The National Farmers’ Union (NFU) of England and Wales represents 55,000 members in England and Wales.

The NFU welcomes the opportunity to respond to the call for written evidence to the House of Lords Select Committee on the Natural Environment and Rural Communities Act 2006.

Our interest in this call for evidence is broad: farming lies at the heart of our countryside and rural communities delivering for our economy, our wellbeing and our environment.

British farming:

- Produces 61% of the nation’s food, providing vital ingredients for the food sector, the UK’s largest manufacturing sector, worth more than £108 billion and employing 3.9 million people;
- Provides 475,000 jobs and in the rural economy hosts diverse businesses, generating renewable energy and promoting tourism;
- Provides assured, safe, trusted and affordable food for people, produced to high welfare and food safety standards; and
- Manages more than 70% of the UK landscape, protects wildlife, water and soils and helps achieve climate change targets.

In summary, our written evidence makes a number of points and recommendations including:

- The NFU considers that the functions originally provided by the Commission for Rural Communities are not being fulfilled and that rural priorities as a consequence are not being authoritatively represented across the Government’s agenda.
- The NFU recommends that Defra acts to commission, collate and coordinate the evidence base needed to inform government policy making on rural issues. If this evidence had been in place, there could have been more informed and rural-focused solutions established to ensure that rural service needs, such as access to broadband, could be met.
- Notwithstanding Defra’s advocacy role within Whitehall, all government departments should have responsibility for rural proofing their policies including; how they engage stakeholders and ensure that they have sufficient knowledge about rural economies and communities’ interests; and how they monitor their policies to ensure rural considerations remain on the agenda.
- Natural England needs to make substantial improvements to the delivery of agri-environment schemes so that its commitments to agreement holders can be met.
- In using its powers, Natural England needs to give greater consideration to the economic and social impacts of its decisions, particularly where businesses are directly affected e.g. requiring a change in grazing regime on a SSSI.
- The statutory purposes and guidance issued to Natural England should be revised and updated to better reflect the needs of current and future priorities, including an explicit duty to contribute towards promoting sustainable food production.
• Provisions within the Natural Environment and Rural Communities Act need to be strengthened to reduce the impact of illegal, anti-social and environmentally damaging vehicular access to the countryside.
• That Natural England promotes responsible use of the countryside by revising and re-launching the Countryside Code and other guidance on responsible use.
• Our view is that the 2006 duty ‘to have regard to biodiversity’ is not well understood by those bodies to whom it applies and that a clearer understanding needs to be developed.
• It is too early to say whether the structures provided in the Natural Environment and Rural Communities Act are sufficient following Brexit to ensure appropriate protection for nature and environmental standards.
• Agriculture forms an integral part of the landscape of our National Parks and it may be the largest land user in National Parks, but it is not always adequately or well represented in National Park Authority governance arrangements. There have been a number of recent improvements in governance arrangements, but there is still a need for agriculture to be better represented.

Rural advocacy and the Commission for Rural Communities

Government policy decisions have a direct and indirect impact on NFU members. Farmer and grower businesses and families are particularly impacted by the social, geographical and economic differences rural proofing is designed to take into account. For example they are on average older; live in more sparse locations; travel further to access services and find it more difficult and more expensive to access quality infrastructure. There are also specific rural challenges for employment and training.

Question 1. Since the closure of the Commission for Rural Communities (CRC), and subsequent winding up of the Defra Rural Communities Policy Unit, how – if at all - are the CRC’s original functions of advocate, adviser and watchdog being fulfilled?

The NFU understands that the original purpose of the Commission for Rural Communities (CRC) was established by the 2006 Act as:

“an independent advocate, watchdog and expert adviser for rural England, with a particular focus on people suffering from social disadvantage and areas suffering from economic under-performance. It will provide information, advice, monitoring and reporting to Government and others on issues and policies affecting rural needs (30th March 2006)"\(^1\)

The NFU considers that the functions originally provided by the Commission for Rural Communities are not being fulfilled and that rural priorities as a consequence are not being authoritatively represented across the Government’s agenda. This has translated into a more urban focus on policy and potentially less of a voice for those in rural areas, as well as stifling the potential for rural businesses, including farming and farm diversification.

