



KEY ISSUE 2 - HABITATS

FORWARD PERSPECTIVES ON

PLANNING, EIA AND THE HABITATS

DIRECTIVE

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INTERNATIONAL WILDLIFE PROTECTION

- UK signatories of various agreements
 - Bern Convention on the Conservation of European Wildlife and Natural Habitats (1979)
 - Ramsar Convention on Wetlands (1971)
 - Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (1973)
- Bern Convention is implemented through the Habitats & Birds Directives
- So, UK does not have to comply with Habitats & Birds Directives after Brexit, but we do need to comply with international agreements



PLANNING AND ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- EIA Directive enacted in UK via Town and Country Planning Regulations
 - have been amended to include climate change, resource efficiency, accident and disaster prevention and health plus monitoring and enforcement – deadline is May 2017
- Weaknesses
 - cost and administrative burden
- Strengths
 - developers are now used to it
 - provides ordered process to assess and mitigate environmental issues
 - international agreements provide freedom of environmental information and access to justice in environmental litigation (e.g. cost protection orders) in the development context
- Withdrawal from international agreements would be needed to make substantial changes to these areas



HABITATS AND BIRDS DIRECTIVES

- Natural environment has been protected for over a generation
- The Directives provide protection at European level for designated species and habitats
 - One-fifth of Europe's land mass
 - 200 wetlands, meadows and marine habitats
 - > 1000 plant and animal species
- EC President Jean-Claude Juncker in 2014 began a review to overhaul nature laws to make them more business friendly (cost of compliance)
- A record 550,000 people took part in an online consultation with 94% calling for the laws to be left alone
- 16th December 2016, the laws were declared "fit for purpose"
- Juncker said "*Directives will not be re-opened, but need better and smarter implementation*"
- EC committed to the development of an Action Plan to ensure better implementation (no timetable)

ROADMAP TO ACTION PLAN – WAIT? ADOPT? TAILOR? IGNORE?

Roadmap for Action Plan for better regulation and implementation

- Threats
 - continued depletion of natural capital and valuable ecosystem services with major consequences for our economy. Missed opportunity to capitalise on nature's full potential to deliver growth and jobs, and improve citizens' health and quality of life.
- Current status
 - approx. 50% of protected bird species and <25% for other protected species have a secure population in EU
 - only 16% of protected habitats show favourable conservation status
- Shortcomings in implementation
 - limited availability, targeting of funding, expertise together with poor enforcement by many national authorities
 - inefficient and complex implementation at national/regional/local level including Natura 2000 sites
 - lack of full policy integration, knowledge gaps, human resource constraints, and engagement with stakeholders
- Proposed objectives
 - smart implementation
 - improving compliance
 - strengthening investment, access to knowledge, stakeholder engagement



UK PERSPECTIVE

- Wildlife & Countryside Act 1981 implements nationally protected Sites of Special Scientific Interest (SSSI)
- But, level of protection is lower than for Habitats Directive
- Additional protection has been sought on case-by-case basis through European Court of Justice ([case law has strengthened legislation](#))

Loss of protection through Habitats Directive – Weaknesses or Threats?

- 'imperative reasons of overriding public interest' where no alternative solution exists
- ability to limit or avoid development where it would adversely affect coherence of Natura 2000 network
- ability to refer cases to European Court of Justice (or refer to case law?)
- reintroduction of native species where they contribute to favourable conservation status
- precautionary principle in EU law
- unable to influence in relation to migratory species and routes



RELATED LEGISLATION

EU Environmental Liability Directive

- Liability regime for land and water damage from industrial processes or to protected species and habitats (Habitats Directive)
- Retain, modify, repeal?
- Enforcement undertakings (civil sanctions) address damage and compensatory actions

Contaminated Land Regulations (ecological risk assessment)

- No legislative change expected since UK regulations
- But, ecological risk relates to European and nationally protected habitats (and European Protected Species on those protected habitats), i.e. Habitats Directive
- Definition of an ecological receptor may change depending on the transposition of the Habitats & Birds Directives
- Does SAGTA want to see a change to the definition and/or a wholesale change to the EPA 1990 and contaminated land guidance?



