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Regulations and Constraints in UK National Parks

The following paper looks at regulations and constraints (other than planning) faced by those living and working in UK National Parks, and considers the allocation of funding to each National Park. By way of background, the paper describes the legislative relationship between national parks, the National Park Authorities (NPAs) and associated public bodies.

1 Background - National Parks, NPAs and Associated Public Bodies

National Park Authorities and associated public authorities are key to the management and operation of national parks in England. The following section explains the relationship between parks; the park authorities and public bodies (see Annex 1 for a list of key applicable legislation):

1.1 Parks and the legislative relationship with NPAs

Planning Responsibilities:

NPA's are the sole local planning authorities for their areas under section 4A of the Town and Country Planning Act 1990 (the 1990 Act)¹. Section 4A confers on a NPA the responsibilities of a local planning authority, including minerals and waste planning and development control functions. Section 5 of the Town and Country Planning Act 1990 makes the Broads Authority the planning authority for a more limited range of development control in the Broads. Part 2 of the Planning and Compulsory Purchase 2004 Act (the 2004 Act)² places a requirement on the Authorities to prepare and maintain a local development scheme and associated documents. At a regional level, the Authorities share responsibility with local government and others for preparing, revising, implementing and monitoring the regional strategy. Where the area of a Park falls within more than one region, the Park will be deemed to fall wholly within a single region for regional strategy purposes.³

Mineral works:

NPAs retain their powers under the 1990 Act to make orders revoking, modifying or prohibiting mineral working.

National Park Management Plans:

Section 66 of the Environment Act 1995 Act require all Authorities to produce a National Park Management Plan for their area and to review it at least every five years. The Park Management Plans provides statements of the relevant Authority's policy for managing and carrying out its functions in relation to the Park, reflecting Park purposes, the duties of the Authorities and the need to engage other local authorities, statutory agencies and a wide range of partners, stakeholders and the community in the preparation and implementation of the Park Management Plan. The management plans are supported by State of the Park reports and any documents dealing with topics such as climate change, biodiversity, conservation etc.⁴ Natural England⁵ publishes advisory notes on the production of Management Plans and their content and highlights the management plans as strategic documents outlining the parks overall policies.

When preparing their Park Management Plans, the Authorities must have regard to policy and advice contained in guidance published by the Secretary of State. This includes the suite of National Planning Statements, Planning Policy Guidance Notes,

¹ Town and Country Planning Act 1990 <http://www.legislation.gov.uk/ukpga/1990/8/contents>

² Planning and Compulsory Purchase Act 2004 <http://www.legislation.gov.uk/ukpga/2004/5/contents>

³ Defra, *English National Parks and the Broads – UK Government Vision and Circular 2012*

⁴ Countryside Council for Wales, National Park Management Plans Guidance 2007
<http://www.ccg.gov.uk/pdf/Nationl%20pks%20final.PDF>

⁵ Natural England is an Executive Non-departmental Public Body responsible to the Secretary of State for Environment, Food and Rural Affairs. <http://www.naturalengland.org.uk/default.aspx>

Planning Policy Statements, Planning Circulars and the range of supporting guidance documents.

Conservation of Biodiversity:

Section 40 of the Natural Environment and Rural Communities Act 2006 imposes a duty on all public authorities when exercising their functions to '*have regard.... to the purpose of conserving biodiversity*'. '*Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.⁶

The Government expects the Authorities to comply with the guidance for public authorities on implementing the Biodiversity Duty⁷ and to work closely with the statutory agencies with a national remit for the conservation of landscape, biodiversity and cultural heritage (including Natural England, the Environment Agency and English Heritage) in order to meet this duty.

Rights of Access:

The Countryside and Rights of Way Act 2000 provides a right of access, for recreation on foot, to open country and registered common land. About 470,00062 hectares of open country and registered common land are now open to the public within the Parks in England.⁸ NPAs are the 'relevant authority' for access land within a Park boundary and responsible for determining applications from landowners for exclusions or restrictions of access for reasons of land management, fire prevention, and to avoid danger to the public.

NPAs may also restrict access for reasons of fire prevention and danger to the public without an application having been made, and to restrict access for reasons of nature conservation or to protect sites of historical or archaeological importance.⁹

Under sections 17, 18, 19 and 35 of the 2000 Act, NPAs have powers to make byelaws; appoint wardens; erect and maintain notices indicating boundaries; and to negotiate access with a landowner or occupier and to undertake the necessary work if such agreements cannot be reached.

