces the national and international commitment to protect 30% of the UK's land and sea by 2030 (30by30) for which protect landscapes in England are considered to form an important backbone.		
<b>MANAGEMENT PLAN THEMES</b>	<b>PLACE:</b> mainly Biodiversity & geodiversity Underpins or links to all other Management Plan themes		
<b>RECOMMENDATION</b>	Partnership members are recommended to: <ol style="list-style-type: none"> <li>Note the urgency and importance government and Defra attaches to this area of work, and reliance upon the protected landscape network and marine protected area network in England to deliver</li> <li>Note the constraints and opportunities in South Devon for both strands of 30by30 on land, and at sea</li> <li>Offer their feedback on responding to this challenge; incorporating the response into activities of the Partnership; and the Management Plan review</li> </ol>		

### Background

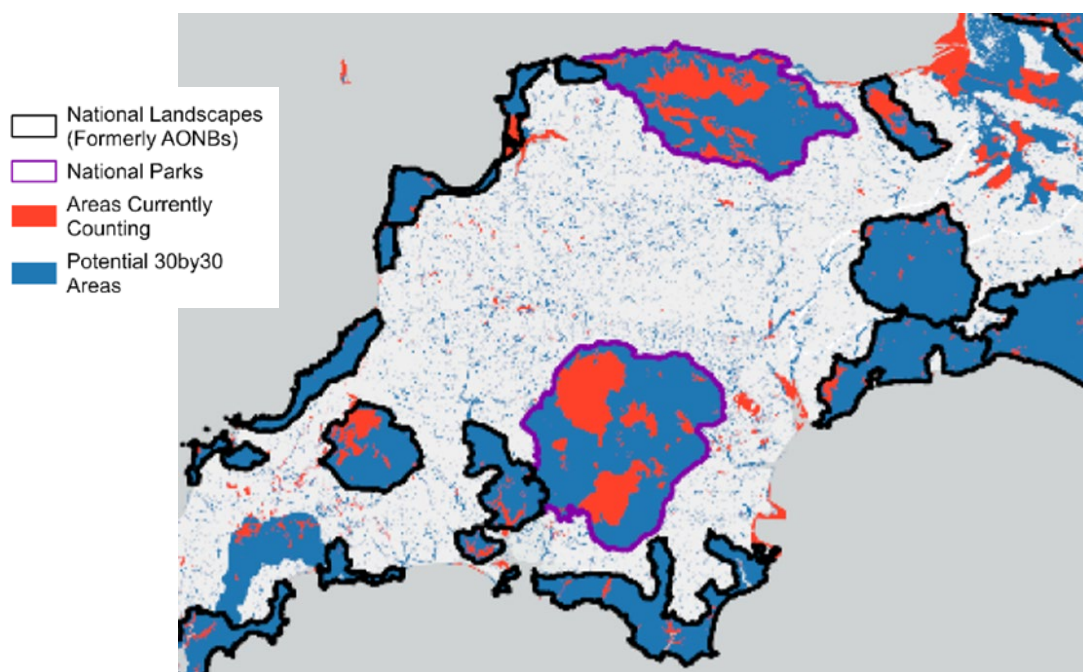
- In 2020, the government committed to protecting 30% of the UK's land and sea for nature by 2030. This has become known by the shorthand title of '30by30'. 30by30 is a global ambition adopted by the Convention on Biological Diversity in Montreal 2022 within Target 3. The aim is to *"Ensure and enable that by 2030 at least 30 per cent of terrestrial, inland water, and of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed..."*<sup>8</sup>
- The UK commitment is enshrined in the Environmental Improvement Plan, and set out how 30by30 on land in England would be delivered by:
  - Strengthening:** ensure effective policy and statutory safeguards and powers are in place to improve management for nature, prevent degradation and ensure appropriate access for people.
  - Extending and creating:** designate new protected areas and restore or create wildlife rich habitat outside of these
  - Investing:** invest in habitat restoration across our protected areas and beyond.
- The Environmental Improvement Plan is undergoing a rapid review by the current Government, to ensure it is fit for purpose to deliver targets for nature. It is understood that a strategy for delivering 30by30 is expected in 2025; and for 30by30 to be incorporated into a future Land Use Framework.

### 30by 30 on land in England

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<sup>8</sup> <https://www.cbd.int/article/cop15-final-text-kunming-montreal-ghf-221222#:~:text=Ensure%20and%20enable%20that%20by,representative%2C%20well%2Dconnected%20and%20equitably>

4. Published in December 2023, 'Delivering 30by30 on land in England' included mapped potential 30by30 areas which already have some protections or management in place, and/or habitats with important biodiversity value. There was acknowledgement that the entirety of the areas would not contribute to 30by30 in the future. An extract below of the indicative map shows areas [in Nov 2023] considered to count, and with potential to count, to 30by30 on land in England<sup>9</sup>



#### Analysis by the National Landscapes Association of potential to contribute to 30by30

5. Areas mapped as 'Potential 30by30 Areas':
- Designated Sites (SSSI, SAC, SPA, Ramsar)
  - Local Nature Reserves
  - National Nature Reserves
  - Priority habitat
  - Additional areas of deciduous woodland
  - Ancient woodland
  - Wood pasture and parklands
  - Deep peat
  - Surface water
6. Ancient woodland, wood pasture and parklands, deep peat and surface water were not included in the original Defra analysis. Areas included in the original Defra map that were not included are:
- Protected Landscapes in their entirety, because not all land within the PLs is potential for 30by30, for example, intensively farmed areas, towns, and villages.

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<sup>9</sup>[https://assets.publishing.service.gov.uk/media/65807a5e23b70a000d234b5d/Delivering\\_30by30\\_on\\_land\\_in\\_England.pdf](https://assets.publishing.service.gov.uk/media/65807a5e23b70a000d234b5d/Delivering_30by30_on_land_in_England.pdf)

- Farmland within any of the above under appropriate management, as we are considering what the potential is, not what currently counts.
  - Nature Recovery Projects, as the relevant parts are covered by other designations and land use types.
  - Country Parks, with Wood pasture and Parkland included instead.
7. For South Devon this analysis established that 21.4% or 7079.2ha of existing land has the potential to count toward 30by30 on land, if all elements met the published criteria.

Hectares & cumulative % of South Devon NL potential contribution to 30by30 on land from max of 33,128.8ha (SSSI is an absolute value, to avoid double counting all other categories are the remainder ha not covered by previous categories)		
Category	NL Area	Cumulative %
SSSI	1817.9	5.5%
SPA	0.0	5.5%
SAC	2.4	5.5%
Ramsar	0.0	5.5%
LNR	18.1	5.5%
NNR	1.5	5.6%
Deciduous Woodland	2236.1	12.3%
Ancient Woodland	14.1	12.3%
Woodland, pasture and parks	346.6	13.4%
PHI (no peat or wood)	2578.0	21.2%
Deep Peat	0.0	21.2%
Surface water	64.5	21.4%

8. The table below provide headline comparisons with other National Landscapes and National Parks.

	Hectares of Protected Landscape	% of Protected Landscape	Notes
<b>South Devon</b>	<b>7,079.2ha</b>	<b>21.4%</b>	
Highest scoring ha NL	136,664.1ha	68.8%	North Pennines
Highest Scoring % NL	5,587.6ha	75.5%	Arnside & Silverdale
Lowest Scoring % NL	4,747.6ha	8.5%	Lincolnshire Wolds
<b>Mean NL</b>	<b>17,215ha</b>	<b>30.9</b>	
Total NL	585,328.5ha	30.9%	
Highest scoring ha NP	130,231.6ha	55.2%	Lake District
Highest Scoring % NP	21,683.7ha	73.6%	Broads
Lowest Scoring % NP	55,028.9ha	33.3%	South Downs
<b>Mean NP</b>	<b>62,797ha</b>	<b>49.7%</b>	
Total NP	627,972.8ha	49.7%	
<b>Total Protected Landscapes</b>	<b>3,157,362.3</b>	<b>38.4%</b>	
England	13,027,900ha	n/a	

9. As should be expected given the huge variation in the nature of England's protected landscapes there is considerable variation between maximum and minimum hectares and percentage potential contributions from the protected landscapes family. This is primarily governed by the degree to which a protected landscape includes productive agricultural land and sea (land permanently covered by water).

### Published Criteria

10. This has now been developed further and qualifying criteria<sup>10</sup> for 30by30 on land in England were confirmed on 29th October 2024, along with next steps. The published information sets out:
- a vision for delivery of the 30by30 target in England
  - confirmed criteria which sets out how land can contribute
  - next steps for developing a delivery strategy, assessment and reporting process
11. Land needs to meet three criteria to contribute towards 30by30 in England:
- **Purpose** - be able to demonstrate that their purposes or management objectives will ensure the delivery of in-situ conservation outcomes.
  - **Protection** - be able to demonstrate that in-situ conservation will be sustained over the long term (at least 20 years), and that the area will be protected against loss or damage to important biodiversity values, through legal or other effective means.
  - **Management** - be effectively managed and able to demonstrate overall progress towards in-situ conservation outcomes
12. To be consistent with the criteria outlined above, SSSIs will only count towards the target when they are in favourable or unfavourable recovering condition.
13. Defra is currently developing the process to enable additional land to contribute towards 30by30 in England. This will be achieved through either self-assessment or internal assessment to minimise the burden on landowners and land managers.
14. The publication confirms that Protected Landscapes will provide the backbone to 30by30 in England, contributing towards the target where they are effectively managed and delivering in-situ conservation. The government recognise that we can, and must, go further within Protected Landscapes than other areas to meet our national environmental targets, including 30by30. This will be driven by the Protected Landscapes Targets and Outcomes Framework, as well as further action to ensure that these special places are wilder and greener.
15. Through their management plans, existing structures and strong partnerships, Protected Landscapes organisations are seen as playing a convening role to champion, identify and support areas that meet, or have potential to meet, the 30by30 criteria.
16. Defra believe it is important that Protected Landscapes deliver a significant contribution towards 30by30 in England. This is key to delivering landscape-scale nature conservation and realising the national vision of a well-connected and ecologically representative 30by30 network. At the same time, they recognise that these are unique landscapes operating in different contexts, and therefore their specific contributions to 30by30 will vary.

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<sup>10</sup> <https://www.gov.uk/government/publications/criteria-for-30by30-on-land-in-england>

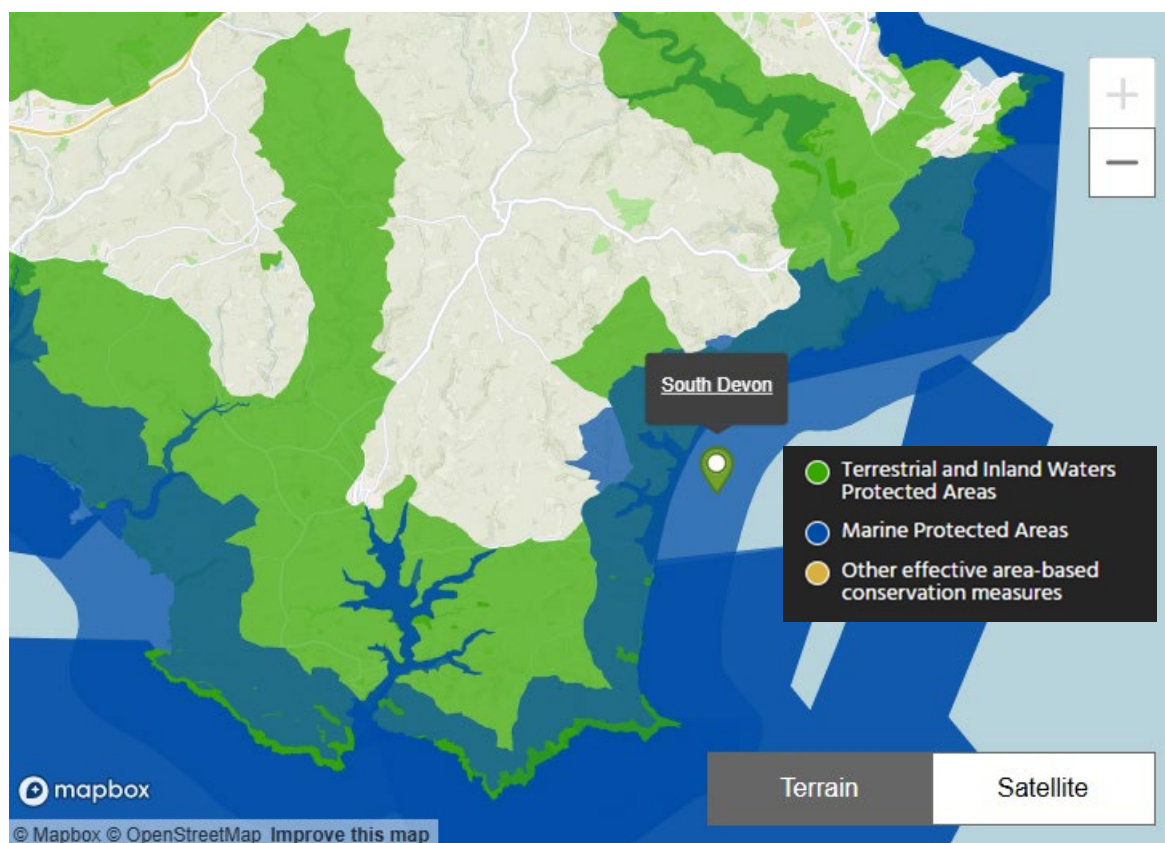


17. The publication confirms that although much land within Protected Landscapes should meet the first of the 3 30by30 criteria (purpose), these areas will only contribute towards 30by30 where they also meet the protection and management criteria. Only areas within Protected Landscapes which are assessed as meeting all 3 of the 30by30 criteria will be able to contribute towards the target.

### 30by30 At Sea

18. The approach to 30by30 at sea relies on the existing network of designated Marine Protected Areas. At the England level, Marine Protected Areas (MPAs) cover 40% of our seas and when combined with other devolved nations of the UK exceed the 30% target. 30by30 At Sea relates to water and land below the Mean Low Water mark – this includes areas of estuaries that are permanently covered by water, the inshore marine environment and in some instances protected areas that extend right out to the limit of UK territorial waters.
19. The priority is to ensure that these areas are properly protected and managed. Implementation of management measures within MPAs will contribute towards the 30by30 target at sea and the broader goal of achieving Good Environmental Status across UK seas.

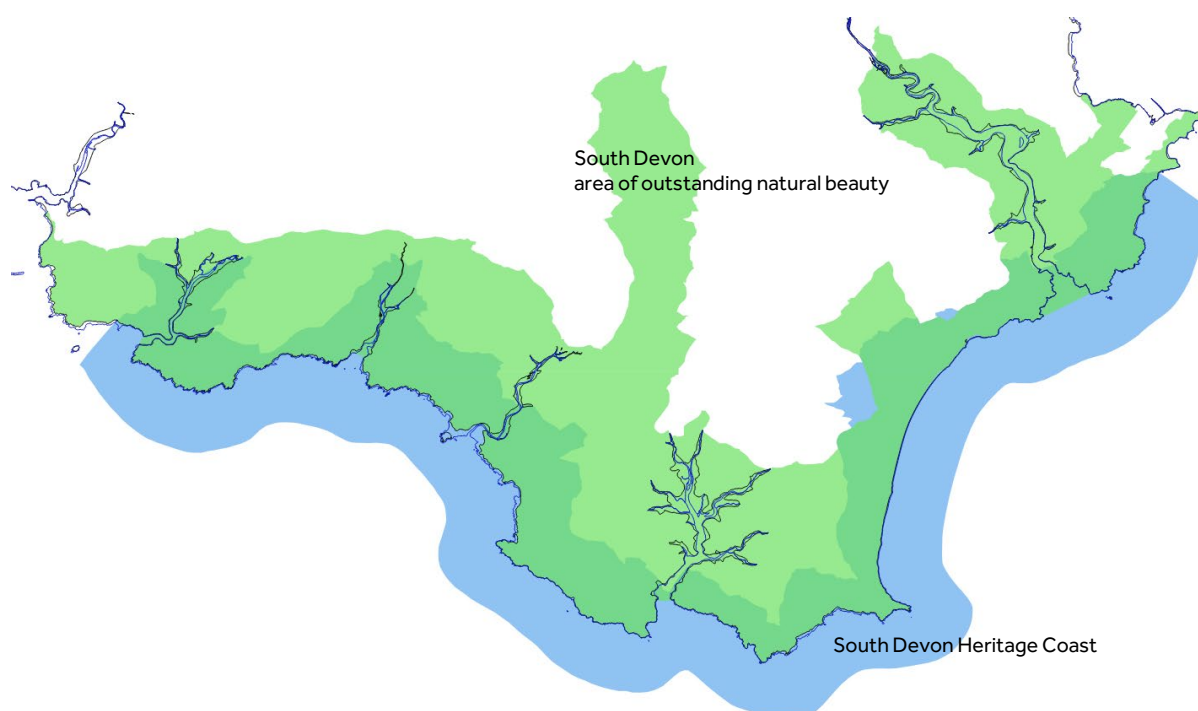
Map extract for part of South Devon taken from <https://www.protectedplanet.net/country/GBR>



### Relationship to the South Devon National Landscape

20. The split between approaches toward land and sea creates some confusion for what is being and could be considered as contributing to 30by30. This split also presents difficulties for taking an holistic management approach to the South Devon National Landscape, further complicated by South Devon Heritage Coast responsibilities.

21. 30by30 on land mainly relates to the terrestrial elements of the designated area of outstanding natural beauty, but also includes the intertidal area within the protected landscape. Within South Devon's estuaries this extends the area considered for 30by30 land down to the mean low water mark.



Ref	Geographic Unit	Potential to contribute to 30by30 on land or sea	Hectares
1	Area of 'area of outstanding natural beauty' (official stat)	Land and Sea	33,973ha
2	Area of 'Heritage Coast' (official stat)	Land and Sea	28,360ha
<b>3</b>	<b>Area of 'area of outstanding natural beauty' above Mean Low Water Mark (land)</b>	<b>Land</b>	<b>33128.8ha*</b>
<b>4</b>	<b>Area of 'area of outstanding natural beauty' below Low Water Mark</b>	<b>Sea</b>	<b>858.1ha</b>
	Area of Heritage Coast between area of outstanding natural beauty coastal limit and Mean Low Water Mark	Land	?
5	Area of 'Heritage Coast' above Mean Low Water Mark	Land	?
6	Area of 'Heritage Coast' below Mean Low Water Mark	Sea	?
7	Area of terrestrial 'Heritage Coast' outside of Area of outstanding natural beauty	Land	300.4ha
8	Area of terrestrial 'area of outstanding natural beauty' outside of Heritage Coast	Land	21,444.9ha
9	Total Area of 'area of outstanding natural beauty' and 'Heritage Coast' above Mean Low Water Mark	Land and Sea	?
10	Max extent of combined area of outstanding natural beauty plus Heritage Coast	Land and Sea	49,806.5ha

\* Figure derived by the Protected Landscapes Partnership 2024

Item Ends.

## 7B. National Landscapes Association briefing: Applying the CRoW Act section 85 duty “must seek to further the purpose” in National Landscapes

ITEM FOR	CONSIDERATION & FEEDBACK	REPORT BY	Roger English National Landscape Manager
<b>SUMMARY</b>	This item introduces the National Landscapes Association (2024), ‘Applying the CRoW Act section 85 duty to ‘seek to further the purpose’ in National Landscapes (AONBs): Guidance for Local Planning Authorities’ Briefing (Nov 2024) and explains how this guidance relates to the current South Devon AONB Management Plan and its Planning Guidance document.		
<b>MANAGEMENT PLAN THEMES</b>	<p><b>All PLACE:</b> Landscape character; Natural resources &amp; climate; Biodiversity &amp; geodiversity; Historic environment; Farming and land management; Coast &amp; marine; Rivers &amp; estuaries;</p> <p><b>All PEOPLE:</b> Tourism, access &amp; recreation; Planning &amp; sustainable development; Transport &amp; highways; Rural economy &amp; services; Community &amp; culture.</p> <p><b>All PARTNERSHIP:</b> Awareness &amp; communication; Management, organisation &amp; partnerships.</p>		
<b>RECOMMENDATION</b>	<p>Partnership members are recommended to:</p> <ol style="list-style-type: none"> <li>Note the National Landscapes Association Briefing (Nov 2024)</li> <li>Endorse promotion of the National Landscapes Association Briefing.</li> <li>Note the link between this matter and the ongoing work to update the Planning Guidance for the South Devon National Landscape and South Devon Heritage Coast.</li> </ol>		

### Background

1. The significantly strengthened Countryside and Rights of Way Act 2000 ‘section 85 duty’ towards areas of outstanding natural beauty became law on 26th December 2023.

#### ***Section 85 General duty of public bodies etc***

85 (A1) “In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority, ***must seek to further*** the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”

2. The National Landscapes Association (NLA) informed by its specialist Planning and Placemaking Panel has issued a Briefing to provide guidance to planning teams in Local Planning Authorities (LPAs) on applying the strengthened CRoW Act section 85 duty to planning functions.
3. The Briefing forms part of a series of guidance being developed by the NLA. The guidance development process is triaging the themes, situations or categories of relevant authorities likely to have the most significant impacts on natural beauty. The Panel is next focusing on provision of guidance for Relevant Authorities and Nationally Significant Infrastructure Projects (NSIPs).
4. This is non-statutory guidance and should be considered in parallel with the forthcoming guidance expected from Defra. Defra guidance will cover the responsibilities of all relevant authorities, not just local planning authorities.
5. The guidance in the briefing compliments, but does not replace that given in the South Devon AONB Planning Guidance and its updated Addendum and Key Principles for Planning.

## What the NLA Briefing Covers

6. The NLA Briefing sets out the changes made by the Levelling-Up and Regeneration Act 2023 in terms of the section 85 duty. It is a useful starting guide for understanding the strengthened section 85 duty and what this means for in practice for planning teams.
7. It gives an overview of the legislative context and sets out a broad approach to the strengthened duty in terms of planning functions. It gives guidance on these areas:
  - Using the AONB Management Plan
  - Local Planning Authority decision-making process
  - Applying the s.85 duty in planning policy plan-making
  - Applying the s.85 duty in decision-making on planning applications, Tree Preservation Orders and enforcement actions
8. A Briefing is necessarily short and so it cannot cover all the implications for the practice of the local planning authorities, or for other relevant authorities when they engage with the planning process.

## What it does well

9. It is a good reminder that 'natural beauty' is a holistic concept and encompasses more than just landscape and scenery. This is important because the duty is towards natural beauty, whereas the National Planning Policy Framework (NPPF) only gives great weight to landscape and scenic beauty, which is much narrower.
10. Throughout, it makes clear and instructive links between planning processes and the Management Plan setting out how the LPA must use the relevant Management Plan to inform how it accomplishes the duty during plan-making and decision-making.
11. The term function includes duties and powers and "*the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any functions.*"<sup>11</sup> This means the section 85 duty does not just apply to the 'final decision(s)'. The Briefing has given useful examples of how an LPA can seek to further the purpose at various stages in plan-making and decision-making.
12. It helpfully draws attention to Natural England's advice that measures that further the purpose of conserving and enhancing natural beauty are in addition to mitigation or compensation measures. And, that 'enhancements' such as required for Biodiversity Net Gain (BNG) are unlikely to be sufficient to meet the duty alone.
13. Although the guidance is produced for planning teams, it is also useful for Local Authority officers making comments on planning applications

## What we would add

14. The advice given is instructive and a useful starting point. That said, we believe a more strongly and accurately worded tone would better reflect the significant strengthening of the duty and the magnitude of the step changes in practices required to meet its proactive nature.
15. The duty requires that relevant authorities "...**must** seek to further the purpose...". The NLA Briefing omits the instructive **must** from its rendering of the duty. Legislative drafters specifically and deliberately chose to use the legal imperative 'must', because it creates an absolute obligation, meaning that a relevant authority has no discretion (choice) on whether or

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<sup>11</sup> section 101(12) Local Government Act 1972

not to seek to further the purpose, when it is exercising or performing functions in relation to or so as to affect land in a National Landscape (AONB).

16. We would add the duty's application is not contingent on whether there is harm to or neutral impacts on natural beauty. A relevant authority must seek to further the purpose in all circumstances.
17. When a decision-maker is making judgements on NPPF policies and their relevance and application to a development proposal this must be done *through the lens of* the section 85 duty. This approach is consistent with the application of the similar (but weaker) Equalities Act duty.
18. Within the planning context, relevant authorities also includes any public body or any person holding a public office engaging in planning functions. This means Elected Members, planning officers, Parish and Town Councils as bodies and the individual Councillors and their Clerks, to whom councils can delegate decision-making. Neighbourhood Planning Groups producing Neighbourhood Plans are relevant authorities.
19. The identification of relevant authorities who regularly exercise or perform functions in relation to or so as to affect land in the South Devon National Landscape (AONB) is an ongoing task of the management plan review and is touched upon in agenda item 8b.
20. Additionally any officer of a local authority, or other relevant authority, (such as the Environment Agency, or Highways Authority) preparing reports or comments on planning applications must apply the section 85 duty to that task. Therefore, the NLA Briefing is relevant to that task.
21. The extensive coastal nature of the South Devon National Landscape and the inclusion of the estuarine areas within the statutory designated area, mean that the Marine Management Organisation (MMO) with its involvement in marine planning and licensing, is a significant relevant authority.

### **Relationship between the NLA briefing and the South Devon AONB Planning Guidance**

22. The '*South Devon AONB Planning Guidance*' is the principal document for how planning functions should "*seek to further the conservation and enhancement of natural beauty*" of the South Devon National Landscape. Forming part of the statutory Management Plan, it is a statutory material consideration in planning.
23. The NLA Briefing is also a material consideration and should be used during decision-making and plan-making.

Item Ends.

## **APPENDIX TO ITEM 7B**

**National Landscapes Association (2024), 'Applying the CRow Act section 85 duty to 'seek to further the purpose' in National Landscapes (AONBs): Guidance for Local Planning Authorities' Briefing (Nov 2024)**

# Applying the CRoW Act section 85 duty to 'seek to further the purpose' in National Landscapes (AONBs)



## Guidance for Local Planning Authorities

National Landscapes Association, with the National Landscapes Planning and Placemaking Panel

Briefing November 2024

## Purpose of this Briefing

This Briefing has been produced to provide guidance to planning teams (for example, officers and committee members) in Local Planning Authorities, on meeting the strengthened duty in the Countryside and Rights of Way (CRoW) Act 2000 (section 85) in any policy-making, decision-making or actions that affect Areas of Outstanding Natural Beauty (AONBs) in England.<sup>1</sup> It should be considered in parallel with any future guidance from the Department for the Environment, Food and Rural Affairs (Defra) on this matter.

The Briefing aims to offer practical, easy-to-follow guidance tailored specifically to plan-making and decision-making in Local Planning Authority (LPA) functions, and includes:

- ❖ **Legislative context and broad approach** – an overview.
- ❖ **Use of the relevant AONB Management Plan.**
- ❖ **Local Planning Authority decision-making process.**
- ❖ **CRoW Act 2000 s.85 duty in planning policy plan-making** (including Local Plans, Strategic Housing Land Availability Assessment/Housing and Economic Land Availability Assessment and site allocations, Supplementary Planning Documents and Neighbourhood Plan consideration).
- ❖ **S.85 duty in development management decision-making** (including planning applications, tree preservation order decisions, and enforcement).
- ❖ **Information sources** that have been used in the preparation of this Briefing.

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<sup>1</sup> From November 22<sup>nd</sup> 2023, [all AONBs in England are known as National Landscapes](#). The statutory designation remains an area of outstanding natural beauty (AONB) and is currently referred to as such in policy and legislation. For this reason, this document still uses the term AONB.



## Legislative context and broad approach

- Section 85 of the Countryside and Right of Way Act 2000 (CRoW Act) (as amended by the Levelling-up and Regeneration Act<sup>2</sup> in December 2023) requires 'relevant authorities', in exercising or performing any function that affect AONBs in England, to "**seek to further the purpose of conserving and enhancing the natural beauty of the Area of Outstanding Natural Beauty.**"<sup>3</sup>
- This is a **statutory duty**, which has been in force since December 26, 2023. The use of the word 'duty' in the legislation means that it is something all 'relevant authorities' must do; it is not discretionary.
- The duty is considered to be a **strengthening** of the previous s.85 'duty of regard' and seeks positive outcomes for the natural beauty, in its holistic sense, of our AONBs.
- Within the planning context, **relevant authorities** are the Local Planning Authorities, the Planning Inspectorate and the Secretary of State (e.g., for called-in decisions), along with Parish Councils producing Neighbourhood Plans. The duty applies to all aspects of the development management process and the plan-making process: e.g., planning application decisions, enforcement, and decisions relating to planning policies and site allocations in Local Plans, etc.
- The duty is considered to require a **pro-active approach by the decision-maker**; relevant authorities are expected to be able to demonstrate that they have fulfilled the duty, and how compliance with the duty has been embedded in the plan-making and decision-making process. Natural England have advised that relevant authorities must take **all reasonable steps** to explore how the statutory purposes of the Protected Landscape can be furthered.<sup>4</sup>
- The duty applies to plan-making and decision-making '*in relation to, or so as to affect, land in an AONB*', not only in considering proposals within an AONB, but also, for e.g., **affecting its setting**.
- It is important to ensure that '**to conserve and enhance**' is treated as a singular purpose: consider both parts together, in every relevant decision.
- The statutory duty needs to be considered **in tandem with the National Planning Policy Framework (NPPF)**, in particular paragraphs 11, 182 and 183.<sup>5</sup>
- Paragraph 182 of the NPPF (2023) sets out that '**great weight**' should be given to conserving and enhancing landscape and scenic beauty in AONBs, whereas conservation and enhancement of wildlife and cultural heritage are 'important considerations'.
- However, it is important to remember that 'natural beauty' is holistic. '**Natural beauty**' is not just the look of the landscape, but includes landform and geology, plants and animals, landscape features, and the rich history of human settlement over the centuries.'<sup>6</sup> It includes landscape and scenic quality, natural heritage (species, habitats, geology and physical

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<sup>2</sup> Levelling-up and Regeneration Act 2023 ([section 245](#)).

