

PLANNING & INFRASTRUCTURE WORKING GROUP UPDATE

Summary: To review the work of the Planning and Infrastructure Working Group and the Board's planning-related activity.

Recommendation: That the Executive Committee notes the report.

Report by: John Mills, Planning Lead

INTRODUCTION

1. This paper provides an update on the work of the Planning & Infrastructure Working Group (PIWG) and the Board's other planning-related activity. It is framed around papers that were presented at the most recent PIWG meeting on 28 April 2025, which are provided as appendices below:
 - Appendix A – PIWG Update
 - Appendix B – Review of planning decisions
 - Appendix C – Update on the 'seek to further' duty
 - Appendix D – Template local plan policy for the Cotswolds National Landscape.
2. This covering paper highlights key aspects of these papers.

PIWG UPDATE

3. The planning team continues to perform well against its key performance indicator (KPI), providing a substantive response to 88% of pro-active planning applications consultations, above our primary consultation thresholds, by the original deadline (with the target range being 70-94%). We were pleased to see that, for proposals that we had objected to, 83% of the decisions made in 2024/25 were in line with our recommendations (i.e. refused or withdrawn).
4. This is the first PIWG update paper in which we have included the local, planning-related Management Plan indicators. Several of these are addressed in the review of planning decisions paper (see Appendix B, below).
5. In 2024/25, we commented on multiple local plan consultations, including five since the last Executive Committee meeting.
6. Other highlights since the last Executive Committee meeting include:
 - securing approval for a £120,000 project to underground high voltage cables at National Trust's Tinkley Gate site;
 - being invited to participate in Defra's 'Protected Landscapes External Working Group';
 - being invited to give a presentation and take part in a Q&A session at the Planning Inspectorate's annual conference in May 2025 (N.B. I can provide a verbal update on this at the Executive Committee meeting).

REVIEW OF PLANNING DECISIONS MADE IN 2024/2025

7. At the PIWG meeting on 28 April, PIWG members were keen to bring the report on the review of planning decisions, particularly its key findings / recommendations, to the attention of the Executive Committee.
8. A key aspect of the report is the data on the extent to which National Landscape related issues are addressed in planning officer reports and / or in planning decisions. Arguably, the most significant omissions are no reference being made to:
 - the statutory purpose of designation (only 11% addressed this); and
 - the 'seek to further' duty (only 19% addressed this).
9. Other significant omissions include no reference being made to:
 - National Landscapes having the highest status of protection in relation to conserving and enhancing landscape and scenic beauty (only 44% addressed this); and
 - the requirement for the scale and extent of development in National Landscapes to be limited (only 47% addressed this).
10. The CNL Management Plan was mentioned in 61% of decisions but we consider that this figure should also be higher.
11. It is our intention to write to our 15 local planning authorities (LPAs) to request that these issues are explicitly addressed in planning decisions. We will frame this request around our standing advice on the 'seek to further' duty, which is included as an appendix in the new CNL Management Plan.
12. I would be interested to hear the Executive Committee's thoughts on our proposed engagement with our LPAs in this regard.

UPDATE ON THE SEEK TO FURTHER DUTY

13. As outlined in the Appendix C paper, there is now some case law on the 'seek to further' duty, which relates to a proposed development in the New Forest National Park.
14. The case law indicates that if a development proposal would leave natural beauty unharmed then the purpose of designation would be furthered and the 'seek to further' duty would be discharged. This is useful in specifying the threshold for the purpose of designation being furthered. However, it is disappointing that it, in effect, ignores the 'and enhance' part of the purpose of designation.
15. Despite this, we consider that it is still good practice for proposals to both conserve *and* enhance natural beauty (i.e. leave the natural beauty of the area in a better state than the baseline condition). This is the approach that is taken in the National Landscape Association's guidance and in Natural England's advice.
16. Another key aspect of the case law is that it addresses the issue of compensation (i.e. *'the planning authority may need to consider whether any compensatory measures are available which offset the identified conflict with the statutory purposes'*).

17. The Appendix C paper also highlights that the issue of compensation was a key component of the decision relating to the Lower Thames Crossing, which is a nationally significant infrastructure project. In that decision, the Secretary of State concluded that the 'seek to further' duty has been met, subject to a financial contribution being made, by Highways England, to support the delivery of the Kent Downs National Landscape (KDNL) Management Plan.
18. Compensation for harm caused by development is not something that we, as a Board, have actively pursued to-date. However, moving forward, I think that it is something that we will need to give some consideration to. Ideally, the issue of compensation will be explicitly addressed the regulations (secondary legislation) that are currently being developed in relation to the 'seek to further' duty.
19. At the PIWG meeting on 26 April 2025, PIWG members were keen for the case law judgement and the Lower Thames crossing hearing to be brought to the Executive Committee's attention, particularly with regards to the issue of compensation.
20. I propose that I should present a paper on the issue of 'compensation' to the Executive Committee (and / or the Board) at a later date.
21. I would be interested to hear the Executive Committee's thoughts on the issue of compensation and the proposal to present a paper on this topic.

TEMPLATE LOCAL PLAN POLICY FOR THE COTSWOLDS NATIONAL LANDSCAPE

22. Nearly all of the adopted Local Plans that overlap with the CNL make some policy-level reference to the Cotswolds National Landscape.¹ However, the extent to which they do so is variable. For example, only 67% (10 out of 15) make policy-level reference to the CNL Management Plan. In some cases, the policy-level reference to the CNL is just a single sentence in a wider-ranging policy whereas, in others, there is a stand-alone CNL policy.
23. National landscapes are areas whose distinctive character and natural beauty are so outstanding that it is in the nation's interest to safeguard them. As such, we consider that the CNL merits its own stand-alone policy in Local Plans. We consider that this policy should bring together relevant aspects of legislation, national policy and planning practice guidance, case law and best practice. Ideally, there should also be some level of consistency in the CNL policies in Local Plans across our 15 local authority areas.
24. With these points in mind, we have developed a template CNL policy for Local Plans - see Appendix D.
25. We have advocated inclusion of this CNL policy (or previous iterations of it) in recent Local Plan consultations. As yet, none of these draft Local Plans have been adopted so it is too early to know whether we have had any success with this approach.
26. One of the Local Plans for which we have advocated this template policy is the Wiltshire Local Plan, which is at the examination stage. In this instance, the policy was adapted to also incorporate the Cranborne Chase National Landscape and the North Wessex Downs National Landscape. The planning officer at Cranborne Chase NL, Richard

¹ The current exception is the South Gloucestershire Local Plan Core Strategy (2013), although the draft South Gloucestershire Local Plan does make a policy-level reference to the CNL.

Burdon, has subsequently presented the template policy to the NL Partnership and they have agreed to advocate it in future Local Plan consultations.

27. At the PIWG meeting on 26 April 2025, PIWG members supported the template policy. They were keen for the template policy to be brought to the attention of the Executive Committee.
28. One further change, which we are considering, is to remove the line in the second bullet point about exceptional circumstances, in relation to major development. It would be more clear-cut if it just said that '*in principle, such development will not be supported*'. This would also avoid duplicating the National Planning Policy Framework wording. We have advocated this more concise wording, in relation to major development, at the recent South Worcestershire Development Plan Review examination hearings.
29. I would be interested to hear the Executive Committee's thoughts on the template policy. Ideally, it would be helpful if the Executive Committee could confirm their support for the policy.

