

Guidance for Assessing Landscapes for designation as National Park or Area of Outstanding Natural Beauty in England



(updated June 2021)

Guidance for Assessing Landscapes for designation

This document sets out the relevant legislation and its application in practice, outlines Natural England's general approach to designation and summarises the relevant governance and statutory procedures. It also describes Natural England's method for applying the legislation to the practical assessment of landscapes under consideration for designation.

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Foreword

This guidance is intended, primarily, for use by Natural England specialist staff to help identify whether land is likely to meet the statutory criteria for AONB or National Park designation.

We are, however, making it available on request to external audiences who may find it useful as an aid to understanding how decisions to designate are reached, and in providing relevant evidence to Natural England during the designation process.

We will consider and respond to any formal proposal to designate or vary the boundary of an AONB or National Park but will, at all times, retain discretion as to which if any proposals to take forward, and how and when to do so. In any case which may proceed, Natural England will form its own view on whether or not the statutory criteria are met. The final extent of the area to be the subject of any consequential designation or variation Order will also be entirely at Natural England's discretion.

This guidance will only be applied by Natural England once a decision to commit resources to an assessment of an area of landscape against AONB or National Park designation criteria has been made.

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1. Introduction

1.1. This document explains how Natural England normally expects to:

- assess landscapes against the statutory designation criteria for National Park or Area of Outstanding Natural Beauty (AONB) designation;
- identify detailed boundaries for any areas that are considered to meet these criteria; and
- implement any Designation or Variation Orders necessary to give effect to this.

1.2. The assessment process described in this document effectively constitutes the **second** phase of a potential designation or variation project. This guidance will only be used once a decision to commit to undertaking a designation assessment has already been reached by Natural England. This earlier decision will take into account a number of factors which may include the possibility that other management mechanisms may be more suitable, the likely availability of resources to execute a designation Order, and its relative importance when compared against other work priorities. The legislation gives Natural England full discretion as to how it chooses which projects to undertake.

1.3. Prior to the commencement of any designation project, screening against current regulatory requirements such as Impact Assessment and Strategic Environmental Assessment (SEA) should be undertaken. As a general rule, evaluation projects for landscape designation are likely to fall outside the remit of such assessments but having a clear screening decision is important to demonstrate that such requirements have been considered, if challenged later during the process.

1.4. This guidance updates and supersedes previous approaches developed by the former Countryside Agency for National Park and AONB assessment and boundary definition. It takes account of changes in the legislative framework relating to landscape designations as well as the outcome of previous designation work, including public inquiries and binding precedent from court cases.

1.5. Although this is a technical document written for use by specialist Natural England officers and their advisers, it is also intended to be available to assist local authorities, landowners and other stakeholders when considering issues relating to the inclusion of land in a National Park or AONB or when providing relevant evidence to Natural England during a designation project.

1.6. Most of the conclusions which need to be drawn during an assessment following this guidance, and any decision-making on landscape designation relies on expert, professional judgements, and the weighing of considerations, depending on the particular circumstances of each case. These decisions should be informed by professional advice where appropriate as well as information submitted by statutory consultees, the public and stakeholders. Natural England has a wide discretion in deciding what land should be designated, subject to review by the Secretary of State. This discretion is conferred upon it by statute. These matters are not readily susceptible to detailed guidance. This document can therefore only go part of the way towards seeking to offer guidance to those involved in the assessment of landscapes for designation. It is not intended to be complete or exhaustive guidance and it will be possible to depart from this guidance where the circumstances demand it. Above all, it is the actual words of the relevant statutory provisions which need to be applied in decision-making on designations.

2. Legal Framework

2.1. The statutory framework for protected landscapes in England was first established in the National Parks and Access to the Countryside Act 1949 (NPAC 1949). The legislation has been amended and added to many times since then. Today, land to be included in a National Park or AONB must meet the statutory designation criteria that are set out in the National Parks and Access to the

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Countryside Act 1949, as amended (for National Parks) or the Countryside and Rights of Way Act 2000 (for AONBs). These are reproduced in Appendix 5 and summarised below. They apply whether a new designation is made or the boundaries of an existing National Park or AONB are varied.

2.2. The requirements for designation can be summarised as follows (with the differences between National Park and AONB highlighted in bold):

	AONB	National Park
Technical criteria	Natural beauty	Natural beauty Opportunities for open-air recreation
Desirability	Desirable to designate ... for the purposes of... (defined below)	Especially desirable to designate ... for the purposes of... (defined below)
Designation	AONB (normally with AONB Partnership or exceptionally a Conservation Board)	National Park (with National Park Authority)
Purposes	Conserving and enhancing its natural beauty	Conserving and enhancing its natural beauty, wildlife and cultural heritage Promoting understanding and enjoyment of its special qualities by the public

National Park

2.3. Section 5(2) of the National Parks and Access to the Countryside Act 1949 defines a **National Park** as an extensive tract of country in England which it appears to Natural England that, by reason of its:

‘**natural beauty** and the opportunities it affords for **open-air recreation**, having regard to both its character and its position in relation to centres of population, **it is especially desirable** that it is designated for National Park purposes’.

2.4. Natural Beauty and (for National Parks only) Opportunities for Open-Air Recreation are the **designation criteria** which must be satisfied for an area to be designated.

2.5. The **purposes of a National Park** once designated are set out in section 5(1) as follows:

- conserving and enhancing its natural beauty, wildlife and cultural heritage, and
- promoting the understanding and enjoyment of its special qualities by the public.

The **purposes of a designation** once designated are not the same as the **designation criteria** which must be satisfied in order to designate. The designation purposes and designation criteria are often mistakenly conflated; and the cause of confusion as to what can be taken into consideration when designating an area.

2.6. Some further clarification is provided in the legislation:

- Reference to conservation and enhancement of natural beauty includes conservation of its flora, fauna and geological and physiographical features (section 114(2) NPAC 1949 for National Parks and

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section 92 (2)) CRoW for AONBs; these provisions apply only to the designation purposes once an area is designated; and not to the assessment of natural beauty as such, however see the note to paragraph 6.3).

- When considering the natural beauty of an area under consideration for National Park designation, account may be taken of its wildlife and cultural heritage (section 5(2A(a)) NPAC 1949).
- Land is not prevented from being treated as of natural beauty by the fact that it is used for agriculture, or woodlands, or as a park, or that its physiographical features are partly the product of human intervention in the landscape (s.99 Natural Environment and Rural Communities Act 2006 (-NERC)).
- When considering opportunities afforded for open-air recreation, account may be taken of the extent to which it is possible to promote opportunities for the understanding and enjoyment of an area's special qualities by the public (s.5(2A)(b) NPAC 1949).

Area of Outstanding Natural Beauty (AONB)

2.7. Section 82(1) of the Countryside and Rights of Way Act 2000 (CRoW) defines an AONB in England as an area that is not in a National Park but which appears to Natural England to be of such **outstanding natural beauty that it is desirable** that the protective provisions of Part IV of CRoW should apply to it for the purpose of conserving and enhancing the area's natural beauty. In such circumstances Natural England may, by order, designate the area as an AONB.

2.8. Some further clarification is provided in the legislation:

- Reference to conservation of natural beauty includes conservation of its flora, fauna and geological and physiographical features (s.92(2) of the CROW Act; this provision applies to the AONB purpose and not to the assessment of natural beauty as such, however see paragraph 6.3).
- Land is not prevented from being treated as of natural beauty by the fact that it is used for agriculture, or woodlands, or as a park, or that its physiographical features are partly the product of human intervention in the landscape (s.99 NERC).

Distinguishing National Park from AONB

2.9. The differences, at the designation stage, between National Park and AONB may be summarised as follows:

- AONBs need only meet the natural beauty test, National Parks must also meet the recreation test (see further paragraph 7.1);
- the test for desirability is different, with National Parks requiring the standard of 'especially' desirable (para. 8.6);
- AONB purposes do not include promoting understanding and enjoyment of the area's special qualities (para 8.8). They do apply to AONB Conservation Boards (para 8.8);
- in practice local authorities in many AONBs make a big contribution to promoting understanding and enjoyment; however, it is not a statutory purpose that can be taken into account at designation (para 8.9).

2.10. It is Natural England's view that the practical application of the natural beauty criterion is identical in National Park and AONB designation, despite there being differences in the degree to which the criterion is clarified in the legislation (see paras. 6.1- 6.5 and footnotes relevant to those paragraphs).

Practical application

2.11. As can be seen from the preceding section, the legislation contains no exhaustive definitions of some important concepts: natural beauty, opportunities for open-air recreation, the desirability of designation or how to determine the detailed boundaries of designations.

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2.12. Natural England has therefore considered in detail the way in which these concepts have been applied previously in designating National Parks and AONBs and ratified by Secretaries of State when confirming designations. This included the designation of the New Forest and South Downs National Parks, extensions to the Lake District and Yorkshire Dales National Parks and the extension to the Suffolk Coast and Heaths AONB. This guidance has been refreshed to reflect recent experience and best practice to ensure robust, rigorous and transparent assessment of landscapes for designation.

2.13. The remainder of this document addresses particular aspects of the relevant statutory provisions and then sets out guidance on how Natural England normally expects to apply the statute and assess key factors.

3. Natural England's approach to designation

Principles

3.1. Natural England may decide to use its statutory powers to designate tracts of land as either AONB or National Park in furtherance of its general purpose of conserving and enhancing the landscape.

3.2. Once an area has been selected for consideration for designation, it will be considered in detail, using this guidance. This guidance therefore explains how Natural England normally expects to apply the statutory designation criteria in practice when assessing landscapes for designation.

3.3. In considering whether to take forward a designation or variation project Natural England acts under Government guidance provided in 2004 that remains extant. This guidance states that 'ultimately, boundary changes should be rarely needed' and 'In considering responses to a consultation, the Countryside Agency [now Natural England] will have regard to local authority (or other) requests to extend or reduce the area being put forward for designation, but the final extent of the area to be the subject of a designation order will be entirely at Natural England's discretion'. We would not expect consultation on a limited boundary variation to lead to wholesale re-evaluation of boundaries elsewhere.

3.4. In the simplest possible terms, the consideration of designating land under the legislation raises the following questions:

- Does this landscape have sufficient natural beauty?
- Does this landscape offer sufficient opportunities for open-air recreation (National Parks only)?
- Is it (especially) desirable to designate this landscape as National Park or AONB?
- Where should the detailed boundary be drawn?

3.5. The main technique used to answer these questions is landscape character assessment. Landscape character assessments (LCA) exist for all areas of England and **describe** the character of the landscape (some in more detail than others) by dividing it into landscape character types and areas. Some LCAs go on to provide an **evaluation** of landscape condition, special qualities and guidance which can provide particularly useful information to inform Natural England's natural beauty evaluation process. Current best practice for undertaking LCAs is set out in *An Approach to Landscape Character Assessment* (Natural England, October 2014). It also defines the key terms that are used in such assessments.

3.6. The Landscape Institute has also prepared a Technical Guidance Note 02/21, *Assessing Landscape Value Outside Designated Landscapes*. This publication draws on the approach to evaluation set out in this guidance, but is not applicable to land being considered for national landscape designation, although evidence of landscape value from such assessment may inform the process.

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Table 1 Some key terms from Landscape Character Assessment (LCA)

Character: A distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different from another, rather than better or worse.

Characteristics: Elements, or combinations of elements, which make a particular contribution to distinctive character.

Elements: Individual components which make up the landscape, such as trees and hedges.

Features: Particularly prominent or eye-catching elements, like tree clumps, church towers, or wooded skylines.

Characterisation: The process of identifying areas of similar character, classifying, mapping and describing them.

3.7. Both the characterisation and evaluation parts of the technical designation assessment process can use the techniques of landscape character assessment to gather information in a structured way. Thus, a broad Study Area under consideration may be divided into smaller areas sharing the similar landscape character, to form a spatial framework for subsequent evaluation. This may be based on an understanding of landscape character set out within an LCA or may require preparation of a bespoke local LCA. Value free descriptions for each area should be prepared (characterisation stage A – see below). At the evaluation stage (stages B to E), judgments are made about the value of the landscapes within that spatial framework and the course of action that should be taken.

3.8. In the context of AONB and National Park designation, the **value** that is being assessed equates to the designation criteria for National Parks or AONBs as the case may be, and in particular the 'technical criteria' of natural beauty and opportunities for open-air recreation. The considerations relevant to these statutory criteria should be stated clearly and then subjected to assessment. For those areas where there is a weight of evidence that an area has sufficient natural beauty or opportunities for open-air recreation, a judgment also then needs to be made as to whether it is desirable to designate the land concerned as AONB or National Park.

3.9. Once Natural England is satisfied that it has identified an area that should be taken forward for designation, it is necessary to define a boundary in detail. This should be done employing the guidance on detailed boundary setting contained in this document at Section 5 and Appendix 4 and guidance produced by Ordnance Survey on Good Practice in Boundary Setting.

Practical application

3.10. In general terms, once a broad area of land potentially suitable for designation has been identified (known as the Study Area or Area of Search), the practical steps involved in assessing land for designation are as follows (see also the diagram below):

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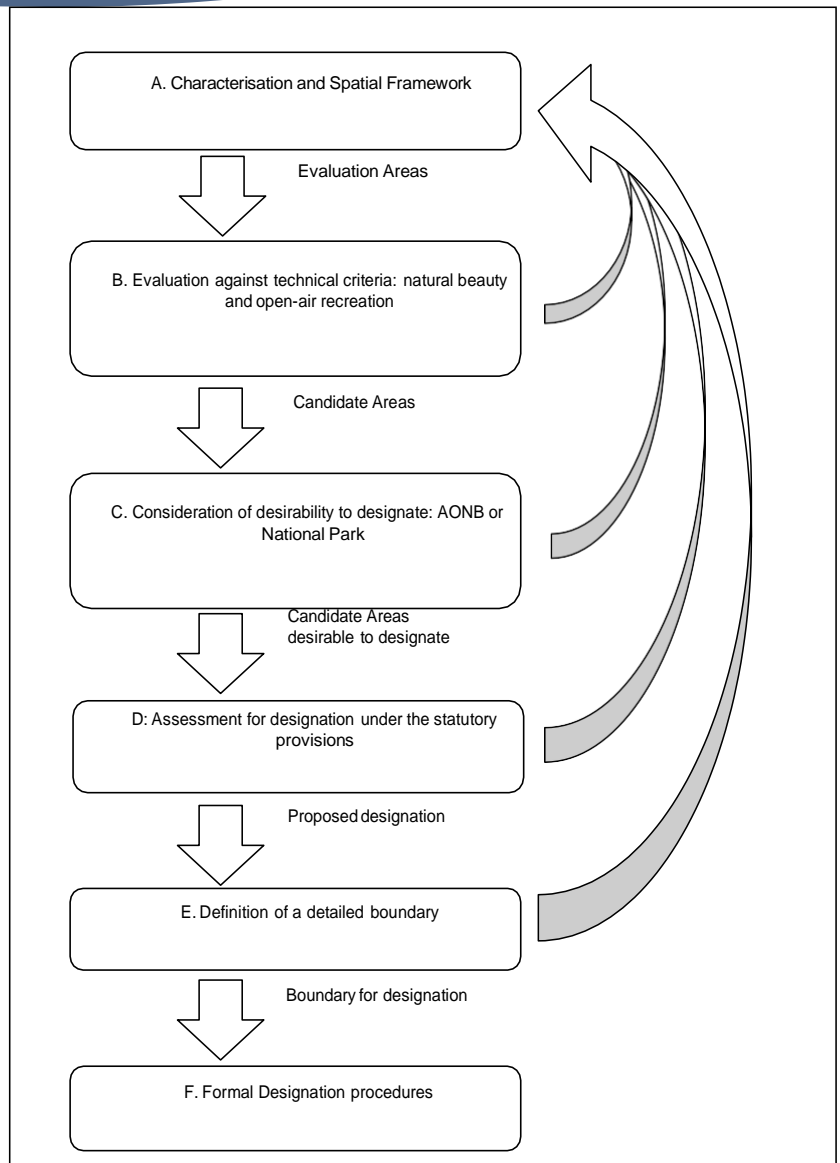
A. Characterisation and Spatial Framework (para 4.1): This is undertaken at an appropriate scale resulting in:

- a spatial framework of **Evaluation Areas** which are defined below; and
- a description of the character of these Evaluation Areas.

B. Technical Criteria (para 5.1ff): Each Evaluation Area is evaluated against the following technical criteria:

- natural beauty (paras 6.1 – 6.14) and opportunities for open-air recreation (para 7.1 – 7.11) in the case of National Parks; and
- natural beauty only in the case of AONBs.
- An area that appears likely to be able to meet the technical criteria is included in a **Candidate Area**.

C. Desirability to Designate (para 8.1 – 8.21): For each Candidate Area, consideration is given to whether it would be desirable to designate the area as part of a National Park or an AONB. At this stage, it may also be necessary to decide between the options of designating National Park or AONB.