<sup>3</sup> Countryside and Rights of Way Act 2000 ([section 85](#)).

<sup>4</sup> Natural England (2023) 'Natural England's addendum to our Deadline 9 response in relation to the enhanced duty in relation to Protected Landscapes including the Kent Downs Area of Outstanding Natural Beauty' ([Annex 2, para 2.1.3](#)). 'Protected Landscapes' in this document refers to National Landscapes (AONBs) and National Parks: Natural England's advice applies to both.

<sup>5</sup> "Planning policies and decisions must also reflect relevant international obligations and statutory requirements." [NPPF \(2023\), para. 2.](#)

<sup>6</sup> Countryside Commission (2001) [Areas of Outstanding Natural Beauty: A guide for AONB Partnership members. CA24.](#)



geography), wildness, tranquillity and dark skies, and cultural heritage (including cultural traditions and the historic and other built environment that makes the area unique).<sup>7</sup> Historic England make clear that the historic environment is fundamental to the distinctive character, sense of place and natural beauty of each AONB.<sup>8</sup>

- It is the conservation and enhancement of **all** this natural beauty (usually defined in the specific statutory AONB Management Plan) that is the primary purpose of designation, and that Local Planning Authorities must consider in discharging their duty under CROW Act (2000) s.85.
- **LPAs are advised to ensure internal Local Authority legal teams are aware of the s.85 duty.**

## Use of the relevant AONB Management Plan

- The Management Plan for the specific AONB is a statutory document, which will have been adopted by the Local Authority (or by the relevant Conservation Board) and which '**formulates their policy for the management of the area and for the carrying out of their functions in relation to it**'.<sup>9</sup> It is the principal vehicle for ensuring that the statutory purposes of the AONB are met, and is a material consideration in the planning process.
- Conserving and enhancing the natural beauty of the specific AONB will normally mean, as a minimum:
  - **conserving and enhancing the character components or special qualities identified in the Management Plan;**
  - **supporting the Management Plan Objectives, Policies and/or Principles (as applicable) as set out for each of these; and**
  - **following any Management Plan actions set out for each.**

## Local Planning Authority decision-making process

Local Planning Authorities must be able to demonstrate that they have complied with the strengthened duty in any decision or action that impacts or could potentially impact on the AONB.

To demonstrate that they have sought to further the purpose of designation in making decisions regarding planning policies, site allocations, and development management (including planning enforcement), it is considered LPAs will need to:

- **Establish the facts about the natural beauty of the area, especially with reference to the statutory Management Plan for the specific AONB.** Identify what comprises the natural beauty, using:
  - descriptions of natural beauty, including Statements of Significance, description of key characteristics and special qualities, as set out in AONB Management Plans; and

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<sup>7</sup> The 'natural beauty criterion'. Natural England (2017) [Areas of outstanding natural beauty: designation and management](#); Natural England (2021) [Guidance for assessing landscapes for designation as National Park or AONB in England](#).

<sup>8</sup> Joint Statement on the Historic Environment in Areas of Outstanding Natural Beauty, [Historic England website](#) (2022); Historic England and AONBs sign joint statement, [National Landscapes Association website](#) (2022).

<sup>9</sup> Countryside and Rights of Way Act 2000, [s.89\(2\)](#).

- the reasons for designation as an AONB.
- **Understand the key objectives in the statutory Management Plan for the specific AONB,** which give an indication which actions or approaches will further the purpose of designation. These objectives:
  - relate to the applicable legislative purposes;
  - are evidence-based;
  - have been agreed between local partners, in a process convened by the AONB team;
  - include, but are not limited to, national or locally apportioned government targets and outcomes.

AONB Management Plans are often supported by additional guidance documents that provide more detailed advice and position statements relating to subjects such as design, dark skies, rural roads and public realm, renewable energy infrastructure, and the setting of the AONB, and these should also be considered in the decision-making process, as should any Landscape Character Assessments / Historic Character Assessments that inform Management Plans.

## CRoW Act 2000 s.85 duty in planning policy plan-making

The duty to seek to further the purpose of conserving and enhancing the natural beauty of AONBs applies to the full range of aspects of the plan-making process. An LPA will need to be able to demonstrate how it has, throughout all stages of the preparation of the Local Plan, sought to further the purpose of conserving and enhancing the natural beauty of the AONB. This includes at examination stage, addressing the s. 85 duty actively in responses to Inspector's Findings and in any proposed modifications to Local Plans.

Each of the following apply both to an LPA's own Local Plan work, including Mineral & Waste Plans and Supplementary Planning Documents (SPDs), and to the LPA's consideration of Neighbourhood Plans.

- **For setting the Local Plan vision and overall development strategy:**
  - Ensure the overall vision and development strategy would align with the objectives/principles/policies of the relevant AONB Management Plan.
  - Identify how much of a district's objectively assessed need can be met without harming the natural beauty of the relevant AONB, particularly where meeting the need would require allocations that would not further the purposes of AONB designation (see below). (N.B. this may involve setting a lower Local Plan housing requirement figure).<sup>10</sup>
- **For decisions relating to the drafting of planning policies (all Local Plan /SPD policies, not just those policies specifically dedicated to the AONB):**
  - Assess the degree to which each policy would align with the objectives/principles/policies of the relevant AONB Management Plan.
  - Assess the degree to which each policy would help deliver any actions/outcomes of the relevant AONB Management Plan.

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<sup>10</sup> As provided for by NPPF (2023) [para. 11 \(b\) \(i\)](#).

- Consider if the range and scope of the policies is sufficient to fully deliver the Management Plan's objectives/action/outcomes, i.e. are any additional policies /policy areas needed? (In this regard, a stand-alone policy closely aligned to the Management Plan objectives/principles/policies is recommended, though this is not considered sufficient to demonstrate compliance with the strengthened duty.)
- If a draft planning policy would *not* align with the duty to seek to further the applicable legislative purpose (e.g. if it would conflict with any of the Management Plan's objectives/principles/policies), then consider amending the policy such that you could confidently say the decision does seek to further the relevant purpose.

- **For decisions relating to site allocations:**

- Assess what impact the proposed site allocation would have on the natural beauty of the AONB, considering its scale, location and landscape setting with reference to the character components/special qualities set out in the AONB Management Plan. (In this regard, consider including a specific criterion regarding 'natural beauty' within the Strategic Housing Land Availability Assessment (SHLAA)/Housing and Economic Land Availability Assessment (HELAA), and within the Sustainability Appraisal).
- Consider how the natural beauty of the AONB might be affected, were the site to be allocated for development. Remember to consider the holistic concept of natural beauty.
- Consider whether this would cause harm to the natural beauty of the AONB. Consider the objectives/principles/policies of the AONB Management Plan. Natural England have advised that the strengthened duty underlines the importance of avoiding harm to the statutory purposes of Protected Landscapes.<sup>11</sup>
- Ensure clear differentiation between any proposed measures that seek to *mitigate* or *compensate* for harm (e.g., like-for-like replacement), and those that *further* the conservation and enhancement of the natural beauty of the AONB. Natural England have advised that measures that further the purposes are required in addition to mitigation.<sup>10</sup>
- If the measures would have a neutral effect, consider what modifications would help further the purpose of conserving and enhancing the natural beauty.
- If promoting a site allocation would not align with the duty to seek to further the conservation and enhancement of natural beauty, then consider amending or deleting a site allocation such that you could confidently say the decision does seek to further the statutory purpose. (For example, choosing *not* to allocate a particular site within or close to the AONB boundary could demonstrate compliance, where this results in avoiding harm.)
- Evidence how the LPA has sought to further the purpose of conserving and enhancing the AONB in its decision, with reference to aligning with AONB Management Plan objectives/principles/policies.

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<sup>11</sup> Natural England (2023) ([Annex 2, para. 2.1.3](#)).

## S.85 duty in development management decision-making

The s.85 duty to seek to further the purpose of conserving and enhancing the natural beauty of AONBs applies to the full range of development management decision-making, including considering applications for outline, full and reserved matters, listed building consent, applications for works to protected trees, and prior notifications, along with enforcement work on planning breaches. An LPA should also ensure that local validation checklists require the submission of sufficient, specific information to enable them to fulfil the s.85 duty in their decision-making.

The following apply to decision-making at both officer and planning committee level.

- **For decisions relating to planning applications:**

- Assess what impact the proposal would have on the purpose of designation. Consider how the natural beauty of the area might be affected, were the proposal to go ahead (remember to consider the holistic concept of natural beauty), and consider how the proposal would align with the AONB Management Plan objectives/principles/policies.
- Consider whether this would cause harm to the natural beauty of the area. Natural England have advised that the strengthened duty underlines the importance of avoiding harm to the statutory purposes of Protected Landscapes.<sup>12</sup>
- Remember that where harm is identified, 'enhancements' themselves, including biodiversity net gain (BNG) provision, are unlikely to be sufficient to align with the duty, which has the dual consideration of conserving and enhancing natural beauty. Also, ensure that any 'enhancements' within the proposal do genuinely align with, and help deliver, the objectives, principles and/or policies and resulting actions of the specific AONB Management Plan, by way of scope and location. Natural England have advised that the proposed measures should align with and help to deliver the aims and objectives of the designated landscape's statutory Management Plan.<sup>11</sup>
- Ensure a clear differentiation between any proposed measures that seek to *mitigate* or *compensate* for harm (e.g. like-for-like replacement), and those that *further* the conservation and enhancement of the natural beauty of the AONB. Natural England have advised that measures that further the purposes are required in addition to mitigation.<sup>11</sup>
- If the measures would have a neutral effect, consider what amendments would help further the purpose of conserving and enhancing the natural beauty. Could any conditions attached to any permissions help to conserve and enhance the natural beauty?
- As part of this assessment, consider the degree to which the effect on natural beauty has been articulated by the applicant (e.g. through LVIA's, heritage statements, ecology and arboricultural assessments, lighting statements and transport assessments); scrutinise the submission against the Management Plan in this regard.
- If supporting an application would *not* align with the duty to seek to further the conservation and enhancement of natural beauty, then consider seeking amendments or refusing permission, such that you could confidently say the decision does seek to further the statutory purpose.

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<sup>12</sup> Natural England (2023) ([Annex 2, para. 2.1.3](#)).

- Evidence how the LPA has sought to further the purpose of conserving and enhancing the AONB in its intended decision, with reference to aligning with AONB Management Plan objectives/principles/policies. It is recommended that this evidence is referenced in officer reports/committee reports.

N.B. Consultation on planning applications with the relevant AONB team by a Local Planning Authority does not in itself constitute compliance with the strengthened duty. (Generally, teams will not have available capacity to advise on all planning applications within the AONB and will normally only be able to advise on the most significant applications). It is the responsibility of relevant authorities themselves to comply with the duty, and to assess and record how they have complied with the duty, in exercising or performing any functions affecting an AONB.

- **For applications to make a tree preservation order (TPO), or when assessing applications for works to protected trees (those with a TPO or in a Conservation Area), actively consider the s.85 duty by:**
  - ensuring the impact on the natural beauty of the AONB forms part of the assessment of 'amenity' when considering whether to make a TPO; and
  - when making decisions on applications for works to protected trees, ensure the impact on the natural beauty of the AONB forms part of the assessment of the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area.
- **For enforcement cases:**
  - Ensure the s.85 duty is built into assessment criteria as to whether it is considered expedient to pursue enforcement action on a particular breach of planning control within, or affecting, an AONB.
  - Remember that s.84 of the CRoW Act (2000) sets out that LPAs have 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 of outstanding natural beauty, or so much of it as is included in their area*".
  - In considering the appropriate enforcement route, assess if the planning breach harms the natural beauty of the AONB, with regard to the Management Plan Statement of Significance and objectives, principles and/or policies.
  - Consider if any amendments could help further the purpose of conserving and enhancing the natural beauty. Ensure clear differentiation between any proposed measures that seek to *mitigate* or *compensate* for harm (e.g., like-for-like replacement), and those that *further* the purpose of conserving and enhancing the natural beauty of the AONB. Natural England have advised that measures that further the purposes are required in addition to mitigation.<sup>13</sup>

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<sup>13</sup> Natural England (2023) ([Annex 2, para 2.1.3](#)).

## Information sources used in the preparation of this Briefing

- Countryside Commission (2001) Areas of Outstanding Natural Beauty: A guide for AONB Partnership members. CA24. Available at <https://national-landscapes.org.uk/historical-papers>
- Countryside and Rights of Way Act 2000. Available at <https://www.legislation.gov.uk/ukpga/2000/37/section/85>
- Landmark Chambers (2024) *Re: section 245 of the Levelling Up and Regeneration Act 2023*. Opinion, 29.1.24 (instructed by the Campaign for National Parks). Available at <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010062/TR010062-002426-Campaign%20for%20National%20Parks.pdf>
- Levelling-up and Regeneration Act 2023. Available at <https://www.legislation.gov.uk/ukpga/2023/55/section/245#section-245>
- Natural England (2017) Areas of outstanding natural beauty (AONBs): designation and management. Guidance. Available at <https://www.gov.uk/guidance/areas-of-outstanding-natural-beauty-aonbs-designation-and-management>
- Natural England (2021) Guidance for assessing landscapes for designation as National Park or AONB in England. Available at: [https://consult.defra.gov.uk/ne-landscape-heritage-and-geodiversity-team/yorkshire-wolds-designation/user\\_uploads/ne\\_guidance-on-assessing-landscapes-for-designation\\_june21-1.pdf](https://consult.defra.gov.uk/ne-landscape-heritage-and-geodiversity-team/yorkshire-wolds-designation/user_uploads/ne_guidance-on-assessing-landscapes-for-designation_june21-1.pdf)
- Natural England (2023) 'Natural England's addendum to our Deadline 9 response in relation to the enhanced duty in relation to Protected Landscapes including the Kent Downs Area of Outstanding Natural Beauty'. Available at <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010032/TR010032-006179-Natural%20England%20-%20Deadline%20a%20Submission.pdf>

If you require general assistance in understanding or interpreting a specific AONB Management Plan, please contact the relevant **National Landscape (AONB) team**, who will be able to offer you further guidance.

### About National Landscapes Association

We are a registered charity that supports the mission to conserve and enhance natural beauty in National Landscapes and other protected areas. National Landscape teams across the UK work to achieve a sustainable balance of priorities at the landscape scale. One of our key aims is to support and develop a network of ambitious National Landscape teams and partnerships that have a strong collective voice and a positive impact on the places for which they care.

### About this Briefing

National Landscapes Briefings offer a summary of key findings and recommendations arising from National Landscapes' action and insight. This Briefing has been informed by the Planning and Placemaking specialist panel of representatives from across the National Landscape network.

Recommended citation: National Landscapes Association (2024) *Applying the CRow Act s.85 duty to 'seek to further the purpose' in National Landscapes (AONBs): Guidance for Local Planning Authorities*. Briefing (Nov 24). Shrewsbury: NLA.

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## 7C. National Consultation on Bathing Waters

ITEM FOR	CONSIDERATION AND FEEDBACK	REPORT BY	Nigel Mortimer National Landscape Estuaries Officer
<b>SUMMARY</b>	This report provides a brief overview of a live National Consultation by Defra on proposals for reforms to the bathing water regulations and brief observations from the National Landscape's Estuaries Officer		
<b>MANAGEMENT PLAN THEMES</b>	<p><b>PLACE:</b> Natural resources &amp; climate; Biodiversity &amp; geodiversity; Farming and land management; Coast &amp; marine; Rivers &amp; estuaries.</p> <p><b>PEOPLE:</b> Tourism, access &amp; recreation; Planning &amp; sustainable development; Community &amp; culture.</p> <p><b>PARTNERSHIP:</b> Awareness &amp; communication.</p>		
<b>RECOMMENDATION</b>	<p>Partnership members are recommended to:</p> <ol style="list-style-type: none"> <li>Note the scope of the consultation, and offer views for incorporation into a response to be submitted on behalf of the National Landscape</li> <li>Take the opportunity to respond as organisations or individually as appropriate</li> </ol>		

### Background

- Defra is inviting the wider community to share their views on modernising the bathing water regulations to ensure a more flexible approach to designation and monitoring<sup>12</sup>. The consultation runs from **12<sup>th</sup> November to 23<sup>rd</sup> December 2024**<sup>13</sup>.
- Defra are consulting on potential reform measures to improve the current Regulations and increase flexibility, these include:
  - Removal of fixed bathing water season dates (which currently runs from May to September) from the regulations to allow for a more flexible approach to monitoring, extending the dates of the bathing season to better reflect when people use bathing waters.
  - Expanding the legal definition of 'bathers' to include participants in water sports other than swimming, including paddle boarders and surfers.
  - Further considering water quality and public safety when applications for new bathing waters are assessed.
  - Introducing multiple testing points at bathing water sites.
  - Ending the automatic de-designation of bathing water status after 5 consecutive years of a site being rated 'poor', which can damage local tourism and businesses. Instead, underperforming sites will be individually reviewed by regulators, taking into account their unique circumstances.

### Overview

- Bathing waters are currently managed under the Bathing Water Regulations 2013 (hereafter, 'the Regulations'). The Regulations transposed the 2006 EU Bathing Water Directive into domestic law and were assimilated into UK law under the Retained EU Law (Revocation and Reform) Act 2023.
- Following final designation as bathing waters, coastal and inland waters are monitored by the Environment Agency (EA) in England. Water quality sampling and testing is used by local

<sup>12</sup> [Bathing water reforms to consider water sports and water quality \[GOV.UK\]](#)

<sup>13</sup> <https://consult.defra.gov.uk/water/bathing-water-reforms-consultation/>

authorities to inform public health messaging on the health risks associated with bathing and identify where improvements are necessary.

5. There have been changes in how and where people use bathing waters since the Regulations were introduced. In their current form, the Regulations take a generally 'one-size-fits-all' approach to bathing water designations, water quality monitoring and the de-designation process. There may be advantages to reforming the Regulations to allow for greater consideration of site-specific factors in these processes. The purpose of the Regulations is to ensure the protection of public health through the use of monitoring and classifications. It is the government's intention to pursue an increase in the designation of safe bathing water sites.

### Proposed Reforms

[proposals considered to be key have been highlighted in **bold** and initial observations provided by Nigel Mortimer – SDNL Estuaries Officer in *italics*]

6. **Core reform 1:** Remove the automatic de-designation provision from the Regulations. Currently, bathing waters are automatically de-designated following five consecutive years of 'poor' classification. This is often too short a time for investments and improvements to be made. De-designations would instead be based on review and recommendation by the EA.
7. **Core reform 2:** Include the feasibility of improving a site's water quality to at least 'sufficient' as a criterion for final designation. This would avoid poor value for money, by limiting expenditure where water quality improvement is not feasible or proportionate.
8. **Core reform 3:** Remove the fixed dates of the monitored bathing season from the Regulations. Season dates would be moved into guidance allowing the EA to adapt the dates to better suit local needs in the future.

*There has been a significant increase in year-round wild-water swimming for its 'cold-water' health and wellbeing benefits by a growing number of the public. This, together with the potential wider definition of 'bathers' (see Wider reform 1 below) would recognise the all-year round use of our local South Devon coastal waters for a wide range of immersive watersports e.g. surfing & scuba diving, and occasional or accidental immersion from capsizing craft that are sailed, paddled, or rowed, in addition to general spray and inevitable contact with water while participating in all forms of watersports.*

*Recognition is needed that an extension of the bathing season would more likely coincide with winter rainfall patterns that would naturally lead to greater land water runoff and greater volumes of rainfall swamping water treatment holding tank capacities, unfortunately necessitating their release of untreated waters.*

9. **Wider reform 1:** Clarification and expansion of the definition of 'bathers' to include other water users. 'Bathers' is currently understood by its common meaning as swimmers only. We are seeking views on whether a wider range of water users should be considered, and if so, what other types of users should be included and how their needs can be balanced against current users.

*This may be the most important potential reform of this consultation with a greater recognition of 'other water users' that may arguably be more likely to physically ingest water than swimmers, due to their greater level of deliberate or accidental immersion and the nature of that immersion e.g. capsizing, being thrown from a sailing dinghy or caught in a breaking wave.*

10. **Wider reform 2:** Use of multiple monitoring points at each bathing water site where useful to classify water quality. We are seeking views on whether additional monitoring to capture water quality variation across sites would be beneficial.



*Whilst it may seem that testing from multiple monitoring points of each bathing water area would always give greater accuracy, there are many factors that are maybe left to those professionals that can model and have the local knowledge and experience of carrying out that testing. Tides, wind, preceding weather and very localised hydrodynamics can all hugely impact the results of the testing and unless the professional advice is to multi-sample an area, on balance, maybe it is better to be able to sample more bathing waters than multi-sample one water?*

*It is worth reminding ourselves that sampling can alert us to issues but there can never be a guarantee of perfect water quality away from the point and time of sampling. Repeated sampling over time can give us some confidence of what the water quality is likely to be to make personal informed decisions but again without any real guarantee. One yacht with an over-full holding tank can give very localised problems for someone swimming though its wake for example.*

*Other potential reforms such as the level of an area's use and the minimum local infrastructure to be able to designate an area of water as a bathing water, do not seem to be being questioned? Consideration could be given to whether some larger areas such as whole creeks, harbours, etc. might be considered as some new type of wet watersports area rather than just a bathing area?*

Item Ends.

## 8A. Increasing Tree Canopy and Woodland cover within and linked to the National Landscape and its setting

ITEM FOR	CONSIDERATION & DISCUSSION	REPORT BY	Roger English National Landscape Manager
<b>SUMMARY</b>	This report provides a brief introduction to Target 8 of the protected landscapes targets and outcomes framework focused upon increasing tree canopy and woodland cover in addition to related plans and strategies.		
<b>MANAGEMENT PLAN THEMES</b>	<p><b>PLACE:</b> Natural resources &amp; climate; Biodiversity &amp; geodiversity; Farming and land management; Historic Environment &amp; Local Distinctiveness; Rivers &amp; estuaries; Landscape Character.</p> <p><b>ALL PEOPLE:</b> Tourism, access &amp; recreation; Planning &amp; sustainable development; Transport &amp; highways; Rural economy &amp; services; Community &amp; culture.</p>		
<b>RECOMMENDATION</b>	<p>Partnership members are recommended to:</p> <ul style="list-style-type: none"> <li>i. Note the apportionment process being undertaken for Target 8</li> <li>ii. Consider tree canopy and woodland cover as an example to work through when considering the following item 8b on the review of the Management Plan.</li> <li>iii. Provide advice and insight to the National Landscape team and colleagues from the Defra agencies to assist in arriving at ambitious yet achievable targets for tree canopy and woodland cover that enable other priorities to be delivered alongside.</li> </ul>		

### Background

1. Trees in all their forms make an important contribution to the natural beauty and special qualities of the South Devon National Landscape. During the last Management Plan review in 2018, woodland cover for the South Devon National Landscape sat at 2982ha, 8.8% of the total area of outstanding natural beauty, 9.0% of that with the potential to count toward 30by30 (see item 7a for detail on this). This figure has stayed close to static over the last 20 years.
2. However, within the last five years the policy and funding landscape has markedly changed linked largely to climate action and the push to reach net zero. Established programmes with tree planting elements within them such as Countryside Stewardship have continued, while a range of new programmes have been introduced including: England Woodland Creation Offer; Plymouth and South Devon Community Forest; Saving Devon's Treescapes; Emergency tree fund; Free tree schemes; MOREWoods and MOREHedges; farming in Protected Landscapes; Tree accelerator fund, and many more.
3. There is a clear established need and capacity within the South Devon National Landscape and its setting to introduce more trees, increasing tree canopy and woodland cover. While this needs to happen at pace, it also needs to happen in carefully considered way to ensure as far as possible that there are multiple win-win outcomes for nature, landscape character, food production and net zero amongst other things, in addition to tree and canopy woodland cover.
4. Agreeing what is to be planted/enabled to naturally regenerate, how, where and with what management whilst taking the opportunity to deliver other associated opportunities is key to achieving the win-wins that are needed. As we enter the Management Plan review period for the National Landscape a number of notable bodies of work have been published or are emerging. These include:

**SDNL Nature Recovery Plan<sup>14</sup>**

5. GIS modelling and assessment work as part of creating the nature recovery plan enabled the development of an early stage National Landscape focused nature recovery opportunities map. This took account of designated sites, priority habitat, slope gradient, slope aspect, agricultural land classification and the desire to connect fragmented habitat.
6. The modelling suggested that the South Devon National Landscape had the capacity to accommodate 1235 ha of new broadleaved woodland, including extensions to and links between existing woods. A further 320 ha of wood pasture and parkland; and 340 ha of new traditional orchards were also thought possible.
7. All of this should be underpinned by improving the condition of 1,435,815m (1,436km) of existing hedges and extending the hedgerow network.
8. Further advanced work on all woody habitats is being developed currently through the Devon Local Nature Partnership as part of the Local Nature recovery Strategy.

**Target 8 of the Protected Landscapes Targets and Outcomes Framework (PLTOF)**

*Increase tree canopy and woodland cover (combined) by 3% of total land area in Protected Landscapes by 2050 (from 2022 baseline).*

9. The PLTOF Hub provides Forestry Commission data on the existing stock of tree canopy and woodland cover within the South Devon National Landscape.

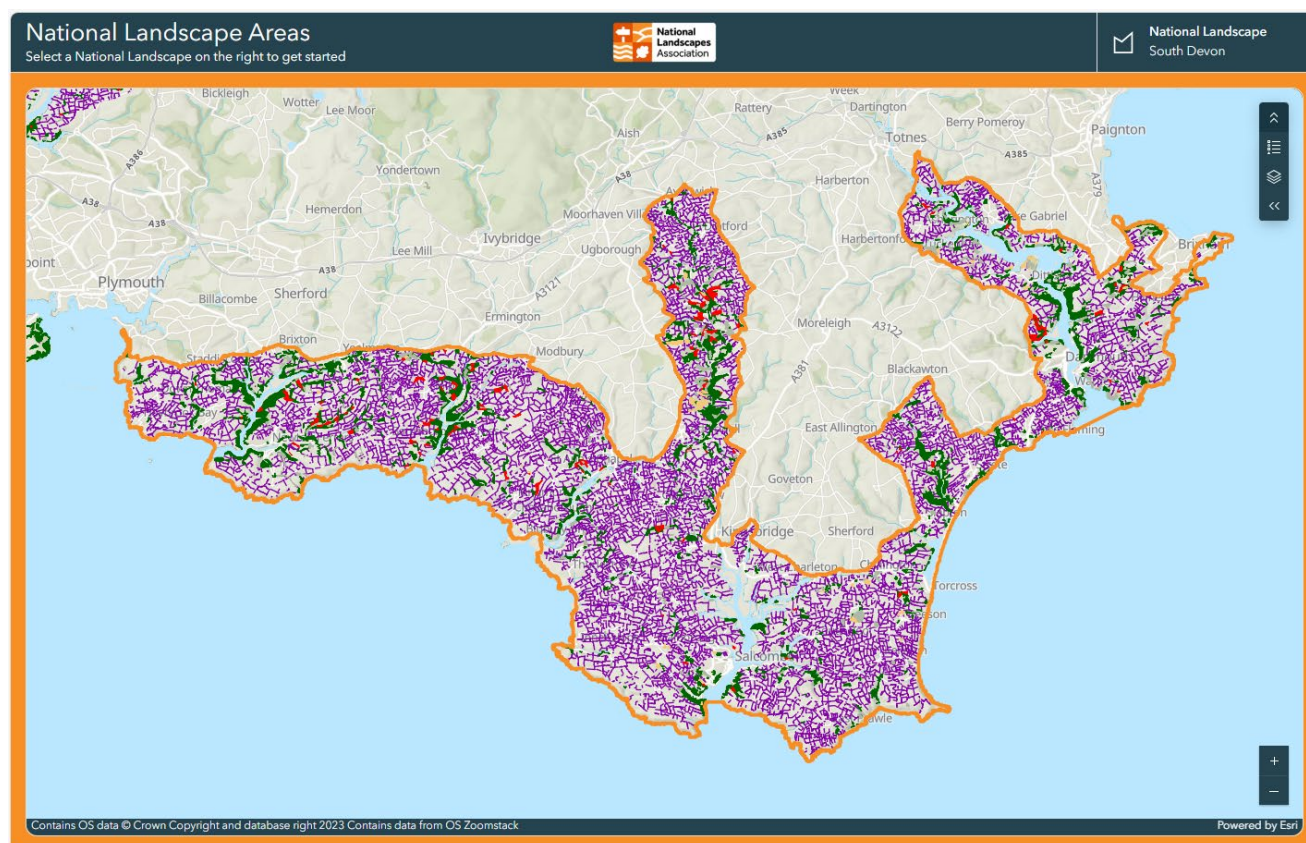
Data	Area (Ha)	% of SDNL land	% of total SDNL area
Assumed woodland	133.54	0.40	0.39
Broadleaved	2,319.82	6.94	6.83
Conifer	244.16	0.73	0.72
Coppice	0	0	0
Coppice with standards	0	0	0
Failed	3.70	0.01	0.01
Felled	59.15	0.18	0.17
Ground prep	26.27	0.08	0.08
Low density	8.81	0.03	0.03
Mixed mainly broadleaved	80.29	0.24	0.24
Mixed mainly conifer	102.19	0.31	0.30
Shrub	15.91	0.05	0.05
Uncertain	0	0	0
Windblow	0	0	0
Young trees	96.49	0.29	0.28
<b>National Forest Inventory Combined</b>	<b>3,090.34</b>	<b>9.24%</b>	<b>9.10%</b>
Trees outside woodlands excluding orchards	1,673.01*	5.19%	4.92%
Orchards	38.59	0.12%	0.11%
<b>Trees outside woodland combined *</b>	<b>1,711.60*</b>	<b>5.12%</b>	<b>5.04%</b>
<b>Total tree canopy and woodland cover</b>	<b>4,801.94</b>	<b>14.36%</b>	<b>14.13%</b>

<sup>14</sup> <https://www.southdevon-nl.org.uk/wp-content/uploads/2023/11/SDAONB-Nature-Recovery-Plan-June-23-web-V1.0.pdf>

\* 'Trees outside woodlands' excluding orchards is being used as a revised estimate figure from Forest Research provided at the end of October 2024. This has been provided in advance of the publication of the Trees outside Woodland map, which we expect shortly.

