

Countryside Alliance

Nature recovery green paper: Consultation response

11 May 2022

1. **What is your correspondence address? Please provide an email address or telephone number unless unable to. If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.**

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2. **Would you like your response to be confidential? Please see the confidentiality and data protection section at the end of this document.**

- Yes
- No
- If ticked 'Yes', please state why

3. **Please tell us in what capacity you are responding to the consultation by selecting from the following:**

- Individual
- Research organisation
- Sector trade body or membership organisation
- Ecologist
- Academic
- Planning consultant
- Developer or builder
- Local Authority
- Public body
- Non-governmental organisation
- Farmer
- Landowner
- Other (please state)

4. **If responding on behalf of an organisation, please provide the name of the organisation you are responding for.**

5. **Please indicate your specific areas of interest in responding to this consultation:**

- 30 by 30
- Protected sites
- Habitats Regulations assessment
- Trees and forests
- Species
- Green finance
- Marine: protected sites
- Marine: 30 by 30
- Arm's length bodies
- Cost recovery
- Environmental impact assessment
- Other (please specify)

6. Please indicate which location your response relates to, selecting from the following:

• **United Kingdom**

- England
- Northern Ireland
- Scotland
- Wales
- Other (please state, where)

7. What degree of reform do we need to ensure a simpler and more ecologically coherent network of terrestrial protected sites?

We would be particularly interested in your views of how we can have a coherent, effective and well-understood system of protections, as well as supporting the delivery of our legal binding species abundance target and other potential long-term targets. Please tick the option you prefer and explain your answer in the free text box.

• **Option 1: Reform including a tiered approach emulating the approach taken in the marine area for HPMAs and MPAs, consolidating existing protected site designations and the creation of highly protected sites**

• **Option 2: Lighter touch reform including streamlining existing site designations (SACs, SPAs, and SSSIs)**

• **Option 3: Amalgamation into a single type of designation with a scale of protections**

• Other

• No reform

• Do not know

We support Option 3 and believe that a single designation with a scale of protections would remove the overlap between the various existing designations and the overlap between regimes/processes which apply to those sites. It would also mean that once a site is designated the nature of any protection applying to that site could be focused on outcomes, rather than process. Some sites will require higher levels of protection than others. What matters is the outcome not whether the correct process has been followed and the need for protections and interventions to be site specific. This option also accords with the findings of the Habitats Regulations Review Working Group.

We oppose option 1 as we feel that this is a blunt instrument that would, as far as Highly Protected Areas are concerned, lead to serious restrictions or the prohibition of other activity, especially economic activity. This would be entirely counterproductive. Clearly, economic activity that causes serious or permanent damage to a site may need to be prohibited or restricted but this should be on a site specific basis and not a basic starting point for a designated site. Option 3 would allow for a more restrictive approach where necessary but the starting point should be permissive, not restrictive, and restrictions should be the minimum necessary to protect and improve the site based on a proper understanding of the site and the outcomes desired. Many economic activities such as shooting, farming etc have long taken place on protected sites and these activities pre-date the designation, which presumably means that these activities are not incompatible with features of a site which led to its designation in the first place.

Game shooting has been part of the fabric of the British countryside for the past three centuries, and its associated land management practices have played a major part in forming our most iconic landscapes. Thanks to shooting, many species have been saved from the

brink of extinction¹ and throughout the country, land has been diverted from intensive agriculture and managed in a way that provides habitat and protection for a myriad of species alongside game.

Game shooting is one of the primary drivers of conservation throughout the UK. Shoot owners and managers spend £250 million of private investment on conservation schemes. Shoot participants contribute 3.9 million voluntary days each year to conservation projects². This level of effort is by far the greatest contribution to our wildlife of any private group and comes at no cost to the taxpayer. Crucially, these contributions take place because they have an economic output in the form of shooting. A UK without game shooting is a UK with 62,000 fewer acres of cover crops, which provide vital food and shelter for a myriad of species. Many of our Sites of Special Scientific Interest (SSSIs), Special Protection Areas (SPA), and Special Areas of Conservation (SAC) have these designations thanks to generations of management for game shooting. It is vital for our flora and fauna that this management continues.

The legal control of predators is an essential part of game management which is carried out by shoots to enable wild game – which are ground nesting birds – to successfully rear young. Predator control is also vital in helping maintain populations of rare ground nesting birds and waders. These species, such as curlew, the UK's bird of highest conservation concern, lapwing and grey partridges, tend to flourish on kept ground, and the RSPB likewise undertakes control methods on their nature reserves. Peer reviewed research undertaken by the Game and Wildlife Conservation Trust (GWCT) has also shown that conducting predator control has a major impact on maintaining populations of ground nesting birds, without having an excessive impact on the population of predator species³.

