Annex 2: The Potential to Increase the EIA Threshold for Woodland Creation in Non-Sensitive Areas

1 Purpose

This paper presents the analyses undertaken to identify the potential options for an increased Environmental Impact Assessment threshold for woodland creation. The aim of this change is to encourage more woodland creation without compromising environmental protection.

2 Background

In practice, Forestry Commission England (FCE) has rarely required an Environmental Statement for afforestation: just 10 afforestation projects have required consent in the past 10 years. Nevertheless, an EIA can cost £100ks and due to the requirement to consult and potentially re-consult several times, it can potentially take years before a decision on consent is made. Consequently there are reports that the uncertainty and perceived complexity of the EIA process is a deterrent to private investment in largescale tree planting.

The EIA (Forestry) (England and Wales) Regulations 1999 currently set different thresholds for woodland creation in sensitive and non-sensitive areas. These are set out in Table 1.

Table 1. Current EIA thresholds for afforestation in England and Wales

Sensitive areas	**2 hectares** where the land is in a National Park or Area of Outstanding Natural Beauty (AONB). **0 hectares** in all other sensitive area: National Nature Reserve or Site of Special Scientific Interest (SSSI), A World Heritage Site, Scheduled Ancient Monuments, a site designated as a Special Area of Conservation (SAC) or identified as a candidate Special Area of Conservation; the New Forest Heritage Area and sites classified or proposed as a Special Protection Area.
Non-sensitive areas	**5 hectares.**

The threshold size of a woodland creation project is not the only factor that determines whether or not EIA consent will be required. Site specific impacts are important, as demonstrated by the few EIAs that have been required over the last decade. It is also possible for projects above the threshold not to require an EIA.

The thresholds in table 1 are therefore not absolute: in exceptional circumstances EIA consent may be required for projects under the thresholds, and projects that exceed the threshold do not automatically require EIA consent.

3 Limits to the Scope of the Proposed Changes

- Thresholds will remain guidelines to allow reasoned decisions to be made on whether or not projects above and below thresholds need EIA consent.

- No changes are proposed to the definition of the sensitive areas currently in the EIA (Forestry) Regulations or the size thresholds that apply to them.

- Changes to the threshold would apply in the non-sensitive areas where analysis of known constraints to woodland creation shows potential for woodland creation (see section 4).

