

South Devon Area of Outstanding Natural Beauty Partnership

Planning Protocol

DRAFT Version 2.1
First adopted March 2020
Updated June 2023



South Devon AONB Partnership

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Context

The South Devon Area of Outstanding Natural Beauty (AONB) spans four local planning authority areas. 98.02% of the AONB lies in the South Hams/Devon County administrative area; 1.95% lies in Torbay; and 0.03% lies in Plymouth City. Estuarine and inshore waters fall within the Marine Management Organisation's South Marine Plan Area and South West Marine Plan Area.

The care of the South Devon AONB is co-ordinated and overseen by a Partnership comprising local and statutory authorities, partner organisations and community representatives. An AONB Staff Unit is employed to act on behalf of the AONB Partnership, including in the development and delivery of the statutory AONB Management Plan for South Devon; and the provision of advice and consultation comments on development plans and applications for development consent.

The role of the South Devon AONB Unit in plan-making and decision-taking.

The AONB Unit, acting on behalf of the AONB Partnership, will:

- i. seek to make a positive contribution to the making and revision of development plans (local, unitary and neighbourhood plans) and marine plans relevant to the South Devon AONB;
- ii. provide constructive advice and information on AONB matters in response to requests from planning authorities;
- iii. provide comments in response to individual development management consultations for proposals that fall within the Consultation Triggers Criteria listed below. The AONB Unit will endeavour to provide a response within 28 days of the date of a consultation request or within such other period as might be agreed between the AONB Unit and the relevant local planning authority.

Development Management

The local planning authorities will:

- a) Refer relevant planning applications to the AONB Unit for comment following the Consultation Triggers Criteria, identifying those applications likely to have a significant impact on the natural beauty of the South Devon AONB at the application registration stage;
- b) For proposals that fall outside of the consultation trigger criteria, use the South Devon AONB Management Plan and Planning Guidance Annex to guide decision making on AONB matters against relevant development plan and NPPF policies.

- c) Provide access to sufficient details about submitted applications to enable informed comments to be made;
- d) Record and treat a written comment from the AONB Unit as a representation from an outside body, rather than as an internal officer comment;
- e) In cases where the AONB Unit is unable to respond to a consultation this should not be taken to mean that the Partnership does not consider there to be any (significant) adverse impacts on the purpose of AONB designation. For the avoidance of doubt, the absence of a consultation response must not be taken to mean no objection;
- f) Link and signpost as appropriate applicants requiring pre-application advice on designated landscape matters to the separate parallel paid-for service if or when instigated by the South Devon AONB Partnership;
- g) Maintain appropriate levels of professional knowledge relating to designated landscape matters including within the development management, strategic planning and landscape functions of the local planning authorities;
- h) Send copies of relevant decision notices and any subsequent appeal decisions, to the AONB Unit in relation to applications it has commented on;
- i) Assist the AONB Unit in extracting and compiling monitoring data on decision-taking for reports to Defra and the South Devon AONB Partnership Committee;

The AONB Unit will¹:

- a) Provide a response to development management consultation requests within 28 days of the date of a request or within such other period as might be agreed between the AONB Partnership and the relevant local planning authority;
- b) Liaise with case officers, landscape specialists and other relevant specialists as appropriate;
- c) Relate comments to relevant Local Plan, Neighbourhood Plan and National Planning Policy Framework policies;
- d) Refer to relevant AONB Management Plan policies, natural beauty criteria and AONB special qualities in any comments made;
- e) Confirm that comments made are those of the AONB Unit in its professional capacity and not of the AONB Partnership collectively;
- f) Support local planning authorities in appeal cases or inquiries where AONB matters are pivotal and as workload allows;
- g) Assist with local planning authority staff and elected member training on AONB matters.
- h) Continue to direct enquiries for pre-application advice to the relevant local planning authority pre-application service;

See Appendix 2: Clarification Notes for further detail

¹ As a small staff team with limited resources, there will be occasions when the AONB Unit will be unable to respond to consultation requests due to the range of other projects, activities and casework being undertaken at any time.

