

25 March 2025

Guidance on seeking to further the purposes of Protected Landscapes

Purpose of the Report

1. To brief Members on the publication of guidance for relevant authorities on seeking to further the purposes of Protected Landscapes.

Recommendations

2. That Members note the report.

Strategic Framework

3. The information and recommendation(s) contained in this report are consistent with the Authority's statutory purposes and support the strategic planning framework:
 - Corporate Plan Objective 32:
Operate Governance arrangements that are fit for purpose, as reported through the Annual Governance Statement and the Annual Governance Report.

Background

4. Section 245 of the Levelling-up and Regeneration Act 2023 amends the duty on relevant authorities in respect of their functions which affected land in Protected Landscapes. They must now "seek to further" the statutory purposes of Protected Landscapes. This replaces the previous duty to "have regard to" their statutory purposes.
5. On 16 December 2024 Defra published [guidance](#) which sets out how the Protected Landscapes duty is intended to operate and provides broad principles to guide relevant authorities in complying with it. A relevant authority means a government department or public body, any statutory undertaker, any person holding public office. The definition applies to the Authority. It does not apply to individuals, landowners, non-governmental organisations etc.
6. The duty does not prevent relevant authorities from undertaking their statutory functions and discharging their legal duties and other responsibilities. The duty is intended to complement these requirements by ensuring that the purposes for which Protected Landscapes are designated are recognised in reaching decisions and undertaking activities that impact these areas. Relevant authorities will need to apply the duty when undertaking any function in relation to, or so as to affect, land in a Protected Landscape and this may include those functions set out in the **Annex**.

7. When seeking to further the purposes, relevant authorities should consider the information contained in a Protected Landscape's Management Plan. Relevant authorities should also refer to the [Protected Landscapes Targets and Outcomes Framework](#).
8. Consideration of what is reasonable and proportionate in the context of fulfilling the duty is decided by the relevant authority and should take account of the specific function being exercised.
9. The duty is an active duty, not passive, which means:
 - a relevant authority should take appropriate, reasonable, and proportionate steps to explore measures which further the statutory purposes of Protected Landscapes;
 - 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;
 - a relevant authority should be able to demonstrate with proportionate, reasoned, and documented evidence the measures to which consideration has been given when seeking to further the statutory purposes of Protected Landscapes - for example, policies, strategies, operational procedures, estate management plans, investment plans, contracts, works instructions, assessments and reports which should be able to evidence the proper discharge of the duty by the relevant authority;
 - for ongoing functions, a relevant authority may consider it appropriate to instigate a formal compliance monitoring and reporting system to ensure adherence to the duty;
 - for development plan making and development management decisions affecting a Protected Landscape, a relevant authority should seek to further the purposes of the Protected Landscape - in so doing, the relevant authority should consider whether such measures can be embedded in the design of plans and proposals, where reasonably practical and operationally feasible;
 - for the development and management of land, water and estates, relevant authorities should seek to further the purposes of the Protected Landscape when designing and undertaking these activities, where reasonably practical and operationally feasible;
 - for day-to-day activities, relevant authorities should seek to further the purposes of the Protected Landscape when designing and undertaking these activities where reasonably practical and operationally feasible.
10. A relevant authority should consider:
 - The statutory purposes that it should seek to further when exercising a function in the Protected Landscape it affects.
 - Whether measures which would further the purposes align with and help to deliver the targets and objectives in the Protected Landscape's Management Plan.

- If such measures are appropriate and proportionate to the type and scale of the function and its implications for the area. For instance, are measures in keeping with the natural beauty, the special qualities and key characteristics of the Protected Landscape.
- If the measures contribute to the conservation and enhancement of the Protected Landscape's wildlife, ecological value and quality, geological and physiographical features, water environment, cultural heritage, dark skies, tranquillity, opportunities for access to nature, and landscape character for which the area was designated.
- Whether there ongoing management needs for these measures.
- How the measures will be funded and secured.
- Whether the relevant Protected Landscape team been approached for their views on whether or not measures help to deliver the Protected Landscape's Management Plan and further the purposes of the designation.
- If there needs to be documented evidence, for instance a record of the decision and how it was reached.
- If the nature of the function requires the operation of the duty to be periodically reviewed or monitored by the relevant authority.