In the UK, shooting providers have management responsibilities over some 14 million hectares. That is around two-thirds of the total rural land mass. Within this area, active shoot management – managing heather moorlands, and planting trees and hedgerows, for instance – is undertaken on nearly two million hectares, which represents 12% of the UK's rural land. This is more than ten times the total area of all national and local nature reserves.

Research by the Game and Wildlife Conservation Trust shows that in 2012/13, shoots managed 500,000 hectares of woodland, and 100,000 hectares of copse that had been specifically planted to shelter game. Woodland managed for shooting, rather than for commercial timber production, provides richer and more varied habitat, and in the wide woodland rides required for shooting, there can be four times as many butterflies as on the woodland edge.

Similarly, grouse moor management has played a key role in creating and maintaining our upland landscape, preserving and improving heather habitat and peatland, sustaining some of our rarest plants and wildlife, and promoting biodiversity. It is because of their management for grouse shooting that more than 60% of England's upland Sites of Special Scientific Interest are managed grouse moors, and over 40% have also been designated as Special Protection Areas for rare birds and Special Areas of Conservation for rare vegetation under the EU Birds and Habitats Directives. The role of grouse shooting has been widely recognised, including by the EU.

¹ Ewald, J.A., Potts, G.R., & Aebischer, N.J. (2012). *Restoration of a wild grey partridge shoot: a major development in the Sussex study*, UK. *Animal Biodiversity and Conservation*, 35: 363-369.

² Public and Corporate Economic Consultants (PACEC). (2014) *The Value of Shooting*: 3.

³ Tapper, S.C., Potts, G.R., & Brockless, M.H. (1996). *The effect of an experimental reduction in predation pressure on the breeding success and population density of grey partridges *Perdix perdix**. *Journal of Applied Ecology*, 33: 965-978

Grouse moors are managed largely through the private investment of their owners, and they offer the most cost-effective model of upland management to the taxpayer. It is the sale of grouse shooting that helps fund the work of the gamekeepers which protects the unique upland habitat and the wildlife it supports. Grouse moor owners in England spend approximately £52.5 million every year on moorland management, equal to £1 million every week.

The contribution of economic and recreational activities must be seen as an integral part of a designated site, in fact often necessary in maintaining that site's habitat and character, provides a source of funding and supports the communities that will undertake the conservation work on the ground. Recognition of economic and community interests is reflected in the wording of the Bern Convention.

We would also note that the current system sees the precautionary principle that prevents or restricts activities that benefit nature recovery, such as shooting, while other potentially more damaging activities go largely unaddressed. This misapplication of the precautionary principle is one of the key problems with the way in which the existing system works and as the Habitats Regulations Assessment Review Working Group recognised must be addressed so that precaution is properly applied for the benefit of nature rather than in a way that does more harm than good.

8. What degree of reform for the marine protected area network do we need to meet our biodiversity objectives and commitments? Please tick the option you prefer and briefly explain your preference and what benefits or risks it may have in the free text box.

• **Option 1: Reform including a tiered approach consolidating existing protected site designations and the creation of highly protected sites.**

• **Option 2: Continuing to manage existing site designations (SACs, SPAs, and MCZs) similarly, streamlining our approach by to refer to them all as Marine Protected Areas (MPAs).**

• **Option 3: Amalgamation into a single type of designation with a scale of protections.**

• **Other**

• **No reform**

• **Do not know**

We believe the same arguments apply to marine protected areas (MPAs) as to terrestrial designations. We also believe that MPAs should not extend to intertidal areas to avoid confusion and ensure there is clarity between marine and terrestrial designations.

9. Do you agree that there should be a single process for terrestrial designation?

We would be particularly interested in your views on how this might best be done for example, should decisions be vested in the appropriate authority [ministers] on the advice of its nature conservation bodies? Please tick the option you prefer and explain your answer in the free text box.

• **Yes**

• **No**

• **Unsure**

As part of the simplification of designations, we agree that there should be a single process that applies to all designations. Having a single process does not prevent differing Nature recovery green paper: Countryside Alliance consultation 11.05.22

requirements applying to different sites. What it will ensure is greater clarity for all those involved and avoid the confusion and inconsistencies resulting from differing legal regimes. It will ensure that each site is objectively assessed, desired objectives/outcomes identified and a regime put in place which is proportionate and relevant to each given site. The objective should be to adopt the least restrictive approach possible to achieve not simply protection but the enhancement of a site. This will necessitate a proper and proportionate application of the precautionary principle.