3.11. This process can then be repeated, if necessary, at more detailed scales for those areas that qualified under the technical criteria (stage B) and are considered desirable to designate (stage C). The intention of this process is to undertake practical evaluation of landscapes to judge whether the building blocks of a potential designation are present.

D. Assessment for designation under the statutory provisions (para 8.20): For a potential designation area, it is necessary to stand back and ask in relation to the area as a whole whether it meets the tests set out in statute for designation, both the technical criteria and the desirability of designation consideration.

E. Definition of a Detailed Boundary (para 9.1 – 9.5): The areas identified for designation are examined to define a detailed boundary within them.

F. Formal Designation Procedures (para 10.1 – 10.19): Statutory Consultation, Notice Period and Designation or Variation Orders are made and submitted to the Secretary of State for confirmation.

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4. Characterisation and Spatial Framework

4.1. In order to aid the practical evaluation of a broad area of land potentially suitable for designation and to make evaluation a more manageable process, the broad study area is divided into units of an appropriate scale to provide a spatial framework of landscape units which have been termed **Evaluation Areas** in this guidance.

4.2. Evaluation Areas should normally be defined, at least initially, using recognised landscape character assessment techniques described in national guidance¹ - this may include the amalgamation of a number of character areas or types as defined in existing landscape character assessments to reflect broader areas and to keep the evaluation process manageable. Each Evaluation Area is characterised, resulting in character descriptions which provide a relatively objective and value-free evidence base for the next stage (evaluation). The characterisation covers not only landscape character (including the factors relevant to natural beauty) but also (for National Parks only) recreation.

4.3. The starting point should be the use of broad character assessments (eg at National Character Area level), followed by local character assessments (such as Landscape Character Assessments and Historic Landscape Characterisations prepared at County or District Council level, or local seascape analyses) to inform more detailed evaluation. It is important that the most up-to-date and reliable character assessment information is used. Ideally the character assessment should also have been subject to stakeholder consultation, indicating that it is supported by a broad consensus of opinion. A character assessment that provides a consistent spatial framework across the whole area under consideration is also helpful.

4.4. The use of Evaluation Areas is intended merely to make the practical work of detailed evaluation of landscapes more manageable. It is not intended to lead to the designation or exclusion from designation of any land merely because of the way in which Evaluation Areas have been defined. That is why the process is intended to be flexible and iterative in its application.

5. Technical Criteria: General

Principles

5.1. The technical criteria for designating National Parks are natural beauty and opportunities for open-air recreation. In the case of AONBs it is only natural beauty.

	AONB	National Park
Technical criteria	Natural beauty	Natural beauty Opportunities for open-air recreation

5.2. Natural England considers the practical application of the natural beauty criterion to be identical for both National Park and AONB, despite the fact that there is a difference in the extent to which it has been expressly set out in the legislation (see paragraph 6.1 - 6.5 for further details). Accordingly, the only technical difference² between areas capable of being designated National Park or AONB is that, in order to be designated National Park, an area must also meet the recreation criterion.

¹ An Approach to Landscape Character Assessment, Natural England (2014)

² Apart from differences relating to the desirability of designation.

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5.3. The following general guidance is given as to how the technical criteria should normally be applied:

- Natural England considers the practical application of the natural beauty criterion to be identical for both National Parks and AONBs, despite the fact that there is a difference in the extent to which it has been expressly clarified in the legislation (see paragraphs 6.1 - 6.5 and relevant footnotes).
- Land to be included in a proposed designation does not need to be of the same or similar character.
- In the case of National Parks, there should normally be a degree of concurrence between the land which meets the natural beauty criterion and land which meets the recreation criterion. However it is not necessary that they overlap completely.
- Field-by-field evaluation is not appropriate.
- There is no requirement that every parcel of land must meet either or both of the criteria (ie there may be, and is very likely to be, small areas of land which meet neither).
- The decision to include land that does not itself meet the technical criteria depends on the location, scale and effect of that land. Particular care is required however at the margins of a designation. Within the main body of a National Park or AONB there is likely to be greater scope for the inclusion of more sizeable areas of land which do not themselves meet the technical criteria.
- If an area is fragmented by land which does not meet the technical criteria to such an extent that it affects the ability of the area as a whole to meet the technical criteria, then the entire Evaluation Area is unlikely to qualify.
- Section 99 of the NERC Act clarifies that landscapes that are partly the product of human intervention can still have natural beauty and may be included in designations. This principle is very significant in the context of English landscapes.
- A designation can ‘wash over’ (i.e. include) a tract of land even though that land does not itself meet the designation criteria, even close to the boundary of a designated area, provided its sits within a sweep of qualifying land³
- It is not necessary to identify a precise ‘hard’ boundary for a Candidate Area within which the technical criteria are considered likely to have been met at the evaluation stage. However, gradual or sudden changes in quality or character near the margin of an Evaluation Area should be recorded, as they may be important for subsequent detailed boundary setting.

Practical application

5.4. Each Evaluation Area is evaluated against the technical criteria. An area that appears likely to be able to meet the technical criteria (either by itself or with other areas as part of a larger designated area) is included in a Candidate Area for designation.

Table 2 Candidate Areas

Appears likely to meet technical criteria for:		
Natural Beauty	Open-air recreation	Candidate Area for...
yes	yes	National Park or AONB
yes	no	AONB only
No	yes	Not a Candidate Area

³ This approach was applied in the Secretary of State’s decision on the South Downs National Park and was described as ‘the washed-over’ principle’ (Letter on behalf of the Secretary of State for Environment, Food and Rural Affairs, 31 March 2009, —Proposed South Downs National Park at paragraph 65).

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No no Not a Candidate Area

5.5. At a subsequent stage (addressed under 'Desirability' at para 8.21), it is necessary to consider whether a number of Candidate Areas together, or Candidate Areas and an existing designation in the case of a boundary review, form an extensive tract that satisfies the National Park designation criteria, or an area which satisfies AONB designation criterion. This is significant because the statutory criteria for designating land as a National Park or AONB apply to the *extensive tract* or the *area* in question respectively. It is the National Park or AONB as a whole which must satisfy the relevant technical criteria.

5.6. As is explained in paragraph 4.1, in practical terms it is simpler and more manageable to undertake the initial evaluation in relation to parts of a potential National Park or AONB area or extension area – ie the Evaluation Areas – rather than for the National Park or AONB area as a whole. This is not, however, a substitute for the assessment of whether a potential designation area as a whole complies with the relevant statutory provisions, which must follow the initial evaluation.

5.7. An Evaluation Area may contain land that meets the criteria to varying degrees. Such variations should be identified. A decision can then be made on whether to exclude the non-qualifying parts of the Evaluation Area from the potential National Park or AONB designation, or whether in the context of the area as a whole they can be included. Alternatively, the extent of an Evaluation Area may be adjusted, so that a revised area of land is then re-considered against the technical criteria.

5.8. The result of the evaluation stage of the assessment is that all or part of each Evaluation Area that appears likely to be able to meet the technical criteria (either by itself or with other areas as part of a larger designated area) is identified as a **Candidate Area** for potential National Park and/or AONB designation. In cases where the judgment is not clear cut one way or the other, the area may be identified for further and more detailed scrutiny during boundary setting.⁴

5.9. Below we set out our recommended approach to evaluating the technical criteria in detail. It is based on factors, sub-factors and indicators which taken together tend to show whether or not a criterion is satisfied. However, the assessment of a landscape against the two technical criteria is not a simple 'tick box' exercise. Once appraisal in relation to the listed factors and indicators has been undertaken it will be necessary to stand back and ask whether, having regard to all relevant considerations, the land has sufficient natural beauty and opportunities for open-air recreation, in line with the relevant statutory provisions. The listed factors and indicators are not intended to alter or replace the statutory criteria but merely to provide practical guidance for the assessment of areas against the criteria. It is important to record in detail the extent to which there is evidence in support of each of the factors and indicators to ensure judgements reached are transparent and can be robustly defended (examples of model evaluation reports can be found in appendix 6).

6. Natural Beauty

Principles

6.1. Natural beauty is not exhaustively defined in the legislation. It is also a very subjective characteristic of a landscape and ultimately involves a value judgment. In deciding whether an area has natural beauty, Natural England must therefore make a judgment as to whether people are likely to

⁴ An Evaluation Area may contain land that meets the criteria to varying degrees. Such variations should be identified. A decision can then be made on whether to exclude the non-qualifying parts of the Evaluation Area from the potential National Park or AONB designation or whether in the context of the area as a whole they can be included. Alternatively, the extent of an Evaluation Area may be adjusted, so that a revised area of land is then re-considered against the technical criteria

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perceive a landscape as having sufficient natural beauty. In order to make these judgments (some of which are subjective) in a transparent and consistent way, this Guidance sets out which criteria Natural England intends to use.

6.2. In England it is widely accepted that the beauty of all our most cherished landscapes is in part due to human intervention such as agriculture and forestry. It has long been the practice to include such factors in the assessment of natural beauty. This is now clarified in statute, and in the case of both AONBs and National Parks land is not prevented from being treated as being of natural beauty by the fact that it is used for agriculture, or woodlands, or as a park, or that its physiographical features are partly the product of human intervention in the landscape (s.99 of NERC Act).

6.3. It is Natural England's view that fauna and flora (i.e. wildlife), geological and physiographical features⁵ and cultural heritage can contribute to the perception of natural beauty of all landscapes and that any assessment of natural beauty must take these factors into consideration, whether in relation to a National Park or an AONB designation.⁶ For example, the presence of particular wildlife or cultural heritage features can make an appreciable contribution to an area's sense of place and thereby heighten the perception of natural beauty. There is now express statutory clarification that wildlife and cultural heritage may be taken into account in assessing natural beauty for National Park designations (s.59(1)) of NERC).

6.4. During the passage of the NERC Bill through Parliament, Lord Bach for the Government explained that the intention, and the current practice, is that wildlife and cultural heritage considerations are factored into the natural beauty assessments rather than being free-standing tests in their own right.⁷ Whilst this statement was made in connection with National Parks, past and present practice has been to treat the practical assessment of natural beauty in National Parks and AONBs in the same way.

6.5. Notwithstanding the differences in the express statutory provisions, the Government's formal position during the passage of the NERC Act was that the natural beauty required of a National Park and an AONB are the same.⁸ Natural England considers that there is no material difference between the requirements in practical terms of the natural beauty criterion in the two pieces of legislation. Accordingly, if an area meets the natural beauty criterion, Natural England will normally consider it to have natural beauty of a standard suitable for either National Park or AONB designation.

Practical application

6.6. The systematic evaluation of natural beauty can be a complex exercise requiring careful assessment and judgment. Natural England has developed a list of **factors that have been accepted as contributing to natural beauty**. It provides a practical framework for an evidence-base which assists in making judgments about natural beauty in a rigorous and transparent way. The factors have been drawn from both past landscape character assessment guidance and precedent from previous designations. They are shown in Table 3 and more fully in Appendix 1.

⁵ This view does not rely on the 'extended definition' of natural beauty contained in s.114(2) NPAC and s.92(2) CRoW which refer specifically to the purpose of 'conserving and enhancing' natural beauty, not the designation criterion.

⁶ The European Landscape Convention defines landscape as *an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors*.

⁷ Lords Hansard 27 Feb 2006 (Col 79)

⁸ See Lords Hansard 20 Mar 2006 (Col 51) and Commons Hansard 13 June 2000 (Col 556W). That the natural beauty criterion was the same for National Parks and AONBs was also accepted by the Inspector in the re-opened South Downs National Park inquiry and by the Secretary of State in confirming the designation of the South Downs National Park.

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6.7. The factors listed in this guidance for the two technical criteria are the main relevant factors. The lists are not intended to be exhaustive and other factors may be relevant in some circumstances. Not all factors will be relevant in every case.

6.8. Each of these factors is itself divided into sub-factors, which are judged by indicators (**see Appendix 1**). The indicators are statements of the features, characteristics and qualities which tend to indicate whether a particular factor is present. The factors, sub-factors and some example indicators in Appendix 1 are not presented in order of importance.

Table 3 Factors related to Natural Beauty

Landscape quality This is a measure of the current physical state or condition of the landscape and its features.
Scenic quality The extent to which the landscape appeals to the senses (primarily, but not only, the visual senses).
Relative wildness The degree to which relatively wild character can be perceived in the landscape and makes a particular contribution to sense of place.
Relative tranquillity The degree to which relative tranquillity can be perceived in the landscape. ⁹
Natural heritage features The influence of natural heritage on the perception of the natural beauty of the area. Natural heritage includes flora, fauna, geological and physiographical features.
Cultural heritage The influence of cultural heritage on the perception of natural beauty of the area and the degree to which associations with particular traditions, people, artists, writers or events in history contribute to such perception.

6.9. The sub-factors and associated indicators should be regarded as a 'menu' of examples (developed from past designations and subsequent consultation) from which those appropriate to the character of the landscape under consideration should be chosen, adapted or added to. There is no 'scoring' involving accumulations of indicators and it is possible for a landscape to exhibit natural

⁹ See MacFarlane, R., Haggett, C., Fuller, D., Dunsford, H. and Carlisle, B. (2004). *Tranquillity Mapping: developing a robust methodology for planning support*, Report to the Campaign to Protect Rural England, Countryside Agency, NorthEast Assembly, Northumberland Strategic Partnership, Northumberland National Park Authority and Durham County Council, CESA, Northumbria University. See also <http://www.cpre.org.uk/campaigns/landscape/tranquility>

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beauty or offer opportunities for open air recreation even if a number of the indicators suggested in Appendix 1 are not present.

6.10. It is useful to highlight some general points on the application of the natural beauty criterion:

- There is no need for a National Park or AONB to display a distinctive or coherent identity. A designation can contain different landscapes so long as the designation as a whole satisfies the natural beauty criterion.¹⁰
- **Not all factors or indicators have to be present across a designation.** Different parts of a designation can satisfy the natural beauty criterion for different reasons, provided that overall, the area is of sufficient natural beauty to be designated as a National Park or an AONB.
- The weight and relative importance given to different factors or indicators may vary depending on the geographic context. For example, in the South Downs, less weight was given to relative wildness and more to relative tranquillity and natural and cultural heritage features, reflecting the area's lowland, settled character and proximity to major centres of population. Comparisons are not to be made to other designated areas or adjacent areas but against 'wider countryside'¹¹.
- Natural beauty is assessed in terms of the current landscape, not some future potential for improvement¹². A rare exception may however apply where an existing initiative will deliver positive change of a standard which will meet the natural beauty criterion within the short term and for which there is a high degree of certainty that it will be achieved.

6.11. The effect of **settlements** and other major developments are assessed on their individual merits by considering their particular character and qualities and their relationship to the adjoining landscape. While this could be said to be true regardless of settlement size, in some cases a settlement may detract from the landscape to such an extent that it should be considered an incongruous feature. It is recognised that many settlements have cultural / geological heritage qualities that can make a positive contribution to natural beauty for example use of local stone reflecting the geology of the area and influencing local vernacular styles.

6.12. The effects of **incongruous features** are assessed for the extent to which they detract from the natural beauty of an area under consideration. It is relevant to take into account the degree to which a feature is temporary or transient. If an incongruous feature does not adversely affect natural beauty, it is not relevant that the feature does not in itself have natural beauty. It is a matter of judgment whether an incongruous feature has such an adverse effect that the whole potential designation fails to meet the natural beauty criterion (even though the area might, in the absence of the detractor, qualify) or whether it can be included. The cumulative impact of such features and the degree to which qualifying parts of the potential designation are fragmented by incongruous features may be relevant to the assessment.

6.13. Where there is an area of non-qualifying land within a wider qualifying tract, there may be scope to apply the 'wash-over' principle. However, this principle should only be used in exceptional

¹⁰ The criterion is one of natural beauty, not characteristic natural beauty. This is clearly laid out in paragraphs 2.45 to 2.48 of the Report into the South Downs National Park, Inspector's Report (2), 28 November 2008

¹¹ In the course of the reopened South Downs public inquiry the Inspector repeatedly used the term 'ordinary countryside' to describe wider countryside that was currently undesignated. For example see paragraph 2.53 of the Inspector's Report (2), 28 November 2008

¹² The legislation in relation to the natural beauty designation criterion for both National Parks and AONBs is expressed in the current tense, i.e. current natural beauty and there is no equivalent provision in the legislation for consideration of 'future opportunities' in relation to natural beauty as there is in NPAC 1949 s5(2A(b)) in relation to promoting opportunities for the understanding and enjoyment of the special qualities for national parks.

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circumstances and particular care and scrutiny must therefore be given in such circumstances, particularly near the boundary. As noted in paragraph 5.3 above, the decision to include land that does not itself meet the natural beauty criterion depends on the location of the non-qualifying land, its scale and the effect/benefit of including it within any prospective designation. The desirability of including non-qualifying land should also be considered in detail with reference to the factors set out in Table 5 below.