10. Extent of woodland cover in Protected Landscapes has been calculated by Forest Research. Newly planted or established woodland, as well as lower density planting or areas of woodland that could not be assigned to a particular woodland type, will be included in future PLTOF statistics to give a more accurate picture of the area of established and establishing woodland, and to align with reporting on the PLTOF target 8. A more accurate trees outside woodlands dataset is also due for release shortly.

### National Forest Inventory plus Hedges data for the South Devon National Landscape



### Devon Tree and Woodland Strategy<sup>15</sup>

11. The strategy which includes Plymouth and Torbay, sets out ambitions for the county's precious trees, hedges and woodlands until 2050. It plans for the delivery of an additional 3000ha of woodland and trees in Devon by 2030, to help achieve an increase in the county's tree cover from 14% to 16.5% by 2050, meeting the UK's national target set in the England Tree Action Plan.

### Plymouth and South West Devon Community Forest Plan

12. The Plymouth and South Devon Community Forest<sup>16</sup> was established in 2020 and is one of the newest of England's 15 Community Forests. It is a partnership between Plymouth City

<sup>15</sup> <https://www.devonlnp.org.uk/devon-tree-and-woodland-strategy/>

<sup>16</sup> <https://englandscommunityforests.org.uk/plymouth-and-south-devon-community-forest/>

Council, South Hams District Council and West Devon Borough Council, National Trust and the Woodland Trust.

13. Since establishment, the Community Forest has gone on to support a rapid increase in woodland creation across Plymouth, South Hams, West Devon and Dartmoor. The Community Forest is preparing a Community Forest Plan for the 2025 – 2050 period to place trees and woods at the heart of communities. The plan will set out a local vision, objectives, principles, targets and initial plans for delivery through to 2030. The Community Forest Plan is not seeking to develop new land use policy but to facilitate tree planting ambitions across the Community Forest area.

### **The South Hams Tree, Woodland and Hedge Plan 2024-2029**

14. This Plan is intended to encompass all South Hams District Council tree-related activity – that directly delivered by the Council as well as joint working/partnership delivered, under 4 themes:
- EXPAND – Tree planting and woodland creation – amplifying the SHDC commitment to planting a tree per resident by May 2027, and working with the Plymouth and South Devon Community Forest
  - IMPROVE – Managing SHDC owned trees, woodlands and hedges
  - PROTECT – TPOs, Trees within Conservation Areas, Trees and Development
  - INSPIRE – Working with partners and communities, Tree Warden Network, Healthy hedges

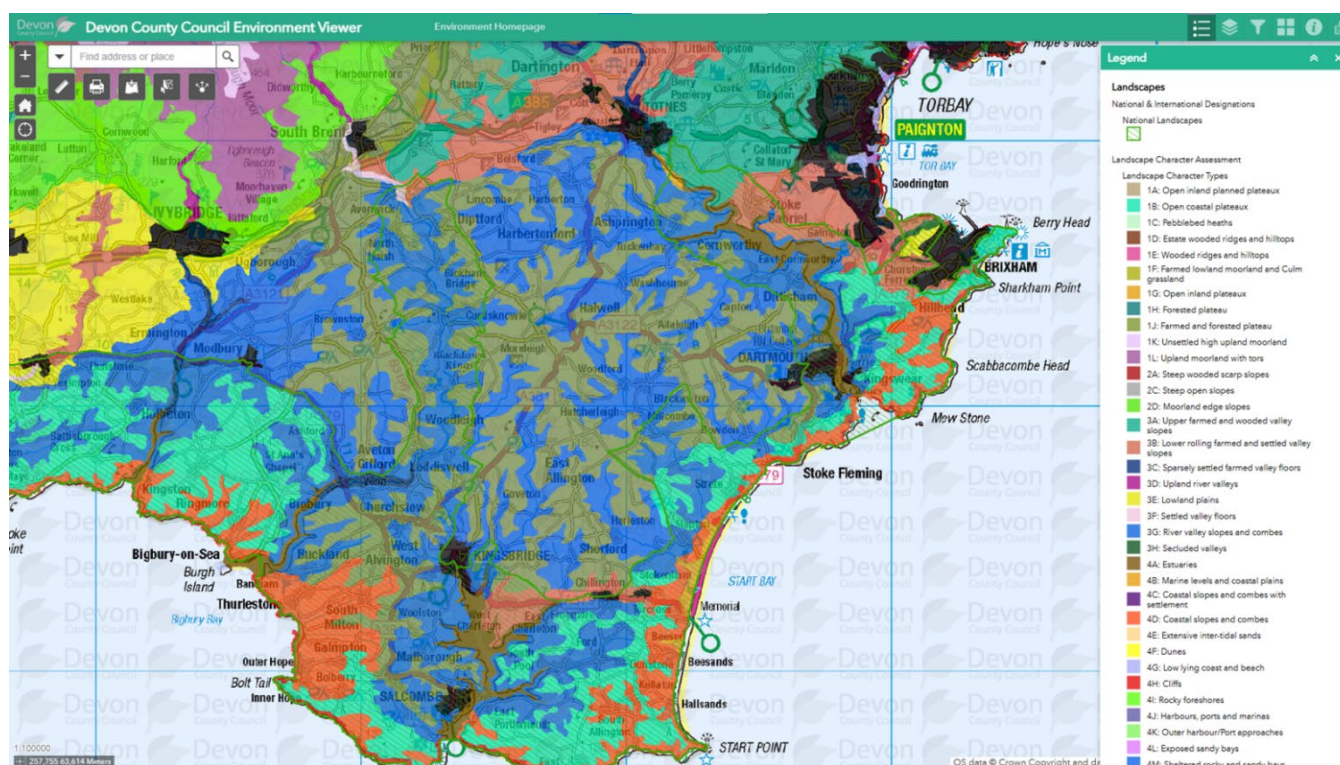
### **Protecting the best agricultural land**

15. The principle contained in the National Planning Policy Framework of protecting our best and most versatile agricultural land for food production is highly applicable to many other circumstances beyond purely considering built forms of development.

*Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible. NPPF 2023*



## Landscape Character



Devon Environment Viewer and Devon Landscape Character Types<sup>17</sup>

### Trees in the landscape

16. In addition to a rich variety of woodland types from estuary fringe woodland including saltwater pruned overhanging oaks to combe-side woodlands to commercial plantations, trees are present in the South Devon Landscape in many forms, including:

Devon hedges	Orchards	Wood pasture
Hedgerow Trees	Hill top copses	Ancient woodland
Ancient & Veteran Trees	Field corner groups	Street trees
In field trees	Parkland	Specimen or landmark trees

### UK Forestry Standard 2023

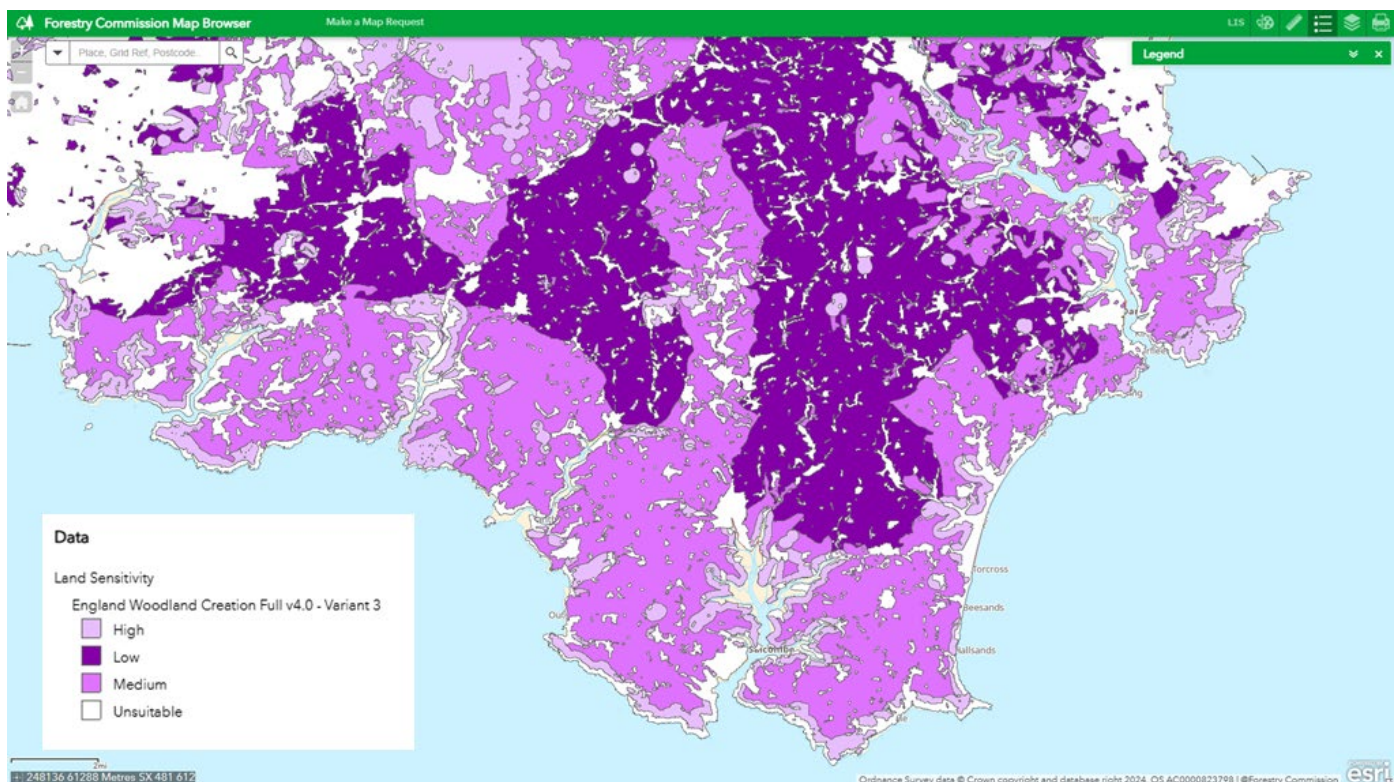
17. Two guiding principles set the foundation for the design of forests:

- Forest landscape design should emulate 'natural' patterns and forms.
- Principles of visual design, used by designers in other fields, should be applied to the landscape design of forests.

### 18. Forest design principles apply equally well to all scales of tree planting in the landscape

- Shape
- Landform
- Pattern of enclosure
- Scale
- Diversity
- Unity
- Spirit of place

The Forestry Commission Map Browser <https://www.foresterqis.com/Apps/MapBrowser/> includes a range of data to guide decisions on new planting, including landscape sensitivity to woodland creation. An extract is included below by way of example using one of the supplied variants.



### Next steps

The National Landscape team will be working with colleagues from the Defra agencies and other partners over the next 4 months to agree apportionment figures for tree canopy and woodland cover. Taking an ambitious approach to refining our figures while striking the right balance for the National Landscape and delivering win-wins for other natural beauty needs will be key.

Item Ends.

## 8B. Review of the area of outstanding natural beauty Management Plan & South Devon National Landscape 'Relevant Authorities'

ITEM FOR	INFORMATION, CONSIDERATION & FEEDBACK	REPORT BY	Roger English - South Devon National Landscape Manager
<b>SUMMARY</b>	<p>This item builds on information in earlier reports provided to the Partnership on an overview on the Levelling-Up and Regeneration Act 2023, the Targets and Outcomes Framework for Protected Landscapes (PLTOF) and Natural England's mandatory Additional guidance note on developing Management Plans.</p> <p>It brings these together, explaining how they interrelate to inform the Management Plan Review process and to underpin and the structure and purpose of the Management Plan. It also briefly introduces two early-stage tasks of the Strategic Environmental Assessment (SEA) which run in parallel to early review tasks.</p> <p>The report also introduces work on identifying the 'relevant authorities' for the South Devon National Landscape.</p>		
<b>MANAGEMENT PLAN THEMES</b>	<p><b>ALL PLACE:</b> Natural resources &amp; climate; Biodiversity &amp; geodiversity; Farming and land management; Historic Environment &amp; Local Distinctiveness; Coast &amp; marine; Rivers &amp; estuaries; Landscape Character.</p> <p><b>ALL PEOPLE:</b> Tourism, access &amp; recreation; Planning &amp; sustainable development; Transport &amp; highways; Rural economy &amp; services; Community &amp; culture.</p> <p><b>ALL PARTNERSHIP:</b> Awareness &amp; communication; Management, organisation &amp; partnerships.</p>		
<b>RECOMMENDATION</b>	<p>Partnership members are recommended to:</p> <ol style="list-style-type: none"> <li>i. Consider the review process as a whole;</li> <li>ii. Note the step change in Management Plan requirements already in place and remains mindful of the further step changes explicit in forthcoming regulations (to be made under LuRA 2023);</li> <li>iii. Partnership members of relevant authorities are requested to consider which of their functions 'are exercised or performed in relation to or so as to affect land in the designated area'; how they can modify them to seek to further the purpose; and what type of policy and advice framework would be useful to assist them in furthering the purpose through their functions;</li> <li>iv. Consider and provide <ol style="list-style-type: none"> <li>a. Data and evidence that should underpin the Management Plan</li> <li>b. Feedback on the challenges facing the natural beauty of the NL with a focus on those which the NLMP is best placed to respond to</li> <li>c. Feedback on creating the Vision for the National Landscape</li> <li>d. Feedback on identifying further relevant authorities for engagement with during the review and, any relevant authority functions with significant impacts on natural beauty which the NLMP would be best placed to address</li> </ol> </li> <li>v. Assist with identifying management actions and functions which contribute to the delivery of protected landscape targets and outcomes. And, to explore where and how particular functions of their organisations could be changed to contribute more ambitiously to the PLTOF;</li> <li>vi. Endorse continuing including the South Devon Heritage Coast within the Management Plan.</li> </ol>		



## Background

1. This item builds on earlier reporting to the Partnership found in:
  - (i) **Item 6b Levelling-Up and Regeneration Act 2023 – provisions relation to AONBs contained in the Countryside and Rights of Way Act 2000** (Partnership Meeting of Friday 24<sup>th</sup> November 2023);
  - (ii) **Item 6c Natural England Guidance on Management Plan reviews for Protected Landscapes** (Partnership Meeting of Friday 24<sup>th</sup> November 2023);
  - (iii) **Item 6A Targets and Outcomes Framework for Protected Landscapes** (Partnership Meeting of Friday 15<sup>th</sup> March 2024);
  - (iv) **Item 7b Targets and Outcomes Framework for Protected Landscapes – apportionment process** (Partnership Meeting of Friday 19<sup>th</sup> July 2024 - presented as a verbal item by the NL Manager);
  - (v) **Item 8e Review of the 2019-2025 area of outstanding natural beauty Management Plan** (Partnership Meeting of Friday 19<sup>th</sup> July 2024 - presented as a verbal item by the NL Manager, added to with slides covering Natural England's mandatory *Additional guidance note to support Protected Landscapes in developing Management Plans (2024/2)*).
2. This paper interweaves these matters briefly setting out how they inform and shape the Management Plan review process, and how they underpin the purpose and emerging structure of the Management Plan. The intent of this paper is to prime Partnership members on considerations requiring engagement through the Management Plan review.

## Legal and policy requirements of the Management Plan

3. The law requires the South Devon National Landscape area of outstanding natural beauty Management Plan to formulate the policy of Devon County Council, South Hams District Council, Torbay Council and Plymouth Council, known as the 'relevant local authorities': for two parallel and interrelated purposes:
  - i. for the *management* of the area of outstanding natural beauty, and
  - ii. for the *carrying out of their functions* in relation to it.<sup>18</sup>
4. These Management Plan purposes reflect the statutory purpose of designation and the protective nature of the section 85 duty. In addition, government has committed to take forward regulations (made under LuRA 2023 powers). These will set out that a Management Plan "...**must further the purpose of conserving and enhancing natural beauty of the area..**" as well as that it "**must contribute to meeting**" any targets in Chapter 1 Part 1 of the Environment Act 2021. (These are set out in the Protected Landscapes Targets and Outcomes Framework).
5. The first purpose is to ensure the effective management of natural beauty on the ground. This means that the framework for this part of the Management Plan is what policy and action is needed to conserve and enhance the specific natural beauty of the place to ensure it remains or is enhanced back to an outstanding condition.
6. The extent of this first element of the Management Plan is principally set by:
  - (i) the differential between the current state of natural beauty and the Vision for the NL (i.e. what it would be like if it were successfully conserved and enhanced);

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<sup>18</sup> Section 89(2) CROW Act 2000 available at <http://www.legislation.gov.uk/ukpga/2000/37/section/89>

- (ii) the management actions needed to bridge any gaps between the current state of natural beauty and its favourable outstanding 'conserved and enhanced' state, and ongoing management actions to maintain that favourable state;
  - (iii) management actions required to meet the Targets and Outcomes Framework for Protected Landscapes;<sup>19</sup>
  - (iv) priorities in the Devon Local Nature Recovery Strategy.
7. Note that by 'management actions' we mean action at all levels, all the way from strategic policy to operational on the ground actions.
  8. The second purpose is to set out policy on *how* relevant authorities will meet their section 85 duty of must seek to further the conservation and enhancement of natural beauty of the South Devon National Landscape. This means that their range of functions set the framework for this part of the Management Plan. The Management Plan helps to translate this duty and illustrate what it means in the context of the South Devon area of outstanding natural beauty.
  9. The law currently requires this for the 'relevant local authorities', but mandatory guidance from NE is that the core Management Plan content should include a management approach and processes to guide the activity and decisions of **all** relevant authorities operating in the NL. We will be addressing the meaning of relevant authorities later in this paper.
  10. The extent of this task of the Management Plan is set by:
    - (i) the functions of the relevant authorities; and
    - (ii) whether they could be exercised or performed in relation to or so as to affect land in the designated area;
    - (iii) meeting the section 85 duty that relevant authorities "...must seek to further the conservation and enhancement of natural beauty..." whenever exercising or performing their functions.
  11. The law conceives the Management Plan as an overriding plan for the place, driving how the designated area is managed and which sets policy for any relevant authorities carrying out functions for or about land or in ways which affect land in the designated area can do so in ways that further the conservation and enhancement of natural beauty. This means the '*South Devon National Landscape (AONB) Management Plan*'<sup>20</sup> is the principal reference document for ensuring that its statutory purpose is met<sup>21</sup> and setting out what it means to conserve and enhance the natural beauty of the South Devon National Landscape.<sup>22</sup>
  12. Newly relevant for this Management Plan review is the government's commitment to take forward secondary legislation that can mandate *any* relevant authority to contribute to management plan preparation and implementation and detail how relevant authorities are required to help develop and implement management plans. This is likely to become law during this upcoming Management Plan period. With this in mind it is important that the Partnership considers how to engage a wider range of relevant authorities from the outset.

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<sup>19</sup> <https://www.gov.uk/government/publications/protected-landscapes-targets-and-outcomes-framework/protected-landscapes-targets-and-outcomes-framework>

<sup>20</sup> And any of its annex documents, whether physically included in a single document or separately

<sup>21</sup> Natural England, '*Additional guidance note to support Protected Landscapes in developing Management Plans (2024/25)*' Natural England (April 2024) p1

<sup>22</sup> Natural England, '*Additional guidance note to support Protected Landscapes in developing Management Plans (2024/25)*' Natural England (April 2024) p1

13. The Management Plan is for the **place**, and therefore not for a single authority or body. Any organisation, business, community group or individual can help to conserve and enhance natural beauty. Previous Management Plans for South Devon have encouraged the application of its policies by a wide range of organisations. This remains critical, as many of the forces for change in South Devon result from the activities of non 'relevant authority' entities, particularly in the farming and land management, tourism and recreation sectors, and from the effects of cumulative actions of communities and of private individuals. As with previous Management Plans, these are important partners for the delivery of conservation and enhancement of natural beauty and we should continue to engage with and provide guidance for them.
14. We want *anybody anywhere* to be empowered with knowledge and be inspired to act to contribute to conserving and enhancing natural beauty in the South Devon National Landscape.

### Relevant authorities

15. 'Relevant authorities' is the term used to refer to organisations and individuals to which the section 85 duty is given. The CRoW Act defines them broadly in subsections 85(2)(a)-(d) and (3) with subsequent details on the categories in the latter.

#### The Countryside and Rights of Way Act 2000

*Section 85(2) The following are relevant authorities for the purpose of this section –*

- (a) any Minister of the Crown,*
- (b) any public body,*
- (c) any statutory undertaker,*
- (d) any person holding public office.*

16. Any organisation or a person within one or more (a)-(d) category is a 'relevant authority'. They do not have to be environmental or countryside organisations and it does not matter what their purpose(s) or their functions are for.
17. This potentially covers several hundred organisations and people. The enormity of this task means it is not feasible to identify all the named relevant authorities for the South Devon National Landscape. Defra is updating its previous (2005) guidance<sup>23</sup> indicative list of relevant authorities within forthcoming guidance on Protected Landscapes.
18. Our priority for the Management Plan review is identifying relevant authorities regularly 'exercising or performing functions in relation to or so as to affect land in the designated area' and which are *either* most likely to cause significant impacts to natural beauty through those functions or be able to best further its conservation and enhancement through their functions. The review needs to identify and seek to involve these. We have begun this process, (see table below). Some entities fall in more than one category, but are only include once in the table.
19. We are seeking input from the Partnership on identifying more through the Management Plan review, and functions of most relevance to natural beauty.

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<sup>23</sup> Defra, 'Duties on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural Beauty (AONBs) and the Norfolk and Suffolk Broads' (Defra, 2005). This document is out-of-date.

## 1-1 Examples of relevant authorities for South Devon National Landscape

Category of relevant authority	<i>Examples of relevant authorities exercising or performing functions in relation to or so as to affect land in the South Devon National Landscape (not exhaustive)</i>
<p><b>(a) Any Minister of the Crown<sup>24</sup></b></p> <p>1) Senior Ministers (Prime Minister, His Majesty's Principle Secretaries of State)</p> <p>2) Junior Ministers (Parliamentary Secretaries, Ministers of State, Parliamentary Under-Secretaries of State)</p> <p>3) Law Officers (Attorney General &amp; Solicitor General)</p> <p>4) Whips</p> <p>Chief Whip, Deputy Chief Whip (Treasurer of HM Household)</p> <p>Senior Whips (Comptroller of HM Household and Vice-Chamberlain of HM Household)</p> <p>Whips (Lords Commissioners of the Treasury), Assistant Whip</p>	<p>Prime Minister, Deputy Prime Minister</p> <p>Secretary of State for Environment, Food and Rural Affairs; Minister for Environment, Food and Rural Affairs; Minister for Water and Flooding; Minister for Nature; Committee on the Environment, Food and Rural Affairs</p> <p>Secretary of State for Transport</p> <p>Secretary of State for Energy Security and Net Zero; Minister for Climate, Minister for Energy Security and Net Zero; Minister for Energy; Minister for Industry,</p> <p>Secretary of State for Housing, Communities and Local Government; Minister for Housing and Planning, Minister for Local Government and English Devolution; Lords Minister for Housing, Communities and Local Government,</p> <p>Secretary of State for Defence</p>
<p><b>(b) Any public body<sup>25</sup></b></p> <p><b>Arms Length Public Bodies</b></p> <p>Executive agencies of Government departments</p> <p>Non Ministerial Departments (NMDs)</p> <p>Non-Departmental Public Bodies (NDPBs)</p> <p>Non-Classified Government Entities<sup>26</sup></p> <p>Non-Administratively Classified Parliamentary Bodies</p>	<p>HM Treasury</p> <p>Department for Environment, Food and Rural Affairs; Rural Payments Agency; Natural England; Historic England (and English Heritage Charity); Environment Agency; Joint Nature Conservation Committee; The Office of Environmental Protection (OEP)</p> <p>Forestry Commission; Forest Research; Forestry England; South West Forestry and Woodlands Advisory Committee (SWFWAC)</p> <p>Marine Management Organisation (MMO)</p> <p>Agriculture and Horticulture Development Board</p> <p>Ministry for Housing, Communities and Local Government</p> <p>Planning Inspectorate</p> <p>Department for Energy Security and Net Zero ; Committee on Climate Change; Committee on Fuel Poverty; Great British Energy;</p> <p>Ministry of Defence</p> <p>Department for Trade and Business</p> <p>Department for Transport; National Highways (formerly Highways England)</p> <p>National Lottery Community Fund and National Lottery Heritage Fund</p> <p>Ordnance Survey</p> <p>The Water Services Regulation Authority (Ofwat); The Office of Gas and Electricity Markets (Ofgem); Office of Rail and Road</p>

<sup>24</sup> 'Minister of the Crown' is the formal title and, that used in legislation, for an individual who holds an office in His Majesty's Government.

<sup>25</sup> A non-exclusive list of public bodies is given in section 85(3) Countryside and Rights of Way Act 2000. A "public body" is "one, whether elected or created by statute, which functions and performs its duties for the benefit of the public, as opposed to private gain; R v Joy and Emmony (1975) 60 Cr App. R 132 This would include publically funded companies delivering services for the benefit of the public, and arm's length bodies such as executive agencies: see <https://www.gov.uk/guidance/public-bodies-reform>", cited in footnote 3, Alex Shattock, Landmark Chambers, 'Opinion Re: section 245 of the Levelling-up and Regeneration Act 2023'. Instructed by Campaign for National Parks.