We believe that nature conservation bodies should provide advice but that decisions should be taken by ministers on the proviso that decisions must be based on the best available scientific evidence, while balancing other factors of public interest such as economic, social and cultural considerations. Recent experience has demonstrated that Arm's Length Bodies are increasingly making decisions motivated by a desire to avoid possible litigation rather than on the evidence. Natural England's approach to heather burning and to wildlife licensing is in contrast to the more robust attitude taken by Defra, such as the recent defence of the Heather Burning Regulations following a legal challenge.

We would also note that any designation process should be a collaborative process with land managers and not a top down desk-based exercise.

The process must also enable sites to be de-designated where appropriate.

10. Should we reform the current feature-based approach to site selection and management to also allow for more dynamic ecological processes?

We would be particularly interested in your views of how our sites can be made more resilient to climate and other natural changes and can encompass wider purposes such as carbon sequestration. Briefly explain your answer in the free text box.

• Yes, for both terrestrial and marine sites

• Yes, for terrestrial sites only

• Yes, for marine sites only

• No, neither for marine nor terrestrial sites

• Unsure

It is increasingly recognised that site based feature designations are appropriate where a species is dependent on a particular site but that for populous species with wide ranges a different approach is needed, looking at the bigger picture in terms of dynamic ecological processes. Such an approach recognises that landscapes change, population ranges change and that nature recovery provides a wider number of ecosystem services. A more dynamic approach also reflects the challenges presented by climate change and advances in scientific understanding. It would also assist in a more landscape scale approach so that conservation is not seen as something static. For example, managing water on a catchment area basis is not only important for water resources and water quality but can also help nature by creating more connected areas of conservation and vital wildlife corridors.

11. How do we promote nature recovery beyond designated protected sites?

Biodiversity net gain and not protectionism should drive our approach to the natural environment. In promoting nature recovery beyond protected sites there must be recognition of the importance of economic activity and proper collaboration with owners of land. The new approach to farming support enables landowners to be rewarded for the conservation and nature recovery work they undertake via ELMs.

Designation is not currently something landowners welcome because too often it results in restrictions that hamper rather than encourage creative solutions. In addition, activities that

have long coexisted successfully alongside the habitat or species for which a site might be designated are suddenly considered harmful, even where any harm may be minimal and temporary. The recent legal challenge to the release of game birds on or near European protected sites is a case in point. The precautionary principle was invoked because the risk of harm could not be entirely disregarded. No consideration was given to the far greater harm that the loss of the associated wildlife management could have had by stopping or restricting activities whose presence often predates designation. Landowners are going to be more reluctant to engage in conservation projects if there is a risk that it will lead to further intervention, regulation and restriction.

The Government cannot achieve its environmental goals unless it works with the rural community, with farmers, gamekeepers etc. There also needs to be a recognition that lived, multigenerational experience is valid evidence. There is an increasing tendency for regulators to discount the evidence of those on the ground and insist on peer-reviewed science before making licensing decisions. This ever higher evidential threshold discourages or prevents much important management that would otherwise take place and contributes to, whether directly or indirectly, nature recovery and biodiversity net gain.

We would also suggest that the Government and regulators do more to recognise the enormous environmental contribution of the shooting and angling communities to the maintenance, restoration and enhancement of the natural environment and that these activities and the work of those involved is integrated into Nature Recovery Plans.

In a sense, there is a need for a cultural shift needed that sees landowners, shooters etc as key partners rather than needing to be subject to ever more regulation, control and micro-management.

12. Do you see a potential role for additional designations? Please provide detail in the free text box.

• Yes

• No

• Unsure

The simpler and more transparent the system the better. The focus needs to be on outcomes in terms of recovery and enhancement rather than simple protectionism. Simply designating a site does not lead to a positive improvement of itself. Given sufficient flexibility and incentives, land managers will willingly undertake the management of sites that really deliver results but not when the designation is a burden. Generally speaking, unless there is a site that has some habitat or species that is restricted to that site then not increasing the number of designations but supporting land managers and seeing management on a broader scale would deliver more for nature than the ridged and micro-managed system we have now.

13. Do you agree we should pursue the potential areas for reforms on assessments and consents?

• Yes

• No – keep as it is

• No – reform but not these areas or additional areas (please state, why)

The current way in which Habitats Regulations Assessment (HRA) system works, as well as the consenting system for SSSIs is ripe for reform and should be part of the creation of a single process, based on a simple single designation.