4 The potential for higher thresholds for woodland creation

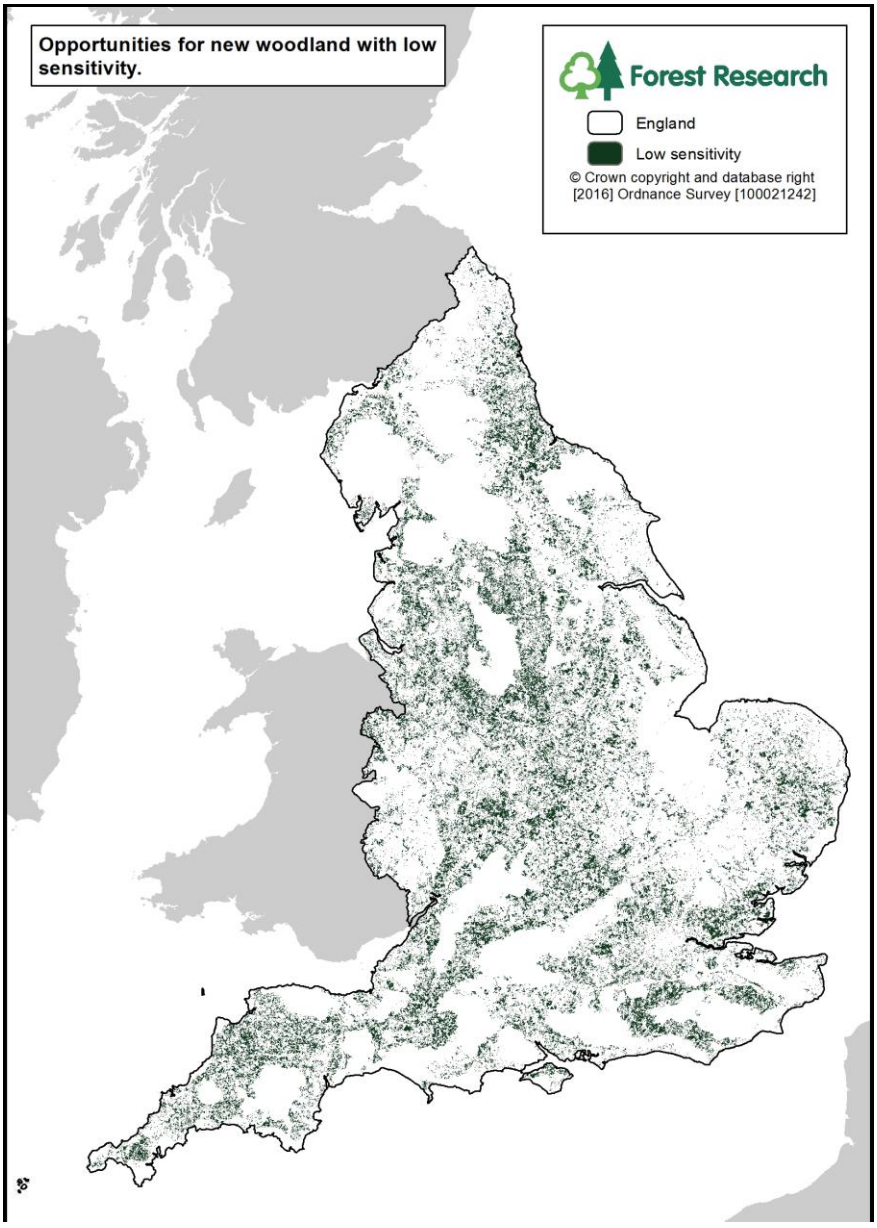
An approach to identify areas of land that have a low sensitivity to large-scale woodland creation was piloted in Durham earlier in 2016. This work was supported by all relevant industry and NGO interests. Working with these stakeholders Forestry Commission classified information on features that may constrain woodland creation as low, medium and high sensitivity - see Table 2.

Table 2. Datasets and their sensitivity to large-scale woodland creation with a significant productive element. *Note that the medium and high sensitivity datasets include designations classified as sensitive in the regulations.*

Low	Where the features classified as Medium and High sensitivity don't apply. Features that might apply in this category include: Local Parks and Gardens, Local Archaeological Features (buffered by 500 metres), Employment Sites, Housing Allocations and Woods for Water less than good quantitative status.
Medium	RSPB Important Bird Areas
	Acid Vulnerable Catchments
	National Parks *(already classified as EIA sensitive area)*
	Areas of Outstanding Natural Beauty *(already classified as EIA sensitive area)*
	Local Nature Reserves
	Common Land
	Higher Level Stewardship
	Best and Most Versatile Agricultural land (Land Classes 1-3a)
High	Sites of Special Scientific Interest (SSSI); Special Area of Conservation (SAC) and Special Protected Area (SPA) *(already classified as EIA sensitive area)*
	National Nature Reserve (NNR) *(already classified as EIA sensitive area)*
	World Heritage Site *(already classified as EIA sensitive area)*
	Priority Habitat Inventory
	Registered battlefields
	Registered parks and gardens
	Deep peat
	Scheduled Ancient Monuments

These datasets were overlaid to identify land considered at ‘low-risk’: where there is greatest potential for woodland creation, while minimising any foreseeable impact on other environmental outcomes, like priority habitats. In other words the areas of land where high and medium sensitivity constraints were not present were identified. The analysis was repeated for England and identified that there are around 2 million hectares of low risk land across the country. This is shown in Map 1.

Map 1. Areas of land with low risk constraints to woodland creation in England



4.1 Further analysis on the potential for a low risk land classification

The ten woodland creation schemes that required EIA consent in the past ten years were checked to see if they occurred on low risk land. Only three of these schemes overlapped land classed as low risk to woodland creation, and two of these by no more than 9% of their area. On balance this suggests that EIA consents have not been required on low risk land.

The merit of this analysis is limited because Forestry Commission England's (FCE) approach to EIA has changed in recent years to place greater emphasis on addressing potentially significant issues up-front at the screening stage. Nevertheless it provides some assurance that FCE has, with one exception ten years ago, not called for EIA consent where sites are predominantly (90%) on land at low risk from woodland creation.