<sup>26</sup> offices and taskforces, working groups, expert committees, statutory office holders, department specific

	The Crown Estate; <i>The National Trust</i> (see later notes)
Local Government and Devolved Administration Bodies Non-Classified Local Government and Devolved Administration Bodies Committees and other authorities Joint planning boards <sup>27</sup> Joint committees <sup>28</sup>	Devon County Council, South Hams District Council, Plymouth Council, Torbay Council (particularly their functions as Local Planning Authorities Highways Authorities, Waste Authorities, Minerals Authorities,) All Parish and Town Councils and their Clerks Devon & Severn Inshore Fisheries and Conservation Authority <i>Local Design Review Panels</i> (Torbay Design Review Panel)
<b>(c) Any statutory undertaker<sup>29</sup></b> <i>Means a person –</i> <i>(a) who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990, or</i> <i>(b) who holds a gas system planner licence under section 7AA of the Gas Act 1986"</i>	All utilities companies <sup>30</sup> electricity, gas, telecommunications, rail, water and drainage – such as Western Power Distribution, Octopus Energy, Good Energy Ltd, BT Openreach, Network Rail, South West Water, General Lighthouse Authorities – Trinity House; Dart Harbour and Navigation Authority (for its powers and duties as a Local Lighthouse Authority <i>delegated from Trinity House</i> ) Dart Harbour and Navigation Authority, Salcombe Harbour Authority (SHDC), Tor Bay Harbour Authority (Brixham, Torquay, Paignton Harbours – Torquay Council), Hope Cove Harbour Commissioners, River Yealm Harbour Commissioners, Port of Plymouth Cattewater Harbour Commission, Associated British Ports Plymouth and Associated British Ports. And Harbour Masters and any staff of any Harbour Authority, and Members of any Harbour Board or Committee <sup>31</sup> Royal Mail The Independent System Operator and Planner (ISOP) <sup>32</sup> currently National Energy System Operator Ltd (NESO) <sup>33</sup> National Gas Transmission (NGT) ( <i>formerly National Grid Gas</i> )
<b>(d) Any person holding public office<sup>34</sup></b> <i>An office under His Majesty</i> <i>An office created or continued in existence by a public general Act</i> <i>An office the remuneration of which is paid out of money provided by Parliament</i>	Members of Parliament for South Devon, South West Devon, Torbay, Plymouth Sutton and Devonport, Plymouth Moor View, Elected Members of South Hams District, Plymouth and Torbay Councils, and Devon County Council Members of the DCC/South Hams Highways and Traffic Orders Committee The Crown Estate Commissioners

<sup>27</sup> within the meaning of section 2 of the Town and Country Planning Act 1990

<sup>28</sup> under section 102(1)(b) of the Local Government Act 1972

<sup>29</sup> In the Countryside and Rights of Way Act 2000 section 85(3) 'statutory undertaker' means "a person – (a) who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990, or (b) who holds a gas system planner licence under section 7AA of the Gas Act 1986"

<sup>30</sup> Utilities companies have a wide range of statutory powers to take rights in land as well as outright powers of compulsory purchase.

<sup>31</sup> Because section 57 of the Harbours Act 1964 defines a harbour authority as: "**any person** in whom are vested under this Act, by another Act or by an Order or other instrument (except a provisional Order) made under another Act or by a provisional Order powers or duties of improving, maintaining or managing a harbour".

<sup>32</sup> The ISOP is designated under section 162 of the Energy Act 2023. It is a public body licensed as an 'electricity system operator' and 'gas system planner' under the Electricity Act 1989 and the Gas Act 1986 respectively. The latter of which is stated in section 85(3) of the Countryside and Rights of Way Act 2000 to be a statutory undertaker for the purpose of the section 85 duty

<sup>33</sup> NESO is the current ISOP designated on 1<sup>st</sup> October 2024.

<sup>34</sup> 'public office' means "(a) an officer under His Majesty; (b) an office created or continued in existence by a public general Act; or an office the remuneration of which is paid out of money provided by Parliament" section 85(3) Countryside and Rights of Way Act 2000.

20. The Crown is not a relevant authority. There is a legal presumption that the Crown is not bound unless specified in the piece of legislation. Other bodies and persons may fall within the 'shield of the Crown'.
21. The National Trust (NT) *is likely to be* a relevant authority because:
  - (i) it is constituted by an Act of Parliament, the National Trust Act 1907 (as amended by further Acts);
  - (ii) the Act grants it the unique statutory power to declare its land inalienable; and
  - (iii) its charitable objects are "*for the benefit of the nation*".
22. Whether the NT is a relevant authority or not, is unlikely to be of significance owing to the long standing, collaborative working relationship between NT and the SDNLT, as well as the high alignment between its purpose and that of area of outstanding natural beauty designation. This also applies to its activities and the section 85 CRow duty.
23. Partnership members of relevant authorities are requested to think about which of their functions are 'exercised or performed in relation to or so as to affect land in the designated area' and how they can modify them to seek to further the purpose, and what type of policy and advice framework would be most useful to assist them in furthering the purpose through their functions.

## Functions

24. The section 85 duty applies to *any functions*, no matter what they are intended to accomplish. It is not limited to functions relating to narrowly-defined environmental or countryside matters. 'Functions' includes duties and powers, both statutory and discretionary. Importantly, the term also includes the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any functions.<sup>35</sup> The duty is meant to permeate through everything.

## Natural England Guidance on Management Planning

25. Publication of Natural England's full guidance on management plan reviews is anticipated later this year. NE shared its working draft guidance with the National Landscape's Association in August 2024 and indicated that it is unlikely to change substantively before final publication. On that basis, Natural England has advised NL Partnerships to proceed with Management Plan review using the draft guidance as well as its published additional guidance note (May 2024). The latter contains the mandatory elements of Management Plans. This was introduced verbally in the last meeting and is now appended to this paper for completeness.

## Data and Evidence Gathering

26. A mandatory core of the Management Plan involves:
  - (i) identifying and describing the natural beauty to be conserved and enhanced; and
  - (ii) summarising the trends in the condition of the natural beauty
27. This parallels one of the early stages of Strategic Environmental Assessment (SEA) which is focused upon understanding the environmental baseline and key trends.
28. All parts of the Management Plan must be informed by evidence on the state of the natural beauty and the current threats to its conservation and enhancement. One of the problems National Landscapes face is that datasets can be insufficient or not 'cut' to relevant spatial

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<sup>35</sup> section 101(12) Local Government Act 1972

scales. However, such problems should not prevent management action being specified and taken, particularly where the direction of travel for an issue is self-evident.

29. Additionally, the section 85 duty is *must seek to further*, and the new management plan duty is *must further* the conservation and enhancement of natural beauty. This means that the current condition of natural beauty does not factor into whether action should be taken to conserve and enhance it, but is relevant to what and how.

## Policy Context and Framework

30. The Management Plan is a strategic over-arching document, coordinating and integrating other policies, plans and strategies (PPS) where these are relevant to meeting the NL's statutory purpose. To do this successfully, the early review stage needs to begin identify the relevant policies, plans and strategies.
31. Plans which must be incorporated within the Management Plan are the Devon Local Nature Recovery Strategy and a Climate Adaptation Plan which can draw heavily on the Devon Carbon Plan, the Climate Adaptation Strategy for Devon, Cornwall and the Isles of Scilly.
32. This stage of review parallels the early scoping stage of the mandatory Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA) processes. The SEA process must identify relevant strategies, plans, policies and programmes (SPPPs) which set environmental objectives (and for the SA social and economic ones). For SEA and SA, documents do not have to be formally named as a strategy, policy, plan or programme. The PLTOF for example, is relevant and will be used by the SEA.

## Risk Matrix

33. This part of the review alongside early SEA and SA processes also helps clarify where policies and associated objectives and actions derive from, whether this is international, national or local obligations. Crucially, it identifies whether commitments are strict legal duties, mandated by statutory guidance or optional but nonetheless important ambitions. For example, European Landscape Convention, Biodiversity Convention, Environmental Improvement Plan, PLTOF etc. This information informs and helps set their hierarchy within the Management Plan policy suite. Thus ensuring that those derived from statutory or national and international obligations are implemented as overriding of local policy, for example during decision-making or in resource allocation.
34. This process is also important for identifying the interactions between the obligations within other SPPPs and the consequent impacts on natural beauty and the ability of the designated landscape to meet its statutory purpose. The Management Plan's role as the overarching document for the **place** is to influence the delivery of other SPPPs.
- (i) Identifying synergist and antagonistic effects from the interaction between objectives in other SPPPs.
  - (ii) Identifying in-combination and
  - (iii) Identifying cumulative effects
  - (iv) identifying where good intentioned actions for one matter, may lead to unintended negative consequences for another matter
  - (v) identifying where a different approach is required of the SPPP in relation to the designated area, and setting this out (bearing mind many of the relevant SPPPs will apply to geographical areas larger than the designated area)
35. The review process will bring management actions and policies from the identified strategies, policies and plans 'under one roof' in the Management Plan

36. Partnership members are requested to signpost the NL Manager to relevant policy plans and strategies that will assist the Management Plan review and the SEA/SA. Whether a particular SPPP is 'relevant' to the Management Plan depends on the extent to which it has impacts (alone or in-combination etc) for the accomplishment of the conserving and enhancing natural beauty.

### Vision for the National Landscape

37. The vision is worded currently as:

*"Our vision is of an inspirational landscape that is valued, recognised and treasured forever for its nationally important natural beauty and distinctive character."*

Whilst this is adequate to serve out remainder of the Management Plan period, it is no longer considered fit for purpose given the quantum of change already required and that coming.

38. The Vision needs to set out what favourable condition for its outstanding natural beauty means. This is in order to set the parameters for the management actions needed to bridge any 'gap' between the current state of natural beauty and that in the Vision.

### Management Principles

39. We think it is important that the Management Plan contains a series of foundational overarching principles to guide *anybody, anywhere*. By Principle we mean an overriding fundamental statement which guides reasoning and behaviour. Three examples are:
- (i) A principle of ***Nature first, nature rich, nature friendly*** (derived from the South Devon National Landscape Nature Recovery Plan;
  - (ii) A principle of ***the highest possible ambition*** (wording used in the Kyoto Climate Protocol);
  - (iii) The ***precautionary principle*** (a well-known principle of international environmental law. Previous SEAs of the Management Plan identified this principle as important in the application of policies in the Management Plan).
40. Partnership members are requested to think about potential principles which could apply. These can be bespoke or derived from other plans and strategies, which would support the conservation and enhancement of natural beauty.

### Thinking beyond the boundary

41. The Management Plan is for the conservation and enhancement of the natural beauty of the place. This does not mean that its policies and management actions only apply inside the boundary.
42. Connecting with other Protected Landscapes. The land between SDNL and Dartmoor National Park falls within the setting of both protected landscapes.
43. The marine setting is particularly important to the National Landscape as are the rural settings to Plymouth and Torbay that form areas of land with character complementary to the National Landscape itself.



## **Embedding PL Target and Outcomes Framework throughout the Management Plan**

44. All Protected Landscape bodies (including ourselves) are required to embed these targets within our Management Plans, and pursue actions captured within associated delivery plans to ensure year on year progress towards them by all relevant authorities.
45. The PLTOF represent the targets and outcomes most relevant to the NL statutory purpose.
46. Previous Partnership discussion raised the matter that the PLTOF has no specific target for natural beauty, landscape condition or quality. Though these are not the drivers of the PLTOF, they are the essence of the National Landscape and should be core drivers of the Management Plan.
47. Defra funding will likely be increasingly focused towards management actions to meet the 30x30 and PLTOF requirements. Consideration needs to be given to the elements of natural beauty which are significant contributors to the character of South Devon NL, but which are not within the scope of the PLTOF commitments. Suitably framed targets and/or outcomes that encompass natural beauty, landscape character and condition should be formulated and incorporated.
48. Partnership members are requested to assist with identifying management actions and functions which contribute to the delivery of targets and outcomes. And, to explore where and how particular functions of their organisations could be changed to contribute more ambitiously to these targets and outcomes.

## **Making the Management Plan more spatially relevant**

49. Natural England has tasked Management Plans with being more spatially targeted. Previous Management Plans have been principally thematically based in terms of policy coverage. However, spatially relevant policy was separated out for 'Coast & Marine' and for 'River & Estuaries'.

## **The South Devon Heritage Coast**

50. Natural England tasks the Management Plan with setting out policy and management actions for the South Devon Heritage Coast. Heritage Coasts are not statutory designations, but are defined by Natural England with agreement by Local Authorities. They have four defined purposes, which are:
  - (i) To conserve, protect and enhance the natural beauty of the coasts, including their terrestrial, coastal (littoral) and marine flora and fauna and their heritage features of architectural, historical or archaeological interest;
  - (ii) To encourage and help the public to enjoy, understand and appreciate these areas (consistent with the conservation and enhancement of their natural beauty and heritage features);
  - (iii) To maintain and improve the health of inshore waters affecting heritage coasts and their beaches through appropriate environmental management measures;
  - (iv) To take account of the needs of agriculture, forestry and fishing and the economic and social needs of the small communities on these coasts (by promoting social and economic development, which in themselves conserve and enhance natural beauty and heritage features).
51. The South Devon Heritage Coast forms an important part of the setting of the National Landscape, of particular significance for its marine extent. The South Devon Management Plan has historically covered the Heritage Coast, included coast and marine policies and should continue to do so.

52. The South Devon Heritage Coast is shown on the IUCN database as a “Marine Protected Area” on the Protected Planet mapping system of IUCN’s World Commission on Protected Areas.
53. The Partnership is recommended to endorse continuing to include the South Devon Heritage Coast within the Management Plan. Opportunity should be taken to improve clarity on when policies within the plan apply to the National Landscape, Heritage Coast or both.

### **Special Qualities**

54. NE requires the Management Plan to identify and describe the natural beauty to be conserved and enhanced and the special qualities to be promoted for understanding and enjoyment by the public. We would like to explore through the public online survey whether people are aware of the Special Qualities as currently framed, whether these require modification and whether they increase understanding and enjoyment of natural beauty.
55. Partnership members are requested to consider if and how they have used or referred to the Special Qualities in their work. In particular, to think about whether they were used to narrow the meaning of natural beauty and to feedback insight to the NL Manager.

### **Stakeholder consultation and engagement**

56. Meaningful, well-informed engagement is key to a successful Management Plan review. Engagement and consultation are opportunities to disseminate knowledge on natural beauty, the strengthened section 85 duty as well as forthcoming stronger Management Plan requirements. This advocacy will be particularly important when engaging with the relevant authorities. It represents an opportunity to help prepare them for the coming significant step change in Management Plan responsibilities.
57. We are proposing initial engagement through:
  - (i) One to one Conversations between the NL Manager and all Partnership members
  - (ii) A series of meetings with groups of Parish Councils
  - (iii) An online public survey
  - (iv) An online survey for relevant authorities
58. Partnership members are requested to consider and introduce to the NL Manager, who in their organisation is key to engage with for the conversations with the NL Manager. Ideally, attendees need to include key decision-takers and those responsible for oversight of functions with implications for the statutory purpose.
59. Partnership members are requested to provide feedback, with advice and suggestions, on the most appropriate mechanisms that have worked well and how to approach this in the South Devon area. This will be utilised to create a community consultation and engagement plan.

### **How people and organisations interact with and need information**

60. If the Management Plan is to properly set out policy comprehensively covering the functions of all the relevant authorities it will necessarily be lengthy.
61. Rather than all elements of the Management Plan being written with the same linguistic style and structure etc. a key principle is that information (whether a management action, or policy etc.) needs to be written in a way that is most appropriate for the audience that will be applying it.
62. We would like to adopt a web-first approach to enable different users to be able to selectively tailor the management actions and policies they see. This could be in terms of the specific issues they are interested in, or the depth of knowledge and technical information being

sought. An officer in a relevant authority might need to see a more technically written policy which is robustly worded, whereas a member of the public would be initially shown an explanation of the policy. Others may prefer to see a high level management plan on a page to gain an overall sense of the Plan's focus.

63. This would also allow themed policy areas, such as planning matters, to have a discrete web area. Making it easier to distinguish policies aimed at plan-making and decision-taking, which need to have a more formalised structure and specifically need to align with the development plan and the National Planning Policy Framework. Whereas policies for use in processes outside land use planning can be written in language more applicable to their specialist areas and context of application.

- The website of the National Institute for Clinical Excellence guidelines contains one landing site page for the public and another for medical practitioners, is fully searchable and it's possible to quickly and easily switch between the two audience versions from either of the two landing pages as well as from particular topics.
- The website of the MHCLG's Planning Practice Guidance has categories and paragraphs. Each paragraph grouping within a themed category has its own unique reference code and a 'last updated' date. They are easy to cross-reference in other documents. Their format, online and as discretely referenced paragraphs enables them to be independently consulted on when the policy context alters. It would also enable rapid factual changes (such as paragraph numbers in the NPPF) to be made.

64. Partnership members are requested to consider the usefulness of an approach along the lines of the above, for presenting the Management Plan online and for the tailoring of management action and policy. We are also seeking ideas for and good practice examples of interactive online plans or information etc.

Item Ends.

## **APPENDIX TO ITEM 8B**

**Natural England Additional guidance note to support Protected Landscapes in developing Management Plans (2024/25) April 2024**



# Additional guidance note to support Protected Landscapes in developing Management Plans (2024/25)

*To be read in conjunction with the full management plan guidance, available in draft pdf form until published online in 2024. As well, please be mindful that many of the related policies, strategies and ambitions highlighted in this document are still in development. We will therefore provide updated information when we have the full guidance available online.*

Natural England, April 2024

## Introduction

This document provides an interim steer to Protected Landscape (PL) bodies<sup>1</sup> and their key local partners who are undertaking the immediate task of reviewing their Management Plans before the end of December 2025. Recent and significant government policy initiatives, including the PL Targets and outcomes Framework (PLTOF) and the Levelling Up and Regeneration Act (LURA), have led to a need for a shorter and summarised note that helps PLs incorporate these elements into Management Plans. More detailed information, good practice and case studies are available in the full guidance draft. PL bodies are advised to use this additional note to understand and prioritise the essential requirements and expectations within a Management Plan, while at the same time referring to the full guidance draft for the detail around process and case studies.

The Management Plan is the single most important policy document for a PL. PL Management Plans are statutory; National Park Authorities, the Broads Authority, and Local Authorities with National Landscapes<sup>2</sup> (or Conservation Boards where established) are required by law to produce them, and to review them every 5 years. It is a Plan for the geographic area of the designation and therefore not for a single authority or body. As a strategic over-arching document, it should coordinate and integrate other policies, plans and strategies where these are relevant to the statutory purposes for which the PL was designated. The Management Plan is, therefore, the principal reference document for ensuring that the statutory purposes of the PL are met.

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<sup>1</sup> Protected Landscape bodies refers to National Park Authorities, The Broads Authority, National Landscape Partnerships, Conservation Boards, Joint Committees and Joint Advisory Committees.

<sup>2</sup> National Landscapes is a brand name for areas of outstanding natural beauty (AONBs).

## A quick overview of the process:

Please refer to the full guidance document for more details on the process of developing a Management Plan.

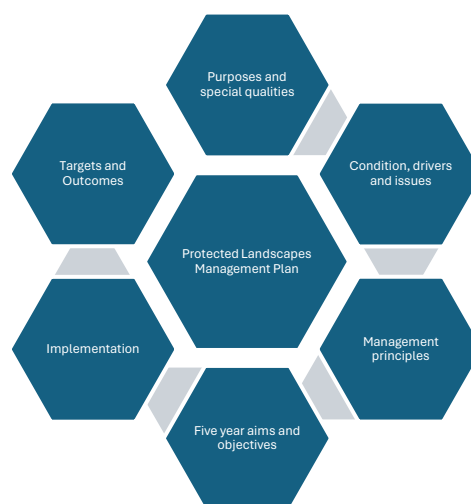
Under the Countryside and Rights of Way Act 2000 (for National Landscapes), The Environment Act 1995 (for National Parks) and the Broads Act 1988, NE must be notified of a Management Plan review and account made of their observations, emphasising formal consultation with NE.

*As part of the process for developing a Management Plan, the following should be considered:*

- Describe the natural beauty to be conserved and enhanced (and wildlife and cultural heritage for National Parks) and where applicable the special qualities<sup>3</sup> to be promoted for understanding and enjoyment by the public.
- Summarise the trends in the condition of the natural beauty, wildlife, landscape, cultural heritage, as well as the key trends affecting visitors, residents and businesses in the PL, as applicable to their statutory purposes.
- Briefly describe the drivers for change and issues acting on the designation

*The core management plan content should include:*

- The ambition and strategy, setting out the apportioned national PL targets and outcomes for the landscape and the strategy for achieving them, including the contributions of key partners.
- Management approach and processes to guide the activity and decisions of all relevant authorities operating in PLs.
- Measures of progress and success, including those in the PLTOF.



*Diagram 1. A flow chart identifying the key steps to developing a PL Management Plan.*

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<sup>3</sup> The Management Plan should identify and describe natural beauty, including special qualities and other key characteristics – i.e. the primary purpose of its designation as a National Park or National Landscape. It should also describe the opportunities offered for the enjoyment and understanding of these special qualities. The latter is relevant for all PLs, but it is essential for National Parks and National Landscapes with Conservation Boards because of their second statutory purpose.

The review of the Management Plan and its subsequent implementation is a task that should involve the relevant authorities that operate within the PL as well as any key local stakeholders who are seen as pivotal to the plan's implementation. The review process is vital in securing commitment from partners towards shared ambitions aimed at conserving and enhancing the natural beauty of the PLs (and wildlife and cultural heritage within National Parks). As well as being a statutory requirement, a five-year review of the Management Plan is necessary to ensure continuing relevance in light of changing circumstances, new drivers, and adaptive learning from implementation. The key steps for developing a Management Plan are shown in diagram 1 above.

**The Management Plan review process should encourage the active participation and collaboration of the relevant authorities and key local partners. PL bodies should:**

1. Engage with local and national stakeholders, and the wider public, to build an understanding of the issues, priorities, values and aspirations for the PL.
2. Through the engagement process, raise awareness and promote wider ownership of the plan's outcomes.
3. Develop the plan through consensus building and the understanding of common goals.

## **Mandatory and essential elements to include in Protected Landscape Management Plans**

### **Ambition, action and targets to further PL statutory purposes**

PLs should clearly set out their statutory purposes in the Management Plans and link back to ambitions, targets and actions to further these purposes. This is crucial to support effective implementation of the Duty on Relevant Authorities in respect of the Statutory Purposes of PLs. [Clause 245 Protected Landscapes](#) of the Levelling Up and Regeneration Act 2023 (LURA) places a duty on relevant authorities<sup>4</sup> in respect of their actions, decisions, and operations whereby they '*must seek to further*' the statutory purposes of PLs.

### **Protected Landscapes Targets and Outcomes Framework**

The [Environmental Improvement Plan](#) (EIP), published in January 2023 is the first five-year refresh of the government's 25-Year Environment Plan and acts as one of the core drivers for any Management Plan.

[The Protected Landscapes Targets and Outcomes Framework \(PLTOF\)](#), published in January 2024, identified the EIP goals that PL bodies and other relevant authorities and partners must prioritise and focus on. These prioritised EIP targets are those that:

- are most relevant to National Parks' and National Landscapes' statutory purposes
- have data available at the right spatial level

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<sup>4</sup> The following authorities must comply with the duty; a Minister of the Crown, any public body, any statutory undertaker or any person holding public office. Defra will be publishing further guidance on the duty later this year in 2024.

- PL bodies can influence the progress of, by mobilising partners, including through their statutory Management Plans.

The PLTOF creates a shared ambition for all 44 of England's PLs and therefore reflects national Government targets and ambitions at a local level. The targets are for the PLs as places (the geographic area covered by the designation) and the action to achieve them should, therefore, be coordinated through the statutory Management Plan process. It will be the responsibility of the PL body to convene the local partners (and engage local stakeholders like landowners and farmers) in order to agree ambitious targets and how they will be achieved, including the contributions that will be made by the relevant local partners. Annex 1 of the [PLTOF](#) sets out how the targets should be embedded within Management Plans. NE provided baseline information in April 2024 to assist with target setting and will also provide support to PLs to apportion relevant targets.

### **30by30**

Delivery of the PLTOF will help ensure PLs are put at the heart of the UK government's commitment to protect at least 30% of our land and sea by 2030 ([30by30](#)).

In December 2023, Defra published [draft criteria](#) for what land can count towards the 30by30 target. Further guidance – including how PLs could contribute to the target – is expected in 2024. In the interim, PL bodies and their partnerships are encouraged to take a holistic approach to their nature recovery planning to consider opportunities to maximise their potential contributions to 30by30, including the protection and effective management of existing, restored and new wildlife rich habitat.

### **Local Nature Recovery Strategies**

Local Nature Recovery Strategies (LNRS) will identify the best potential locations to deliver actions for nature recovery. They will be an important evidence base to aid effective planning for nature recovery activities as part of the PLs Management Plans.

[Statutory guidance for LNRS](#) states that responsible authorities should engage with local partner organisations. This allows the LNRS to incorporate existing relevant work and to align with other environmental spatial strategies. This includes the statutory Management Plans for National Parks and National Landscapes, which will now include the PLs targets and outcomes, as outlined in the PLTOF. There is a complex interrelationship between PL Management Plans and LNRS, which encourages the responsible authority to work closely with PL bodies and their partners in order to capture the priorities of the LNRS within PL Management Plans, and vice versa. Similarly, PL Bodies that have developed Nature Recovery Plans should ensure these plans are reflected in the LNRS's that cover their PL.

### **Climate Change Adaptation Plans**

The [UK government's third National Adaptation Programme \(NAP3\)](#) introduces the requirement for all PL bodies to produce Climate Change Adaptation plans for their PL by 2028. This plan will be embedded and linked with the PL Management Plan. They will include specific, measurable, achievable, realistic and timely actions and objectives designed to adapt PLs to climate change.



Adopting Climate Change Adaptation Plans will be essential in minimising and managing the impacts of climate change on England's PLs. Alongside the publication of NAP3, climate change adaptation should be fundamental to the development of the ambitions set out in Management Plans, and the way in which they will be achieved. Climate Change Adaptation Plans should consider the impacts of climate change on all parts of the PL including nature, people and place. Climate Change Adaptation Plans are to be completed on a 5-year cycle, preferably in line with PL Management Plans.

Please see full guidance document for further details on Climate Change Adaptation Plans.

### **Strategic Environmental Assessments and Habitat Regulations Assessments**

Strategic Environmental Assessments (SEAs) should still be undertaken as part of preparing PL Management Plans. See [Strategic environmental assessment and sustainability appraisal - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal) for guidance.

The Habitat Regulations also still apply so where a PL contains European Protected Sites, namely Special Areas of Conservation (SACs) and Special Protection Areas (SPA), proposed SACs, potential SPAs, Ramsar wetlands of international importance (both listed and proposed) and/or areas secured as sites compensating for damage to a European site a HRA is required because these are protected by the Conservation of Habitats and Species Regulations 2017. Guidance is available [here](#).

### **Interconnectedness of the above elements**

All these essential components are interlinked and the PL Management Plan is where these plans, strategies and targets can come together in one place. It is up to each PL body whether these plans and strategies sit in the main body of a Management Plan text or as an appendix/addendum. If found in the appendix/addendum it must be viewed with the same weight as the core body of text.

## **The following elements should be considered as part of the Management Plan development and implementation:**

### **Equality, Diversity and Inclusion**

PLs are landscapes for everyone and have the capacity to connect more people to nature than ever before. A major priority for PL bodies and their local partners should be integrating Equality, Diversity and Inclusion (EDI) into the fabric of the Management Plans, throughout the engagement process and within the interconnected network of other plans and strategies.

Through the process of developing Management Plans and their implementation, PL bodies and their local partners should look to engage and inspire a wider diversity of communities, extending the reach and benefits of the PL and ensuring that inclusivity is embedded into their approach.

### **Progress reporting**

Once adopted, monitoring of progress in implementing the Management Plan is essential. PL bodies (and their partnerships) should formally report on progress towards delivering the Plan's strategy and outcomes. Outcomes can be monitored every five years via the updated 'State of' report, although it may be beneficial to monitor more frequently throughout the delivery period in the form

of a report that highlights progress and links with the PLTOF. NE is responsible for collating data from a range of partners' national datasets, to demonstrate the progress made in each PL towards the targets set through the PLTOF. This information will be published as part of the EIP reporting process and can feed into annual progress reports for each PL.

**End.**

## 8C. South Devon National Landscape and Heritage Coast Planning Guidance

ITEM FOR	INFORMATION & FEEDBACK	REPORT BY	Roger English NL Manager
<b>SUMMARY</b>	This item introduces work on the <i>South Devon AONB Planning Guidance</i> , and factual updates to its <i>Addendum</i> and its <i>Planning for South Devon National Landscape (AONB): Key Principles for plan-making and decision-making</i>		
<b>MANAGEMENT PLAN THEMES</b>	<p><b>ALL PLACE:</b> Natural resources &amp; climate; Biodiversity &amp; geodiversity; Farming and land management; Historic Environment &amp; Local Distinctiveness; Coast &amp; marine; Rivers &amp; estuaries; Landscape Character.</p> <p><b>ALL PEOPLE:</b> Tourism, access &amp; recreation; Planning &amp; sustainable development; Transport &amp; highways; Rural economy &amp; services; Community &amp; culture.</p> <p><b>ALL PARTNERSHIP:</b> Awareness &amp; communication; Management, organisation &amp; partnerships.</p>		
<b>RECOMMENDATION</b>	<p>Partnership members are recommended to:</p> <ol style="list-style-type: none"> <li>Note and endorse the updated <i>Addendum</i> to Planning Guidance; and</li> <li>Note and endorse the updated <i>Key Principles for plan-making and decision-making</i></li> <li>Note the link between this matter and the ongoing Management Plan review</li> <li>Endorse work on the updating of Planning Guidance for the South Devon National Landscape and South Devon Heritage Coast and provides its feedback</li> <li>Feedback on other themes, matters or audiences that ought to be considered for inclusion in the revised suite of planning guidance</li> </ol>		

### Background

- There have been substantive changes to the legal and policy context for land use planning, National Landscapes and Heritage Coasts since the publication of the *South Devon AONB Planning Guidance Version 1 (2017)*.
- A factual addendum was published in 2020 to capture key changes up to this point, however further substantive changes include:
  - Government's *25 Year Environment Plan*;<sup>36</sup>
  - A new South Devon National Landscape Management Plan 2019 – 2024 (extended to 2025) and the statutory management plan review;
  - Adoption of the *Plymouth and South West Devon Joint Local Plan* (covering the South Hams and Plymouth administrative areas of the South Devon National Landscape and its setting);
  - Declaration of a climate emergency and biodiversity crisis by many authorities, bodies and groups;
  - The cross-government *Designated Landscape Review (Glover Review)* 2019;<sup>37</sup>
  - MHCLG, '*National Design Guide*' October 2019;
  - NAAONBs, *Position Statement Planning for Housing within Areas of Outstanding Natural Beauty (AONBs) in England* (NAAONBs, 2019).