The Marine and Coastal Access Act 2009 ('the 2009 Act') aims to improve public access to the English Coastline. Natural England works with the NPAs which have a coastal frontage in preparing a coastal access report which proposes the line of the long-distance route round the section of coast.¹⁰

⁶ Natural Environment and Rural Communities Act 2006 <http://www.legislation.gov.uk/ukpga/2006/16/contents>

⁷ Guidance on Implementing the Biodiversity Duty <http://www.defra.gov.uk/publications/2011/03/30/pb12584-biodiversity-duty/>

⁸ DEFRA, *English National Parks and the Broads – UK Government Vision and Circular 2012*

⁹ *ibid*

¹⁰ *ibid*

Rights of Way:

New sections 22BB and 22BC of the Road Traffic Regulations Act 1984¹¹ inserted by section 72 of the 2006 Act, gives NPA's the power to make their own Traffic Regulation Orders to enable management of traffic, where necessary, to protect vulnerable tracks. Such orders must be in relation to public rights of way shown in a definitive map and statement, and may only be made within the National Park boundary. Authorities are required to consult local highway authorities about these orders. Defra has produced guidance on rights of way under circular 1/0951, and issues statutory guidance to local authorities in England on preparing and reviewing Rights of Way Improvement Plans (these consider how cycle paths and other forms of linear access complement the rights of way network).

1.2 NPAs' Relationship with Key Public Bodies

| | |
|--------------------------------|---|
| Natural England | Created under the Natural Environment and Rural Communities Act 2006 (2006Act), Natural England's purpose is to ensure that the natural environment is conserved, enhanced and managed for future generations; similar to National Park purposes. The Authorities are expected to work closely with Natural England, which has statutory responsibilities in respect of National Park designation and boundary variation procedures and in advising the Secretary of State on Authority financial and membership matters through the 2006 Act. ¹² |
| The Forestry Commission | This is a non-Ministerial Government Department responsible for forestry in Great Britain. The Commission implements forestry policy (set out in the Strategy for England's Trees, Woods and Forests 2007 ¹³), regulations for tree felling, Environmental Impact Assessments, and manages grant schemes under the Rural Development Plan. The Forestry Commission is also a significant land owner and manager within the Parks. |
| English Heritage | English Heritage is the Government's adviser on the historic environment in relation to conserving historic places and promoting public understanding and enjoyment, which fits with Park purposes. English Heritage, along with all other public bodies, has a statutory duty to have regard to Park purposes. It receives grant from the Department for Culture Media and Sport (DCMS). English Heritage distributes some grant funding from Defra through the Aggregates Sustainability Levy Fund, which has benefited the Parks. English Heritage has had a joint Statement of Working with the Parks since 1995 ¹⁴ . |

¹¹ Road Traffic Regulations Act 1984 <http://www.legislation.gov.uk/ukpga/1984/27/section/22BB>

¹² Natural Environment and Rural Communities Act 2006 <http://www.legislation.gov.uk/ukpga/2006/16/contents>

¹³ <http://archive.defra.gov.uk/rural/forestry/strategy.htm>

¹⁴ Joint Statement of Working http://www.english-heritage.org.uk/content/imported-docs/p-t/Joint_Statement_Poster_2009.pdf

| | |
|---|--|
| The Environment Agency | <p>The Agency is given certain duties and powers to protect and improve the environment in England and Wales.</p> <p>The Authorities work closely with the Environment Agency in the delivery of targets for the Water Framework Directive and in tackling point source and diffuse pollution of water courses, lakes and rivers. This requires the Authorities to look to influence land management practices throughout their catchments, and at times work beyond their boundaries to deliver improved water quality within the Parks.</p> |
| The Commission for Rural Communities | <p>The role of the CRC is to provide well-informed, independent advice to Government and others, and ensure that policies reflect the needs of people living and working in rural England, with a focus on tackling disadvantage.</p> <p>The CRC has overall responsibility for co-ordinating the Rural Development Programme for England ('RDPE') Network. A number of RDPE's Local Action Groups fall within the Parks.</p> <p>The Authorities are expected to work closely with CRC to encourage and empower strong local leadership to create better opportunities for the people who live and work in Park communities to find quality work, have access to affordable well designed homes and build successful businesses.</p> |
| British Waterways | <p>British Waterways is a public corporation set up by the 1968 Transport Act. Its objectives are agreed with the Government and it is expected to promote the use of its waterways for leisure and recreation, tourism, regeneration and transport, whilst also conserving their built and natural heritage.</p> <p>The Authorities are expected to work closely with British Waterways to ensure the management and continued use and enjoyment of waterways and to promote sustainable boating and other recreation within the Parks.</p> |
| Others | <p>NPAs work closely with their associated Regional Development Agencies (RDAs) with discharging their 'socio-economic' duties.</p> <p>The Marine Management Organisation (MMO) which is responsible for the marine functions in waters around England, works and consults with NPAs with a coastal location when delivering its functions and developing marine plans.</p> |