Defra does not appear to have the independence or the resource to provide the role of advocate, nor to undertake the research capacity or watchdog functions that were undertaken by the CRC. The evidence provided by Defra\(^2\) to the Committee on the 18th July

suggested that there is a small Defra team in place, but with some potential to recruit more staff and engage more widely across the department.

Independent rural groups such as the Rural Coalition\(^3\), a group of 12 national organisations, including the NFU, who share a vision for a living and working countryside, have come together with a common cause to help fill the gap left by the abolition of the CRC, and indeed the Rural Coalition does regularly meet with Defra. The NFU believes that such independent experts bring more expert opinion to the table, but that a higher profile as well as a larger resource still needs to be given to rural community policy within government.

The NFU is also aware that in some cases rural social and economic statistics and research are not adequate to inform decision making. There are gaps in information at national, regional and local levels, key trends are missing or evidence can be several years’ out of date. The NFU recommends that Defra acts to commission, collate and coordinate the evidence base needed to inform government policy making on rural issues.

In addition, had there been a rural ‘watchdog’ in place, we may have seen different government decision making in relation to the recent delivery of digital infrastructure and also in the role function and decision making of the Department for Digital, Media and Sport’s arm’s length company, BDUK\(^4\).

**Question 2. Are sufficient measures being taken to ensure that policies are rural-proofed at national and local levels? Who is taking the lead on policy for rural areas – and who should be taking the lead on such matters?**

The NFU welcomed the introduction and publication of the Rural Proofing\(^5\) guidance and the fact that the NFU were included on the stakeholder list. As the formal guidance was only published in March this year, we understand that it is early days in its implementation and this is possibly the reason why key Government initiatives such as the Industrial Strategy initially did not give due consideration to farming or to the rural economy.

The NFU is also supportive of the role of the Rural Ambassador, Lord Gardiner of Kimble, the Parliamentary Under-Secretary (Department for Environment for Rural Affairs and Biosecurity), but is mindful that the importance of rural proofing should be shared more widely across Government.

Additional leadership is required on issues such as on rural crime, where there needs to be wider ownership across government of this problem. The NFU’s Combatting Rural Crime report\(^6\) sets out the extent of this problem and recommendations on how to address it. We

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\(^2\) Defra Director Shirley Trundle stated in her evidence on 18th July that the unit had 14 staff and was looking to increase up to 24.

\(^3\) [http://www.acre.org.uk/our-work/rural-coalition](http://www.acre.org.uk/our-work/rural-coalition)

\(^4\) Would we have a buoyant rural broadband market rather than a proposed broadband Universal Service Obligation to offer 10Mbps by 2020 on request for some but not necessarily the most hard to connect?

Would we have had a scheme to help fund ultrafast infrastructure for all as opposed to the Chancellor committing £1.5 billion to ultrafast fibre for predominantly urban areas?


would also like to see more cross government coordination on critical issues such as health and safety.

**Question 3. What role should Defra – or other Government departments – play in co-ordinating policy for rural areas? How effectively are the interests – including social and economic interests - of rural communities being represented within the current structures of Government, and how could representation and co-ordination be improved?**

Notwithstanding Defra’s advocacy role within Whitehall, all government departments should have responsibility for rural proofing their policies including:

- how they evidence and develop their policies;
- how they engage stakeholders and ensure that they have sufficient knowledge about rural economies and communities interests; and
- how they monitor their policies to ensure rural considerations remain on the agenda.

The Government’s Rural Proofing guidance provides a four stage process, which is a good start for this, but we would be concerned that the stakeholder engagement takes place effectively at stage four, after the policy has been formulated.

We would recommend all Government officials be required to undertake some rural proofing training and to take ownership of the need to rural proof their policies. Importantly, officials should go out to and speak to rural businesses and communities rather than developing policies and consulting through often online-only documents.

The NFU is concerned that many consultation documents are not accessible enough to broader audiences. These can be set a high level, be off putting and designed for a specific technical audience rather than wider stakeholders who may be directly impacted and whose voice needs to be heard.

