



**Cotswolds
National
Landscape**

Isobella Wise
Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
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By email only to: isobella.wise@wiltshire.gov.uk ;

22 June 2026

Dear Isobella,

REFERENCE NO: PL/2026/03415

DESCRIPTION: Permission in Principle for Erection of up to 5 No. accessible single storey dwellings (Class C3) and associated works

LOCATION: Land at Sopworth Road, Sherston, Malmesbury

The above planning application, which is for a development that would be located within the Cotswolds National Landscape ('CNL')¹, has been brought to the attention of the Cotswolds National Landscape Board ('the Board')².

In reaching its planning decision, the local planning authority (LPA) has a statutory 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 publications⁴:

- Cotswolds National Landscape Management Plan 2025-2030 ([link](#));
- Cotswolds AONB Landscape Character Assessment ([link](#)) particularly, in this instance, with regards to Landscape Character Types (LCT) 11 (Dip Slope Lowland);
- Cotswolds AONB Landscape Strategy and Guidelines ([link](#)) particularly, in this instance, regards to LCT 11 ([link](#)) including Section 11.1;
- Cotswolds National Landscape Climate Change Strategy ([link](#));
- Cotswolds AONB Local Distinctiveness and Landscape Change ([link](#)); and
- Cotswolds National Landscape Board Position Statements ([link](#)) particularly, in this instance, with regards to Landscape-Led Development Position Statement ([link](#)) and its appendices ([link](#)) and Dark Skies and Artificial Light Position Statement ([link](#)) and its appendices ([link 1](#), [link 2](#), [link 3](#)).

For the reasons outlined in Annex 1 below the Board **objects** to this application. In the Board's view the proposal would not accord with Section 11.1 of the Cotswolds AONB Landscape Strategy & Guidelines referenced above in that it would not:

- Avoid development that will intrude negatively into the landscape and cannot be successfully mitigated, for example, extensions to settlements on visible hillsides or areas of open landscape; or
- Ensure that new development does not adversely affect settlement character and form;

Cotswolds Conservation Board

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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

Consequently, the proposal would not accord with Policy CE1 of the CNL Management Plan 2025-2030 and by extension Core Policy 51 of the Wiltshire Core Strategy. We consider that the proposal as submitted would not conserve and enhance the landscape and scenic beauty of the CNL as required by paragraph 189 of the NPPF.

This site is not allocated in any adopted Development Plan document, and the application does not accord with the adopted Development Plan. Whilst we acknowledge the benefits of the development outlined within the submission, we consider that this assessed harm to the natural beauty of the CNL provides a strong reason for refusal for the purposes of paragraph 11d)i) of the NPPF and as such the 'tilted' balance should not apply.

For avoidance of doubt, we also consider that the proposal would not seek to further the purpose of CNL designation in line in terms of the duty at s.85 CROW Act 2000, referred to above and in Appendix 1. Accordingly, we object to this application.

DEFRA guidance for relevant authorities (referred to in Appendix 1 below) states that as far as is reasonably practical, relevant authorities should seek to avoid harm and contribute to the conservation and enhancement of the natural beauty, special qualities, and key characteristics of Protected Landscapes. 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.

The 'seek to further' duty does not preclude decisions that are 'net harmful' to the natural beauty of a National Landscape. 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.

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, 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.

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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ANNEX 1: COTSWOLDS NATIONAL LANDSCAPE BOARD RESPONSE TO APPLICATION REFERENCE PL/2026/03415

This application seeks Permission in Principle (PiP) for the erection of five dwellings and is the first stage of the PiP process at which consideration is given to matters of principle for the proposed development, these being limited to location, land use and amount of development. Once the principle has been established at the first stage, a second technical details consent (TDC) stage is then used to consider matters other than location, land use and amount of development.

Planning Practice Guidance (Paragraph: 042 Reference ID: 58-042-20170728) states that local planning authorities, as decision makers, should draw on relevant existing information sources and tools to support decisions on whether a grant of permission in principle is appropriate. The advice makes specific reference to 'landscape character assessments and external information sources and tools'.