<sup>36</sup> DEFRA, *A Green Future: Our 25 Year Plan to Improve the Environment* (Defra, January 2018) available at <http://www.gov.uk/government/publications/25-year-environment-plan>

<sup>37</sup> DEFRA, *Landscapes Review* (September 2019), also known as the *Glover Review* because the independent advisory group who conducted the review was lead by Julian Glover OBE, available at <http://www.gov.uk/government/publications/designated-landscapes-national-parks-and-aonbs-2018-review>

- viii. *'Living with Beauty: Promoting health, well-being and sustainable growth'* The report of the Building Better, Building Beautiful Commission, 2020;
- ix. MHCLG, *'Planning for the Future'* March 2020;
- x. The global 30 by 30 commitment and Government's 30 by 30 Targets;
- xi. The Environment Act 2021;
- xii. Creation of the Office of Environmental Protection (OEP);
- xiii. A stronger proactive 'biodiversity duty' (from Environment Act 2021 amendments to Natural Environment and Rural Communities Act 2006);
- xiv. The Government's Response to the *Designated Landscapes Review 2022*
- xv. The Environmental Improvement Plan (EIP) 2023;
- xvi. The Environment (Local Nature Recovery Strategy) (Procedure) Regulations 2023;
- xvii. The Levelling-up and Regeneration Act 2023;
- xviii. A stronger proactive section 85 duty on relevant authorities towards areas of outstanding natural beauty brought in by the Levelling-up & Regeneration Act 2023;
- xix. Publication of Defra's *Protected Landscapes Targets and Outcomes Framework*;
- xx. National Landscape Association, *Applying the CRow Act section 85 duty of 'must seek to further the purpose' in National Landscapes (AONBs)*
- xxi. The Devon Local Nature Recovery Strategy;
- xxii. Revisions to the NPPF in 2018, 2019 and 2023 with further expected imminently;
- xxiii. Case law on planning matters which interpret the NPPF;
- xxiv. Appeal Decisions from the Planning Inspectorate in relation to National Landscapes.

## Approach

3. Given the breadth and depth of changes to the law and policy context for National Landscapes, we need to take a considered approach to bringing our planning related guidance documents up to date. It is important that some form of guidance remain in place to continue to inform planning processes. To ensure this we are taking a two-limbed approach.
  - i. As expedient interim measures, address the strengthened section 85 duty and NPPF 2023 changes through updates to:
    - a) *Addendum to the South Devon AONB Planning Guidance*
    - b) *Planning for South Devon National Landscape (AONB): Key Principles for plan-making and decision-making*
  - ii. As part of the Management Plan Review:
    - a) revise the *South Devon AONB Planning Guidance v1*
    - b) revisit the Renewable Energy Position Statement
4. This approach allows time for deeper consideration of how to address all the changes in the planning and National Landscape context whilst continuing to provide guidance covering two significant influences on planning matters in the interim period. The policy context update work sits well alongside work needed for the management plan review.

## Revising the South Devon AONB Planning Guidance

5. The major task of updating the *South Devon AONB Planning Guidance* forms part of the statutory Management Plan Review. Revisions to the guidance are already underway. We intend to provide a suite of guidance rather than a singular document.
6. Several matters out of our control will have significant effects on revisions to our planning guidance:
  - (i) Defra has yet to publish its guidance on Protected Landscapes for relevant authorities;
  - (ii) NPPF changes are currently underway and it is not clear when these will be finalised or come into effect;
  - (iii) final Management Plan guidance is yet to be issued by Natural England;

- (iv) the progress of the Devon Local Nature Recovery Strategy.
7. This uncertain and evolving policy context makes our work more complex and difficult as well as more resource intensive. Work will need to continually adapt to the altering policy context and to relate as best it can to the latest versions of documents and policy and use reasoned judgments to anticipate what's to come.
  8. Guidance will set out the practice implications of the new obligation that local planning authorities now "***must seek to further the purpose of conserving and enhancing natural beauty***" in the South Devon National Landscape.
  9. We intend to expand the thematic coverage of guidance to include:
    - i. estuaries (reflecting importance of rias for the National Landscape's designation);
    - ii. the South Devon Heritage Coast (Natural England guidance is that Heritage Coast must be covered by the Management Plan, so it makes sense to provide specific planning guidance);
    - iii. adjacent marine areas (covered by Heritage Coast definition and in the National Landscape's 'setting').
  10. We also want revised guidance to:
    - i. Provide Standing Advice to local planning authorities on development management (to reduce the burden on the National Landscape Team to provide bespoke comments on individual applications);
    - ii. Set out what we expect local planning authorities to do to seek to further the conservation and enhancement of natural beauty;
    - iii. Set out further how we expect local planning authorities to use the Management Plan;
    - iv. Make clearer links to the Local Plans (this was not done before because their update was imminent at the time of publication);
    - v. Provide guidance for Local Design Review Panels.
  11. We are restructuring how we provide guidance on planning:
    - i. Creating separate guidance for decision-making and for plan-making;
    - ii. Creating separate guidance for Local Plans and for Neighbourhood Plans - to serve the different audiences and processes;
    - iii. Separate out guidance on the Law and Policy Framework - to make this easier to update;
  12. We believe these changes to the way the guidance and advice is structured will offer greater flexibility in being able to respond to changes in the law and policy context and their impacts on different areas. This is especially important now recognising forthcoming guidance from Defra on the section 85 duty, regulations that the Secretary of State may make and an updated NPPF.
  13. During the review, particularly given the evolving policy context, we may identify other matters, or audiences which would be better served by specific stand alone guidance.

Item Ends.

## **APPENDIX 1 TO ITEM 8C   South Devon National Landscape Planning Guidance Addendum**

**Addendum to *Planning for the South Devon AONB: Planning Guidance v1***

**Issued by the South Devon National Landscape (AONB) Team, December 2024**

Author and Citation

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## A1. Introduction

**This Addendum 2024 to *Planning for the South Devon AONB: Planning Guidance v1* [Planning Guidance] revokes and replaces the Addendum issued in 2020. It sets out amendments to help with correctly applying the Planning Guidance in the light of significant changes to the legal and national planning policy context for the South Devon National Landscape, designated area of outstanding natural beauty, as relevant to planning.**

**This is not a comprehensive update of the Planning Guidance. The South Devon National Landscape Team is reviewing the Planning Guidance as part of the Management Plan Review process and will issue a revised guidance later. In the interim, this Addendum must be used alongside the South Devon AONB Planning Guidance version 1 and is a material consideration in plan-making and decision-making from the date of publication.**

### 1 Overview of amendments

- A1. Important changes to the legal and policy context for both planning and National Landscapes (AONBs) have occurred since the publication of the *South Devon AONB Planning Guidance Version 1*, issued in 2017. This Addendum addresses the strengthened section 85 duty changes made by the Levelling-Up and Regeneration Act 2023 and the National Planning Policy Framework changes up to 2023. It retains the previous addendum's relevant changes with revisions where needed.
- A2. Amendments predominantly affect:
  - SECTION 2 The Legal Framework for AONBs;
  - SECTION 4 AONBs and Planning Policy - National;
  - SECTION 5 AONBs & Plan-making – Local & Neighbourhood Plans;
  - SECTION 6 Using the AONB Management Plan for planning; and
  - SECTION 7 Development Management and South Devon AONB: General Guidance.
- A3. Paragraph numbers in this Addendum are prefixed with an **A** enabling clear distinct citation from paragraphs in the *Planning for the South Devon AONB: Planning Guidance v1*.

### 1-1 Overview of Amendments

Section in Planning Guidance version 1	Changes Made	Reason for amendments	Sub-sections / [paragraphs] / pages affected	Summary of main amendments
Section 1 Introduction	Minor	Changes to paragraph numbering of the NPPF & policy intent	[7] 1.5 Further Information Sources	Amend NPPF paragraphs 115 & 116 to NPPF 182 & 183 Amend NPPF paragraph 14 to NPPF 11 Amend South Devon AONB Management Plan 2014-2019 to South Devon AONB Management Plan 2019-2024
Section 2 Legal Framework for AONBs	Major	The section 85 duty has been significantly strengthened	2.2 A Statutory Duty towards AONBs	Amend paragraphs 24-34, replace <i>'have regard to'</i> with <i>'seek to further the purpose'</i>
Section 3 Describing the South Devon AONB	Minor			Amend South Devon AONB Management Plan 2014-2019 to South Devon AONB Management Plan 2019-2024
Section 4 AONBs & National Planning Policy	<b>Yes</b>	Changes to paragraph numbering of the NPPF & policy intent of the policy on AONBs  Changes to the paragraph & footnote numbering & the policy intent of the presumption in favour of sustainable development  Changes to the matters covered which can remove the presumption in favour of sustainable development	4.2 Restriction on Development affecting AONBs Box on page 33 'National Planning Policy Framework paragraph 14' Box on page 35 'Extract of NPPF paragraph 14' Box on page 35 'Planning Appeals and Court Case addressing Paragraph 14 and specific policies indicating that development should be restricted'  4.3 The Requirement to Give 'Great Weight'  4.4 How the Courts have interpreted the requirement to Give Great Weight	Amend NPPF paragraphs 115 and 116 to NPPF 182 & 183 Amend NPPF paragraph 14 to NPPF paragraph 11  'Great weight' should be given to 'conserving <b>and enhancing</b> ' the landscape and scenic beauty of AONBs during both plan-making and decision-taking  The scale and extent of development in AONBs should be limited During plan-making, the presence of AONBs and the requirement to conserve and enhance their landscape and scenic beauty, can provide a strong reason to restrict the overall scale, type or distribution of development in the plan area;  The reversal of the two limbs on decision-taking in paragraph 11 (previously paragraph 14) to reflect the lawfully correct order of application;  During decision-taking, where there are no relevant development plan policies or the policies most relevant for determining the application are out of date, the presence of AONBs, and the requirement to give great weight to the conservation and enhancement of their landscape and scenic beauty and to limit

Section in Planning Guidance version 1	Changes Made	Reason for amendments	Sub-sections / [paragraphs] / pages affected	Summary of main amendments
				development within them, can provide a clear reason to refuse development; Undeveloped coast is no longer a matter which can displace the presumption in favour of development (indicated by the closing of the list in footnote 7 to paragraph 11 and its absence from this list).
Section 4 AONBs & National Planning Policy	Yes	Changes to paragraph numbering, clarified context for the determination of major development in relation to AONBs New context for the determination of major development in relation to Heritage Coasts	4.5 Major Development in AONBs	The concept of major development in relation to AONBs and Heritage Coasts is set out in footnote 64 to paragraph 182 and paragraph 184 respectively; The question to be addressed is whether the development proposal <b>could have a significant adverse impact</b> on the purpose of designation in the case of the South Devon AONB, or on the purposes of definition in the case of the South Devon Heritage Coast.
Section 4 AONBs & National Planning Policy	Yes	Changes to paragraph numbering of the NPPF & policy intent of numerous policies	4.7 Planning Positively for the South Devon AONB Table on page 40 Tables on pages 41-58	Amend table on page 40 with updated NPPF references. Tables on pages 41-58 The main principles stated continue to apply. However, the NPPF policy references in column 1 and the references to related AONB policies and objectives in column 6 are no longer correct. These are too numerous to correct for the Addendum.
Section 5 AONBs & Plan-making – Local & neighbourhood plans	Yes	Changes to paragraph numbering of the NPPF & policy intent of the policy on AONBs	5.3 Local Plans in relation to South Devon AONB (Box on p64 entitled: ‘Local Plans covering the South Devon AONB’)	Added to the relevant development plans: <ul style="list-style-type: none"> <li>- Plymouth and South West Devon Joint Local Plan 2014-2034;</li> <li>- Devon Minerals Plan 2011-2031</li> <li>- Minerals Safeguarding Supplementary Planning Document</li> </ul> Revoked from the relevant development plans: <ul style="list-style-type: none"> <li>- South Hams Local Development Framework;</li> <li>- Plymouth Local Development Framework; and</li> <li>- The Devon Minerals Local Plan 2004</li> </ul>
		Changes to paragraph numbering of the NPPF & policy intent of the policy on AONBs	5.4 What is Neighbourhood Planning 5.5 How should AONB issues be addressed in Neighbourhood	The conservation <u>and</u> <i>enhancement</i> of landscape and scenic beauty must be given great weight. The scale and extent of development in the AONB is to be limited. References to paragraphs 115 and 116 refer to paragraph 182 & 183. Guidance on plan-making is set out in NPPF paragraphs 15-37, but

Section in Planning Guidance version 1	Changes Made	Reason for amendments	Sub-sections / [paragraphs] / pages affected	Summary of main amendments
			Plans	policies relevant to plan-making still occur throughout.
Section 6 Using the AONB Management Plan for planning	Yes	South Devon AONB Management Plan 2019-2024 extended to 2025	Tables on pages 70-77 containing management plan policies	Management Plan policies set out in the Planning Guidance on pages 70-77 no longer apply. You must refer to the new Management Plan.
Section 7 Development Management and South Devon AONB	Yes	Changes to paragraph numbering of the NPPF, the policy intent of the NPPF <i>policy on AONBs</i> and the NPPF policy on the <i>presumption in favour of sustainable development</i>	7.2 Guidance for decision-takers [125-137]	<p>The key principles in sub-section 7.2 remain applicable and should be followed.</p> <p>Amend references to NPPF paragraph 115 &amp; 116 to NPPF 182 &amp; 183.</p> <p>New footnote 64 to NPPF paragraph 182 which clarifies the approach to ‘major’ development in AONBs</p> <p>Great weight to be given to the ‘conservation <b>and enhancement</b> of landscape and scenic beauty’</p> <p>Amend references to “<i>the conservation of landscape and scenic beauty</i>” to “<i>the conservation <b>and enhancement</b> of landscape and scenic beauty</i>”.</p> <p>Amend references to “<i>conserve</i>” to “<i>conserve <b>and enhance</b></i>”.</p> <p>Where there are no relevant development plan policies, or the policies most relevant for determining the application are out of date the ‘presumption in favour of development’ can be displaced if the harm to the AONB provides ‘<b>a clear reason for refusal</b>’ (by the application of footnote 8 to paragraph 11).</p> <p>Two new key matters for decision-takers are:</p> <ul style="list-style-type: none"> <li>- Could the development have a ‘significant adverse impact’ on the purpose of conserving and enhancing natural beauty? (i.e. is it footnote 64 ‘major’ development)?</li> <li>- Could the development have a significant adverse impact on any of the four defined purposes of the South Devon Heritage Coast (i.e. is it footnote 64 ‘major’ development)?</li> </ul> <p>References to ‘major’ development in AONBs now refer to the findings of the process undertaken in footnote 64 to paragraph 182, which then engages paragraph 183 and the three assessments and two tests.</p>
Section 7	Yes	Changes to the paragraph	7.5 Natural Heritage Features	Amend NPPF paragraph 118 to NPPF 175.

Section in Planning Guidance version 1	Changes Made	Reason for amendments	Sub-sections / [paragraphs] / pages affected	Summary of main amendments
Development Management and South Devon AONB		numbering of the NPPF		Amend NPPF paragraph 117 to NPPF 174.
Section 7 Development Management and South Devon AONB	Yes	Changes to paragraph numbering of the NPPF & policy intent of the policy on AONBs	7.7 General Guidance for Development Proposals affecting the South Devon AONB Flow diagram 'Considerations for decision-taking on Development Proposals In or Affecting the South Devon AONB' on p86 'Checklist for decision-taking for development affecting the South Devon AONB' on p87	Amend references to NPPF paragraphs 115 & 116 to NPPF 182 & 183 respectively in text, flow diagram and checklist  In the Flow Diagram, replace the box containing text: <i>"Is the proposal NPF 116 'major development' in the context of the AONB?"</i> with text: <b>"Could the proposal have a significant adverse impact on the purpose of conserving and enhancing natural beauty in the South Devon AONB? i.e. undertake the footnote 64 considerations"</b>  In the checklist on page 87 amend point 12 to: <i>"Will the development conserve <b>and enhance</b> the AONB's landscape and scenic beauty?"</i> (addition shown in bold).
Section 8 Detailed Guidance for Main Development Types	No			

## 2 A new AONB Management Plan

- A4. The current statutory South Devon AONB Management Plan originally covered the period 2019-2024. **The plan period is extended to the end of 2025, by agreement with Government and Natural England.** All reference to the Management Plan within the Planning Guidance now refers to this extended plan. Be aware that the management plan is being reviewed. You should keep yourself up to date with progress on the statutory review. Newer policies will begin to gain weight as material considerations in the planning process the further the review progresses, even before the management plan is formally adopted.
- A5. In particular, this affects 'Section 6 Using the AONB Management Plan for planning' and the tables on pages 70-77 are revoked. The policies in the extended Management Plan 2019-2025 must be used in place. A cross-reference table is given at the end of this document.

### 3 Strengthened section 85 duty

A6. The duty towards natural beauty and AONBs, known as the section 85 duty has been significantly strengthened. It is a proactive duty requiring beneficial actions to be taken to further the conservation and enhancement of natural beauty. The effects of duty changes occur throughout the Planning Guidance. The table below gives an overview of the legal text changes.

A7.

Old Duty - REVOKED	Revise Duty IN FORCE	Explanatory Notes
<p><b>Section 85(1) of The Countryside and Rights of Way Act 2000:</b>  <i>85 (1) "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 <b>shall have regard to the purpose</b> of conserving and enhancing the natural beauty of the area of outstanding natural beauty."</i></p>	<p><b>Section 85(A1) of The Countryside and Rights of Way Act 2000:</b>  <i>85 (A1) "In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority <b>must seek to further the purpose</b> of conserving and enhancing the natural beauty of the area of outstanding natural beauty."</i></p>	<p>The most important substantive difference is the <b>significant strengthening</b> of the duty.</p> <p>The old duty required that a relevant authority "<i>shall have regard to the purpose</i>" the new duty requires that a relevant authority "<b><i>must seek to further the purpose</i></b>"</p> <p>This is a wider, stronger proactive and continuing duty upon the relevant authorities.</p> <p>The statutory <b>purpose</b> of the duty which is the '<i>conserving and enhancing the natural beauty of the area of outstanding natural beauty</i>' <b>has not changed</b>.</p> <p>The 'relevant authorities' covered by the duty have not changed.</p> <p>The scope of application of the duty to functions has not changed. It still applies to '<b><i>any functions</i></b>'</p> <p>This new section 85(A1) duty applies to English relevant authorities for areas of outstanding natural beauty s in England.</p>

### 4 Updated National Planning Policy Framework

A8. The substantive changes to National Planning Policy Framework in regards to AONBs are:

1. AONB policy is now covered in paragraph 182 and 183 and footnote 64 (paragraphs 115 and 116 in the Planning Guidance);
2. Great weight must be given to the conservation **and enhancement** of landscape and scenic beauty in AONBs. The section 85 duty requires that local planning authority ***must seek to further the conservation and enhancement of natural beauty*** when exercising planning functions. This duty is relevant throughout the planning process, including when deliberating on the amount of weight to be given to natural beauty matters;
3. The overall scale and extent of development in AONBs should be limited, during plan-making and when decision-taking;

4. Whether development is ‘major’ in relation to an AONB is to be considered by reference to footnote 64 and explicitly with whether a development ***could have a significant adverse impact*** on the AONB’s designation purpose of conserving and enhancing its natural beauty;
  5. AONBs are areas of particular importance that can displace the presumption in favour of sustainable development [NPPF paragraph 11] during plan-making and during decision-taking.
- A9. There are significant and substantive changes to National Planning Policy Framework in regards to Heritage Coasts. These were given greater level of protection. This is particularly important locally because the South Devon Heritage Coast overlaps the AONB designation and in some areas it covers the ‘setting’ of the AONB. These changes are summarised as:
1. Heritage Coast policy is now covered in paragraph 184 and footnote 64 (previously paragraph 114);
  2. Planning policies and decisions should be consistent with the special character of Heritage Coasts and the importance of its conservation;
  3. Heritage Coasts remain as areas of particular importance that can displace the presumption in favour of sustainable development [NPPF paragraph 11] during plan-making and during decision-taking;
  4. The overall scale and extent and distribution of development in Heritage Coasts should be restricted during plan-making where there are strong reasons for doing so to ensure their protection;
  5. Major development in Heritage Coasts is unlikely to be appropriate unless it is consistent with its special character;
  6. Whether development is ‘major’ in relation to an Heritage Coast is to be considered by reference to footnote 55 and explicitly with whether a development ***could have a significant adverse impact*** on any of their four defined purposes, which are to:
    - Conserve, protect and enhance the natural beauty of the coasts, including their terrestrial, coastal (littoral) and marine flora and fauna and their heritage features of architectural, historical or archaeological interest;
    - Encourage and help the public to enjoy, understand and appreciate these areas (consistent with the conservation and enhancement of their natural beauty and heritage features);
    - Maintain and improve the health of inshore waters affecting heritage coasts and their beaches through appropriate environmental management measures;
    - Take account of the needs of agriculture, forestry and fishing and the economic and social needs of the small communities on these coasts (by promoting social and economic development which in themselves conserve and enhance natural beauty and heritage features).

## A2. More detail on specific amendments

This section explains the implications of changes and sets out specific amendments to the Planning Guidance.

### 5 Changes to ‘Section 1 Introduction’

A10. Whilst the National Trust report,<sup>1</sup> looked at decisions made under a previous version of the NPPF (published in 2012), its findings go to the heart of decision-taking in relation to AONBs. Ensuring adequate attention to national policy, law and procedure in decision-taking remains a critical issue for AONBs under the NPPF 2023.

### 6 Changes to ‘Section 2 The Legal Framework for AONBs

A11. The section 85 duty has changed from one requiring a relevant authority to ‘*have regard*’ to the purpose of conserving and enhancing natural beauty, to a stronger one requiring that a relevant authority ‘*must seek to further*’ the purpose of conserving and enhancing natural beauty

A12. **Replace** paragraphs 24 – 35 in 2.2 *A Statutory Duty towards AONBs* with the text below:

#### 2.2 A Statutory Duty towards natural beauty in AONBs

A13. The statutory general duty of public bodies and others towards areas of outstanding natural beauty (known as the ‘section 85 duty’) is contained in section 85 of The Countryside and Rights of Way Act 2000 (CRoW Act, 2000),<sup>2</sup> as amended by section 245 of the Levelling-up and Regeneration Act 2023 (LURA, 2023). The amendments, which came into force on 26<sup>th</sup> December 2023, are a substantive strengthening of the duty. The following paragraphs break down who the duty applies to, when the duty is engaged, its scope and extent and explains its pertinent elements.

#### **SECTION 85(A1) of The Countryside and Rights of Way Act 2000:**

*85 (A1) “In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority, **must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.**”*

<sup>1</sup> referred to in paragraph 7 of the Planning Guidance version 1 (2017)

<sup>2</sup> A statutory duty is one which is set out in legislation.



### Who are the ‘relevant authorities’?

- A14. The CROW Act sets out the bodies and persons, termed ‘*relevant authorities*,’<sup>3</sup> to whom the duty applies. **Relevant authorities are: Ministers of the Crown, public bodies, statutory undertakers and any persons holding public office.** Public bodies include local authorities, Parish (and Town) councils, and others. A statutory undertaker is anyone who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990 (including rail and utilities companies, water and sewerage, electricity, gas, telecommunications) or a person who holds a gas system planner license<sup>4</sup>. Persons holding a public office include MPs, Elected Members, Parish and Town Councillors. **Local planning authorities are relevant authorities.**

### What is the scope of the duty?

- A15. A duty is something that must be accomplished to comply with the law. The s.85 duty applies to **any** functions, not only to those relating to narrowly-defined environmental or countryside matters. It is irrelevant what those functions are intended to accomplish. The term ‘*functions*’ includes duties and powers, and the s.85 duty applies regardless of whether the function is a statutory or a permissive one. . The term also includes the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any functions.<sup>5</sup> A function will be subject to the s.85 duty in any circumstance where it is or could be exercised or performed ‘in relation to’ **or** ‘so as to affect’ land in an AONB.
- A16. ‘Land’ has a very wide meaning in English law. Relevant authorities must use the legal meaning of ‘land’ when determining whether the function is in relation to or so as to affect land.
- A17. The duty applies to **all** planning functions, covering all aspects of plan-making and decision-taking, including the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any functions.<sup>6</sup> It applies, *for example* from the earliest stages of plan-making, and at all stages of decision-taking, including deciding what weight to apply to different planning matters, whether any planning conditions are necessary, and also when considering enforcement action. Natural England<sup>7</sup> consider it good practice that a local planning authority **applies** the duty at several points in any decision-taking process or activities, including during initial thinking, at more detailed planning stages, at implementation and that it also provides written evidence that it assessed whether the duty is engaged and demonstrates how it sought to further the purpose of conserving and enhancing natural beauty whilst discharging the function.

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<sup>3</sup> Section 85(2) & (3) Countryside and Rights of Way Act 2000

<sup>4</sup> under section 7AA of the Gas Act 1986

<sup>5</sup> section 101(12) Local Government Act 1972

<sup>6</sup> section 101(12) Local Government Act 1972

<sup>7</sup> <http://webarchive.nationalarchives.gov.uk/20160929000001/http://publications.naturalengland.org.uk/publication/30037>

### What does ‘in relation to’ or ‘so as to affect’ land mean?

- A18. ‘*In relation to*’ means concerning, in the context of, or in connection with. Put simply it means for or about. The duty is engaged for *any* function exercised or performed in relation to land within a designated area of outstanding natural beauty. All planning functions are exercised or performed ‘in relation to’ land, meaning that for all planning application in the AONB, the local planning authority ***must seek to further the conservation and enhancement of natural beauty***. And, for any planning applications, the grant of which could affect land in the AONB, even where a development is outside the AONB, the local planning authority ***must seek to further the conservation and enhancement of natural beauty***. In both cases, the magnitude or significance of effects on land, are irrelevant.
- A19. ‘*So as to affect*’ simply means the function’s exercise or performance ***could affect*** land in the designated area regardless of where the function being exercised or performed, or whether it relates to land or not. **The correct test is whether land in the designated area is capable of being affected by the exercise or performance of the function**, such as the giving of planning permission. If the answer is yes, the duty applies. The category, magnitude or significance of effects on land is irrelevant. The duty applies whether the effect(s) is positive or negative, direct or indirect, in combination or cumulative.
- A20. Developments outside of the AONB can lead to affects on land within it, are subject to the same duty as developments on land in the AONB. Effects are not limit to those on natural beauty, any effects on land engage the duty. See 2.4 What is meant by the ‘setting’ of an AONB?

### What does ‘must seek to further the purpose’ mean?

- A21. ‘**Must seek to further**’ is an active duty, which require a relevant authority to take reasonable steps to explore how the statutory purpose of conserving and enhancing natural beauty in the South Devon National Landscape can be furthered through the exercise or performance of any of its functions.<sup>8</sup> It is a duty to take *beneficial* actions for natural beauty. In doing so, the ‘*South Devon National Landscape (AONB) Management Plan*’<sup>9</sup> including the ‘*South Devon Estuaries Management Plan*’<sup>10</sup> is the starting point for what it means to conserve and enhance natural beauty in the local context.
- A22. The duty does not state *how* the conservation and enhancement of natural beauty must be furthered. It would be impossible for the legislation to set out how to perform it in every case particularly given that it applies to ***any*** functions of a very wide range of bodies and persons. As with many statutory duties, the relevant authority has discretion on how to accomplish a duty’s purpose. However, merely avoiding harm to natural beauty is insufficient to meet the duty. If all a relevant authority has sought to do is avoid negative impacts to

<sup>8</sup> Natural England (2023), ‘*Natural England’s addendum to our Deadline 9 response in relation to the enhanced duty in relation to Protected Landscapes including the Kent Downs Area of Outstanding Natural Beauty*’ Annex 2 paragraph 2.1.3.

