

## Government's response to the landscapes review: submission from the Open Spaces Society, April 2022

### Introduction

The Open Spaces Society is Britain's oldest national conservation body. We were founded in 1865 as the Commons Preservation Society. We have played an important role in the legislation relating to national parks and areas of outstanding natural beauty (AONBs), and relating to common land and town and village greens, public access and public paths. We have more than 2,000 members: individuals, organisations and local authorities at all levels.

We are a member of the Campaign for National Parks and support the comprehensive submission which it has made on the government's response to the landscapes review. We have also written with our headline points, jointly with British Canoeing, the British Mountaineering Council, and the Ramblers.

### Summary of main points

- 1 The Open Spaces Society is pleased that the government has set out its visions and ambitions in its response but feels that these do not go far enough, and there is no clarity about how they can be achieved.
- 2 We support the proposed changes to the purposes of protected landscapes, and a new statutory duty on public bodies to further these purposes.
- 3 We consider the proposals for access are disappointing and we are unclear how these modest proposals will be implemented or can make a difference.
- 4 We are opposed to many of the measures to 'manage visitor pressure' and to the emphasis given to these, as opposed to welcoming and helping visitors which should be the principal aim.
- 5 We are opposed to the reliance on private and commercial funding to achieve the vision, and consider that our protected landscapes are national assets which should be funded by the nation.

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1. *Do you want your responses to be confidential?*

No

2. *What is your name?*

Open Spaces Society

3. *What is your email address?*

hq@oss.org.uk

4. *Where are you located?*

Our office is in the South East, but we cover the whole of England and Wales.

5. *Which of the following do you identify yourself as?*

Environmental NGO

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## **Chapter 1: A more coherent national network**

We support the idea of bringing protected landscapes together, since there is greater strength in close working, and there is much that unites them, and threatens them all.

### **Strengthened AONBs**

We agree that AONBs should be strengthened with new powers and purposes. We have no objection to the proposed name 'national landscapes' but see below.

### **Strategic direction**

We are pleased that the government has abandoned the idea of a national landscape service, which would have meant considerable expense, bureaucracy, and upheaval for no gain.

We broadly support the proposed new 'national landscape partnership' but clearly if AONBs are to be called 'national landscapes' the partnership needs renaming since it would cover national parks and national trails too. However, what is proposed is not new, since the organisations already work closely together. Nor do we believe that the partnership should be focused on raising commercial and private income, those should be very much secondary functions. The role of championing, developing best practice, sharing knowledge and expertise, and providing training and development should be predominant. But government does need to set out what the partnership can do that is not already being achieved, and it needs to give it the resources to do those things. It is crucial that the partnership has influence across all government departments, and can ensure that the protected landscapes deliver public goods through their management plans.

We are pleased to learn that Natural England's role is to be 'reinvigorated to support national landscapes better to recover nature and provide good-quality access to it', but there is no indication of what that means in practice. We submit that it must mean more resources and greater independence from government, so that Natural England can be a champion and a critical friend.

Natural England is responsible for designating national parks and AONBs, and this process needs re-examination because it is complex and expensive. While it is important that it is done to a high standard, it could be streamlined.

The roles of the partnership, Natural England, Defra, other government departments, and the new Office for Environmental Protection need to be set out so that it is clear what are the powers and responsibilities of each and their accountabilities.

## **Chapter 2: Nature and climate**

### **A stronger mission for nature recovery**

*6. Should a strengthened first purpose of protected landscapes follow the proposals set out in chapter 2?*

We agree that there should be a strengthened first purpose, but note that government has not proposed any wording. We support the proposed wording from the Campaign for National Parks,

*7. What other priorities should be reflected in a strengthened first purpose?*

Addressing the climate crisis, and conserving the cultural heritage and the special qualities of the protected landscapes. There should be a specific reference to landscape and to cultural heritage. It should be noted that common land, of which there are vast areas in many of the national parks and AONBs, and particularly the exercise of common rights on common land, is part of our cultural heritage.

### **Agricultural transition**

*8. Do you support any of the following options as we develop the role of protected landscapes in the new environmental land management schemes? Tick all that apply.*

We support all these. We consider that Farming in Protected Landscapes (FIPL), while containing some good elements, is inadequate. We are not aware of any schemes under FIPL which provide public access. Applicants should be encouraged to offer access proposals, but that will require the national park and AONB staff to invest time in this.

*9. Do you have any views or supporting evidence you would like to input as we develop the role of protected landscapes in the new environmental land management schemes?*

Agricultural funding should be applied to secure more and better access in perpetuity throughout England. The protected landscapes can show leadership by testing and trialling (as has been done successfully in the Kent Downs AONB). There are also opportunities to apply agricultural funding to address the inequalities in the countryside.

