

Fit for Purpose: Are EU policies delivering for nature?

Wednesday 10 December 2014, 13:30 – 15:00

BES/SFE Joint Annual Meeting, Grand Palais, Lille

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Presentation - Protecting the laws that protect nature: Defending the Nature Directives, Alistair Taylor, RSPB

The Birds and Habitats Directives: Overview

- The [Birds and Habitats Directives](#) (together, the Nature Directives) are the cornerstones of the European Union’s nature conservation legislation ([you can read an introduction to the directives here](#))
- The Birds Directive (1979)
 - Protects all wild birds
 - Lists endangered/migratory species (194 species) requiring special action (Annex 1)
 - Requires member states to designate *Special Protection Areas* (SPAs) for these species – scientifically identified areas critical for their survival.
 - Controls activities that directly threaten birds e.g. killing and capture, egg collection, but does recognise hunting as legitimate (within certain bounds)
- The Habitats Directive (1992)

- Protects over 1000 rare, threatened and endemic species, and over 200 rare and characteristic habitat types.
- Requires member states to designate *Special Areas of Conservation (SACs)*
- Establishes process for driving sustainable solutions to economic development
- SPAs and SACs together comprise the [Natura 2000](#) network of protected areas across the EU.
 - Natura 2000 sites cover 17.5% of the EU's terrestrial land area
 - 26,000+ sites, 949,000 km² (751,000 km² terrestrial, 198,000 km² marine)
 - Still considered incomplete, e.g. Birdlife suggests [Important Bird Areas](#) not protected
- Evidence of positive impact of Directives
 - Study by [Donald et al \(2007\)](#) showed that species protected under Annex 1 of the Birds Directive showed population increases after the introduction of the directive, reversing a previous declining trend.
 - Donald *et al* also showed that the greater the area designated as SPAs within a country, the stronger the recovery of species.
 - Groups of species are still in decline as shown by [the European Wild Bird Index](#)
 - Studies have shown that Natura 2000 sites are delivering ecosystem services of a value of between €200 and €300 billion per annum, with SSSIs in the UK delivering £8 of benefits to society for every £1 spent on their maintenance.
 - Yet a lack of comprehensive data remains an issue, and there are still major gaps in implementation.

Deregulation and REFIT

- Political context: environment as a target of deregulation
 - In the UK: [Red-tape challenge](#), [review of implementation of Directives](#), [Balance of Competences](#) . Birds Directive “the most hated legislation in Whitehall”?
- At the EU Level: [Regulatory Fitness and Performance Programme = REFIT](#). Subjects legislation (across different policy areas) to “Fitness Checks”
 - Assess if aims of legislation are being met
 - Detect regulatory burdens, gaps and inefficiencies
 - Identify opportunities for simplification
 - Enable the Commission to propose that legislation is revised or repealed
- Legislation across the EU is being subject to “fitness check” process which assesses it against five criteria:
 - Effectiveness: have objectives been met?
 - Efficiency: Were the costs involved justified by changes achieved?
 - Coherence: Does the action complement other actions or are there contradictions?
 - Relevance: Is EU action still necessary?
 - EU Added value: Did EU action make a difference?
- Birds and Habitats Directives are now subject to a “fitness check”
- Precedent: Water Framework Directive Fitness Check 2011 followed a similar process, and had a positive outcome, as demonstrated the need for improved implementation and led to the [“Blueprint for Water”](#). But operated in a less hostile political context.

The Birds and Habitats Directives “Fitness Check”

- What are the possible outcomes?
 - Best case scenario: better implementation, improved funding, new initiatives
 - Worst case scenario: weakening of text, merger of directives, threat to Natura 2000 network
- Politics and public opinion will play a key role in determining the outcome
 - UK Government has sought allies from within member states to lobby against the directives, with support from Netherlands.
- Why is this important?
 - The Directives are a response to failure of national attempts to protect nature, and a cornerstone of attempts to halt/reverse loss of biodiversity.
 - As evidence shows, they work and they have bit when properly implemented
 - In the UK, they provide the backbone of our architecture of nature legislation, with respect to sites, species and wider countryside measures, and the broader funding and policy framework

Fitness Check process

- **October 2014:** consultants appointed to carry out the review. This is a consortium of four private organisations: [Millieu](#), [ICF](#), [Ecosystems Ltd](#) and [Institute for European Environmental Policy](#)
- **January 2015:** Fitness check starts
- **March 2015 – June 2015:** Online public consultation open
- **September 2015:** Draft evaluation report
- **September 2015:** One day stakeholder workshop
- **Early 2016:** Final evaluation report
- **Consultation during 2015**
 - The consultants will conduct interviews with two government institutions, one NGO and one private sector organisation in each of the member states. The NGOs will preferably be umbrella bodies, so Wildlife and Countryside Link in the UK.
 - More detailed assessments of implementation, and further stakeholder engagement, will then take place in 10 selected member states, most likely to include the UK.
- Evidence will play a key role in the consultation process – consultants will be looking to gather evidence and case studies.

