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Submitted to Nature Recovery Green Paper: Protected Sites and Species
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Introduction

1 What is your correspondence address?

Email address:
cwilliams@bats.org.uk

Telephone number:
07539326358

2 Would you like your response to be confidential?

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:

Non-governmental organisation

Provide 'other':

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

Provide a comment:
Bat Conservation Trust

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, Arm's-Length Bodies, Environmental Impact Assessment

Provide 'other':

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

United Kingdom

Provide 'other':

Protected Sites

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

Other

Provide a comment to explain your views:

Of the options for reform the only option that is not purely about a perception of simplification is Option 1. All the others offer nothing that will help with addressing the biodiversity crisis or achieving species recovery targets. However, there are large flaws in Option 1 as 'highly protected' status would only apply to a limited number of sites nationally and yet this is the only category where destructive economic activity might be limited. Given that development and infrastructure projects are a highly significant cause of biodiversity loss this is unlikely to lead to any improvement in the biodiversity crisis we face.

The consultation states that just 38% of the area of our protected sites on land are assessed to be in good condition. Firstly, it is important to point out that the current SSSI suite only represent a sub-set of the habitats/species of the same quality that exist. The same quality elsewhere has no protection. If the administration and maintenance of protected sites was well-resourced and if the protection had greater influence in planning, then the condition of these sites would be better. The lack of investment in Natural England staffing in the past decades, the cessation of Wildlife Enhancement Scheme resourcing (targeted specifically at SSSI) and damaging planning decisions in or in the vicinity of the SSSI

https://www.wcl.org.uk/docs/WCL_Achieving_30x30_Land_and_Sea_Report.pdf leading to degradation are key reasons for the lack of good condition currently being reported. Addressing these negative drivers is what is required to reverse the decline in the condition of protected sites. Recognising that SSSI only represent a sample of sites of importance for their habitats and species and giving those sites outside current SSSI status the same consideration and protection would be another vital step.

The suggestion of levelling down that seems prevalent in the consultation document would not help achieve the stated aim of creating an ecologically coherent network of terrestrial protected sites. All current SACs, SPAs, Ramsar sites and all SSSIs not currently also an SAC, SPA or Ramsar site designation should be levelled up to this stronger designation. A levelling up of protections, more management action and investment is imperative to give any chance of addressing the biodiversity crisis.

8 What degree of reform for the marine protected area network do we need to meet our biodiversity objectives and commitments?

Not Answered

Provide a comment to explain your views:

No comment as not our area of expertise

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

No

Provide a comment to explain your views:

No we do not agree that there should be a single process for terrestrial designation as proposed in the consultation document. Whilst many SACs and SPAs have underpinning SSSI designation that were in place first, it was the knowledge gained from the SSSI designation that led to the stronger SAC or SPA designation. SACs and SPAs are better protected than SSSI. On an SSSI the key protection is in the form of an 'Operation Likely to Damage' (OLD) list which users need to comply with. These are important and can be enforced by NE where contravened, although a lack of resourcing limits this. In the planning system impacts on SSSI must be taken into account but the record shows that this does not preclude damage to SSSI occurring. With SACs and SPAs requiring a Habitats Regulation Assessment, a greater level of protection is provided. Should all SSSI be given the additional protection afforded SACs and SPAs then this would be raising the bar and giving greater protection. However, if, as suggested, the designations are all given one name but there remain differences in the levels of protections provided then that is doing nothing to improve the levels of protections for habitats and species. Also it would be more confusing than a system where different levels of protections are at least recognisable by the different names assigned to them. We strongly assert that decisions must remain with nature conservation bodies. These decisions must be wholly based on ecological and process skills, knowledge and experience, all underpinned by science. These qualities are not held elsewhere. Current designations that fall to the SoS to sign-off are only after all the body of work has been carried out by the nature conservation body. The only conceivable purpose of giving greater powers away from the conservation bodies is to veto the science-based case made for other political reasons. Nature conservation and the massive biodiversity crisis needs to be addressed and cannot be subject to political vagaries

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

Unsure

Provide a comment to explain your views:

