

The new Protected Landscapes duty: Why it matters and the difference it makes

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Introduction

The two statutory purposes of National Parks are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks (the conservation purpose)
- To promote opportunities for the public understanding and enjoyment of the special qualities of the National Parks (the recreation purpose)

Where there is an irreconcilable difference between these two purposes, then the conservation purpose should take precedence.

[Section 245](#) of the Levelling Up and Regeneration Act 2023 introduced a new requirement for public bodies and statutory undertakers to seek to further the purposes of National Parks and National Landscapes (known collectively as Protected Landscapes) whenever they make decisions which affect land in these areas. The legislation also allows for the Secretary of State to make regulations setting out further details on how the duty should be implemented but it is clear that the duty applies even in the absence of those regulations.

The new Protected Landscapes duty came into force on 26 December 2023 and applies to the decisions of a wide range of different organisations including local authorities, National Highways and utilities providers such as water companies and electricity companies.

Having campaigned for many years to secure this legislation, Campaign for National Parks wants to ensure that there is wide awareness of the new duty and that it is having the intended impact.

This note has been produced to support National Park Societies (NPSs) and other local campaigners in their efforts to ensure the duty is being applied effectively. It provides a brief overview of the reasons why this legislation was introduced; the impact the duty is intended to have; and some examples of what has been happening in practice since it was introduced. It also provides ideas for how NPSs and others can support our work in this area.

The case for a strengthened duty

Prior to the introduction of the LURA duty, public bodies had a duty to have regard to the statutory purposes of Protected Landscapes. A duty to “have regard” is the weakest form of duty that can be imposed, as it requires only that there must be some consideration of the purposes, not that any weight needs to be given to those purposes. Given the importance of Protected Landscapes to the nation, we believed that it was unacceptable that this duty was so weak and had long been arguing that it needed strengthening.

Various reviews and reports commissioned by the Government had also come to the same conclusion. As long ago as 1991, the Edwards’ Panel Report “Fit for the Future” recommended that all public bodies should further National Park purposes, and report on this annually. More recently the final report of the [Glover Landscapes Review](#), published in September 2019, concluded that Protected Landscapes were being held back from realising their full potential because of the outdated legislative framework that underpinned them and recommended that the duty be strengthened to one of “furthering” the purposes.

In January 2022, the Government published [a consultation](#) on its response to the Glover Review, which acknowledged that there was a need for legislative change to implement many of the key Glover proposals including to strengthen the wording of the “have regard” duties. The Government also committed to producing guidance for public bodies on the application of the new duty.

Securing the new duty

When there was no mention of landscapes-specific legislation in the May 2022 Queen’s Speech, we turned our focus to securing the necessary changes through the Levelling Up and Regeneration Bill (LURB). This included working alongside Wildlife and Countryside Link and the Better Planning Coalition to secure cross-party support in both the Commons and the Lords for a series of amendments aimed at taking forward some of the key Glover recommendations, including changing the “duty of regard” to a “duty to further the purposes”.

Following extensive debate, in September 2023, the Government accepted the principle of the amendment and announced that it would be introducing its own amendment to the LURB. That Government amendment is what has now been adopted as s.245 of the Levelling Up and Regeneration Act 2023.

This change in the law was considered to be truly groundbreaking and was hailed as such by many, including ourselves, other NGOs, National Park Authorities (NPAs) and National Landscapes bodies.

Local planning authorities were notified of the strengthened duty in the [Chief Planner’s newsletter](#) of January 2024.

The intended impact of the duty

To support implementation of the new duty in advance of the official guidance being published, Natural England provided the following advice (published in its submission to various Development Consent Order (DCO) applications for nationally significant infrastructure projects):

- *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.*
- *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.*

The idea that the s.245 duty is a proactive and strengthened requirement is shared by the Protected Landscape bodies. In early 2024, the National Landscapes Association (NLA), the collective voice of the National Landscape Partnerships and Conservation Boards, undertook a survey of all the NPAs and National Landscapes in England. There were 22 responses – 18 from the 44 National Landscapes (53%) and four from the 10 NPAs (40%) – a response rate of 50% overall.

The majority of respondents viewed the “seek to further” duty as being more active than the previous “to have regard” duty; that it had the potential to strengthen the protection given to Protected Landscapes in planning decisions and planning policy and should make it easier to refuse unacceptable proposals; and that it could potentially be of huge significance in helping to further the statutory purposes.