2 Extra regulations/constraints imposed on those living/working in national parks in the UK.

The following section considers any additional regulations or associated constraints (other than planning) imposed on residents and or businesses within national parks in the UK. It gives a summary of responses received from a number of the National Park Authorities (NPAs) from England, Scotland and Wales. All 15 NPAs in the UK were contacted (this included all 10 in England, the 2 in Scotland, and *National Parks Wales* on behalf of the 3 NPAs in Wales).

In summary, all responses suggest that outside the statutory planning role, NPAs do not have any remit to rule how people or businesses operate in national parks.

Therefore the general consensus was that there are no additional regulations other than planning issued by the NPAs. According to a response from DEFRA, outside of planning, other responsibilities stay where they normally lie i.e. Natural England controls SSSIs, even in National Parks, the Highways Authority set speed limits, and the Environment Agency deals with pollution, just as they do everywhere else (see the *Relationship with key public bodies section*).

However, some of the NPAs gave details on other regulations, guidance, byelaws etc. that they thought may be of interest, and in one case, a piece of legislation developed by a National Park itself e.g. the Broads Act 2009 on navigation. While the majority of regulations mentioned are in association with the planning powers that NPAs have, such as Traffic Orders and Tree Preservation Orders etc.; some have been generated independently by the particular NPA i.e. codes of conduct, byelaws and the Broads Act etc.

While some NPAs stated that outside planning regulations they were not aware of any other regulations, the following table gives the responses that detailed extra regulations, guidance etc. in their response.

Responses from UK National Park Authorities

| National Park Authority | Response |
|-------------------------|---|
| Yorkshire Dales | It is only a local authority in the sense of being the planning authority – all other functions of a local authority such as housing, schooling, highways, licensing etc. are covered by the constituent district or county council. Tree Preservation orders are included in its development management/planning remit, and has limited traffic regulation order and access responsibility, but no remit to “rule” how people or business operates. |
| Cairngorms | <p>The National Park is the same as any other part of Scotland in most ways; there are no regulations specific to the Park other than through the planning system.</p> <p>The National Park Authority has the power to make byelaws and could regulate some things if it was considered necessary; however, it has not used those powers so far (The Loch Lomond and the Trossachs National Park Authority have used byelaws to manage visitors on and around Loch Lomond –see below).</p> <p>The Cairngorms National Park Authority shares the role of planning authority with the five local authorities that make up the Park. It is also the Access Authority for the Park under Scottish law which simply confers the same duties on the Park Authority as on local authorities outside the Park.</p> <p>It produces guidance for some things (for example best practice on organising large outdoor events in the Park) however, the guidance is voluntary and is there to help people or organisations operate without conflict with other groups or organisations. It is also responsible for a statutory National Park Plan that sets out how the Park Authority (and other people and organisations) would like the Park to be managed or changed. It does not place any particular constraints on people or business, its aim is to help them to develop. A plan one has just been approved by the Scottish Minister “<i>The Cairngorms National Park</i>”</p> |