It has become increasingly clear that the HRA system is broken because of the increasingly restrictive application of the precautionary principle, more recent European court judgements

and the failure to distinguish the cases on their facts. The result is activities that may cause harm, even if that harm is neither serious nor permanent, are heavily restricted, while activities that are potentially more damaging over the long term remain unrestricted. Shooting and game bird releasing are heavily regulated but the greater impact from activities such as dog walking on the same sites and the fact that this is a far more negative impact on ground nesting birds etc is ignored. There is also no recognition of the benefits to wildlife and vulnerable species of the management associated with game shooting or the management of the uplands for grouse shooting as set out above.

We would refer back to the White Paper submitted to Lord Benyon's recent review of Habitats Regulations noting the findings of the Working Group and the recognition that the lack of clarity over the key terms within the Regulations has caused unnecessary problems for all involved in applying the Regulations and resulted in costly legal challenges. In particular, we believe that the application of the precautionary principle in more recent times is actually harming nature recovery, not aiding it. In our submission on the draft Environmental Principles we noted:

The opportunity of Brexit as the introduction to the draft statement says "opens the door to new opportunity; the chance to strengthen environmental protection and enhancement and to ensure that environmental principles are used consistently across government to guide policy making whilst supporting innovation and growth". We would suggest that part of the process is to ensure that the principles are understood and applied in a way which enhances both the environment and communities. That they are not 'gold plated' and that they are applied proportionately. The precautionary principle has increasingly been applied in a way that is counterproductive. The threat of legal challenge using the precautionary principle is increasingly driving environmental policy, which properly rests with ministers. As the European Commission's guidance on the principle makes clear, "what is an acceptable level of risk for the EU is a political responsibility." Now that the UK is outside the EU that "political responsibility" is a matter for the government and Parliament. The Alliance does not want to see a reduction in environmental protection, but also believes that the precautionary principle should once again be understood and applied based on a realistic assessment of risk and not become a weapon of protectionism.

The UK needs to adopt an understanding of the precautionary principle which includes the element of risk assessment. The debate surrounding the precautionary principle and how it should be understood and applied is of long standing. There has never been a single agreed view, although various court judgements, especially in some more recent European courts judgements have moved towards a view of the principle which seems not to recognise the relationship of the principle to risk. Some suggest that the precautionary principle is purely risk prevention (avoiding the possibility of harm) and does not include risk assessment (quantifying the risk of harm). Other definitions include both risk prevention and risk assessment.

We need an understanding of the 'precautionary principle' that recognises the prevention of harm and the need to evaluate risk, which will help prevent it being exploited by those who are opposed to a particular activity. It is important to note that the European Commission's guidance on the principle states that we should "avoid unwarranted recourse to the precautionary principle, as a disguised form of protectionism". The precautionary principle "is neither a politicisation of science or the acceptance of zero risk". The level of risk "is a political responsibility. It provides a reasoned and structured framework for action in the face of scientific uncertainty and shows that the precautionary principle is not a justification for ignoring scientific evidence and taking protectionist decisions."

Over the years the risk assessment element of the application of the precautionary principle has been eroded so that the level of risk which is acceptable is increasingly

low. This enables the principle to be invoked to ban or restrict activities, even where there is no evidence of existing harm. For example, those opposed to shooting have to do little more than suggest that there may be some harm caused by shooting activity to protected sites and invoke the precautionary principle and the regulator, Natural England, feels obliged to stop the activity, or heavily restrict it. The burden then falls not on those opposed to an activity to show serious irreversible damage but on those who have carried out an activity over many years to show that the activity does not cause any harm, not just “serious or irreversible” harm. This ‘reverse burden’ is unfair and disproportionate. There also seems to be no need to assess whether the intervention could cause more harm than it is aimed to prevent. Natural England and government apply the precautionary principle based on its most restrictive interpretation because they fear that if they do not they will face legal action from well-funded groups such as Wild Justice.

It is also notable that while the principle is applied to activities such as shooting, largely due to anti shooting activists and threats of legal action, it is not applied to other activities which can cause harm, even greater harm, such as rambling or dog walking on protected sites.

We also understand that it has been applied to prevent scientific research being conducted. This makes it hard, or impossible, to obtain the evidence that there is no serious or irreversible harm. Those who wish to end shooting on sites simply suggest there may be damage; Natural England applies the precautionary principle (understood in its most restrictive version), and the research to demonstrate that no serious or reversal harm is being caused cannot take place.