<sup>9</sup> Available at [www.southdevon-nl.org.uk/management-plan](http://www.southdevon-nl.org.uk/management-plan)

<sup>10</sup> Available at [www.southdevon-nl.org.uk/estuaries-management-plan](http://www.southdevon-nl.org.uk/estuaries-management-plan)

natural beauty it fails the duty. In consequence, it leaves itself open to legal challenge. ***“Moreover, if there is an obvious alternative approach that better furthers the statutory purpose and the relevant authority cannot evidence (1) why it cannot reasonably adopt that approach or (2) that its chosen approach also seeks to further the statutory purposes, then the decision will be open to legal challenge.”<sup>11</sup>***

- A23. In practice, a relevant authority must be able to demonstrate (i) how it proactively sought to further the conservation and enhancement of natural beauty through the carrying out of its function and (ii) how it concluded that the decision does in fact seek to further that purpose. This will mean documenting all the steps taken and the reasoning process about how functions are to be implemented. 12 A local planning authority must be able to set out clearly what actions it took to further the purpose of conserving and enhancing natural beauty throughout all development management processes, but especially in pre-application consultations, deciding whether or not to grant planning permission, and what conditions to apply, or whether to take enforcement actions. In some cases, seeking to further the purpose will require refusal of permission. It must also be able to do this for all stages of plan-making.

#### What does ‘conserving and enhancing’ natural beauty mean?

- A24. A relevant authority must understand that ‘*conserving and enhancing*’ natural beauty, is a single purpose.<sup>13</sup> It must not make the mistake of overlooking the ‘*enhancing*’ limb of the duty. A relevant authority **must** accomplish both limbs to discharge the duty properly. It must explore and how any proposed decision, action, or inaction, could be altered in order to both *further* the ‘conservation’ and *further* the ‘enhancement’ of natural beauty.
- A25. The ‘South Devon National Landscape (AONB) Management Plan’<sup>14</sup> is the principal reference document for ensuring that the designated area’s statutory purpose is met,<sup>15</sup> for how relevant local authorities (including planning authorities) should work to manage the area and how they should exercise or perform their functions in relation to it,<sup>16</sup> and is authoritative in setting out what it means to conserve and enhance natural beauty in the context of the South Devon National Landscape (AONB). Local planning authorities should ensure that

<sup>11</sup> Alex Shattock, Landmark Chambers, ‘*Opinion Re: section 245 of the Levelling-up and Regeneration Act 2023*’. Instructed by Campaign for National Parks.

<sup>12</sup> Alex Shattock, Landmark Chambers, ‘*Opinion Re: section 245 of the Levelling-up and Regeneration Act 2023*’. Instructed by Campaign for National Parks.

<sup>13</sup> Support for this reasoning is found in the fact that relevant authorities have a comparably worded duty towards National Parks, but additionally have a second duty (reflecting their second purpose). The *Sandford* principle, which must be applied to resolve any conflict between the carrying out of these two duties towards National Parks, makes it clear that discharge of the first duty overrides the second duty. Thereby confirming that the comparably worded duty to ‘*seek to further the conservation and enhancement of natural beauty*’, is a single duty.

<sup>14</sup> References to the management plan include reference to all its accompanying Annexes.

<sup>15</sup> Natural England, ‘*Additional guidance note to support Protected Landscapes in developing Management Plans (2024/25)*’ Natural England (April 2024) p1

<sup>16</sup> the management plan duties are set out in sections 89-90 Countryside and Rights of Way Act 2000

plan-making and decision-taking proactively supports the accomplishment of the Management Plan as a whole and its key policy objectives and must apply its policies.<sup>17</sup>

- A26. Natural England has advised that measures for conserving and enhancing natural beauty are required in addition to those required for mitigation.<sup>18</sup> For planning applications, relying on ‘enhancements’ for biodiversity net gain (BNG) provision are unlikely to be sufficient to comply with the duty.<sup>19</sup> What is natural beauty?
- A27. The duty concerns ‘natural beauty’ which in law includes, but is not limited to “*flora, fauna and geological and physiographical features*”. In plain English this means plants, animals, rocks and soils, and landform and the processes that create and change them. It can be experienced in and apply to both natural and human influenced landscapes. Natural beauty is holistic and wider than landscape or scenery. Case law affirms that an assessment of impacts on natural beauty **must** be made discretely and must be discernible in the reasoning process from those addressing the impacts on landscape generally. This was set out in the High Court and later reaffirmed by the Court of Appeal.<sup>20</sup> A Landscape and Visual Impact Assessment (LVIA) alone is inadequate to properly assess impacts on natural beauty. More detail explaining and defining natural beauty can be found in 2.3 Defining Natural Beauty. Replace text in Box in *Section 4.2 What is meant by the ‘setting’ of an AONB?* with “***The duty to seek to further the purpose of conserving and enhancing natural beauty in the AONB applies irrespective of where the effects on the AONB originate***”
- A28. In section 2.6 Implications of the duties towards AONBs for the Planning Process. The case law cited in paragraph 45 set out the obligations under the section 84 permissive power and the original section 85 duty. With the strengthened section 85 duty a planning authority not only must take steps to accomplish the purpose of conserving of an AONB by using its section 84 powers it now **must seek to further** that purpose in exercising any functions in relation to, or affecting land in an AONB.
- A29. **Replace** text in Section 2.7 Further Information Sources with the text below:

“ Law

The Countryside and Rights of Way Act 2000 available at: <http://www.legislation.gov.uk/ukpga/2000/37/contents>

<sup>17</sup> National Landscapes Association (2024), ‘Applying the CROW Act section 85 duty to ‘seek to further the purpose’ in National Landscapes (AONBs): Guidance for Local Planning Authorities’ Briefing (Nov 2024) page 3

<sup>18</sup> Natural England (2023), ‘Natural England’s addendum to our Deadline 9 response in relation to the enhanced duty in relation to Protected Landscapes including the Kent Downs Area of Outstanding Natural Beauty’ Annex 2 paragraph 2.1.3.

<sup>19</sup> National Landscapes Association (2024), ‘Applying the CROW Act section 85 duty to ‘seek to further the purpose’ in National Landscapes (AONBs): Guidance for Local Planning Authorities’ Briefing (Nov 2024) pages 5 and 6.

<sup>20</sup> *Bayliss v Secretary of State and Purbeck District Council and Purbeck Windfarm LLP* [2014] EWHC 1612 (Admin), per Hickinbottom J at paragraph 17. Reaffirmed in *Bayliss v Secretary of State and Purbeck District Council and Purbeck Windfarm LLP* [2014] EWCA 347 (Civ), per Sir David Keene at paragraph 19.

The National Parks and Access to the Countryside Act 1949 available at:  
[http://www.legislation.gov.uk/ukpga/1949/97/pdfs/ukpga\\_19490097\\_en.pdf](http://www.legislation.gov.uk/ukpga/1949/97/pdfs/ukpga_19490097_en.pdf)

Guidance on the AONB duty for relevant authorities

National Landscapes Association (2024), 'Applying the CRow Act section 85 duty to 'seek to further the purpose' in National Landscapes (AONBs): Guidance for Local Planning Authorities' Briefing (Nov 2024) available at <http://www.national-landscapes.org.uk/guidance-for-local-planning-authorities-on-crow-s-85-duty>

**The National Landscapes Association Briefing is up to date with the legal changes to the section 85 duty.**

Defra, 'Duties on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural Beauty (AONBs) and the Norfolk and Suffolk Broads: Guidance Note' (Defra, 2005) Available at:  
<http://webarchive.nationalarchives.gov.uk/20130402151656/http://archive.defra.gov.uk/rural/documents/protected/npaonb-duties-guide.pdf>

**CAUTION: The Defra guidance is out of date. It does not reflect the strengthened section 85 duty. It is still referred to by the MHCLG & DLUC's Planning Practice Guidance, which itself is not up to date with the new law for AONBs. It does contain a list of 'relevant authorities' which may be useful in identifying them. However, this list is not up to date. Defra, intends to provide guidance to relevant authorities, so you should keep yourself up to date.**

Natural England, 'England's statutory landscape designations: a practical guide to your duty of regard' (Natural England, 2010) Available at:

<http://www.ccwwdaonb.org.uk/uploads/docs/Publications/DutyofRegard2010.pdf>

**CAUTION: The NE guidance is out of date. It does not reflect the strengthened section 85 duty.**

Planning Policy and Practice Guidance

MHCLG and DLUC, National Planning Policy Framework (MHCLG & DLUC, 2023) available at <https://www.gov.uk/guidance/national-planning-policy-framework>

MHCLG and DLUC, 'Planning Practice Guidance – Natural Environment' available at: <http://www.gov.uk/government/natural-environment/>

**CAUTION: MHCLG and DLUC Planning Practice Guidance has not been updated in line with the strengthened section 85 duty. It is out of date. Following the guidance instead of the law will leave decisions and actions open to legal challenge.**

### Organisations roles in the planning process

‘Areas of Outstanding Natural Beauty: Natural England’s role’ (6 January 2015) available at:

<https://www.gov.uk/government/publications/areas-of-outstanding-natural-beauty-natural-englands-role/areas-of-outstanding-natural-beauty-natural-englands-role>

This information covers:

- Natural England’s statutory duties and powers
- Defra’s powers
- Local authority duties
- Natural England’s wider role with AONBs

### International policy context for AONBs

IUCN (World Conservation Union) webpage ‘Category V: Protected Landscape/Seascape’ available at:

<https://www.iucn.org/theme/protected-areas/about/protected-area-categories/category-v-protected-landscapes-seascape>

## 7 Changes to ‘Section 4 AONBs and Planning Policy – National’

A30. The most significant changes include:

1. Amend references to NPPF paragraph 14 to NPPF paragraph 11.
2. ‘**Great weight**’ should be given to ‘*conserving **and enhancing***’ the landscape and scenic beauty of AONBs during both plan-making and decision-taking;
3. The scale and extent of development in AONBs should be limited, the section 85 duty requires that local planning authorities ‘**must seek to further the purpose of conserving and enhancing natural beauty**, and doing so may require development to be limited’;
4. During plan-making, the presence of AONBs and the requirement to give great weight to conserving and enhancing their landscape and scenic beauty, and that local planning authorities ‘**must seek to further the purpose of conserving and enhancing natural beauty**’, can provide a strong reason to restrict the overall scale, type or distribution of development in the plan area, in order to conserve and enhance them and help achieve sustainable development;
5. The reversal of the two limbs on decision-taking in paragraph 11 (previously paragraph 14) to reflect the lawfully correct order of application;
6. During decision-making, where there are ‘*no relevant development plan policies*’ (previously termed ‘*silent*’) or ‘*the policies most important for determining the application are out-of-date*’, the presence of AONBs, and the requirement to give great weight to the

conservation and enhancement of their landscape and scenic beauty and to limit development within them, can provide a clear reason to refuse development, thus displacing the presumption;

7. During plan-making AONBs are areas of particular importance which can restrict the overall scale, type and distribution of development in the plan area;
8. Undeveloped coast is no longer a matter which can displace the presumption in favour of development (by the closing of the list in footnote 7 to paragraph 11). Local planning authorities are reminded that both the extent and quality of the undeveloped coast contributes to the significance of natural beauty in the South Devon AONB.

A31. The section 85 duty to 'conserve and enhance' is a single duty. Paragraphs 182 and 183 continues to use the terms 'landscape and scenic beauty', not the legal term 'natural beauty' which is the term used in the designated purpose(s) of the areas in paragraph 182 and 183 and the duties towards them. This has implications for AONBs because "*the conservation of wildlife and cultural heritage are also important considerations in AONBs*", but "*should be given great weight in National Parks and the Broads.*" Firstly, the relevant law is explicit that natural beauty includes *flora and fauna* (i.e. wildlife, or natural heritage). Secondly, 'landscape' and 'scenery' are only two of the six factors of natural beauty used by Natural England in its designation criteria, which also include natural heritage and cultural heritage. Thirdly, Natural England's natural beauty designation criterion is identical for AONBs, National Parks and the Broads. Consequently, the NPPF continues to provide inadequate protection to natural beauty in AONBs. When seeking to further the purpose local planning authorities must do so for natural beauty holistically not merely for landscape and scenic beauty. Merely considering the narrow NPPF issues rather than the legal object of the duty, which is 'natural beauty', will not properly discharge the section 85 duty.

#### Changes to 'Section 4.2 Restriction on Development affecting AONBs'

- A32. NPPF paragraph 11 states that local planning authorities should positively seek to meet their area's development needs including objectively assessed housing needs, as well as any needs that cannot be met within neighbouring areas, unless '***the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area.***'<sup>21</sup> It is clear from Paragraph 11 and footnote 7 that the presence of an AONB can restrict the presumption in favour of sustainable development. This approach is critical to the Government's objective of achieving sustainable development.
- A33. NPPF paragraph 11 acknowledges that there are legitimate circumstances in which a local planning authority may need to restrict the scale, type or distribution of development in the plan area in order to seek to further the conservation and enhancement of natural beauty in an AONB in order to ensure it can continue to meet its designated purpose. This also means that a local planning authority does not have to accept development from a neighbouring area if this would harm an AONB in its plan area.

<sup>21</sup> MHCLG, 'National Planning Policy Framework' (MHCLG, 2018) paragraph 11.

- A34. During decision-taking, the presence of AONBs, and the requirement to give great weight to conserving and enhancing their landscape and scenic beauty, can provide a clear reason for refusal, and therefore, displace the presumption in favour of sustainable development.

**Changes to ‘Section 4.3 The Requirement to Give ‘Great Weight’’, and ‘Section 4.4 How the Courts have interpreted the requirement to give ‘Great Weight’**

- A35. Great weight applies to ‘conserving **and enhancing**’ landscape and scenic beauty.

- A36. The legal reasoning in *R(Mevagissey Parish Council) v Cornwall Council* and, *Bayliss v Secretary of State for the Communities and Local Government and Others* remain applicable to paragraph 182 and the ‘conservation and enhancement’ of landscape and scenic beauty.

**Changes to Section 4.5 ‘Major Development’ in AONBs**

- A37. There are significant changes in regards to ‘major development’. The way in which ‘major’ development in relation to AONBs is to be determined is now clarified by footnote 64 to NPPF paragraph 183. It must be considered, in addition to the context of the development, with reference to whether the development ***could have a significant adverse impact on the purpose of designation***. For AONBs their purpose of designation is the conservation and enhancement of their natural beauty. This purpose is wider than that which must be given great weight by paragraph 182 of the NPPF.

- A38. Replace paragraph 81** with text: ***“In relation to AONBs, the concept of major development is set out in footnote 64 to NPPF paragraph 183.”***

- A39. Add box text:**

*Footnote 64 “whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and **whether it could have a significant adverse impact on the purposes for which the area has been designated or defined**”. (Emphasis added).*

- A40. *Aston v Secretary of State for Communities and Local Government* and, *R(Forge Field Society) v Sevenoakes DC* set out that whether a development is major is a matter of planning judgment for the decision-taker, and this remains the case. *R(Forge Field Society) v Sevenoakes DC* went on to clearly set out that the concept of major development should be understood in the context of the document in which it appears and that the previous NPPF policies 115 and 116 militated against the importation of other definitions of major development. The changes brought to the AONB policy in 2019, and most importantly through the introduction of what is now footnote 64, clearly set out how the concept of major development in relation to AONBs must be understood and applied. Major development in relation to AONBs is to be properly understood within the context of footnote 64.



- A41. These changes reflect the underlying principles of the advice already given in the Planning Guidance version 1 which was that the decision is a planning judgment, is context specific and, that the potential for harm to the AONB's natural beauty should be foremost in determining whether a proposal is for major development and subject to the two tests of paragraph 183.
- A42. The introduction of footnote 64 places greater emphasis on understanding a specific AONB's natural beauty and how it should be conserved and enhanced. The Management Plan is the starting point for this. The judgement must be based upon an evaluation of the likelihood of adverse impacts on natural beauty arising from a proposed development and the potential significance of those impacts upon the statutory purpose of conserving and enhancing the natural beauty of the area. The knowledge and expertise of the South Devon National Landscape Team will be crucial in reaching a properly informed and reasoned decision on whether a development should be treated as footnote 64 major or not.
- A43. **Replace box at end of paragraph 83 with text: "*Whether a development is considered to be 'major' in relation to the South Devon AONB is for the decision-taker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the conservation and enhancement of the AONB's natural beauty.*"**
- A44. The key here is that this is a precautionary threshold; significant harm does not have to be proven for the proposal to be subject to the major development assessments and tests, only that it **could** have a significant adverse impact. The environmental assessments process (under paragraph 183c) required to inform the tests, will help determine the likelihood and significance of harm. These should include an assessment of the impacts on natural beauty holistically, **separate and distinct** from any assessments on landscape more generally. A Landscape and Visual Impact Assessment (LVIA) alone will not suffice to determine impacts on natural beauty. Nor will it meet the requirements of the section 85 duty that concerns natural beauty.
- A45. The requirement for a development proposal being treated as footnote 64 major development and subject to the additional assessments and tests is conditional on whether it **'could have a significant adverse impact'** on the conservation and enhancement of the AONB's natural beauty. The additional tests do not presume that the proposal will definitely have significant adverse impacts, but follows from the mere probability that such an impact *could* follow from the development. In light of the duty to seek to further the conservation and enhancement of natural beauty a precautionary principle, (an international principle of environmental protection law), in the case of doubt as to the absence of significant impacts arising from the development, the additional assessments must be carried out. Ensuring that development which adversely impacts the purpose of designation is refused unless both of the two tests are met, contributes to achieving the statutory purpose of conserving and enhancing natural beauty in the AONB.
- A46. It follows therefore, that all development proposals on land in the AONB should be screened to determine whether they could have a significant adverse impact on the conservation and enhancement of the AONB's natural beauty.

A47. Development within Heritage Coasts is also subject to footnote 64 for the determination of major development. This means that the same fundamental principles apply. Therefore, whether a proposal is for major development should be considered taking into account whether it **could have a significant adverse impact** on any of their four defined purposes, which are to:

- Conserve, protect and enhance the natural beauty of the coasts including their terrestrial, coastal (littoral) and marine flora and fauna and their heritage features of architectural, historical or archaeological interest;
- Encourage and help the public to enjoy, understand and appreciate these areas (consistent with the conservation and enhancement of their natural beauty and heritage features);
- Maintain and improve the health of inshore waters affecting heritage coasts and their beaches through appropriate environmental management measures;
- Take account of the needs of agriculture, forestry and fishing and the economic and social needs of the small communities on these coasts (by promoting social and economic development which in themselves conserve and enhance natural beauty and heritage features).

A48. The *Sandford* Principle applies to the Heritage Coast purposes, so where the purposes are in irreconcilable conflict, the first purpose must prevail.

#### Changes to 'Section 4.7 Planning Positively for the South Devon AONB'

A49. The overarching principles in this subsection remain applicable.

A50. Amend table under paragraph 90, as shown below:

Natural Beauty factor <sup>22</sup>	Previous paragraph references	Main paragraphs in NPPF 2023
Landscape Quality	115 & 116	135, 182 & 183, 180 (a)-(c)
Scenic quality	115 & 116	135, 180(a), (b) & (c), 182 & 183
Relative Wildness	114	180 (b) & (c), 184
Relative Tranquillity	123, 125	180 (a) (b) & (e), 191 a)-c)
Natural Heritage Features	109-125	180 (a)-(d), 181 – 188, 191, 217 a), b), f) & g)
Cultural Heritage Features	114, 126-141	182, 183, 184, 195-214, 217 b), f) & g)

<sup>22</sup> These factors of natural beauty are from Appendix 1 of Natural England's 'Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England' (Natural England, 2 March 2011).

- A51. Changes to the NPPF paragraph numbering for the planning matters presented in tables on pages 41-58 are too numerous to address in this Addendum. The intent of some of the policies have also changed since 2017. But, generally, the matters covered in the NPPF 2023 are still well reflected in these tables. Therefore the information and advice provided in the columns labelled: '*Why this is pertinent to South Devon AONB*' and '*What does this mean for plan-making, decision-taking and development proposals*', still apply to plan-making and decision-taking. In particular, the last column is relevant for *how* a local planning authority can genuinely '***seek to further the purpose of conserving and enhancing natural beauty***' when delivering planning functions, as legally required by the strengthened section 85 duty.
- A52. The revised South Devon AONB Management Plan 2019-2025<sup>23</sup> means that the policy and objective references in the tables in column 6 are not correct. You will need to refer directly to the South Devon Management Plan 2019-2025.

## 8 Changes to 'Section 5 AONBs and Plan-making – Local and Neighbourhood Plans'

A53. The main revisions are that:

1. Local plans must now contain both 'strategic' and 'non-strategic' policies and therefore the conservation and enhancement of natural beauty in AONBs should be addressed at both these policy levels;
2. AONBs are areas of particular importance (because of their statutory designation status) that can restrict the overall scale, type or distribution of development in a plan area, when there are strong reasons for doing so, such as ensuring they can continue to meet their purpose of designation;
3. Great weight must be given to conserving and enhancing the AONB's landscape and scenic beauty;
4. The scale and extent of development within AONBs should be limited. This applies to both plan-making and decision-making.

### '5.3 Local Plans in relation to South Devon AONB'

A54. The development plan is the starting point for decision-taking, regardless of whether it is up to date or not.

A55. Two new Local Plans and a Supplementary Planning Document have been adopted as development plans relevant to the South Devon AONB since 2017. (Box on p64 entitled: 'Local Plans covering the South Devon AONB') These are set out below:

#### Plymouth and South West Devon Joint Local Plan 2014-2034 (JLP)

Adopted in March 2019, the JLP was prepared jointly by South Hams District Council, Plymouth Council and West Devon District Council. It provides an overarching strategic framework for sustainable growth and management of change in these areas. It sets the policy framework for sustainable

<sup>23</sup> Available at [www.southdevon-nl.org.uk/management-plan](http://www.southdevon-nl.org.uk/management-plan)

management of waste and minerals by Plymouth City Council within its own administrative area.

N.B. Minerals and Waste policies for the South Hams are covered by the Local Plans of Devon County Council (See below). West Devon District Council has joint working arrangements with South Hams DC, but it is not a relevant authority for the South Devon AONB.

#### The Devon Minerals Plan 2011-2033

Adopted in February 2017 it sets the policy framework for decisions by Devon County Council (DCC) on planning applications for minerals developments. It covers the area for which DCC is the Mineral Planning Authority, which includes the whole of the South Hams, but which excludes Plymouth, Torbay and the National Parks of Dartmoor and Exmoor.

#### Minerals Safeguarding Supplementary Planning Document

Adopted in January 2018 this Supplementary Planning Document provides guidance on the implementation of Objective 2 and Policy M2 'Minerals Safeguarding Areas' of the Devon Minerals Plan. It applies to the whole of the South Hams, but excludes Plymouth, Torbay and the National Parks of Dartmoor and Exmoor.

A56. These development plans on page 64 of the Planning Guidance are revoked:

1. South Hams Local Development Framework
2. Plymouth Local Development Plan
3. The Devon Minerals Local Plan 2004

#### **'5.4 What is Neighbourhood planning?' and '5.5 How should AONB issues be addressed in Neighbourhood Plans?'**

A57. All references to paragraphs 115 and 116 refer to paragraphs 182 and 183 respectively.

A58. The conservation and enhancement of landscape and scenic beauty must be given great weight.

A59. The scale and extent of development in the AONB is to be limited.

A60. **Paragraph 104** replace with: ***"104. The National Planning Policy Framework 2019 (NPPF 2023) sets out guidance on the plan-making process in 'Section 3. Plan-making' (paragraphs 15-37). But policies relevant to plan-making occur throughout the NPPF."***

A61. **Replace paragraph 105** points (i) to (vii) with:

- (i)** The purpose of planning is to help achieve sustainable development (**NPPF paragraph 8**);
- (ii)** AONBs have the highest status of protection in relation to the conservation **and enhancement** of their landscape and scenic beauty (**NPPF paragraph 182**);

- (iii) The conservation and enhancement of wildlife and cultural heritage is important in AONBs (NPPF paragraph 182);
- (iv) The conservation and enhancement of landscape and scenic beauty is to be given great weight during plan-making and decision-taking (NPPF paragraph 182);
- (v) The scale and extent of development within AONBs should be limited (NPPF paragraph 182 & 183);
- (vi) Planning permission should be refused for ‘major’ development, after having given great weight to the conservation and enhancement of the AONB, unless there are exceptional circumstances and where it can be demonstrated that the development is in the public interest (NPPF paragraph 183);
- (vii) Planning permission should be refused for ‘major’ (footnote 64) development, unless the decision-taker is satisfied that (i) there are exceptional circumstances, and (ii) it is demonstrated that, despite giving great weight to conserving and enhancing landscape and scenic beauty in the AONB, the development is in the public interest; (NPPF paragraph 183 and *R(Mevagissey)*);<sup>24</sup>
- (viii) A Neighbourhood Plan should identify and make policies to conserve and enhance the AONB’s natural beauty, special qualities and distinctive characteristics within its plan area. It should refer to the South Devon AONB Management and support its key objectives and policies;
- (ix) Neighbourhood Plans should cross-reference the strategic and non-strategic AONB policies from its relevant Local Plan;
- (x) Neighbourhood Plans should support the delivery of strategic policies and spatial development strategies of the relevant Local Plan, and should shape and direct development outside the scope of its strategic policies (NPPF paragraph 13);
- (xi) The protection of the AONB, to ensure the conservation and enhancement of its natural beauty, can provide a strong reason for restricting the overall scale, type or distribution of development in a Neighbourhood plan area (NPPF paragraph 11).

A62. **Paragraph 106**, replace text: “the AONB Management Plan 2014-2019” with “**the South Devon AONB Management Plan 2019-2024**”.  
Replace footnote 61 with **Available at [www.southdevon-nl.org.uk/management-plan](http://www.southdevon-nl.org.uk/management-plan)**

A63. **On pages 66-67 replace:** ‘Checklist for plan-makers preparing Neighbourhood Plans’ and paragraph 108 with the Checklist below and the immediately following paragraph.