Nothing about this approach should in anyway downgrade the levels of protections already in place on designated sites. Assuming this approach relates only to newly designated sites then the key issue is to ensure that in considering these broader purposes that habitats and species recovery are ignored or undermined by, for instance, chasing carbon sequestration as a focus. There is much about getting it right for species (and for the habitats that support them) that by default also provides enhanced ecosystem services. Ensuring heterogeneity in provision is important for species recovery and can be a measure of the success of climate resilience. Any additional sites will raise the need for adequate resourcing for monitoring which does not happen for existing sites. Additional sites being designated in a coherent and ecologically led process would be good news but only if the protection and monitoring resources required were secured. To reiterate, nothing about this approach should in anyway downgrade the levels of protections already in place on designated sites.

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

Provide a comment to explain your views:

The suggestion in the consultation document for a Nature Recovery Network which has at the core of the network, our existing protected sites and existing areas of high value for biodiversity, including Local Wildlife Sites is to be applauded. This will strengthen provision for biodiversity by creating and restoring new habitat to provide both the space and ecological connectivity across the country that we know species rely on to thrive. There is some realisation that landowners will need an incentive to do this. The incentives to do this are not all new (the two schemes under ELM are a form of a long-standing agri-environment scheme) and do not have additional funds, although hopefully better focussed. Biodiversity Net Gain has an important assumption to onsite or adjacent to site wherever possible so the opportunities for financing this ambition seem restricted. The mention of conservation covenants is welcomed as doing something good for the biodiversity crisis today is of no value if 10, 20 etc years down the line that land is developed or intensively farmed. This is why it is so important to have appropriate monitoring in place. Across all consideration of nature recovery outside of current sites, key besides longevity is being assured of monitoring of quality and enforcement of deviation from agreed management and for the widespread problem of pollution. Who would do this and how it would be funding long into the future needs clarity. It is also important that planning authorities have a stronger requirement than to 'have regard' to areas identified by the LNRS. Rewilding is mentioned in the consultation document with regard to drawbacks and difficulties such as requiring non-traditional management, but management of sites should always be holistic and adaptable. In addition, rewilding covers a wide range of approaches and so should not be considered in a blanket way. Species Conservation Strategies should identify the range of measure needed to conserve species, which will include an area and extent of protected habitat, use of protected species legislation and regulation, incentivising land management through ELM and other financial incentives, advice and public engagement.

12 Do you see a potential role for additional designations?

Yes

Please provide detail in the free text box.:

Yes there is a role for additional new designations that protect land which is being managed to create new habitats and to enable nature to recover. It will be years or even decades before nature on these sites has recovered sufficiently for them to meet the strict criteria for current designated sites protections. We need a way of protecting these sites while they are still in recovery. However, this needs to be in addition to the first priority of investing in the protected sites already designated to ensure these are appropriately monitored and achieving ecological condition that supports and enhances the biodiversity for which they are important. With this secured then similar needs for resourcing would need to be in place for any additional designation if it is to be meaningful.

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

No – reform but not these areas or additional areas [please state]

Provide a comment to explain your views:

The consultation asserts that decisions are based as much on the threat of legal challenge as impacts of activities. This is not supportable as a statement as the only way a legal challenge can be mounted is if it is backed by evidence that the legal reasons for protection being given are not being adhered to. In those cases challenges are to be expected and to avoid them it is a case of ensuring that the protection given our wildlife is properly applied. The Habitats Regulation Assessment is a vital part of what has given our SACs and SPAs that vital extra level of protection without which our biodiversity losses on these sites would have been far greater. This proposal appears to be purely about simplification and offers nothing that aids in the biodiversity crisis or species recovery. Indeed it is bound to have the reverse affect and erode the status of species in England at an accelerated pace.

We would also comment that the apparent desire to move to individual judgements on assessments under the Habitats Regulations and away from uniformity is a concern. Whilst some evidence-based flexibility should be inherent in any system, the fairness of that system relies on the consistency of the process to ensure transparency and a level playing field. Earlier concerns in the consultation document about confusing people are not consistent with the approach put forward here. Not having any idea of an outcome from one case to another makes matters more complex, less predictable, more confusing, subjective and unfair. The outcome depending on the opinion of your case officer would be a large retrograde step both for the species and habitats protected by the legislation and for any users of the system. Surely to avoid a case officer being open to legal challenge what is needed is a clear, transparent, predictable and consistent approach. This removes the onus of individual challenge from case officers (as long as they carry out the process to protect species and habitats correctly) and will result in less challenges.

