

Broads Authority

18 March 2022

Agenda item number 8

Landscapes Review – response to Government consultation

Report by Chief Executive

Purpose

To consider the Broads Authority's draft response to the Government consultation associated with the Landscapes Review, following the feedback from the Authority's Member Workshop held on 24 February.

Broads Plan context

The Landscapes Review and the Government's response to it are examining the potential to strengthen the engagement of public bodies in protected landscape management plans, which would be welcomed.

Recommended decisions

To agree a response to the Government's consultation associated with the Landscapes Review (Appendix 1);

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1. Background

- 1.1. In May 2018 Michael Gove, then Secretary of State for the Environment, initiated a review of National Parks and Areas of Outstanding Natural Beauty (AONBs) in response to the 25 Year Environment Plan. The Review Team, led by Julian Glover, was asked to consider what might be done better, what changes might help those who live and work in our protected landscapes, and whether current definitions and systems were sufficient.
- 1.2. The Landscapes Review Final Report was published on 21 September 2019 and can be found at: [DEFRA - Landscapes Review - Final Report 2019 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/424442/DEFRA-Landscapes-Review-Final-Report-2019.pdf)
- 1.3. The Review contained 27 proposals, some of which would require changes to the primary legislation, the creation of new bodies and substantial additional resources. The Government's response to the Review was published on 15 January 2022 and can be found at: [Landscapes review \(National Parks and AONBs\): government response - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/landscapes-review-national-parks-and-aonbs-government-response)
- 1.4. At the same time, the Government launched a public consultation consisting of 25 questions. There will be a further response from the Government following the consultation, which closes on 9 April.
- 1.5. This report is based on feedback from the Authority's members at the workshop held on 24 February to consider questions identified as the highest priority. The key issues raised are summarised in Section 3 and relate to purposes, governance and finance. A draft response to the consultation is at Appendix 1
- 1.6. Members raised the wider strategic point that there is a contradiction in the Government response, which is proposing to widen the responsibilities of National Park Authorities and the Broads Authority, for example to include health and wellbeing, at a time when their financial resources have been, and are continuing to be, cut. The benefits of green social prescribing linking people to nature-based interventions and activities are now well established, but without additional resources it is impossible for the protected landscapes to make any significant contribution to this.

2. Draft response to the more straightforward issues

- 2.1. Some of the questions seem relatively straightforward, and there appeared to be considerable agreement at the workshop on how the Authority should respond to some of the high priority questions. This section deals with those issues.

Questions 8 and 9 - Agricultural Transition

- 2.2. The Authority's engagement with farmers, landowners and managers and the staff members of the Norfolk Coast AONB in the delivery of Farming in Protected Landscapes

Scheme (FIPL) has been a success. Most of the bullet points suggested in the consultation could be ticked, including the final one: “Building on FiPL, empowering protected landscapes to support decision-making and delivery against agreed priorities, including through dedicated project coordinators and advisers”.

- 2.3. On the preparation of Local Nature Recovery Strategies (LNRS), officers have long since learnt the importance of working across the whole of the Broads catchment, which covers a large portion of Norfolk and Suffolk, and it would make little sense focusing only on the Broads in the context of preparing a LNRS.

Questions 10, 18, 19 and 20 - AONBs

- 2.4. The Authority’s officers work closely with and support the Norfolk Coast AONB in Norfolk, which partly overlaps with the Broads executive area. The Authority also keeps updated on main issues for the Suffolk Coast & Heaths AONB and Dedham Vale AONB in Suffolk.
- 2.5. Officers are of the view that we support the ambitions for these areas to have a greater role in planning, particularly in commenting on significant planning applications as a statutory consultee and in having a second purpose relating to connecting people and places. We are less sure about what role AONBs should have in the plan-making process.

Questions 22 and 23 - A Clearer Role for Public Bodies

- 2.6. Section 17A of the Norfolk and Suffolk Broads Act 1988 is entitled “General duty of public bodies etc.” and states the following:
 - (1) In exercising or performing any functions in relation to, or so as to affect, land in the Broads, a relevant authority shall have regard to the purposes of—
 - (a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
 - (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and
 - (c) protecting the interests of navigation.
- 2.7. There is a similar provision for National Parks (Section 62) and the argument for some years is that “shall have regard to the purposes of” is weak and a better wording would be “to further the purposes of”. This would appear to have merit and is suggested for support by the Authority.