Paragraphs 187 and 189 of the National Planning Policy Framework ('NPPF') provide the highest status of protection for the landscape and scenic beauty of National Landscapes. Paragraph 187 states that planning decisions should both contribute to and enhance the natural environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

Paragraph 189 then outlines the 'great weight' to be given to the conservation and enhancement of the landscape and scenic beauty of National Landscapes. It also sets out how the scale and extent of development within National Landscapes should be limited whilst development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

Wiltshire Core Strategy Policy 51 requires development to protect, conserve and where possible enhance landscape character and for proposals for development within or affecting National Landscapes to demonstrate that they have taken account of the objectives, policies and actions set out in the relevant Management Plan.

The Cotswolds National Landscape Management Plan 2025-2030 is a material consideration in planning decision making. Policy CE1 states that proposals that are likely to impact on, or create change in, the landscape of the Cotswolds National Landscape, should be delivered in a way that is compatible with and seek to further the conservation and enhancement of the landscape character of the location, as described by the Cotswolds National Landscape Board's Landscape Character Assessment and Landscape Strategy and Guidelines. There should be a presumption against the loss of key characteristics identified in the landscape character assessment. Proposals that have the potential to impact on, or create change in, the landscape of the CNL, should seek to further the conservation and enhancement of the scenic quality of the location and its setting, views, including those into and out of the National Landscape and visual amenity.

The Board's Tranquillity Position Statement referenced above recommends that proposals that have the potential to impact on the tranquillity of the National Landscape accord with Policy CE5 of the Cotswolds National Landscape Management Plan 2025-2030, gives great weight to conserving and enhancing the tranquillity of the National Landscape and assess potential impacts on tranquillity, particularly with regards to noise, vehicle movements and landscape and visual impacts. Policy CE5 states that proposals that have the potential to impact on the tranquillity of the CNL should be delivered in a way that is compatible with and seek to further the conservation and enhancement of this tranquillity, by seeking to avoid and where avoiding is not possible, minimise noise and other aural and visual disturbance.

Policy CE6 states that proposals that have the potential to impact on the dark skies of the CNL should be delivered in a way that is compatible with and seek to further the conservation and enhancement of these dark skies, by seeking to avoid and where avoiding is not possible, minimise lighting. Proposals that have the potential to impact on the dark skies or dark landscapes of the CNL should have regard to and be

compatible with the Board's Dark Skies & Artificial Light Position Statement, the Cotswolds National Landscape Technical Lighting Design Guidance (soon to be added to our website) and best practice standards and guidance, in particular, that published by the Institution of Lighting Professionals.

Policy CE13 states that development and infrastructure proposals in the Cotswolds National Landscape and in the setting of the National Landscape should be delivered in a way that is compatible with and seeks to further the conservation and enhancement of the natural beauty of the CNL including its special qualities. In doing so, they should have regard to – and be compatible with the CNL Management Plan and guidance produced by the CNL Board, including the: (i) Cotswolds AONB Landscape Strategy and Guidelines (LS&G); (ii) Cotswolds AONB Landscape Character Assessment; (iii) Cotswolds Nature Recovery Plan; (iv) Cotswolds AONB Local Distinctiveness and Landscape Change; (v) Cotswolds National Landscape Board Position Statements; (vi) CNL Pathway to Net Zero and (vii) CNL Climate Change Strategy.

Development and infrastructure proposals in the CNL should be delivered in a way that is compatible with and seeks to further the purpose of increasing the understanding and enjoyment of the CNL's special qualities. They should also contribute to the economic and social wellbeing of CNL communities, in a way that is compatible with conserving and enhancing the natural beauty of the CNL.

Development and infrastructure proposals in the CNL and its setting should comply with relevant national planning policy and guidance, particularly with regards to those paragraphs of the National Planning Policy Framework (NPPF) that relate to national landscapes.

