**AGENDA ITEM 4: REVIEW OF PLANNING DECISIONS MADE IN 2018/19 RELATING TO PLANNING APPLICATIONS THAT THE COTSWOLDS CONSERVATION BOARD OBJECTED TO**

**Introduction**

1. A key aspect of the Cotswolds Conservation 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:
2. identifies the extent to which planning decisions are being made in-line with the Board’s recommendations;
3. provides an indication of the extent to which local authorities are fulfilling the statutory ‘duty of regard’ (under Section 85 of the Countryside and Rights of Way Act 2000)
4. helps to ascertain if it was appropriate – or necessary - for the Board to comment on or, more specifically, object to, the individual planning applications;
5. 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.
6. This review assesses the planning decisions that were made in 2018/19 relating to planning applications that the Board had objected to. In 2018/29, planning decisions were made on seven such planning applications.

**Review methodology**

1. For each of the seven relevant planning applications, the starting point was to identify if the planning decision was in-line with the Board’s recommendations. A review was then undertaken of the case officer’s report 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 of the planning applications, is provided in a separate Excel spreadsheet.

**Results**

1. Unfortunately, the planning decisions were in-line with the Board’s recommendations for only one out of the seven relevant planning applications (14%).
2. 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 AONB;
* 100% made reference to the fact that the Board had provided a consultation response;
* 100% made reference to the AONB (and / or Landscape Character) policy in the Local Plan;
* 100% made reference to National Planning Policy Framework (NPPF) statements that :
  + great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs;
  + AONBs have the highest status of protection in relation to conserving and enhancing landscape and scenic beauty.
* 86% recognised the AONB as a constraint and / or as a main issue;

1. Only 71% referred to the Cotswolds AONB Management Plan and only 57% referred to other guidance published by the Board. Where other Board guidance was referred to, this mainly related to the Cotswolds AONB Landscape Character Assessment. Very little reference was made to the Cotswolds AONB Landscape Strategy and Guidelines, Position Statements or other Board guidance.
2. Only a minority addressed, or made reference to, the:

* purpose of AONB designation (29%);
* ‘duty of regard’ (Section 85 of the Countryside and Rights of Way (CRoW) Act 2000) (29%);
* NPPF statement that the scale and extent of development in AONBs should be limited (29%);
* AONB’s special qualities (29%).

1. None 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**

1. It is obviously very disappointing that so few of the planning decisions were in-line with the Board’s recommendations. On first impressions, this seems to indicate that the local authorities are not giving sufficient weight to the Board’s consultation or to their ‘duty of regard’. In some instances this might be true. However, in most instances, the reality is more subtle and more complex. Also, it is worth pointing out that, whilst local authorities should have regard to the Boards opinion, this does not oblige them to have the same opinion.
2. In reviewing the officer’s reports and decision notices, it is apparent that considerable attention has been given to potential adverse impacts on the Cotswolds AONB. In some cases, the view has been taken that there would not be significant adverse impacts on the AONB. In other cases, the view has been taken that the potential benefits of the proposed development outweigh the potential benefits. In most cases, it could be said that these judgements were ‘in the balance’, requiring a significant level of professional judgement, based on a good understanding of the setting of the proposed development and the need for – and nature of – the proposed development.
3. Whilst I would argue that the Board’s consultations responses have been strong – and continue to get stronger – from a planning policy perspective, they have not always been based on a good understanding of the site. For example, site visits were not made in all cases and, in some instances, consultation responses were compiled and submitted at a very late stage without a full assessment of the relevant evidence-base.
4. In principle, the Board should only be commenting on those planning applications that have the potential to have a significant adverse effect on the Cotswolds AONB. In some instances, the planning applications that the Board has commented on have probably not been of this level of significance (e.g. the glamping pod development at Farncombe Estate and the Hare and Hounds development).
5. 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 example, on the back of the Board’s input into the Standish Hospital proposal, the applicant was required to undertake further assessments to refine and justify the proposal.
6. Finally, it is worth noting that the Planning & Landscape Officer would still strongly disagree with some of the planning decisions, such as Cheltenham Borough Council permitting the construction of eight dwellings at Cromwell Court, Charlton Kings.

