

Defra consultation: Smarter Guidance

Response of the Landscape Institute, July 2014

National Character Areas

The LI very much welcomes the completion of the National Character Areas project, and the proposal to make all the data and analysis regarding the NCAs available in the revised, live guidance. In respect of National Character Areas, there should be a clear statement explaining the various ways in which consideration and response to NCAs can help achieve a multitude of government policy objectives.

NCAs are an incredibly useful resource. They provide an important framework for more detailed studies which are an important component of local planning and reference in LVIAs. A programme of National Seascape Character should also be undertaken to ensure marine areas are assessed and managed in the same way – a collaboration between NE and MMO perhaps? This is of relevance to the Marine Coastal Access Act 2009 (strategic management of our seas and integrating with the terrestrial system)/ and UK Marine Policy Statement 2011 which references the ELC.

ELC

With regards the ELC, content should state explicitly the main articles of the ELC (particularly articles 4 and 5) in addition to definitions.

New guidance is certainly needed, on the .gov website, about the ELC and what it means for a range of stakeholders across the UK. This means including information about how a range of organisations can ensure they are complying with the ELC, as well as information about the positive actions Government is taking in implementing the articles of the treaty.

Landscape and Seascape Character Analysis

These key pieces of guidance must be retained as active guidance and not archived. It is regrettable that a number of topic papers related to how LCAs can be used are recommended for archiving. A review and refresh of LCA guidance is also important – it is now over a decade old and needs to reflect Guidelines for Landscape and Visual Impact Assessment 3 (GLVIA3)/seascape guidance as well as other matters. Some topic papers are out of date and need to be revisited (especially capacity and sensitivity).

AONBs

The Landscape Institute wishes to stress the importance of retaining as active guidance a number of documents that are not just about the legalities of protected landscapes, but about best practice in working with organisations and conserving and enhancing these nationally protected landscapes. So, for example, Guidance on AONB Management Plans should be revised and retained as active guidance, rather than archived. Guidance for assessing landscapes for designation should also be revised and retained, not archived.

The 2011 Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England is particularly important as it sets out what constitutes natural beauty – something to my knowledge policy and legislation fails to do.

Landscape and Government's responsibilities

With regards landscapes and government's responsibilities, there should be explicit reference to the ELC. The UK Government is a signatory to the ELC. The treaty is important in that it is all encompassing, covering all landscapes - not just the outstanding. At the moment, the outline of future content does not deal with this adequately - it only refers to National Parks, AONBs and the historic environment. Landscape is much more than this. Government is responsible for implementation of the ELC, and this includes the integration of landscape into all other policy areas, something it is failing to do at the moment.

The public intervention into what determines the landscape is very complex because of the variety of influences including European, Government Departments, Agencies and Local Government delivering policy through a variety of methods such as regulation, tax relief, other financial incentives and advice. The public have no clear understanding of what the Government is trying to achieve, which organisation is responsible and by what means. Smarter Guidance would deliver a clear explanation of all of this, it would help the public, it would help the public sector and it would help the private sector which is largely responsible for delivery.

List of Existing Guidance

With reference to CQuEL related guidance, this should not be archived. The reason for this is that in a letter to us (Landscape Institute) dated 8 November 2011 from then Natural Environment and Fisheries Minister Richard Benyon, this work was highlighted as one positive example of England's commitment to the ELC. In the letter, Benyon stated that "Natural England is developing an integrated monitoring project (CQuEL). This will provide place-based evidence about the character and function of landscapes and the provision and quality of selected ecosystem services in England's natural environment.

With regards European Landscape Convention Guidance Part 3: Preparing an ELC Action Plan, we fail to see how this should be archived, given that the ELC and how to implement the treaty is given as a part of the proposed guidance elsewhere in this consultation.

Other

There appears to be a principle at work, behind these proposed revisions, that active guidance should contain the minimum to ensure that people and organisations comply with the legal requirements. In fact the revisions don't even do that. Anything that is an explanatory piece of guidance about how to comply with treaties such as the ELC and with national legislation, should be available on the .gov website and not consigned to the national archive. Even if revised before sending to the national archive, material there will not be given any credibility in, for example, planning enquiries and appeals.

A continuing issue with all environmental legislation and policy is the risk of creating gaps between policy and implementation. This proposed, so called 'smarter guidance' will without a doubt increase that gap. We need to put a marker down now, saying this in the strongest possible terms, so that we can raise the matter again after the general election next year.