Broadband access is often very poor across rural areas so consideration needs to be given as to how best to engage these rural communities. We would be happy to advise the Committee further about the good practices that the NFU has developed. We are also aware that organisations such as the Big Lottery Fund are looking into improving their rural engagement practices and believe that good practice can be shared.

We would also be concerned that rural proofing could become a ‘tick box’ exercise if there was not ongoing monitoring and evaluation. Again, this role should be one that is integrated across all Government departments.

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7 In 2016, 6% of NFU members who could tell us their broadband speeds had superfast broadband and 15% had a mobile service across the farm. The [NFU Spotlight on Farm Broadband and Mobile Networks document](https://example.com)
Natural England

**Question 4. How well has Natural England fulfilled the mandate that it currently has? How well do its wide-ranging functions fit together, and does it have the appropriate powers and resources to perform these functions?**

Natural England (NE) has a broad remit spanning its regulatory role through to the delivery of grants to improve the environment. To a large extent NE performs its duties well, although there performance has been faltered in the last couple of years.

**Loss of Technical Guidance**

NE’s guidance, advice and scheme information is published on the Government’s central website – [www.gov.uk](http://www.gov.uk). Gov.uk requires guidance to be rewritten in a particular style meeting central government standards. As a general rule it appears the guidance has to be non-technical so a member of the general public can read it and understand it. In some cases this has led to guidance being simplified to the point that it has become meaningless for the intended audience.

The guidance review prior to content being uploaded to Gov.uk was constructive as it removed duplicate and outdated guidance, ensuring it was up to date and relevant. However, helpful question and answer documents that explain scheme rules or guidance cannot be uploaded on Gov.uk. It also means NE has ‘lost‘ technical habitat guidance that was previously published on their website. These documents did help NE deliver on their purpose of promoting nature conservation.

**Countryside Stewardship Delivery**

NE is the face of Countryside Stewardship delivery. Since the scheme was launched for applications in 2015 NE has not been in a position to deliver effectively. Even in 2017 NE has struggled to pay agri-environment agreement holders on time, agreement offers have been sent out after the start date of the agreement and application packs have been delayed. These problems have been due to a combination of issues including a complex scheme for applicants, IT issues and lack of resources (financial and appropriately trained staff). In addition, NE has to compete with Rural Payments Agency delivering Basic Payment Scheme to secure necessary changes the IT to support agri-environmental delivery improvements. NE needs to make substantial improvements to the delivery of agri-environment schemes so that its commitments to agreement holders can be met.

**Protected Landscapes**

NE is one of the agencies that have statutory duties under the Conservation of Habitats and Species Regulations and the Wildlife and Countryside Act 1981. NE uses its powers to improve the condition of these habitats. However, there are concerns that NE’s decisions do not take in to account economic and social well-being. For example, NE is seeking to restore all upland deep peat (over 40cm) to blanket bog with no regard to whether the deep peat can become blanket bog or the costs of restoration for government and the land managers. This does not appear to be a good use of public money or NE’s powers.
In addition, NE uses the SSSI consenting regime to improve environmental management. There is a need to recognise the economic impact this has on land managers and NE should not seek activities that change the business model without appropriate compensation. NE needs to take into account long term change on land management, not just the initial five years.

When designating landscape as SSSIs NE needs to consider the economic impact as part of the designation process. To have no regard to economic impacts created by the designation is to ignore the land managers need to make an income from these landscapes. Without those land managers maintenance of SSSI becomes very difficult.

**Economic Well-being**

When working with farmers NE needs to recognise that farmland is an asset that generates farm income. Management changes required by NE on farm for environmental benefit are likely to impact on the ability to generate an income. Where the actions reduces farm incomes then that will have a negative impact on local communities as the farmer will not be able to spend locally or employ as many staff. This goes against NE’s general purpose to contribute to the ‘social and economic well-being through management of the natural environment’ (NERC Act).