6.14. It is important that the Evaluation Report clearly records the weight of evidence in relation to each of the factors, and then across the area as a whole in the evaluation tables. The write up should include detailed recording of the judgements made, as this will form the basis of evidence used when analysing subsequent representations made during consultation stages, any public inquiry and also in responding to objections made direct to Ministers. Good quality reporting of the evidence can also avert the need for a subsequent public inquiry (as was the case for the extension of the Suffolk Coast and Heaths AONB. An example of a completed natural beauty evaluation table for an Evaluation Area is included in Appendix 6.

7. Opportunities for Open-Air Recreation

Principles

7.1. This criterion only relates to designating National Parks. AONBs may fulfil a recreational role but the designation criterion for AONBs does not include the recreational opportunities they offer.

7.2. The statute provides simply that the type of recreational opportunities to which consideration should be given are 'open-air recreation'. The statute excludes 'organised games' but is no more restrictive than that. In considering opportunities for open-air recreation, the statute requires that regard be had in particular to the character of the land. This suggests that the character of the land has an important bearing on whether the opportunities for open-air recreation are sufficient to warrant designation. However, a 'markedly superior recreational experience (see below) does not necessarily rely on the land having any particular character. Nor does the statute provide that particular types of open-air recreation can or cannot be taken into account (save for organised games). Provided that the landscape satisfies the natural beauty criterion, the question of whether or not it offers a markedly superior recreational experience should be assessed on its merits, having regard to all relevant considerations.

7.3. Recreational opportunities to be taken into account should be consistent with the conservation and enhancement of the area's natural beauty, wildlife and cultural heritage, (including noting effects on the tranquillity natural beauty factor). Quiet outdoor recreation is therefore likely to be the most weighty consideration under this criterion.

7.4. The statute also requires that regard is had to the position of the potential designation in relation to centres of population. This suggests that the accessibility of the potential designation to urban areas also has an important bearing on whether an area should be designated by reason of the opportunities it affords for open-air recreation.

7.5. Opportunities for open-air recreation are not limited to the present, the legislation provides an ability to look to the future – use of the word 'opportunities' being equivalent to 'potential'.

7.6. It is not just the quantity of opportunities that is relevant, but also their quality, which should exceed that normally available in the wider countryside.

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Practical application

7.7. This criterion is normally evaluated in practice by considering a number of **factors that contribute to the presence of sufficient opportunities for open-air recreation** (see Table 4). The factors provide a practical framework for the detailed expert work of assembling an evidence base for making judgments about opportunities for open-air recreation. In assessing land against these factors, it is relevant to consider the type, quality and quantity of opportunities available.

7.8. In considering these factors, the extent to which it is possible to promote 'opportunities' for the understanding and enjoyment of the area's special qualities, may be taken into account. It is therefore permissible to look to the future, beyond present potential, to consider whether it is possible to initiate further opportunities in the future, bearing in mind National Park purposes, the duty on public bodies to have regard to these purposes, and the powers and duties of a National Park Authority with regard to recreation. It is important however that improvements in future recreation and understanding are not merely vague, speculative or unrealistic aspirations. The potential for improvements must therefore be a realistic possibility within a reasonable time scale.

7.9. It is not necessary that all factors or indicators be present across a designation, as different parts of a designation can satisfy the recreational criterion for different reasons. Overall, there should be a weight of evidence that an area of countryside has (or is capable of providing) sufficient **opportunities for open-air recreation** to such an extent that it provides a markedly superior recreational experience. Comparisons are not to be made to other designated areas or adjacent areas but against ordinary ('wider') countryside.

7.10. Particular attention should be paid to public access to the land. While it is a matter of judgment whether a lack of public access to an area of land precludes satisfaction of the statutory criterion in a particular case, it is clearly unreasonable as a matter of principle to expect all land to be accessible, whether situated within the main body of a National Park or at its margins. Where there is no access, land may still be visually appreciated and enjoyed by those engaged in open-air recreation elsewhere in the National Park. It has been established that a designation may 'wash over' (ie include) an area of land even when there is no public access to it for recreational purposes.

Table 4 *Factors related to Opportunities for Open-Air Recreation in National Parks*

The area must be able to deliver a markedly superior recreational experience. This is an overall assessment, to which amongst others the following factors can contribute:

- **Access to high quality landscapes:** the presence of natural beauty and in particular relative tranquillity and relative wildness. There is no particular type of natural beauty that is more suitable for recreation in National Parks. Weight should be given to accessibility from centres of population.

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- **Features of interest:** access to a wide range of **natural or cultural heritage features or cultural associations**. This includes landmarks and features of recognised value, appropriate to the enjoyment of open-air recreation. The presence of such features can enrich the landscape experience and sense of place and may enhance people's perception/appreciation of natural beauty and understanding of the special qualities of the area.
- **Good recreation provision:** The area should provide, or have the potential to provide, a range of recreation opportunities, a **diversity** of experiences and the opportunity for high **quality** open-air recreation including in particular that which is consistent with the special qualities of the area and does not detract from the enjoyment of the area by others. Particular regard should be had to the **accessibility of the provision from centres of population**.

7.11. The factors, sub-factors and indicators are given in **Appendix 2**. They are not in order of importance.

8. Consideration of the Desirability of Designation

Principles

8.1. The decision whether it is desirable to designate lies at the heart of the legislation. An area of land that satisfies the natural beauty and recreational opportunities criteria is capable of being included in a National Park or AONB. Designation does not, however, follow automatically: it is for Natural England to exercise its judgment as to whether the desirability test is met, i.e. whether an area, which meets the relevant technical criteria should become a National Park or AONB in order to achieve the purposes of that designation. The following are the fundamental practical questions to address in considering each type of designation:

- Is it especially desirable to create a National Park (with a National Park Authority, management plan and certain duties on public bodies) in order to conserve and enhance the area's natural beauty, wildlife and cultural heritage and promote the understanding and enjoyment of its special qualities by the public?
- Is it desirable to create an AONB (with an AONB Partnership or statutory conservation board, management plan and certain duties on public bodies) in order to conserve and enhance the area's natural beauty?

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Purposes of designation

8.2. The objective of giving landscapes National Park or AONB designation is to ensure that the purposes of designation are pursued. The purposes are:

	AONB	National Park
Purposes	Conserving and enhancing its natural beauty	Conserving and enhancing its natural beauty, wildlife and cultural heritage Promoting understanding and enjoyment of its special qualities by the public

8.3. National Parks and AONBs have the purpose of conserving and enhancing the area's natural beauty, which encompasses its flora, fauna, geological and physiographical features.¹³ The Government considers this to confer the highest status of protection as far as landscape and natural beauty is concerned.¹⁴ In National Parks, this purpose also encompasses the conservation and enhancement of its wildlife and cultural heritage.

8.4. National Parks have the second purpose of promoting the understanding and enjoyment of their special qualities (see para. 8.16) by the public. If there is a conflict between the first and the second purpose, the 'Sandford' Principle requires that greater weight should be given to the first purpose.¹⁵

8.5. The lead role in achieving the purposes of designation rest with the National Park Authority, AONB Partnership or AONB Conservation Board. However, a duty to have regard to the purposes of designation applies to all relevant bodies, which includes Government departments and agencies, public bodies, statutory undertakers and persons holding public office.¹⁶

Distinguishing National Park and AONB

8.6. **Different thresholds** apply to AONB and National Park designation. The implication of the word 'especially' is that the threshold of desirability for the designation of land as a National Park is higher than that for an AONB. This may be justified because a National Park designation brings with it more significant changes in the administration of the area and its funding.¹⁷

8.7. In both cases though, Natural England intends to apply a high threshold, in recognition of the fact that National Park / AONB represent the highest level of landscape protection. Areas should be **nationally significant**, in order for designation to be considered desirable, and there should be confidence that the mechanisms, powers and duties resulting from designation are necessary to ensure the delivery of National Park / AONB purposes.

¹³ S.114(2) NPAC and s92(2) CROW

¹⁴ English National Parks and the Broads: Government Vision and Circular 201 (Defra, 2010), para. 20

¹⁵ S.11A(2) NPAC

¹⁶ Guidance on this duty is available in Duties on relevant authorities to have regard to the purposes of National parks, AONBs and the Norfolk and Suffolk Broads (Defra, 2005) and England's statutory landscape designations: a practical guide to your duty of regard (NE, 2010)

¹⁷ When considering the desirability of designation of land as either a National Park or an AONB, the actual words used in the statute should be applied in decision-making. However, in this guidance 'desirable' is used as shorthand to refer to the concept relating to both types of designation.

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8.8. National Parks and AONBs have **different purposes**. AONBs do not have the statutory purpose of promoting the understanding and enjoyment of the area's special qualities to the public. AONB Conservation Boards¹⁸ are a special case, having the additional purpose of 'increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty' (CROW s.87). In AONBs, there is no duty on relevant authorities (other than a Conservation Board) to have regard to the understanding and enjoyment of the area's special qualities.

8.9. In practice, AONB partnerships have long been encouraged to promote understanding and enjoyment of the AONB's special qualities. Currently, in many cases local authorities use their powers to do this. This contrasts with National Parks mainly in the scale, resources and expertise available, and in the fact that in National Parks it is an entrenched purpose to which all public bodies must have regard under statute.

8.10. There is also an apparent difference in the first purpose: both designations share the purpose of conserving and enhancing natural beauty (including flora, fauna, geological and physiographical features), but for AONBs this does not expressly include the purpose of conserving and enhancing wildlife or cultural heritage. In fact, 'wildlife' is practically equivalent to 'flora and fauna'. Furthermore, Natural England considers that 'cultural heritage often contributes to the perception of natural beauty of the area (see Table 3) and so forms part of the AONB purpose to the extent that this is the case.

Practical application

8.11. In order to help assess whether it is desirable to designate an AONB or a National Park a number of questions can usefully be posed.¹⁹ These are detailed below in Table 5.

Table 5: Is it Desirable to Designate?

Is there an 'extensive tract' that satisfies the National Park technical criteria, or an 'area' which satisfies the AONB technical criterion?
Is the area of such national significance that National Park or AONB purposes should apply to it?
What are the issues affecting the area's special qualities and understanding and enjoyment and how would designation affect them?
Can National Park or AONB purposes be best pursued through the management mechanisms, powers and duties which come with National Park or AONB designation?
Are there other relevant factors which tend to suggest whether it is or is not desirable to designate the area?

8.12. The desirability considerations relating to AONBs can only be applied if the technical criterion of outstanding natural beauty is met. The considerations relating to National Park designation can only be applied if both the natural beauty criterion and the opportunities for open-air recreation criterion are met. It is also necessary to consider whether the Candidate Areas together, or Candidate Areas

¹⁸ As at June 2021 there are two Conservation Boards: for the Chilterns AONB and the Cotswolds AONB.

¹⁹ It should always be remembered however that the assessment of land for designation must be made by reference to the actual words of the relevant statutory provision.

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together with an existing designation in the case of a boundary review, are capable of forming an 'extensive tract' that satisfies the National Park designation criteria, or an 'area' which satisfies the AONB designation criterion. It is advisable, on completion of the 'desirability' assessment, to verify whether any desirability factors could affect the overall composition of the proposed designation.

8.13. When considering **national significance**, it is useful to take into account the following:

- **Special qualities:** the area's special qualities, ie those aspects of the area's natural beauty, wildlife and cultural heritage, which make the area distinctive and valuable, at a national level.
- **Understanding and enjoyment:** the opportunities to promote the understanding and enjoyment of the area's special qualities (for National Park designation only).
- **Consensus:** Where there is a consensus of opinion that an area meets the statutory criteria or should be designated, this may help in determining whether it is accorded a special value that should be recognised. Views of stakeholders and the public can be strong indicators as to whether there is consensus about the value of a landscape. Evidence of past and present recognition of the importance of the landscape value is therefore relevant, however care should be taken to demonstrate that the consensus is relevant to a national level designation. Landscape that is valued locally, may not necessarily warrant a national-level designation. Care should also be taken to ensure adverse change has not occurred in the landscape since any consensus was reached.
- **Rarity or representativeness:** If a landscape, or an element within it, is rare or representative of a particular type of landscape, it may add weight to the judgment that an area should be represented within a National Park or AONB, although this is not an essential requirement.

8.14. Natural England should use these considerations to help judge whether an area **is of such national significance** that special purposes should apply to it, i.e.:

- **National Park purposes:** its natural beauty, wildlife and cultural heritage should be conserved and enhanced; **and** the understanding and enjoyment of its special qualities should be promoted;
- the **AONB purpose** alone: its natural beauty should be conserved and enhanced;

or, whether an area is **not of such national significance** that special purposes should apply.

8.15. To assist with decision-making, consideration should be given to whether these purposes can be delivered effectively using current arrangements, or as part of a nationally designated landscape. This assessment may be made by first considering the issues affecting the area's special qualities and options available to address them.

8.16. **Issues affecting special qualities and understanding and enjoyment:** These include identifying current and longstanding issues and the significant forces for change which affect an area's natural beauty, recreational opportunities, and special qualities, and, in the case of National Park, the ability to promote the understanding and enjoyment of their special qualities and then assessing how designation would affect these issues. The scale and impact of issues and likely changes should be assessed. Both current and possible future issues are potentially relevant to the consideration of desirability of designation.

8.17. **Mechanisms, powers and duties:** Consideration should be given to an appropriate response to issues identified above. The following factors may be relevant (Appendix 3 gives more detail):

- **Management arrangements:** the extent to which current and alternative management arrangements address the issues affecting the area and deliver National Park / AONB purposes. Management in pursuance of National Park or AONB purposes can deliver wider environmental benefits such as climate change mitigation and adaptation, and improved connectivity of wildlife habitats. In cases where AONB designation is an option, consideration should be given to whether, due to the size of the area or its administrative complexity, establishment of a statutory

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Conservation Board might be justified.

- **Funding:** Current and expected future funding that contributes to National Park / AONB purposes should be considered against likely future funding under alternative scenarios. Concerns regarding the immediate availability of funds to support management of a National Park or AONB should not normally outweigh other considerations of desirability. Designation represents a long term commitment which is likely to outlast current funding and detailed management arrangements.
- **Regulation and development control:** This refers to the ability of statutory regulation powers, and development control powers, to contribute to National Park / AONB purposes.
- **Integrated management for the future:** The degree to which strategic planning (such as Local Development Frameworks, Rights of Way Improvement Plans, NP / AONB Management Plans etc) could contribute to National Park / AONB purposes.
- **Duties and incentives for statutory bodies and others:** Here it is relevant to consider what duties there are on public bodies to deliver National Park / AONB purposes, and what incentives exist for others to contribute to delivering National Park / AONB purposes.

8.18. This is not an exhaustive list of considerations: **other factors** may be relevant if they can reasonably be said to relate to the judgment as to whether it is desirable that a particular area of land should be designated as National Park or AONB. The more directly or substantially a factor bears upon the achievement of National Park or AONB purposes the more weight Natural England is likely to give it in the decision whether or not it is desirable to designate.²⁰

8.19. In the case of the Yorkshire Dales National Park extension the Secretary of State considered other factors relevant including a) the work of the existing National Park in relation to limestone pavements and Catchment Sensitive Farming and its relevance to the extension area; b) the splitting of the Howgills Character Area which made no sense in landscape terms and warranted inclusion in the National Park in its entirety; the National Park's record of regular and high quality maintenance of Public Rights of Way; the National Park's in-house expertise compared with existing local authorities and its ability to draw upon a large volunteer resource; and the vulnerability of cultural heritage features on the Orton Fells which would benefit from the track record of good conservation management of such features by the National Park.

8.20. Natural England recognises that designation may have impacts beyond the statutory purposes but which are not relevant to the consideration of the desirability of designation in the statute. Common issues raised include democratic representation, impacts on housing markets, local economies or agriculture and the name of a designation. Natural England, in designating, must bear in mind however that Parliament has put in place the basic framework of National Parks and AONBs which addresses some of these issues. In addition, Government policy influences how National Parks and AONBs operate in relation to wider policy areas, such as housing, the economy and planning. Any matters such as these are beyond those relevant to the consideration of the desirability of designation but may rightly form the basis of Natural England's separate advice to Government on general matters relating to designated landscapes policy.

8.21. Natural England must then look at the relevant matters as a whole, to satisfy itself whether it is **especially desirable** to designate the area as National Park, or whether it is **desirable** to designate it as AONB. The decision is not taken on the basis of Evaluation Areas or Candidate Areas but rather on the whole area of a potential designation – an 'extensive tract of country' in the case of National Parks and an 'area' in the case of AONBs. A potential designation may be comprised of land that was, for practical evaluation purposes, contained in part or all of one or more Evaluation Areas. If ultimately

²⁰ As to other relevant factors which may bear on whether it is desirable to designate land, in relation to the South Downs National Park, the Secretary of State considered that it was especially desirable to designate that land because it was in relatively close proximity to major population centres in the South East

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the question of designation is to be formally posed, then the whole area to be subject to designation should be considered in its proper context against the actual text of the relevant statutory provisions themselves. In the case of National Parks this is section 5 of the National Parks and Access to the Countryside Act 1949, and in the case of AONBs this is section 82 of the Countryside and Rights of Way Act 2000.