Questions 24 - General Power of Competence

- 2.8. There are different views between National Park Authorities on this issue. Some feel the legislation provides powers for their organisation to carry out all the activities it needs to deliver its statutory purposes, while others are concerned they are not able to act with all the freedom they need.
- 2.9. The General Power of Competence (GPC) was introduced by the Localism Act 2011 and took effect in February 2012. It gives councils the power to do anything an individual

can do provided it is not prohibited by other legislation. It applies to all principal councils (district, county and unitary councils, etc) and to eligible parish and town councils. It replaces the wellbeing powers in England provided under the Local Government Act 2000.

2.10. **Section 2 (7) of the Norfolk and Suffolk Broads Act 1988** states:

(7) The Authority shall have power to do anything which is necessary or expedient for the purpose of enabling it to carry out its functions, or for incidental purposes, including power—

(a) to acquire, manage, reclaim and dispose of land or other property;

(b) to carry out any building or other operations; and

(c) carry on any business or undertaking.

2.11. This is drawn fairly broadly, and the Authority has not identified the same issues as some of the National Park Authorities. It is therefore arguable that including the General Power of Competence in the Broads Authority's legislation would have much practical impact, other than a symbolic statement (although that might in itself be useful). We are unsure of the value of this proposal and suggest we seek legal advice on the point.

3. Response to less straightforward matters

3.1. From the debate at the member workshop, there appear to be three areas on which there are more differences of opinion: Purposes, Local Governance and Finance. These are considered in this section.

Questions 6, 7 and 11 - Purposes

3.2. Members supported the proposal that the purposes needed to be strengthened to encapsulate the major challenges we face in terms of biodiversity recovery and climate change, and the importance of improving "connections to all parts of our society with our protected landscapes". While it was considered important to maintain alignment as far as possible in the wording for the National Park Authorities it was felt that, rather than adding extra words to the existing clauses, a root and branch review of the purposes, including that for navigation, could be undertaken. However, the term 'biodiversity' was considered preferable to 'wildlife'. It is suggested that officers could represent the Authority's views to Defra officials and officers from the English NPAs to see what level of agreement can be reached on revised wording to the purposes, and that options be presented for members to consider in due course. Members and officers agreed that changing the wording of the purposes in itself achieves very little, and additional resources would be needed to effect change.

3.3. Members are invited to confirm the view from the workshop that the purposes need strengthening; that a more substantial review of the wording is necessary rather than bolting on additional areas of responsibility without additional resources; and that

officers be tasked with raising this approach with Defra officials and colleagues in the English National Park Authorities, and developing options for members to consider.

- 3.4. Proposal 23 (Stronger purposes in law for our national landscapes) in the Landscapes Review argued that:

“Where there is a conflict between any of the three purposes, and the further navigation purpose assigned to the Broads, then greater weight must be given to the first of these purposes under an updated ‘Sandford Principle’ that applies to all our national landscapes and not just to National Parks as it does currently.” (p.135)

- 3.5. The only related statement in the Government’s response is:

“We will obviously need to consider the effects of any changes to statutory purposes separately for the Broads, which has a third statutory purpose in relation to navigation.” (p 8)

- 3.6. While there was no detailed discussion at the workshop on the Sandford Principle, the Chief Executive outlined the reasons why the Authority had maintained the position the prioritisation of the purposes would not be helpful in the integrated management of the Broads. There was little evidence that it had helped or even been used in decision making by National Park Authorities and in the case of the Broads Authority’s approach to management it would be detrimental. For the Broads, none of the three purposes are given any priority and it is for the Broads Authority Board to take a view on any particular matter as to where the priority should lie. In practice the Authority seeks, where possible and appropriate, to find beneficial outcomes for all its purposes in its activities.

- 3.7. Members are invited to confirm that the Authority should maintain its opposition to the application of the Sandford Principle to the Broads Authority’s purposes.

Questions 21 - Local Governance

- 3.8. There was agreement on some questions in this section, though the meaning behind the wording of some questions was not obvious. For example, the bullet point “Improved training and materials” was difficult to disagree with, but what training and materials were envisaged is unclear.
- 3.9. In the discussion on a “streamlined process for removing underperforming members”, it was not clear what process was in place currently, whether ‘underperforming’ related to misconduct issues, or just to a member underperforming in terms of strategic thinking, knowledge etc. and which criteria would initiate the process. In 2008 the Authority opened up the appointment process for the Navigation Committee, including an independent Chair in the shortlisting and interviewing of potential candidates, and this has had a positive impact. “Merit-based criteria for local authority appointments” received support, though the means to achieve this would need to be defined more clearly.