Dedham Vale Society v Secretary of State for Housing, Communities and Local Government

11. A recent legal case has highlighted the strengthened obligation on relevant authorities. The Dedham Vale Society brought a judicial review on the basis that the amended protected landscapes duty had not been complied with in relation to an Environmental Impact Assessment screening decision regarding a car park extension in the Dedham Vale National Landscape. The Campaign for National Parks (CNP) were allowed by the Court to intervene in the case via oral and written submissions.
12. Following receipt of the Claimant and CNP's skeleton arguments, the Secretary of State conceded that the failure to apply the statutory duty when making the screening decision constituted an error of law and that the outcome might have been different had it been applied. The screening question has been remitted to the Secretary of State for redetermination.

Action taken by the Authority

13. Since the implementation of the new strengthened duty, we've briefed partners on the NPMP Partnership and written to North Yorkshire Council (NYC) to remind them of the need to take account of the new duty when determining housing sites for their new Local Plan etc. The Chair and CEO of the Authority raised the issue at a recent meeting with their counterparts at NYC. The matter will be raised by the CEO at a forthcoming meeting of the Cumbria Strategic Partners. In addition, the implications of the duty were discussed with senior officials from Yorkshire Water.

Next Steps

14. The guidance issued by Defra is essentially interim guidance (“broad principles to guide relevant authorities in complying with it”). Giving full effect to the duty is dependent on the introduction of secondary legislation covering 3 areas:
 - i. how relevant authorities are expected to comply with the duty;
 - ii. the role of Management Plans;
 - iii. local contributions to achieving national targets set in the Environment Improvement Plan (the Protected Landscapes Targets and Outcomes Framework).
15. Defra has established a working group on the preparation and implementation of this secondary legislation, on which National Parks England is represented. The relevant regulations are unlikely to be introduced until 2026.
16. National Parks England also wrote to Minister Creagh in February to seek a meeting to discuss the reforms in more detail.

Financial Implications

17. The financial implications for the Authority are likely to become clearer as the new duty becomes embedded and whether more officer resource is required to implement and monitor the new duty.

Legal Implications

18. Legal implications for the Authority could arise if either the Authority does not comply with the new duty and is subject to legal challenge or if another relevant authority fails to comply with the new duty and the Authority decides to challenge that decision.

Equality, Diversity and Inclusion Implications

19. None.

Conclusion

20. The new duty is part of a wider package of measures to facilitate better outcomes for Protected Landscapes, which are in line with their statutory duties. Other measures include strengthened Management Plans and national targets set through the Protected Landscapes Targets and Outcomes Framework.
21. The full picture regarding the success of the measures will not become clear until regulations are introduced in 2026. In the meantime, the Authority will work closely with local partner organisations to help them to comply with the duty and to support the achievement of the collective objectives set out in the National Park Management Plan.

David Butterworth
Chief Executive

Annex

Functions undertaken by relevant authorities in relation to, or so as to affect, land in a Protected Landscape may include:

- the preparation of Development Plans and associated assessments and documents;
- decision making in respect of development management, planning applications and nationally significant infrastructure projects;
- development undertaken through permitted development rights where prior approval on relevant planning matters is required;
- day-to-day functions such as maintenance, the refurbishment of buildings and infrastructure and the management of land and water;
- when considering the appropriateness of avoidance, mitigation, and compensation measures;
- functions outside of a Protected Landscape which may have an effect on land in a Protected Landscape;
- the drafting of Protected Landscape Management Plans;
- planning appeals and public inquiries;
- the drafting of Local Nature Recovery Strategies;
- other plans and spatial strategies which affect these areas such as Local Transport Plans, River Basin Management Plans, and Neighbourhood Plans;
- the drafting and delivery of (for example) policies and strategies, operational procedures, estate management plans, contracts, and works instructions which guide and control the day-to-day work of the relevant authority and their agents;
- the issuing of licences and permits.

BLANK PAGE