A landscape-led approach should be applied to the planning, design and implementation of development and infrastructure proposals in the CNL and its setting, proportionate to the type and scale of development being proposed, whereby proposals:

- a) Address the natural beauty of the CNL as primary consideration at all stages of the development process, from initial conception through to implementation
- b) Address all the factors that contribute to the natural beauty of the area
- c) Address access to natural beauty including the character of the public rights of way network and its role within wider green infrastructure
- d) Reflect and enhance the character of the local area
- e) Avoid adverse effects where possible and, if adverse effects can't be avoided, minimise them
- f) Seek opportunities to enhance the natural beauty of the CNL and
- g) Deliver more beneficial effects than adverse effects for the natural beauty of the CNL

In reaching its planning decision in respect of any future application, Wiltshire Council as 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. This requirement has been incorporated into Section 85 of the Countryside and Rights of Way Act and replaces the previous version of Section 85, which required relevant authorities to have regard to the statutory purpose of national landscapes.

The statutory purpose of designating the CNL as an area of outstanding natural beauty is to conserve and enhance the area's natural beauty.¹

Natural beauty is '*not just the look of the landscape, but includes landform and geology, plants and animals, landscape features, and the rich history of human settlement over the centuries*'.² Natural England's guidance for assessing landscapes for designation as protected landscapes identifies six factors that contribute to natural beauty:³

- i. landscape quality;
- ii. scenic quality;
- iii. relative wildness;

¹ Section 82 of the Countryside and Rights of Way Act 2000 ([link](#)).

² Countryside Agency (2001) *Areas of Outstanding Natural Beauty – a guide for AONB partnership members* ([link](#)).

³ Natural England (2011) *Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England* ([link](#)). See Table 3 (page 13) and Appendix 1.

- iv. relative tranquillity;
- v. natural heritage features;
- vi. cultural heritage.

Further information on the duty is provided in Appendix 1 below. The 'seek to further' duty does not preclude decisions that are 'net harmful' to the natural beauty of a National Landscape. 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.

Given the above advice, the statutory duty to seek to further the purposes of CNL designation and requirements of paragraph 189 of the NPPF, the Board considers that it is appropriate for the local planning authority to consider matters relating to the AONB designation, national and local landscape policy and landscape guidance including the Board's guidance identified above in determining this application and that the assessment of the potential impact of the proposal upon the landscape and scenic beauty of the Cotswolds National Landscape should be considered at this permission in principle stage as an element of 'location'.

Location and Landscape and Visual Impact

The proposal site forms part of a larger field which is prominent in views when approaching Sherston along Sopworth Road, the site boundary appears arbitrarily drawn and its northern and western boundaries follow no identifiable features on the ground. We agree with the observations of the assessments made for the emerging Sherston Neighbourhood Plan that the site forms part of the open agricultural landscape to the east of the main settlement which contributes to the rural setting of the village within the CNL. The site has a high degree of openness due to the topography which rises towards the north, and low hedgerow at the boundaries. This means the site occupies a prominent position when entering the village from the west along Sopworth Road and the site is divorced from the settlement boundary and reads as part of the wider agricultural landscape. In the Board's view the accompanying LVIA underestimates the impacts of the proposal.

In the Board's view the proposal would not accord with Section 11.1 of the Cotswolds AONB Landscape Strategy & Guidelines referenced above in that it would not:

- Avoid development that will intrude negatively into the landscape and cannot be successfully mitigated, for example, extensions to settlements on visible hillsides or areas of open landscape; or
- Ensure that new development does not adversely affect settlement character and form;

Consequently, the proposal would not accord with Policy CE1 of the CNL Management Plan 2025-2030 and by extension Core Policy 51 of the Wiltshire Core Strategy.

Lighting and Dark Skies

Light pollution occurs in the form of light trespass where light shines where not needed, sky glow where light appears over towns and cities or brightly lit locations within rural areas and glare, which is the uncomfortable reaction when a light source is viewed within a dark atmosphere. These all contribute to the erosion of 'dark skies' and the ability to view the stars at night.

