

Date: 17 January 2025  
Our ref: 497733  
Your ref: TR020005



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**BY EMAIL ONLY**

Dear Mr Gleeson,

**NSIP Reference Name / Code: TR020005**

**Natural England's response to the Secretary of States request to set out an agreed position on Defra guidance concerning s85 of the CRoW Act 2000.**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

For any further advice on this consultation please contact the case officer  
[REDACTED] [\[REDACTED\]@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk), and copy to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

**Summary of Position**

On the 3<sup>rd</sup> January 2025, the Secretary of State invited parties to set out an agreed position on whether the new [Defra guidance](#) has any implications for ensuring that the Scheme complies with the amended duty. Gatwick Airport Limited (GAL) produced a draft joint response for parties to sign, however Natural England was not able to sign this as it did not reflect our nationally agreed position on the duty. We have therefore chosen to set out our views separately, which we understand is the approach being taken by the other relevant parties.

In a signed Statement of Common Ground (August 2024) with GAL, Natural England advised that we had no further comment on the landscape assessments undertaken and that all outstanding issues relating to landscape could be agreed and closed. Natural England did not provide advice on s245 of the Levelling-up and Regeneration Act 2023 (LURA) and its impact upon the Scheme during the pre-application or examination phase.

Having reviewed the Defra guidance, Natural England does not believe that it has any implications for ensuring that the Scheme complies with the amended duty. However, we take this opportunity to set out our views on how the duty should be applied below.

Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities in exercising or performing any functions in relation to, or so as to affect, land in a National Park, the Broads or an Area of Outstanding Natural Beauty ("National Landscape") in England, to seek to further the statutory purposes of the area. The duty applies to local planning authorities and other decision makers in making planning decisions on development and infrastructure proposals, as well as to other public bodies and statutory undertakers.

Please note, in particular, that the following should be evidenced:

- The duty is an active duty, not a passive one. Any relevant authority must take all reasonable steps to explore how the statutory purposes of the National Landscapes can be furthered.
- The duty underlines the importance of avoiding harm to the statutory purposes of National Landscapes but also to seek to further the conservation and enhancement of that landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose.
- The proposed measures to further the statutory purposes of a National Landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development, and should be appropriate and proportionate to the type and scale of the development and its implications for the area. Such measures should be effectively secured. The proposed measures should align with and help to deliver the aims and objectives of the National Landscape's statutory management plan. The relevant protected landscape team/body should be consulted.

Yours faithfully,

**Sophie Moore**

Higher Officer- Sustainable Development  
Sussex & Kent Area Team