- 3.10. The Government's response states: "We would like to see greater integration of advisory panels into the development and implementation of statutory management plans by providing specialist expertise and ensuring local voices are heard on decisions that impact local communities." The "greater use of advisory panels" was not fully understood nor totally supported at the workshop. An alternative mentioned by members was to establish a partnership board with key delivery bodies to support the implementation of the Broads Plan. The next bullet point about greater flexibility in the proportion of different categories of membership was not supported, as Section 7 of the Norfolk and Suffolk Broads Act already gives the Authority great flexibility in seeking amendment to the membership of the organisation if there is sufficient agreement on the proposed changes.
- 3.11. There was little support for the Secretary of State appointing the Chairs of National Park Authorities and the Broads Authority. It was suggested that this would potentially politicise the work of the Board and might create conflict between the Chair and the members. However, the need for the Chair to be politically neutral was felt to be a key feature of the appointment.
- 3.12. **Reduced Board Size** – The Government response states (p21):
"Reducing board sizes would simplify decision-making processes, boost efficiency and follow best practice governance models. Proposal 26 recommended capping boards at 12 members, but this may not be appropriate in areas with large numbers of local authorities."
- 3.13. There was some support at the workshop for a smaller Board but how this could be achieved while still maintaining local democratic accountability was unclear. Four English National Park Authorities are in areas where the local government arrangements are being restructured with the introduction of unitary authorities and this is being used as the catalyst for reducing the size of the NPA Boards.
- 3.14. Members are invited to confirm that that the Authority supports the principle of a smaller Board but waits to see how the Government responds to this issue following the current consultation before further considering how this might be achieved.

Question 25 - Overall

- 3.15. Question 25 provides an opportunity to raise any other issues not covered in the consultation, particularly as many of the questions allow only binary 'yes/no' answers. A key issue raised at the workshop under this heading concerns the complexity of the Authority's financial and audit arrangements, given the size of the organisation.

More Financial Security

- 3.16. Proposal 27 of the Landscapes Review was for a new financial model – more money, more secure, more enterprising. The Government's response (see pp 23-24) is that:
"We have already increased the grant settlement for AONB teams by almost £1 million (15%) for the current financial year, however there is relatively limited scope to increase the core grant by the scale suggested in the review, or to provide longer

funding settlements that extend beyond a spending review period. Therefore, the core grant does not provide the opportunity to increase funding to the scale needed to deliver our vision.”

- 3.17. The focus for the Government response is on commercial income and attracting private finance.

“We expect protected landscapes, individually and collectively, to develop and harness the commercial and sponsorship opportunities provided by their unique brand identity. Driving this agenda should be a key objective of the new national landscapes partnership, which should publish a commercial strategy within a year of being established and target a minimum of five new flagship partnerships across the network by 2025.” (p24)

- 3.18. The reality is that the ongoing reduction in National Park Grant in real terms is having a significant negative impact on the Authority’s level of activity despite its success in winning external funding. In 2010/11 the Broads Authority received £4.23 million in National Park Grant. That would be worth £5.55 million now compared to the current Grant of £3.2 million - in real terms, a reduction of 42%.

Separation of National Park and Navigation Income and Expenditure

- 3.19. The Review also stated (p 142) that:

“Other unnecessary complexities, such as the requirement for the Broads Authority to account for income and expenditure from National Park Grant and Navigation separately, or the payment of AONBs in arrears, should also be addressed.”

- 3.20. The Government response is silent on this matter.

- 3.21. In the preparation for the Broads Authority’s Private Bill, agreement was reached with the Royal Yachting Association and British Marine that the requirement to maintain a separate Navigation Account could be removed subject to certain other amendments to the Bill, including the inclusion of a clause requiring the Authority to “prepare a report as soon as reasonably possible after the end of each financial year describing the navigation income received by it and the navigation expenditure incurred by it in that year.” This clause was inserted into the Broads Authority Act 2009 and has been implemented.

- 3.22. However, Defra at the time did not support the use of National Park Grant to support the maintenance of the navigation and the Authority is still required to “to secure that taking one financial year with another navigation expenditure is equal to navigation income”.

- 3.23. This makes the Authority’s accounting arrangements complex, particularly as most of its expenditure lines are shared between its functions. The COVID pandemic gave a graphic and immediate example of the weakness of this situation. A collapse in the Authority’s Navigation Income when hire boat bookings evaporated and income was not forthcoming from private owners or commercial hirers left the navigation side of the Authority’s business in a dire financial position. It took several months of negotiation

with Defra officials for the Authority to get agreement to a special one-off dispensation to employ National Park Grant to support the navigation activity.