## **Chapter 3: People and Place**

### **Landscapes for everyone**

We find this section disappointing, there are some good words but they are not reflected in actions. There is no response to Glover's recommendations on a night

under the stars for every child, or long-term programmes to increase the ethnic diversity of visitors. Glover recommended a ranger service in all our national landscapes. Yet government, in offering to ‘seek ways to increase the number of rangers’ (welcome though that is), does not begin to address this point which is important to achieving its vision.

Our protected landscapes, and access to them, should be part of the national curriculum. Government should support the authorities in providing a warm welcome to everyone.

We are pleased to see the commitment to ‘consider using the powers under the Agriculture Act and resources under the Farming in Protected Landscapes Fund to support or reward landowners for offering enhanced access to their land in some circumstances’, but as stated above this is not yet happening and we see little commitment to this—despite numerous ministerial promises during the passage of the Agriculture Bill.

We also support the idea of working strategically with the Probation Service, supporting capacity-building in schools, and enabling protected landscapes to deliver for green social prescribing. These are excellent words but we need to see action.

### **A stronger mission for connecting people and places**

*10. Should AONBs have a second purpose relating to connecting people and places, equivalent to that of national parks?*

Yes, AONBs share many if not most of the characteristics of national parks. They tend to be closer to areas of larger population and it is essential that they have a purpose relating to people, access and enjoyment.

*11. Should a strengthened second purpose of protected landscapes follow the proposals set out in chapter 3 to improve connections to all parts of society with our protected landscapes?*

Yes, but it must be accompanied by the resources needed to employ rangers and secure the access infrastructure, sustainable transport, and interpretation to make the national parks and AONBs truly welcoming to all. We support the intention to amend the wording to remove barriers, improve health and well-being, and support access rather than just promoting opportunities—but again, we want to see action.

*12. Are there any other priorities that should be reflected in a strengthened second purpose?*

Physical and mental well-being, emphasising the enjoyment and understanding of the special qualities of these areas.

### **Sustainable transport**

This section is inadequate and far too timid. The Campaign for National Parks suggests some bold initiatives which we support.

## **Open access land**

This section does not provide a response to Glover's proposal to consider expanding open-access rights in national landscapes. Government refers merely to the review of open-access maps, but there is nothing new here, there is no timetable for the long-postponed review, and the purpose of a review will not, as claimed, 'clarify rights and inform any further consideration of expanding open access rights'. The purpose is merely to update what is now recorded as registered common land and open country for the purposes of access under Part I of the Countryside and Rights of Way Act 2000 and to map changes since the early 2000s. There is no need to wait, nor any benefit in waiting, before acting on Glover's proposal.

There is a need to increase the amount of access land, particularly in the more lowland national parks and AONBs, such as the South Downs, where the inadequate mapping of downland meant that, at best, they got small, isolated plots of access land. The access land needs to be joined up by paths or other access land, and it all needs to be accessible. Government could trial new access in the protected landscapes, such as rights of access to woodland and riverside, and on water. It could do this under the existing law by encouraging and funding the use of access agreements and orders under Part V of the National Parks and Access to the Countryside Act 1949. And it could consider extending access rights on access land to other unmotorised users, such as horse riders and cyclists.

## **National trails**

We agree that the trails should be more joined up with the protected landscapes, although it is not clear how a new charity will achieve this.

## **Managing visitor pressure**

We find this section abhorrent. Government should not see visitors as a problem requiring penalties and sanctions, but as an opportunity to educate and inform. A strong, friendly, welcoming ranger service would address most of the issues which arise in our protected landscapes, and on the occasions when something more is needed the police can be called in. The rangers need a good link to the police force but must not themselves become police officers as government proposes. Both National Park authorities and local authorities, as employers of rangers, and the police force, need the cuts imposed through austerity to be reversed in order sufficiently to manage visitor pressures.

*13. Do you support any of the following options to grant national park authorities and the Broads Authority greater enforcement powers to manage visitor pressures? Tick all that apply.*

### *Issue fixed penalty notices for byelaw infringements*

We agree, with caveats. This might well be appropriate for such activities as parking on grass verges and on moorland, and lighting barbecues. But if FPNs are to be applied to visitors they must equally be applied to landowners who commit

crimes, by obstructing paths, cultivating paths without reinstatement, polluting watercourses and breaching hedgerow regulations, for instance. FPNs should apply to byelaws only if they are made after the FPNs are put in place. Any such byelaws should identify those offences which would be available to the FPN regime, so that whether FPNs could be used in relation to any particular byelaw would be a matter for the Defra secretary of state in his confirming role (where byelaws are confirmed by the Defra secretary of state).