9. Definition of a Detailed Boundary

Principles

9.1. The principal purpose of setting a detailed boundary is to determine where it is desirable that the designation of a particular National Park or AONB should begin and end.

9.2. When defining the detailed boundary there may be more scope for excluding particular areas of land that do not satisfy the criteria where they are located close to the boundary rather than within the main body of the designation.

Practical application

9.3. Natural England will apply the guidelines set out in **Appendix 4** when setting a boundary. It is important that decisions reached when defining the boundary are made consistently along its length and clearly recorded in a boundary justification. An example of a completed boundary justification table for a stretch of boundary is provided in Appendix 6.

9.4. Initial boundary options may be mapped in draft at 1:2,500 (Mastermap or equivalent) during desk study, and evaluation, with a focus on areas where there are specific issues identified during the evaluation process. In difficult areas it can be helpful to identify several potential boundary options. These options should then be tested in the field to determine a preferred boundary line. Where visual/or physical access to the boundary line is not possible, aerial (including drone footage) and satellite photography can be used to assist decision making.

9.5. For ease, a preferred boundary may be divided into discrete sections. The course of the boundary in each section should be described as well as mapped, in order to provide a transparent rationale and justification for the proposed boundary, for use when challenged in subsequent stages in the designation process and any Public Inquiry. Describing the boundary also ensures clarity of the exact location of / feature followed by the boundary on the ground, assisting future development control. All National Parks have boundary descriptions and it is useful for AONBs too, particularly when features are not accurately mapped on different scale Ordnance Survey base maps. When recording the boundary it is essential that for each section the following are recorded:

- Issues influencing the boundary line
- Nature of easily distinguishable features which have been used and any exceptions
- Relevance or use of administrative boundaries
- Inclusion or exclusion of settlements close to the edge
- Current development or firm housing allocations relevant to the boundary
- Inclusion or exclusion of features of interest on the edge
- Where a boundary is part of an existing designation boundary review, issues associated with the existing designation boundary may also be recorded and corrected.

The mapping of a boundary must also follow cartographic drafting conventions based on case law, including Ordnance Survey Guidance on Boundary Making. These include the following:

- Main roads and railways which form a boundary should generally be excluded. Boundaries should generally be mapped to the edge of the metalled highway, however, where there are

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embankments or cuttings the boundary should be drawn along the outer edge or fence line and embankments/cuttings excluded.

- Where a boundary follows a minor track, quiet lane or right of way however, these features should be included.
- Where a boundary follows a feature which moves with time, including small watercourses, or Mean High or Low Watermark, the boundary is fixed to the feature and will move with it if it changes due to natural processes. Any subsequent man-made changes to the course of a watercourse do not however result in movement of the boundary.
- Viaducts, flyovers, piers and overhead gantries are not classified as ground features and do not form suitable boundary features
- Where there is no fixed feature on the ground, a boundary may be drawn in a straight line between two identifiable features.

10. Formal Designation Procedures

10.1. Natural England has statutory powers to designate National Parks and AONBs²¹ and also to vary their boundaries.²² It does this by making statutory Orders, which take effect only if confirmed by the Secretary of State (who may also amend them, or refuse to confirm them). The Secretary of State also has freestanding powers to vary or revoke designations. The following procedures apply equally to new designations as they do to variations to existing boundaries.

10.2. Before any formal orders are made, the legislation specifically requires that for National Parks, all county councils, district councils, National Park Authorities and parish councils, who have land within the area to be designated (or in the existing National Park or AONB to be varied), must be consulted prior to a designation order being made. For AONBs, only 'Principal Council' Local Authorities must be consulted. As a matter of good practice, Natural England will also throughout the process, seek engagement with key stakeholders and the general public (see Section 11).

10.3. Statutory (and public) consultation responses may present new evidence to justify the inclusion or exclusion of land, identify further considerations as to the desirability of designation, or identify specific boundary issues which need review. Therefore, following each statutory (or public) consultation, responses are catalogued, collated into spreadsheets, coded by themes raised and detailed qualitative and quantitative analysis is carried out. In line with Government guidance, a Consultation Analysis Report is prepared and published, giving Natural England's responses to all the issues raised, and recording its decisions in relation to objections and requests to amend the proposals.

10.4. If persuaded by the evidence supplied in consultation responses, Natural England may update its evidence, revise its assessments and produce a revised proposal, if not, it will state why not. The consultation analysis document thus forms a key part of the evidence base, as it records judgements and decisions which are likely to be tested if there is a public inquiry. Natural England will need to rely on the detail in its responses to the issues raised, so high quality, detailed reporting is required.

10.5. The relevant stages in the process of evaluating land for designation set out above may therefore be repeated as necessary, as part of an iterative process. For example, if as a result of new evidence supplied, additional areas of land are brought into the proposed designation, a further round of statutory consultation is required by statute.

²¹ s.5(3) NPAC 1949 and s.82(1) CROW 2000

²² s.45 Wildlife and Countryside Act 1981 and s.83(7) CROW 2000

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10.6. Following review and possible refinement, designation Orders are then drafted and the associated maps and boundary description produced; and the land proposed for designation and the associated boundary, together with the final versions of the associated technical assessments are then formally approved by Natural England. This decision is reserved to the Board of Natural England.

10.7. The legislation requires formal statutory Notices to be published in specified publications at different stages in the process for National Parks and AONBs. For National Parks, initial Notice publication happens after the legal Orders have been 'made' (signed and the official seal of Natural England affixed) (NPAC Act 1949, Section 7 and Schedule 1; and Statutory Instrument 1950 No. 1066), but before submission of the 'made' order to the Secretary of State for confirmation. The format of the required Notices for National Parks is specified in SI 1950 No. 1066. The format for National Park Orders is outlined in NPAC Section 7(2) and the actual wording used follows past precedent.

10.8. For AONBs, draft Orders are prepared (using wording following past precedent) and Notices of Natural England's intention to designate an area are published prior to the making of the Orders (CRoW Act 2000 Section 83).

10.9. The Notices must be published in the formats required by the legislation and, specifically for National Parks, as set out in a Statutory Instrument: The National Parks and Access to the Countryside Regulations 1950, No. 1066 (see Appendix 5). The statute also requires Notices to be published in specific types of newspapers and the London Gazette.

10.10. The Notices must give details of the effect of the Orders and name the places in the locality where copies of the relevant documents may be inspected, and also state the time and manner in which representations may be made about the designation, and to whom. In effect this is a public consultation, required by statute.

10.11. For National Parks, representations made during the Notice Period are sent direct to Defra, however in recent designations, Defra has asked Natural England to manage this process and analyse representations, and if necessary, to try to resolve objections, prior to submitting the final proposal and supporting information to Defra for confirmation, together with copies of the representations.

10.12. For AONBs, representations made during the Notice Period are sent to Natural England which also has a specific duty to consider any representations and make any necessary amendments to the proposal (which may entail further iterations of the statutory consultation and Notice Period if additional areas are included at this stage). Once Natural England is satisfied with its proposal, the Natural England Board approves the 'making' (signing and sealing) of the AONB Order prior to its submission to the Secretary of State for confirmation.

10.13. When a 'made' National Park or AONB designation or designation variation Order (including its associated maps and boundary description) is submitted to the Secretary of State for confirmation, the order must be accompanied by copies of all Notice period representations and relevant supporting documentation to justify the submission of the Order. For National Parks, any order must also be submitted in duplicate and accompanied by 2 copies of the Order, together with a certificate that the required consultations have been undertaken and supporting documentation detailing why Natural England considers designation warranted.

10.14. The supporting documentation provided includes the relevant Natural England Board papers and minutes recording the formal decision making process, the technical assessments, desirability consideration, boundary justification and consultation analysis report, plus any other relevant

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information (such as copies of objection letters sent direct to Ministers and Natural England Chairman or Chief Executive rather than as part of the consultations or Notice period, and any replies sent by Natural England). This supporting information provides the detail which Defra uses to check that Natural England has followed due process and has reached appropriate judgements throughout the designation project. It also assists the Secretary of State in deciding whether to call a public inquiry prior to determining whether to confirm the Order.

10.15. In the case of National Parks, if there are objections from a statutory local authority which are not withdrawn prior to submission of the Orders, the Minister must hold a public inquiry. In this context 'local authority' does not include a parish council. The Minister may also hold a public inquiry or afford alternative ways to allow people to make further representations in any event. There is no equivalent statutory requirement for an inquiry for AONBs, but the Minister may still hold one under planning legislative powers, if so minded.

10.16. Where a designation is challenged, Natural England will need to defend its proposals and present its case, relying on its detailed records of evaluation, desirability and boundary justification, together with subsequent consultation analysis reports and Notice representation analysis, as set out earlier in this guidance. For a public inquiry this process will also require the preparation of additional evidence by Natural England including statements of case, position statements and proofs of evidence as well as attendance at inquiry or equivalent. Following an inquiry, the Minister may consult Natural England further, or request its assistance with further amendments to a proposed designation, for example identifying a new boundary, if the Minister is minded to alter Natural England's proposals.

10.17. The Minister may or may not confirm a Designation Order, with or without modifications, having considered any representations received and, in the event of a public inquiry, having considered the report of the Inspector. If minded to confirm, the Minister makes a Confirmation Order, which contains details of any modifications to the original Order, and specifies when any new designation comes into effect. The process for confirming a National Park Order and the text for the required Confirmation Order and further required Notices is laid out in NPAC 1949, Schedule 1 and SI 1950 No. 1066. There is no equivalent Statutory Instrument for AONBs, but Defra has followed the same process as for National Parks in previous AONB designations.

10.18. Confirmation of the designation is made by the Minister once he or she has considered the Order, supporting documentation and any representations to the Designation Order, or following receipt of an Inspector's report in the event of a public inquiry. Where any modifications made by the Minister add land to the National Park or AONB not affected by the original designation order, a further Notice must be published that the additions have been made and opportunity provided to hear representations on or objections to them. Once a National Park Order has been confirmed, a further and final Notice must be published describing the effect of the Confirmation Order and stating that it has been made and where copies may be inspected and on what grounds it may be challenged in the High Court. These provisions do not apply to AONBs.

10.19. Natural England has a final duty in the legislation for designating both National Parks and AONBs, once Orders are made and then again once confirmed, which is to ensure that copies of Orders and associated maps and descriptive matter are made available for inspection at a specified range of locations (NPAC Act 149 Section 7(6) for National Parks and CRoW Act 2000 (Section 83(9)) for AONBs.

10.20. The Secretary of State must also make an establishment Order in the case of a new National Park if a National Park Authority is to be created and, in the case of an AONB, a new Conservation Board. It may also be necessary to vary existing establishment Orders in the case of National Park or

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AONB Conservation Board boundary variations if land in a new local authority is added to the existing area. Detailed provisions are contained in section 63 and Schedule 7, Environment Act 1995 and in section 86(7) CRow See Appendix 5).

11. Non-statutory Consultation and Engagement

11.1. Whilst the statute requires consultation with statutory local authority consultees, together with the publication of Notices and opportunities for the submission of representations by the general public during set parts of the designation process, Natural England is committed to providing other additional opportunities for wider public engagement and involvement in the process.

11.2. At the start of recent designation projects, Natural England has undertaken an Equality Impact Assessment. These are currently no longer strictly required; but have been produced to ensure that subsequent non-statutory engagement processes are more accessible; taking account of local variations in diversity and age present within local communities.

11.3. Additional non-statutory engagement and/or consultation of stakeholders is usually undertaken throughout the process. This may include engagement early in the process in terms of identifying an initial Area of Search or Study area; or providing evidence during initial desk studies and the full assessment and evaluation process. Recent designations have also involved the creation of a Technical Advisory Group made up of officers from the statutory authorities, to advise and provide evidence throughout the technical assessment and evaluation process and a Stakeholder Management Group to engage stakeholders in the development and delivery of designation projects.

11.4. As such additional engagement is not dictated by statute, there is flexibility in how Natural England chooses to engage communities and stakeholders locally, but as a minimum it follows current relevant Government Guidance on Community Engagement and Consultation. Recent designations have also involved additional non-statutory, workshops and informal consultations on the initial Candidate Area, as well as extending the formal statutory consultation to all non-statutory stakeholders and the public.

11.5. During the consultation process, Natural England provides an accessible plain-English, non-technical summary document of the technical assessments and proposals including associated mapping, to ensure accessibility of information; and to ensure full transparency it makes all the detailed formal assessment reports available publicly for those who wish to read or comment on them. A consultation questionnaire and response form are also provided both on-line and in hard copy, together with web links to the detailed assessment reports, and information about where paper copies of them are also available, to ensure full public access.

11.6. Consultation is now generally conducted largely as a web-based exercise using Citizen Space via the Gov.uk website, supported by a telephone e-mail enquiry service, though a significant proportion of responses (including from statutory authorities) are still submitted via email or paper copy. Paper copies of consultation materials are provided on request, to ensure accessibility.

11.7. In addition, during recent designations, Natural England has held extensive on-site engagement events to raise awareness and understanding, publicise consultation opportunities and provide information, including workshops, briefing events and drop-in surgeries and other events where people can meet Natural England technical Officers and discuss general and technical queries about the proposals in person.

12. Further information

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12.1. Relevant documents:

- Landscapes Review, Final Report, Julian Glover, September 2019
- A Green Future: Our 25 Year Plan to Improve the Environment, HM Government, 2018
- An Approach to Landscape Character Assessment, Natural England (2014)
- Technical Guidance Note 02/21 Assessing landscape value outside national designations, Landscape Institute, May 2021
- Natural England Designation Strategy July 2012 (NE353)
- English National Parks and the Broads: UK Government Vision and Circular 2010 (Defra, 2010)
- Duties on relevant authorities to have regard to the purposes of National parks, AONBs and the Norfolk and Suffolk Broads (Defra, 2005)
- England's statutory landscape designations: a practical guide to your duty of regard (NE, 2010)

Appendix 1:

Evaluation Framework for Natural Beauty Criterion

The sub-factors and associated indicators should be regarded as a menu of examples (developed from precedent and past designations) from which those appropriate to the character of the landscape under consideration should be chosen, adapted, or added to. There is no scoring involving accumulations of indicators and it is possible for a landscape to exhibit natural beauty or offer opportunities for open air recreation even if a few of the indicators shown in this appendix are not present. It is important to note that for each factor, it is not the presence or absence of a feature which is being recorded; but how a particular feature or indicator contributes to, or detracts from, perceptions of natural beauty in an area.