**Question 5. Are any changes to the remit and responsibilities of Natural England required, either as a result of Brexit or of other significant developments in the period since 2006?**

NE has statutory purposes, functions and accompanying Ministerial guidance rooted in it formation. However, these have not been updated to reflect current or anticipated priorities in respect to either the environment or the wider economy and society.

We believe that statutory purposes and guidance issued to NE requires revision and updating to better reflect the needs of current and future priorities, rather those set out in 2006. Updated mandates would enable NE to more confidently to deliver policy in partnership with farmers.

In particular, we note that that the NERC Act establishes NE as an active “champion” of the environment, but this is a role that we believe is incompatible with the role of a statutory agency. Just as the NFU regards itself as a champion of farming so we see environmental NGOs as champions of the environment. Instead we expect the agencies such as NE to have an objective role in policy delivery and statutory safeguard.

Earlier this year, the NFU welcomed the introduction of a ‘Growth Duty’ under Section 108 of the Deregulation Act 2015, requiring regulators, including NE, to “have regard to the desirability of promoting economic growth”.

This reflects the current government’s clear interest in promoting economic growth, but given the close relationship between farming, food production and environmental protection we believe that it is important for NE to have an explicit duty to contribute towards promoting sustainable food production. Currently, the NERC Act calls on NE to contribute to sustainable development through “protecting and enhancing the natural environment”, but makes no reference to food production.
Question 6. Do the arrangements and provisions for enabling and managing access to the countryside remain appropriate? How effective has Natural England – and other partners – been in promoting better access?

Provisions on access within the NERC Act can be summarised as follows:

- To extinguish vehicular rights of way which are not already recorded on the definitive map. Where historic evidence of vehicular rights of way is found, restricted byways may be added to the definitive map instead;
- To prevent the creation of new rights of way for mechanically propelled vehicles due to 20-years continuous use.

These provisions remain very appropriate to prevent an increase in mechanised vehicular access to the countryside and prevent situations where continuous, 20-year illegal access to land by mechanised vehicles lead to the creation of a new public right of way.

Rights of way in general can act as conduits for rural crime- for example 154,000 incidents of fly-tipping were recorded on rights of way in 2015/16 alone, therefore there are continued benefits to landowners and wider countryside users in preventing the future creation of rights of way for mechanised vehicles.

The provisions in the Act do not necessarily promote access, but restrict access which can have detrimental impacts to the countryside and to rural communities. Whilst the provisions can prevent the creation of new vehicular rights of way, these do not provide support to landowners who are the victim of rural crime caused by illegal access to agricultural land.

Therefore, to compliment the provisions in the Act to prevent the creation of new rights of way with vehicular access, provisions within need to be strengthened to reduce the impact of illegal, anti-social and environmentally damaging vehicular access to the countryside.

More broadly, NE has played an active role in many schemes to improve public access, including the creation of the English Coastal Footpath and adding historical rights of way to the definitive map.

However, it is essential that NE do more to promote how the general public can responsibly enjoy the countryside. In recent years NE and other bodies have done less to promote responsible use of the countryside, but we believe that this trend should be reversed and more should be done. We would advocate that NE promotes responsible use of the countryside by revising and re-launching the Countryside Code and other guidance on responsible use.

Sustainability and biodiversity

Question 7. Is the duty to ‘have regard’ to biodiversity, which is contained within the Act, well understood by those bodies to whom it applies? Is any further work required to raise awareness of the duty?

Question 8. What has been the practical impact of the 2006 duty? Is any modification to the duty required as a result of developments in our understanding of the value of ecosystems and biodiversity since 2006?
Question 9. How does the English duty to ‘have regard’ to biodiversity compare to the Scottish duty to ‘further’ biodiversity and the enhanced biodiversity duty introduced in Wales in 2016?

In answer to questions 7, 8 and 9, the 2006 duty to ‘have regard to biodiversity’ applies to public authorities, primarily other government departments, local authorities and local planning authorities.

The NFU is aware that some Local Nature Partnerships have used the duty as a means of encouraging engagement with local authorities and Local Enterprise Partnerships and there are examples of guidance being written on the 2006 duty for local council officials.