BCT strongly opposes the suggestion that protected sites, where options to avoid impacts are not possible, should be supported through strategic approaches including through increased

use of mitigation and compensation designed to maintain habitats and species strategically across the protected sites network. It is a huge retrograde step to so readily lose an area of sufficient importance to be designated. The major question here is how hard has the avoidance route been followed? The mitigation hierarchy that must be the first line of approach in any situation and must be enshrined in law and for protected sites (and species) this must be the only route with only the rarest exception. If a designated site can be so easily damaged or destroyed in this proposed process then the less well-protected proposed mitigation and compensation sites will have even less chance of being protected into the future. This appears to be permission to damage and/or destroy our most important sites.

In the consultation it is stated that 'The old EU directives such as the Habitats Directive had good intentions, but their interpretation has often led to high levels of legal uncertainty which can be corrosive to good governance. As Lord Justice Sullivan said in 2008 "the provisions in the Habitats Directive are intended to be an aid to effective environmental decision making, not a legal obstacle course".' We would counter this with the multiple red tape reviews that have taken place with regard the Habitats Regulations and associated Directive. All such thorough reviews, including Defra's own review in 2012 found the Habitats Regulations fit-for-purpose and the most recent Red Tape Initiative (RTI report, 2018) found that the legislation was fit for purpose but that the implementation of processes could be improved. Much work has been done towards this. At no point have any of the reviews found that interpretation could be corrosive to good governance. The RTI report recognises the value of existing laws for wildlife (including the Habitats Directives) and that better enforcement of those laws is needed.

14 Should action be taken to address legacy consents?

Yes

Provide a comment to explain your views:

Yes it would be welcome to revoke legacy consents that have the potential to damage habitats and species on SSSI. These should always have been time limited (as they are now). The changes in knowledge and legislation should be enough to apply these changes. We cannot comment on any consideration for compensation in cases where this is deemed appropriate.

15 Should we move to this more outcomes-focused approach to site management?

Other

Provide a comment to explain your views:

SIPs already exist and can be a useful tool. However, they are collaborative and are not a legal document so give NE no powers for when things go wrong, as they frequently do, despite SIPs being in place. Making them statutory will help with this but there needs to be a legal consenting process or the situation that is not good now can only get significantly worse. This appears to be another measure purely to simplify process and does nothing to strengthen the resolve to address the biodiversity crisis but instead to accelerate it.

16 Do you have suggestions for how regulation 9 requirements should be reformed to support delivery of England's 2030 species target or other long-term biodiversity targets and to improve our natural environment?

Yes

Provide a comment to explain your views:

Statutory nature and climate targets should be made statutory purposes for all existing public bodies, including the Forestry Commission and RPA. This will ensure the strength and commitment be able to address the climate and biodiversity crisis.

However, to note there should be a clear purpose in legislation that retains the current requirement for public authorities to exercise their nature conservation functions in compliance with the Habitats Regulations or any reformed legislation. This is vital as, for instance, in 2021 75 percent of offences against bats were during development. The proposed purpose should be to further the protection, enhancement and restoration of habitats, species, and nature.

17 Do you have suggestions for how processes under Regulation 6 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 and sections 125-127 of the Marine and Coastal Access Act 2009 together could better deliver outcomes for the MPA network? Please explain your answer.

Not Answered

Provide a comment:

No comment, not our field of expertise.

18 Do you have suggestions for improving the EIA scope and process for the Defra EIA regimes?

No

Please highlight if a comment refers to a specific regime.:

BCT is disappointed and concerned that all the context around the proposals for EIA and SEA are worded in such a way as to not link to delivering outcomes for our environment and wildlife. There is not enough detail to allow further consideration at this stage but 'sustainable development' being an oft used term needs to be challenged and economic and political drivers do not have a place in these decisions. The suggestion in the Green Paper that EIA regimes are embedded in decision making at the earliest stage is a positive one.