A number of documents published by the Department for Environment, Food and Rural Affairs (Defra) also make it clear that a change in the status quo is expected as a result of the strengthened duty. For example, when the most recent [annual progress report](#) on the Environmental Improvement Plan (EIP) was published in July 2024, the s.245 LURA duty was listed as one of the key makers of progress over the last year helping to deliver progress towards the EIP goal of thriving plants and wildlife.

Guidance on the duty

Various Protected Landscape bodies have issued their own guidance on how to implement the duty. For example, the Kent Downs National Landscape (KDNL) has issued [its own guidance](#) which makes it clear that compliance with the new duty is not dependent on the regulations being published and states that “the proposed measures to further the purposes should explore what is possible **in addition** [their emphasis] to avoiding and mitigating the effects of any development or action.”

In line with the NE guidance set out above, the KDNL advice sets out the expectation that relevant authorities should “make careful reference to the Management Plan and its supporting guidance when exercising the new duty”. It says that “the new duty introduces an expectation of a higher level of satisfaction on planning authorities that [development management] proposals avoid harm to the Kent Downs National Landscape” and that “the new duty should be considered at the outset and throughout any [Local] plan preparation” and “should be applied holistically throughout the plan”.

The NLA has also published [guidance](#) for local planning authorities, providing advice on how to meet the new duty in policymaking and decision-making affecting National Landscapes. This note makes it clear that this new statutory duty applies to all aspects of the plan-making and development management processes, including decisions on planning applications and enforcement, and decisions relating to planning policies and site allocations in Local Plans. The NLA cite NE’s advice, highlighting that relevant authorities are expected to be able to demonstrate that they have fulfilled the duty, and how compliance with the duty has been embedded in the plan-making and decision-making process.

The NLA note that NE have advised that the new duty underlines the importance of avoiding harm to the statutory purposes of Protected Landscapes and that measures that further the purposes are required in addition to mitigation. The advice note also stresses the importance of understanding the key objectives in the statutory Management Plan for the relevant National Landscape and any related guidance documents on design, dark skies etc, when applying the duty as part of a decision-making process, including when considering the appropriate enforcement route or when developing Local Plan policies.

In December 2024, the Government published the official [guidance](#) on the duty which sets out who must comply with the duty and when it should be applied. This guidance makes it clear that the new responsibilities apply to decision-making across the full range of activities which affect Protected Landscapes including regular maintenance, the management of land and water, and the issuing of licensing and permits.

The duty also applies to decisions on activities outside Protected Landscapes if they affect the land within it, for example, if decisions within parts of the river catchment outside a Protected Landscape have an impact on the water quality within it. It makes clear this is an active duty and sets out very clearly what relevant authorities should be doing to demonstrate compliance with it, including the fact that they should have documented evidence of the measures they have considered when seeking to further the purposes.

Securing effective implementation

Protected Landscapes could, and should, be playing a significant role in halting biodiversity decline, tackling the climate emergency and helping deliver the international commitment to protect 30% of land for nature by 2030 (the 30x30 target), as identified in the [criteria for 30x30](#) published by the Government in 2024. But, as the Glover Review identified, they are being held back from delivering this role by an outdated legislative framework.

The introduction of the s.245 LURA duty updated a key part of this framework but if this strengthened duty is not implemented effectively it will not have the intended impact and the potential for Protected Landscapes to contribute towards tackling the climate and nature crisis will continue to be limited.

Unfortunately, there is little evidence to date that the new duty is being complied with by the organisations which are required to take account of it. Until very recently, there seems to have been a lack of awareness of the new duty even among bodies such as the Planning Inspectorate whose decisions have significant implications for other organisations.

It is also likely to take some time for the duty to have an impact on processes that are agreed a long time in advance. For example, after we highlighted the new duty to the water regulator Ofwat it sought to comply with it when deciding on the most recent review of water company prices in England. However, the framework for this price review was agreed before the duty came into force so the new duty has only had a limited impact on the water companies' business plans.

