

In light of the Examining Authority's questions dated 14 August 2024, the South Downs National Park Authority (SDNPA) would like to draw attention to the need for the applicant to demonstrate that the relevant authority could also be satisfied the S245 duty (Levelling-Up and Regeneration Act 2023) placed on it would be complied with if development consent were granted for the proposed development, in respect of the effect on the South Downs National Park, as well as the Surrey Hills AONB.

This should additionally take account of any updated response to ExA question R17d.7.

We do not agree with the interpretation of the application of S245 the applicant provided in REP3-072. The new duty to 'seek to further' creates an important, pro-active, duty which is clearly intended to strengthen the previous duty of 'have regard to'. The new duty is in force now and must be complied with as part of any decision or course of action that has implications for the National Park.

The SDNPA acknowledges that the new duty does not preclude decisions that are 'harmful' to the National Park. However, the new duty requires positive evidence that the relevant authority has, in all the circumstances, sought to further the purposes. This should not merely be through the mitigation of any harm but by taking all reasonable steps to further the statutory purposes. It is considered that the new duty also underlines the importance of avoiding harm to the statutory purpose.

Natural England's advice states:

- 'the new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reason evidence what measures can be taken to further the statutory purpose,' and
- 'the proposed measures to further the statutory purposes of a protected landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development.'

As also advocated by Natural England, proposals / actions should be assessed against the aims, objectives, and principles of the South Downs National Park Partnership Management Plan.

The SDNPA's submissions to date highlight where we consider that the applicant has failed to give 'great weight' to the National Park and mitigate the harm caused. Therefore, it cannot be said the proposal has taken all reasonable steps to further the statutory purpose.