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

Provide a comment to explain your views:

The primary role of FC (despite having biodiversity and access considerations now in their portfolio) is to support forestry. NE is the balance in this to ensure biodiversity is not impacted by forestry activities. There are very biodiversity aware staff at FC and they have always worked well with NE who hold the wider expertise. The proposal that the EIA is replaced by the Forestry Commission doing an Afforestation Strategic Assessment would be highly inappropriate. It would be acceptable if this proposal was in addition to the EIA rather than replacing it. To assign this role to FC is making them the judge, jury and at times the accused. Once again the proposals in the green paper are not about protecting our failing biodiversity but about simplification, and removing knowledge and expertise will see greater damage to species recovery progress.

The establishment of low risk areas for afforestation that do not damage the environment seems to be completely counter to the aims of this green paper in aiding nature's recovery. Surely we should be looking for areas of highest opportunity? On that basis it is important this this is linked to the development and delivery of Local Nature Recovery Strategies.

In any plans for afforestation, the basic principle of 'right tree, right place' should be applied. The need for increasing our woodland cover should be driven by the dual needs of the biodiversity and climate crises. What is not acceptable is that carbon sequestration is placed above the importance of supporting biodiversity. New woodland cover offers so much more than carbon sequestration relating to reduced flooding events, better air and water quality and of course supporting biodiversity, especially once mature. Short term plantations of single non-native species of tree only support one of those important outcomes to any significant degree and can be damaging such as to water pH levels. Fast solutions driven by commercial profit have no place in a paper on Nature Recovery. Afforestation plans should at least avoid harm to other habitats, be evidence based taking impact to species into consideration including threatened as well as protected and priority species.

Delivering 30 by 30

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

Provide a comment to explain your views:

Protected areas can be an important part of delivering on 30 x30 but we understand why they are not currently able to be counted. To count towards this target they must be managed to deliver for nature in the long term, using evidence-based approaches and also be protected for nature in the long-term. Currently these protected landscapes provide many benefits for climate, people, heritage and culture, but are struggling to achieve the levels of recovery for nature that are needed. Large parts of these protected areas are in a poor condition for nature. Protected landscapes can make a significant contribution to improving the condition of protected sites within their boundaries, as well as improving the state of nature across the countryside, and must fulfil this contribution in order for the Government to meet its 2030 species abundance target, other targets under the Environment Act, and its international commitments including 30x30.

To help address this situation it is important that protected areas should have effective governance which means people on boards with expertise (professional and lived experience) across the National Park and AONB statutory purposes. There needs to be a much greater proportion of board members needing to be appointed for their expertise in protected landscapes' purposes by amending the current legislative requirements for 75% of most boards to be appointed from local councillors.

Monitoring needs to be in place that informs the long-term management of protected areas so that they meet conservation goals. This will require substantial and sustained funding and resourcing. Any monitoring approaches and data infrastructure should be joined up with Local Nature Recovery

Strategies and Environmental Land Management schemes. National Park Authorities (NPAs) and AONB teams should have a formal role in contributing to the development and governance of relevant LNRs and should lead and convene partnerships to deliver the relevant measures identified within them and actions set out in Management Plans.

On OECMs ancient woodland should be able to contribute, but in much the same way as protected landscapes. However, investment in our knowledge (the Ancient Woodland Inventory overdue for updating) and the apparent disregard for their status when it comes to planning and Nationally Significant Infrastructure Projects resulting in the destruction and damage of this irreplaceable habitat hamper the applicability. If by aiming to count ancient woodland towards this target these issues are rectified, then it will be a positive outcome.