- 3.24. A holding response is proposed at question 25, which states that there is a strong appetite for simplifying the need for the Authority to account for income and expenditure from National Park Grant and Navigation separately. Subject to Defra's feedback, this change would require a further report for decision by members.

Audit Requirements

- 3.25. The audit arrangements for the Broads Authority with its turnover of between £7-8 million are in line with those for mainstream local authorities with turnovers many times greater. The Audit and Risk Committee has argued strongly that the audit arrangements should be amended to be more in keeping with the size and complexity of the organisation, and the costs reduced accordingly.

4. Conclusions

- 4.1. At this stage of the Landscapes Review, the Authority has been invited to submit its views to the Government on a limited range of questions. While much of the consultation is not considered contentious by members or officers, it provides an opportunity to consider less straightforward issues on the Authority's purposes, governance and financial arrangements.

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Background papers: [DEFRA - Landscapes Review - Final Report 2019 \(publishing.service.gov.uk\)](#) and [Landscapes Review \(National Parks and AONBs\): Government response - GOV.UK \(www.gov.uk\)](#)

[Broads Plan](#) strategic actions: All

Appendix 1 – Draft response to Landscapes Review – Government consultation

Appendix 1 – Draft response to Landscapes Review – Government consultation

Questions	Draft Response
1. Do you want your responses to be confidential? If yes, please give your reason.	No
2. What is your name?	Broads Authority
3. What is your email address?	governance@broads-authority.gov.uk
4. Where are you located? North East/North West/Yorkshire and The Humber/East Midlands/West Midlands/East of England/London/South East/South West/Remote	East of England
5. Which of the following do you identify yourself as? National Park Authority or the Broads Authority/AONB team/Local authority/Other public body/Environmental NGO/Other NGO/Professional body/Academic/Business/Resident of a protected landscape/Member of the general public/Other	Broads Authority
A stronger mission for nature recovery (p10)	Draft response
6. Should a strengthened first purpose of protected landscapes follow the proposals set out in Chapter 2? YES/NO/UNSURE.	Yes. Members suggest it should be part of a wider strengthening and updating of all the Broads Authority’s purposes. Officers to draft options for wording following discussion with Defra officials and National Park Authority colleagues.
7. Which other priorities should be reflected in a strengthened first purpose e.g. climate, cultural heritage? OPEN	Climate change and sea-level rise, and recovery of biodiversity, are high priorities for the Broads Authority.

Agricultural transition (p12)	Draft response
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.	
<ul style="list-style-type: none"> • Designing the environmental land management schemes in a way that works for all farmers and land managers, including the specific circumstances for those in protected landscapes, recognising that farmers in these areas are well-placed to deliver on our environmental priorities. 	Tick
<ul style="list-style-type: none"> • Using Local Nature Recovery Strategies to identify projects or habitats within protected landscapes. 	Tick
<ul style="list-style-type: none"> • Monitoring the effectiveness and uptake of the new environmental land management schemes in protected landscapes. Using this to inform whether further interventions are needed to ensure we are on track for wider nature recovery ambitions. 	Tick
<ul style="list-style-type: none"> • Creating a clear role for protected landscape organisations in the preparation of Local Nature Recovery Strategies. Our recent LNRS consultation specifically asks for views on the role of different organisations in the preparation of LNRSs, including protected landscapes. 	Tick
<ul style="list-style-type: none"> • Building on FiPL, empowering protected landscapes to support decision-making and delivery against agreed priorities, including through dedicated project coordinators and advisers. 	Tick
9. Do you have any views or supporting evidence you would like to input as we develop the role of protected landscapes in	The Broads Authority has contributed to the process through the Test and Trials programme of work and stands by to give

the new environmental land management schemes? OPEN	further expertise advice, particularly on lowland grazing and fen management.
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A stronger mission for connecting people and places (p14)	Draft response
10. Should AONBs have a second purpose relating to connecting people and places, equivalent to that of National Parks? YES/NO/UNSURE	Yes
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/NO/UNSURE	Yes – part of wider rewording of the Authority’s purposes
12. Are there any other priorities that should be reflected in a strengthened second purpose? OPEN	Need to have a further discussion with National Park colleagues and members