Factor	Example sub-factor	Example Indicator	Examples of Evidence
Landscape quality	Intactness of the landscape in visual, functional and ecological perspectives	Characteristic natural and man-made elements are well represented throughout	Landscape character assessment which goes beyond value-free description
	The condition of the landscape's features and elements	Landscape elements are in good condition	Hedgerow and tree surveys Field observations about intactness / condition
	The influence of incongruous features or elements (whether man-made or natural) on the perceived natural beauty of the area	Incongruous elements are not present to a significant degree, are not visually intrusive, have only localised influence or are temporary in nature	SSSI condition assessments Historic landscape characterisation Heritage at Risk Register Historic map regression analysis Countryside Quality Counts web archive Designation History Series Local Plans and Policies (eg Local Landscape Designation Descriptions) Agri-Environment History
Scenic quality	A distinctive sense of place	Landscape character lends a clear and recognisable sense of place	Landscape character assessments which go beyond value-free description
	Striking landform	Landform shows a strong sense of scale or contrast	Digital landform data sets
		There are striking landform types or coastal configurations	OS mapping
Visual interest in patterns of land cover	Land cover and vegetation types form an appealing pattern or composition in relation to each other and/or to landform which may be appreciated from either a vantage point or as one travels through a landscape	Field observations about visual and sensory perception of scenic quality, landmarks and seasonal changes Protected views/view studies	

Factor	Example sub-factor	Example Indicator	Examples of Evidence
	Appeal to the senses	<p>Strong aesthetic qualities, reflecting factors such as scale and form, degree of openness or enclosure, colours and textures, simplicity or diversity, and ephemeral or seasonal interest</p> <p>Memorable or unusual views and eye-catching features or landmarks</p> <p>Characteristic cognitive and sensory stimuli (e.g. sounds, quality of light, characteristic smells, characteristics of the weather)</p>	<p>Conservation area appraisals</p> <p>Local Guidebooks and leaflets</p> <p>Designation History Series</p> <p>OS Mapping of viewpoints on Leisure Maps</p>
Relative wildness	<p>A sense of remoteness</p> <p>A relative lack of human influence</p> <p>A sense of openness and exposure</p> <p>A sense of enclosure and isolation</p> <p>A sense of the passing of time and a return to nature</p>	<p>Relatively few roads or other transport routes</p> <p>Distant from or perceived as distant from significant habitation</p> <p>Extensive areas of semi-natural vegetation</p> <p>Uninterrupted tracts of land with few built features and few overt industrial or urban influences</p> <p>Open, exposed to the elements and expansive in character</p> <p>Sense of enclosure provided by (eg) woodland or landform that offers a feeling of isolation</p> <p>Absence or apparent absence of active human intervention</p>	<p>Wildness mapping</p> <p>Field observations and perceptions</p> <p>OS mapping</p> <p>Habitat mapping and nature conservation designations</p> <p>Digital landform mapping</p> <p>Remote sensing data</p> <p>Open-access mapping of mountain, moor and heath</p> <p>Ancient woodland mapping</p>
Relative tranquillity	<p>Contributors to tranquillity</p> <p>Detractors from tranquillity</p>	<p>Presence and/or perceptions of natural landscape, birdsong, peace and quiet, natural-looking woodland, stars at night, stream, sea, natural sounds and similar influences</p> <p>Presence and/or perceptions of traffic noise, large numbers of people, industrial or urban development, overhead light pollution, low flying aircraft, power lines and similar influences</p>	<p>Landscape character assessment</p> <p>CPRE tranquillity mapping</p> <p>Dark Skies mapping</p> <p>Observations in the field</p> <p>OS mapping eg Open access (mountain, moor and heath), powerlines, development etc</p> <p>Ancient woodland mapping;</p> <p>Undeveloped coastline or lake shores</p>

Factor	Example sub-factor	Example Indicator	
Natural heritage features	Geological and geomorphological features	Visible expression of geology in vernacular architecture contributing to a distinctive sense of place or other aspects of natural beauty	Landscape character assessment which goes beyond value-free description Solid and drift Geology mapping Soil mapping
		Presence of visually striking or memorable geomorphological features that make a particular contribution to natural beauty	Ecological and geological designations (international, national and local), including citations, descriptions and condition statements
	Wildlife and habitats	Presence of wildlife and/or habitats that make a particular contribution to natural beauty	Habitat surveys Priority habitats
		Presence of individual species that contribute to sense of place, relative wildness or tranquillity	Specialist ecological studies
Cultural heritage	Built environment, archaeology and designed landscapes	Presence of settlements, buildings or other structures that make a particular contribution to perceptions of natural beauty	Landscape character assessment which goes beyond value-free description Historic landscape characterisation
		Presence of visible archaeological remains, parkland or designed landscapes that provide striking features in the landscape contributing to perceptions of natural beauty	Historic environment and archaeological designations Historic Environment Record
	Historic influence on the landscape	Visible presence of historic landscape types or specific landscape elements or features that provide evidence of time depth or historic influence on the landscape	Conservation area appraisals SM, Historic Parks and Gardens and Listed Building citations
		Perceptions of a harmonious balance between natural and cultural elements in the landscape that stretch back over time	Historic maps Observation in the field Place names
	Characteristic land management practices	Existence of characteristic land management practices, industries or crafts which contribute to natural beauty	Specialist heritage studies
	Associations with written descriptions	Availability of descriptions of the landscape in notable literature, topographical writings or guidebooks, or significant literature inspired by the natural beauty of a landscape.	Association including with art, literature and music Historical accounts, cultural traditions and folklore Guidebooks

Factor	Example sub-factor	Example Indicator	
	Associations with artistic representations	Depiction of the landscape in art, other art forms such as photography or film, through language or folklore, or in inspiring related music contributing to perceptions of natural beauty	
	Associations of the landscape with people, places or events	Evidence that the landscape has associations with notable people or events, cultural traditions or beliefs which contribute to perceptions of natural beauty	

Appendix 2:

Evaluation Framework for Recreation Criterion

The sub-factors and associated indicators should be regarded as a -menu of examples (developed from precedent and past designations) from which those appropriate to the character of the landscape under consideration should be chosen, adapted or added to. There is no -scoring involving accumulations of indicators and it is possible for a landscape to offer opportunities for open air recreation even if a few of the indicators shown in this appendix are not present.

Factor	Example sub-factor	Example indicator	Examples of Evidence
Access to high quality landscapes	Opportunities to enjoy high landscape quality and scenic quality	Good access (physically and / or visually) to areas that offer an experience of high landscape quality and / or scenic quality (see Natural Beauty criterion)	OS mapping Definitive map of rights of way Open access mapping Published long distance recreational routes
	Opportunities to enjoy relative tranquillity and relative wildness	Good access (physically and/or visually) to areas that offer an experience of relative tranquillity and / or wildness (see Natural Beauty criterion)	Field observation Local guidebooks and leaflets Landscape character assessment
Natural or cultural heritage features or cultural associations	Opportunities to enjoy a range of natural or cultural heritage features or cultural associations	Presence of natural features which enrich the experience of the landscape or contribute to understanding of special qualities or sense of place	Natural and cultural heritage interest Field observation
		Presence of cultural features or cultural associations which enrich the experience of the landscape or contribute to understanding of special qualities or sense of place	
	Opportunities to enjoy Landmarks and other features	Presence of recognised or valued landmarks or other features of interest which enrich the experience of the landscape or contribute to understanding of special qualities or sense of place	
Good recreation provision	High quantity of appropriate recreation provision	Presence of extensive network of rights of way or extent of open access land over much of the area	Published recreational routes and activities associated with landscape
	Diversity of good quality provision for quiet enjoyment	Opportunities to enjoy a range of high-quality landscape experiences	Organisations engaged in recreational provision in the area

Factor	Example sub-factor	Example indicator	Examples of Evidence
		Opportunities to enjoy a range of different provision for quiet recreation activity	OS mapping Definitive map of rights of way Permissive Access Mapping Open access mapping Published long distance recreational routes Field observation Local guidebooks and leaflets Local knowledge of recreation provision
Accessibility	Accessibility to centres of population and accessibility to all	Transport links to centres of population Availability of sustainable transport options providing links to centres of population Provision of recreation opportunities suitable for a wide range of people and levels of ability	OS mapping Sustainable transport routes and modes Disability access information Local guidebooks and leaflets
Potential for enhancement	Potential for appropriate enhancement of enjoyment and understanding	Possible plans to improve provision for access to or quiet enjoyment of the landscape, so as to provide opportunities for the understanding and enjoyment of the area's special qualities, by new provision or improved management of existing provision	Local recreation initiatives

Appendix 3:

National Park and AONB Mechanisms, Powers and Duties

National Park

- **National Park purposes** must be considered by all public bodies in decisions affecting National Parks.
- If there is a conflict between the two purposes, greater weight should attach to the conservation and enhancement of the natural beauty, wildlife and cultural heritage of the area (**Sandford principle**).
- There will usually be a dedicated **National Park Authority (NPA)** which must pursue the purposes of designation.
- There must be a **National Park Management Plan** to ensure proactive and co-ordinated management of the area.
- NPAs exercise **countryside management functions**.
- NPAs exercise **planning and development control functions**.
- There is greater protection from inappropriate development through **planning policy**.
- NPAs **manage access (physical and intellectual)**.
- An **NPA** must seek to foster the economic and social well-being of local communities within the National Park,
- There is a dedicated government **funding** stream for the NPA over and above the funds that local authorities will continue to receive funding for their remaining functions.

Area of Outstanding Natural Beauty

- **AONB purpose** must be considered by all public bodies in decisions affecting AONBs.
- AONB purpose is normally delivered through a dedicated **AONB partnership** made up of the local authorities and other stakeholders.
- There must be an **AONB Management Plan** which sets out the policy for the management of the area and which includes an action plan for carrying out activity in support of the purposes of designation.
- Most AONBs have a small core team (the **AONB unit**) which coordinate, facilitate and sometimes delivers **countryside management** functions.
- There is greater protection from inappropriate development through **planning policy**.
- There is additional **funding** for the delivery of the AONB purpose through Defra and the local authorities plus opportunities for discretionary funding from other sources.
- It is possible to establish a **statutory conservation board** where this would be desirable. This would have the additional purpose of increasing the understanding and enjoyment by the public of the special qualities of the AONB and, as with National Parks, the Sandford principle applies where this purpose comes into conflict with the purpose of conserving and enhancing the natural beauty of the area.
- AONB Conservation Boards have a duty to seek to foster the social and economic well-being of local communities

Appendix 4:

Boundary Setting Considerations

Transition areas: The boundary should not be expected to be a sharp barrier between areas of differing quality. Often there will be a transition of natural beauty and opportunities for open-air recreation across a sweep of land: in those cases, the boundary chosen should be an easily identifiable feature within this transition. The boundary should be drawn towards the high-quality end of the transition in a manner that includes areas of high-quality land and excludes areas of lesser quality land, ie it should be drawn conservatively. Visual associations may also be used to help define the extent of land for inclusion in these circumstances.

Types of boundary: Wherever possible, an easily distinguishable permanent physical boundary should be chosen. Boundaries should not if possible be overly complex or convoluted. Where a boundary follows a road, the road verges and embankments may be included in the designation where they blend into the wider landscape.²³

Other administrative boundaries: Where local government boundaries follow suitable lines, it may be administratively convenient to adopt them. In the majority of cases, however, they will be unsuitable. Similarly, land ownership is not itself a reason for including or excluding land from designation – there will often be instances where part of a landholding sits within the designated area and part sits outside.

Inclusion of settlements: A settlement should only be included if it lies within a wider tract of qualifying land (whether or not this is part of the same designation), having regard to the influence of the settlement on the land in question. Settlements should be assessed on their individual merits and particularly on their character, qualities and relationship to adjoining countryside. The extent to which countryside penetrates the built-up area may also be relevant.

Integrity of settlements: Towns or villages should not normally be cut in two by a National Park/AONB boundary. The ability of a settlement to act as a gateway to a designated area is not dependent on its inclusion with a designation. A settlement does not equate to a parish and the division of parishes is acceptable in drawing a boundary.

Incongruous development: Unsightly development on the edge of a National Park/AONB should generally be excluded unless it is of a temporary or transient nature.

Land allocated for development: Land on the margins of a National Park/AONB identified in development plans (both adopted and emerging²⁴), or having the benefit of planning permission, for major built developments (including the extraction of minerals and other deposits) should normally be excluded from the Park/AONB, unless the land will be developed or restored to a land use and quality which contributes to Park/AONB purposes. Land should not be included merely to seek to protect it from specific development proposals.

Features of interest: Areas and features of wildlife, geological, geomorphological, historic, cultural or architectural value which are situated on the margins of a National Park/AONB should be included where practicable providing that they are situated within a tract that meets the statutory criteria.

Marine boundaries: In coastal areas where a marine boundary is to be drawn, the boundary should follow the mean low water mark or the County boundary in the case of estuaries.

²³ The metalled surface of a road normally remains outside the National Park

²⁴ Proposed development schemes included in emerging development plans will be afforded varying weight depending on the extent to which they have progressed through the development plan preparation process and also the extent to which any adopted plans and / or policies may remain relevant.

Appendix 5:

Statutory Provisions for Designating Landscapes

This appendix reproduces extracts of legislation relevant to designating landscapes. It does not exhaustively cover all legislation relating to National Parks or AONBs.

The legislation is as it currently reads (as at October 2009) and does not show earlier versions or amendments. Provisions not specifically relevant have been left out. **When required, the currently applicable legislation should always be referred to directly.**

National Parks and Access to the Countryside Act 1949 (as amended)

Section 5 National Parks

- (1) The provisions of this Part of this Act shall have effect for the purpose—
 - (a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and
 - (b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.
- (2) The said areas are those extensive tracts of country in England ... as to which it appears to Natural England that by reason of—
 - (a) their natural beauty and
 - (b) the opportunities they afford for open-air recreation, having regard both to their character and to their position in relation to centres of population,it is especially desirable that the necessary measures shall be taken for the purposes mentioned in the last foregoing subsection.
- (2A) Natural England may
 - (a) when applying subsection (2)(a) in relation to an area, take into account its wildlife and cultural heritage, and
 - (b) when applying subsection (2)(b) in relation to an area, take into account the extent to which it is possible to promote opportunities for the understanding and enjoyment of its special qualities by the public.
- (3) The said areas, as for the time being designated by order made by Natural England and submitted to and confirmed by the Minister, shall be known as, and are hereinafter referred to as, National Parks.

Section 6 General duties of Natural England in relation to National Parks

- (1) It shall be the duty of Natural England from time to time, to consider what areas there are in England ... falling within sub-section (2) of the last foregoing section, to determine in what order they should be designated under subsection (3) of that section, and to proceed with their designation at such times as Natural England may determine.

Section 7 Designation and variation of National Parks

- (1) Before making an order designating a National Park Natural England shall consult with every joint planning board and local authority whose area includes any land in the area to be designated a Park.
- (2) Any such order shall describe the area to be designated a Park by reference to a map and such other descriptive matter as may appear to Natural England to be requisite.
- (3) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of any order designating a National Park.
- (4) The Minister may by order made after consultation with Natural England vary an order designating a National Park.
- (5) Before making an order under the last foregoing subsection the Minister shall consult with any National Park authority for the Park in question and with every such board and council as aforesaid whose area, or any part of whose area, is comprised in the National Park, whether as existing or as proposed to be varied; and the provisions in that behalf of the First Schedule to this Act shall apply to any order under the last foregoing subsection.

- (6) It shall be the duty of Natural England to secure that copies of any order such as is mentioned in this section shall be available, at the office of Natural England, at the offices of each joint planning board and local authority specified in subsection (1) or subsection (5) of this section, as the case may be at the offices (where the order is for the variation of an order designating a Park) of any National Park authority for the Park in question, and at such other place or places in or near the Park in question as Natural England may determine, for inspection by the public at all reasonable times.
- (7) In this Section and Schedule 1 -local authority means—
- (a) in relation to England, a county council, district council or parish council;
 - (b) in relation to Wales, a county council, county borough council or community council.

Section 11A Duty of certain bodies and persons to have regard to the purposes for which National Parks are designated

- (1) A National Park authority, in pursuing in relation to the National Park the purposes specified in subsection (1) of section five of this Act, shall seek to foster the economic and social well-being of local communities within the National Park, and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of the National Park.
- (2) In exercising or performing any functions in relation to, or so as to affect, land in any National Park, a relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.
- (3) For the purposes of this section -relevant authority means—
- (a) any Minister of the Crown,
 - (b) any public body,
 - (c) any statutory undertaker, or
 - (d) any person holding public office.
- (4) In subsection (3) of this section—
- public body includes—
- (a) any local authority, joint board or joint committee;
 - (b) any National Park authority;
- public officell means—
- (a) an office under Her Majesty;
 - (b) an office created or continued in existence by a public general Act of Parliament; or
 - (c) an office the remuneration in respect of which is paid out of money provided by Parliament.
- (5) In subsection (4) of this section, -joint board and -joint committee mean—
- (a) a joint or special planning board for a National Park reconstituted by order under paragraph 1 or 3 of Schedule 17 to the Local Government Act 1972, or a joint planning board within the meaning of section 2 of the Town and Country Planning Act 1990;
 - (b) a joint committee appointed under section 102(1)(b) of the Local Government Act 1972.
- (6) In this section, -local authority—
- (a) in relation to England, means a county council, district council or parish council;
 - (b) in relation to Wales, means a county council, county borough council, ... or community council.

Section 114 Interpretation

- (1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—
- area of outstanding natural beautyll means an area designated under section 82 of the Countryside and Rights of Way Act 2000;
- the Council means the Countryside Council for Wales;
- drainage authority means the Environment Agency or an internal drainage board;

- interest, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting rights;
 - land includes land covered by water and as respects Scotland includes salmon fishings;
 - the Minister as respects England and Wales means the Minister of Town and Country Planning, and as respects Scotland means the Secretary of State;
 - National Park has the meaning assigned to it by subsection (3) of section five of this Act;
 - open-air recreation does not include organised games;
 - owner, in relation to any land, means, except in Part III of this Act or in relation to Scotland, a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let, and, in Part III of this Act, as respects England and Wales means any person being either entitled to the fee simple or being a mortgagee in possession of the land and as respects Scotland has the meaning assigned to it by section twenty-six of this Act;
 - vehicle does not include a vessel, except any vessel adapted for use on land while it is being so used;
 - waterway means any lake, river, canal or other waters, being (in any case) waters suitable, or which can reasonably be rendered suitable, for sailing, boating, bathing or fishing;
- (2) References in this Act to the preservation, or the conservation of the natural beauty of an area shall be construed as including references to the preservation or, as the case may be, the conservation of its flora, fauna and geological and geographical features.
 - (3) References in this Act to the planting of trees shall be construed as including references to the planting of bushes, the planting or sowing of flowers and the sowing of grass and the laying of turf.
 - (4) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment including this Act.