SUPPORTING PAPERS

- Appendix A – PIWG Update (see below).
- Appendix B – Review of planning decisions (see below).
- Appendix C – Update on the 'seek to further' duty (see below) (N.B. The New Forest judgement is attached separately).
- Appendix D – Template local plan policy for the Cotswolds National Landscape (below).

APPENDIX A. UPDATE PRESENTED TO PIWG ON 28 APRIL 2025 (prepared by John Mills and Simon Joyce)

PIWG MEMBERS

- Nigel Adcock, Local Authority Board Member
- David Broad, Parish Council Board Member
- Liz Hodges, Parish Council Board Member
- Graham Hopkins, Secretary of State (SoS) Board Member (Chair)
- Cate Le Grice Mack, SoS Board Member
- Caroline Mumford, Cotswold Voluntary Warden
- Ray Sanderson, Parish Council Board Member
- Officers: John Mills, Planning Lead; Simon Joyce, Planning Officer

PIWG MEETINGS SINCE THE LAST EXECUTIVE COMMITTEE

- The last PIWG meeting was on 28 April 2025. At this meeting we discussed: the draft Executive Committee paper; planning decisions in 2024/2025; the 'seek to further' duty and a template Cotswolds National Landscape Policy for local plans.

KEY PERFORMANCE INDICATOR (KPI) DATA

- In Q4 (January – March 2024) we provided a substantive response to 88% (23/26) of pro-active planning application consultations, above our primary consultation thresholds, by the original deadline. For 2024/25 as a whole, this figure was 89% (89/90). For reference, the average for 2023/24 was 86% (86/100). Our target range is 70-94%.

MANAGEMENT PLAN LOCAL MONITORING INDICATORS²

- **Outcome 1 – Climate Action / Policy CC1 – Climate change mitigation**
 - **Local_10** (Total predicted output from new renewable energy schemes permitted in the Cotswolds National Landscape each year)
 - 0
- **Outcome 2 - Working Together / Policy CC3 – Compliance with Section 85 of the Countryside and Rights of Way Act 2000**
 - **Local_11** (% of decisions that are made in line with the CNL Board recommendations, where the Board has objected):
 - Q4: 83% (5 out of 6).
 - 2024/25: 83% (19 out of 23). (N.B: For reference, the average for 2023/24 was 54% (15 out of 28)).
 - **Local_12** (% of decisions, for development management proposals that we have commented on, that explicitly refer to the 'seek to further' duty):
 - 2024/25: 19% (20 out of 108) (N.B.: For reference, the figure for 2023/24 was 10%³).

² As set out in Appendix 6 of the [Cotswolds National Landscape Management Plan 2025-2030](#). This paper just shows the local, planning-related indicators. The national datasets for 2023/24 are shown in the Management Plan. The national datasets for 2024/25 should be published in May 2025.

³ The 2023/24 figure is just based on Quarter 4 (January to March 2024) as the 'seek to further' duty only came into force on 26 December 2023).

- **Local_13** (% of decisions (for development management proposals that we have commented on) that, in the CNL's opinion, adequately address the 'seek to further' duty):
 - 2024/25: 11% (12 out of 108) (N.B.: For reference, the figure for 2023/24 was 6%).
- **Outcome 11 – Development and Infrastructure / CE13 – Development and transport principles**
 - **Local_16** (Number of adopted Local Plans with policy-level reference to the Cotswolds National Landscape Management Plan):
 - 2024/25: 10 out of 15 (i.e. 76%) (N.B. This is the same as for 2023/25).
- **Outcome 11 – Development and Infrastructure / CE14 – Major development**
 - **Local_17** (Number of development proposals that the CNL has commented on, which have been permitted, that the Board considers to be major development⁴):
 - 2024/25: Three⁵ (N.B. This is, coincidentally, the same figure as for 2023/24).
- **Outcome 11 – Development and Infrastructure / CE15 – Development priorities and evidence of need**
 - **Local_18** (Number of new housing units (i.e. dwellings) permitted through planning applications that the CNL board has commented on):
 - 2024/25: 153⁶ (N.B. The figure for 2023/24 was 16).
- **Outcome 11 – Development and infrastructure / CE16 – Waste management and circular economy**
 - **Local_19** (Number of landfill and strategic waste management sites permitted):
 - 2024/25: 0

OTHER PLANNING-RELATED DATA

- In Q4, we commented on 22 'major'⁷ planning applications. The total for 2024/25 was 82 (i.e. an average of 20.5 per quarter). For reference, the total for 2023/24 was 89 (i.e. average of 22 per quarter).
- In Q4, we commented on 20 'minor' planning applications. The total for 2024/25 was 96 (i.e. an average of 24 per quarter). For reference, the total for 2023/24 was 100 responses (i.e. average of 25 per quarter).

OTHER PLANNING-RELATED ACTIVITY

- Other planning-related activity since the last PIWG report for the Executive Committee meeting on 21 January 2025 includes:
 - **Local Plan consultations:**

⁴ 'Major development', in this context, is as defined in paragraph 190 and footnote 67 of the [National Planning Policy Framework](#) (i.e. taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined).

⁵ 27 dwellings at Tetbury, s.73 application at Oathill Quarry and redevelopment of Avonpark Village care village at Winsley near Bath.

⁶ Main contributors to this total: 71 C2 care units at Avonpark Village, Winsley; 27 dwellings at Tetbury, 13 dwellings at Dumbleton, 11 dwellings (conversion of The Old Dairy) at Winchcombe, 9 dwellings on a brownfield site at Marshfield, 7 dwellings at a part-brownfield site at Leafield.

⁷ 'Major' development, in this context, is as defined in Part 1, [Article 2](#), of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (i.e. 10+ dwellings, etc.).

- **Cherwell Local Plan Review:** Responded to Proposed Submission (Regulation 19) consultation. We suggested some modifications relating to the CNL policy, biodiversity net gain and rural exception sites.
- **South Gloucestershire Local Plan:** Responded to Regulation 19 consultation.⁸ The draft Local Plan included four housing allocations in the CNL – we supported two (20 dwellings at Hawkesbury Upton and five dwellings at Wick) and objected to three (50 dwellings at Acton Turville, which we considered to be major development, 30 dwellings at Wick, which we considered to be excessive, given that most of Wick lies outside the CNL). The Plan also included two employment allocations in the CNL – one at Badminton, which we supported, and one at Acton Turville, which we objected as we considered it to be major development. We also objected four further allocations in the setting of the CNL – three at Wick and one at Charfield. We also had concerns about the way in which the Plan addressed large-scale wind and solar energy, particularly with regards to ‘safeguarding areas’.
- **South Warwickshire Local Plan:**⁹ Responded to Preferred Options (Regulation 18) consultation. At this stage, the Plan included multiple sites within the CNL and its setting, although the Councils aren’t necessarily intending to take all of these sites forward. In total, we commented on approximately 50 potential allocations.
- **South Worcestershire Local Plan:**¹⁰ Participated in two Local Plan examination hearing sessions covering the following topics: affordable housing (including rural exception sites) and the proposed allocation of 1,000 dwellings at Mitton, in the setting of the CNL (for which we are concerned about the potential impact of the associated increase in traffic movements).
- **Wiltshire Local Plan:** Had a meeting with Wiltshire Council, North Wessex Downs National Landscape and Cranborne Chase National Landscape regarding the draft Statement of Common Ground between the four parties.
- **Significant planning-related decisions:**
 - **22/02935/FUL - Anaerobic digester, Tysoe Road, Kineton (Stratford on Avon District Council):** Two years after submission, the applicant withdrew their application for 5 x 17m high biodigester domes and associated development within the CNL’s setting near Tysoe. We objected due to the likely significant adverse landscape and visual impacts on views from the Cotswold escarpment including from sections of the Macmillan Way and Centenary Way promoted footpaths and a significant adverse impact upon the tranquillity of the National Landscape due to HGV journeys to and from the site on routes through the CNL. Simon also provided advice in relation to CNL matters to local Parish Councils and action groups in raising their objections.
- **Significant planning applications that we have objected to (since the last Executive Committee meeting):**
 - **W/25/00107/FUL: 114 dwellings at Milestone Ground in Broadway (Wychavon DC).** The site, which is in the setting of the CNL, is allocated