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

Provide a comment to explain your views:

The consideration of introducing a new duty to protect nature and promote biodiversity, alongside expanded powers to deliver these duties is most welcome. This would contribute to the Environment Act target of halting the decline in species abundance by 2030, as well as wider biodiversity targets and ensure biodiversity is truly taken into account within all its functions. As Nature Recovery is the crux of the consultation paper it is vital to be clear about what proportion of the forest cover in question is native woodland and of value to the vast diversity and abundance of wildlife that relies on it; or non-native plantation woodland with much reduced value for Nature Recovery. As this question is about the public forest estate then the majority will be commercial plantations then the recognition of the reduced importance to Nature Recovery needs to be reflected. However, the public forest estate has an unparalleled level of potential habitat for restoration, with the largest area of both ancient woodland and other Government priority open habitats such as lowland heathland under plantation forestry.

For native woodland, there is a big push for 'management'. With the full range of niches that our woodlands provide for species often restricted to those niches, the term should always be 'appropriate management' and based on the value it has for biodiversity and species recovery and governed by that. On the ambition to plant more trees, there is a need to consider the 'right tree, right place' approach and the need to think about long term planting of native woodland. To reiterate that growing commercial crops for carbon sequestration is only one small element of what tree cover can provide. Native woodland offers so much more than carbon sequestration including reduced flooding events, better air and water quality and of course supporting biodiversity. When looking at nature-based solutions that can address carbon sequestration for climate mitigation, we must learn from the past, and avoid fast-growing plantations that can lead to poor biodiversity. Different strategies for carbon sequestration should be considered. We should look long term and consider planting native broadleaf trees that are then left to grow for 100+ years. These will store as much carbon as conifers while providing better opportunities for biodiversity (Alonso, I. 2012).

This is the chance to ensure that alongside timber production there is a balanced need for nature to recover and thrive.

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

Provide a comment to explain your views:

The Forestry Act prevents illegal felling and deforestation, and essentially ensures most new woodland planted is permanent by subjecting the owner to a requirement to restock in the case of felling. What needs to be reflected is that the majority of such cases relate to commercial plantations usually of non-native tree species and with reduced value to biodiversity mentioned above. It can even mean replanting on what was a different valuable habitat in the past. Certainly not about Nature Recovery.

We are unsure why this proposal is in the chapter on 30x30. It is highly unlikely that these types of planting schemes would count toward 30x30 in any instance, but if the trees are not permanent, they would certainly not be able to count. In fact it is unclear why this is being considered in this paper at all. The consideration given in the paper for removing the permanence of forestry, short rotation coppice, agroforestry or orchards has no link to the biodiversity crisis or Species or Nature Recovery. We are surprised to see a wish for non-permanence on the valued habitat so often provided by orchards. Taking a Nature Recovery viewpoint this makes the proposed allowance of trees and woodlands to be planted on an impermanent basis in a wider variety of circumstances counter intuitive. There may be a small number of cases where this could be a valid option but on the whole, for Nature's Recovery, this can only be seen as a retrograde step unless this has a clear and limited sphere of application and strict conditions attached. Both the climate and nature benefits of trees increase with the time they spend in the ground, both in terms of carbon stored and complex ecosystems developed. Instead of removing permanency the government should increase incentives to landowners/agri businesses to plant appropriate tree cover to support biodiversity as part of ecosystem services.

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?

Not Answered

Provide a comment to explain your views:

No comment, not our field of expertise

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

Not Answered

Provide a comment to explain your views:

No comment, not our field of expertise

Species

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

No – reform but not these areas or additional areas [please state]

Provide a comment to explain your views:

Firstly to comment that this is such a short section with so little detail that it is hard to respond on such vague levels of information on so fundamentally important a subject for Nature's Recovery and the species targets in the Environment Act.

The suggestions to consolidate the two key pieces of legislation (Wildlife and Countryside Act and Conservation of Habitats and Species Regulations) have merit and was the suggestion of the Law Commission when looking at wildlife legislation.

<https://www.lawcom.gov.uk/a-modern-legal-framework-for-protecting-and-managing-wildlife/> Importantly, the Law Commission review states that 'What we are recommending does not alter the levels of protection currently offered to wildlife but it will help people understand what their obligations and duties are in respect of wildlife, what they can and cannot do, and what to expect should they break the rules.'