Paragraph 198c of the NPPF states that planning decisions should ensure that new development is appropriate for its location and in doing so they should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. Paragraph 001 of the PPG on Light Pollution (Paragraph: 001 Reference ID: 31-001-20191101) states that "*intrinsically dark landscapes* are those entirely, or largely, uninterrupted by artificial light. National parks ... can serve as good examples". As National Landscapes have the same level of protection with regards to landscape and scenic beauty as national parks within the NPPF and PPG and dark skies are one of the special qualities of the Cotswolds National Landscape, we consider it reasonable to treat the National Landscape as an 'intrinsically dark landscape' in NPPF and PPG terms. Policy CE6 of the National Landscape Management

Plan states that proposals that have the potential to impact on the dark skies of the CNL should be delivered in a way that is compatible with and seek to further the conservation and enhancement of these dark skies, by seeking to avoid and where avoiding is not possible, minimise lighting.

It is acknowledged that lighting would be considered as part of the Technical Details Consent stage but without prejudice, if the local authority is minded to grant planning permission, the Board recommends that street lighting and other external lighting should be kept to a minimum should comply with the requirements of with Guidance Note 01/21 on The Reduction of Obtrusive Light, published by the Institution of Lighting Professionals (ILP) (which forms Appendix 2 of the Board's Position Statement on Dark Skies and Artificial Light, referenced above).

We recommend that the relevant 'environmental zone' for which compliance should be assessed is Environmental Zone E1 which relates to National Landscapes to mitigate any adverse impact and ensure that all lighting meets the standards to preserve the dark skies and landscape character of the Cotswolds National Landscape in line with Management Plan Policy CE6 and relevant parts of Section 11.1 of the LS&G outlined above.

We would also recommend that the lighting strategy should comply with relevant aspects of the following guidance:

- Guidance Note 01/21 on The Reduction of Obtrusive Light, published by the Institution of Lighting Professionals (ILP) (which forms Appendix 2 of the Board's Position Statement on Dark Skies and Artificial Light, referenced above);
- Towards a Dark Sky Standard, published by the UK Dark Skies Partnership ([link](#));
- Dark Skies Technical Advice Note (May 2021), published by South Downs National Park Authority ([link](#));
- Dark Skies Technical Advice Note Appendix - Glazing (May 2021), published by South Downs National Park Authority ([link](#));
- Lighting Design Guide (July 2023), published by Dedham Vale National Landscape and Coast & Heaths National Landscape ([link](#))

The Board has also recently adopted further Technical Lighting Design Guidance which will be provided to the LPA once published on our website.

This site is not allocated in any adopted Development Plan document, and the application does not accord with the adopted Development Plan. Whilst we acknowledge the benefits of the development outlined within the submission, we consider that this assessed harm to the natural beauty of the CNL provides a strong reason for refusal for the purposes of paragraph 11d)i) of the NPPF and as such the 'tilted' balance should not apply.

Without prejudice, if the local authority is minded to grant planning permission in principle, we would request that close consideration is given to layout, landscaping and lighting matters at the technical details consent stage.

For avoidance of doubt, we also consider that the proposal would not seek to further the purpose of CNL designation in line in terms of the duty at s.85 CROW Act 2000, referred to above and in Appendix 1. Accordingly, we object to this application.

DEFRA guidance for relevant authorities (referred to in Appendix 1 below) states that as far as is reasonably practical, relevant authorities should seek to avoid harm and contribute to the conservation and enhancement of the natural beauty, special qualities, and key characteristics of Protected Landscapes. 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.

The 'seek to further' duty does not preclude decisions that are 'net harmful' to the natural beauty of a National Landscape. 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.

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, 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.

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 2023⁴ (LURA) introduced a statutory duty on relevant authorities⁵ to seek to further the statutory purposes of protected landscapes⁶ (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.*⁷

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 Defra⁸ and the National Landscapes Association⁹. In addition, Natural England has provided advice on the ‘seek to further’ duty in relation to a nationally significant infrastructure project¹⁰ and the Campaign for National Parks has obtained a legal opinion on the duty¹¹. Other useful reference points include the Government’s explanatory note on the Lords’ amendments to the Levelling Up and Regeneration Bill¹² and the Government’s LURA press release¹³.

