



**Cotswolds
National
Landscape**

James Taylor
Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

By email only to: james.taylor@wiltshire.gov.uk ;

14 July 2025

Dear James,

REFERENCE NO: PL/2025/03672

DESCRIPTION: Full Planning Application For Residential Development To Provide 55 Dwellings, Public Open Space, Access, Drainage, Landscaping, Associated Infrastructure And Ancillary Works

LOCATION: Land East of Biddestone Lane, Yatton Keynell

Thank you for consulting the Cotswolds National Landscape Board ('the Board') on this proposed development, which would be located within the setting of the Cotswolds National Landscape.

In reaching its planning decision, the local planning authority (LPA) has a duty to seek to further the statutory purpose of conserving and enhancing the natural beauty of the National Landscape.³ This duty should be explicitly addressed within the decision including an explanation of how the LPA considers the duty has been discharged. Further information on this new duty is provided in Appendix 1 below and the Board recommends that, in fulfilling this 'duty to seek to further the purpose', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the following Board publications:

- Cotswolds National Landscape Management Plan 2025-2030 ([link](#)) in particular Policies CE1 (Landscape), CE6 (Dark Skies); and CE13 (Development and Infrastructure);
- Cotswolds AONB Landscape Character Assessment ([link](#)) particularly, in this instance, with regards to Landscape Character Types (LCT) 14 Cornbrash Lowlands;
- Cotswolds AONB Landscape Strategy and Guidelines ([link](#)) particularly, in this instance, with regards to LCT 14 ([link](#)) including Section 2.1;
- Cotswolds AONB Local Distinctiveness and Landscape Change ([link](#));
- Cotswolds National Landscape Board Position Statements ([link](#)) particularly, in this instance, with regards to the Housing Position Statement ([link](#)) and its appendices ([link](#)), Development in the Setting of the AONB ([link](#)), Landscape-led Development Position Statement ([link](#)) and its appendices ([link](#)) and the Dark Skies and Artificial Light Position Statement ([link](#)) and its appendices ([link 1](#), [link 2](#), [link 3](#)).

Without prejudice, if the LPA is minded to permit this application, it should provide proportionate, reasoned, and documented evidence to demonstrate how it sought to further the purpose of CNL designation, not merely through mitigation of harm but by taking all reasonable steps to further the purpose. If it is not practicable or feasible to take measures to further this purpose, the LPA should provide evidence to show why it is not practicable or feasible.

Cotswolds Conservation Board

Cotswold Business Centre
2 A P Ellis Road, Upper Rissington
Cheltenham, Gloucestershire GL54 2QB
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info@cotswoldsaonb.org.uk

The Cotswolds National Landscape is a designated Area of Outstanding Natural Beauty (AONB), managed and looked after by the Cotswolds Conservation Board.

cotswoldsaonb.org.uk

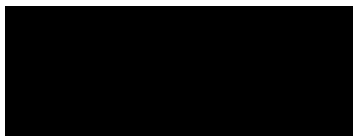
Chairman:
Brendan McCarthy

Vice Chair:
Rebecca Charley

Due to the current high development management consultation workload, the Board will not be providing a more comprehensive response on this occasion. This does not imply support for, or objection to, the proposal.

Please do not hesitate to contact me if you wish to discuss this response.

Yours sincerely,



Simon Joyce MRTPI

Planning Officer

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APPENDIX 1: THE STATUTORY DUTY ON RELEVANT AUTHORITIES TO SEEK TO FURTHER THE STATUTORY PURPOSE OF THE COTSWOLDS NATIONAL LANDSCAPE, SECTION 245 OF THE LEVELLING UP AND REGENERATION ACT 2023

Section 245 of the Levelling Up and Regeneration Act 2023¹ (LURA) introduced a statutory duty on relevant authorities² to seek to further the statutory purposes of protected landscapes³ (the ‘seek to further’ duty). With regards to National Landscapes, this requirement has been incorporated into Section 85 of the Countryside and Rights of Way (CROW) Act 2000, which now states:

- *In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*⁴

This replaces the previous version of Section 85 of the CROW Act, which required relevant authorities to have regard to the statutory purpose of national landscape designations (the ‘duty of regard’).

Section 245 of the LURA and Section 85 of the CROW Act also state that ‘the Secretary of State may by regulations make provision about how a relevant authority is to comply with the duty’. These regulations are likely to be enacted during the lifetime of this iteration of the CNL Management Plan. However, the application of the duty is not dependent on these regulations.

The ‘seek to further’ duty is in force now, as it has been since 26 December 2023, and must be complied with.

Guidance and advice

Guidance on the ‘seek to further’ duty has been published by Defra⁵ and the National Landscapes Association⁶. In addition, Natural England has provided advice on the ‘seek to further’ duty in relation to a nationally significant infrastructure project⁷ and the Campaign for National Parks has obtained a legal opinion on the duty⁸. Other useful reference points include the Government’s explanatory note on the Lords’ amendments to the Levelling Up and Regeneration Bill⁹ and the Government’s LURA press release¹⁰.