SCHEDULE 1

PROVISIONS AS TO MAKING, CONFIRMATION, COMING INTO OPERATION AND VALIDITY OF CERTAIN INSTRUMENTS

Part I

Orders designating National Parks, Public Path Orders, Diversion Orders and Extinguishment Orders, and Access Orders

- 1 (1) Before—
 - (a) an order designating a National Park, ...is submitted to the Minister for confirmation, the authority by whom the order was made shall give notice in the prescribed form stating the effect of the order and that it has been made and is about to be submitted for confirmation, naming places in the locality to which the order relates where copies of the order and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the order may be made.
 - (2) Before the Minister makes an order varying an order designating a National Park, ... or an access order, he shall prepare a draft of the order and shall give notice stating that he proposes to make the order and the effect thereof, naming places in the locality to which the draft relates where a copy of the draft and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the draft may be made.
 - (3) The notice to be given under either of the two foregoing sub-paragraphs shall be given—
 - (a) in the case of an order designating a National Park or an order varying such an order, by publication in the London Gazette, in two newspapers circulating in the country generally and in at least one local newspaper circulating in every county or county borough which includes any of the land to which the order relates:

(3A) Where under this paragraph any notice is required to be given by any person in respect of any land which is already in a National Park for which a National Park authority is the local planning authority, that person shall serve a copy of that notice on that authority.

- 2
- (1) If no representations or objections are duly made, or if any so made are withdrawn, the Minister may, if he thinks fit, confirm or make the order, as the case may be, with or without modifications.
 - (2) If any representation or objection duly made is not withdrawn, the Minister shall, before confirming or making the order, as the case may be, if the objection is made by a local authority cause a local inquiry to be held and in any other case either—
 - (a) cause a local inquiry to be held, or
 - (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose,and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm or make the order, as the case may be, with or without modifications:
 - (2A) In sub-paragraph (2) -local authority does not include, in relation to an order designating a National Park in England, a parish council.
 - (3) Notwithstanding anything in the foregoing provisions of this paragraph, the Minister shall not confirm or make an order so as to affect land not affected by the order as submitted to him or the draft order prepared by him, as the case may be, except after—
 - (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days) within which and manner in which representations or objections with respect to the proposal may be made;
 - (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose; and
 - (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be...
 - (4) Where, in the case of an access order, it is represented by the Environment Agency or a water undertaker being a water undertaking, that any land comprised in the order as submitted to the Minister or in the draft order prepared by him, as the case may be (or, where notice of a proposed modification has been given under head (a) of the last foregoing sub-paragraph, and land to which the proposed modification relates), should be excluded from the operation of the order on the ground that by reason of—
 - (a) the proximity of the land to any reservoir used for the purposes of the statutory undertaking carried on by that Authority or, as the case may be, undertaker, or
 - (b) any other physical factor affecting the flow of water from the land into any such reservoir, the operation of section sixty of this Act as respects that land would be likely to involve danger to the purity of the water supply which could not be prevented by the taking of any reasonable measures, sub-paragraph (2) of this paragraph, or head
 - (c) of the last foregoing sub-paragraph, as the case may be, shall have effect in relation to that representation as if it provided for the consideration of the report therein referred to by the Minister and the Secretary of State acting jointly.
 - (5) If, as the result of any representations or objections considered, or inquiry or other hearing held, in connection with the confirmation of an order designating a National Park or the making of an order varying such an order, the Minister is of opinion that Natural England, the Council a National Park authority, county planning authority or, in Wales, the local planning authority or any other person ought to be consulted before he decides whether to confirm or make the order either with or without modifications, he shall consult Natural England, the Council, authority or other person but, subject to the provisions of sub-paragraph (3) of this paragraph, shall not be under any obligation to consult any other person, or to afford any opportunity for further representations or objections or to cause any further inquiry or other hearing to be held.

- 3 As soon as may be after any such order as is mentioned in paragraph 1 of this Schedule has been confirmed or made by the Minister, the authority by whom the order was made, or, in the case of an order made by the Minister, the Minister, shall publish, in the manner required in relation to the class of order in question by sub-paragraph (3) of paragraph 1 of this Schedule, a notice in the prescribed form describing the effect of the order, stating that it has been confirmed or made, and naming a place where a copy thereof as confirmed or made may be inspected at all reasonable hours, and—
- (a) where under the said sub-paragraph (3) notice was required to be served shall serve a like notice and a copy of the order as confirmed or made on any persons on whom notices were required to be served under that sub-paragraph or under sub-paragraph (3A) or (4) of paragraph 1 of this Schedule; and
 - (b) where under the said sub-paragraph (3) a notice was required to be displayed, shall cause a like notice to be displayed in the like manner as the notice required to be displayed under that sub-paragraph:
- Provided that no such notice or copy need be served on a person unless he has sent to the authority or Minister (according as the notice or copy would require to be served by an authority or by the Minister) a request in writing in that behalf specifying an address for service.
- 3A An order designating a National Park shall have effect as from such time as may be determined by the Minister and specified in the notice of the confirmation of that order.
- 4 (1) The Minister may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the submission and confirmation of orders to which this Part of this Schedule applies as appears to him to be expedient.
- (3) In this Part of this Schedule the expression 'prescribed' means prescribed by regulations made by the Minister.

Statutory Instrument “The National Parks and Access to the Countryside Regulations 1950, No. 1066

Part IV Procedure on Making of Orders

15. For the purposes of this Part of these Regulations

Order means any of the following orders, namely- An order under Section 7 of the Act designating a National Park... or an order varying or revoking any of those orders.

16. An order submitted to the Minister for confirmation shall be made in duplicate and accompanied by two copies of the order, and a copy of any advertisement published before the submission as required by the First Schedule to the Act, together with a statement by the authority by whom the order was made of the grounds on which they consider that the order should be confirmed, and (in any case in which the Act requires the authority to obtain the consent of, (or to consult with, any other body, before the order is made) a certificate that such consent has been obtained or such consultation has taken place.

17. After the order has been confirmed the authority by whom the order was made shall, as soon as the requirements of paragraph 3 of the First Schedule of the Act have been complied with, furnish to the Minister a certificate to that effect.

19. Any notice required to be given, served or displayed under the first Schedule to the Act by an authority by whom an order is made shall be in the form set out in the Second Schedule hereto [Form No1], or substantially in such form, in the cases to which that form of notice is applicable.

20. Where the minister in exercise of any of the powers conferred on him by the Act proposes to make any order to which these Regulations apply, any notice which the Minister is required to give, serve or display under the First Schedule to the Act shall be in the form set out in the Second Schedule hereto [Form No. 4], subject to any necessary modifications:

Provided that the authority, who immediately before the making of the order were the appropriate authority for the purposes of making the order shall arrange for the deposit of copies of the minister's draft order and for the giving of access thereto and for any display of notices.

Second Schedule, Forms of Notices

Form No. 1 Notice of Submission of National Park Order

National Parks and Access to the countryside Act, 1949, (as amended)
Natural England

Notice is hereby given that the above order was made on the XXX day of XXX, XXXX, and is about to be submitted to the Secretary of State, Defra for confirmation.

The effect of the order will be to constitute the land to which the order relates a National Park.

The order relates to land situate in the county [counties] of XXXX and comprises land within the undermentioned districts XXX, XXX, XXX.

A certified copy of the order and of the map[s] referred to therein has been deposited for public inspection at each of the places mentioned below and will be open for inspection free of charge between the hours of XXX and XXX.

Any objection or representation with reference to the order may be sent in writing to the Secretary Department of Environment, Food and Rural Affairs at XXXXXX, XXXX, XXXX, before the XXX day of XXX, XXXX, and any such objection or representation should state the grounds on which it is made.

Dated this XXX day of XXX, XXXX.

Form No. 4. Notice of Confirmation of National Park Order

National Parks and Access to the countryside Act, 1949, (as amended)
Natural England
(Title of Order)

Notice is hereby given that on the XXX day of XXX, XXXX, the Secretary of State, Defra confirmed [with modifications] the above National Park Order.

The effect of the order is to constitute the land to which the order relates a National Park.

A certified copy of the order and of the map referred to therein as confirmed by the Minister has been deposited at each of the places mentioned below, and will be open for inspection free of charge between the hours of XXXX and XXXX.

The order becomes operative as from the XX day of XXX XXXX but if any person aggrieved by the order desires to question the validity thereof, or of any provision contained therein on the grounds that it is not within the powers of the National Parks and access to the Countryside At 1949 (as amended), or on the ground that any requirement of the Act or any regulation made thereunder has not been complied with in relation to the approval of the order he may, within six weeks from the date of publication of this notice make application to the High Court.

Dated this XXX day of XXX, XXXX.

Explanatory Note

(This note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations make provisions for various procedural matters... under the National Parks and Access to the countryside Act 19949, (as amended)...

Part IV deals with the procedure to be followed in connection with the submission and confirmation of orders designating National Parks, and certain other orders under the Act.

Wildlife and Countryside Act 1981

Section 45 Power to vary orders designating National Park

- (1) Natural England (as well as the Secretary of State) shall have power to make an order amending an order made under section 5 of the 1949 Act designating a National Park, and—
 - (a) section 7(5) and (6) of that Act (consultation and publicity in connection with orders under section 5 or 7) shall apply to an order under this section as they apply to an order under section 7(4) of that Act with the substitution for the reference in section 7(5) to the Secretary of State of a reference to Natural England; and
 - (b) Schedule 1 to that Act (procedure in connection with the making and confirmation of orders under section 5 or 7) shall apply to an order under this section as it applies to

an order designating a National Park.

Environment Act 1995

Section 63 Establishment of National Park Authorities

- (1) The Secretary of State may—
 - (a) in the case of any National Park for which there is an existing authority, or
 - (b) in connection with the designation of any area as a new such Park,by order establish an authority (to be known as “a National Park authority”) to carry out in relation to that Park the functions conferred on such an authority by or under this Part.
- (2) An order under this section may provide, in relation to any National Park for which there is an existing authority—
 - (a) for the existing authority to cease to have any functions in relation to that Park as from the time when a National Park authority becomes the local planning authority for that Park;
 - (b) for such (if any) of the functions of the existing authority as, by virtue of this Part, are not as from that time to be functions of the National Park authority for that Park to become functions of the person on whom they would be conferred if the area in question were not in a National Park; and
 - (c) for the winding up of the existing authority and for that authority to cease to exist, or to be dissolved, as from such time as may be specified in the order.
- (3) Subject to any order under subsection (4) below, where there is a variation of the area of a National Park for which there is or is to be a National Park authority, the Park for which that authority is or is to be the authority shall be deemed, as from the time when the variation takes effect, to be that area as varied.
- (4) Where provision is made for the variation of the area of a National Park for which there is or is to be a National Park authority, the Secretary of State may by order make such transitional provision as he thinks fit with respect to—
 - (a) any functions which, in relation to any area that becomes part of the National Park, are by virtue of the variation to become functions of that authority; and
 - (b) any functions which, in relation to any area that ceases to be part of the National Park, are by virtue of the variation to become functions of a person other than that authority.
- (5) Schedule 7 to this Act shall have effect with respect to National Park authorities.

Countryside and Rights of Way Act 2000

Part IV

Areas of Outstanding Natural Beauty

Section 82 Designation of areas

- (1) Where it appears to **Natural England** that an area which is in England but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, **Natural England may**, for the purpose of conserving and enhancing the natural beauty of the area, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.
- (2) ...[Wales only]
- (3) In this Part -area of outstanding natural beauty means an area designated under this section as an area of outstanding natural beauty.

Section 83 Procedure for designation orders

- (1) Where **Natural England** or the Natural Resources Body for Wales (NRBW) propose to make an order under section 82, Natural England or NRBW shall consult every local authority whose area includes any part of the area to which the proposed order is to relate.
- (2) Before making the order, **Natural England** or the NRBW shall then publish, in the London Gazette and in one or more newspapers circulating in the area of every such local authority, notice that they propose to make the order, indicating the effect of the order and stating the time within which and manner in which representations with respect to the proposed order may be made to **Natural England** or the NRBW (as the case may be), and shall consider any representations duly made.
- (3) An order under section 82 shall not come into operation unless and until confirmed—
 - (a) in the case of an order made by **Natural England**, by the Secretary of State, or
 - (b) ...and, in submitting any such order to the Secretary of State or the Assembly, Natural England or the NRBW shall forward to the Secretary of State any representations made by a local authority consulted under subsection (1) or made by any other person under subsection (2), other than representations to which effect is given by the order as submitted to the Secretary of State or the Assembly.
- (4) The Secretary of State or the Assembly may confirm an order submitted to him or it under this section either as submitted or with such modifications as the Secretary of State or the Assembly thinks expedient.
- (5) Before refusing to confirm an order under section 82, or determining to confirm it with modifications, the Secretary of State shall consult **Natural England** and every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.
- (6) Before refusing to confirm an order under section 82, or determining to confirm it with modifications, the Assembly shall consult the NRBW and every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.
- (7) An order under section 82 may be revoked or varied by a subsequent order under that section.
- (8) Without prejudice to the powers of **Natural England** or the NRBW to vary an order under section 82, the Secretary of State (as respects England) or the Assembly (as respects Wales) may by order vary any order under that section made by **Natural England** or the NRBW; and subsection (1) applies to any order under section 82 made by the Secretary of State or the Assembly by virtue of this subsection with the substitution for references to **Natural England** of references to the Secretary of State and for references to the NRBW of references to the Assembly.
- (9) It is the duty of **Natural England** and the NRBW to secure that copies of any order under section 82 relating to England or, as the case may be, to Wales, are available for inspection by the public at all reasonable times—
 - (a) at the office of **Natural England** or, as the case may be, the NRBW,
 - (b) at the offices of each local authority whose area includes any part of the area to which the order relates, and
 - (c) at such other place or places in or near that area as **Natural England** or, as the case may be, the NRBW may determine.

Section 86 Establishment of conservation boards

- (1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may—
 - (a) in the case of any existing area of outstanding natural beauty, or
 - (b) in connection with the designation of any area as an area of outstanding natural beauty, by order establish a board (in this Part referred to as -a conservation board)) to carry out in relation to that area the functions conferred on such a board by or under this Part.
- (2) Schedule 13 (which relates to the constitution of conservation boards) has effect.
- (3) Where the Secretary of State or the National Assembly for Wales considers it expedient for either of the purposes mentioned in section 87(1), an order under subsection (1) may—
 - (a) provide for the transfer to the conservation board to which the order relates of any of

- the functions of local authorities, so far as relating to the area of outstanding natural beauty in question, or
- (b) provide for any function of a local authority, so far as relating to the area of outstanding natural beauty in question, to be exercisable concurrently by the local authority and by the conservation board.
- (4) Subsection (3) does not apply to functions of a local authority under Part II, III, VII or XIII of the Town and Country Planning Act 1990 [or under Part 2 or 6 of the Planning and Compulsory Purchase Act 2004].
 - (5) An order under subsection (1) may make further provision as to the constitution and administration of the conservation board to which it relates, including provision with respect to—
 - (a) the appointment of members,
 - (b) the removal and disqualification of members,
 - (c) the conduct of members,
 - (d) proceedings of the board,
 - (e) the appointment of staff,
 - (f) consultation with other public bodies,
 - (g) records and documents of the board,
 - (h) the provision of information by the board, and
 - (i) complaints of maladministration.
 - (6) Before making an order under subsection (1) in relation to an area of outstanding natural beauty in England, the Secretary of State shall consult—
 - (a) **Natural England**, and
 - (b) every local authority whose area consists of or includes the whole or part of the area of outstanding natural beauty, and shall not make the order unless satisfied that the majority of those local authorities consent.
 - (8) An order under subsection (1) which amends or revokes a previous order under that subsection establishing a conservation board—
 - (a) may be made only after consultation with the conservation board to which it relates (as well as the consultation required by subsection (6) or (7)), and
 - (b) in the case of an order revoking a previous order, may provide for the winding up of the board.
 - (9) Subject to any order under subsection (10), where there is a variation of the area of an area of outstanding natural beauty for which there is or is to be a conservation board, the area of outstanding natural beauty for which that board is or is to be the conservation board shall be taken, as from the time when the variation takes effect, to be that area as varied.
 - (10) Where provision is made for the variation of the area of an area of outstanding natural beauty for which there is or is to be a conservation board, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order make such transitional provision as he or it thinks fit with respect to—
 - (a) any functions which, in relation to any area that becomes part of the area of outstanding natural beauty, are by virtue of the variation to become functions of that conservation board; and
 - (b) any functions which, in relation to any area that ceases to be part of the area of outstanding natural beauty, are by virtue of the variation to become functions of a person other than that conservation board.

