



Call for written evidence: Retained EU Law (Revocation and Reform) Bill

A response by National Parks England

November 2022

Introduction

1. National Parks England supports the policy-making process by co-ordinating the views of the nine English National Park Authorities. It is governed by the Chairs of the nine authorities. Our response represents the collective view of officers who are working within the policies established by the National Park Authorities (NPAs) and follows internal consultation amongst the officers. Individual National Park Authorities may submit separate comments, which will draw on the specific issues for their particular area.
2. We are happy for our response to be made publicly available and would be happy to discuss any of the points we make further if that would be helpful.

Summary

- The English National Parks cover nearly 10% of the country and are home to over 300,000 residents. The National Park Authorities offer written evidence from the perspective of planning authorities for areas designated under the EU Habitats Directive due to their international importance for nature conservation.
- The Government's response to the National Landscapes Review (January 2022) sets out a vision for National Parks as 'nature-rich' areas that drive forward nature recovery. Sites designated under the EU Habitats Directive are a key contributor to the biodiversity of our National Parks. The potential loss of the legal protections afforded through the EU Habitats Directive would be detrimental to the delivery of the statutory National Park purposes.
- Our experience across the English National Parks is that the EU Habitats Directive and regulations ensure impacts from plans and projects are properly considered, using a precautionary approach. Our response offers examples of where the appropriate application of the Habitats Directive has enabled the delivery of planned development alongside measures to protect the environment and deliver against national policy objectives.

Detailed response

3. Earlier this year the Government published their response to the National Landscapes Review covering National Parks and Areas of Outstanding Natural Beauty (AONBs) – see [Landscapes review \(National Parks and AONBs\): government response - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/landscapes-review-national-parks-and-aonbs) (January 2022).
4. The Government response recognises National Parks and AONBs as the nation's most iconic and beautiful places. It sets out a vision for “*A coherent national network of beautiful, nature-rich spaces that all parts of society can easily access and enjoy. Protected landscapes will support thriving local communities and economies, improve our public health and wellbeing, drive forward nature recovery, and build our resilience to climate change.*”
5. The Government's response to the National Landscapes Review highlights that England's protected landscapes (including National Parks) have enormous potential to deliver on national environmental ambitions, including the 25 Year Environment Plan goals, Environment Act 2021 forthcoming targets, and reaching net zero. Despite being less than one-quarter of land cover in England, protected landscapes are home to nearly half of all priority habitats in England, including 60% of deep peat, 34% of broadleaf woodland and nearly 88% of heather and acid grassland habitats.
6. Sites designated under the **EU Habitats Directive** are an important feature of England's National Parks and a key contributor to the biodiversity of the National Parks. For example, over a quarter of Dartmoor National Park is designated due to its international importance for nature conservation under the Habitats Directive. This figure increases to over half of the New Forest National Park. The EU Habitats Directive and associated regulations offer legal protection for internationally important habitats and species within our National Parks. Special Area of Conservation (SAC) and Special Protection Area (SPA) designations derived from the EU Habitats Directive cover some of the most iconic areas and important habitats of England's National Parks, including:
 - The Lake District High Fells SAC in the Lake District National Park
 - The North York Moors SAC in the North York Moors National Park
 - The North Pennine Moors SPA in the Yorkshire Dales National Park
 - The South Pennine Moors SAC in the Peak District National Park
 - The Dartmoor SAC in Dartmoor National Park
 - The New Forest SPA in the New Forest National Park
7. These range of designations mean that National Park Authorities are well placed to offer written evidence on the application of the current legal framework for these sites and the vital protection they provide to significant areas of our National Parks.
8. The EU Habitats Directive contains several key legal principles that are core to the protection of the features of our National Parks. These include:
 - (a) *The precautionary principle* – this is at the heart of the Directive and related regulations as a matter of law. Where there is reasonable scientific doubt as to an impact then decision makers must err on the side of caution. This precautionary approach ensures the protection of habitats and species.

- (b) *The consideration of 'in-combination impacts'* - each project or plan must consider likely effects either on its own, or in combination with other relevant plans or projects. Without this key principle being enshrined through the Directive and related regulations there is a real risk that small-scale impacts which cumulatively affect site integrity could be deemed 'de minimis' and allowed.
 - (c) *Applicable to all relevant 'plans and projects'* - this key principle ensures the impacts of plans and projects that may be outside the scope of the planning system are still considered. With increased national permitted development rights it is important the impacts of such projects on internationally protected habitats and species are still considered. The current EU Habitats Directive and related regulations enable this.
9. The protection afforded to habitats and species through the EU Habitats Directive provides clarity in the National Park Authorities' role as the statutory planning authority for their respective National Parks. Unlike other material considerations that are assessed and weighed in the planning balance, the protection afforded through the EU Habitats Directive is clear and is not open to negotiation. The potential loss of the legal protections afforded to important areas of our National Parks through the EU Habitats Directive would be immediately noticeable and detrimental to the delivery of the statutory National Park purposes.
10. Our experience across the English National Parks is that the EU Habitats Directive ensure impacts from plans and projects are properly considered, using a precautionary approach. The EU Habitats Directive and associated regulations, when properly applied, do not prohibit new development – they simply ensure the impacts from those developments are adequately considered and mitigated. Examples of the appropriate application of the Directive to address the potential impacts on the integrity of designated sites from planned development in National Parks include:
- *Recreational impacts of development in the New Forest National Park:* The New Forest National Park Authority has adopted a habitat mitigation scheme that enables planned development to contribute towards an agreed package of costed mitigation measures to address increased recreational impacts arising from new development. A similar mitigation scheme has been adopted for the Solent coast habitats also designated under the Habitats Directive. This strategic mitigation scheme applies across 14 local planning authorities, including the New Forest and South Downs National Park Authorities. Development continues to be delivered, with the mitigation measures helping protect the designated sites and improve the public's understanding of what makes them internationally important.
 - *Addressing impacts of development on water quality in the South Downs National Park:* The protected sites of the Solent and River Itchen are internationally important for their wildlife and are designated under the EU Habitats Directive. These sites are vulnerable to elevated nutrient (nitrogen and phosphorous) levels and planned new development contributes towards this. The South Downs National Park Authority assesses planning applications for new housing and other forms of overnight accommodation and development is required to demonstrate 'nutrient neutrality'. Under the legal provisions of the Habitats Directive, several nitrate offsetting schemes have been established in areas draining into the Solent. One

such scheme approved by Natural England and the South Downs National Park Authority is the development of a wetland area on Whitewool Stream, at the headwaters of the River Meon. The scheme reduces the level of nitrates in the watercourse and also delivers wider biodiversity benefits in the National Park.

11. In their roles as local planning authorities, National Park Authorities deal with proposals that trigger consideration of impacts on internationally designated sites on a regular basis. Our view is that the potential loss of the legal protections afforded by the EU Habitats Directive would significantly weaken our environment, even in the context of areas that benefits separately from National Park status.
12. The loss or amendment of the protections afforded by the EU Habitats Directive is likely to result in further declines in biodiversity and will undermine the Government's ability to secure the objectives of the 25-year Environment Plan. National Parks are identified as being key to driving national nature recovery and the loss of this important legislation will damage this goal.

National Parks England
7 November 2022