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<sup>24</sup> *R(Mevagissey Parish Council) v Cornwall Council* [2013] EWHC 3684 (Admin), Judgment available at <http://www.bailii.org/ew/cases/EWHC/Admin/2013/3684.html>

Checklist for plan-makers preparing Neighbourhood Plans	Tick Box
<b>Gathering Evidence</b>	
Was the South Devon AONB Management Plan (including its supporting documents) which provides a strategic context for the AONB used to inform the plan's evidence base? (NPPF paragraph 31)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Was an up-to-date Landscape Character Assessment used to inform the evidence base? (NPPF paragraph 31)	Yes <input type="checkbox"/> No <input type="checkbox"/>
For coastal areas, was an up-to-date Seascape Character Assessment used to inform the evidence base? (NPPF paragraph 31)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Was an up-to-date Historic Landscape Characterisation Assessment used to inform the evidence base? (NPPF paragraph 31)	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Plan Preparation</b>	
<i>Strategy, Vision and Objectives</i>	
Do the plan's strategic vision and objectives reflect the national importance of the South Devon AONB, (and if relevant the Heritage Coast) and the need for its conservation and enhancement? Including:	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Does it set out the significance of the South Devon AONB?	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Does it acknowledge the contribution of the high quality environment of the South Devon AONB to the economic prosperity of the plan area?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Do the strategic priorities incorporate the policy approach and support the objectives of the South Devon AONB Management Plan?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>Formulating local objectives and development management policies</i>	
Has plan-making had sought to further the purpose of conserving and enhancing natural beauty during the writing of <i>all</i> strategic objectives and development management policies, not just those related specifically to the AONB or conserving the natural environment? (Section 85 duty) Such as:	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Landscape character (including seascape where relevant)	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Biodiversity (flora, fauna, habitats and species)	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Heritage Coast	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Undeveloped Coast	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Estuary and marine environment	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Historic environment	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Development outside settlement boundaries	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Development in the countryside	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Rural exception sites / windfalls sites	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Renewable energy	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Telecommunications	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Tourism	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Good design	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Rural economy	Yes <input type="checkbox"/> No <input type="checkbox"/>
Does the Neighbourhood Plan set out a policy approach for other matters relevant to the AONB's natural beauty and its special qualities? Such as policies on:	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Landscape (including seascape where relevant)	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Biodiversity	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Undeveloped Coast	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Geodiversity	Yes <input type="checkbox"/> No <input type="checkbox"/>
- Historic Environment	Yes <input type="checkbox"/> No <input type="checkbox"/>

<i>Conformity with AONB policy</i>	
Does the Neighbourhood Plan follow the relevant AONB policy in the adopted Local Plan (where this is up-to-date & in conformity with the NPPF)?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the Neighbourhood Plan consistent with NPPF paragraphs 182 & 183?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Has the Neighbourhood Plan taken account of any emerging new policy for the South Devon AONB?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>Finding sites and Making allocations</i>	
Does the plan allocate land of least environmental value?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Did the appraisal of options seek to further the conservation and enhancement of natural beauty in the AONB and identify the potential for harm to the natural beauty (including special qualities and distinctive characteristics set out in the Management Plan), and did this inform the choice of proposed allocations? (section 85 duty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Was 'great weight' given to conserving and enhancing the AONB's landscape and scenic beauty when identifying, evaluating and choosing site allocations? (NPPF paragraph 182 and section 85 duty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Does the plan genuinely seek to further the purpose of conserving and enhancing natural beauty by appropriately limiting the overall scale, type and extent of development in the AONB? (NPPF paragraphs 11 and 182 and 183, section 85 duty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Does the plan seek to further the purpose of conserving and enhancing natural beauty by avoiding the allocation of footnote 64 major development in the AONB? (NPPF paragraph 183 and section 85 duty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Does the plan seek to further the purpose by avoiding the allocation of footnote 64 major development within the 'setting' of the AONB? (section 85 duty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
If it intends to allocate footnote 64 major development in the AONB, can the it demonstrate, that it genuinely and proactively sought to further the purpose of conserving and enhancing natural beauty? And, can it reasonably justify that there was no suitable alternative approach which would have better furthered the statutory purpose?	Yes <input type="checkbox"/> No <input type="checkbox"/>
And, despite having given great weight to the conservation of landscape and scenic beauty in the AONB, that there are exceptional circumstances which justify the allocation(s) <u>and</u> that the allocation(s) for development is in the public interest?(NPPF paragraphs 182, 183 and section 85 duty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Do the allocation sites represent those which will best further the purpose of the conservation and enhancement of natural beauty in the AONB when considered individually, or all together (in-combination)? (section 85 duty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Does the plan set out site-specific policies for allocations within or affecting the AONB (in its setting), which set out:	Yes <input type="checkbox"/> No <input type="checkbox"/>
<ul style="list-style-type: none"> <li>- what type, scale, pattern and form of development is considered appropriate?</li> <li>- the natural beauty and any special qualities, distinctive characteristics and key features that development must seek to conserve and enhance?</li> </ul>	Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Alternative Options</b>	
Did the choice of any preferred options seek to further the purpose of conserving and enhancing natural beauty, and did it give great weight to conserving and enhancing its landscape and scenic beauty when making that choice? (section 85 duty and NPPF paragraph 182)	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Strategic Environmental Assessment (SEA)</b>	
Was the plan screened to determine if there are potentially significant effects and therefore requires SEA? (NPPF paragraph 32, footnote 17, section 85 duty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Was the South Devon National Landscape Team consulted on whether the	

Neighbourhood Plan could have significant effects on the AONB, and requires a Strategic Environmental Assessment (SEA)? (NPPF paragraph 32, footnote 17, section 85 duty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
<p>If an SEA is required:</p> <ul style="list-style-type: none"> <li>- Was the South Devon National Landscape Team consulted on the scope and level of detail of the environmental information to be included in the SEA?</li> <li>- Was the South Devon AONB Management Plan used to set the framework for the SEA (that is the tests/objectives against which environmental effects are evaluated)?</li> <li>- Did the SEA seek to further the purpose of conserving and enhancing natural beauty in its assessment methodology?</li> <li>- Does the SEA appropriately identify, describe and evaluate impacts to natural beauty (distinct from landscape impacts) in its assessment of likely significant effects on the environment?</li> </ul> <p>(section 85 duty)</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<b>Sustainability Appraisal (SA)</b>	
<p>SA is not a requirement for Neighbourhood Plans; however, plan-makers must demonstrate how the plan will contribute to achieving sustainable development. (s.39(2) Planning and Compulsory Purchase Act 2004, NPPF paragraph 32). A sustainability appraisal may be a useful approach for doing this. If an SA was undertaken:</p> <ul style="list-style-type: none"> <li>- Has the environmental information in the SA included the South Devon AONB?</li> <li>- Was the South Devon AONB Management Plan used to set the framework for the SA (that is the tests/objectives against which environmental, social and economic effects are evaluated)?</li> <li>- Did the SA seek to further the purpose of conserving and enhancing natural beauty in its assessment methodology?</li> <li>- Does the SA appropriately identify, describe and evaluate harm to natural beauty (distinct from landscape impacts) in its assessment of likely significant effects on the environment?</li> </ul> <p>(section 85 duty)</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<b>Consultation(s)</b>	
Was the South Devon National Landscape Team notified of consultation exercises on the emerging Neighbourhood Plan? Including the Regulation 14 stage?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Submission Stage</b>	
Was South Devon National Landscape Team invited to make representations on the Submission Draft Neighbourhood Plan?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Referendum Stage</b>	
<p>Did the local planning authority Council Members seek to further the purpose of conserving and enhancing natural beauty when making its decision to put the Neighbourhood Plan to referendum? I.e. has it satisfied itself that if the plan is adopted that it will further the purpose? (section 85 duty)</p> <p>Did the local planning authority ensure that the plan has met the checklist requirements? I.e. Did it ensure that the plan has properly addressed the relevant AONB and natural beauty matters? Can it confidently conclude that the NP seeks to further the conservation and enhancement of natural beauty? (section 85 duty)</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

A64. If the plan-making process can demonstrate through appropriate record keeping that the answers are affirmative ('Yes') then the plan-making process is likely to be able to demonstrate that it has genuinely sought to further the conservation and enhancement of natural beauty in the AONB under the section 85 duty and that is likely to be in conformity



with NPPF paragraph 182. However, this does not guarantee that the plan will actually conserve and enhance the AONB's natural beauty. If any of the answers are negative ('No') then it is harder for the plan-makers to demonstrate that they properly considered the National Landscape, and the plan is likely to fail to conserve and enhance the National Landscape. And therefore it will not be considered to be achieving "...*the objective of contributing to the achievement of sustainable development*" required by the Planning and Compulsory Purchase Act 2004, or NPPF paragraph 16(a).

## 9 Changes to ‘Section 6 Using the AONB Management Plan for planning’

A65. The substantive change for Section 6 is the South Devon AONB Management Plan 2019-2025. The management plan policies on pages 70-77 of the Planning Guidance v1 are no longer in force. You must refer directly to the South Devon AONB Management Plan 2019-2025 for up-to-date policies. It and its annexes are material considerations in plan-making and decision-taking with statutory status and therefore the weight it is to be afforded is greater than that of other material considerations which do not have statutory status.<sup>25</sup>

## 10 Changes to ‘Section 7 Development Management and South Devon AONB: General Guidance’

### 7.1 Understanding Development Pressure in or affecting South Devon AONB

A66. **Paragraphs 120-121** No amendment, but please note that the findings of the NT report go to the heart of the decision-making process and as such remain highly relevant under the NPPF 2023 paragraphs 182 and 183 and footnote 64.

### ‘7.2 Guidance for decision-takers’

A67. The key principles in sub-section 7.2 remain applicable and should be followed. The most substantive changes are:

1. References to paragraphs 115 and/or 116 are replaced with reference to paragraphs 182 and 183 respectively.
2. All references to “*the conservation of landscape and scenic beauty*” must now be read as “*the conservation **and enhancement** of landscape and scenic beauty*”. This expands what must be given great weight to include enhancement of landscape and scenic beauty.
3. Where there are no relevant development plan policies, or the policies most relevant for determining the application are out of date the ‘presumption in favour of development’ can be displaced if the harm to the AONB provides ‘**a clear reason for refusal**’ (by the application of footnote 7 to paragraph 11).
4. Two new key matters for decision-takers are:
  - *Could* the development have a ‘significant adverse impact’ on the designated purpose, which is the conservation and enhancement of the AONB’s natural beauty (i.e. is it footnote 64 ‘major’ development)?
  - Could the development have a significant adverse impact on the objectives of the South Devon Heritage Coast (i.e. is it footnote 64 ‘major’ development)?
5. References to ‘major’ development now refer to the findings of the process undertaken in footnote 64 to paragraph 183, which then engages the two tests and informed by the three relevant assessments.

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<sup>25</sup> East Northamptonshire District Council and others v Secretary of State and Barnwell Manor Wind Energy Ltd [2013] EWHC 473 (Admin)

- A68. **Paragraphs 129-138, the Flow diagram and Checklist on pages 86-87** Amend references to paragraphs 115 and 116 to paragraphs 182 and 183 respectively.
- A69. **Replace paragraph 129 (ii)** with text: ***“Where there are no relevant development plan policies, or the policies most relevant for determining the application are out of date the ‘presumption in favour of development’ can be displaced if the harm to the AONB provides a clear reason for refusal (by the application of footnote 7 to paragraph 11)”***
- A70. **Replace paragraph 130 (iii)** with text: ***“If the development is in the AONB, is it major development as described in footnote 64 to paragraph 183?”***
- A71. **Replace paragraph 130 (xiv)** with text: ***“Will the proposed development conserve **and enhance** the AONB’s landscape and scenic beauty?”*** (amendments shown in bold).
- A72. **Replace paragraph 130 (xv)** with text: ***“After having given great weight to the conservation **and enhancement** of the AONB’s landscape and scenic beauty does the development help achieve sustainable development?”*** (amendments shown in bold).
- A73. **Replace paragraph 135 first bullet** with text: ***“Great weight must be given to the conservation **and enhancement** of landscape and scenic beauty; and”*** (amendments shown in bold).

#### *‘7.5 Natural Heritage Features’*

- A74. **Paragraph 155** amend reference to NPPF paragraph 14 with paragraph 11.
- A75. **Paragraph 156** amend references to NPPF paragraph 118 with paragraph 185 & 186.
- A76. **Paragraph 160** amend references to NPPF paragraph 117 with paragraph 185.

#### *7.7 General Guidance for Development Proposals affecting the South Devon AONB*

- A77. **Replace paragraph 167 and its bullet points with:** Applicants should **identify, describe and evaluate the impacts on natural beauty**, and **seek to further the conservation and enhancement of natural beauty holistically**. For all development proposals applicants should:
- **Think Natural Beauty** - Identify, describe and evaluate impacts on natural beauty separately and distinctly from those on landscape generally, take measures to conserve and enhance it;
  - **Think Special Qualities** – explain how the development furthers the conservation and enhancement of any special qualities on, near or functionally related to your site;
  - **Think Enhancement** - positively set out to ‘enhance’ natural beauty through your development proposal – be proud of your contribution to this special place;

- **Think Location** - avoid creating incongruous features in prominent and highly visible locations that detract from the open, rolling topography of the National Landscape. Fit development into the landscape not on top of it;
- **Think scale and massing** - again this will help reduce harmful impact on the prevailing character of the AONB;
- **Think vernacular** – design so the development follows and relates well to the historic vernacular building siting, materials and styles;
- **Think biodiversity** - explain how the development impacts on the biodiversity assets of the National Landscape and how you the development furthers biodiversity conservation and enhancement. This must be in addition to BNG requirements and avoiding, mitigating, or as a last resort, compensating for any residual impacts;
- **Think dark skies** – design out the need for artificial lighting, but if necessary avoid creating light pollution. Minimise window areas and avoid windows in apexes. Dark skies are key contributors to relative tranquillity and relative wildness and sense of remoteness as well as being culturally important;
- **Think soil, air and water** - explain how the development impacts on these natural capital assets of the designated area and how you will avoid, mitigate, or as a last resort compensate for any residual impacts;
- **Think shoreline & foreshore** - explain how the development proposals will impact on the shoreline/ foreshore and what actions you are taking to further the conservation and enhancement of estuary habitats and species in addition to avoiding, and mitigate impacts;
- **Think cumulative effects** - identify, describe and evaluate whether there are effects on each element of natural beauty which although alone may appear to be insignificant but when considered together have a greater impact on the designated area. Identify and describe any cumulative impacts from your development in-combination with development already in place, or that which is reasonably foreseeable (such as allocated sites and sites with planning permission).

- A78. **Amendments to the Flow diagram on page 86:** Considerations for decision-taking on Development Proposals In or Affecting land in the South Devon AONB.
- A79. In the Flow diagram, replace the text: *“Has the application identified, described and evaluated the special qualities and distinctive characteristics likely to be affected by the development?”* with text: ***“Has the application identified, described and evaluated the natural beauty, including any special qualities and distinctive characteristics likely to be affected by the development? Has it demonstrated how development conserves and enhances natural beauty?”***
- A80. In the Flow diagram, replace the text: *“Is the proposal NPPF 116 ‘major development’ in the context of the AONB?”* with text: ***“Could the development have a significant adverse impact on the conservation and enhancement of the South Devon AONB’s natural beauty? i.e. undertake the footnote 64 considerations”***.
- A81. In the flow diagram replace text beginning *“Investigate and assess matters identified in the three bullet points of paragraph 116...”* with ***“Investigate and assess matters identified a) - c) of paragraph 183 and applying the section 85 duty to this process. Then apply the two***

*tests: Test 1. Are there exceptional circumstances? Test 2. Can it be demonstrated that the development is in the public interest, applying the overriding statutory duty to seek to further the purpose of conserving and enhancing of natural beauty and despite giving great weight to the conservation and enhancement of landscape and scenic beauty?*

A82. In the checklist on page 87 amend point 12 to: “Will the development conserve **and enhance** the AONB’s landscape and scenic beauty?” (addition shown in bold).

### Checklist for decision-taking for development in or affecting the South Devon AONB

Checklist for decision-taking on planning applications in or affecting land in the South Devon AONB	Tick Box
<b>Location and Alternatives</b>	
1. If the development is in the AONB, does this specific development need an AONB location? (If it does not it should be located outside if it does not conserve and enhance natural beauty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Is the development located on land of lesser environmental value?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Mitigation measures</b>	
3. Has the proposal taken all reasonable opportunities to avoid and to mitigate harm?	Yes <input type="checkbox"/> No <input type="checkbox"/>
4. Has the application set out all necessary avoidance, mitigation and as a last resort, compensatory measures, for all likely effects on <b>natural beauty</b> (not limited to landscape & visual effects) including any special qualities, or distinctive characteristics? (Note these measures do not count as furthering the conservation and enhancement of natural beauty)	Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Are the proposed mitigation measures likely to succeed in obviating harm to the AONB?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Applying the section 85 duty</b>	
6. Will the development further the purpose of conserving and enhancing the AONB's natural beauty, including with regards to its special qualities and distinctive characteristics? (Natural England advise that measures to further the purpose are required in addition to mitigation)	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Conformity with policy for South Devon AONB</b>	
<i>Conformity with the development plan policies on AONBs</i>	
7. Does the development meet all relevant criteria in the criteria-based policy in the relevant Local Plan?	Yes <input type="checkbox"/> No <input type="checkbox"/>
8. Is the development in conformity with the relevant policies in the relevant Neighbourhood Plan?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>Conformity with the AONB Management Plan</i>	
9. Is the development in conformity with relevant policies in the AONB Management Plan?	Yes <input type="checkbox"/> No <input type="checkbox"/>
10. Does the development further the accomplishment of the key policy objectives for the AONB, as set out in the AONB Management Plan?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>Considering paragraph 182 of the NPPF</i>	
11. Will the development conserve and enhance the AONB's landscape and scenic beauty?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Using the Checklist results</b>	
<ul style="list-style-type: none"> <li>- If <b>all answers are affirmative</b> ('Yes') then the development is likely to be acceptable, in AONB terms, <i>provided that</i>: all the avoidance, mitigation or compensation are required by the decision notice to be implemented, and that all additional measures to further the purpose are required by the decision notice to be implemented, and both these types of measures are set out clearly and robustly in planning conditions attached to the grant of permission.</li> <li>- If <b>any answers are negative</b> ('No') then those AONB matters indicate that the development should be refused because the development will not conserve and enhance natural beauty owing to the likelihood of material harm to the AONB. The degree of likely material harm to the AONB will depend upon which matters, and how many of them lead to an answer of 'No'. The local planning authority can refuse the development in order to seek to further the purpose of conserving and enhancing natural beauty in the AONB. The local planning authority may attach conditions that seek to further the conservation and enhancement of natural beauty, if it believes this will in fact conserve and enhance natural beauty.</li> <li>- If <b>all answers are negative</b> ('No') then AONB matters strongly indicate that the development will not conserve and enhance natural beauty and must be refused. A planning authority would find it difficult to demonstrate it has sought to further the purpose if it granted permission.</li> </ul> <p>Addressing each of these questions in its considerations contributes to the decision-taker being able to demonstrate that it has sought to further the purpose of conserving and enhancing natural beauty under the section 85 duty. However, this does not guarantee that the duty is accomplished nor that the development will conserve and enhance the AONB.</p>	

## 11 Changes to Section 8 Detailed Guidance for the Main Development Types

A83. The advice in section 8 on the forms of development that will either harm or ‘conserve and enhance’ the AONB is up to date. The local planning authority ***must seek to further the purpose of conserving and enhancing natural beauty***. This means it should:

- (i) for proposals that could harm the AONB, it must seek changes to avoid and mitigate harm, or refuse permission; and
- (ii) for *all* proposals seek changes to bring them in line with development that conserves and enhances the AONB;

A84. Any harm to the AONB, is a failure to conserve and enhance it.<sup>26</sup>

## 12 Changes to Further Information Sources

Throughout the Planning Guidance, these are the updated information sources:

### National Planning Policy Framework

MHCLG and DLUC, National Planning Policy Framework (MHCLG & DLUC, 2023) available at <https://www.gov.uk/guidance/national-planning-policy-framework>

### Planning Policy and Practice Guidance

MHCLG and DLUC, ‘Planning Practice Guidance – Natural Environment’ available at: <http://www.gov.uk/government/natural-environment/>

**CAUTION: MHCLG and DLUC Planning Practice Guidance has not been updated in line with the strengthened section 85 duty. It is out of date. Following the guidance instead of the law will leave decisions and actions open to legal challenge.**

### South Devon National Landscape (AONB) Management Plan 2019-2024 extended to 2025

The South Devon National Landscape (AONB) Management Plan available here: [www.southdevon-nl.org.uk/management-plan](http://www.southdevon-nl.org.uk/management-plan) includes:

Part 1:- The Strategy 2019-2024 (extended to 2025)

Part 2:- The Delivery Plan

Annex 1 – Planning Guidance

Annex 2 – Estuaries Management Plan 2018-2024 (extended to 2025)

Annex 3 – State of the AONB

Annex 4 – Understanding Special Qualities

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<sup>26</sup> Appeal Decision APP/K1128/W/23/3334664 Whitestone Farmhouse Cornworthy 18<sup>th</sup> November 2024

Annex 5 – Assessments and Appraisals  
 Annex 6 – Statement of Representation  
 Annex 7 – Strategic Context Documents

### Cross-reference table for policies

A85. Even where policies retain the same titles their **text and intent may have changed**. You must use the South Devon AONB Management Plan 2019-2024 (extended to 2025). The table cross-references the policy codes and titles.

#### 2-1 Comparison table for policy references

AONB Policy code in South Devon AONB Management Plan 2019 cited in Planning Guidance version 1	AONB policy code in South Devon AONB Management Plan 2019-2025
Plan/P1 Plan-making	Plan/P1 Plan-making
Plan/P2 Decision-taking	Plan/P2 Decision-taking
Plan/P3 Planning protocol	Plan/P3 Planning protocol
Plan/P4 Representations	Plan/P4 Representations
Plan/P5 Consultees	Plan/P5 Consultees
Plan/P6 Providing advice	Plan/P6 Providing advice
	Plan/P7 Developer contributions
Lan/P1 Character	Lan/P1 Character
Lan/P2 Technical assessments	Lan/P2 Technical assessments
Lan/P3 Landscape condition	Lan/P3 Landscape condition
Lan/P4 Tranquillity	Lan/P4 Tranquillity
Lan/P5 Skylines and visual intrusion	Lan/P5 Skylines and views
Lan/P6 Seascape	Lan/P6 Seascape
Lan/P7 Setting to the AONB	Lan/P7 Setting to the AONB
NatRes/P1 Natural resources	NatRes/P1 Natural capital
NatRes/P2 Water quality	NatRes/P2 Water quality
NatRes/P3 Pollution	NatRes/P3 Pollution response
NatRes/P4 Climate change	NatRes/P4 Climate change
NatRes/P6 Energy	NatRes/P6 Energy
NatRes/P7 Flooding and erosion	NatRes/P7 Flooding and erosion
BioGeo/P1 Designated sites	BioGeo/P1 Designated sites
BioGeo/P2 Priority species	BioGeo/P2 Priority species
BioGeo/P3 Ecological networks	BioGeo/P3 Ecological networks
BioGeo/P4 Geodiversity	BioGeo/P4 Geodiversity
BioGeo/P6 Positive cumulative impacts	BioGeo/P6 Positive cumulative impacts



BioGeo/P7 Damage and disturbance	BioGeo/P7 Damage and disturbance
Hist/P1 Cultural and historic environment	Hist/P1 Cultural and historic environment
Hist/P2 A heritage asset	Hist/P2 A historic environment asset
Hist/P3 Public access	Hist/P3 Public access
Hist/P4 Statutory protection	Hist/P4 Statutory protection
Hist/P6 Technical resources	Hist/P5 Technical resources
Hist/P7 Coastal heritage	Hist/P6 Coastal heritage
Hist/P8 Land management	Hist/P7 Land management
LanMan/P1 Critical to the AONB's future	LanMan/P1 Critical to the AONB's future
LanMan/P3 Hedgebanks, trees, woodlands and orchards	LanMan/P3 Trees, woodland and hedgebanks
LanMan/P3 Hedgebanks, trees, woodlands and orchards	LanMan/P4 Historic trees
LanMan/P4 Environmental land management	LanMan/P5 Environmental land management
LanMan/P6 Evolving farms	LanMan/P7 Evolving farms
Mar/P1 Coastal character	Mar/P1 Coastal character
Mar/P2 Coast and marine management	Mar/P2 Coast and marine management
Mar/P4 Coast protection	Mar/P4 Coast protection
Est/P1 Estuary character	Est/P1 Estuary character
Est/P2 Maritime services	Est/P4 Maritime services
Est/P3 Mariculture	Est/P5 Mariculture
Est/P4 Climate change	Est/P6 Climate change
Acc/P1 Recreation, leisure and sports	Acc/P7 Recreation, leisure and sports
Acc/P2 Rights of way	Acc/P4 Rights of way
Acc/P3 Naturally healthy	Acc/P8 Naturally healthy
Acc/P4 Noisy or intrusive recreational activities	Acc/P5 Intrusive recreational activities
Acc/P6 Popular sites	Acc/P2 Popular sites
Acc/P7 Developer contributions	Plan/P7 Developer contributions
Acc/P9 Tourism	Acc/P1 Sustainable Tourism
Trans/P1 Highway management	Trans/P1 Highway management
Trans/P2 Features of the road network	Trans/P2 Features of the road network
Econ/P1 Green economy	Econ/P1 Rural economy
Econ/P2 Supply chains	Econ/P2 Supply chains
Econ/P3 Rural business	Econ/P3 Rural business
Econ/P4 Environmental performance	Econ/P4 Environmental performance
Econ/P5 Local services	Econ/P5 Local services
Econ/P6 Capacity and skills	Econ/P6 Capacity and skills
Comm/P2 Sustainable lifestyles	Comm/P2 Sustainable lifestyles



**APPENDIX 2 TO ITEM 8C Planning for South Devon National Landscape (AONB): Key Principles for plan-making and decision-making**

# Planning for South Devon National Landscape (AONB): Key Principles for plan-making and decision-making (2024)

## Key Principles

1. **'National Landscape'** is the new brand name for the legal designation of **area of outstanding natural beauty**;
2. They are **nationally important** landscapes with the **highest** status of legal protection for natural beauty, **equal** to National Parks and the Broads;
3. The statutory **purpose of designation is conserving and enhancing their natural beauty**;
4. Natural beauty is much more than just landscape, scenery and views. It includes flora, fauna and geological and physiographical features but also relative wildness, relative tranquillity and dark skies, and cultural heritage that has shaped the landscape;
5. Local planning authorities ***must seek to further the purpose of conserving and enhancing natural beauty of the [designated] area*** (the 'section 85 duty');
6. **All** aspects of plan-making & decision-making functions are subject to the section 85 duty;
7. The purpose of planning is to help achieve sustainable development;
8. Plan-making and decision-making should give **'great weight'** to conserving the landscape and scenic beauty of National Landscapes;<sup>1</sup>
9. AONBs are areas of particular importance that **can restrict development** (during plan-making and decision-taking) **in order to further their statutory purpose** and to help achieve sustainable development;
10. The National Planning Policy Framework (NPPF) creates a strong presumption against major development in AONBs;
11. Development in AONBs that *could* have significant impacts on the purpose of designation must be refused unless it demonstrably meets specific special tests set out in NPPF paragraph 183, informed by relevant assessments;
12. Harm to South Devon AONB is any impact causing loss, damage or detriment to its natural beauty, its special qualities or its distinctive characteristics or to the perception or enjoyment of its natural beauty;
13. Harm to natural beauty must be considered **holistically** and **discretely** from harm to landscape or scenic beauty generally, in recognition that AONBs are statutory national assets and that seeking to further the conservation and enhancement of natural beauty is a statutory requirement.

**See: 'Planning for the South Devon AONB: Planning Guidance v1' PLUS its Addendum. Both referred to throughout as 'full Planning Guidance'**

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<sup>1</sup> *R (Mevagissey Parish Council) v Cornwall Council* [2013] EWHC 3684 (Admin), [2013] All ER (D) 14 (Dec) Judgement <http://www.bailii.org/ew/cases/EWHC/Admin/2013/3684.html>

## Protection for AONBs

15. AONBS are designated for ***the purpose of conserving and enhancing their natural beauty***.
16. Part 4 of the Countryside and Rights of Way Act 2000 (CRoW Act)<sup>2</sup> creates corresponding statutory duty.

### SECTION 85(1A) of The Countryside and Rights of Way Act 2000:

*"85 (1) 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 must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty."*

## Implications of the section 85 duty for Planning

17. In terms of plan-making and decision-making (development management) this places a duty upon Local Planning Authorities and Town and Parish Councils as plan-makers and decision-takers. This includes individual officers and Councillors.
18. Any decision-taking by local authorities or Town and Parish Councils must apply the

duty when satisfying the relevant policies in the NPPF and the Local Plan and any relevant Neighbourhood Plan. The duty applies when determining whether or not to grant permission for development. The duty is itself a statutory material consideration in decision-making. A key matter to address is whether land in the AONB could be affected by the proposal, irrespective of where the development is located.

19. For more information on the strengthened section 85 duty see **Addendum to 'Planning for the South Devon AONB: Planning Guidance v1'** and
20. National Landscapes Association (2024), *'Applying the CRoW Act section 85 duty to 'seek to further the purpose' in National Landscapes (AONBs): Guidance for Local Planning Authorities'* Briefing (Nov 2024)

## What is natural beauty?

21. Natural beauty is holistic and includes *'flora, fauna, geological and physiographical features'*<sup>3</sup> and also encompasses many other factors.
22. It can be experienced in and apply to both natural and human influenced landscapes.

23. Natural England, which designates AONBs, uses six factors or criteria to evaluate natural beauty:

- Landscape quality
- Scenic quality
- Relative wildness
- Relative tranquillity
- Natural heritage features
- Cultural heritage

## South Devon AONB's natural beauty

24. Special qualities and distinctive characteristics are used to help explain and describe aspects of natural beauty.
  - ***Natural Beauty*** is everything including landscape quality, scenic quality, relative wildness, relative tranquillity, natural heritage features and cultural heritage. It is a holistic high level, over-arching term and **its conservation and enhancement is the legal purpose of designation**.
  - ***Special Qualities*** can be considered a subset of 'natural beauty', distilling out the key attributes that help explain to people what make the area special and worthy of designation as an AONB. They apply to large areas or all of the AONB.
  - ***Distinctive Characteristics*** are those components that define what it is that

<sup>2</sup> The Countryside and Rights of Way Act 2000  
<http://www.legislation.gov.uk/ukpga/2000/37/content>  
[s](#)

<sup>3</sup> Section 92, Countryside and Rights of Way Act 2000

gives South Devon its sense of place. They generally apply to areas smaller than the AONB as a whole.

See: 'Section 3.4 Special Qualities of the South Devon AONB' in the full Planning Guidance; or the 'South Devon AONB Management Plan: Part 1 The Strategy 2014-19.' Appendix 1.

## The Special Qualities of South Devon National Landscape (AONB)

- Fine, undeveloped, wild and rugged coastline.
- Ria estuaries (drowned river valleys), steep combs and a network of associated watercourses.
- Deeply rural rolling patchwork agricultural landscape.
- Deeply incised landscape that is intimate, hidden and secretive away from the plateau tops.
- Iconic wide, unspoilt and expansive panoramic views.
- A landscape with a rich time depth and a wealth of historic features and cultural associations.
- A breadth and depth of significant habitats, species and associated natural events.

- An ancient and intricate network of winding lanes, paths and recreational routes.
- Areas of high tranquillity, natural nightscapes, distinctive natural soundscapes and visible movement.
- A variety in the setting to the AONB formed by the marine environment, Plymouth City, market and coastal towns, rural South Hams and southern Dartmoor.

## AONBs & National Planning Policy

25. The National Planning Policy Framework (NPPF)<sup>4</sup> sets out the Government's guidance on planning in England.

26. In summary, specific NPPF guidance in relation to AONBs confirms that:

- the presence of AONBs can restrict development in order to protect them and to help achieve sustainable development (paragraph 14);
- **'great weight'** should be given to conserving their landscape and scenic beauty (paragraph 182);
- they have the **highest** status of protection in relation to landscape

and scenic beauty, equal to National Parks (paragraph 182);

- the conservation of wildlife and cultural heritage is important in AONBs (paragraph 182);
- major development in AONBs should be refused unless it meets specific tests (paragraph 183); and
- Local Plans should have criteria-based policies for AONBs which reflect their legal status (paragraph 113).

