



The Exmoor Society

Conserving Exmoor for All

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As a charity that exists to promote the protection of Exmoor National Park for the benefit of all, The Exmoor Society is only responding to the question in the NPPF that directly relates to protected landscapes.

182) Do you agree the policy in Policy N4 provides a sufficiently clear basis for considering development proposals affecting protected landscapes and reflecting the statutory duties which apply to them? Strongly agree, partly agree, neither agree nor disagree, partly disagree, strongly disagree.

a) Please provide your reasons, including how policy can be improved to ensure compliance.

We support the substitution of “natural beauty” for “landscape and scenic beauty” in N4(1) as this reflects the legislation for Protected Landscapes. However, we are deeply concerned about the removal of the phrase “which have the highest status of protection”, especially when combined with the weakening of protections in N4(2).

Protected Landscapes have been recognised as having the highest level of planning protection in the country over many iterations of the NPPF and there has been no change in legislation to justify the removal of this phrase. On the contrary, the amendments to primary legislation introduced under Section 245 of the Levelling Up and Regeneration Act are intended to be a strengthening of the requirements to protect and enhance these areas.

We also note that the current NPPF paragraph 189 refers in footnote 66 to the extant National Parks Circular, which provides reassurance that this Circular still constitutes Government policy. The Circular provides a wealth of information on National Parks that it would not be appropriate to include in full in the NPPF, but signposting of the Circular through the footnote is appropriate. The wording in the Circular is routinely used by National Park Authorities and others in planning decisions within National Parks and is cross-referenced within the National Planning Practice Guidance (NPPG) resource on “landscape.” As this Circular has not been included in the Annex A list of Government statements that this NPPF would supersede, it is recommended that reference to it be reinstated within or as a footnote to N4(1).

We are also concerned about the difference between policy N4(2) and paragraph 190 in the existing NPPF which says that “permission should be refused for major development other than in exceptional circumstances...” whereas N4(2) says such proposals “should only be supported in exceptional circumstances”. This change turns a presumption for refusal into caveated support and is particularly concerning when considered alongside S5(2), which establishes where development can be resisted, including on sites outside settlements justified on the basis of unmet needs (S5(1j)). S5 places special significance on those policies in the NPPF that use the word “refused” and N4(2) is one of only two instances where the word “refused” has been removed from a policy, (the other is TR6 on highway impacts addressed under Question 155).

Furthermore, the proposed revisions to the NPPF risk diluting the wording of this policy by treating “exceptional circumstances” and “public interest” as one requirement/test. In fact, previous legal advice has been clear that to meet the high bar for allowing major development within Protected Landscapes, proposals must demonstrate that they are both exceptional and in the public interest. These wording changes weaken the protection afforded to Protected Landscapes and may allow development that would currently be considered unacceptable. We therefore strongly object to this change and request that the paragraph 190 wording is retained.

Policy N4(3) is an additional provision that allows for mitigation of any adverse impacts of major development, with footnote 71 also allowing compensation. The consultation paper says this “reflects the changes we think are needed following the amended legal duty in the Levelling Up and Regeneration Act 2023 that relevant authorities should ‘seek to further’ the purposes of these areas in exercising their functions”. Whilst mitigation and compensation are supported where harm is caused to protected landscapes, the first part of the hierarchy should be to avoid harm. By weakening N4(2), it has been made more likely that major development will be allowed to cause harm to Protected Landscapes which then needs mitigating and compensating for. This is contrary to the intention of the legislation to strengthen the level of protection given to Protected Landscapes and is potentially misleading for decision-makers as it does not adequately reflect the requirements of the new legal duty, and places too strong an emphasis on mitigation and compensation rather than protection and enhancement or avoiding harm.

We would remind MCHLG that this new duty applies to them as well, and that therefore they must consider the requirement to seek to further the purposes of Protected Landscapes when deciding upon any changes to the NPPF which affect these areas.

We recommend the following amendments:

- N4 (1) “Development proposals within Protected Landscapes should be limited in scale and extent and sensitively located and designed to avoid harm to their statutory purposes and special qualities. ~~Substantial~~ **Great** weight should be placed on the importance of conserving and enhancing the natural beauty of these areas, **which have the highest status of protection in relation to these issues**, and to conserving and enhancing wildlife and cultural heritage **particularly** in National Parks and the Broads”.
- Reinsert the footnote referencing the Circular on English National Parks and the Broads, and add reference to the Levelling Up and Regeneration Act amendments to primary legislation in section 245 and the Defra guidance on this.
- N4(2) “Proposals for major development within protected landscapes should ~~only be supported~~ **be refused other than** in exceptional circumstances⁷⁰ **and** where it can be demonstrated that the development is in the public interest...”

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