However, one of the main ways farmers and grower’s encounter the 2006 duty at the local authority level is through the planning system, both through its incorporation in development plans and in the determination of planning applications. As local authorities cut back on resources and increasingly rely on external sources for expert information, NFU member evidence suggests that there is more disparity in how the 2006 duty is being applied.

When submitting a planning application, there is often a requirement to submit information to assess any implications of the development and set out any mitigation required (and hence ensure the local authority has adequately carried out its duty when assessing the application). The NFU has received evidence from its members that the 2006 duty is not always well understood or applied in a proportionate manner. In some cases, the scope of information required (and associated time delays and cost of surveying) can be excessive, particular for farm yard development to replace existing structures. This is particularly relevant to the potential impact on bats, birds, reptiles and invertebrates and whether or not there is evidence of these species being present. There have also been cases where the local authority has been initially satisfied that it has fulfilled its legal requirements, only for third parties to question and ask for additional information to be required and tested.

There is Planning Practice Guidance to assist the practical implementation of the 2006 duty, as well as National Planning Policy Framework policy (primarily in paragraph 118) which is due to be amended.

In summary, our view is that the 2006 duty ‘to have regard to biodiversity’ is not well understood by those bodies to whom it applies and that a clearer understanding needs to be developed. Changing the wording of the Act may not address any perceived weaknesses, particularly if the issue relates to a lack of understanding of how that duty applies and adding ‘ecosystem services’ to the duty will not overcome that issue. Further, the NFU would be against strengthening the duty as that would lead to potential duplication of roles between those public bodies required to undertake the duty and NE and Environment Agency.

The changing context since 2006

Question 10. Will the structures established by the Act be sufficient to ensure appropriate protection for nature and environmental standards following Brexit? Are any modifications or changes to the structures established by the Act required to address the implications of Brexit?
It is too early to say whether the structures provided in the NERC Act is sufficient following Brexit to ensure appropriate protection for nature and environmental standards.

The NERC Act is just one of our laws that contribute to the protection of nature and our environmental standards. There are many others, including a number of European Directives. Future arrangements on nature protection and environmental standards will need to be considered in the round and in light of the EU Withdrawal Bill and the move of European legislation into UK law.

The institutional arrangements required after Brexit will need to be based, in part, on a review of the gaps created by dis-engagement with Europe, such as reporting arrangements on biodiversity status for international commitments to which the UK is a signatory. Then it would be appropriate to review the role of NE and other bodies responsible for environmental delivery and rural affairs.

**Question 11. Are there any further parts of the Act which are currently in force that need to be re-considered as a result of developments since 2006?**

The NERC Act amended the National Parks and Access to the Countryside Act 1949 on National Park governance and also amended the National Parks and Access to the Countryside Act 1949 regarding the criteria for designation of National Parks.

Agriculture forms an integral part of the landscapes of our National Parks providing many benefits to society, from high quality food to countryside rich in wildlife. National Park Authorities have a significant impact on farm businesses and rural communities within park boundaries, for example they set planning policy, manage rights of way and help deliver agri-environment agreements. Farmers and National Park Authorities share an interest in ensuring that these areas are sustained economically and environmentally.

As agriculture forms such an integral role, we believe that it is very important for Park Authorities to appoint people who are representative of agriculture and the rural economy. Although agriculture may be the largest land user in National Parks, it is not always adequately or well represented. There have been a number of recent improvements in governance arrangements in National Parks and the Broads, however there is still a need for agriculture to be better represented.

Clearly, good governance arrangements in the Parks are important in ensuring transparent decision-making but good engagement is also important to local accountability. Good engagement at the very top of the organisation and can set the approach, understanding and involvement of the Park in all issues. The Park Authority has a key role in helping facilitate engagement with the local community, businesses, farmers and landowners and good leadership is very important.

On the criteria used to designate a National Park, we strongly believe that NE should also consider the social and economic impacts of a designation. The effects can be positive and negative, but these should be looked at in the round and taken into consideration by NE, alongside other criteria such as natural beauty and the opportunities afforded for open-air recreation before a decision on designation is made.

*12 September 2017*