⁸ In a Regulation 19 consultation, we comment on whether we think the Plan is legally compliant and sound.

⁹ ‘South Warwickshire’ covers Stratford-on-Avon District (which overlaps with the Cotswolds National Landscape) and Warwick District.

¹⁰ ‘South Worcestershire’ covers Wychavon District (which overlaps with the Cotswolds National Landscape) and Malvern Hills District (which overlaps with the Malvern Hills National Landscape).

for 65 dwellings in the current South Worcestershire Development Plan and the Review of that plan, currently at examination stage, has increased that allocation to 84 dwellings. However, this application seeks permission for 114 dwellings, including parts of the site which we had previously advised should be left undeveloped as they are particularly visible from the Cotswold Way along the escarpment. We also do not consider that the evidence of need arising within the CNL is robust enough to justify the quantum of development over and above that for which the site is currently allocated.

- **W/24/02574/FUL: 27 dwellings at Elmley Castle (Wychavon DC).** The site lies adjacent to the CNL boundary and is a draft allocation (which we also have objected to) in the South Worcestershire Development Plan Review, currently at examination stage. We do not consider that the evidence of need for a development of this scale is robust enough, in the context of a development adjacent to a National Landscape settlement, to justify the development in line with the recommendations of our Housing Position Statement. We also consider that the proposed development of 27 dwellings does not accord with the Board's guidance in terms of an appropriate scale and extent in the context of the current size of the settlement.
- **S.25/0021/FUL: 14 dwellings at Renishaw PLC, Old Town, Wotton-Under-Edge:** This application seeks to overcome the recent refusal and dismissed appeal for a larger development on this site in the town centre. Although we acknowledged the revised design compared to the previous application (S.24/0567/FUL) we objected as by virtue of its size, scale, mass and design, this large apartment block would harm the character and appearance of Wotton Under Edge Conservation Area. Such harm to designated heritage assets would also result in the failure to conserve and enhance the natural beauty of the Cotswolds National Landscape and would not further the purpose of its designation.
- **Miscellaneous:**
 - **Undergrounding of electricity cables at Tinkley Gate:** John secured approval for a £125,00 project to underground approximately 1km of cables at the National Trust's Tinkley Gate site, south of Stroud. The project will be implemented by National Grid, who will cover the costs of the project. The project is likely to be implemented in autumn 2025. The project will significantly enhance the visual amenity of the site for tens of thousands of visitors each year.
 - **Planning Inspectorate Conference:** John has been invited to give a presentation on the 'seek to further' duty and to participate in a panel discussion at the Planning Inspectorate's annual conference in Sheffield on 14 May.
 - **M5 Junction 9 and A46 (Ashchurch) Transport Scheme consultation:** John had a meeting with representatives from Gloucestershire County Council and their consultants on 21 January to discuss the consultation response that the Board had submitted in autumn 2024.
 - **Meeting with Stroud District Council planners:** John gave a presentation on the 'seek to further' duty to Stroud District Council planners on 19 March.
 - **Planning services review for new National Park in Wales:** John was interviewed by consultants undertaking a planning services review for

the proposed new National Park in Wales (the Clwydian Range, which is currently a National Landscape), using the Board's approach to planning as a case study.

- **National Landscapes Association:** John provided input into the NLA draft guidance on the 'seek to further' duty and on the NLA response to several Government consultations.
- **Defra's 'Protected Landscapes Regulations External Working Group (EWG)':** John attended meetings on 8 January and 26 March.
- **Southern Protected Landscapes Planning Officers Group (SPLPOG):** John chaired the SPLPOG meeting on 22 January.
- **Land Use Framework consultation:** John provided input into the Board's response to the Government's Land Use Framework consultation.
- **Management Plan:** John provided input into the 2025-2030 iteration of the Cotswolds National Landscape Management Plan.
- **Woodland Opportunity Mapping:** John provided input into the development of the Board's Woodland Opportunity Mapping.
- **Dark Skies guidance:** John provided input into the development of the Board's draft Dark Skies guidance.

DECISIONS REQUIRED

- No decisions required.

NEXT STEPS

- Key work areas over the next few months will include:
 - Local Plan consultations – possibly including Cotswold District and West Oxfordshire District.
 - Defra's Protected Landscapes Regulations External Working Group, including providing input on initial, 'skeleton' draft of regulations on the 'seek to further' duty.
 - Input into national level, planning-related consultations.
 - Reviewing which Position Statements need to be updated in light of recent changes to the National Planning Policy Framework, etc.
- Next PIWG meeting = date to be confirmed.

NO SUPPORTING PAPERS

APRIL 2025

APPENDIX B. REVIEW OF PLANNING DECISIONS MADE IN 2024/25 (Prepared by Simon Joyce)

Introduction

30. A key aspect of the Cotswolds National Landscape Board's planning-related work is to review the success / impact of its consultation responses. Undertaking such a review serves several purposes. For example, it:
 - (i) identifies the extent to which planning decisions are being made in-line with the Board's recommendations;
 - (ii) provides an indication of the extent to which local authorities are fulfilling their statutory duties. The 'duty to seek to further the purpose of designation' under Section 85 of the Countryside and Rights of Way Act 2000 was amended by Section 245 of the Levelling Up and Regeneration Act 2023.
 - (iii) helps to ascertain if it was appropriate – or necessary - for the Board to comment on or, more specifically, object to, the individual planning applications;
 - (iv) helps to clarify and refine the type and scale of planning applications that the Board should be commenting on, thereby helping to ensure that the Board stays focussed on the most significant – and highest priority - applications.
31. This review assesses the planning decisions that were made in 2024-2025 relating to planning applications that the Board had responded to.
32. During 2024-2025 decisions were made on 120 applications and appeals that the Board had responded to. Of these 120:
 - The Board commented upon, but did not object to, 92 applications (77% of 120). Most of the responses submitted to these applications were 'standard' responses (54 of 92), whilst the remaining 38 were 'bespoke' (i.e. non-'standard') responses;
 - The Board raised a 'holding objection' to five applications (4% of 120) requesting further information, assessment, clarification or revision to the proposal. In these five cases our holding objection was subsequently withdrawn following the submission of further information and/or revisions to the proposal which, when reviewed following consultation by the Council, adequately addressed our holding objection. Four of these five applications were then permitted by the Local Planning Authority ('LPA'). The one application where we withdrew our holding objection and was subsequently refused by the LPA was for a development located within the setting of the CNL and it was refused for matters unrelated to the CNL designation (in this case such matters related to inappropriate development within the Green Belt).
 - The Board objected to the remaining 23 applications (19% of 120). Our response to these applications was either to raise an objection or raise a holding objection which remained unaddressed when the application was determined or appeal decided. These applications are analysed further below.