CURRENT STATUS (UK)

State of Nature (2016)

- 56% species declined since 1970 and 44% increased (of 3,816 terrestrial and freshwater species)
- Of the nearly 8,000 species assessed using modern Red List criteria, 15% are extinct or threatened with extinction from Great Britain
 - 7% of urban species threatened with extinction
 - London's hedgehog population has dropped by 50% since 2000
- UK has lost significantly more nature over the long term than the global average
 - We are among the most nature-depleted countries in the world
- Most significant driver is policy-driven agricultural change
 - farmland represents two-thirds of UK's land area



FORWARD PERSPECTIVES



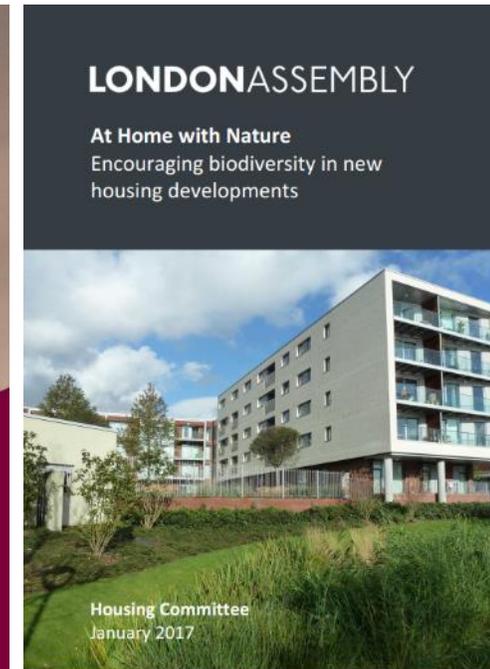
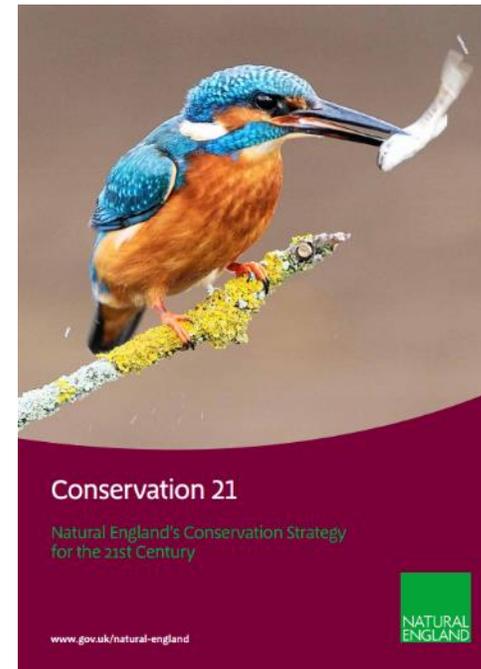
Short-term view

- Great Repeal Bill upon exit from the EU will convert existing EU law into UK law, wherever practical and appropriate, and end jurisdiction by the European Court of Justice
 - Will the UK continue to follow ECJ case law? Do we need a cut off date?
 - How will devolved Governments implement laws? Could this lead to differences across UK?
- Or, a once-in-a-lifetime opportunity to improve the way we manage environment?
- Likely need to build capacity and ensure equivalent monitoring, reporting, enforcement and oversight and accountability mechanisms
- Greener UK coalition is 13 environmental organisations (eg. RSPB, WWF) launched a manifesto on 22nd February 2017 calling on the Government to restore and enhance the environment as part of Brexit plans
 - 199 MPs signed the coalition's Pledge for the Environment

FORWARD PERSPECTIVES

Medium to long-term view

- Defra departmental plan 2015 to 2020
 - Cleaner, healthier environment, benefitting people and the economy
 - support [Natural Capital](#) Committee to 2020
 - invest £100 million capital into projects to support the natural environment, including schemes to remediate contaminated land, restore important peatland habitats and increase woodland planting
 - protect the Green Belt and maintain national protections for AONB, National Parks, SSSI and other environmental designations
- Conservation 21, Natural England's conservation strategy for the 21st century
 - Creating resilient landscapes and seas
 - Putting people at the heart of the environment
 - Growing [natural capital](#)
- 25-year Environment Plan (in prep)
 - [Natural Capital](#) Committee advise and implement Plan



FORWARD PERSPECTIVES

COMMON THEMES

- Long-term perspective to return on investment
- Landscape approach
 - Improve connectivity, resilience and wider benefits (carbon, flooding)
 - Use planning tools such as green infrastructure, [urban] green space factor, 'net gains'
- Underpinned by natural capital principles and accounting
 - Identify natural resource efficiencies
 - Part of corporate sustainability
 - Access funding
- Sharing best practice, engagement and collaboration
- Largely voluntary; requires Government support to make it work
- Needs skilled staff, long-term monitoring
- Initiatives are pre-Brexit but there are already coalitions, manifestos and plans underway



SWOT ANALYSIS

- EIA is a familiar process
- Use of economics is familiar to business
 - and enforcement undertakings
- We have UK baselines
- We have successful case studies
- Take a landscape approach
- Relies on voluntary action (more flexibility)

