

# Applying the CRow Act section 85 duty to 'seek to further the purpose' in National Landscapes (AONBs)



Guidance for relevant authorities

National Landscapes Association, with the National Landscapes Planning and Placemaking Panel

Briefing May 2025

## Purpose of this Briefing

This Briefing has been produced to provide additional guidance to relevant authorities on meeting the strengthened duty in Section 85 of the Countryside and Right of Way (CRow) Act 2000 when exercising their functions that affect National Landscapes (areas of outstanding natural beauty) in England.<sup>1</sup>

It is complementary to the guidance published by the Department for the Environment, Food and Rural Affairs (Defra) *Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes*,<sup>2</sup> which provides broad principles to guide relevant authorities in complying with the duty.

The Briefing aims to offer practical, easy-to-follow guidance on good practice, covering a range of relevant authority functions, and includes:

- ❖ **Legislative context and broad approach** – an overview.
- ❖ **Use of the relevant Management Plan.**
- ❖ **CRow Act 2000 s.85 duty in relevant authority functions.**
- ❖ **Information sources** that have been used in the preparation of this Briefing.

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<sup>1</sup> From November 22<sup>nd</sup> 2023, [all AONBs in England are known as National Landscapes](#). The statutory designation remains an area of outstanding natural beauty (AONB) and is currently referred to as such in legislation, hence the term National Landscape (AONB) Management Plans in this document.

<sup>2</sup> [Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes - GOV.UK](#)

## Legislative context and broad approach

- Section 85 of the Countryside and Right of Way Act 2000 (CRoW Act) (as amended by the Levelling-Up and Regeneration Act<sup>3</sup> 2023) sets out that relevant authorities, in exercising or performing any function that affect National Landscapes in England, “***must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.***”<sup>4</sup>
- **Relevant authorities are strongly advised to ensure their internal legal teams are aware of the s.85 duty.**
- This is a **statutory duty**, which has been in force since December 26, 2023. The use of the word ‘duty’ in the legislation means that it is something all relevant authorities **must** do; it is not discretionary.
- The duty is considered to be a **strengthening** of the previous s.85 ‘*duty of regard*’ and seeks positive outcomes for the natural beauty, in its holistic sense, of our National Landscapes.
- **The duty relates to any functions that a relevant authority might undertake ‘in relation to, or so as to affect, land in an area of outstanding beauty’ [National Landscape], i.e. functions which are not only within a National Landscape, but also, for example, affecting its setting.**
- The definition of relevant authorities in the context of National Landscapes can be found in the CRoW Act 2000 - Section 85 (2) <sup>5</sup>, and includes:
  - **Any Minister of the Crown** (this includes all Government departments, non-ministerial department agencies and other advisory bodies, etc. );
  - **Any public body** (this includes a unitary authority, county council, county borough council, district council, parish council);
  - **Any person holding public office;**
  - **Any statutory undertaker.**
- The s.85 duty must be considered in parallel with other statutory duties or obligations on relevant authorities (such as for example duties within the Highways Act 1980, the Licensing Act 2003, the Water Industry Act 1991, the Water Resources Act 1991, and the Town & County Planning Act 1990); each duty or obligation must be met, and none takes priority over any other.
- The duty is considered to require an **active approach on the part of the relevant authority**. Relevant authorities should be able to demonstrate, with evidence, that they have fulfilled the duty and how compliance with the duty has been embedded in **all their processes**, including for example preparing strategies, work programmes and budgetary allocations, operations manuals/internal codes of practice/protocols, including routine maintenance, and project planning and decision-making.
- Natural England have provided good practice advice that relevant authorities must take **all reasonable steps** to explore how the statutory purposes of the Protected Landscape can be furthered.<sup>6</sup>

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<sup>3</sup> Levelling-up and Regeneration Act 2023 ([section 245](#)).

<sup>4</sup> Countryside and Rights of Way Act 2000 ([section 85](#)).

<sup>5</sup> [Countryside and Rights of Way Act 2000 \(legislation.gov.uk\)](#)

<sup>6</sup> Natural England (2023) ‘Natural England’s addendum to our Deadline 9 response in relation to the enhanced duty in relation to Protected Landscapes including the Kent Downs Area of Outstanding Natural Beauty’ ([Annex 2, para 2.1.3](#)). ‘Protected Landscapes’ in this document refers to National Landscapes (AONBs) and National Parks: Natural England’s advice applies to both.