We would suggest that the Statement provides an opportunity to clarify how the precautionary principle is applied and we would note the EU Commission’s guidance that:

“In addition, the general principles of risk management remain applicable when the precautionary principle is invoked. These are the following five principles:

- proportionality between the measures taken and the chosen level of protection;
- non-discrimination in application of the measures;
- consistency of the measures with similar measures already taken in similar situations or using similar approaches;
- examination of the benefits and costs of action or lack of action;
- review of the measures in the light of scientific developments.”

If the precautionary principle is not to continue to be weaponised in the courts and not to frustrate development, innovation, research and wildlife management, it needs to be clarified not simply in relation to policy making, but also by those who are responsible for its application as part of their regulatory role in environmental protection. The statement needs to make clear that the risk must relate to ‘serious and irreversible’ damage and define this; that the burden of proof in general rests on those alleging harm, unless the seriousness of the threat warrants a reversed burden; that the risk of harm caused by any intervention is assessed as well as risks from no intervention; and that an assessment of risk is an integral part of applying the precautionary principle in a fair, consistent and proportionate way.

There also needs to be a fair and open appeals process. We believe that reform of assessments and consents and the necessary changes to the Habitats Regulations should be an immediate priority for reform as is clear from the findings of the Habitats Regulations Assessment Review Working Group.

14. Should action be taken to address legacy consents? If 'Yes', we would particularly welcome your views on how this might be done in a cost-effective and fair way explaining your answers in the free text box.

• Yes

• No

• Unsure

As part of the simplification of the entire system, it will be necessary to address the issue of legacy consents to ensure that the consents are necessary and compatible with the designation. Given that revocation of consents can be appealed and subject to compensation, there may be merit rather than simply removing consents, conditioning them if necessary to ensure they operate in harmony with the objectives of the plan for the management of a given site. We recognise that this is a resource-intensive process, but is an essential part of creating a network of sites that are managed on an outcomes driven basis, recognising the broad range of interests in a site including economic and social interests.

15. Should we move to this more outcomes-focused approach to site management? Please tick the option you prefer and briefly explain your preference and what benefits it may have in the free text box.

• Yes, using Site Improvement Plans

• Yes, but building on Site Improvement Plans to offer a holistic site outcome plan

• No

• Other

• Unsure

We are strongly in favour of an outcomes-based approach and moving away from the tendency to micro-regulate activities. The current approach often hampers innovation and alternative approaches, as well as starting from a protectionist position, rather than an overall vision for a site and its improvement and enhancement. Site Improvement Plans (SIPs) should also take a more consistent approach when considering activities taking place on a site. At the moment potentially high impact activities such as dog walking go largely unassessed and unregulated but low impact activities which often predate designation, such as shooting, are subject to restrictions and controls that are often unnecessary and also fail to recognise the benefits of the management associated with that activity. There needs to be recognition that any plan for nature recovery needs to work with those on the ground, recognising local knowledge and experience and that top-down solutions are generally less effective and often lead to conflict and prevent creative approaches that are site-appropriate.

16. Do you have suggestions for how regulation 9 requirements should be reformed to support delivery of England's 2030 species target or other longterm biodiversity targets and to improve our natural environment? Please set out your answer briefly explaining what benefits it may have in the free text box.

• Yes

• No

• Unsure

Regulation 9 will need to be amended to allow for the changes discussed in question 13 in respect of the process and to reflect changes to clarify the disputed and problematic terms included in the retained Directives. We believe changes to regulation 9 and clarification of the

retained EU legacy law as far as HRAs and SSSI consent should be a priority and progress without further delay.

17. Do you have suggestions for how processes under Regulation 6 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 and sections 125 to 127 of the Marine and Coastal Access Act 2009 together could better deliver outcomes for the MPA network? Please explain your answer, these regulations are shared with devolved administrations, and therefore careful consideration will be given to any potential effects on these duties, with full evaluation following this consultation.

- Yes

- No

- Other

- Unsure

18. Do you have suggestions for improving the EIA scope and process for the Defra EIA regimes? We would particularly welcome your views on how they can more effectively help to reduce the environmental pressures outlined in chapters 3 and 4, deliver the objectives in the Environment Act, and facilitate sustainable development. Please tick all regimes that apply and explain your answer in the free text box.

- Yes – Marine Works EIA regime

- Yes – Forestry EIA regime

- Yes – Agriculture EIA regime

- Yes – Land Drainage EIA regime

- Yes – Water Resources EIA regime

- No

- Unsure

19. What are your views on our proposal to establish priority areas for afforestation?

We are fully supportive of increasing tree cover but on the basis of the England Trees Action Plan commitment that the right trees are planted in the right place and for the right reasons. It seems sensible to reduce the administrative burden where afforestation projects are concerned by reducing the requirement for a full Environmental Impact Assessment where the Forestry Commission has identified “low risk” areas. However, there is a need for more detailed proposals before we could comment further and any proposals must be developed with landowners and recognise pre-existing land use.