Two of the ten schemes were smaller than the current threshold and required EIA consent due to site specific impacts. For example, one of these two schemes required consent because of the potential impact on known archaeology and the proximity to a Roman road. This shows site specific impacts have a bearing on whether EIA consent is required and that EIA consent can be required even for schemes smaller than the threshold.

Four recent large-scale woodland creation schemes that exceeded the current threshold size but did not need EIA consent were checked to see how they related to the low risk land. The majority of their areas' lay within land at medium or high risk constraints to woodland creation. However, three of these proposals were subject to re-design to mitigate any potentially significant impact.

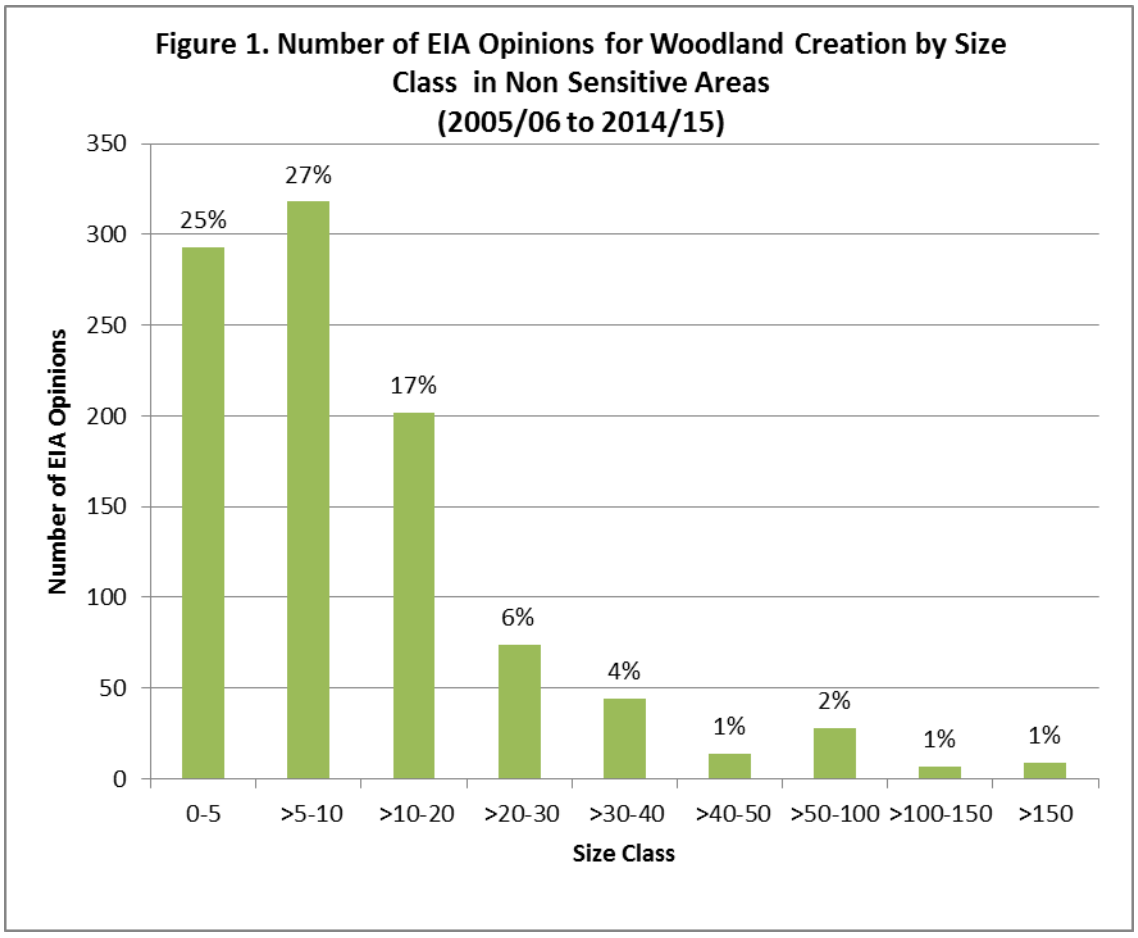
This again shows the site specific nature of a proposal's impacts and that, even where sites are sensitive to woodland creation, there is scope to address issues and avoid the need for EIA consent. Therefore exceeding any revised threshold should not automatically trigger the need for EIA consent.