One area where the duty can, and should, have an immediate impact is in planning decisions. However, in [a submission](#) to the examination of the DCO for the A66 Trans-Pennine project (which affects both the North Pennines National Landscape and the Lake District National Park) in early 2024, National Highways (NH) effectively dismissed the need to do anything differently, arguing that this new statutory requirement did not have any

impact on the decision-making on this DCO, particularly in the absence of the regulations which the legislation empowered the Secretary of State to introduce. The DCO for the A66 project was subsequently approved, as was one for the M3 Junction 9 improvements which affect the South Downs National Park. The implications of the new duty have also been raised in submissions on other DCOs including the one for the A122 Lower Thames Crossing, a decision on which is due in May 2025.

Taking legal action

It became clear that the only way to secure effective implementation would be through the courts. In late 2024, we were granted permission to intervene in Dedham Vale Society's legal challenge of the Secretary of State's failure to apply the duty when deciding on the planning approval for a major extension to the car park at Manningtree station in Dedham Vale National Landscape.

We applied to intervene in this case because of the urgent need to ensure that the new duties are having the intended impact - which will only happen if it is made clear to relevant authorities that they must apply this new duty now, that it is a pro-active duty, and that they need to provide evidence of how they have taken it into account in all of their decisions which affect land in Protected Landscapes. This was also one of the first major tests of the new legislation and we knew we had a very strong case.

Shortly before the case was due to go to court, the Secretary of State admitted that she had made "an error in law" by failing to apply the duty. This was a crucial win as it sends a really clear message to other Government Ministers and the many organisations that should be applying this duty that they will not get away with ignoring this important new law. In the [consent order](#) agreed between all the parties involved in the case, the Secretary of State acknowledged that the outcome of her decision might have been different had the duty been applied.

This case demonstrates just how seriously public bodies should be taking their responsibilities towards Protected Landscapes and sets an important precedent for future application of the duty. But because there was no court hearing, and therefore no judge's ruling, the outcome does not carry quite the same weight in legal terms. It is likely that further legal action will be needed in order to secure judge's rulings which are important because they set a legal precedent and become part of the caselaw which will need to be considered when interpreting the duty in future.

However, it seems this legal challenge had enough impact to ensure that it is being taken more seriously, at least when it comes to Ministerial decisions. On 27 February, the Secretary of State for Transport, published her decision on the DCO for Gatwick expansion,

saying that she was minded to approve it but only once she was fully satisfied on a number of matters, one of which is compliance with the duty.

The Gatwick [decision letter](#) asks the applicant to do some further work to help demonstrate compliance with the duty including exploring options for further enhancement measures in the Protected Landscapes affected by the airport's expansion (the South Downs National Park and three National Landscapes), and "to provide any agreed provisions" for inclusion in the DCO. Importantly, the letter also emphasises the need for the proposed enhancement measures to be ones which help deliver the objectives in the Management Plans for the Protected Landscapes. It is not explicitly stated but this implies that the applicant is being asked to come to an agreement with the relevant Protected Landscape bodies on the level of financial compensation that would be required to demonstrate that the duty had been addressed effectively.

What more is Campaign for National Parks doing

Over the coming months we will be undertaking a range of activities to help secure effective implementation of this important new duty, including:

- Influencing the planning reforms in England to ensure that planning protections for Protected Landscapes are maintained and strengthened, and that the new duty is embedded in the National Planning Policy Framework and other relevant policy and guidance.
- Working to secure strong and effective regulations which prescribe how the duty must be implemented and ensure that relevant authorities are doing what is required of them
- Continuing to monitor compliance with the duty and holding public bodies to account in cases where ensuring compliance would set an important precedent.
- Raising the need for an equivalent duty to be introduced in Wales.

What you can do to support this

Please take every opportunity you can to raise the need to apply this duty in relevant decision-making. This could include decisions on a wide range of issues which affect Protected Landscapes including housing, road schemes, telephone masts, forestry operations, public access, water pollution and more. You are welcome to quote details from this document.

There are a number of ways in which you or your organisation can use this information to support our work to ensure the LURA duty has the intended impact. Examples of the actions you could take include:

1. Write to key public bodies in your area asking them for details of how they are ensuring that their organisation is complying with the duty.
2. Raise the need to comply with the duty when responding to relevant local consultations, such as on planning applications.
3. Write to your MP to highlight any specific decisions in your area where you believe the duty has not been complied with when it should have been applied.

It would be helpful if you could copy us into any of your responses which you believe have wider national significance.

For further details about the information in this briefing or to share details of cases where you are raising the duty, please email info@cnp.org.uk (with “LURA duty” in the subject line).