Review methodology

33. For each of these 23 planning applications, the starting point was to identify if the decision made was in-line with the Board's final recommendation. A review was then undertaken of the case officer's report (or the Inspector's decision letter in the case of a s.78 planning appeal) and the decision notice for each of the planning applications. The criteria that were considered and the extent to which these were identified, addressed and / or referred to are summarised in Appendix 1. A more comprehensive spreadsheet, detailing each planning application, is provided in a separate Excel spreadsheet.

Results

34. 83% (19 of 23) of these applications were determined in line with the Board's advice, i.e. the Board objected to the application and planning permission was not granted. Of these 19 applications, nine were refused by the LPA, five were dismissed at appeal, three were withdrawn by the applicant, and two were 'finally disposed of' by the LPA.
35. The remaining four (17% of 23) applications were granted permission by the LPA, contrary to the Board's advice. Further information regarding these applications is provided at paragraph 15 below.
36. Positive points from the assessment include:
- 100% of the officer's reports and / or decision notices identified that the proposed development was located in the Cotswolds National Landscape (or its setting);
 - 100% recognised the CNL as a constraint and / or as a main issue;
 - 94% referred to the relevant CNL/AONB (and / or Landscape Character) policy in the Local Plan;
 - 78% identified adverse impacts on the CNL;
 - 78% recognised NPPF paragraph 189's requirement that great weight should be given to conserving and enhancing landscape and scenic beauty of National Landscapes (up from 69% in 2023-2024);
37. The Board's response was referred to in more than 80% of decisions and almost two-thirds of decisions referred to the Cotswolds National Landscape Management Plan or its policies, up from 38% in 2023-2024. Where other Board guidance was referred to, this mainly related to the Cotswolds AONB Landscape Character Assessment and the Cotswolds AONB Landscape Strategy and Guidelines. Some reference was made to Position Statements or other Board guidance, principally the Tranquillity and Dark Skies Position Statements.
38. 44% of decisions referred to the CNL's special qualities, down from 67% in 2023-2024 but still a significant increase from 9% in 2022-2023. The Board's officers always seek to highlight the special qualities of the CNL which are relevant to the proposal in our consultation responses.
39. Fewer decisions addressed, or referred to, the:
- NPPF statement (paragraph 189) that National Landscapes have the highest status of protection in relation to conserving and enhancing landscape and

scenic beauty (44%, down from 56% in 2023-2024, though at a similar level to 45% in 2022-2023); and

- NPPF requirement (paragraph 189) that the scale and extent of development in National Landscapes should be limited (47%, at a similar level to 43% in 2023-2024, and up from 16% in 2022-2023).

40. 19% of decisions referred to the duty at Section 85 of the CRoW Act to 'seek to further the purpose of CNL designation'. In the Planning Officer's opinion, 11% of decisions adequately addressed the 'seek to further' duty. Please note that for CNL Management Plan indicator monitoring purposes these figures are tracked for all applications where the Board has responded, not just those applications where we have objected. Therefore, these figures are based on 108 decisions made in 2024-2025 (i.e. 120 applications to which the Board has responded, less those that were withdrawn or finally disposed of and where no decision was made). These figures have increased from 11% and 6% respectively for the year 2023-2024.
41. No decision addressed, or made reference to, the power of local authorities, under Section 84 of the CRoW Act, '*to take all such action as appears to them expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty or so much of it as is included in their area*'.

Discussion

42. It is pleasing to see that, on occasions when the Board raised an objection, over 80% of applications were determined in-line with the Board's recommendations. This figure is the highest for a single year since undertaking this analysis in 2018-2019:
 - 2024-2025: 83% (19 out of 23);
 - 2023-2024: 56% (14 out of 25);
 - 2022-2023: 79% (27 out of 34);
 - 2021-2022: 71% (15 out of 21);
 - 2020-2021: No analysis conducted;
 - 2019-2020: 25% (1 out of 4);
 - 2018-2019: 14% (1 out of 7)

Whilst the results appear to show a sizeable increase between this year and last, the difference is not statistically significant as the number of decisions in both years is still relatively small. A more meaningful comparison is perhaps the average over the past 4 years, which is 73% (75/103).

43. Six applications were decided at Planning Committee. Of these six, three were refused in line with both the Board's advice and officer's recommendation. One was approved in line with the officer's recommendation which was contrary to the Board's advice. The remaining two were refused by the Committee, overturning officer recommendation but in line with Board advice.
44. The following comprises some background information and reflections on the four applications which were granted permission against the Board's advice:
 - i. Farm manager's agriculturally tied dwelling, Gotherington Hill Farm (Tewkesbury Borough Council ref. 22/01370/FUL): The Board initially raised a holding objection due to a lack of assessment on the landscape and visual

impact of the proposal and raised concerns over the design of the dwelling. An assessment was then provided, and the design of the dwelling was amended to reduce the amount of glazing and better reflect the local vernacular.

Notwithstanding, the Board maintained an objection based on the potential for adverse landscape and visual impacts on the CNL, including receptors at multiple locations on the mid and upper escarpment as well as inconsistency with Board's guidance. In determining the application under delegated powers, officers acknowledged there would be landscape and visual harm and there would be some conflict with Policy CE1 of the Management Plan. However, and taking account of proposed landscaping mitigation to further screen development, officers did not consider that the identified harm was of such significance to warrant refusal of the application. Officers also had regard to socio-economic benefits of the proposal, proposed mitigation and the essential need for a new dwelling to support the business as well as the accepted adverse impacts to the scenic quality of the landscape. On balance, officers considered that the reasons for refusal for a previous application on the site had been overcome and refusal of this application would be untenable. Although the officer's report referred to the 'seek to further' duty it did not expressly outline how it had been addressed through the decision.

- ii. Employment development for B8 (storage and distribution) uses and ancillary development, Javelin Park, Haresfield (Stroud District Council ref. S.21/2579/OUT): The site benefits from a draft allocation for employment development in the emerging Stroud Local Plan Review. The Board, supported by Natural England, objected to this application for large warehouses within the setting of the CNL as, due to their prominent location and excessively large size which lacked justification, the proposed warehouses and associated development had not been sensitively located and designed to avoid or minimise their impact on the National Landscape. In recommending approval, officers considered that due to the scale of the proposal and the elevated nature of views from the escarpment, the scheme did result in significant residual landscape and visual effects. Whilst this had been reduced (the height and bulk of the warehouses was reduced following our objection), no landscape buffer could remove this completely. Officers therefore acknowledged that this strategic employment allocation would have a degree of impact and advised Members that harm must be balanced with the economic and social benefits of a draft allocated site. However, despite the significant weight attributed to landscape and visual harm, it was considered that the economic benefits of the proposal outweighed the identified harms. Members agreed in approving the application. No mention was made within the officer's report or the decision notice of the seek to further duty.
- iii. Erection of a hay barn, Ashen Plains, Dursley (Stroud District Council ref. S.24/2072/AFPA); This application sought prior approval for a hay barn on an agricultural holding. The Board objected as DEFRA's MAGIC Map application showed that ancient woodland was located adjacent to the site, however the proposal when submitted had not adequately considered, and may have negatively impacted the ancient woodland. The applicant then provided revised plans to demonstrate that the barn would not be within the recommended 15m buffer zone, but given the requirement to determine the prior approval application within the statutory timescale, the Council did not reconsult the Board. Had the Board been reconsulted, our objection would likely have been withdrawn.