5 Options for change

A) Reduce the regulatory burden on the majority of smaller planting proposals: 20 hectares.

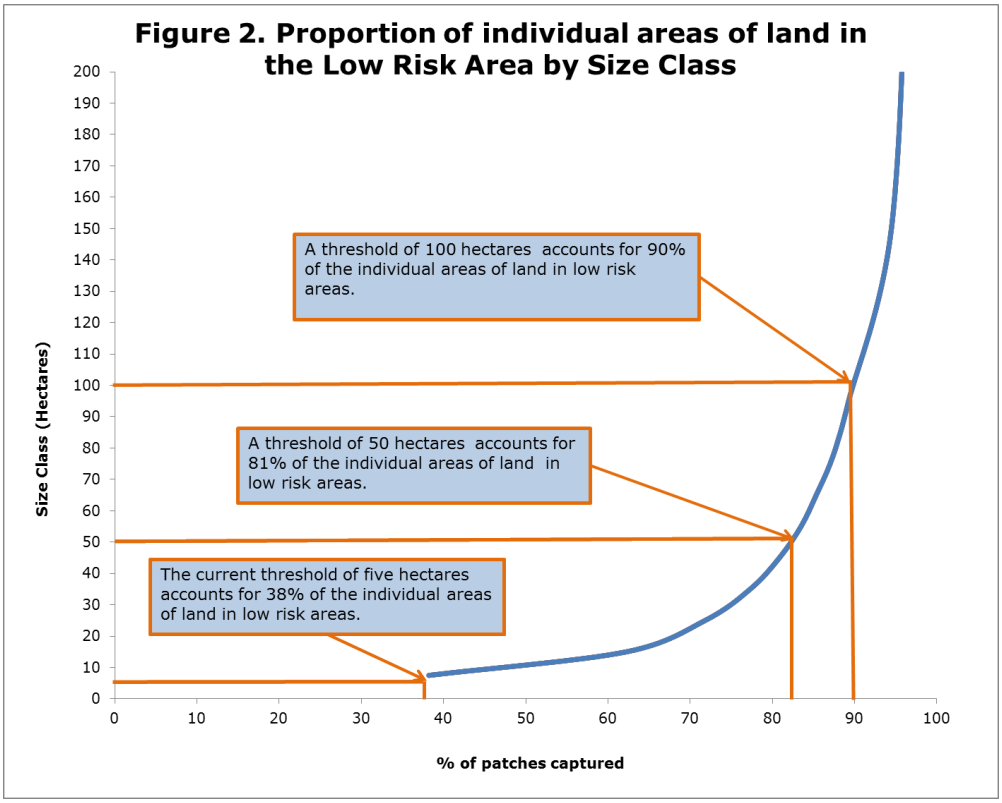
We have reviewed the size classification of the EIA cases outside of the sensitive areas defined in the EIA regulations over the past 10 years - see Figure 1.

While this is based on historic data, it shows that setting a threshold of 20 hectares would have resulted in the majority (69%) of historic EIA cases falling beneath the increased threshold and therefore not requiring an opinion. It would also ensure the larger schemes likely to have the greatest environmental impacts remained above the thresholds and were subject to the existing EIA screening controls.



B) Optimise the number of low sensitivity areas of land or 'patches' (i.e. potential planting sites) falling beneath the revised threshold: 50 hectares

Figure 2 shows the percentage of individual areas of land (ignoring roads, rivers and other linear features), i.e., contiguous areas of land with a single boundary that fall into different potential threshold sizes. The optimum threshold can be defined as the point at which the increase in the proportion of low sensitivity areas of land are brought under the threshold starts to decline with increasing threshold size. The analysis suggests that 50 hectares is the optimum threshold, with 80% of potential low sensitivity planting patches falling under the threshold.



C) Stimulate investment in commercial forestry: 100 hectares

During the informal consultation with stakeholders on the interest in raising the thresholds for woodland creation projects many stakeholders felt that the revised threshold should be as high as possible and 100 hectares was suggested as the minimum size for commercially viable woodland. This option is in line with this advice and the aim of increasing rates of woodland creation (see figure 2) which shows that a threshold of 100 hectares bring 90% of the areas of low sensitivity planting under the revised threshold.

