

COTSWOLD BEECHWOODS SPECIAL AREA OF CONSERVATION RECREATIONAL IMPACTS MITIGATION CONTRIBUTION UNILATERAL UNDERTAKING GUIDANCE NOTES

Summary

This note provides guidance on completing a s.106 Unilateral Undertaking to ensure that the appropriate mitigation is secured to prevent new developments causing additional recreational disturbance to the biodiversity of the Cotswolds Beechwoods.

Background

The Cotswold Beechwoods¹ is an internationally important biodiversity site (designated as a Special Area of Conservation or Habitats site) for its woodland flora and is also very popular with visitors. However, the high number of visitors is impacting on the site and damaging the wildlife. It is crucial that steps are taken to protect the site and to reduce the recreational impacts.

Recreational Mitigation Strategy

Cotswold District Council is legally obliged under the Conservation of Habitats and Species Regulations 2017² (as amended) to consider whether any project or proposal, including planning applications would affect the biodiversity of the Cotswold Beechwoods SAC. We have worked with our partners, including other adjacent Local Authorities and Natural England to develop a strategic recreation mitigation strategy for the site. This includes –

- an analysis of where visitors to the site come from,
- the types of measures necessary to mitigate the impacts. The measures are divided into
 - on-site measures, e.g. rangers, signage
 - off-site measures – the provision of suitable alternative natural green spaces, (SANGS).
- the costs of those measures.

The analysis of the visitor information shows that the majority of visitors come from within 15.4km of the Beechwoods and this has therefore been set as the Zone of Influence (“Zol”).

All planning applications (and prior approvals) for residential or holiday accommodation, within the 15.4km Zol, will be subject to Habitats Regulations consideration.

This also includes –

- Houses in Multiple Occupation (*sui generis*);
- Residential institutions within the C2 Use Class where the residents are not severely restricted by illness or mobility;
- Student accommodation;
- Sites for gypsy, travellers and travelling show people;
- Tourist accommodation, including self-catering, caravan and touring holiday accommodation.

The need to address Habitats Regulations issues for other types of development will be considered on a case by case basis.

¹ <http://publications.naturalengland.org.uk/publication/6200815333146624>

² <https://www.legislation.gov.uk/uksi/2017/1012/contents/made>

Implications for Planning Applicants

If an application falls within the residential/holiday accommodation category and is within the Zol, there are two main options for applicants -

- Prepare your own “shadow” Habitats Regulations Assessment detailing the likely recreational impacts caused by your development and the mitigation that will be put in place to address those impacts. This is likely to be a very time-consuming piece of work and will require the input of experienced ecologists and others. This information should be submitted with your application. This will be subject to consultation with Natural England.
- Agree to contribute financially to the recreation mitigation strategy prepared by the relevant Local Authorities and Natural England. The costs are –
 - On-site mitigation £221.33/unit
 - Off-site mitigation £550.46/unit

If you wish to use the contribution option, you should

- Either complete a s.111 of the Local Government Act 1972 Agreement form (template version available on our website), agreeing to make the relevant payment on receipt of the appropriate invoice, prior to determination. (The contribution will be refunded – minus the administration charge if permission is not granted.)
 - Cost - £771.79/unit + an administration fee £130
- Alternatively you can complete and submit a Unilateral Undertaking (template version available on our website), agreeing that payment will be made prior to commencement of the development. The administration charge, which will be due upon submission of the signed and completed Agreement, is higher for the Unilateral Undertaking option as there is additional administration required by the Council. In cases where a s.106 agreement is needed for other reasons, the contribution could be included within that s.106 and administration costs will be calculated separately. For particularly complex s.106 agreements a site specific administration charge will be levied.
 - Cost - £771.79/unit + an administration fee £565

The administration fee has been calculated per site or agreement, not per unit of accommodation. The Council reserves the right to periodically review and amend both the administration fee and mitigation contribution.

Completing the s.106 Agreement (unilateral undertaking) template

Planning obligations³ are legal obligations entered into to mitigate the impacts of a development proposal. This can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990⁴ by a person with an interest in the land and the local planning authority; or via a Unilateral Undertaking entered into by a person with an interest in the land without the Local Planning Authority being a party as well.

Planning obligations run with the land, are legally binding and enforceable. A Unilateral Undertaking cannot bind the Local Planning Authority because they are not party to it.

A template draft Unilateral Undertaking is available on the Council’s web-site and can be downloaded and amended.

³ <https://www.gov.uk/guidance/planning-obligations>

⁴ <https://www.legislation.gov.uk/ukpga/1990/8/section/106>

Notes

Application reference number

The reference provided by the Council is in the format – AA/BBBBB/CCC

AA – the year the application is submitted

BBBBB- unique reference number

CCC – application type e.g. OUT – outline application.

If you have submitted the application online and have not yet received a Council application number you can add the reference number provided by the Planning Portal.

Description of development

This should match the description of development on the planning application form.

Address of property

This should match the site address on the planning application form

Title Number

This information is available from the Land Registry⁵.

Signing the Agreement

Please make sure you sign and date the Agreement and return to the Case Officer for your application. A digital signature is acceptable.

The s.106 Unilateral Undertaking) is a legal Agreement and a copy should be kept in a safe place for future reference.

Payment of Mitigation Contribution

Upon receipt of a signed and completed Agreement, the Council will issue you with an invoice for the administration fee.

Prior to commencement, you or your successor in title should contact the Council via email on CIL@cotswold.gov.uk, giving a provisional commencement date. The Council will then invoice you or your successor in title for the sum set out in the Unilateral Undertaking. Development should not commence until such time as the payment has been made to the Council and acknowledged by the Council.

If the payment is not made prior to commencement, the development will be in breach of the conditions of both the legal agreement and the planning permission. The Council will undertake the appropriate legal and enforcement action to rectify the situation.

⁵ <https://www.gov.uk/government/organisations/land-registry>