However, we do not agree with the statement that the protection for species influenced by the EU Directives are not tailored to our specific species and environment. In the case of bats, the list of species protected was the same as the Wildlife and Countryside Act and the levels of protection given by the Habitat Regulations mirrored very closely the WCA protections as they were, with some strengthening and broadening. The only change that can be envisaged by this statement is to reduce those areas that had been strengthened by the Habitat Regulations. That would have no place in a document about Nature Recovery. We must ensure that any consolidation does not reduce the levels of protection currently in place.

It is hard to see the rationale behind the examples of levels of protection given.

In particular, Tier 2 is described as being similar to the Wildlife and Countryside Act and yet appears to be missing vital elements such as:

- 'intentionally or recklessly obstructs access to any structure or place which any such animal uses for shelter or protection'.
 - 'intentionally or recklessly damages or destroys any structure or place used any wild animal specified in Schedule 5 uses for shelter or protection'
- These are vital elements of protection and it is not clear why they are not included in the list given.

Tier 3 (Highly Protected) would appear to be the level that would achieve the current levels of protection afforded under the Habitat Regulations and the Wildlife and Countryside Act. It is not clear what species would be covered by this 'highly protected' category and no indication of what this would mean for bat conservation. It is clear that only Tier 3 would approach the necessary level of protection but so little detail is available as to make it impossible to comment further. It had been understood that the intention was to elevate species protection to enable Nature Recovery and achieving species recovery targets. However, from the small amount of information shared it looks like at best retaining what levels of protection we have but actually more likely to see that protection weakened or removed in some scale. Much more detail is needed before a proper consultation on this can be had.

Other areas listed in the Green Paper in relation to species protection reforms are licensing, enforcement and penalties.

Reform is already underway for bat licensing, with the Bat Earned Recognition (ER) Project Pilot in full swing and concurrently undergoing evaluation, with decisions imminent on roll out as business as usual. The project is a partnership between Natural England (NE), the Bat Conservation Trust (BCT) and the Chartered Institute for Ecology and Environmental Management (CIEEM). The project will implement a scheme of professional accreditation for applicants for bat mitigation licences (with the potential to expand this also to survey licences). The aims of the scheme are to (1) streamline licensing, (2) raise and maintain professional standards in bat mitigation work and (3) improve outcomes for bats. The project is well supported by stakeholders and will simplify and improve consistency in bat licensing, aims identified in the Green Paper.

Other projects are also underway looking at potential reforms to the bat regulatory system and the monitoring of outcomes from bat mitigation licensing. With respect to enforcement and penalties, the Green Paper identifies the need to rationalise and simplify enforcement tools available to the police and inspectors and improve consistency in penalties applied. The United Nations Office on Drugs and Crime: Wildlife and Forest Crime Analytic Toolkit Report (found here: https://www.unodc.org/documents/Wildlife/UK_Toolkit_Report.pdf) provided a set of recommendations on improving the enforcement of wildlife crime in the UK. The Bat Priority Delivery Group has extracted the relevant recommendations as their work plan for the coming year. It is essential that the relevant bodies are held accountable for the recommendations made in the UNODC report and any reform reflects these. Key recommendations are to review and align legislation (see above), make wildlife crime recordable and notifiable and develop sentencing guidelines.

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?

Other – please state

Provide a comment if 'Other':

Above all else it is vital that no native species protection is in any way reduced from the current level of protection in place. That is a fundamental first step on which BCT requires clarity and assurance.

Our choices would be (1,4,5,6,8,9 and possibly 2,3) for species not currently receiving legal protection are based on the need to avoid just considering extinction risk for the reasons given below and to avoid categories of consideration that are not related to Nature Recovery. We have put these selections under other as the first principle is most important – that no native species level of protection should be reduced.

The mention of the use of IUCN red listing raises concerns as it was not designed to be used for eligibility criteria. The IUCN's own guidance (IUCN Red List of Threatened Species) (section 2.4, page 19) states "The Red List should... not be interpreted as a means of priority setting (IUCN 2001, 2012b). The difference between measuring threats and assessing conservation priorities needs to be appreciated". The IUCN's guidance warns against using Red Listing alone to set conservation priorities whereas a system for assessing priorities for action will include numerous other factors concerning conservation action. In this sort of process it is all too easy to miss protection for species which have slowly been declining for decades. The recent trend nature of the categorisation could also see species at the comparative early stage of recovery, threatened with removal from schedules if Red List status 'improves' in the short time frame considered. This would then undermine hard won conservation successes. Whilst there are good categories included in the list for selection, a concern relates to species that are data deficient. The process needs to offer some flexibility for species which have deficient baseline data and where expert opinion states that protection is needed. To remedy our concerns two additional bullet points are needed: (i) species particularly vulnerable to human activities and (ii) expert opinion. These then tie the other contributions together.