*Make public space protection orders (PSPO)*

No. This is an urban measure which is inappropriate in rural areas. It is stated that conferring the power on national park authorities would ‘reduce administration costs where multiple local authorities have jurisdiction across a national park and ensure there is a consistent approach’. But it is not explained how administration costs would be reduced: if there is a genuine role for PSPOs in the whole of a national park which straddles more than one county or unitary authority, then it is open to one or more of those authorities to appoint another to act as its agent in making the PSPO. This need incur no greater costs than a single authority able to act in isolation.

*Issue traffic regulation orders (TROs) to control the amount and type of traffic on roads*

It is stated that ‘we have become increasingly aware of damage and disturbance caused by excessive use of off-road motor vehicles on some unsealed routes’. But Defra offers no evidence to suggest that any damage and disturbance is increasing, as opposed to increased agitation around the principle of such use. We suggest that there is widespread disturbance caused by the use of motor vehicles in protected areas generally, with excessive use of minor country lanes by visitors’ vehicles, and problems caused with inappropriate parking highlighted during the first year of the pandemic. Yet there are no proposals to address restrictions on the use of motor vehicles generally in protected areas, even though these have a much wider and chilling impact on ‘tranquillity’, and the use of roads, and particularly minor country lanes, by walkers, horse riders, cyclists and carriage drivers.

Instead, Defra has chosen to focus, without evidence, on the use of unsealed routes. We agree that there are conflicts arising from such use on some routes in some protected areas—that precisely is why section 22B of the Road Traffic Regulation Act 1984 confers powers on national park authorities to act in such cases. That those powers appear seldom to be used—indeed, that Defra appears unaware of their existence—reinforces the evidential weakness in these proposals.

*14. Should we give national park authorities and the Broads Authority and local highway authorities additional powers to restrict recreational motor vehicle use on unsealed roads?*

It is proposed to enable national park authorities to: ‘Issue Traffic Regulation Orders (TROs) to control the amount and type of traffic on roads’. It is not clear what is meant by these words. As noted above, national park authorities already have

powers to make such orders. It may be that the word 'issue' is intended to enable authorities to act without any prior requirement for consultation or process. However, we think that the existing requirements for making orders are themselves inadequate, requiring no consultation with any user groups, and any further relaxation would result in arbitrary action and unfairness. For example, nothing is said to recognise the risks of discrimination against the elderly and disabled and other protected classes in using unsealed routes for recreational purposes.

We also are concerned that any relaxation would make it easier for unmotorised users to be excluded from unsealed roads in order to relieve highway authorities from their obligation to maintain, to the detriment of all users. It is commonplace that roads which have been stopped up to motor vehicles begin to close in, such that after a few years, all that is usable is a thin narrow path, which sometimes even horse riders find awkward to use.

### **Restricting traffic speeds**

We recommend that there is a reduction in the default speed limit on rural roads in national parks and AONBs from 60 mph to 40 mph. This consultation is missing the point. Our protected landscapes are often choked under the weight of traffic, particularly in popular areas in the holiday season. Instead of worrying about the occasional motorised user on an unsealed road, the government response should address the more widespread and insidious problem of motorised traffic on roads, and particularly minor roads and country lanes, which prevent the public from enjoying the countryside by using these roads for unpowered transit, and which have a much wider impact by disturbance and pollution.

We also recommend the authorities be given new powers, freedom, funding and encouragement to restrict the speed of traffic across unfenced common land and unfenced shared-grazing, both through traffic regulation orders, and traffic-calming measures, where this would conserve and promote the continuation of commoning as part of the culture of upland areas. In such cases, the needs of commoning and the viability of upland agriculture should take precedence over the motorist. And such measures would be hugely beneficial too for wildlife, tranquillity and recreation.

*15. For which reasons should national park authorities, the Broads Authority and local authorities exercise this power?*

*Environmental protection*

*Prevention of damage*

*Nuisance*

*Amenity*

*Other [Please state]*

Local authorities and National Park authorities already have these powers for the reasons stated: see ss.22 and 22BB of the Road Traffic Regulation Act 1984.

*16. Should we legislate to restrict the use of motor vehicles on unsealed unclassified roads for recreational use, subject to appropriate exemptions? Yes – everywhere/ yes – in national parks and AONBs only, yes – in national parks only?*

No. We suggest that it is outrageous to propose such measures on the basis of anecdote. If the government is minded to act in this direction, it should gather evidence to support its implied assertion that national measures are necessary.