- iv. Glazed extension to Visitors Centre and Country Park Café, Broadway Tower Country Park, Broadway (Wychavon District Council ref. W/24/01414/FUL): The Board objected as due to its inappropriate design featuring extensive glazed elevations and roof sections, the proposal has the potential to be a source of significant internal light spill and negatively impact the CNL's dark skies, one of its identified 'special qualities'. The application was determined under delegated powers. Within the officer's report, they state that officers sought additional information on the type of glazing and the applicant's agent provided glass specifications for the roof and windows. This included light transmittance details which would reduce light spillage. It was also confirmed that the visitor/café opening times are 9-5 between April and October and 9-4.30 between November and March. Given these factors it is considered that the proposal would not result in excessive light pollution subject to a condition requiring manufacturing details and a sample of the glazing to be used prior to installation. The Board was not re-consulted on these details. A condition was also imposed restricting the opening hours.
- 45. In reviewing the officer's reports and appeal decisions, it is apparent that in general, considerable attention continues to be given to potential adverse impacts on the Cotswolds National Landscape. In some cases, the view has been taken that there would not be significant adverse impacts on the CNL. In other cases, the view has been taken that the potential benefits of the proposed development outweigh the potential harms and national and local planning policy exercised accordingly.
- 46. It is worth noting that, in some instances, even though the planning decision was not in-line with the Board's recommendations, the Board's input still influenced the proposal. For instance, the above commentary illustrates how the Board's advice was acted upon earlier in the determination period to require the applicant to amend their proposal.
- 47. From reviewing these four decisions, it does not appear that there are particular trends or issues where the Board's advice is consistently being overlooked or disagreed with by local authorities. Whilst local authorities and the Inspectorate should, and in the main do, have regard to the Board's opinion, this does not oblige them to reach the same opinion.
- 48. A significant change in the statutory duty to be discharged by the LPA took place at the end of 2023 when the 'duty of regard' under Section 85 of the Countryside and Rights of Way Act 2000 was amended under Section 245 of the Levelling Up and Regeneration Act 2023 to become the 'duty to seek to further the purpose of designation'. Whilst the figures for referring to and adequately discharging the seek to further duty have increased from 2023-2024, they remain lower than mention of the previous duty of regard (43% of decisions taken in 2022-2023 referred to that duty compared to 19% of decisions in 2024-2025 which referred to the seek to further duty).
- 49. Finally, it is worth noting that the Board's Planning Officers would still disagree with some of these four planning decisions, particularly the Javelin Park decision.

Recommendations

50. Based on this review, I would make the following recommendations (primarily for myself), with regards to responding to planning applications:

- Continue to focus on the planning applications that are likely to have the most significant adverse effects on the Cotswolds National Landscape.
- Continue to apply the Board's consultation criteria to help keep focussed on priority (usually primary threshold) consultations.
- Where possible, review the planning application well before the consultation deadline and, if appropriate, liaise with the relevant case officer.
- Identify which local authorities have in-house landscape expertise and, where appropriate, liaise with these officers on relevant planning applications.
- Recognise that, to provide a well-informed response, it will normally be necessary to make a site visit. Site visits for 18 major applications were carried out in 2024-2025, compared to 11 for the year 2023-2024.
- Continue to monitor both whether the new seek to further duty is being addressed in decisions and whether it has, in the Board's opinion, been *adequately* addressed for all applications that we respond to. These are both monitoring indicators for the CNL Management Plan 2025-2030.
- Monitor the areas included in paragraph 22 below to report back to the Planning & Infrastructure Working Group in the 2025/2026 report.

51. As outlined above, there are a few areas which are not being routinely considered by the local authorities when they are making their decisions on planning applications. It is recommended that the local authority development management teams and the Planning Inspectorate should be made aware of these issues and asked to give them more consideration in their planning decisions where appropriate. These include:

- The 'duty of seek to further' as outlined at s.85 of the Countryside and Rights of Way Act 2000 and amended by Section 245 of the Levelling Up and Regeneration Act 2023;
- The advice contained in paragraph 189 of the NPPF that as well as the 'great weight' to be afforded to their protection, National Landscapes have the highest status of protection in relation to conserving and enhancing landscape and scenic beauty and that the scale and extent of development in National Landscapes should be limited;
- The Cotswolds National Landscape Management Plan 2023-2025 and its policies;
- The Board's supplementary guidance; and
- The special qualities of the CNL.

APPENDIX 1. TABLE OF THE EXTENT TO WHICH NATIONAL LANDSCAPE-RELATED ISSUES WERE ADDRESSED IN THE PLANNING OFFICER'S REPORT AND / OR THE DECISION LETTER

ISSUE	% WHERE ISSUE IDENTIFIED / ADDRESSED	2023/2024 FIGURE
The case officer's report and / or the decision letter identified that:		
The proposed development was located in the CNL or its setting;	100%	100%
The CNL was a constraint and / or a main issue;	100%	94%
There were likely to be adverse impacts on the CNL;	78%	88%
There were likely to be significant adverse impacts on the CNL;	61%	50%
Adverse impacts outweighed benefits;	67%	60%
The case officer's report and / or the decision letter addressed (or at least referred to):		
The Board's response;	83%	81%
The purpose of CNL designation;	11%	13%
The duty to seek to further the purpose of designation (S85 of the CROW Act)*;	19%	10%
The duty to seek to further the purpose of designation (S85 of the CROW Act) has been, in the view of the Board's officer, adequately discharged*;	11%	6%
The duty on local authorities under S84 of the CROW Act;	0%	0%
The fact that the presumption in favour of permitting development does not apply in AONBs if the application of NPPF policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (as per para 11 and footnote 7 of the NPPF);	44%	33%
The policies in paras. 189 and 190 of the NPPF, which specify that:		
~ great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs;	78%	69%
~ AONBs have the highest status of protection in relation to conserving and enhancing landscape and scenic beauty;	44%	56%
~ the scale and extent of development in AONBs should be limited	47%	43%
~ planning permission should be refused for major development in AONBs other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest;	43% considered the issue; 83% of those were identified as being major dev	50% considered the issue; 67% of those identified as being major dev
~ applications for major development should include an assessment of: (a) need; (b) cost of – and scope for – developing outside the AONB; (c) detrimental effects on the environment, landscape and recreational opportunities.	Need: Major dev = 100% Location: major dev = 100% Impact: see 'adverse impacts' above.	Need: Major dev = 100% Location: major dev = 100% Impact: see 'adverse impacts' above.
The CNL/AONB (or Landscape Character) Policy in the Local Plan	94%	94%
The CNL Management Plan	61%	38%
CNLB guidance	22%	63%
CNL special qualities	44%	67%
EIA		
EIA screening opinion provided	26%	50%
EIA required	26%	33%
Decision making		
Decided at committee level	46%	46%
~ If committee level decision, was the officer's recommendation in line with CNLB recommendations?	50%	50%
Decision in line with CNLB recommendations	83%	56%

* These figures are tracked for all applications where the Board has responded, not just those applications where we have objected for Management Plan indicator monitoring purposes. Therefore, these figures are based on 108 decisions taken in 2024/2025 (i.e. 120 applications to which the Board has responded, less those that were withdrawn or finally disposed of and no decision was made.