To reiterate that these criteria are based solely on native species not already protected by the existing legislation. It is vital that no native species protection is in any way reduced from the current level of protection in place.

27 What proposals should we look at to improve our current licensing regime?

Provide a comment to explain your views:

Considering the current licensing regime for bats, NE service standard targets are not always being met (evidenced in NE's Wildlife Licensing Newsletter November 2021), suggesting significant under-resourcing for the increasing number of licence applications being submitted year on year (increased number of licence applications referred to here: <https://cieem.net/i-am/current-projects/earned-recognition/>). Additionally, there are shortfalls in the enforcement of licence conditions, the monitoring of outcomes for bats and the management/accessibility of data (as evidenced in BCT and CIEEM projects on bat roost mitigation, reports and papers found here <https://www.bats.org.uk/our-work/bearing-witness-for-wildlife/bat-roost-mitigation> and here <https://cieem.net/resource/bat-mitigation-guidance-report/>).

These shortfalls have already been recognised and licensing reforms proposed for bats in a range of formats.

The most notable of these is the recent pilot of the Earned Recognition Project (see above), for which BCT is a partner. The pilot has been widely welcomed as maintaining the levels of protection for bat species whilst ensuring an approach that benefits stakeholders and bats. Details can be found here: <https://www.bats.org.uk/our-work/project-collaborations-partnerships/earned-recognition-project>

Other projects are underway to work with stakeholders to appraise the effectiveness of the regulatory system for bat conservation and develop options to improve the monitoring system for bat regulation, the latter of which is being undertaken by BCT (detailed in NE's Wildlife Licensing Newsletter January 2022).

28 What proposals do you think would make our enforcement toolkit more effective at combatting wildlife offences?

Provide a comment to explain your views:

BCT has been active in the field of wildlife crime enforcement since 2001, through our Wildlife Crime Project and its predecessors (Bearing Witness for Wildlife and Investigations Project). Our Wildlife Crime Officer works in collaboration with members of the public, ecologists, bat groups, statutory agencies, police forces and the Crown Prosecution Service (CPS) on wildlife crime cases, with advice and guidance provided on 100-150 cases per annum. Bats are one of the seven wildlife crime priorities and the BCT project works strategically with the Bat Crime Priority Delivery Group (including The Partnership Against Wildlife Crime (PAW)), the CPS Community Council, the National Police Chiefs Council, the National Wildlife Crime Unit and statutory agencies) on areas such as crime prevention, national training and tactical advice. This group recently produced a Police Tactical Document on Investigating Bat Crime 2022.

Very little detail is provided in the Green Paper regarding an enforcement toolkit to combat wildlife offences and therefore it is difficult to provide informed commentary.

However, any reform should integrate effectively with the work that is already underway (e.g. see above). Importantly, the independent United Nations Office on Drugs and Crime recently published a report entitled Wildlife and Forest Crime Analytic Toolkit Report (found here:

https://www.unodc.org/documents/Wildlife/UK_Toolkit_Report.pdf). This provides a set of recommendations on improving the enforcement of wildlife crime in the UK. The Bat Priority Delivery Group have extracted the relevant recommendations as their work plan for the coming year. It is essential that the relevant bodies are held accountable for the recommendations made in the UNODC report and any reform reflects these. Key recommendations are to review and align legislation (see above), make wildlife crime recordable and notifiable and develop a sentencing guidelines to improve the consistency of penalties, although there are many others.