Afforestation must not be seen as a quick fix for either the public or private sectors to meet environmental targets, especially if this were to result in the loss of productive agricultural land. Afforestation is considered in the green paper in terms of risk to surrounding habitats, but consideration also needs to be given to impact on longer-term food security etc.

Establishing priority areas must also be fully integrated with Local Nature Recovery Strategies and within designated sites with the site management plan for that site. Afforestation projects also need to be accompanied by a proper plan of management, including proper management of predators and species such as deer.

20. What are your views on our proposed criteria to achieving our 30 by 30 commitment?

We are keen to hear views on the proposed approach for assessing Protected Areas set out under 4.1 and suggestions for areas of land we should consider as OECMs in England under section 4.1.0

Clearly, the reforms identified in part 3 of the paper will be essential if existing protected areas are to deliver for nature recovery as the majority part of the land is protected for 30 by 30 purposes and in turn as part of the wider Nature Recovery Network.

We are broadly content with the approach proposed for assessing protected areas but would like more detail.

We recognise that introducing OECMs as envisaged by the Convention of Biological Diversity could assist in meeting the 30 by 30 target. Most land does not have conservation as its primary management objective and many of these areas are biodiversity rich and could meet the criteria for OECMs. Indeed, this may be especially true for areas where shooting is established due to the greater biodiversity associated with the associated wildlife and habitat management. While the Green Paper states that OECMs will not be formally designated under national legislation there must be “sustained governance and management”. It is unclear why a landowner would wish to see land classified/registered as OECMs when there appears to be no benefit in doing so, and a substantial risk of state interference. What is to prevent OECMs from being transformed into a designated site?

For OECMs to work and contribute to the 30 by 30 target it needs to be clear what the benefits and incentives are for those who own these sites and what safeguards there are that will protect existing activities on that land and not lead to the formal designation.

We are also concerned by the suggestion that rewilding includes the simple abandonment of land. We do not think simply withdrawing from the management of wildlife and habitats will in most cases lead to biodiversity net gain. Land needs to be managed sustainably. This has been amply demonstrated on grouse moors where species abundance is greater on managed moors as opposed to unmanaged moors.

Similarly, the reintroduction of species, such as beaver, needs to be subject to proper monitoring and a plan which allows for the management of those species, balancing competing interests.

21. What are your views on our proposal to reform forestry governance and strengthen protections for the Nation’s Forests?

We are keen to hear views on any additional powers and statutory duties we should consider that would help to deliver on the benefits of woodland beyond timber production.

We are supportive of the Government’s commitment to no net loss to the size of the nation’s forests and to strengthening protections. We are also supportive of the Government’s ambitions for tree planting, subject to planting the right trees in the right place. We also agree that extending the UK Government’s forestry body’s duties beyond timber production and conservation of natural beauty areas to include a duty to protect nature and enhance biodiversity. These additional duties should be matched by proper management plans, recognising the import contribution made by shooting, especially in terms of pest and predator control and deer management.

22. What are your views on our proposal to adjust forestry permanency requirements for certain project types?

We agree that there needs to be greater flexibility that would encourage landowners to undertake tree planting without being bound by a permanency requirement.

23. Do you agree with the proposed changes to the UK Marine Strategy (UKMS) delivery programme, and if not, what other changes would you make to streamline the reporting of UKMS? Please explain whether you agree with these changes and provide reasoning. If required, please outline any additional proposed changes that will help us achieve the stated goals. When you respond please highlight your experience and make us aware of any evidence you can share that supports your view.

- Yes
- No
- **Unsure**

24. Do you support the approach set out to split the high-level Good Environmental Status (GES) target into individual descriptor level GES targets?

- **Yes**
- No
- Unsure

25. Do you agree we should pursue the potential areas for reforms for species?

- **Yes**
- No – keep as it is
- No – reform but not these areas or additional areas (please state, why)

The current system for the protection of species is not working. We have the untenable situation in which some successful and abundant species enjoy a high level of protection, to the detriment of less abundant and more vulnerable species. What is needed is a system that enshrines wildlife management in law, ensuring a balance between species. Simply protecting some species regardless of the impact on others is not sustainable. While respecting our international obligations we agree that we need “cohesive legislation on protected sites and species, tailored to British biodiversity”. The system needs to be flexible to respond to changing species status and the impacts of climate change, which is changing migratory patterns and species ranges, as well as habitats.