| National Park Authority | Response |
|---|---|
| | <p><i>Partnership Plan 2012-2017</i>¹⁵</p> <p>Most regulations and requirements that are part of UK or Scottish law apply in the same way in the Park as outside it.</p> |
| <p>Loch Lomond and Trossachs</p> | <p>There are no regulations specific to businesses and residents in this National Park.</p> <p>The National Park Authority is the Planning Authority for the Park, but its role in that regard is the same as any Local Authority. Parts of the National Park are currently designated as National Scenic Areas (NSAs), which triggers consultation with Scottish Natural Heritage in respect of certain larger developments. There are proposals to treat the whole of the Park as equivalent to NSAs, thereby effectively replacing them within the NP boundary, and possibly amending Permitted Development Rights within the Park (depending on a national consultation on the General Permitted Development Order). All of these controls work through the Planning system, in the same basis as any other Planning Authority in Scotland. The NPA is also the statutory Access Authority under the Land Reform (Scotland) Act 2003. Again, legal powers and duties are no different to any Local Authority.</p> <p>There are some regulatory controls that are distinct to the National Park but they have come about because of discrete decisions. They are not automatic aspects of National Park status, these include:</p> <ul style="list-style-type: none"> • Registration and Navigation Byelaws that regulate boating activities on Loch Lomond, made under the Civic Government (Scotland) Act 1982, National Parks (Scotland) Act 2000 and Land Reform (Scotland) Act 2003; • Camping Byelaws that control informal camping on East Loch Lomond, made under the National Parks (Scotland) Act 2000; • There are also byelaws¹⁶ and voluntary codes of conduct¹⁷ to manage recreation on and around other major lochs in the NP. <p>There are no landscape or ecology regulations specific to the NP at this time.</p> |
| <p>North York Moors</p> | <p>Most of the regulations used by the National Park Authority stem from national legislation e.g. in relation to protected species or traffic regulation orders. North York Moors has established its own 'events protocol' which contains guidelines for those organising events in the Park¹⁸.</p> <p>Other than this, additional 'regulations' are limited to planning restrictions. New housing development in Local Service Villages and Other Villages (outside of larger developments in the Park) is restricted to meeting 'local needs' (detailed in the Core Strategy¹⁹). The Authority has also used Article 4 Directions (which removes specified permitted development rights) in conservation areas to require a formal planning application for changes such as new windows and doors. The power to use Article 4 Directions is set in national legislation²⁰ but is applied at planning authority level.</p> |

¹⁵ The Cairngorms National Park Partnership Plan 2012-2017 <http://www.cairngorms.co.uk/park-authority/national-park-plan/cairngorms-national-park-plan-2012-2017>

¹⁶ These include byelaws for navigation, boating around the islands and shores and registration of boat users, see <http://www.lochlomond-trossachs.org/visiting/loch-lomond-byelaws/menu-id-285.html>

¹⁷ For a copy of the Codes of Conduct See <http://www.lochlomond-trossachs.org/looking-after/water-in-the-park/menu-id-861.html>

¹⁸ North York Moors NPA, Organised Events <http://www.northyorkmoors.org.uk/uploads/publication/12073.pdf>

¹⁹ North York Moors, Core Strategy and Development Policies p.33 <http://web.northyorkmoors.org.uk/ldf/text/Adopted%20Core%20Strategy%20and%20Development%20Policies.pdf>

²⁰ Under the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) Order 2008

| National Park Authority | Response |
|-------------------------|---|
| New Forest | Outside the Authority's main statutory planning responsibilities, it is not aware of any specific regulations relating to residents and businesses. Within its planning remit the Authority has the ability to restrict opening hours for new permissions etc., but National Park designation itself does not bring about any particular restrictions on residents and businesses. Other than planning powers, the respective roles of the local highways authorities, environmental health officers etc. remain unaltered by National Park designation. |
| Broads Authority | There are no specific regulations etc. within the Broads Authority, except for the navigation regulatory regime, which would be in place, national park or not. In 2006 the Broads Authority promoted the Broads Act, which received Royal Assent in 2009. The primary purpose of the Act was to introduce greater safety controls on the broads and rivers and allow the Authority greater powers to manage safety of the Broads more effectively. The provisions in the Act include, amongst others, the ability for the Authority to introduce Hire Boat Licensing, Compulsory Third Party Insurance, to manage Waterskiing and Wakeboarding, and to introduce minimum Construction Standards. ²¹ There are codes of conduct, agreed standards, etc. in certain fields of endeavour, but these are locally developed solutions to issues, and not a prior imposition necessary for a national park. |

3 Funding

3.1 How funding is allocated

All National Parks are funded from central government. For example, in England this is provided in the form of a grant from The Department of Environment, Food and Rural Affairs (DEFRA). The amount allocated to each Authority differs. Each Authority is initially provided with a grant of £1 million. The bulk of the remaining grant is then shared using indicators between three areas covering core functions, conservation work, and recreation work. Furthermore, the final 10% of the available grant is allocated by the Minister to meet one-off or exceptional pressures which the previous steps have not recognised.²²