APPENDIX C. UPDATE ON THE 'SEEK TO FURTHER' DUTY (prepared by John Mills)

INTRODUCTION

1. Section 85 of the Countryside and Rights of Way Act 2000 states that:
 - *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.*¹¹
2. This is commonly referred to as the 'seek to further' duty. It came into force on 26 December 2000, when it replaced the previous 'duty of regard'.

GUIDANCE ON THE SEEK TO FURTHER DUTY

3. There are now several sources of guidance and / or advice on the 'seek to further' duty, as outlined below:
 - Defra;¹²
 - Natural England;¹³
 - National Landscapes Association;¹⁴
 - Campaign for National Parks legal advice.¹⁵

THE BOARD'S STANDING ADVICE ON THE SEEK TO FURTHER DUTY

4. The 2023-2025 iteration of the Cotswolds National Landscape (CNL) Management Plan had an appendix on the 'duty of regard'. This has been updated, in Appendix 4 of the 2025-2030 iteration (which was adopted by the Board in February 2025), as an appendix on the 'seek to further' duty.¹⁶
5. This appendix seeks to pull together the guidance / advice referred to above into one, coherent narrative. It now forms the Board's standing advice on the 'seek to further' duty. This standing advice is included as an appendix in our planning-related consultation responses – see Appendix A of this paper.

RECENT DEVELOPMENTS RELATING TO THE SEEK TO FURTHER DUTY

6. Since the Board adopted the 2025-2030 iteration of the CNL Management Plan, there have been a couple of important developments relating to the 'seek to further' duty.

¹¹ Section 85 of the Countryside and Rights of Way Act 2000 ([link](#)).

¹² Defra (2024) *Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes* ([link](#)).

¹³ 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. ([link](#)).

¹⁴ 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* ([link](#)).

¹⁵ Landmark Chambers (2024) *Re: section 245 of the Levelling Up and Regeneration Act 2023*. Instructed by the Campaign for National Parks. ([link](#)).

¹⁶ Cotswolds National Landscape Board (2025) *Cotswolds National Landscape Management Plan 2025-2030* ([link](#)). Appendix 4 – The 'seek to further' duty.

Firstly, there has been the first case law that relates specifically to the 'seek to further' duty. There has also been an important decision relating to a nationally significant infrastructure project – the Lower Thames Crossing.

CASE LAW

7. The case law, which is dated 27 March 2025, relates to a house extension in New Forest National Park. This was originally refused planning permission by New Forest National Park Authority (NPA). This decision was appealed by the applicant and the appeal was allowed by the Planning Inspectorate. The NPA then took the planning inspector's decision to court on the basis that the inspector had not addressed the 'seek to further' duty.
8. In my opinion, the judgement is not good news.
9. **Firstly**, and most significantly:
 - Paragraph 79 states that:
 - *Where a planning application proposes development of land in a National Park which is found at least to leave the Park's natural beauty, wildlife and cultural heritage unharmed, that provides a proper basis for the decision maker to conclude that the development will further the ... purpose of conserving and enhancing those characteristic features of the Park. That conclusion suffices as a proper discharge of the decision maker's duty under section 11A(1A) of the 1949 Act in determining that planning application.*
 - Paragraph 86 states that:
 - *If the decision maker is satisfied that the proposed development will leave the natural beauty, wildlife and cultural heritage of the National Park unharmed, he or she may grant planning permission on the basis that he or she has thereby discharged the duty ... In such a case, the decision maker will have properly sought to further the statutory purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park, by satisfying themselves that to grant planning permission for the proposed development will leave the specified characteristics of the National Park unharmed.*
 - Paragraph 82 states that:
 - *In my view, it is not a necessary prerequisite for the proper discharge of the duty ... that the decision maker also determines whether the planning application proposes development which would enhance those characteristic features of the National Park.*
10. This is contrary to the advice / guidance provided by [Defra](#) (which states that the duty is intended to facilitate better outcomes for protected landscapes), the [National Landscapes Association \(NLA\)](#) and by [Natural England](#). In fact, paragraph 82 explicitly undermines the advice that Natural England provided in relation to the Lower Thames Crossing in this regard. It also conflicts with the statement in the Government's [press release](#) for the Levelling Up and Regeneration Act 2023, which stated the Act 'will enhance our national network of beautiful, nature-rich protected landscapes that can be enjoyed right across the country'.
11. The above case law assertions are based, at least in part, on the assertion in paragraphs 78 and 79 that 'it must be the case' that 'conserving' and 'enhancing' are 'disjunctive' (i.e. lacking any clear connection). This assertion is based on previous case law. Again, this is

contrary to the [NLA's guidance](#), which states that 'conserve and enhance' should be treated as a singular purpose, with both parts being considered together in all decisions.

12. I really don't see how a proposal that would leave natural beauty unharmed equates to the purpose of conserving and enhancing natural beauty being furthered.
13. **Secondly**, paragraph 69 states that '*it is not fatal to the performance of the duty that the inspector has omitted any express reference to the duty in his reasons*' (as per previous case law). Whilst it might not be 'fatal' to omit such reference, surely it would be good practice to do so.
14. **On a more positive note**, the judgement does at least provide some clarity on the steps that a relevant authority should follow in relation to the duty. For example, paragraph 61 states that:
 - *In order to discharge the strengthened duty, the planning authority must determine whether the proposed development is consistent with the promotion of the statutory purposes. If the planning authority determines that the proposed development is in conflict with the statutory purposes or would undermine the fulfilment of the section 5(1) purposes, they must consider whether the grant of planning permission would be in accordance with their duty to seek to further those purposes.*
15. Also, paragraph 61 acknowledges that the 'seek to further' duty is a strengthened duty, compared to the 'duty of regard'.
16. The judgement explicitly addresses the issue of compensation, with paragraph 62 stating:
 - *The planning authority may need to consider whether and if so, how the proposed development may be mitigated in order to address the identified conflict with the statutory purposes. They may need to consider whether any compensatory measures are available which might offset the identified conflict with the statutory purposes. They will need to consider the imposition of conditions or the need to obtain planning obligations to secure such measures.*

LOWER THAMES CROSSING DECISION

17. The Lower Thames Crossing will be a new road crossing connecting Kent, Thurrock and Essex. Approximately 14.5 miles (23km) in length, it will connect to the existing road network from the A2 / M2 to the M25 with two tunnels (one southbound and one northbound) running beneath the River Thames.
18. On 25 March, the Secretary of State (SoS) for Transport approved the Lower Thames Crossing scheme:
 - <https://www.gov.uk/government/news/lower-thames-crossing-development-consent-decision-announced>
19. The link to the SoS decision letter is here:
 - <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010032/TR010032-006643->