Section 87 General purposes and powers

- (1) It is the duty of a conservation board, in the exercise of their functions, to have regard to—
 - (a) the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and
 - (b) the purpose of increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty,
 but if it appears to the board that there is a conflict between those purposes, they are to attach greater weight to the purpose mentioned in paragraph (a).
- (2) A conservation board, while having regard to the purposes mentioned in subsection (1), shall seek to foster the economic and social well-being of local communities within the area of outstanding natural beauty, shall for that purpose co-operate with local authorities and public

bodies whose functions include the promotion of economic or social development within the area of outstanding natural beauty.

- (3) Sections 37 and 38 of the Countryside Act 1968 (general duties as to the protection of interests of the countryside and the avoidance of pollution) apply to conservation boards as they apply to local authorities.
- (4) The powers of a conservation board include power to do anything which, in the opinion of the board, is calculated to facilitate, or is conducive or incidental to—
 - (a) the accomplishment of the purposes mentioned in subsection (1), or
 - (b) the carrying out of any functions conferred on it by virtue of any other provision of this Part or by virtue of any enactment not contained in this Part.
- (5) The powers conferred on a conservation board by subsection (4) do not include—
 - (a) power to do anything in contravention of any restriction imposed by virtue of this Part in relation to any express power of the board, or
 - (b) power to raise money (whether by borrowing or otherwise) in a manner which is not authorised apart from that subsection, but the things that may be done in exercise of those powers are not to be treated as excluding anything by reason only that it involves the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights.
- (6) Schedule 14 (which relates to the supplemental and incidental powers of conservation boards) has effect.
- (7) An order under section 86(1) may—
 - (a) make further provision with respect to the supplemental and incidental powers of the conservation board to which it relates or the limits on those powers, including provision relating to the borrowing of money, and
 - (b) provide for any enactment which relates to or limits the supplemental or incidental powers or duties of local authorities or relates to the conduct of, or transactions by, local authorities to apply in relation to the conservation board with such modifications as may be specified in the order.

Section 88 Orders establishing conservation boards

- (1) Any power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) is exercisable by statutory instrument.
- (2) No order shall be made under section 86(1) by the Secretary of State unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (3) A statutory instrument containing an order made under section 86(10) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) If a draft of an order made under section 86(1) by the Secretary of State would, apart from this section, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.
- (5) The power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) includes power to make such incidental, supplemental, consequential and transitional provision as the person making the order thinks necessary or expedient.
- (6) The power of the Secretary of State or the National Assembly for Wales by an order under section 86(1) or (10) to make incidental, supplemental, consequential or transitional provision includes power for any incidental, supplemental, consequential or, as the case may be, transitional purpose—
 - (a) to apply with or without modifications,
 - (b) to extend, exclude or modify, or
 - (c) to repeal or revoke with or without savings, any enactment or any instrument made under any enactment.
- (7) The provision that may be made for incidental, supplemental, consequential or transitional purposes in the case of any order under section 86(1) or (10) which—
 - (a) establishes a conservation board or provides for the winding up of such a board, or
 - (b) otherwise has the effect of transferring functions from one person to another or of providing for functions to become exercisable concurrently by two or more persons or

- to cease to be so exercisable, includes provision for the transfer of property, rights and liabilities from one person to another.
- (8) The power of the Secretary of State or the National Assembly for Wales under section 86(1) or (10) to provide by order for the transfer of any property, rights or liabilities, or to make transitional provision in connection with any such transfer or with any order by which functions become or cease to be exercisable by any conservation board, includes, in particular, power to provide—
- (a) for the management and custody of any transferred property (whether real or personal);
 - (b) for any liabilities transferred to include liabilities under any enactment;
 - (c) for legal proceedings commenced by or against any person to be continued by or against a person to whom property, rights or liabilities are transferred or, as the case may be, any board or other authority by whom any functions are to become exercisable;
 - (d) for the transfer of staff, compensation for loss of office, pensions and other staffing matters; and
 - (e) for treating any person to whom a transfer of property, rights or liabilities is made or, as the case may be, by whom any functions are to become exercisable as, for some or all purposes, the same person in law as the person from whom the transfer is made or the authority by whom the functions have previously been exercisable.
- (9) The power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) includes power to make different provision for different cases, including different provision for different areas or localities and for different boards.
- (10) In this section -enactmentll includes an enactment contained in an Act passed after this Act.

Section 92 Interpretation of Part IV and supplementary provision

- (1) In this Part, unless a contrary intention appears—
- the 1949 Act means the National Parks and Access to the Countryside Act 1949;
 - area of outstanding natural beauty has the meaning given by section 82(3);
 - conservation board has the meaning given by section 86(1);
 - the NRBW means the Natural Resources Body for Wales;
 - liability, in relation to the transfer of liabilities from one person to another, does not include criminal liability;
 - local authority means a principal council within the meaning of the Local Government Act 1972;
 - principal area has the same meaning as in the Local Government Act 1972.
- (2) Any reference in this Part to the conservation of the natural beauty of an area includes a reference to the conservation of its flora, fauna and geological and physiographical features.
- (3) This Part does not apply in relation to any of the lands mentioned in section 112(1) of the 1949 Act (Epping Forest and Burnham Beeches).

Natural Environment and Rural Communities Act 2006

Section 99 Natural Beauty in the Countryside

The fact that an area in England or Wales consists of or includes –

- (a) land used for agriculture or woodlands,
- (b) land used as a park, or
- (c) any other area whose flora, fauna or physiographical features are partly the product of human intervention in the landscape,

does not prevent it from being treated, for the purposes of any enactment (whenever passed), as being an area of natural beauty (or of outstanding natural beauty).

Appendix 6

This Appendix provides three model examples of completed a) natural beauty and b) recreation opportunity evaluation tables for different individual evaluation areas, and c) a boundary justification table for a section of boundary. These provide guidance on the level of detail required and examples of the types of justification which can be used to include an area of land, based on past precedent.

Example of Natural Beauty Assessment Table taken from the Suffolk Coast & Heaths AONB boundary variation

Area S5 Central Estuary and Southern Slopes

Area S5 Central Estuary and Southern Slopes Natural Beauty Factors, Sub-factors and Evidence of Indicators	
Landscape quality	<p>Area S5 Central Estuary and Southern Slopes</p> <p>This area of landscape comprises the expansive open water, mud-flats and saltmarsh of the estuary and the southern valley slopes between New Mistley and Parkeston Quay and is contiguous with the AONB boundary along the northern shores of the Stour. When viewed from within the existing AONB looking south, the southern shores form a matrix of woodland, arable and pasture, typical of estuary valley sides within the wider AONB, defining the Stour Estuary as a single landscape unit. The area has a strong visual unity, with the southern slopes forming the rural backdrop to the open waters of the estuary with trees often crowning the break of slope/skyline.</p> <p>There is good survival of characteristic features in places, such as low sandstone cliffs, open intertidal mudflats, saltmarsh, ancient woodland, tributary valleys, historic lanes which drop down the valley sides (eg Wall Lane), and a scatter of listed buildings, giving rise to a strong and distinctive landscape where many key characteristics are well represented. Where detracting features occur, their effects are often localised e.g. farm reservoirs, new agricultural buildings, recreation-based development eg Copperas Farm, caravan site off Stone Lane and development at Wheatsheaf Close. The railway between Mistley and Parkeston crosses through the area on the lower estuary slopes and is often not evident in views, running mainly at grade or in a cutting. Where it does run on an embankment and severs views immediately to the south of the line, the effects are felt only locally e.g. from the Essex Way and the B 1352 to the west of Jacques Hall.</p> <p>Much of the southern valley slopes have however experienced significant change such as field boundary loss and field rationalisation, since the turn of the 20th century. This has altered and simplified historic landscape patterns and reduced landscape quality but has given rise to open views across the estuary in places. Little of this area is currently managed under Agri-Environment Schemes, and overall habitat and ecological connectivity is restricted to the sparse network of woodland and hedges and grass verges along rural lanes/tracks. The area contains linear belts of broadleaved woodland along some water courses e.g. adjacent to Mill Lane and between Spinnel's Hill and the railway line, as well as more extensive areas of ancient woodland in the east. The broadleaved woodlands are in the main well-managed, for example there is evidence of ongoing woodland management in Copperas Wood from coppicing activity and cut stools and timber piles, while Stour Wood is owned by the Woodland Trust and managed by the RSPB and has had a long history of coppicing management.</p> <p>'Long Marsh' near Wrabness remains a distinctive flat area with some floodplain grazing marsh, though partially drained and landscape quality is affected locally by horsiculture.</p>

	<p>The mudflats, saltmarsh and open water all remain strong elements of the estuary landscape although the saltmarsh and mudflats have historically been subject to loss - eg around 60% of saltmarsh was lost between 1973 and 1997 mainly due to erosion, while dredging of the channels for container ships at the eastern end of estuary has affected the stability of some mudflats.</p> <p>The water quality in the Stour is very good. All sections of the estuary have been graded as 'A' according to the Environment Agency's estuarine classification system thus supporting a strong ecosystem which contributes to the qualities of the estuary.</p>
<p>Scenic quality</p>	<p>Area S5 Central Estuary and Southern Slopes</p> <p>This is a scenic landscape, with a strong visual unity, where the interplay of the gentle farmed and wooded slopes (primarily between sea level and the 30m contour), the flat and textured expanse of saltmarsh and mudflats and open water at high tide, and undulations created by tributary stream valleys combine to create attractive landscape compositions. Within areas of broadleaved woodland, carpets of spring flowers such as wood anemone, contribute flashes of colour in season which stimulates the senses. Similarly, small patches of acidic vegetation such as bracken and gorse on upper slopes along lane verges and in hedgerows add colour and texture and contribute to scenic quality.</p> <p>The estuary as a whole has a strong sense of place reinforced by local landmark features such as the church at Wrabness as well as views north across the estuary to striking landmarks including the estate house of Stutton Park, the façade of the Royal Hospital School and the church tower and Martello towers at Erwarton and Shotley Gate respectively. The views from the southern shores across the estuary are particularly striking because they benefit from being fully lit on sunny days whereas looking south from the northern shore, views can be obscured by sunlight and the details of the valley slopes are less easy to distinguish. There are particularly superb views of the estuary from Ship Hill along the B1352.</p> <p>The southern estuary shores consist of a series of shallow bays divided by promontories, some wooded or tree-lined eg at Copperas Wood and Nether Hall. This combined with the undulating and occasionally intimate, sometimes wooded, character of the small valleys which penetrate inland contrasts with the expansive Stour estuary.</p> <p>The mudflats along the shoreline are peppered with yachts and dinghies particularly at Wrabness and Holbrook Bay, often resting at an angle on the mud at low tide and the sight of a solitary white sail on the water is commonplace, adding interest and focus. The large numbers of wading birds and wildfowl add interest in season. Along the Wrabness peninsula there are small sandy beaches backed by a unique and eclectic mix of beach huts on stilts. Away from these areas the bays and mudflats are unfettered by human structures and retain a strongly natural character.</p> <p>In places there are excellent open views across the water from the adjacent settlements and upper valley slopes. The B1352 coast road and network of lanes along the valley sides emphasise the undulating nature of the valley sides and provide some outstanding views of the Suffolk shore across the estuary. The railway between Mistley and Harwich also offers intermittent but striking and sweeping estuary views both directly across the open water but also along the estuary to the east and west. Where the valley sides jut out into the estuary, as at Wrabness, there are elevated views where the profile of the valley sides and low cliffs and flatter marshes and mudflats along the water's edge form attractive compositions of high scenic quality. There are also elevated and lower-lying outstanding views over the estuary in places including from the Essex Way, which crosses the higher land from Mistley Heath to Jacques Hall and then follows the edge of the Stour eastwards for much of its length.</p> <p>In general land above the 30m contour tends to flatten out forming the fringes of a wider plateau which stretches to the south. Along these fringes there are often elevated scenic views across the estuary slopes and open water. There is a gradual transition from the fringes of the plateau moving southwards. The wider plateau generally lacks the geomorphological variation of</p>

	<p>the estuary slopes and valleys, loses visual connection with the estuary, and has a more intense arable use with large-scale fields. Similarly in the tributary valley stretching into the plateau around Lonbarn Bridge, estuary views are lost and the area is affected by fruit farming, a solar farm, intensive arable and poplar plantation thus lacking the scenic quality and views of land to the north.</p>
<p>Relative wildness</p>	<p>Area S5 Central Estuary and Southern Slopes</p> <p>The estuary is unusually wide compared with other estuaries within the existing AONB, an apparently vast area of open water at high tide. At ebb tide the river shrinks and in its upper reaches is little more than a narrow channel which snakes its way across the huge expanses of inhospitable mudflats. There is a strong sense of openness and relative lack of human influence when away from settlements and roads and particularly when along the shores of the Stour which have a predominately undeveloped character. In these locations evidence of human activity appears distant and the semi-natural habitats and processes associated with the water and tide offer a sense of 'closeness to nature' and isolation. There is a strong sense of relative wildness locally at Jacques Bay and Copperas Bay owing to lack of sea walls giving a naturalistic shoreline in these stretches, while at Wrabness Depot Nature Reserve, there is a strong sense of a return to nature with thick scrub and secondary woodland developing.</p> <p>Occasionally there are areas where the sense of remoteness is undermined such as between Stour Wood and Copperas Wood where housing along Wrabness Road locally detracts from a sense of remoteness, or in close proximity to the oil refinery at the eastern end of this area. However, these effects are localised.</p> <p>Away from the shoreline areas described above, there is no sense of relative wildness owing to the active agricultural management of the farmland on the valley slopes and plateau beyond.</p>
<p>Relative tranquillity</p>	<p>Area S5 Central Estuary and Southern Slopes</p> <p>The area as a whole has a peaceful, informal estuary character as a result of open water views and semi-natural habitats which lend a sense of timelessness, with only occasional small hamlets and farms. Where ancient woodlands and old hazel coppice occur, they provide contrasting hidden, intimate landscapes. On the valley slopes the network of winding narrow rural lanes which traverse the area, ancient woodland with its associated spring flora and woodland copses give intermittent enclosure. This contrasts with open estuary views from arable farmland which exhibits a strong sense of tranquillity. The villages of Bradfield and Wrabness lie on the periphery of the area (on the upper slopes and edge of the plateau) and their influence on tranquillity on the valley slopes and estuary is limited.</p> <p>Outside settlements, much of the land is private with few rights of way and there is limited access to the foreshore except by foot. Consequently, visitor numbers are fewer than other more accessible estuarine landscapes and where footpaths run along the shoreline, they do offer a high level of remoteness, where it is possible to feel 'away from it all'. Even where there is a concentration of activity, such as near the beach huts at Wrabness, tranquillity remains strong.</p> <p>At the mouth of the estuary the oil refinery, Parkeston Quay and cranes at Felixstowe have a limited visual influence on the Central Estuary and Southern Slopes generally. They reduce perceptions of tranquillity only locally in part due to the character of the estuary shoreline with its promontories and curving bays which hide them from view in most places, but also where they are visible, due to the perceived sense of distance across the open expanse of water.</p> <p>On the southern shores, the railway (passenger and freight line) follows the shoreline fairly closely and momentary noise intrusion from the trains alters the otherwise strong tranquillity, as does the B1352 road.</p> <p>In the plateau landscape to the south, and in places on valley slopes converted to arable production, agricultural machinery and farming activity may reduce tranquillity intermittently.</p>

Natural heritage features**Area S5 Central Estuary and Southern Slopes**

The influence of glacial melt waters at the end of the Ice Age is clearly evident in the Stour Estuary which has a distinctive wide, relatively straight valley profile compared to other estuaries within the AONB, with a series of curving shallow bays between small promontories. Its mudflats and saltmarsh express a soft sedimentary geology, while the gently rising valley sides comprising clay and glacial loams extend up to the surrounding plateau.

The Stour is one of the most important wildlife estuaries in Europe, of international importance for wildfowl and waders (SSSI, SPA and Ramsar) supporting an interesting and diverse wildlife population, in both sub-tidal and intertidal areas which contribute movement and visual interest to the area. These include wader species such as redshank, black tailed godwit, dunlin, grey plover, knot, curlew, ringed plover, and turnstone and wildfowl species including wigeon, pintail, shelduck, brent goose and mute swan. The large bird populations are heavily dependent on the mudflats and saltmarshes around the estuary, the mudflats containing vast numbers of invertebrate species, which provide a food source for various birds. Saltmarshes also support rare plant assemblages and invertebrate populations, and provide cover for roosting and feeding birds, while in the water there are many invertebrate and fish species.

The areas of salt marsh on the coastal edge e.g. at Copperas and Jacques Bays complement those already within the AONB on the northern shores (e.g. Erwarton Bay).

On the southern slopes of the estuary there are areas of ancient deciduous woodland and coppice which form important landscape features. Stour and Copperas Woods (SSSI) together form the largest area of woodland in north-east Essex and the only site in the county where coastal and woodland habitats meet. Within these ancient woodlands sweet chestnut, ash, oak, wild cherry, hornbeam, lime, hazel and birch are all present and carpets of spring flowers including primrose, wood anemone, euphorbia, red campion, yellow archangel, stitchwort and bluebell, are a notable feature adding considerably to the area's scenic qualities.