- It is important to ensure that **‘to conserve and enhance’ is treated as a singular purpose**: consider both parts together.
- It is important to remember that ‘natural beauty’ is holistic. **‘Natural beauty’ is not just the look of the landscape (or ‘the view’), but includes landform and geology, plants and animals, landscape features, and the rich history of human settlement over the centuries.**<sup>7</sup> It comprises multiple aspects such as the landscape and scenic quality, natural heritage (geology, species and habitats), wildness (including sense of remoteness), tranquillity (including dark skies), and cultural heritage (including the built environment and cultural traditions and associations)<sup>8</sup> **which taken together justify an area’s designation.** Historic England make clear that the historic environment is fundamental to the distinctive character, sense of place and natural beauty of each National Landscape.<sup>9</sup>
- It is the conservation and enhancement of **all** these aspects of natural beauty (defined in the specific statutory National Landscape (AONB) Management Plan) that is the primary purpose of designation, and that relevant authorities must consider in discharging their duty under CROW Act (2000) s.85.

## Use of the relevant Management Plan

- The Management Plan for the specific National Landscape is a statutory document, which will have been adopted by the Local Authority (or by the relevant Conservation Board) and which **‘formulates their policy for the management of the area and for the carrying out of their functions in relation to it’.**<sup>10</sup> It is the principal vehicle for ensuring that the statutory purposes of the National Landscape are met. It is a material consideration in the planning process.
- Conserving and enhancing the natural beauty of a National Landscape will normally mean:
  - **conserving and enhancing the components of natural beauty, including the special qualities that people enjoy, identified in the Management Plan;**
  - **supporting the Management Plan aims, objectives, outcomes (and policies, where relevant) as set out for each of these; and**
  - **supporting the delivery of any Management Plan actions set out for each.**

## Exercising functions affecting National Landscapes

Relevant authorities must be able to demonstrate that they have complied with the strengthened duty in any action, policy, or operation that impacts, or could potentially impact, on the relevant National Landscape.

To demonstrate that they have sought to further the purpose of designation in carrying out their functions affecting National Landscapes, relevant authorities should:

- **Establish the facts about the natural beauty of the area, especially with reference to the statutory Management Plan for the specific National Landscape.** Identify what comprises the natural beauty, using:

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<sup>7</sup> Countryside Commission (2001) [Areas of Outstanding Natural Beauty: A guide for AONB Partnership members. CA24.](#)

<sup>8</sup> The ‘natural beauty criterion’. Natural England (2017) [Areas of outstanding natural beauty: designation and management.](#)

<sup>9</sup> Joint Statement on the Historic Environment in Areas of Outstanding Natural Beauty, [Historic England website](#) (2022); Historic England and AONBs sign joint statement, [National Landscapes Association website](#) (2022).

<sup>10</sup> Countryside and Rights of Way Act 2000, [s.89\(2\).](#)

- descriptions of the components of natural beauty, including the special qualities that people enjoy, as set out in National Landscape (AONB) Management Plans; and
  - the reasons for designation as a National Landscape (AONB).
- **Understand the key aims, objectives, outcomes (and policies, where relevant,) in the statutory Management Plan for the specific National Landscape**, which give an indication which actions or approaches will further the purpose of designation. These objectives:
    - relate to the legislative purposes;
    - are evidence-based;
    - have been agreed between local partners, in a process convened by the National Landscape team;
    - include, but are not limited to, national or locally apportioned government targets and outcomes.

National Landscape (AONB) Management Plans are often supported by additional guidance documents that provide more detailed advice and position statements relating to subjects such as design, dark skies, rural roads and public realm, renewable energy, telecommunications infrastructure and the setting of the National Landscape. These should also be considered in carrying out functions affecting the National Landscape, as should any Landscape Character Assessments / Historic Character Assessments that inform Management Plans.