Any localised problems—and there is no evidence that such problems either are universal, or universal within protected areas—can and should be addressed through local action, such as was commended in Defra's own publication, *Making the Best of Byways*. We note that Defra has done nothing in the intervening period since that guidance was published in 2005 further to support local and national park authorities in dealing with any problems. Instead, it has cut grant funding to national park authorities, and the government has cut funding to local authorities.

A prohibition on use by motor vehicles will also have a damaging effect on the use and openness of many unsealed roads, particularly those in less popular areas. Such use often helps to keep the roads open to other users, including unmotorised users, owing to the decline in highway authorities' budgets which means there is little funding available for such routes. Bringing motorised traffic to an end will cause these routes to close up, will cause voluntary maintenance by motorised user groups to cease, and will encourage landowners to block and obstruct, and not to fulfil their obligations to cut overhanging vegetation. This would be the consequence of national measures which are appropriate only to particular, localised situations.

*17. What exemptions do you think would be required to protect the rights and enjoyment of other users eg residents, businesses etc?*

If the government decided to proceed in this way, we question what provision should be made for the continuing duty of maintenance. Should an unsealed, unclassified road continue to be maintained by the highway authority as fit for all traffic, even though the only motorised traffic which would be entitled to use the way would be access by frontagers? In our view, it would be extraordinary if highway authorities were required to maintain to an unchanged standard purely for the benefit of landowners along the way.

### **The role of AONB teams in planning**

*18. What roles should AONB teams play in the plan-making process to achieve better outcomes?*

*19. Should AONB teams be made statutory consultees for development management?*

Yes, definitely.

*20. If yes, what type of planning applications should AONB teams be consulted on?*



*AONB teams should formally agree with local planning authorities which planning applications should be consulted on*

Yes

*AONB teams should be consulted on all planning applications that require an EIA and are categorised as 'major development' as well as NSIPs.*

Yes

#### **Chapter 4: Supporting local delivery**

##### **Local governance**

*21. Which of the following measures would you support to improve local governance?*

*Improved training and materials*

Yes

*Streamlined process for removing underperforming members*

Yes

*Greater use of advisory panels*

Yes

*Greater flexibility over the proportion of national, parish, and local appointments*

We would not wish to see any reduction in the proportion of national appointments for these nationally-important landscapes

*Merit-based criteria for local authority appointments*

Yes, local authority appointees should be personally committed to promoting the purposes of national landscapes and believe in them.

*Reduced board size*

No view

*Secretary of State appointed chair*

Yes, or some other method which ensures the chair has suitable qualities

##### **Management plans**

Management plans are of great importance in furthering the statutory purposes of the protected landscapes, and there needs to be a mechanism to ensure that they involve other relevant organisations, and track achievements against targets. The new duty on public bodies to further the purposes of protected landscapes is important here. The management plans need to set out what other organisations have agreed to do to ensure that targets are met, with a mechanism to ensure that

those who do not fulfil their promises are required to do so, or penalised in some way.

### **A clearer role for public bodies**

*22. Should statutory duties be strengthened so that they are given greater weight when exercising public functions?*

Yes, they must be required to further the purposes of national landscapes, and they must report annually on how they have done this, and be held to account.

*23. Should statutory duties be made clearer with regard to the role of public bodies in preparing and implementing management plans.*

Yes, as stated above.

### **Sustainable financing**

It is deeply disappointing that, having set out its vision, government admits that its vision cannot be delivered on the core grant, and that there must be 'private and blended financing models'. This is odious: it means that those who manage our protected landscapes must become fund-raisers, threatening Disneyfication of our wild areas, and in competition with the voluntary sector. That is not 'public funding for public goods'. Government must invest in our protected landscapes, and the investment must come from all government departments, not just Defra, because the benefits from such investment are wide ranging and deep.

### **General power of competence**

*24. Should NPAs and the Broads Authority have a general power of competence?*

We support this in principle provided it is focused on achieving national park purposes. However, national park authorities already have wide powers conducive to the achievement of their purposes under s65(5) of the Environment Act 1995, and (in England) a general power of competence under s65A. We are unconvinced that authorities need or want still wider powers, even if there is a desire to enable authorities to 'fully explore the commercial opportunities arising from green finance'. If that is the sole driver, then the government should legislate to enable it, and not confer unneeded and distracting broader powers. If the government considers there are other things which a national park authority ought to be able to do but is unable to do at present, it should recite the limitations in justification for new enabling powers.

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