We would note at the moment that the current reliance on the BOCC classification of bird species leads to perverse results with populations judged in terms of European populations, which results in a status that does not always reflect the status of species in the UK. There also needs to be a recognition that quarry species of conservation concern should remain quarry species based on the principle of sustainable harvest a principle recognised under the Birds Directive.

The current problems with our approach to species protection are reflected in the ongoing issues around wildlife licensing under the 1981 Act. For example, rook has been removed from the General Licence for protecting wild birds despite being abundant and recognised as posing a risk to the most vulnerable species. However, given Defra’s view that the science was uncertain, they opted to remove the rook on the basis of the precautionary principle, despite the very likely harm this will cause to red listed birds. Similarly, Natural England has set the evidential bar so high for some individual licences that in practice they are not issued, or by the time sufficient evidence has been gathered the damage has been done. There is also a failure to grant licences for the control of raptor species despite the health and rapid growth of most raptor populations in recent years. Buzzards are an example. There should be a distinction in granting a licence based on species type, or a characteristic of the applicant.

26. Based on your knowledge and experience please can you tick the criteria below that you think we should use to determine what level of protection a species should be given? You can tick more than one box.

- Threat of local or national extinction
- Welfare of wild animals
- Controls in trade
- Importance to the ecosystem (a species that has a disproportionate beneficial effect on an ecosystem and if they are not present the ecosystem will be in danger of collapse).
- Promoting recovery (a species with a low or declining population, which may not yet have a threatened conservation status, but could be protected to support recovery and increased distribution).
- Importance to genetic biodiversity (endemic species or sub-species within England that are important for the wider genetic diversity of the species).
- Management requirements (a species where management is required for public health, to protect agriculture, commercial interests and to protect habitats)
- Socio-economic importance (a species that could be protected to benefit people and communities, for example, to promote tourism)
- To support efforts to reintroduce species or rewild habitats.
- Unsure
- **Other – please state, why.**

Different species and habitats will require differing levels of protection and depending on the species or habitat in question any of the criteria above may apply. The tiered approach to species and habitat protection set out in the green paper seems to us a sensible approach that allows some or all of the factors above to be considered. What matters is the outcome, which is a healthy and sustainable balance of species taking account of local and national considerations, as well as the interests of local communities and businesses.

What must be avoided is a system that prevents the management of a given species which then causes harm to other species. There would also need to be clarity as to what the evidential basis is to be used to determine the level of protection to be applied. One of the issues with current wildlife licensing is the increasing demand for a level of evidential proof, coupled with a misapplication of the precautionary principle which makes it even harder to meet the threshold to get a licence to manage species.

Local multigenerational knowledge and experience is disregarded to the point that nature recovery is actually hampered or made impossible. Protectionism results in degraded habitats and biodiversity in many situations and fails to recognise the benefits of the management of landowners, gamekeepers associated not just with protected sites but across the wider environment.

What will be key is a flexible tiered system that can respond to changing situations for individual species. There should be a presumption that species should be allowed to be managed unless there is a good reason to apply a level of protection.

27. What proposals should we look at to improve our current licensing regime? When you respond please state what you think is not working under the current licensing regime, which principles you think should be brought out in any new regime.

Please highlight your experience, as well as making us aware of any evidence you can share that supports your view.

The deficiencies of the current licensing regime are increasingly recognised especially in the system of Individual, Class and General Licences, especially in relation to wild birds. The General Licence was intended to allow for control of wild birds where it was recognised that there was a need to control a species for a recognised purpose and where that control represented no threat to the sustainability of the species covered by the licence. It was recognised that the management of predatory birds is undertaken on a preventative as well as a responsive basis. In recent years the granting of licences has been hampered by an ever higher evidential threshold expected by Natural England and a misapplication of the precautionary principle. The precautionary principle is applied in a way that ignores the harm that can be caused not simply by doing something but also by not doing something or by stopping something. The fact that the General Licence for conservation can only be relied on to protect the chicks and eggs of red and amber listed species fails to take account of the impact on species currently green listed of removing existing predator control, nor does there seem to be any plans to monitor the impact of this change.

The result is that General Licences are increasingly restrictive and burdensome and Individual Licences are not issued in a timely manner with the result that the very purpose for which the licensing system is supposed to exist is defeated. The result is damage to the most vulnerable species.

There is growing evidence that the granting of licences, and the terms of those licences, are based more on fear of litigation rather than the need of good wildlife management.