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

The ‘seek to further’ duty is a strengthened duty compared to the previous ‘duty of regard’.¹⁴ If ‘have regard to’ was the same as ‘seek to further’, then there would be no need for the amendment.¹⁵ The duty

⁴ [Section 245 of the Levelling Up and Regeneration Act 2023](#).

⁵ 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.

⁶ ‘Protected landscapes’ means national parks, the Broads and National Landscapes.

⁷ [Section 85 of the Countryside and Rights of Way Act 2000](#).

⁸ Defra (2024) [Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes](#).

⁹ 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](#).

¹⁰ 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.

¹¹ Landmark Chambers (2024) [Re: section 245 of the Levelling Up and Regeneration Act 2023](#). Instructed by the Campaign for National Parks.

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

¹³ <https://www.gov.uk/government/news/new-laws-to-speed-up-planning-build-homes-and-level-up>

¹⁴ National Landscapes Association (2024), Landmark Chambers (2024) (paragraphs 6, 16d and 21), Government Explanatory Notes (2023).

¹⁵ Landmark Chambers (2024). Paragraph 16d.

is therefore clearly intended to impose new and more onerous requirements with respect to the statutory purposes than existed before.¹⁶

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).¹⁷ 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*'.¹⁸ In this context, natural beauty should be considered in its holistic sense and 'conserve and enhance' should be treated as a singular purpose.^{19,20}

Active / pro-active duty

The 'seek to further' duty is an active duty, not a passive one.²¹ This means that the duty should be pro-actively considered when exercising or performing any functions to which the duty applies.²² 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.²³

Relevant authorities would be well-advised not treat the new duty as 'business as usual'.²⁴ '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.²⁵

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.²⁶

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.²⁷

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.²⁸ Consideration should be given to the appropriateness of compensation measures.²⁹

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.³⁰

¹⁶ Landmark Chambers (2024). Paragraph 6.

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

¹⁸ <https://www.gov.uk/government/news/new-laws-to-speed-up-planning-build-homes-and-level-up>

¹⁹ National Landscapes Association (2024).

²⁰ Please refer to Appendix 2 for further information on natural beauty.

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

²² Landmark Chambers (2024). Paragraph 17b.

²³ Landmark Chambers (2024). Paragraph 17c.

²⁴ Landmark Chambers (2024). Paragraph 21.

²⁵ Landmark Chambers (2024). Paragraph 17c.

²⁶ Defra (2024), National Landscapes Association (2024), Natural England (2023).

²⁷ Defra (2024).

²⁸ Natural England (2023).

²⁹ Defra (2024).

³⁰ Defra (2024).

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.³¹ Relevant authorities should make efforts to understand the Management Plan and relate their functions to it.³²

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.³³

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.³⁴

Protected Landscapes Targets and Outcomes Framework

Relevant authorities should refer to the Protected Landscapes Targets and Outcome Framework.³⁵

Dialogue with the National Landscapes team

Dialogue with the National Landscape team can assist the relevant authority³⁶ (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.³⁷

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.³⁸

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

³¹ Defra (2024).

³² Defra (2024).

³³ National Landscapes Association (2024).

³⁴ Defra (2024).

³⁵ Defra (2024).

³⁶ Defra (2024).

³⁷ National Landscapes Association (2024).

³⁸ Landmark Chambers (2024). Paragraph 17g.

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.³⁹

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.⁴⁰

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.⁴¹

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.⁴²

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.^{43,44}

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.⁴⁵

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.⁴⁶

³⁹ Landmark Chambers (2024). Paragraph 17h.

⁴⁰ Defra (2024), National Landscapes Association (2024), Natural England (2023), Landmark Chambers (2024).

⁴¹ Natural England (2023).

⁴² Defra (2024).

⁴³ Landmark Chambers (2024). Paragraph 16e.

⁴⁴ 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.

⁴⁵ Landmark Chambers (2024). Paragraph 20.

⁴⁶ 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>