## CRoW Act 2000 s.85 duty in relevant authority functions

The duty to seek to further the purpose of conserving and enhancing the natural beauty of National Landscapes applies to the full range of functions of a relevant authority that affect land in a National Landscape. Relevant authorities will need to be able to demonstrate how the s.85 duty has been embedded (at a national, regional and local level as relevant), into **all relevant policies, guidance, strategies and business plans, work programmes and budgetary allocations, asset management operations manuals / internal codes of practice/protocols, briefs, internal monitoring, and at the earliest stage of capital/infrastructure project scoping, planning and development**, to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.

The following table sets out those relevant authorities and examples of their range of functions that particularly have the potential to affect National Landscapes. Please note that this list is not exhaustive and the absence of any specific relevant authority or function does not mean that it is not covered by the s.85 duty.<sup>11</sup> See also; [Departments, agencies and public bodies - GOV.UK](#)

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<sup>11</sup> For example, Health Authorities, Police Authorities, Fire & Rescue Services, and Harbour Authorities are all further examples of relevant authorities under the s85 (2) definition.

Type of relevant authority		Non-exhaustive examples of functions that the duty will apply to
<b>Ministers of the Crown &amp; Persons holding Public Office</b> CRoW Act 2000 - Section 85 (2) definition	<b>Government Ministers &amp; Departments</b> (e.g. Secretaries of State, MHCLG, DEFRA, DESNZ, DfT)	Legislation drafting Policymaking (including guidance) Grant funding programmes (e.g. agri-environmental schemes) Decision-making on called-in planning applications Decision-making on Nationally Significant Infrastructure Projects (NSIPs) <sup>12</sup>
	<b>Non-ministerial departments, executive agencies, and non-departmental public bodies</b> (e.g. Natural England, Environment Agency, National Highways, Network Rail, Planning Inspectorate, Historic England, Homes England, Sport England, Forestry Commission & Forestry Research, Marine Management Organisation, Joint Nature Conservation Committee, OFGEM, OFWAT) <sup>13</sup>	Vision setting Business plans & strategies (including project planning) Input to government policy drafting Preparation of technical guidance Infrastructure planning Nationally or regionally significant transport schemes Asset management and operational works (land and property management, including lighting and signage, operations manuals, codes of practice, including routine maintenance) – this includes works that benefit from permitted development rights Decision-making on planning appeals Local Plan examinations (including Neighbourhood Plan examinations)
<b>Public Bodies &amp; Persons holding Public Office</b> CRoW Act 2000 - Section 85 (2) definition	<b>Local Authorities</b> (including Mayoral Combined Authorities)	Corporate plans Asset management (land and property management, including heritage assets, including routine maintenance) Licensing function Strategies and plans on, for example, climate change, nature recovery, transport, access & recreation and economic development. Planning functions <sup>14</sup> Minerals & waste strategies Mayoral functions and devolved powers

<sup>12</sup> For detailed guidance on applying the new duty to NSIP applications see separate NLA Advice Note:

<sup>13</sup> For full list see [Departments, agencies and public bodies - GOV.UK](#)

<sup>14</sup> For detailed guidance on applying the new duty to planning functions including local plan making, site allocations and development management, see separate NLA Advice Note: [CRoW-s.85-duty-guidance-for-LPAs NATIONAL LANDSCAPE-Briefing-Nov-24.pdf](#)

	<b>Highways Authorities (Local Authorities)</b>	Local Transport Plans Asset management (including routine maintenance, operations manuals, codes of practice etc.) Public Rights of Way (PRoW) management & diversions Street lighting
	<b>Town &amp; Parish Councils</b>	Asset management Neighbourhood Plans
<b>Statutory Undertakers CROW Act 2000</b> - Section 85 (2) definition	<b>Statutory Undertakers<sup>15</sup></b> (e.g. utilities companies, water and sewerage companies, Internal Drainage Boards, telecoms operators, and energy companies, including UKPN, National Grid, BT (Openreach), Civil Aviation Authority)	Strategic investment strategies / business plans Asset management and operational works (land and property management, including lighting and signage, operations manuals, codes of practice, including routine maintenance) – this includes works that benefit from permitted development rights New infrastructure (such as buildings, cabling (including broadband provision), pipework, grid connections, and associated ancillary works) – this includes works that benefit from permitted development rights Water Resource Management Plans Nationally or regionally significant energy or water schemes