28. What proposals do you think would make our enforcement toolkit more effective at combatting wildlife offences? When you respond please highlight your experience, as well as making us aware of any evidence you can share that supports your view.

Current proposals seem to focus on increased penalties and further offences. While the existing regime of offences and penalties relating to wildlife crime is complex and not always consistent, the issue, as with most law enforcement, is a need for greater resources for the police and courts. There is also a need for wider education.

While the Countryside Alliance condemns any wildlife crime, the ever-increasing restrictions that prevent a proper wildlife management regime and achieving a balance not only between species but between wildlife and human interests can drive criminal activity. In this context having a fair, proportionate set of laws, licences and designations which the Green Paper recognises are needed, may in itself help reduce criminal activity. As with the Hen Harrier Recovery Plan, policy needs to address the causes of wildlife crime, and areas of conflict between wildlife and human interests where people feel that they have no choice but to take unlawful action to protect fundamental interests. That is not to excuse offences but to suggest that a more holistic approach is needed in some of these areas to find solutions.

29. What are the most important functions and duties delivered by Defra group ALBs to support our long-term environmental goals?

No comment.

30. Where are there overlaps, duplication or boundary issues between ALBs, or between ALBs and government? How could these be addressed?

No comment

31. What are the benefits and risks of bringing all environmental regulation into a single body?

No comment

32. What are the opportunities for consolidating environmental delivery functions into a single body? Which programmes and activities would this include?

No comment.

33. Please provide your views on how more effective cost recovery for regulation would affect: a) environmental protections b) businesses.

It is important to recognise that the management and work of conservation done by landowners, shooters, grouse moor owners already comes at little or no cost to the public purse. Those who own land subject to designation or other oversight by the state have, in most cases, had that designation imposed on them with the additional burdens, costs and restrictions that can come with that. Their conservation effort and management are a public benefit. Similarly, those who manage predators benefit more vulnerable species and support species recovery as a whole.

At a time when the Government are seeking co-operation from landowners and farmers to deliver environmental outcomes, any suggestion that yet more costs will be applied is unlikely to incentivise co-operation. The Government should be very careful about any cost recovery proposal and how it could undermine environmental work, being additional cost individuals or businesses may be unwilling to bear. It could in some instances be counterproductive and discourage conservation work, or activities that have a conservation benefit.

The Green Paper suggests that cost recovery should be approached on the polluter pays principle where regulated persons should pay more of the cost of activities that are potentially harmful to the environment. We would note the reference to “potentially harmful” as opposed to where harm has or will actually occur. This may make sense when considering a project such as harbour dredging etc but is not the basis on which to approach things like individual licences to control pest birds. Similarly, if the Government wants landowners to plant areas of woodland, then additional costs are a disincentive.

We would also suggest that any money raised is ring-fenced to ensure delivery of the more “reliable and speedy” services the Government envisages.

34. What is the most efficient way of ensuring businesses and regulated persons pay an appropriate share of the cost of regulation.

There is clearly a difference between environmental regulation associated with a major development project, such as a housing development or harbour development and much of the invaluable day-to-day conservation work undertaken by land managers, keepers etc. much of which results in a substantial environmental net gain at no cost to the public purse. For example, grouse moors are managed largely through the private investment of their owners, and they offer the most cost-effective model of upland management to the taxpayer. It is the sale of grouse shooting that helps fund the work of the gamekeepers which protects the unique upland habitat and the wildlife it supports. Grouse moor owners in England spend approximately £52.5 million every year on moorland management, equal to £1 million every week. Any system must distinguish between those areas of regulation where cost recovery is appropriate and where it would both be inappropriate and disproportionate, failing to recognise that the conservation work done is of itself a benefit that amounts to a public cost saving.

35. What mechanisms should government explore to incentivise the private sector to shift towards nature-positive operations and investment?

No comment.

36. What level of regulation is needed to incentivise private investment in nature while ensuring additionality and environmental integrity?

What else should government be doing to facilitate the development of a market framework that provides investors, farmers and land managers, regulators and the public with confidence in the quality of privately financed nature projects?

No comment

37. What financial impact do you think the proposals set out in this green paper would have either on business (For example, landowners) or government?

Please let us know if you feel these proposals would have a significant impact on your business area, or if you think they would have an impact on public funds. For example, this could be about costs or if you think certain proposals would have a positive financial impact or create opportunities. Please tell us in what way you think these impacts would come about, which proposals would drive that change, and try to evidence any financial estimations of costs or benefits.

No comment.