NEW DUTY TO FURTHER

ADVICE NOTE

FOR

RELEVANT AUTHORITIES IN THE

KENT DOWNS NATIONAL LANDSCAPE

January 2026

Background

In December 2023, a new statutory duty was placed on all 'relevant authorities' which requires that *'In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty'.*

The new duty is applicable to all public and statutory bodies and other 'relevant authorities'. A list of some of the organisations that it applies to that operate within the Kent Downs National Landscape is provided at the end of this Advice Note, in Annex B . It is a statutory requirement to comply with the duty and it applies to all decisions and actions that may affect the Kent Downs National Landscape, not just those relating to planning, countryside and environmental issues.

The advice note is intended to provide guidance on the new duty, its implication for organisations that are covered by it, and how they can ensure that they have complied with their statutory duty. More specific guidance on how the new duty might affect local planning authorities in the Kent Downs is provided in another Advice Note, available on the Kent Downs website.

The Legislation

The Levelling-up and Regeneration Act (2023), which became effective on 26th December 2023, amended section 85 of the Countryside and Rights of Way Act 2000, creating a new duty on public bodies.

The amendment, which only affects England, is as follows:

> **Countryside and Rights of Way (CRoW) Act 2000, Section 85 - General duty of public bodies:**
>
> "Any relevant authority exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty."

The amendment replaces the previous 'Duty of Regard' set out at Section 85 of the CroW Act and is seen as a strengthening of this, as confirmed in the Government's Explanatory Note to the Amendment to the Bill, where it is advised that '*the clause strengthens the duty on certain public authorities when carrying out their functions in relation to these landscapes….*'.

The Levelling Up Act (at s245) also includes a provision that allows the Secretary of State to issue regulations setting out how relevant authorities should comply with the new duty. However, this is a discretionary power, and compliance with the new duty is not dependent on those regulations being published. No such regulations have yet been published.

Guidance on complying with the new duty

Guidance on complying the new duty was published by DEFRA in December 2024 [link][1]. The Guidance confirms that the new duty does not prevent relevant authorities from undertaking their statutory functions and discharging their legal duties and other responsibilities, but that the duty is intended to complement these requirements by ensuring that the purposes for which

[1] Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes, Defra Published 16 December 2024

Protected Landscapes are designated for are recognised in reaching decisions and undertaking activities that impact these areas.

It is set out that the duty needs to be applied when undertaking any function in relation to, or that affects, land in a Protected Landscape. This may include:

- development undertaken through permitted development rights
- day-to-day functions such as maintenance, the refurbishment of buildings and infrastructure and the management of land and water
- functions outside of a Protected Landscape which may have an effect on land in a Protected Landscape
- plans and spatial strategies which affect these areas such as Local Transport Plans, River Basin Management Plans, and Neighbourhood Plans
- the drafting and delivery of polices and strategies, operational procedures, estate management plans, contracts, and works instructions which guide and control the day-to-day work of the relevant authority and their agents
- the issuing of licences and permits.

Expectations on Relevant Authorities

Relevant authorities must be able to demonstrate that they have complied with the statutory new duty. They should be able to clearly show how they have, as far as is reasonably practical, sought to avoid harm and further the conservation and enhancement of natural beauty in any decision or action that impacts or could potentially impact on the Kent Downs National Landscape. The way in which the duty has been complied with should be recorded and open to scrutiny.

Consideration should be given to making reference to the duty in annual reports or similar publications, and also to issuing statements of how the duty to seek to further the purposes of the designated area will be complied with.

To comply with the new duty, relevant authorities should consider:

- whether measures would align with, and help to deliver the aims, objectives and principles of the Kent Downs AONB Management Plan, including the landscape management recommendations in the Kent

Downs Landscape Character Assessment Update and other associated Kent Downs Guidance documents. A list of relevant documents is provided at Annex A.