This appendix pulls together key aspects of this guidance and advice, as outlined below (with references being provided for the relevant guidance / advice), in order to provide a coherent narrative.

Strengthened duty

¹ [Section 245 of the Levelling Up and Regeneration Act 2023](#).

² As specified in [Section 85 of the Countryside and Rights of Way Act 2000](#), ‘relevant authority’, in this context, includes any Minister of the Crown, public body, statutory undertaker or person holding public office.

³ ‘Protected landscapes’ means national parks, the Broads and National Landscapes.

⁴ [Section 85 of the Countryside and Rights of Way Act 2000](#).

⁵ Defra (2024) [Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes](#).

⁶ National Landscapes Association (2024) [Applying the CROW Act section 85 duty to ‘seek to further the purposes’ in National Landscapes – guidance for local planning authorities](#).

⁷ Natural England (2023) [Letter from Natural England to the Planning Inspectorate regarding the application by National Highways for an order granting development consent for the Lower Thames Crossing](#). Annex 2.

⁸ Landmark Chambers (2024) [Re: section 245 of the Levelling Up and Regeneration Act 2023](#). Instructed by the Campaign for National Parks.

⁹ UK Parliament (2023) [Levelling Up and Regeneration Bill – Explanatory Notes on Lords Amendments](#). Updated version, 12 October 2023. Page 35.

¹⁰ <https://www.gov.uk/government/news/new-laws-to-speed-up-planning-build-homes-and-level-up>

The 'seek to further' duty is a strengthened duty compared to the previous 'duty of regard'.¹¹ If 'have regard to' was the same as 'seek to further', then there would be no need for the amendment.¹² The duty is therefore clearly intended to impose new and more onerous requirements with respect to the statutory purposes than existed before.¹³

Outcome focussed

The 'seek to further' duty is intended to facilitate better outcomes for National Landscapes, which are in line with their statutory purpose (i.e. to conserve and enhance their natural beauty).¹⁴ As stated in the Government's LURA press release, the duty '*will enhance our national network of beautiful, nature-rich protected landscapes that can be enjoyed right across the country*'.¹⁵ In this context, natural beauty should be considered in its holistic sense and 'conserve and enhance' should be treated as a singular purpose.^{16,17}

Active / pro-active duty

The 'seek to further' duty is an active duty, not a passive one.¹⁸ This means that the duty should be pro-actively considered when exercising or performing any functions to which the duty applies.¹⁹ For example, a relevant authority must factor in the duty before the adoption of a proposed policy and not merely as a 'rearguard action' following a concluded decision.²⁰

Relevant authorities would be well-advised not treat the new duty as 'business as usual'.²¹ 'Seek' and 'further' both imply demonstrable action in the form of assistance and promotion of the statutory purpose of conserving and enhancing natural beauty of National Landscapes. It is not enough that a decision simply does not conflict with that purpose: it must seek to further it.²²

Reasonable and proportionate

A relevant authority should take all reasonable and proportionate steps to explore how the statutory purpose of conserving and enhancing the natural beauty of National Landscapes can be furthered.²³

Going beyond avoidance and mitigation of harm

As far as is reasonably practical, relevant authorities should seek to avoid harm and contribute to conserving and enhancing of the natural beauty of National Landscapes.²⁴

This goes beyond mitigation and like for like measures and replacement. The proposed measures to further the statutory purpose of a National 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.²⁵ Consideration should be given to the appropriateness of compensation measures.²⁶

¹¹ National Landscapes Association (2024), Landmark Chambers (2024) (paragraphs 6, 16d and 21), Government Explanatory Notes (2023).

¹² Landmark Chambers (2024). Paragraph 16d.

¹³ Landmark Chambers (2024). Paragraph 6.

¹⁴ Defra (2024), NLA (2024), Landmark Chambers (2024) (paragraph 17g).

¹⁵ <https://www.gov.uk/government/news/new-laws-to-speed-up-planning-build-homes-and-level-up>

¹⁶ National Landscapes Association (2024).

¹⁷ Please refer to Appendix 2 for further information on natural beauty.

¹⁸ Defra (2024), National Landscapes Association (2024), Natural England (2023), Landmark Chambers (2024) (paragraphs 2a, 16d, 17b, 19ii, 21).

¹⁹ Landmark Chambers (2024). Paragraph 17b.

²⁰ Landmark Chambers (2024). Paragraph 17c.

²¹ Landmark Chambers (2024). Paragraph 21.

²² Landmark Chambers (2024). Paragraph 17c.

²³ Defra (2024), National Landscapes Association (2024), Natural England (2023).

²⁴ Defra (2024).

²⁵ Natural England (2023).

²⁶ Defra (2024).