### Specific guidance for relevant authorities on meeting the s.85 duty:

- **For setting overall visions, strategies, policies and related documentation (including business plans and management and maintenance policies):**
  - Ensure the overall vision/strategy and any specific policy aligns with the aims, objectives, outcomes (and policies, where relevant) of the relevant National Landscape (AONB) Management Plan.
  - Assess the degree to which any specific policy would help deliver any actions/outcomes of the relevant National Landscape (AONB) Management Plan. Consider including a specific criteria regarding ‘natural beauty of National Landscapes’ within the assessment process of strategies and policies.
  - If a strategy or policy does not align with the duty (e.g. if it would conflict with any of the relevant Management Plan’s aims, objectives, outcomes (and policies, where relevant) then consider amending it such that you could confidently say it does seek to further the purposes.
  - Evidence how the relevant authority has sought to further the purpose of the National Landscape in their strategy or policy formulation process. Reference to aligning with National Landscape (AONB) Management Plan objectives, providing a clear audit trail, should be made.
  - Where the duty has been considered in parallel with other statutory duties on the relevant authority, reasoning should be provided for the subsequent decision, acknowledging that all statutory duties carry equal weight.

<sup>15</sup> See list of Acts which established the various the statutory undertakers in *Duties on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural Beauty (AONBs) and the Norfolk and Suffolk Broads Guidance note*. Defra (2005) (page 9) Available at <https://national-landscapes.org.uk/historical-papers>

- **For considering specific works and operations, e.g. individual capital projects or operations, routine maintenance works, protocols and methodologies, product specifications etc:**
  - Ensure the s85 duty is built into the relevant authority's assessment criteria for specific works proposals (**note that the duty applies to all works, not just that those that require planning permissions**)
  - Assess what impact the proposed works would have on the natural beauty of the National Landscape, considering the location of the works and the methodology of carrying out the works. Reference should be made to the components of natural beauty, including the special qualities that people enjoy, as set out in the National Landscape (AONB) Management Plan (consider including a specific criterion regarding 'natural beauty' within the assessment of proposals during project planning).
  - Also consider cumulative impacts, including of the legacy of past works that harm the natural beauty of the National Landscape, as well as of current schemes/programmes being proposed by other relevant authorities in the area.
  - Remember to consider the holistic concept of natural beauty. As scheme designers, relevant authorities may find that landscape and visual impact assessments, heritage statements, ecology and arboricultural assessments, lighting statements and transport assessments may assist assessment in this respect and help inform proposals).
  - Consider whether this would cause harm to the natural beauty of the National Landscape. Consider the aims, objectives, outcomes (and policies, where relevant) of the National Landscape (AONB) Management Plan. Natural England has advised that the strengthened duty underlines the importance of avoiding harm to the statutory purposes of Protected Landscapes.<sup>16</sup>
  - Ensure clear differentiation between any proposed measures that seek to *mitigate* or *compensate* for harm (e.g. like-for-like replacement), and those that *further* the conservation and enhancement of the natural beauty of the National Landscape. Natural England have advised that measures that further the purposes are required in addition to mitigation <sup>17</sup>
  - Remember that where harm is identified, 'enhancements' themselves are unlikely to be sufficient to align with the duty, which has the dual consideration of conserving and enhancing natural beauty. Any 'enhancements' within the proposal should genuinely align with, and help deliver, the aims, objectives, outcomes (and policies, where relevant) of the specific National Landscape (AONB) Management Plan. Natural England have advised that the proposed measures should align with and help to deliver the aims and objectives of the designated landscape's statutory management plan.<sup>18</sup>
  - Could modifications to the proposals help avoid harm and further the statutory purpose of conserving and enhancing the natural beauty? Such modifications might include for example:
    - changing the location or route of proposed work such as the siting of buildings and /or infrastructure, the routing of cabling and pipework, alternative routes for transport networks, etc.;
    - amending the design/scale of buildings and/or infrastructure;

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<sup>16</sup> Natural England (2023) ([Annex 2, para. 2.1.3](#))

<sup>17</sup> Natural England (2023) ([Annex 2, para. 2.1.3](#))

<sup>18</sup> Natural England (2023) ([Annex 2, para. 2.1.3](#))