- Could the measures contribute to the conservation and enhancement of the Protected Landscape's wildlife, ecological value and quality, geological and physiographical features, water environment, cultural heritage, dark skies, tranquillity, opportunities for access to nature, and landscape character for which the area was designated?
- Are the measures appropriate and proportionate to the type and scale of the function and its implications for the area? For instance, are measures in keeping with the natural beauty, the special qualities and key characteristics of the Protected Landscape?
- How measures will be funded and secured and any ongoing management needs.

While consultation of intended actions to the Kent Downs National Landscape team by relevant authorities is welcome, neither consultation nor notification alone constitutes compliance with the new duty. The team does not have available capacity to advise on all potential actions by relevant authorities and will normally only be able to advise on the most significant activities that impact on the National Landscape. It is the responsibility of relevant authorities to assess and record how they have complied with the duty.

Demonstrations of compliance with the duties may be monitored by the Kent Downs National Landscape Team. The Kent Downs Partnership will bring any significant contraventions to the attention of Natural England, who may in turn report to DEFRA.

For further advice, visit kentdowns.org.uk or email us at mail@kentdowns.org.uk

Kent Downs National Landscape

PART OF THE GLOBAL CROSS-CHANNEL GEOPARK TRANSMANCHE

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On 22nd November 2023, all AONBs in England and Wales were renamed National Landscapes. The Kent Downs National Landscape is the new name for the Kent Downs AONB.

Beautiful, thriving landscapes that everyone feels part of.

ANNEX A : Relevant Kent Downs National Landscape documents

The Kent Downs AONB Management Plan

The Management Plan describes the special qualities and components of the Kent Downs National Landscape, these being aspects of the landscape that are particularly important to the designation and are therefore likely to warrant particular consideration. It sets out the policy for the conservation, enhancement and management of the National Landscape in a series of aims, objectives and principles.

The Kent Downs AONB Landscape Character Assessment (LCA) Update

This document divides the Kent Downs National Landscape into 13 discrete character areas, describing the key characteristics that makes each of these unique. A set of landscape management recommendations are provided for each area which may provide assistance in considering how the purposes of designation can be furthered .

Additional Guidance documents

A number of additional guidance documents have been produced by the Kent Downs National Landscape Team that provide more specialist guidance on how the Kent Downs can be conserved and enhanced. These include:

The Landscape Design Handbook

Guidance on the selection and use of colour in the Kent Downs

The Kent Downs Rural Streets and Lanes: a design handbook

The Kent Downs Farmsteads Design Guidance

Kent Downs Setting Position Statement

Kent Downs Renewable Energy Position Statement

ANNEX B : Relevant Authorities

The following are examples of some of the relevant authorities operating within the Kent Downs National Landscape. The list is not intended to be exhaustive.

Historic England

Natural England

Environment Agency

Defence Estates

Health and Primary Care Trusts

Kent Police

Kent Fire and Rescue

South East Coast Ambulance Service

Sports England

Arts Council

National Highways

Forestry Commission

Health and Safety Executive

National Highways

Kent Highways Authority

Kent Local Nature Partnership

South East Local Enterprise Partnership

Thames Gateway Kent Partnership

Transport for the South East

Affinity Water, South East Water, Southern Water, Sutton and East Surrey Water and Thames Water

The Civil Aviation Authority

Biggin Hill, Gatwick, Heathrow, London City, Luton, Manston, Southend and Stansted Airports

South East Distribution Network (SEPN)

Scotia Gas Networks

Southern Gas Network

E.ON

British Gas

BT

EE, 02 and Vodaphone

UK Power Networks

Kent County Council

Medway Council

District Councils and Councillors

Town and Parish Councils

The Crown Estate

Network Rail

Stagecoach

Passenger Transport Authority

Ministry of Defence

EE, 02 and Vodaphone

All Government Departments, Members of Parliament and Ministers of the Crown

Contractors working on behalf of the above

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