



**Suffolk & Essex
Coast & Heaths**
National
Landscape

Suffolk & Essex Coast & Heaths National Landscape Partnership response to Planning Inspectorate's Examining Authority Questions 1 in relation to the Five Estuaries Offshore Wind Farm project

Question SLV.1.04:

Duty to seek to further the purpose of conserving and enhancing the natural beauty of the area.

Is it possible for an offshore wind farm to comply with the duty to further the purpose of conserving and enhancing the natural beauty of the area?

Response from the Suffolk & Essex Coast & Heaths National Landscape Partnership

1. The Suffolk & Essex Coast & Heaths National Landscape Partnership (the Partnership) made up of around 20 organisations seek to act as a champion of the Suffolk Coast & Heaths Area of Outstanding Natural Beauty.
2. The Partnership recognises the importance of more sustainably produced electricity as the nation seeks to tackle the drivers of climate change and decarbonise electricity production. It considers that more sustainably produced electricity can support the purpose of the Suffolk Coast & Heaths Area of Outstanding Natural Beauty in the medium to long term.
3. The Partnership considers that the strengthened duty, as referenced in the question posed by the Examining Authority to the Partnership will be an obligation for all relevant authorities, including statutory undertakers and statutory bodies, including but not limited to, the applicant, local authorities, the Planning Inspectorate and Secretaries of State.

The Partnership notes that the strengthened duty on relevant authorities as set out in Section 245 of the Levelling Up and Regeneration Act (2023) says they must seek to further the purpose of an Area of Outstanding Natural Beauty (known as a National Landscape). The statutory purpose of an Area of Outstanding Natural Beauty is to conserve and enhance natural beauty.

The Partnership notes that there is not any current formal guidance on how the new duty should be interpreted. It notes that Natural England, the Government advisor on Areas of Outstanding Natural Beauty, gave an opinion on how the new duty should be interpreted at the Lower Thames Crossing Nationally Significant

Infrastructure Project hearing. This opinion is included in Natural England's response to deadline 9A sent on 15 December 2023 in annex 2 of that letter.

4. The relevant wording has been added to this representation for ease. It can be downloaded from the footnote¹.

5. It is the opinion of the Partnership that offshore infrastructure cannot in itself further the purpose of the designation.

6. Although the offshore infrastructure related to the offshore wind farm is located outside of the Suffolk Coast & Heaths Area of Outstanding Natural Beauty this type of infrastructure will have a negative impact on the defined Natural Beauty Indicators. These indicators are described in the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) Natural Beauty and Special Qualities Indicators v1.8 21 November 2016².

7. From the Natural Beauty and Special Qualities Indicators document the Landscape Quality factor notes in the AONB Indicator section that:

- a. *Offshore wind turbines...are visible from some stretches of the coastline. These create a cluttered horizon.*

8. From the Natural Beauty and Special Qualities Indicators document The Scenic Quality factor notes in the AONB Indicator section that:

- a. *Large open vistas across heaths and along the coast, out to sea and ...*

9. The Partnership recognises that the onshore elements of the proposals are likely to have been designed to reduce the impacts on Areas of Outstanding Natural Beauty. It notes the cable route avoids the Dedham Vale and Suffolk Coast & Heaths Areas of Outstanding Natural Beauty. It notes the proposed substation is proposed to be outside the Dedham Vale Area of Outstanding Natural Beauty, although the substation is considered to be within the setting of the nationally designated landscape.

10. The Partnership welcomes the fact that the cable route and substation are outside the National Landscape. It considers that these elements comply with policy drivers including National Policy Statement EN1 para 5.10.8³ that says:

The duty to seek to further the purposes of nationally designated landscapes also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them. In these locations, projects should be designed sensitively given the various

¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010032/TR010032-006179-Natural%20England%20-%20Deadline%209a%20Submission.pdf>

² <https://coastandheaths-nl.org.uk/wp-content/uploads/2021/01/Natural-Beauty-and-Special-Qualities-of-the-Suffolk-Coast-and-Heath.pdf>

³ <https://assets.publishing.service.gov.uk/media/65bbf6dc709fe1000f637052/overarching-nps-for-energy-en1.pdf>

siting, operational, and other relevant constraints. The Secretary of State should be satisfied that measures which seek to further the purposes of the designation are sufficient, appropriate and proportionate to the type and scale of the development.

11. The Partnership considers that the locations of these elements of the proposals should not exclusively be seen as delivering against the strengthened duty as set out in section 245 of the Levelling Up and Regeneration Act (2023) as they are driven by the National Policy Statements and not section 245 which should be applied in addition to the requirements of the National Policy Statements.

12. It is the opinion of the Partnership that the mitigation hierarchy should be employed where development proposals can have a negative impact. The Partnership considers that this should be:

- Avoid
- Minimise
- Mitigate
- Compensate

It further considers that if the proposal is granted consent, where the negative impacts on the Area of Outstanding Natural Beauty cannot be avoided or adequately mitigated then the National Landscape should be appropriately compensated, noting that the mitigation must go beyond the like for like replacement. This could be in a similar format to the section 111 agreement agreed by ScottishPower Renewables in relation to the East Anglia One North and East Anglia Two offshore wind farms.

13. The Partnership considers that the infrastructure for an offshore wind farm cannot deliver Area of Outstanding Natural Beauty purpose, to conserve and enhance natural beauty. Given the strengthened duty placed on relevant authorities, it considers significant compensation be made to the National Landscape, beyond that which may have been paid by other developers for impacts assessed when the earlier section 85 Countryside and Rights of Way duty was in place (to pay regard to the purposes of the Area of Outstanding Natural Beauty).

14. The Partnership considers that the duty is one for the decision maker (and other relevant authorities) to clearly demonstrate how they have met the strengthened duty (must seek to further the purpose of an AONB) when carrying out their respective functions.

15. The Partnership welcomes the opportunity to give its opinion on whether an offshore wind farm can comply with the duty.

Simon Amstutz
National Landscape Manager

On behalf of the Suffolk & Essex Coast & Heaths National Landscape Partnership

Natural England's addendum to our Deadline 9 response in relation to the enhanced duty in relation to Protected Landscapes including the Kent Downs Area of Outstanding Natural Beauty [presented at Lower Thames Crossing hearings]

Natural England apologise for inadvertently omitting our advice in relation to the enhanced duty on public bodies in respect of Areas of Outstanding Natural Beauty provided through the Levelling Up and Regeneration Act in our Deadline 9 Response.

2.1.2 As discussed during Issue Specific Hearing 11, Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities in exercising or performing any functions in relation to, or so as to affect, land in a National Park, the Broads or an Area of Outstanding Natural Beauty ('National Landscape') in England, to seek to further the statutory purposes of the area. The duty applies to local planning authorities and other decision makers in making planning decisions on development and infrastructure proposals, as well as to other public bodies and statutory undertakers.

2.1.3 It is anticipated that the government will provide guidance on how the duty should be applied in due course. In the meantime, and without prejudicing that guidance, Natural England advises that:

- The duty to 'seek to further' is an active duty, not a passive one. Any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape (A National Park, the Broads, or an AONB) can be furthered;
- The new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose. If it is not practicable or feasible to take those measures the relevant authority should provide evidence to show why it is not practicable or feasible.
- The proposed measures to further the statutory purposes of a protected landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development, and should be appropriate, proportionate to the type and scale of the development and its implications for the area and effectively secured. Natural England's view is that the proposed measures should align with and help to deliver the aims and objectives of the designated landscape's statutory management plan. The relevant protected landscape team/body should be consulted.