Around Bradfield there are remnant signs of acidic vegetation with patches of bracken and gorse in the hedgerows and along lane verges which add to scenic quality and visual interest.

There are also a number of smaller areas of ancient woodland on the southern valley slopes that have been designated as county wildlife sites e.g. Millgrove Wood and Brakey Wood. Field and village ponds are a feature of the eastern part of this landscape and of local biodiversity value.

In a few places along the shores of the estuary are short stretches of low sandstone cliff eg at Stone Point. The cliffs are interesting geologically and are formed largely of soft clays and red crag (shelly sand and gravel), which in places contain both sharks' teeth and coprolites (fossil faeces). There is also a rock band of small nodules called septaria, owing to the gaps (septa) which develop between the nodules during formation. This stone was much exploited for use in making Roman cement during the 19th Century and used in Stucco locally, such as that at Mistley Hall. Notable areas of low cliffs occur in the Wrabness and Shotley areas adding topographical variety to the shoreline and opportunities for fossil hunting.

The area at Wrabness Depot and Marsh is a Local Wildlife Site comprising grazed grassland, scrub wood, and ponds with marshy grassland heavily grazed by ponies. The grassland is flower rich and adds to the visual interest and texture of the landscape.

<p>Cultural heritage</p>	<p>Area S5 Central Estuary and Southern Slopes</p> <p>The historic patterns of this landscape are reflected in the dispersed settlement pattern of farmsteads and hamlets and the ancient leafy lanes dropping down the valley sides which may be Saxon in origin e.g. Wall Lane at Wrabness Point.</p> <p>There are distinctive holiday huts on stilts (some of which retain their 1920's character) at Wrabness Point and a number of Halls located on the valley sides which historically have taken advantage of the estuary views e.g. Jacques Hall (late 19th century country house with distinctive Dutch gables), Nether Hall and Wrabness Hall (the latter two are listed). Other historic buildings which add visual interest to the landscape include Wrabness Church and Wrabness Bell-Cage as well as old farmhouses including Home Farm (New Mistley) and Foxes Farm (Wrabness). The remains of St Mary's Church at Mistley Heath and a Pill Box near Spinnel's Farm both Scheduled Monuments, are located on the outer fringes of the valley slopes and in dry weather the non-scheduled cropmark of a post medieval windmill may be visible on the 30m contour at Jenkins Hill. Ragmarsh Farm is an attractive farmhouse with a range of traditional vernacular buildings.</p> <p>There are a number of known archaeological sites including the sites of former salterns, old jetties and quays as well as ship wrecks, which are revealed at low tide from time to time and add to the visual interest along the shoreline and the appreciation of the historical importance of this waterway for trade eg the partially submerged remains of the 19th Century sailing barge Victoria at Bradfield Beach. The site of a former decoy pond, west of Nether Hall, hints at the importance of the estuary for sporting interests. Bradfield is a Conservation Area, with a concentration of historic buildings and a traditional village layout around the parish church. However further to the south and into Bradfield Heath there is more modern housing development. Here the historic integrity and visual quality of the settlement lacks distinction.</p> <p>A naval mine depot dating from 1921 was an important ordnance site at Wrabness Nature Reserve. Some large warehouses remain, and are still in industrial use, but the associated railway network and station joining the mainline railway have now gone and the site has a strong sense of being reclaimed by nature with thick scrub developing in many places across the site. Historically connected and an annex to this site was a large WW II Royal Naval sea mine depot, hidden in the woods at Copperas Wood Farm. Although some large storage buildings remain, much of the site was cleared after the War.</p> <p>Copperas Bay takes its name from the old industry of copperas (bisulphide of iron) gathering of which took place in the bay until the 1870's. This industry exploited the pyritised fossil wood deposits by dredging them from the mud and taking them to Harwich to produce green vitriol, for use in woollen dyeing, tanning and ink production.</p> <p>A house for Essex, a striking modern folly designed by the renowned artist Grayson Perry, sits in a prominent position on the valley slopes above East Grove Woods.</p>
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Evaluation

<p>Overall weight and spatial distribution of natural beauty evidence</p>	<p>Area S5 Central Estuary and Southern Slopes</p> <p>Overall, the natural beauty criterion is met over most of the Central Estuary and Southern Slopes Evaluation Area. There is a considerable weight of evidence in relation to landscape quality, scenic quality and tranquillity, and evidence of relative wildness, natural heritage and cultural heritage, particularly in areas associated with the expanse of water, mudflats and saltmarsh and foreshore. The natural shoreline, open expanses of water, scatter of moored boats, birdcalls, gentle estuary slopes, ancient woodlands, occasional stream valleys, and occasional historic buildings give rise to a high level of natural beauty.</p> <p>There are some spatial variations in the weight of evidence of natural beauty. The valley slopes have been subject to intensive</p>
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	<p>arable farming such that there are few remaining hedgerows, semi-natural habitats, archaeological or other landscape features. Nevertheless, the upper slopes and the edge of the plateau afford elevated memorable views across to the northern shores and/or across open water and undulating valley sides where tributary valleys penetrate inland and have a high scenic quality. Particular scrutiny will be required when defining the boundary to balance the need to draw the boundary conservatively and yet to identify a clear line on the ground, especially within an area of transition.</p> <p>The small settlements of Mistley Heath, Bradfield Heath and Bradfield were reviewed as part of this evaluation. Modern linear development along the lanes means that it is difficult to perceive their separate identities. In addition, the land to the south of Bradfield comprises open arable farmland stretching onto the plateau landscape. There is no overt sign of the former heathland character of this area and the relatively flat and intensively farmed landscape is not considered to meet the natural beauty criterion. As a result, the settlements of Mistley Heath, Bradfield Heath and Bradfield do not sit within a high-quality landscape but at the margins of the area which meets the natural beauty criterion. They have thus been excluded from the Candidate Area</p> <p>The small hamlet of Wrabness lies at the junction between the valley slopes of the Stour estuary and the inland agricultural plateau. It is not a Conservation Area and has little historic interest. It does not sit within a high-quality landscape, the land to the south of the settlement comprising intensively farmed agricultural plateau with little to no association with the Stour Estuary. On this basis the settlement of Wrabness has also been excluded from the Candidate Area.</p>
Candidate Area	
Overall recommendation as to land that should be considered a Candidate area	<p>The parts of the Stour Estuary which are considered suitable for inclusion within a Candidate Area include:</p> <ul style="list-style-type: none"> • The majority of S5 Stour Estuary and Southern Slopes. Land which forms the southern slopes of the estuary where it meets the natural beauty criterion has been included in the Candidate Area, together with the majority of the Stour Estuary.
Need for further scrutiny	<p>Based on the analysis above there is a need for particular scrutiny around settlements where defining a boundary may be more problematic.</p> <p>In order for the land which meets the natural beauty criterion between Manningtree and Mistley (i.e. south of the railway) to be included in the proposed AONB variation, the principle of wash-over would need to be applied to non-qualifying land i.e. the land between The Walls and the railway. The principle of wash-over was established during the designation of the South Downs National Park where the Secretary of State accepted that parcels of lower quality land can be “washed over”, if they form part of a wider high quality tract, (i.e. are surrounded by higher quality land), but that care should be taken when using this discretion on land at the margin of a designation. The fact that the principle of wash-over would need to be applied to non-qualifying land in order to bring the area of land which meets the natural beauty criterion south of the railway in to a proposed boundary variation will require further consideration during the assessment of desirability.</p>
Issues to be Addressed in Defining Extent	
Transition	<p>S5: Stour Estuary and Southern Slopes</p> <p>There is a transition southwards as the influence of more intensive arable farming on the plateau farmland and slopes above the estuary becomes more dominant and the localised effect of traffic on the coastal road is felt, influencing landscape quality, scenic quality and tranquillity.</p> <p>Care will need to be taken in all these transitional areas to define a conservative boundary within the transition whilst also</p>

	balancing the need for a clearly identifiable boundary line on the ground, when applying Natural England's approach to boundary setting (as set out in the Guidance).
Fragmentation	<p>S5 Stour Estuary and Southern Slopes</p> <p>The railway line runs along the lower slopes of the estuary and where it is on an embankment, it occasionally visually and physically fragments the landscape, separating the inland areas from the foreshore. The B1352 also cuts across the southern valley slopes in places, causing a degree of fragmentation. However, these effects are localised and are not considered to significantly undermine the ability of this landscape overall to meet the designation criterion. Where field enclosure patterns have become fragmented, opportunities to find a suitable boundary line will require particular scrutiny.</p>
Incongruous features	<p>S5: Stour Estuary and Southern Slopes</p> <p>The estuary and surrounding landscape is locally influenced particularly in the east, by large scale shipping and industrial areas at Felixstowe, Harwich Port, Parkeston Quay and also at Mistley Quay. There are also cranes and intrusive industrial warehouse development at Felixstowe, Harwich and Parkeston. The influence of all these features needs to be considered during the boundary definition stage.</p>
Settlements	<p>S5: Stour Estuary and Southern Slopes</p> <p>The settlements of Mistley Heath, Bradfield Heath and Bradfield do not sit fully within a high-quality landscape but at the margins of the area which meets the natural beauty criterion and contain modern linear development along the lanes which connect them. They have therefore been excluded from the Candidate Area and a boundary line will need to be found which excludes them.</p> <p>The small hamlet of Wrabness does not sit fully within a high-quality landscape, the land to the south of the settlement comprising intensively farmed flat plateau with little to no association with the Stour Estuary. On this basis it has been excluded from the Candidate Area and a boundary line will need to be found which excludes it.</p> <p>The Candidate Area thus contains no major settlements, only small hamlets or clusters of dwelling off Wheatsheaf Lane and dispersed farmsteads and estate houses/halls.</p>

Example of Recreation Assessment Table taken from the extension to the Lake District National Park

Orton Fells

Recreation Factors	Evaluation
Access to high quality landscape	This is an accessible landscape offering opportunities to enjoy extensive areas of high scenic quality and some outstanding views to the wider environs. In areas of open access, a strong sense of relative wildness can be appreciated; and in the more settled fringes areas of tranquillity are common where solitude can be found. Overall, the area offers a low fell recreation experience although the diversity of the landscape from open fell to enclosed incised gill provides a variety of recreation experiences.
Natural or cultural heritage features or cultural associations	This area offers opportunities to enjoy a range of natural and cultural heritage features. Great Asby Scar NNR provides access to one of the largest areas of limestone pavement in UK and provides enjoyment and understanding of rare habitats and species. Smardale Gill NNR provides access to not only species rich grassland but also the cultural heritage of the area i.e. disused railway. Tarn Sike (CWT nature reserve) contains lime-rich flushes including orchid and uncommon sedges while Waitby Greenriggs CWT nature reserve has diverse grassland flora. All of these sites provide access and enhanced appreciation and understanding of the special qualities of the area. Cultural heritage is also prevalent and readily perceived throughout the area although an understanding of the features and patterns is less intellectually accessible than natural heritage. Nonetheless the excavated remains of the Gilbertine Priory at Ravenstonedale are open to the public.
Good recreation provision	Much of the area is common land offering open access to the unenclosed limestone fells (27% of the area) and in the surrounding farmland fringes a good rights of way network and quiet rural lanes. Many of these routes are already promoted for walking and cycling. This area forms an important regional hub for recreation routes and as it is crossed by a number of nationally important long-distance routes including the 'Coast to Coast' and two National Cycle Network routes. This area is also valued for horse riding and there are opportunities for fly fishing at Scandel Beck trout farm and fishing at Bessy Beck and Pinfold Lake fishery. Grouse shooting takes place between Ravestonedale and Kirkby Stephen and on Crosby Ravensworth Fell. Paragliding is possible from Stozser's Seat and Crosby Garrett.
Accessibility	This landscape is readily accessible by train from Kirkby Stephen station and by bus along the Lune Valley. It is also accessible from the M6. The Settle to Carlisle railway passes through this area offering a special way to enjoy the scenery.
Potential for enhancement	The approved route for the Pennine Bridleway passes along the southern edge of the Orton Fells and passes through them on the eastern side. There is also scope to improve understanding and appreciation of the wealth of cultural and natural features found in this landscape.
Recreation Weight of Evidence	<i>There is a strong weight of evidence in relation to the recreational opportunities offered by this landscape. In the fringes of the area the weight of evidence is less strong.</i>

Example of Boundary Justification Table taken from the Suffolk Coast & Heaths AONB Boundary Variation

Proposed Boundary Extension of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty to the South of the Existing AONB (Maps 1 and 2)

Section One (on Map 4): From Existing AONB boundary at Cattawade Foreshore to the Walls Road (for detail see Map 1).

Boundary Description:

The boundary variation leaves the existing SC&H AONB boundary at Ordnance Survey Grid Reference TM110330. It runs southwest along the Mean High-Water Mark (MHW) at the base of the railway embankment until it reaches the sea wall protecting the chemical works site. It then follows the sea wall, then MHW around the edge of the Brantham chemical works site to the tip of the peninsula at TM 107322. It crosses the estuary from the tip of the peninsula in a straight line, to the point at which the sea wall on the south side of the estuary turns sharply southwards at TM 107319. It continues south, then east along the sea wall to its end at TM108319.

Boundary Considerations:

Issues Influencing the Boundary Line

A boundary was sought which provided an appropriate join with the existing AONB, the boundary of which currently follows MHW and then continues north along the railway line. In order to include the estuary, the boundary continues along MHW until it reaches the sea wall and then heads south-east.

During the informal consultation on the draft boundary, concerns were raised regarding the exclusion of the head of the estuary from the extension. The evaluation of the area was revisited and key issues influencing the boundary line were considered in detail. These included the transition in natural beauty at the head of the estuary as a result of adjacent development, the presence of a range of incongruous features, the narrowing of the waterway and the increasingly restricted views of the wider estuary towards its head due to the peninsula of reclaimed land to the north. Consideration was also given to recent planning approvals for development within the Brantham Regeneration Area, including for a large train depot in close proximity. It was concluded that drawing the boundary line across the estuary along the line of the railway or further west would include areas at the lower quality end of the transition in natural beauty and a more conservative line was thus sought further east, in accordance with Natural England Guidance. In addition, railway viaducts are not considered to be ground features so the viaduct would not in any case have been an appropriate feature for the boundary to follow. The issue of how best to cross the estuary in cases where there was no clear line for the boundary to follow was considered. Reference was made to other AONB boundaries in estuary contexts, which confirmed that where these situations arise, the AONB boundary crosses the waterway along a conservative boundary, either along a suitable administration feature or in a straight line between two clearly identifiable features on the ground, to exclude areas of lower quality. Examples of this approach include: the head of the Orwell Estuary, the Fowey Estuary in the Cornwall AONB and the head and mouth of the Dart Estuary in the South Devon AONB. In this instance therefore, a straight-line boundary between the tip of the peninsula and the right-angled corner of the sea wall on the south shore was chosen which excludes the lower quality area of the estuary.

Easily Distinguished Features

The boundary follows MHW and sea defence structures in the form of sheet piling along the peninsula and sea wall and piling on the south side of the shore. It does not follow any feature where it crosses the estuary, but it crosses in a straight line between two easily distinguishable points, along a line which excludes the majority of the engineered shoreline around the head of the estuary.

Administrative Boundaries

The county boundary between Suffolk and Essex runs along the centre of Norman's Reach

and then Middlebridge Creek as it approaches the head of the estuary. This would not have formed a sensible boundary for the AONB, as it would split the estuary down the middle and would not reflect the transition in natural beauty in this area. No administrative boundaries were utilised for the boundary in this stretch.

Settlements

The boundary line enables Brantham, Cattawade and Manningtree to be excluded, as determined in the evaluation.

Development

The boundary lies adjacent to the Brantham Regeneration Area, an area with approved planning applications for mixed use development and a train depot. These developments are located north of the railway line and no development is currently proposed further the south on the peninsula (which extends into the estuary and is currently derelict, comprising rough ground and scrub). There is a lack of certainty regarding the long-term aspirations for the peninsula landscape to be managed for wildlife and to have improved access.

Furthermore, the proposed developments north of the railway will increase the level of visible industrial development around the head of the estuary (as confirmed in the landscape and visual assessments accompanying the applications). On this basis it was concluded that the head of the estuary should be excluded from the boundary. The boundary therefore follows MHW along the eastern side of the peninsula as far as its southern tip, excluding areas further west.

Features of Interest

The Stour Site of Special Scientific Interest (SSSI), Ramsar and Special Protection Area (SPA) cover the whole estuary in this area, including north of the railway viaduct, stopping at the floodgate near the A137. The boundary thus excludes part of this designation. This is not unusual where natural heritage designations cover significant areas. The natural beauty of the landscape for inclusion in the AONB designation is the primary consideration and in this part of the estuary, the natural beauty is in transition and is undermined by adjacent development and fragmentation.