The setting of National Landscapes

As well as being applied within National Landscapes, the 'seek to further duty' also applies to functions undertaken outside of the designation boundary which affects land within a National Landscape.²⁷

Management Plans

When seeking to further the purpose of conserving and enhancing natural beauty, relevant authorities should consider the information contained in a National Landscape's Management Plan.²⁸ Relevant authorities should make efforts to understand the Management Plan and relate their functions to it.²⁹

Conserving and enhancing the natural beauty of the specific National Landscape will normally mean, as a minimum:

- conserving and enhancing the character components or special qualities identified in the Management Plan;
- supporting the Management Plan Objectives, Policies and/or Principles (as applicable) as set out for each of these; and
- following any Management Plan actions set out for each.³⁰

Consideration should also be given to whether the measures being taken by the relevant authority align with and help to deliver the targets in the Management Plan.³¹

Protected Landscapes Targets and Outcomes Framework

Relevant authorities should refer to the Protected Landscapes Targets and Outcome Framework.³²

Dialogue with the National Landscapes team

Dialogue with the National Landscape team can assist the relevant authority³³ (i.e. in this instance, dialogue with the Cotswolds National Landscape Board).

Scenarios where there would be a neutral effect on the purpose of conserving and enhancing natural beauty

If the measures taken by a relevant authority, in relation to the 'seek to further' duty, would have a neutral effect on the purpose of conserving and enhancing natural beauty, consideration should be given to what modifications would help to further this purpose.³⁴

Scenarios where a relevant authority concludes that their decision / action would not seek to further the purpose of conserving and enhancing natural beauty

If, having considered the implications of a decision, a relevant authority reaches the view that the decision does not 'seek to further' the purpose of conserving and enhancing natural beauty, it would be hard to argue that the decision would, in fact, be open to the relevant authority. This is because it would appear to be in breach of the duty. In those circumstances, the decision would need to either be withdrawn or modified such that the relevant authority could confidently say that it did seek to further the relevant purpose.³⁵

²⁷ Defra (2024).

²⁸ Defra (2024).

²⁹ Defra (2024).

³⁰ National Landscapes Association (2024).

³¹ Defra (2024).

³² Defra (2024).

³³ Defra (2024).

³⁴ National Landscapes Association (2024).

³⁵ Landmark Chambers (2024). Paragraph 17g.

Scenarios where the natural beauty of a National Landscape would not be conserved and enhanced

The 'seek to further' duty does not preclude decisions that are 'net harmful' to the natural beauty of a National Landscape. If that were so, the duty would be to 'further the purpose' rather than to 'seek to further the purpose'. However, positive evidence is required to demonstrate that the relevant authority has, in all the circumstances, sought to further the purpose, not merely through mitigation of harm but by taking all reasonable steps to further the purpose.³⁶

Evidence

A relevant authority should be able to demonstrate with proportionate, reasoned, and documented evidence that they have complied with the 'seek to further' duty. This evidence should include the measures that have been taken, or to which consideration has been given, to further the statutory purpose of conserving and enhancing the natural beauty of National Landscapes.³⁷

If it is not practicable or feasible to take measures to further this purpose, the relevant authority should provide evidence to show why it is not practicable or feasible.³⁸

Monitoring and Compliance

A relevant authority may consider it appropriate to instigate a formal compliance monitoring and reporting system to ensure adherence to the duty.³⁹

Potential errors in law

A failure to consider the 'seek to further' duty, or a failure to understand its pro-active and mandatory nature, would be an error of law.^{40,41}

If a relevant authority makes a decision that engages the duty and it cannot demonstrate that it has done all it reasonably can to further the statutory purpose of conserving and enhancing natural beauty as part of the decision, that decision will be open to legal challenge.⁴²

If a relevant authority applies the principles that are set out in this appendix conscientiously, it will be less open to a judicial review challenge on the basis of an alleged breach of the new duties.⁴³

³⁶ Landmark Chambers (2024). Paragraph 17h.

³⁷ Defra (2024), National Landscapes Association (2024), Natural England (2023), Landmark Chambers (2024).

³⁸ Natural England (2023).

³⁹ Defra (2024).

⁴⁰ Landmark Chambers (2024). Paragraph 16e.

⁴¹ An example of this 'error in law' is [a case relating to works undertaken by Greater Anglia at Manningtree train station, in Dedham Vale National Landscape, in Essex](#). In this case, the Secretary of State for Housing, Communities and Local Government accepted that their failure to apply the 'seek to further' duty, when making an Environmental Impact Assessment screening decision, constituted an error in law and that the outcome might have been different if the duty been applied.

⁴² Landmark Chambers (2024). Paragraph 20.

⁴³ Landmark Chambers (2024). Paragraph 18.

NOTES:

1. The name used for the organisation associated with the AONB designation is the Cotswolds National Landscape Board. At times this is abbreviated to National Landscape Board or The Board. The legal name of the organisation remains the Cotswolds Conservation Board but this name is no longer used in most circumstances.
2. Cotswolds National Landscape is the new name for the Cotswolds Areas of Outstanding Natural Beauty (AONB). The new name takes forward one of the proposals of the Government-commissioned 'Landscapes Review' to rename AONBs as 'National Landscapes'. This change reflects the national importance of AONBs and the fact that they are safeguarded, in the national interest, for nature, people, business and culture.
3. Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023.
<https://www.legislation.gov.uk/ukpga/2023/55/enacted>