[LTC%20Decision%20Letter%20Final%20cleared.pdfhttps://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010032/TR010032-006643-LTC%20Decision%20Letter%20Final%20cleared.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010032/TR010032-006643-LTC%20Decision%20Letter%20Final%20cleared.pdf)

20. I was interested to see how the SoS decision letter addresses the 'seek to further' duty (Section 85 of the Countryside and Rights of Way Act 2000). A couple of key points are outlined below.
21. The decision letter does explicitly address the 'seek to further' duty in paragraphs 427-437 (pages 96-100).
22. The SoS has concluded, in paragraph 437, that the duty has been met, subject to a financial contribution being made to support the delivery of the Kent Downs National Landscape (KDNL) Management Plan (over and above other mitigation and enhancement measures already agreed).
23. The size of this financial contribution has not yet been agreed - Kent Downs National Landscape say that it should be £38 million whereas National Highways say that £3 million is sufficient. The SoS has added a provision to allow the amount to be agreed by all parties. If agreement can't be reached then an independent arbitrator / assessor will decide the amount.
24. Paragraph 431 states that the Examining Authority (ExA) '*concluded that it was reasonable to assume that the section 85 duty was not intended to and does not remain the same in effect as it was prior to the amendment*'. Paragraph 432 states that '*the ExA is of the view that the amended duty requires something additional to the previous duty*'. So, that helps to clarify / confirm that the new duty is a strengthened duty and isn't just 'business as usual'.

IMPLICATIONS OF THESE RECENT DEVELOPMENTS

25. The New Forest NPA case law will make it difficult to seek anything over-and-above 'no harm'. However, I would still consider it to be good practice to seek positive outcomes for the natural beauty of the CNL (i.e. the natural beauty of the CNL being left in a better state than the baseline condition). As such, I think that our standing advice is still valid, in this regard.
26. Both cases clearly show that the issue of compensation is a relevant consideration when applying the seek to further duty. I am aware that some National Landscapes teams are not in favour of pro-actively addressing this issue in relation to planning applications. However, moving forward, Simon and I both consider that it would be appropriate to pro-actively address this issue when responding to consultations. Further thought will need to be given to what form this compensation might take (on a case-by-case basis).

SUPPORTING PAPERS

- ANNEX 1 – The Board's standing advice on the seek to further duty (see below)
- ANNEX 2 – New Forest NPA 'seek to further' judgement (separate document)

Annex 1. The Board's standing advice on the 'seek to further' duty¹⁷

Section 245 of the Levelling Up and Regeneration Act 2023¹⁸ (LURA) introduced a statutory duty on relevant authorities¹⁹ to seek to further the statutory purposes of protected landscapes²⁰ (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.*²¹

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 Defra²² and the National Landscapes Association²³. In addition, Natural England has provided advice on the 'seek to further' duty in relation to a nationally significant infrastructure project²⁴ and the Campaign for National Parks has obtained a legal opinion on the duty²⁵. Other useful reference points include the Government's explanatory note on the Lords' amendments to the Levelling Up and Regeneration Bill²⁶ and the Government's LURA press release²⁷.

¹⁷ This is in Appendix 4 of the [Cotswolds National Landscape Management Plan 2025-2030](#).

¹⁸ [Section 245 of the Levelling Up and Regeneration Act 2023](#).

¹⁹ 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.

²⁰ 'Protected landscapes' means national parks, the Broads and National Landscapes.

²¹ [Section 85 of the Countryside and Rights of Way Act 2000](#).

²² Defra (2024) [Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes](#).

²³ 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](#).

²⁴ 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.

²⁵ Landmark Chambers (2024) [Re: section 245 of the Levelling Up and Regeneration Act 2023](#). Instructed by the Campaign for National Parks.

²⁶ UK Parliament (2023) [Levelling Up and Regeneration Bill – Explanatory Notes on Lords Amendments](#). Updated version, 12 October 2023. Page 35.

²⁷ <https://www.gov.uk/government/news/new-laws-to-speed-up-planning-build-homes-and-level-up>

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'.²⁸ If 'have regard to' was the same as 'seek to further', then there would be no need for the amendment.²⁹ The duty is therefore clearly intended to impose new and more onerous requirements with respect to the statutory purposes than existed before.³⁰

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).³¹ 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*'.³² In this context, natural beauty should be considered in its holistic sense and 'conserve and enhance' should be treated as a singular purpose.^{33,34}

Active / pro-active duty

The 'seek to further' duty is an active duty, not a passive one.³⁵ This means that the duty should be pro-actively considered when exercising or performing any functions to which the duty applies.³⁶ 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.³⁷

Relevant authorities would be well-advised not treat the new duty as 'business as usual'.³⁸ '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.³⁹

²⁸ National Landscapes Association (2024), Landmark Chambers (2024) (paragraphs 6, 16d and 21), Government Explanatory Notes (2023).

²⁹ Landmark Chambers (2024). Paragraph 16d.

³⁰ Landmark Chambers (2024). Paragraph 6.

³¹ Defra (2024), NLA (2024), Landmark Chambers (2024) (paragraph 17g).

³² <https://www.gov.uk/government/news/new-laws-to-speed-up-planning-build-homes-and-level-up>

³³ National Landscapes Association (2024).

³⁴ Please refer to Appendix 2 for further information on natural beauty.

³⁵ Defra (2024), National Landscapes Association (2024), Natural England (2023), Landmark Chambers (2024) (paragraphs 2a, 16d, 17b, 19ii, 21).

³⁶ Landmark Chambers (2024). Paragraph 17b.

³⁷ Landmark Chambers (2024). Paragraph 17c.

³⁸ Landmark Chambers (2024). Paragraph 21.

³⁹ Landmark Chambers (2024). Paragraph 17c.

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.⁴⁰

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.⁴¹

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.⁴² Consideration should be given to the appropriateness of compensation measures.⁴³

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.⁴⁴

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.⁴⁵ Relevant authorities should make efforts to understand the Management Plan and relate their functions to it.⁴⁶

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.⁴⁷

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

⁴¹ Defra (2024).

⁴² Natural England (2023).

⁴³ Defra (2024).

⁴⁴ Defra (2024).

⁴⁵ Defra (2024).

⁴⁶ Defra (2024).

⁴⁷ National Landscapes Association (2024).

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.⁴⁸

Protected Landscapes Targets and Outcomes Framework

Relevant authorities should refer to the Protected Landscapes Targets and Outcome Framework.⁴⁹

Dialogue with the National Landscapes team

Dialogue with the National Landscape team can assist the relevant authority⁵⁰ (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.⁵¹

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.⁵²

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.⁵³

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

⁴⁸ Defra (2024).

⁴⁹ Defra (2024).

⁵⁰ Defra (2024).

⁵¹ National Landscapes Association (2024).

⁵² Landmark Chambers (2024). Paragraph 17g.

⁵³ Landmark Chambers (2024). Paragraph 17h.

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.⁵⁴

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.⁵⁵

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.⁵⁶

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.^{57,58}

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.⁵⁹

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.⁶⁰

⁵⁴ Defra (2024), National Landscapes Association (2024), Natural England (2023), Landmark Chambers (2024).

⁵⁵ Natural England (2023).

⁵⁶ Defra (2024).

⁵⁷ Landmark Chambers (2024). Paragraph 16e.