Questions

Q: Are there any implications for the [Bern Convention](#) of the REFIT review of the Birds and Habitats Directives?

A: Not directly linked, but if the Directives are weakened, then the EU could no longer be fulfilling its obligations under the Convention.

Q: Is there any scope to suggest improvements to the Directives as part of the REFIT process?

A: In the current political context, the pressure at EU level is towards deregulation. Any suggestion of “opening” the Directives for review in order to make improvements is therefore risky. The key point to make is that the Directives haven’t even been fully implemented yet – we need to put into practice the toolbox that we have, which is working well were it is being implemented. If the directives were reopened then it would be a 2-4 year process.

Q: What is the likely chance of successfully defending the Nature Directives from being opened up and weakened?

A: At the moment it is a battle to lose rather than to win. However, it is very much in the balance, and concerted effort from individuals and organisations is still required to stand up for the Directives.

Workshop Discussion Questions

1. Article 12 of the Habitats Directive requires Member States to take measures in the wider countryside (outside Natura 2000 sites) to protect species listed in Annex IV and their breeding sites throughout their natural range, for example; Lesser horseshoe bat, *Rhinolophus hipposideros*, European otter, *Lutra lutra*, wolf, *Canis lupus*, European lynx, *Lynx lynx*, , and Great crested newt, *Triturus cristatus*. However, Member States have taken only limited actions to implement this obligation, focussing efforts and financing on Natura 2000 sites instead.

What are the ecological impacts of concentrating conservation action on Natura 2000 sites only and ignoring the wider countryside?

- In theory there is a lot of conservation action being undertaken in the wider countryside, most notably through agri-environment schemes as part of the Common Agricultural Policy, however these schemes are not delivering the benefits they are meant to, as demonstrated by recent analysis of the latest round of CAP reform ([Pe'er et al 2014](#)).
- While CAP initiatives may be ineffective, it does reinforce the idea that we need to look at biodiversity conservation measures in the round – what else is being done outside of the Directives? For example, Green Infrastructure is a theme that has salience within the EU at the moment, could appealing to this be helpful in terms of making the argument for wider countryside measures.
- Climate change, and the consequent changes in species distribution that are occurring and will continue to occur as a result , mean that protected sites risk losing their integrity, and also that the species for which they were designate may no longer occur there. As such protection in the wider countryside is necessary for species protection as ranges change.
- Different approaches to designation must be considered here as well, for instance Britain is quite unusual in having protected sites that sit outside of the Natura 2000 network, where as in many countries the Natura 2000 sites represent the whole of their protected areas.
- What do we mean by the “wider countryside”, does this incorporate urban areas, and is enough being done here?
- Different protected species require different approaches, for example a focus on protected areas might be appropriate for some plant species, but for large carnivores evidence suggests that protected areas often do not correspond to their large ranges, and increasingly these ranges are expanding into areas that we did not expect – wider countryside measures are required.

Will the EU's biodiversity conservation target of halting the loss of biodiversity be achieved if no conservation action is delivered in the wider countryside?

- Much research has demonstrated that relying solely on protected areas for the preservation of biodiversity is insufficient, and that a landscape approach is required, as exemplified in the Lawton Report, [Making Space for Nature](#).
- We must guard against the assumption that wider countryside conservation is enough, and that targeted protected areas are not needed – for species of most conservation concern protected areas have been and continue to be effective.
- Important to think about what indicators we are using for assessing whether we are delivering targets such as this, for example there is a problem with assuming that ecosystem service indicators automatically correspond to increased biodiversity.

2. Many Member States have failed to define Favourable Conservation Status and favourable population targets for European protected species. This has resulted in a more precautionary approach to impact assessment, in case unnecessary damage is caused. In the UK, developers have been required to spend significant sums of money relocating small numbers of species to new locations to allow developments to go ahead as a result of this failure. More recently the UK Government has proposed using minimum viable population as the favourable population target.

What are the ecological implications of failing to define favourable conservation status, and favourable populations for European Protected Species?