### NPPF Policy for AONBs on paragraph 182 & 183

**'182. Great weight should be given to conserving 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 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 all these designated areas should be limited, while development in their setting should be sensitively located and designed to avoid and minimise adverse impacts on the designated areas.'**

<sup>4</sup> National Planning Policy Framework (MHCLG & DLUC, 2023) available at <https://www.gov.uk/guidance/national-planning-policy-framework>

183. When considering applications for development within National Parks, the Broad and Areas of Outstanding Natural Beauty, permission should be refused for major development<sup>64</sup> 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:

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

### Restriction on Development affecting AONBs

27. The 'development plan' is the starting point for decision-making, unless material considerations indicate otherwise.<sup>5</sup>

<sup>5</sup> National Planning Policy Framework (MHCLG & DLUC, 2023) available at <https://www.gov.uk/guidance/national-planning-policy-framework> paragraph 2, footnote 3.

28. The 'development plan' includes the Local Plan and neighbourhood plans made in relation to the area.<sup>6</sup>

29. There are two circumstances which affect how decisions should be made:

- (i) where there is an up-to-date **adopted** development plan, or
- (ii) where there are **no relevant** development plan policies, or the policies that are **most important** for determining the application are out of date.<sup>7</sup> (Emphasis added).

In the first circumstance (i), planning authorities should approve development that accord (agree) with the development plan (unless material considerations indicate otherwise) without delay. Having an up-to-date Local Plan with a robust, comprehensive, criteria-based policy on National Landscapes is highly desirable.

In the second circumstance (ii), the 'presumption in favour of sustainable

<sup>6</sup> National Planning Policy Framework (MHCLG & DLUC, 2023) available at <https://www.gov.uk/guidance/national-planning-policy-framework> paragraph 2, footnote 2.

<sup>7</sup> MHCLG, National Planning Policy Framework (MHCLG, 2023) paragraph 11 d)

development' does not apply for developments in or affecting AONBs.

30. The NPPF is clear, by their inclusion in footnote 7 to paragraph 11, that the statutory requirement to protect AONBs can restrict development. Footnote 7 transfers the starting point for assessment of planning applications affecting AONBs to paragraphs 182 and 183 which set out the restrictive policies applying to AONBs.

**31. Where there are no policies or those most important for determining an application are out-of-date, the presumption in favour of sustainable development is removed for developments in or affecting AONBs.**

32. Permitting development where the development plan is absent or following one which is out-of-date on relevant matters could lead to unsustainable development if restrictive policies in footnote 7 are not heeded. Doing so would be contrary to the purpose of planning which is to help achieve *sustainable* development.

See full Planning Guidance Section 4.2 'Restriction on Development affecting AONBs' for further explanation.

## Key points on great weight:

1. The *'the NPPF places the conservation of landscape and scenic beauty into a special category of material consideration: as a matter of policy it requires it to be given great weight'*<sup>8</sup>
  2. great weight is to be applied irrespective of whether the development is in the AONB, or outside but affecting the AONB;
  3. If a decision-taker departs from the guidance on the great weight to be given in paragraph 182 of the NPPF, it must provide reasoned justifications for doing so.
33. Further explanation is in the full Planning Guidance Section 4.3 'The Requirement to Give Great Weight' and Section 4.4 'How the Courts have interpreted the requirement to give great weight'.

## 'Major Development' in AONBs

34. Paragraph 183 only applies to **'footnote 64 major development' in** the AONB, and sets out how major developments in AONBs should be treated.

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<sup>8</sup> [2013] EWHC 3684 (Admin), Judgement available at <http://www.bailii.org/ew/cases/EWHC/Admin/2013/3684.html>

35. Paragraph 183 states that planning permission should be refused, except in **'exceptional circumstances' and where it can be demonstrated that development is in the public interest**. Both these requirements must be met.
36. Paragraph 183 also sets out matters that must be assessed during the consideration of such applications. Broadly speaking these three assessments cover:
  - the need for development and impacts on the local economy;
  - alternative locations outside the AONB or alternative ways of meeting the need;
  - and impacts on the environment, landscape and recreational opportunities and if and how these can be moderated.

The list of assessments is not exhaustive and additional assessments may be required depending on the individual circumstances, such as those needed to properly assess impacts on all factors of natural beauty.

## Determining whether development is footnote 64 'major' development

37. Determination of whether a development is 'major' for the purposes of activating paragraph 183 is context specific.
38. It must be judged using footnote 64 to paragraph 183 and relates to the statutory purpose. The relevant question is ***"Could the proposal have a significant adverse impact on the purpose of conserving and enhancing natural beauty in the South Devon AONB?"*** As such, the *potential* for harm to natural beauty is foremost to the determination.
39. This will require consideration of a range of site and development specific factors.

## Applying the tests and assessments under paragraph 183

40. Once the decision-taker has determined that development is footnote 64 major development it must apply the two tests as informed by (as a minimum) the three assessments referred to in the bullet points of paragraph 183. The assessments are mandatory, indicated by the use of the word "should". More advice can be found under the heading *Other Guidance for decision-takers*.



41. See full Planning Guidance Section 4.5 'Major Development in AONBs' for further explanation.

## What is meant by the 'setting' of an AONB?

42. The law on AONBs does not use the term 'setting' it uses the term 'so as to affect' land in the AONB. Likewise, the NPPF does not use the term setting in relation to AONBs.
43. The concept of 'setting' is often used to describe areas of land (which includes inland waters, estuary or sea) within which activities or changes could affect the associated asset, in this case the South Devon AONB. Therefore, the term 'in the setting of' the AONB, is used to refer to areas outside the AONB within which changes or activities are likely to have effects on the AONB.
44. Setting cannot be definitively described or mapped as it's extent depend upon local context, the location, type and specifics of the activity or development under consideration.
45. The underlying principle of the legal duty towards AONBs is that land in the AONB should be conserved and enhanced. This applies irrespective of *where* any effect on

the AONB originates from, the only consideration being whether land in the AONB could be affected by it.<sup>9</sup> This approach is followed in the NPPF.

### The duty applies irrespective of where the effects on the AONB originate

46. In practice, the law and the NPPF require the decision-taker to undertake an identical consideration of development proposals irrespective of whether they are located 'in' the AONB or 'outside but affecting' / 'in the setting of' the AONB.
47. Paragraph 182 of the NPPF requires that great weight be given to conserving landscape quality and scenic beauty irrespective of whether the development is located within the AONB, or on land outside but so as to affect (i.e. in 'the setting' of) the AONB.
48. The potential for effects on natural beauty, special qualities and distinctive characteristics are material considerations in determining an application. During deliberations the planning authority:
- must seek to further the conservation and enhancement of natural beauty

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<sup>9</sup> Seeking advice from the National Landscape Team can help clarify whether affects are likely.

(considering **all** factors of natural beauty under the section 85 duty)<sup>10</sup> and

- must give great weight to conserving and enhancing the landscape and scenic beauty of the AONB (applying paragraph 182 of the NPPF).

This approach must be applied to *all* development affecting the AONB whether located within or outside the AONB's boundary and it applies to both non-major and footnote 64 major developments.

49. The intent of the section 85 duty or NPPF paragraph 182 is not to protect land 'in the setting' *per se*, but to protect land in the AONB from effects arising from changes or activities occurring in outside it, the 'setting'.
50. The effect(s) of a development outside the AONB on views within and views out of an AONB are of particular relevance. Adverse effects are not solely visual, a development which is noisy, or creates light pollution, or affects functionally linked ecosystems such as rivers, or a stretch of coast, can impact adversely on

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<sup>10</sup> section 85 Countryside and Rights of Way Act 2000 available at <http://www.legislation.gov.uk/ukpga/2000/37/section/85>

tranquillity, sense of wildness or natural heritage features and etc.

51. Setting is broader than just the intervisibility of land with the AONB.
52. Therefore, the 'setting' does require different treatment through the planning system than other areas of undesignated countryside or landscape, but only in so far as it concerns its interrelationship with land in the AONB.

Further explanation of 'setting' is given in the full Planning Guidance in 'Section 4.6 Development in the 'Setting' of and AONB' including how 'setting' as been interpreted in the courts in relation to AONBs.

## Planning positively for South Devon AONB

53. Several NPPF paragraphs are relevant to AONBs because they:
  - set out policy for and how to consider a factor of natural beauty;
  - refer to matters which can affect or harm natural beauty or AONBs;
  - have direct and important implications for development in or affecting the South Devon AONB; or

- plan proactively ***seek to further the conservation and enhancement of natural beauty.***

54. NPPF paragraphs most pertinent to each factor of natural beauty

Natural Beauty factor <sup>11</sup>	Main paragraphs in the NPPF
Landscape Quality	182 & 183, 180 (a)-(c)
Scenic quality	180(a), (b) & (c), 182 & 183
Relative Wildness	180 (b) & (c), 184
Relative Tranquillity	180 (a) (b) & (e), 191 a)-c)
Natural Heritage Features	180 (a)-(d), 181 – 188, 191, 217 a), b), f) & g)
Cultural Features	182, 183, 184, 195-214 217 b), f) & g)

Further guidance on how the policy set out in the NPPF relates to the South Devon AONB is in the full Planning Guidance document in Section 4.7 'Planning positively for the South Devon AONB'.

<sup>11</sup> Appendix 1, Natural England's 'Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England' (Natural England, 2 March 2011).

## 10 Key points for plan-makers

1. Local authorities, Town and Parish Councils and Neighbourhood Plan-making groups, **must seek to further the purpose of conserving and enhancing of natural beauty** when carrying out any of their plan-making functions;<sup>12</sup>
2. Plan-making **must seek to further the purpose of conserving and enhancing of natural beauty**;
3. Plan-making must give great weight to the conservation of the AONB's landscape and scenic beauty;
4. Plan-makers must use the South Devon National Landscape (AONB) Management Plan and its Annexes;<sup>13</sup>
5. Plan-makers should use the evidence and principles set out in the AONB Management Plan when setting the strategic context for development;<sup>14</sup>

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<sup>12</sup> Section 85, Countryside and Rights of Way Act 2000

<sup>13</sup> MHCLG and DLUC, 'Planning Practice Guidance – Natural Environment' available at:

<http://www.gov.uk/government/natural-environment/>

<sup>14</sup> DGLG, Planning Practice Guidance – Natural Environment: Landscape Paragraph: 004 Reference ID: 8-004-20140306  
Revision date: 06 03 2014 (link as above)

6. The purpose of planning is to help achieve sustainable development;
7. AONBs can restrict development;
8. Plans should allocate land of least or lesser environmental value;
9. The NPPF creates a strong presumption against major development in AONBs;
10. Major development in AONBs can only be permitted where it meets stringent tests.

### Defining 'harm' to the AONB's natural beauty

55. Harm to the South Devon AONB is defined as: ***any impact causing loss, damage or detriment to the AONB's natural beauty, its special qualities or its distinctive characteristics or to the enjoyment or perception of its natural beauty.***
56. A '*significant effect*' is one that is not inconsequential and which is likely to undermine the **purpose of conserving and enhancing natural beauty.**

### Assessing harm to natural beauty & the AONB

57. Assessing harm is a matter of expert judgement based on an understanding of

environmental sensitivity, capacity and impact.

58. Whilst generally, larger developments are more likely to cause greater harm, even minor developments can cause substantial or significant harm.
59. Assessments of harm must pertain to natural beauty holistically, not just landscape and scenic beauty, using all of Natural England's six natural beauty criteria<sup>15</sup>. A Landscape and Visual Impact Assessment (LVIA) alone is inadequate to assess properly the impacts on natural beauty.
60. Since natural beauty arises from the complex interaction of these criteria it is insufficient to assess the effects on these individually. Harm to natural beauty as a whole may be greater than the sum of the harm to each of the criteria individually.
61. Any assessment should identify, describe and evaluate effects on:
  - natural beauty **holistically**, & with reference to **all** of NE's natural beauty criteria: landscape quality, scenic quality, relative tranquillity, relative

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<sup>15</sup> See Appendix 1, Natural England, 'Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England' (Natural England, 2 March 2011).

- wildness, natural heritage features and cultural heritage; and
- South Devon AONB's special qualities and distinctive characteristics likely to be affected; and
- on the integrity of the purpose of designation as a whole.

Assessment should include consideration of:

- synergistic, antagonistic and cumulative effects on natural beauty holistically;
- the interrelationships between NE's natural beauty criteria and between the South Devon AONB's special qualities and distinctive characteristics; and
- how the development contributes to the cumulative harm on the AONB (not focused solely on that occurring from the development alone). This means considering the development in-combination with past, present and reasonably foreseeable development, or other activities and changes, and assessing harm on that basis.<sup>16</sup>

62. Development applications should acknowledge any potential impacts and take actions, by following the mitigation hierarchy, to avoid, mitigate, or as a last resort, compensate for harm.
63. Decision-makers must assess the potential impacts to natural beauty, evaluating impacts on it holistically and addressing all factors, relevant special qualities, and distinctive characteristics. If it will not have exercised its duty correctly.
64. Harm to natural beauty **must** be considered discretely from landscape impacts in recognition that such harm is a statutory matter and local planning authorities and Inspectors must address the legal duty to seek to further the purpose.

See: Planning Guidance Section 7.3 'Defining and assessing 'harm' to the AONB's natural beauty' and Section 7.4 'Addressing Cumulative Effects'.

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<sup>16</sup> Secretary of State, Call-in Decision: Land at Winslade Farm, Frogmore, Kingsbridge, Devon  
Application Ref: 43/2567/13/F 19 January 2017, paragraph 53. <https://www.gov.uk/government/publications/called-in->

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decision-land-at-winslade-farm-frogmore-kingsbridge-devon-ref-3136298-19-january-2017

## Using the AONB Management Plan

65. The South Devon AONB Management Plan sets out the relevant authorities' approach to the carrying out of any of their functions in relation to, or so as to affect, the South Devon AONB.
66. **It is statutory material consideration** in decision-taking and should inform the evidence base during plan-making.<sup>17</sup>

### The South Devon AONB Management Plan:

- Highlights the special qualities and significance of the AONB
- Presents a Vision for the future of the AONB
- Sets out Objectives and Policies to secure the Vision
- Identifies what needs to be done, by whom, and when
- States how the condition of the AONB and the effectiveness of its management will be monitored
- Reflects the views and aspirations of a wide range of AONB 'stakeholders'
- Co-ordinates the work of different partner organisations

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<sup>17</sup> DGLG, Planning Practice Guidance - Natural Environment: Landscape Paragraph: 004 Reference ID: 8-004-20140306 Revision date: 06 03 2014  
<http://planningguidance.communities.gov.uk/blog/guidance/natural-environment/landscape/>

67. Taken as a whole, the Management Plan provides guidance on how to conserve and enhance its natural beauty.
68. The AONB Management Plan assists relevant authorities to understand and act on the section 85 duty. It translates this duty and illustrates what it means in the context of the South Devon AONB.
69. The Secretary of State confirmed in its called-in Winslade Farm decision<sup>18</sup> that the South Devon AONB Management Plan, and its policies, is a material consideration when determining proposals affecting the AONB.<sup>19</sup>
70. The PPG also makes it clear that:
- "... Areas of Outstanding Natural Beauty management plans may also be material considerations in making decisions on individual planning applications, where they raise relevant issues."*<sup>20</sup>

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<sup>18</sup> Land at Winslade Farm, Frogmore, Kingsbridge, Devon (APP/K1128/V/15/3136298) 19 January 2017. Available at <https://www.gov.uk/government/publications/called-in-decision-land-at-winslade-farm-frogmore-kingsbridge-devon-ref-3136298-19-january-2017> (Hereafter *Winslade Farm*)

<sup>19</sup> *Winslade Farm* Paragraph 13.

<sup>20</sup> DGLG, Planning Practice Guidance – Natural Environment: Landscape Paragraph: 004 Reference ID: 8-004-20140306 Revision date: 06 03 2014

## Management Plan Policies relevant to the Planning Process

71. The South Devon National Landscape (AONB) Management Plan is the principal document setting out what is means to conserve and enhance natural beauty in the South Devon National Landscape (AONB)
72. Its Part 1 Strategy' contains key policies objectives for conserving and enhancing natural beauty. Whilst these are not in themselves planning policies, they do have a bearing on development management and they represent the adopted policies of the Local Planning Authorities for the management, conservation and enhancement of the AONB. These are the evidence and principles, for the South Devon AONB, which the Government's Planning Practice Guidance refers to. **They have the status of statutory 'material considerations'** in any development management decision which may affect the AONB.

See full Planning Guidance Section 6 'Using the AONB Management Plan for planning'.

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<http://planningguidance.communities.gov.uk/blog/guidance/natural-environment/landscape/>

## 9 key points for decision-takers

73. Decision-takers should be mindful of these key points throughout decision-taking (including Committee Report preparation, in planning committees, and in preparing summary reasons on the decision):
1. The AONB duty to seek to further the purpose of conserving and enhancing the natural beauty applies throughout the decision-making process as well as the final determining decision;
  2. Considerations of harm to natural beauty and the integrity of the designation as a whole **must** be made **discretely** from those on harm to landscape generally in recognition that natural beauty is a statutory matter;
  3. If there are no development policies or those most important for determining the application are out-of-date the 'presumption in favour of sustainable development' is removed by the application of footnote 7 to NPPF paragraph 11;
  4. The South Devon AONB Management Plan, its policies and objectives are important **statutory material considerations**;

5. Great weight should be given to the analysis of the South Devon National Landscape Team;<sup>21</sup>
6. The balancing exercise under NPPF paragraph 182 is not an ordinary/standard balancing exercise, but a weighted one;
7. NPPF paragraph 182 requires great weight to be given to the conservation and enhancement of landscape and scenic beauty of the AONB;<sup>22</sup>
8. When determining if a proposal is for 'footnote 64 major development' the potential for harm to **natural beauty** must be at the forefront of decision-takers' minds, as must the section 85 duty.
9. The balancing exercise under paragraph 183 is not an ordinary/standard one, but a weighted one in which the presumption in favour of development

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<sup>21</sup> Secretary of State, Call-in Decision: Land at Winslade Farm, Frogmore, Kingsbridge, Devon  
Application Ref: 43/2567/13/F 19 January 2017, paragraph 25. <https://www.gov.uk/government/publications/called-in-decision-land-at-winslade-farm-frogmore-kingsbridge-devon-ref-3136298-19-january-2017>

<sup>22</sup> *R (Mevagissey Parish Council) v Cornwall Council* [2013] EWHC 3684 (Admin), [2013] All ER (D) 14 (Dec) Judgement <http://www.bailii.org/ew/cases/EWHC/Admin/2013/3684.html>

has been removed (because major development in AONBs should normally be refused) even where the development plan is up to date, and one to which the approach in 182 applies.

See Planning Guidance Section 7.2 'Guidance for decision-takers' for more information and key matters to address during decision-taking, applying the tests and assessments in NPPF paragraph 183.

### Other Guidance for decision-takers

74. Decision-takers can refer to: National Landscapes Association (2024), *Applying the CRow Act section 85 duty to 'seek to further the purpose' in National Landscapes (AONBs): Guidance for Local Planning Authorities* Briefing (Nov 2024).



## 11 Key points for Development Proposals

75. Applicants should **identify, describe and evaluate the impacts on natural beauty, and seek to further the conservation and enhancement of natural beauty holistically**. For all development proposals applicants should:

1. **Think Natural Beauty** - Identify, describe and evaluate impacts on natural beauty separately and distinctly from those on landscape generally, take measures to conserve and enhance it;
2. **Think Special Qualities** – explain how the development furthers the conservation and enhancement of any special qualities on, near or functionally related to your site;
3. **Think Enhancement** - positively set out to ‘enhance’ natural beauty through your development proposal – be proud of your contribution to this special place;
4. **Think Location** - avoid creating incongruous features in prominent and highly visible locations that detract from the open, rolling topography of the National Landscape. Fit development into the landscape not on top of it;
5. **Think scale and massing** - again this will help reduce harmful impact on the prevailing character of the AONB;
6. **Think vernacular** – design so the development follows and relates well to the historic vernacular building siting, materials and styles;
7. **Think biodiversity** - explain how the development impacts on the biodiversity assets of the National Landscape and how you the development furthers biodiversity conservation and enhancement. This must be in addition to BNG requirements and avoiding, mitigating, or as a last resort, compensating for any residual impacts;
8. **Think dark skies** – design out the need for artificial lighting, but if necessary avoid creating light pollution. Minimise window areas and avoid windows in apexes. Dark skies are key contributors to relative tranquillity and relative wildness and sense of remoteness as well as being culturally important;
9. **Think soil, air and water** - explain how the development impacts on these natural capital assets of the designated area and how you will avoid, mitigate, or as a last resort compensate for any residual impacts;
10. **Think shoreline & foreshore** - explain how the development proposals will impact on the shoreline/ foreshore and what actions you are taking to further the conservation and enhancement of estuary habitats and species in addition to avoiding, and mitigate impacts;
11. **Think cumulative effects** - identify, describe and evaluate whether there are effects on each element of natural beauty that alone may appear to be insignificant but when considered *cumulatively* they have a greater impact on the designated area. Identify and describe any cumulative impacts from your development *in-combination with* development already in place, or that which is reasonably foreseeable (such as allocated sites and sites with planning permission).
12. See: full Planning Guidance Section 7.7 ‘General Guidance for Development Proposals affecting the South Devon AONB’ and Section 8 ‘Detailed Guidance for the Main Development Types’.

## **Diary dates**

### **Proposed meeting dates in 2025**

- Friday 14 March
- Friday 18 July
- Friday 28 November





**South Devon**  
National  
Landscape

# **Partnership Meeting**

to be held at

**10am on Friday 29 November 2024**

Repton Room at Follaton House and via Zoom

## **Annex to Meeting Papers**

South Devon National Landscape team, Follaton House, Totnes, TQ9 5NE  
Telephone 01803 229330 Email [enquiries@southdevon-nl.org.uk](mailto:enquiries@southdevon-nl.org.uk)

**Agenda item 9A: Planning applications consultations** *updated 22 November 2024*

ITEM FOR	INFORMATION	REPORT BY	Roger English, National Manager
<b>SUMMARY</b>	This report provides a brief update on Local Planning Authority development management consultations since the July 2024 Partnership meeting pertinent to the South Devon National Landscape.		
<b>MANAGEMENT PLAN THEMES</b>	<p><b>All PLACE:</b> Landscape character; Natural resources &amp; climate; Biodiversity &amp; geodiversity; Historic environment; Farming and land management; Coast &amp; marine; Rivers &amp; estuaries.</p> <p><b>All PEOPLE:</b> Tourism, access &amp; recreation; Planning &amp; sustainable development; Transport &amp; highways; Rural economy &amp; services; Community &amp; culture.</p>		
<b>RECOMMENDATION</b>	<p>Partnership members are recommended to:</p> <ol style="list-style-type: none"> <li>Note the level of resource commitment currently applied to the type of development management consultations, bearing in mind the South Devon National Landscape Planning Protocol, in addition to strategic and neighbourhood plan demand across the local planning authority areas. Keep this under review.</li> <li>Continue to provide early notification of significant planning matters to the National Landscape Manager to enable timely and appropriate action to be taken.</li> </ol>		

Key Activity**Planning Caseload**

- In the rolling year 2024/2025 to date, Local Planning Authorities (LPAs) have formally consulted the National Landscape team on 19 applications plus 2 appeals. In addition, the National Landscape team has been consulted on 2 pre-applications, 2 Marine License applications, a listed building consent, 3 woodland creation or felling/restocking licences a communications installation application and a planning application validation checklist.
- In total, there have been 18 new consultations since the last update.
- Summary of activity since the last update:
  - 10 cases that LPAs have determined
  - 8 cases under consideration with responses currently in development
  - 1 pre- application responded to / response in development
  - 1 communications installation application
  - 3 woodland creation or felling/restocking applications
  - 1 planning application validation checklist
- Note the 20 applications with completed responses and an LPA decision as at the July Partnership meeting are treated as closed and are not reported again in the table below. Wording in 'normal' text signifies this appeared on the last planning update, with any changes/updates noted in '**bold**' text
- The following table lists the planning cases pertinent to the period:

App Ref	Application Type	Decision	In accordance with NL advice / guidance	NL Major	Comments
<b>10 Applications - LPA decision made</b>					
P/2023/1025	39 Wall Park Road Brixham Construct dwelling and garage.	<b>Permission With Legal Agreement</b>	-	N	Amended plans uploaded 16 January 2024
APPEAL 3953/21/FUL	101, Yealm Road, Newton Ferrers Demolish 2 two-storey detached buildings & associated garage. Erect 2 four bed family homes and extend quay to provide a landing ramp for dwelling 2	<b>Appeal dismissed</b>	-	N	Readvertised (amended plans)  APPEAL REF: APP/K1128/W/23/3333422 START DATE: 26 March 2024
P/2024/0219	Riviera Bay Holiday Park, Brixham Variation of Condition P1: Revised design of facilities building including amended layout, reduced height and footprint.	<b>Permission With Legal Agreement</b>	-	N	Related application P/2021/0173
1003/24/HHO	Harbour Watch, East Portlemouth Partially demolish, rebuild & extend dwelling, new boatstore, slipway, swimming pool, retaining wall replacing tyre sea defence	<b>Approved</b>	-	N	
1857/24/FUL	North Efford Aveton Gifford Convert traditional stone barn to dwelling	<b>Approved</b>	-	N	
1649/24/FUL	Smalls, East Portlemouth Construct boat house	<b>Withdrawn</b>	-	N	
2072/24/FUL	<b>33 Victoria Road Dartmouth Change of use of former doctor's consulting rooms to 2 dwellings, retain pharmacy on ground floor</b>	<b>Approved</b>		<b>N</b>	
3664/23/FUL	<b>Home Farm Castle Road Kingswear Erection of stables with yard for agricultural/equestrian use</b>	<b>Approved</b>		<b>N</b>	<b>Retrospective</b>
1543/24/FUL	<b>Land at SX 773 357 East Prawle Conversion of barn to dwelling</b>	<b>Withdrawn</b>		<b>N</b>	
2047/24/FUL	<b>Maypool Cottage Maypool Reinstating existing lake bank to historic location. Refacing sea wall in limestone.</b>	<b>Approved</b>	<b>No Objection</b>	<b>N</b>	<b>Related application 2959/24/ARC</b>
<b>2 Applications - Response submitted - LPA still to determine</b>					
P/2022/0339	Site Adjacent To Brixham Cricket Club Change of use from agricultural land to outdoor football pitch.	-	Objection	N	Part retrospective. Respond by 26.4.23 Reconsulted 3.4.23
2798/23/FUL	North Embankment Dartmouth Proposed new slipway	-	Holding Objection	N	
<b>14 Applications - Responses in development</b>					
2982/21/FUL	Land Opposite Butts Park Newton Ferrers Erection of 20 residential units	-	-	Y	Revised plans Sep'23 (NL objected to original plans) Awaiting legal agreement
P/2023/0553	Land Off St Mary's Road, Brixham Demolish industrial buildings, erect 28 residential dwellings	-	-	N	
DCC/4366/2023	Land adjacent to Malborough Waste Water Treatment Works Install additional & replacement infrastructure and change of use from undeveloped land to an operational site	-	-	N	Extends the operational site area on land at (and adjacent to) Malborough Waste Water Treatment Works
3995/23/FUL	Baltic Wharf Boatyard St Peters Quay Totnes Mixed-use development comprising marine workshops (Use Class B2) and boat storage, offices (Use Class E), care home	-	-	N	Development as a whole was NL major development

App Ref	Application Type	Decision	In accordance with NL advice / guidance	NL Major	Comments
	(Use Class C2), houses and apartments (Use Class C3), mixed commercial uses (Use Class E).				
0345/24/FUL	Stoke Gabriel Boating Association Clubhouse Construct accessway & secure concrete 'bridge head' on foreshore for onshore connection to gangway linking a new permanent pontoon	-	-	N	
3053/21/ARM	Noss Marina Approval of reserved matters	-	-	Y	Advice previously provided.  Readvertised (amended plans)
P/2024/0462	35 Wall Park Road, Brixham Change Hipped to Gable Roof, Dorners, Single Storey Extension & Remove Conservatory.			N	
2294/24/FUL	Wragmoor Bantham Proposed replacement of 2 dwellings			N	
2317/24/FUL	6 Waltacre Yealmpton Replacement dwelling			N	
P/2024/0461	39 Wall Park Road Brixham Outline application for detached dwelling			N	
P/2024/0562	Land Off Pilgrim Close Brixham Outline application for up to 20 dwellings			N	
2887/24/FUL	Bantham Boathouse Bantham Proposed conversion of first floor of boathouse into holiday let			N	Revised scheme to 2605/22/FUL Related application 2888/24/LBC
2666/24/FUL	Land At Sx 534 496, Wembury Creation of a multiuser trail			N	
P/2024/0720	Landscope Holiday Village, Brixham Part demolish existing facility building & remove swimming pool. Single storey extension for new swimming pool, gym and plant room. Alteration of roofline from hip to gable, new raised terrace, new openings, new maintenance building and altered electrical building + 8 new parking spaces.			N	

Item Ends.