⁵⁸ 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.

⁵⁹ Landmark Chambers (2024). Paragraph 20.

⁶⁰ Landmark Chambers (2024). Paragraph 18.

APPENDIX D. TEMPLATE LOCAL PLAN POLICY ON THE COTSWOLDS NATIONAL LANDSCAPE (prepared by John Mills)

- Development proposals within the Cotswolds National Landscape and its setting will be expected to:
 - conserve and enhance the natural beauty of the National Landscape⁶¹, including its special qualities⁶², landscape and scenic beauty, cultural heritage (including historic environment), natural heritage (including biodiversity) and relative tranquillity (including dark skies)⁶³;
 - sensitively locate and design development in order to: (i) avoid; and (ii) minimise adverse impacts on the natural beauty of the National Landscape;⁶⁴
 - demonstrate that all reasonably practicable steps have been taken to further the purpose of conserving and enhancing the natural beauty of the National Landscape, over and above avoidance and mitigation of harm;⁶⁵
 - be consistent with – and help to deliver - the policies, targets and outcomes of the Cotswolds National Landscape Management Plan;⁶⁶
 - avoid, mitigate and, as a last resort, compensate for any residual adverse effects on the natural beauty of the CNL.⁶⁷
- Development proposals within the Cotswolds National Landscape will be expected to consider whether the proposed development constitutes major development in the context of paragraph 190 of the National Planning Policy Framework. In principle, such development will not be supported. Permission will only be granted where the applicant can demonstrate that exceptional circumstances apply (with 'exceptional', in this

⁶¹ This reflects the statutory purpose of national landscape designation, which is to conserve and enhance the natural beauty of the area, as set out in Section 82 of the Countryside and Rights of Way Act 2000 ([link](#)).

⁶² The 'special qualities of the Cotswolds National Landscape are listed in Chapter 4 of the Cotswolds National Landscape Management Plan 2023-2025 ([link](#)). The 'special qualities' of a national landscape are those aspects of the area's natural beauty which make the area distinctive and which are considered valuable, especially at a national scale. They are the key attributes on which the priorities for the area's conservation, enhancement and management should be based.

⁶³ This reflects the factors that contribute to the natural beauty of protected landscapes, including national landscapes, as set out in Natural England's 'Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England' ([link](#)). It also reflects the fact that paragraph 189 of the National Planning Policy Framework states that '*wildlife and cultural heritage are ... important considerations in these areas*'.

⁶⁴ This reflects the requirement, in paragraph 189 of the National Planning Policy Framework, that '*development within their setting should be sensitivity located and designed to avoid or minimise adverse impacts on the designated areas*'. It makes sense for the same principle to apply to development within national landscapes as well as to development in their settings.

⁶⁵ This reflects the implications of the new statutory duty to seek to further the purpose of protected landscape designation (i.e., in the case of national landscapes, to conserve and enhance the natural beauty of these areas). Similar wording is used in the National Landscape Association's guidance on the 'seek to further' duty ([link](#)).

⁶⁶ This reflects the emphasis that is given to protected landscape management plans in Section 245 of the Levelling Up and Regeneration Act 2023 ([link](#)) and in Natural England's guidance on the 'seek to further' duty. This wording also reflects the wording used in Policy SD7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy ([link](#)). The wording doesn't specify the particular iteration of the Management Plan (e.g. 2023-2025) as this may change during the life of the Local Plan.

⁶⁷ This wording is used in Policy DEV25 (Nationally Protected Landscapes) of the Plymouth and South West Devon Joint Local Plan 2014-2034 ([link](#)).

context, connoting rarity⁶⁸) and that the development would be in the public interest.⁶⁹ This should include demonstrating that: there is exceptional need for the development⁷⁰; the development met a need that could not be addressed elsewhere or in some other way⁷¹; and the development met the need in a way that, to the extent possible, moderated detrimental effect on the environment, landscape and recreational opportunities⁷².

- Development proposals within the CNL will also be expected to limit the scale and extent of development⁷³, for example, by keeping it proportionate to the settlement in which it is located⁷⁴.
- Great weight will be given to conserving and enhancing the landscape and scenic beauty of the Cotswolds National Landscape;⁷⁵ this includes consideration of the impact of development outside the National Landscape, where such development has the potential to harm the natural beauty of the National Landscape (for example, as a result of impacts on views to and / or from the National Landscape).⁷⁶
- The Cotswolds National Landscape will not be expected to accommodate unmet needs arising in neighbouring, undesignated areas (including adjacent settlements) other than in exceptional circumstances.⁷⁷
- A 3km 'buffer zone' will be applied to the CNL boundary to ensure that CNL considerations are adequately addressed for development proposals within this zone.⁷⁸

⁶⁸ R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin) ([link](#)), paragraph 7.

⁶⁹ This reflects the requirements of paragraph 190 of the National Planning Policy Framework in relation to major development. Although it is the decision maker who decides if a proposal constitute major development, in this context, it is useful for this issue to be addressed in planning applications. Further guidance on what constitutes major development is provided in Appendix 5 of the Board's Landscape-led Development Position Statement ([link 1](#) - main document; [link 2](#) – appendices).

⁷⁰ It is important to note that 'exceptional need' does not necessarily equate to 'exceptional circumstances'. This principle is recognised in relevant case law (R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin) ([link](#)), paragraph 52).

⁷¹ R (Advearse) v Dorset Council v Hallam Land Management Ltd [2020] EWHC 807 ([link](#)). Direct quote from paragraph 35.

⁷² R (Advearse) v Dorset Council v Hallam Land Management Ltd [2020] EWHC 807 ([link](#)). Direct quote from paragraph 35.

⁷³ This reflects the requirement in paragraph 189 of the National Planning Policy Framework that '*the scale and extent of development within all these designated areas should be limited*'.

⁷⁴ We would suggest that, as a 'rule of thumb', in order to be considered proportionate, a housing development should not increase the number of dwellings in a settlement, or the area of built development in a settlement, by more than 5%. This is partly based on paragraph 73b and footnote 37 of the NPPF. Paragraph 73b states that exception sites for community-led development should be proportionate in size to the settlements that they are located adjacent to. Footnote 37 explains that 'proportionate', in this context, means that such sites should not exceed 5% of the size of the existing settlement. It is also based on the assessment that South Downs National Park Authority undertook to assess if their potential Local Plan allocations constituted major development and, if so, whether exceptional circumstances applied.

⁷⁵ This reflects the requirement, in paragraph 189 of the National Planning Policy Framework, that '*great weight should be given to conserving and enhancing landscape and scenic beauty in [protected landscapes]*'.

⁷⁶ Case law ([link](#) – paragraphs 20-22) has clarified that the 'great weight' specified in paragraph 189 of the National Planning Policy Framework can apply to development outside of protected landscapes, for example, with regards to impacts on views from protected landscapes. Further guidance on this issue is provided in the Board's Position Statement on Development in the Setting of the Cotswolds AONB ([link](#)).

⁷⁷ This reflects the guidance provided in the Government's Planning Practice Guidance on the Natural Environment ([link](#) – paragraph 041).

⁷⁸ This approach is being applied in the draft South Warwickshire Local Plan. 3km is not a definitive limit to the setting of the CNL. However, it provides a useful benchmark for ensuring that CNL considerations are adequately addressed.