



Natura – an NGO perspective

Richard Evans

Senior Conservation Policy Officer

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Outline

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- Protected areas – “in situ” conservation
- Natura 2000
 - Management
 - Plans & projects/HRA
 - Article 6(4)/IROPI
- Summary

Introduction

RSPB site safeguard casework:

- 1600 “live” cases annually (550 in Scotland)
- 700 new cases annually (235 in Scotland).
- More than one-third of new cases primarily to protect Natura 2000 interests.

(Based on data for 2009)

Protected areas

Protected areas

- Backbone of “*in situ*” nature conservation
- ~ 100 year history
 - National Trust manifesto (1895): “...*promote the permanent preservation, for the benefit of the nation, of lands, ...to preserve (so far practicable) their natural aspect.*”
 - Sierra Club (1892)
 - RSPB (1889)
- Increasing role for scientific theory
 - species-area curve (1930s)
 - SLOSS debate (1970s)

Protected areas - role

- Sample or represent the biodiversity of each region
- Separate this biodiversity from processes that threaten its persistence
- *“Once established, should promote the long-term survival of the species and other elements of biodiversity they contain by maintaining natural processes and viable populations and by excluding threats”*

Margules & Pressey 2000 *Nature*

Protected areas - they work!

- Protected areas facilitate species' range expansions

(Thomas *et al.* 2012 *PNAS*)

- Protecting important sites for biodiversity contributes to meeting global conservation targets

(Butchart *et al.* 2012 *PLoS ONE*)

- Protected areas act as establishment centres for species colonizing the UK

(Hiley *et al.* 2013 *Proc R Soc B*)

Protected areas - legislation

- National Parks & Access to the Countryside Act 1949 (SSSIs)
- Birds Directive (SPAs)
- Wildlife & Countryside Act 1981 (SSSIs)
- Habitats Directive (SACs)
- Conservation ... ["Habitats"] Regulations 1994
- Nature Conservation (Scotland) Act 2004 (SSSIs)

Natura 2000

- The blue riband nature conservation designation in Scotland
- 152* SPAs, ~1,206,000 ha
 - corncrake; golden eagle; seabirds
- 236** SACs, ~939,700 ha
 - Caledonian forest; blanket bog; machair

* excluding Solway Firth

** terrestrial sites; excluding 3 cross-border SACs with England

Natura 2000 – statutory purpose

- Article 3(1) Habitats Directive
 - This network, composed of sites hosting the natural habitat types listed in Annex I and habitats of the species listed in Annex II, shall **enable the natural habitat types and the species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status** in their natural range.

Natura 2000 - management

- Habitat management
 - Agri-environment
 - SSSI “underpinning”
- Assessment of plans & projects
 - Plan-led system
 - Project-level impacts
 - Important to get right at all stages
 - Guidance

Natura 2000 – plans & projects

- Article 6/Part IV (VI) process
 - Logical framework for decision-making in the public interest
 - High standard of tests reflects high level of biodiversity interest
 - Secures mitigation; or compensation where important projects unavoidably damage sites

Natura 2000 - management

- Article 6 Habitats Directive
 - 6(2) – overall obligation to protect Natura 2000 sites
 - 6(3) – avoiding damage by “plans & projects”
 - 6(4) - compensating damage from “plans & projects” where public interest outweighs public interest in leaving sites intact
- Overall objective to “maintain coherence” of the network (so that it can fulfil purpose set out in Art 3(1))

Natura 2000 - management

- Article 6(2)
 - Member States shall **take appropriate steps** to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

Natura 2000 – plans & projects

- **Article 6(3)/regulation 48 (61)**
 - Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

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Natura 2000 – plans & projects

- **Article 6(4)/regulation 49 (62)**
 - If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

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- **Article 6(4) – priority species & habitats**
 - Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

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Natura 2000 – Article 6(4)

- Article 6(4) – “IROPI”
 - Few examples
 - In UK:
 - 9 cases 2001-2006
 - 13 cases 2007-2012
 - Mainly flood defence plans & transport infrastructure
 - Most experience probably in Germany, in general and for SACs with priority species and habitats
- http://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm

Natura 2000 – Article 6(4)

- Article 6(4) – “IROPI”
 - No short cuts
 - Must quantify impact in order to be sure that compensatory measures are adequate
 - Assess the project as a whole
 - Assess impacts at the earliest practicable stage
 - Means to win-win conservation and development outcomes, in the public interest

Fitness Check of EU Nature Legislation

Fitness Check of EU Nature Legislation

- “As part of its Smart Regulation policy the Commission has initiated a Regulatory Fitness and Performance Programme (REFIT). Under the first stages of this programme, the Commission has reviewed the entire stock of EU legislation and decided on follow-up actions, one of which is to undertake a Fitness check of EU Nature legislation.”

Fitness Check of EU Nature Legislation

- Effectiveness (Have the objectives been met?)
- Efficiency (Were the costs involved reasonable?)
- Coherence (Does the policy complement other actions or are there contradictions?)
- Relevance (Is EU action still necessary?)
- EU added value (Can or could similar changes have been achieved at national/regional level, or did EU action provide clear added value?)

Fitness Check of EU Nature Legislation

In this context the fitness check will examine, among other things:

- Implementation and integration successes and problems
- The costs of implementation and of non-implementation of the legislation
- Opportunities for improving implementation and reducing administrative burden without compromising the integrity of the purpose of the directives
- The situation of implementation in different EU countries
- The views of key stakeholder groups

Fitness Check of EU Nature Legislation

The next steps in the process include:

- Launch of a Study Contract to support the Commission in collecting and assessing evidence for the fitness check (March/April 2014 to autumn 2015)
- **Public internet consultation (end 2014/start 2015)**
- EU assessment of Article 17 Habitats Directive and Article 12 Birds Directive national reports (first half of 2015)
- Stakeholder meeting at Green Week (June 2015) or another appropriate forum to discuss the preliminary outcome of the assessment
- The Commission will report on the findings of the Fitness check at the end 2015/early 2016.

Ribble gull licence JR

- Defra licences to cull c.20% herring & lesser b-b gulls on Ribble estuary SPA
- Nearby (BAE Systems) airfield - principal UK facility for developing, manufacturing and testing military aircraft
- Clear Article 6(4) “IROPI” grounds
- But licences granted on grounds “no adverse impact on site integrity”
- RSPB appeal rejected by High Court May 2014

<http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2014/1645.html>

Summary

- Site-based conservation – it works (up to a point)
- Natura 2000 network protects the best nature sites in Europe – cornerstone of EU biodiversity conservation
- Article 6 process/HRA is robust – fair conservation outcomes in the public interest
- Birds & Habitats Directives will be reviewed by EU
- Ribble case & conservation objectives