3.2 Government funding

| Park Authority | Funding (£) |
|------------------------------|-------------|
| Brecon Beacons National Park | 4,548,672 |
| Broads | 4,304,337 |
| Cairngorms National Park | 4,546,000 |
| Dartmoor National Park | 4,715,643 |
| Exmoor National Park | 3,956,834 |
| Lake District National Park | 6,890,824 |

²¹ The Broads ACT 2009 <http://www.broads-authority.gov.uk/boating/the-broads-act-2009--how-it-affects-you.html>

²² Information received from DEFRA on 16 July 2012 following a request by the Northern Ireland Assembly Research and Information Service.

| Park Authority | Funding (£) |
|---|-------------|
| Loch Lomond and the Trossachs National Park | 6,760,000 |
| New Forest National Park | 4,010,965 |
| Northumberland National Park | 3,291,563 |
| North York Moors National Park | 5,402,230 |
| Peak District National Park | 8,264,281 |
| Pembrokeshire Coast National Park | 4,763,382 |
| Snowdonia National Park | 6,054,610 |
| Yorkshire Dales National Park | 5,372,616 |

Table 1 –Park Authority funding 2008/09²³

3.3 How funding is spent

| | Spending on | Brecon Beacons | Dartmoor | Lake District |
|---|--|----------------|----------|---------------|
| 1 | Conserving the natural environment | 4% | 14% | 7% |
| 2 | Conserving cultural heritage | 3% | 7% | 4% |
| 3 | Planning - controlling development | 15% | 16% | 10% |
| 4 | Planning - policies and communities | 9% | 7% | 8% |
| 5 | Promoting learning and understanding | 24% | 18% | 28% |
| 6 | Recreation management and transport | 6% | 9% | 1% |
| 7 | Wardens, estate workers and volunteers | 21% | 19% | 21% |
| 8 | Running the organisation | 17% | 7% | 12% |
| 9 | Other | 2% | 3% | 7% |

Table 2 – Breakdown of Authority spending in Brecon Beacons, Dartmoor and Lake District for 2008/09²⁴

²³ Association of National Park Authorities (ANPA), *Costs and spending*. Available at: <http://www.nationalparks.gov.uk/learningabout/wholooksafternationalparks/costsandspending.htm> [Accessed 16 July 2012]

²⁴ *Ibid.* Note that the ANPA website has only published a breakdown of how funding is spent for three NPAs.

ANNEX 1 - Key Legislation

This section provides a list of key legislation relating to National Parks.²⁵

National Parks and Access to the Countryside Act 1949 (NPACA)

This law set out the vision for National Parks. It provided the framework for National Park and Areas of Outstanding Natural Beauty (AONB) designation.

National Parks have 2 purposes:

- Conserve and enhance the natural beauty, wildlife and cultural heritage
- Promoting opportunities for the understanding and enjoyment of the special qualities by the public

Norfolk and Suffolk Broads Act 1988

The Broads was designated through a special Act of Parliament. The Broads has the equivalent status to a National Park with an additional purpose of protecting the interests of navigation.

Environment Act 1995

Part 3 of this Act makes further provision for National Parks. This includes placing a duty on National Park Authorities to seek to foster the economic and social well-being of their communities. Furthermore the Act legislated that National Park Authorities became independent bodies within local government.

National Parks (Scotland) Act 2000

This Act makes provisions for National Parks in Scotland. It sets out the aims of the National Park, the procedure for proposals and designation orders and the general purpose and functions of National Park Authorities.

Natural Environment and Rural Communities Act 2006

This Act clarifies what factors may be taken into account when designating a National Park. It makes provision for National Park expenditure by removing the constraint on parks' spending in support of their socio-economic duty. It also gives Park Authorities the power to make an order under section 42 of the Wildlife and Countryside Act 1981.

²⁵ It should be viewed as an indicative list and not a definitive guide of all legislation.

An order places a temporary prohibition on ploughing, and other specified agricultural or forestry operations on moor or heath in National Parks, and may be issued if those operations are likely to affect the lands character or appearance. The Act gives the Authority powers to make traffic regulation orders for Parks.

Broads Authority Act 2009

The Act gives the Authority various new powers. It will enable them to make provisions for additional safety measures, introduce compulsory third party insurance for boats in its area and control pollution from boats.