Consultation Triggers Criteria²

The Local Planning Authorities will normally consult the AONB Staff Unit acting on behalf of the South Devon AONB Partnership on proposals that meet the following criteria:

Within the South Devon Area of Outstanding Natural Beauty (AONB)

1. Major development, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (Part 1, Article (2)(1)), including housing development of 10 or more dwellings but excluding minerals and waste development (for which Criteria 3-7, below, should be applied). ^(Appendix 1, note 1)
2. Isolated homes in the countryside (i.e. development that meets the requirements of paragraph 80 of the National Planning Policy Framework (NPPF 2021)).
3. Schedule 1 development under the Town and Country Planning (Environmental Impact Assessment) (EIA) Regulations 2017. ^(Appendix 1, note 2)
4. Schedule 2 development under the EIA Regulations, including screening opinion and scoping opinion consultations. (For pre-screening, please only consult the Partnership on proposals for 10 or more dwellings under 'Urban Development Projects', and all other proposals that are above the Schedule 2 'applicable thresholds and criteria'). ^(Appendix 1, note 3)
5. EIA Schedule 2 development that the case officer, post-screening, considers likely to have significant adverse environmental effects and, therefore, requires an EIA. ^(Appendix 1, note 4)
6. Cases which the case officer considers could potentially be major development in the context of paragraphs 176 and 177 together with footnote 60 of the NPPF 2021. Note similar requirements where potentially major development relates to the South Devon Heritage Coast in the context of paragraph 178 together with footnote 60 of the NPPF 2021. ^(Appendix 1, notes 5 & 6)

Within or outside the South Devon AONB

7. Cases which the local planning authority case officer considers could potentially:
 - (a) have a significant adverse impact on the statutory purpose of AONB designation (to conserve and enhance the natural beauty of the South Devon AONB), including relevant EIA Schedule 1 and Schedule 2 proposals outside the AONB; ^(Appendix 1, note 6)
 - (b) set an important precedent that could fundamentally affect the statutory purpose of AONB designation; ^(Appendix 1, note 6)
 - (c) have cumulative significance for the South Devon AONB.

Development management cases that the AONB Partnership should not be consulted on (unless the case matches one or more of the criteria outlined above):

1. Alteration, demolition or change of use of single buildings, including household extensions and replacement buildings.

² With thanks to and based upon material shared by, the Cotswolds AONB Conservation Board.

Review

This protocol will be reviewed on or before 31 December 2025 and revised as appropriate. Should substantive change result from the next substantial review of the AONB Management Plan, implementation of the Designated Landscapes Review proposals, changes in levels of partner funding, or similar, an earlier review date would be likely.

Notes:

South Devon AONB DRAFT Planning Protocol v2.1

First adopted 13th March 2020 updated June 2023

Based on earlier framework and discussion with constituent LPAs, incorporating revisions and Partnership feedback.

Scheduled review date: December 2025

Appendix 1: NOTES RELATING TO THE CONSULTATION TRIGGERS CRITERIA

The numbering of these notes relates to the bracketed numbers shown, in superscript, in the consultation triggers list above.

1. <http://www.legislation.gov.uk/ukxi/2015/595/article/2/made>.

Major development, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (Part 1, Article (2)(1)), means development involving one or more of the following:

- (a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwellinghouses where:
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more.

The South Devon AONB Partnership understands that this is not the definition of major development that should be applied in the context of paragraphs 176 and 177 of the National Planning Policy Framework (NPPF 2021). As such, it is not a threshold above which there should be a presumption against granting planning permission. However, it does provide a pragmatic threshold above which it would be appropriate for local planning authorities (LPAs) to pro-actively consult the Partnership.

The exception to this rule would be for minerals and waste development. For the purposes of consulting the Partnership on such development, it would be more appropriate to apply Consultation Criteria 3-7. This is because planning applications for minerals and waste development typically relate to variations of existing planning permissions. In many cases, these variations are unlikely to have a significant adverse impact on the South Devon AONB. Also, it is unlikely that the Partnership would have capacity through the Staff Unit to comment on all planning applications that relate to such variations. However, great care is nonetheless needed to consider cumulative effects on top of existing harm, or in conjunction with other development. Criteria 3-7 should allow for an appropriate level of consultation on these issues.

2. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 UK Statutory Instruments 2017 No. 571 Schedule 1
<http://www.legislation.gov.uk/ukxi/2017/571/schedule/1/made>
3. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 UK Statutory Instruments 2017 No. 571 Schedule 2
<http://www.legislation.gov.uk/ukxi/2017/571/schedule/2/made>.

As the AONB is a 'sensitive area', *all* development proposals of a type listed in Schedule 2 that are within the AONB require screening. However, it is unlikely that the Partnership will have capacity through the Staff Unit to comment on all such proposals, hence the caveat about only consulting the Partnership on proposals for 10 or more dwellings under 'Urban

Development Projects’, and all other proposals that are above the Schedule 2 ‘applicable thresholds and criteria’.

4. Criteria 5 should be applied *after* the case officer has taken a view as to whether or not a Schedule 2 development should require an EIA.
5. Paragraph 176 of the NPPF 2021 states that *‘planning permission should be refused for major development except in exceptional circumstances and where it can be demonstrated that the development is in the public interest’*. Footnote 60 of the NPPF explains that *‘for the purposes of paragraphs 176 and 177, whether a proposal is major development is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated’*. In most cases, given the potential for significant adverse impacts, such development is also likely to require an EIA.
6. The statutory purpose of AONB designation is to conserve and enhance the natural beauty of the area. Public bodies, such as LPAs, have a statutory duty to have regard to this purpose. Landscape and scenic beauty / quality are obviously key components of natural beauty. However, natural beauty also includes other factors such as relative tranquillity (including dark skies), natural heritage (including biodiversity) and cultural heritage (including historic environment). The ‘special qualities’ of an AONB are also a key component of natural beauty. All of these factors should be taken into account when considering the potential impacts of a proposed development on the natural beauty of the South Devon AONB. The special qualities of the South Devon AONB are outlined on page 3 of the South Devon AONB Management Plan 2019-2024 with further detail provided in Annex 4: Understanding Special Qualities.

Appendix 2: CLARIFICATION NOTES

1. The commitment to providing a 'substantive response' within 28 days is similar to the requirements of a statutory consultee: <https://www.gov.uk/guidance/consultation-and-pre-decision-matters#Statutory-consultees>. The Partnership undertakes to meet all reasonable requests within the operational limits dictated by available resources, together with levels and complexity of caseload. Where cases need to be prioritised, this will be based on an assessment of likely risk to the natural beauty of the AONB and its special qualities.
2. The AONB Partnership reserves the right to provide comment on any cases it deems could result in harm to the natural beauty of the AONB, even where the relevant local planning authority has not issued a consultation request.
3. The estuaries of the Yealm, Erme, Avon, Salcombe-Kingsbridge and Dart are included within the South Devon AONB boundary and are subject to an extensive range of additional statutory and non-statutory designations. The AONB Estuaries Officer will particularly comment on environmental matters including biodiversity and water quality impacts in addition to other natural beauty considerations.
4. Land and water within the setting of the South Devon AONB, including inshore waters that form part of the South Devon Heritage Coast, make an important contribution to maintaining the natural beauty of the AONB. This is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary.³ For these reasons views of the South Devon AONB Unit should be sought on proposals and plans likely to affect the natural beauty of the designated landscape in addition to proposals within the AONB.
5. Local Planning Authorities will continue to consult the AONB Unit at an early stage during the process of revising and producing Development Plan and guidance documents affecting the AONB. Appropriate support and comment on AONB related matters will be provided from the AONB Unit acting on behalf of the South Devon AONB Partnership;
6. Support will be provided to Neighbourhood Plan groups as far as resources allow and prioritised following a risk-based approach to likely AONB harm;
7. The provision of pre-application advice falls outside the scope of this protocol. In common with other AONB Partnerships in Devon, the South Devon AONB reserves the right to offer pre-application advice from the AONB Staff Unit in accordance with a schedule of chargeable services and rates. Services and rates will as far as practicable be comparable to those offered by other Devon AONB Partnerships.

³ <https://www.gov.uk/guidance/natural-environment#landscape> Paragraph: 042 Reference ID: 8-042-20190721