**Recommendations**

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

* Focus on the planning applications that are likely to have the most significant adverse effects on the Cotswolds AONB.
* Consistently apply the Board’s evolving consultation criteria to help keep focussed on priority consultations.
* Provide fewer consultation responses but ensure that the ones that we do submit are comprehensive and well-informed.
* 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 officer on relevant planning applications to see if the Board can provide ‘added value’.
* Recognise that, in order to provide a well-informed response, it will normally be necessary to make a site visit.
* Become more familiar with Landscape and Visual Impact Assessments (LVIAs), including LVIA guidance and best practice.
* Avoid using the assertion that a development would set an unwelcome precedent for the AONB. This is because precedence is not something that local authorities are required to consider (each planning application must be considered on its own merits). Where this is the case, use other arguments to justify objecting to the development.
* Continue to mainstream the practice of engaging local authority Board members to secure their support in advocating the Board’s response with key local authority contacts.
* Refine the Board’s ‘standard’ responses.
* Where local residents or other stakeholders are putting pressure on the Board to provide a consultation response and the Board does not have capacity to respond, ‘signpost’ these stakeholders to relevant Board guidance and / or to the Board’s standard responses.

1. Obviously, it should be noted that the capacity of the Planning and Landscape Officer to deal with individual planning applications is very limited, particularly as Local Plan consultations will normally take priority. One option would be to look into the possibility of securing the services of a ‘planning support volunteer’ to support the basic administration of the Board’s planning-related work. This could then provide the Planning and Landscape Officer with more capacity to focus on the more significant planning applications.
2. As outlined above, there are a number of areas which are not being adequately addressed by the local authorities when they are making their decisions on planning applications. It is recommended that the local authority development management teams should be made aware of these issues and asked to give them more consideration in their planning decisions. Also, when the Board’s Housing and Development Position Statement is updated, this could potentially include a summary of the key issues that local authorities should be taking into account in their decision making (as per the criteria in this review). The local authority case officers could then potentially use this as a reference point when they are assessing planning applications.

**APPENDIX 1. TABLE OF THE EXTENT TO WHICH AONB-RELATED ISSUES WERE ADDDRESSED IN THE PLANNING OFFICER’S REPORT AND / OR THE DECISION NOTICE**

|  |  |  |
| --- | --- | --- |
| **ISSUE** | **% WHERE ISSUE IDENTIFIED / ADDRESSED** | **COMMENTS** |
| **The case officer’s report and / or the decision notice identified that:** |  |  |
| The proposed development was located in the AONB or its setting; | 100% |  |
| The AONB was a constraint and / or a main issue; | 86% |  |
| There were likely to be adverse impacts on the AONB; | 71% |  |
| There were likely to be significant adverse impacts on the AONB; | 29% |  |
| Adverse impacts outweighed benefits. | 14% |  |
| **The case officer’s report and / or the decision notice addressed (or at least referred to):** |  |  |
| The Board’s response; | 100% |  |
| The purpose of AONB designation; | 29% |  |
| The duty of regard (S85 of the CROW Act); | 29% |  |
| The duty on local authorities under S84 of the CROW Act; | 0% |  |
| The fact that the presumption in favour of permitting development does not apply in AONBs (as per para 11 of the NPPF); | 14% |  |
| The policies in para 172 of the NPPF, which specify that: |  |  |
| ~ great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs; | 100% |  |
| ~ AONBs have the highest status of protection in relation to conserving and enhancing landscape and scenic beauty; | 86% |  |
| ~ the scale and extent of development in AONBs should be limited | 29% |  |
| ~ 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; | 71% addressed the issue; 14% 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:**  All = 86%; major dev = 100% (i.e. 1)  **Location:** All = 29%; major dev = 100% (i.e. 1)  **Impact:** see ‘adverse impacts’ above. |  |
| The AONB (or Landscape Character) Policy in the Local Plan | 100% |  |
| The AONB Management Plan | 71% |  |
| CCB guidance | 57% (but 2 of these (28%) only referred to AONB Landscape Character Assessment) |  |
| AONB special qualities | 29% |  |
| **EIA** |  |  |
| EIA screening opinion provided | 29% |  |
| EIA required | 0% |  |
| **Decision making** |  |  |
| Decided at committee level | 43% |  |
| ~ If committee level decision, was the officer’s recommendation in line with CCB recommendations? | 0% |  |
| Not permitted | 14% |  |
| Decision in line with CCB recommendations | 14% |  |