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- Devolved Governments may lead to differences
- Potential watering down of legislation
- Businesses with significant influence or dependence on resources likely to need natural capital accounts – few exist already
- Science, knowledge, language gaps
- Relies on voluntary action (may need to legislate)

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- To start again and focus on UK ecosystems and issues
- Use new scientific understanding and tools
- Long-term (25 year) plans
- Introduce thresholds for EIA requirement?
- Demonstrate value to taxpayer

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- Brain drain to EU
- Public and political loss of trust
- Loss of EU funding, collaboration and UK influence in European decisions
- Continued depletion of natural capital

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THANK YOU

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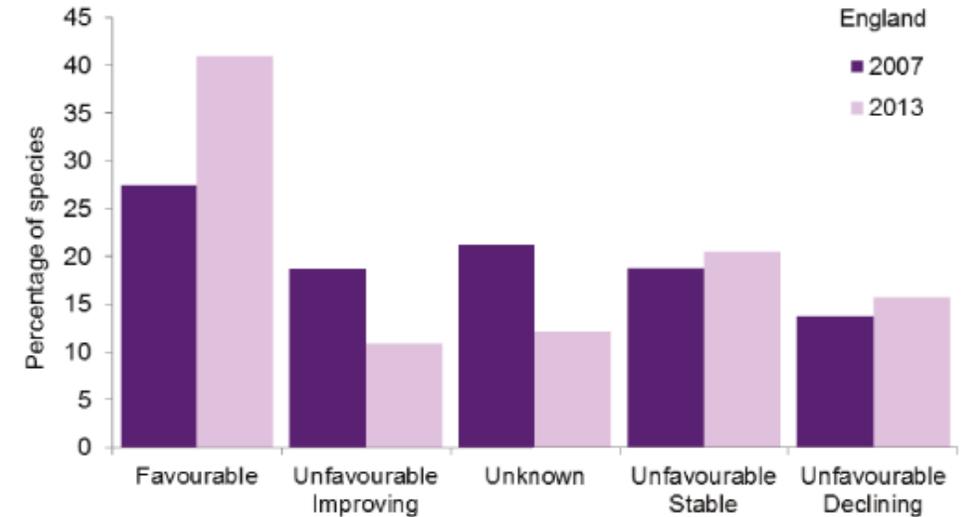
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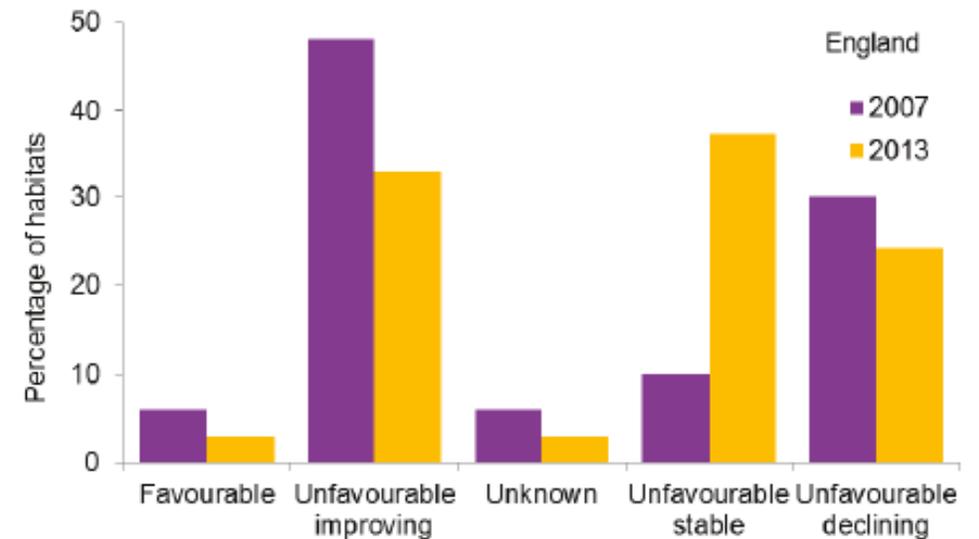
APPENDIX: CURRENT STATUS (ENGLAND)

Is current legislation working? It's a mixed picture

- 16 [of 54] measures show improvement in long- and short-term
 - SSSI in favourable condition
 - Percentage of European Protected Species in favourable or improving conservation status
- Measures that deteriorated
 - Breeding farmland birds
 - Butterflies of the wider countryside on farmland
 - Status of pollinating insects
- 56% of Annex I terrestrial habitats declined or remained unfavourable between 2007 and 2013
 - compared to 14% freshwater, 53% coastal and 43% marine
 - In particular, woodlands, grasslands and heathlands



% Change in Species Status in 2007 & 2013



% Change in Habitat Status in 2007 & 2013