- amending the specification of works and methodology such as type of machinery to be used, timing and programming of the works, the specification of ancillary works such as hard surfacing, fencing, lighting, signage etc;
- amending hours of operation of a particular activity.
- Where relevant authorities employ consultants and contractors to work on their behalf, they should be instructed to consider the specifications and methodologies of works, the design of schemes, and mitigation measures, to ensure alignment with this and other relevant guidance.
- If works would not align with the duty, then consider significantly amending or not proceeding. Choosing *not* to carry out certain works within the National Landscape or close to the National Landscape boundary could also demonstrate compliance with the duty.
- Evidence how the relevant authority has sought to further the purpose of conserving and enhancing the National Landscape in its proposals, with reference to aligning with National Landscape (AONB) Management Plan aims, objectives and outcomes (and policies, where relevant).

**For determining planning appeals (including those determined by the Planning Inspectorate and those called-in for determination by the Secretary of State), and for examination of Local Plans, decision-makers may find useful the advice contained in the separate Briefing: [CRoW-s.85-duty-guidance-for-LPAs NLA-Briefing-Nov-24.pdf](#)**

Consultation with the relevant National Landscape team by a relevant authority does not in itself constitute compliance with the new duty. Generally, teams will not always have available capacity to advise on all works within the National Landscape and will normally only be able to advise on the most significant strategies/programmes and proposals.

It is the responsibility of relevant authorities to assess and record how they have complied with the duty.

Closer partnership working, early engagement, collaboration and alignment between Protected Landscapes teams and relevant authorities (at a national, regional and individual National Landscape level) is always welcomed and encouraged as a means to further the conservation and enhancement of National Landscapes.

## Information sources used in the preparation of this Briefing

- Countryside Commission (2001) Areas of Outstanding Natural Beauty: A guide for AONB Partnership members. CA24. <https://national-landscapes.org.uk/historical-papers>
- Natural England (2017) Areas of outstanding natural beauty (AONBs): designation and management. Guidance. <https://www.gov.uk/guidance/areas-of-outstanding-natural-beauty-aonbs-designation-and-management>
- Countryside and Rights of Way Act 2000. <https://www.legislation.gov.uk/ukpga/2000/37/section/85>
- Levelling-up and Regeneration Act 2023. <https://www.legislation.gov.uk/ukpga/2023/55/section/245#section-245>
- Defra Guidance for relevant authorities on seeking to further the purposes of Protected Landscape(Dec 2024) [Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes - GOV.UK](#)
- Defra (2005) Duties on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural Beauty (AONBs) and the Norfolk and Suffolk Broads Guidance note. <https://national-landscapes.org.uk/historical-papers>
- Landmark Chambers (2024) *Re: section 245 of the Levelling Up and Regeneration Act 2023*. Opinion, 29.1.24 (instructed by the Campaign for National Parks). Available at <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010062/TR010062-002426-Campaign%20for%20National%20Parks.pdf>

- Natural England (2023) 'Natural England's addendum to our Deadline 9 response in relation to the enhanced duty in relation to Protected Landscapes including the Kent Downs Area of Outstanding Natural Beauty'.  
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010032/TR010032-006179-Natural%20England%20-%20Deadline%209a%20Submission.pdf>
- New Forest National Park Authority v Secretary of State for Housing, Communities and Local Government & Anor [2025] EWHC 726 (27 March 2025) <https://www.bailii.org/ew/cases/EWHC/Admin/2025/726.html>

If you require general assistance in understanding or interpreting a specific National Landscape (AONB) Management Plan, please contact the relevant **National Landscape team**, who will be able to offer you further guidance.

### About National Landscapes Association

We are a registered charity that supports the mission to conserve and enhance natural beauty in National Landscapes and other protected areas. National Landscape teams across the UK work to achieve a sustainable balance of priorities at the landscape scale. One of our key aims is to support and develop a network of ambitious National Landscape teams and partnerships that have a strong collective voice and a positive impact on the places for which they care.

### About this Briefing

National Landscapes Briefings offer a summary of key findings and recommendations arising from National Landscapes' action and insight. This Briefing has been informed by the Planning and Placemaking specialist panel of representatives from across the National Landscape network.

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