5.1 Summary

Table 3 sets out the proposed changes in non-sensitive areas which have been identified as low-risk areas following the process described in section 4 (see table 3). Through the consultation we want to gather evidence and views on these options.

Table 3 – Options for revised threshold in non-sensitive areas

Option	For	Against
20 hectares for low risk land in non-sensitive areas	Maximises the impact of the change because it would (based on historic data) apply to the majority (69%) of woodland creation proposals. Ensures the projects most likely to have environmental impact remain subject to EIA screening.	Potentially a modest increase / impact given other analysis into low risk land which suggests a threshold of 50 hectares would be more appropriate if the objective is to exclude the majority of low risk land from requiring an EIA opinion. Unlikely to result in larger planting proposals coming forward.
50 hectares in the low risk land in non-sensitive areas	Accounts for 82% of individual areas of land classified as low risk, so more individual woodland creation proposals are likely to be covered. Sufficiently high to capture lower end of some commercially viable woodland creation schemes, particularly those planting broadleaf species. Above this size the marginal impact of raising the threshold declines, in terms of the proportion of patches not being subject to EIA.	Accounts for only 21% of all land identified as low risk.
100 hectares in the low risk land in non-sensitive areas	Informal feedback from stakeholders identified 100 hectares as the minimum size for a commercially viable woodland. Accounts for 90% of individual areas of land classified as at low risk from woodland creation.	Accounts for 28% of land classified as being at low risk from woodland creation.

6 How our approach avoids and mitigates the risks

To address the possible environmental consequences of raising the threshold we propose several measures.

To avoid harm the threshold increases are only proposed outside of sensitive areas such as national parks, ANOBs, and SSSIs and where the land is not subject to designations (landscape, biodiversity, heritage etc.) that may constrain the potential for woodland creation. However, this approach cannot account for the presence of unrecorded priority habitat and landscape character. Further work in local areas could help to address the concern on landscape character through refining the sensitivity mapping.

The Natural Environment and Rural Communities (NERC) Act 2006 requires the government to take reasonable, practical, steps to further the conservation of habitats and species afforded conservation priority and promote the taking of such steps by others. When priority species and habitats are present they must be treated appropriately, in line with commitments to conserve biodiversity.

Natural England and RPSB have indicated that the data used to create the Priority Habitat Inventory is variable in quality and spatial coverage and does not account for all areas of priority habitat (nor its quality). For example, research carried out for the High Weald AONB Unit in 2015 found significant under-recording of neutral grasslands with 40% of the land surveyed supporting unrecorded valuable grassland habitat.

Priority habitat is also often fragmented into small patches and information provided by Natural England indicates that ~80% of priority grasslands are less than two hectares in area.

To ensure that the requirements of the NERC Act are not compromised, there is a clear need to strike an appropriate balance between ensuring projects give sufficient protection to areas of priority habitat within larger tree planting proposals and adopting a more proportionate approach that is less burdensome to those who want to plant trees at larger scale. To strike a balance, we propose a combination of mitigation measures:

1) ***Notification of schemes under threshold and use of the UK Forestry Standard to confirm proposals' environmental integrity***

Before proceeding with a scheme that is smaller than the threshold, the proposer must notify Forestry Commission England of their proposal and give confirmation that there proposals is not affected by features that are sensitive to woodland creation (potentially via a UK Forestry Standard[1] (UKFS) - compliant Woodland Creation Design Plan) that the proposal accords with the UKFS with regards to priority species, habitats and other outcomes that could be impacted by the proposed project. FC England would then acknowledge receipt and have ***x*** working days to review the proposal. The assumption would be that the scheme could proceed after this time, but FC England could still offer an EIA Opinion, in which case further information - in line with the requirements of the amended EIA Directive – and screening would be required.

2) ***Sharing project proposals locally, through a public register Public Register***

To ensure local knowledge on the presence of habitats and species is taken into account, notifications would be placed on a public register which enables stakeholders to provide feedback.

These proposals, as far as possible, seek to minimise the risk of environmental harm to un-recorded priority habitats and ensure landscape character is considered in the design. The consultation seeks feedback on these proposed safeguards.

[1] A voluntary standard that affords protection to priority habitat, landscape and historic environment