Managing visitor pressures (p16)	Draft response
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	The Broads Authority would like these powers and would hold them in reserve; our close working relationship with the Norfolk Constabulary is very effective.
• Make Public Space Protection Orders (PSPOs)	No
• Issue Traffic Regulation Orders (TROs) to control the amount and type of traffic on roads	No
14. Should we give National Park Authorities and the Broads Authority and local highway authorities additional powers	No

Managing visitor pressures (p16)	Draft response
to restrict recreational motor vehicle use on unsealed routes? YES/NO/UNSURE	
<p>15. For which reasons should National Park Authorities, the Broads Authority and local authorities exercise this power?</p> <ul style="list-style-type: none"> • Environmental protection • Prevention of damage • Nuisance • Amenity • Other [PLEASE STATE] 	Not relevant in the Broads
<p>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 Areas of Outstanding Natural Beauty only/Yes – in National Parks only/No/Unsure</p>	Not relevant in the Broads
<p>17. What exemptions do you think would be required to protect the rights and enjoyment of other users e.g., residents, businesses etc? OPEN</p>	N/A

The role of AONB teams in planning (p18)	Draft response
<p>18. What roles should AONBs teams play in the plan-making process to achieve better outcomes? OPEN</p>	Statutory consultees, with relevant funding
<p>19. Should AONB teams be made statutory consultees for development management? YES/NO/UNSURE</p>	Yes
<p>20. If yes, what type of planning applications should AONB teams be consulted on?</p>	Those where there is a significant impact on the special qualities of the area.

The role of AONB teams in planning (p18)	Draft response
<ul style="list-style-type: none"> • AONB teams should formally agree with local planning authorities which planning applications should be consulted on. 	No - should be set out in the legislation
<ul style="list-style-type: none"> • AONB teams should be consulted on all planning applications that require an Environmental Impact Assessment and are categorised as 'major development' as well as Nationally Significant Infrastructure Projects. 	Yes
<ul style="list-style-type: none"> • Other [Please state] 	The criteria should be set out in the legislation

Local governance (p20)	Draft response
21. Which of the following measures would you support to improve local governance? Tick all that apply.	
<ul style="list-style-type: none"> • Improved training and materials 	Yes
<ul style="list-style-type: none"> • Streamlined process for removing underperforming members 	Yes
<ul style="list-style-type: none"> • Greater use of advisory panels 	Not clear what this is – the Broads Authority already has the Navigation Committee as a statutory consultative body and works in partnership across a wide range of issues. Potential to establish a Partnership Board to monitor implementation of the Broads Plan.
<ul style="list-style-type: none"> • Greater flexibility over the proportion of national, parish and local appointments 	No
<ul style="list-style-type: none"> • Merit-based criteria for local authority appointments 	Yes
<ul style="list-style-type: none"> • Reduced board size 	Yes
<ul style="list-style-type: none"> • Secretary of State appointed chair 	No
<ul style="list-style-type: none"> • Other [Please state] 	The tick box exercise (yes/no) does not provide the full picture of the debate. We recommend that the BA report is read in

Local governance (p20)	Draft response
	conjunction with this response for further details, as some feedback raised questions rather than yes/no answers.

A clearer role for public bodies (p22)	Draft response
22. Should statutory duties be strengthened so that they are given greater weight when exercising public functions? YES/NO/UNSURE	Yes “further the purposes rather than have regard to“
23. Should statutory duties be made clearer with regards to the role of public bodies in preparing and implementing management plans? YES/NO/UNSURE	Yes

General power of competence (p24)	Draft response
24. Should National Parks Authorities and the Broads Authority have a general power of competence? YES/NO/UNSURE	Yes – subject to obtaining legal advice on the merits of this proposal

Overall	Draft response
25. If you have any further comments on any of the proposals in this document, please include them here. [FREE TEXT]	There is an inconsistency in the Government response, which is proposing to widen the responsibilities of National Park Authorities and the Broads Authority, for example to include health and wellbeing, at a time when their financial resources have been, and are continuing to be, cut. The benefits of green social prescribing linking people to nature-based interventions and activities are now well established, but without additional resources it is impossible for the protected landscapes to make any significant contribution to this. This comment also applies to AONBs in Norfolk and Suffolk.

Overall	Draft response
	<p data-bbox="788 277 1382 524">There is a strong appetite for simplifying the need for the Authority to account for income and expenditure from National Park Grant and Navigation separately. Subject to DEFRA's feedback, this change would require a further report for decision by members.</p> <p data-bbox="788 577 1382 734">The audit arrangements should be amended to be more in keeping with the size and complexity of the organisation, and the costs reduced.</p>