- By correctly defining status/MVP it would target government efforts at the most vulnerable species and guard against policy-makers targeting conservation action simply at the “easiest” species.
- If efforts are targeted at the most vulnerable species and relaxed for common species, this could alleviate financial burdens for developers whilst improving the status of some species.

What are the likely outcomes for species of using minimum viable population as favourable population target?

Potentially positive outcomes:

- Could improve the quality of data collected for the most vulnerable/rare species

Potentially negative outcomes:

- All species should count the same and be protected irrespective of status/rarity.
- Once favourable conservation status/minimum viable population has been defined, scientific research may stop, and new knowledge may not be integrated alongside policy.
- Minimum viable population could be viewed as a target rather than a minimum.
- Some species are harder to detect and survey than others, so there could be disparities in the accuracy of favourable conservation status/minimum viable population designations across species.
- Favourable conservation status and minimum viable population are based on estimates and so incorporate uncertainty. It might prove difficult to convey this uncertainty to policy-makers.
- Minimum viable population is designed on the basis of risk of extinction – should we not instead design species protection/conservation efforts on the basis of maximum carrying capacity of habitats?
- Minimum viable population is context dependent and will fluctuate temporally and spatially. This could be a challenge to incorporate into policy as it would need to be flexible.
- Accurate designation of minimum viable population requires knowledge on species population, life history and threats and so require long-term monitoring data. However monitoring is not in place for every species, or is at different spatial resolutions.

3. The approaches taken by Member States to the identification and delineation of Natura 2000 sites are not uniform. Some countries have taken a very restrictive approach to defining site boundaries, including only the protected habitat with no buffer area, while others have included a buffer area around the habitats for which the site has been designated. Nevertheless there is evidence that Natura 2000 sites are benefitting both target and non-target species.

What are the likely ecological consequences for target and non-target species of a restrictive approach to site designation?

- The Habitats Directive has provision for unlimited scope for designing buffer zones when designating sites; it is part of the available toolkit yet unclear how much this is used.

For “buffer zones”

- Well-established species-area relationship: strict designation and boundaries for protected areas mean you lose part of the effective area due to edge effects. There is clear evidence for different types of edge effects e.g. pesticide drift, drying out edges of woodlands.
- Site designation doesn't seem to take account of site connectivity between protected areas and habitats.
- An approach of a strict central zone of a protected area with no or minimal use or management does work in some member states e.g. UK where many habitats are culturally produced and require management to maintain biodiversity. However, this approach may be more effective in member states where there is less history of intervention.
- In Germany, ‘biosphere reserves’ have been designated where nature protection is combined with use in some areas, with positive results implying that you need buffer zones and reserves, with zonation and use in different areas. What evidence is there from biosphere reserves that could apply to Natura 2000 sites.
- Buffer zones shouldn't be described as poor quality habitat that is costly to improve, with limited benefit, but as about trying to increase the area of your high-quality habitat, with restoration ecology taking place to improve the condition of the site.

Against “buffer zones”

- In the UK, Natura 2000 sites are often the only site of that type in the landscape within hostile surroundings. Therefore what would a buffer zone be? It may be of no value for the species being conserved, for which the site has been designated.
- A restrictive, clearly delineated approach to site designation makes a site easier to defend if threatened (e.g. by development). Threats to buffer land (which is inevitably of lower quality) would be harder to defend, putting the core area at risk.

What case studies are available concerning the optimum approach, in ecological terms, to site designation and the size of buffer zones needed around protected habitats?

- [Evaluation of UNESCO Biosphere reserves](#)
- [Making Space for Nature](#), as evidence for buffer zones and sources of further evidence.
- Dorset Heathlands and Surrey Heaths case-studies of creation of green spaces as buffers around particular habitats to give recreational users options outside of key habitats, e.g. preventing dog walkers disturbing nightjars.

- No buffer sites designated in the UK, but buffering is a process/exercise in considering the harms that may take place in the surroundings of the protected area. Environmental Impact Assessment has to allow for buffer zones around protected sites. Environment Agency review of consents offers a potential case study (Some details [here](#))
- In some European countries a very different approach is taken, assuming that certain parts of the site can 'take' a certain level of co-use, e.g. Germany.
- Examples of managing areas around protected sites for large carnivores (e.g. wolves, lynx). Importance of these buffers is well-documented and accepted. This is a growing issue as large carnivore populations are spreading across Western Europe.
- Evidence gaps: Expanding buffer zones will be context and habitat specific. Evidence in restoration ecology is lacking in how to create buffer zones or restore equivalency with core habitat. Need to acknowledge that this evidence is lacking.