BCT welcomes the proposal to rationalise and simplify the enforcement tools available to the police or inspectors to investigate wildlife crime. However, there is so little detail given that it makes it very difficult to understand what the proposed toolkit looks like and therefore to comment on this further. We would comment that the proposal to harmonise minimum penalties ensure that this is to the highest end of the spectrum and does not reduce in any offences receiving a lower minimum than at present.

The comment in the consultation document that secondary legislation could be used to amend or modify lists of specific species or circumstances is of concern as no examples, protocols or safeguards around how this would be applied are given. We would assert that the powers must be subject safeguards to ensure the level of protection is maintained as a minimum and enhanced where appropriate. This is fundamental and vital.

Through BCT's Wildlife Crime Project our officer is working hard with the same aims as stated in the consultation document. Our priorities to achieve those aims are to:

- Make Wildlife Crime recordable and notifiable to the Home Office.
- Provide police training/resource for the increased workload that will result from the above.
- Provide CPS prosecutor/judge training/resource for the increased workload that will result from the above.
- Produce sentencing guidelines to improve consistency of fines and ensure they act as a deterrent.
- Produce guidelines on the use of Proceeds of Crime Act in wildlife crime cases.
- Allow for penalties resulting from prosecutions to provide conservation gain.
- Increase funding for crime prevention work,
- Maintain funding for the National Wildlife Crime Unit.

Delivering Nature Recovery

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

Provide a comment to explain your views:

The purpose for which ALBs were set-up is precisely to deliver on the vital duties linked to Nature Recovery and long-term environmental goals. ALBs hold all the specialist knowledge required. They are not subject to terms of office and are not subject to short-term pressures (except acute and chronic under-resourcing). ALBs are part of the civil service and therefore closely linked to Government. ALBs need to carry out the lead on all vital work linked to Nature Recovery and be adequately resourced to do so.

The consultation document asserts The Environment Act demonstrated the ability of elected governments to establish a new governance framework and a new set of environmental targets that give a long-term perspective, but the reality is that by far the greater part of this work was carried out by Natural England. Governments are not only subject to short terms in office and short-term pressures, but also do not hold the knowledge to support the important work required.

With regard to the statement saying Government being given power "to deliver the targets, freed from the distractions that have held back progress in recent decades." It is wholly unclear what those distractions have been and it is unprofessional and lacking in transparency to give this statement without

providing evidence and specific case studies. The only distractions of which BCT are aware are those of pressures of an economic nature for reducing protection for the environment. That is why ALBs are essential to stand up for biodiversity and the environment without being part of a political agenda. Therefore the suggestion to give Government complete control in this area is an extremely dangerous and damaging one when addressing the biodiversity and climate crises. We would strongly object to this course of action.

The track record of this Government in addressing and using scientific advice has lost the faith of many in their ability to be impartial and take an evidence-based approach to the protection of our environment and natural heritage.

We strongly assert that policy and decisions around designations should not be made at ministerial level beyond a final sign-off. These decisions and policy should align with established criteria and so science and evidence will denote these – as always in the past. As the vast amount of science and knowledge sits with ALBs and other specialists, it is hard to see on what grounds a minister could counter that evidence base and change any such decision on the grounds of achieving Nature Recovery and the targets in the Environment Act. That only leaves the minister with a role to go against the science and evidence and therefore act against Nature Recovery and the associated targets. We strongly object to this level of ministerial decision making and potentially biased interference.

A function for ALBs that could be improved is to give back the ability for them to be the Government's 'critical friend'. To expect Government to deliver for the environment without additional specialist advice is like expecting a locum GP to carry out brain surgery and would have the same disastrous consequences. Further, we recommend that the growth duty introduced under the Deregulation Act 2015 and all reference to duties on ALBs to make decisions guided by considerations of economic growth should be removed.

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

Provide a comment to explain your views:

It is unreasonable to say that some ALBs were designed to operate within EU frameworks when, whether at species protection or site level protection, the two are so closely in parallel that most ALBs were in existence before the EU legislation and continue doing much the same role now – so perfectly able to continue into the future. The degree of overlap is negligible, but improvement could be made to the new ELM scheme to fully integrate the woodland management aspect.

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

Provide a comment to explain your views:

The ALBs in the Defra group have already undergone reviews resulting in changes and amalgamations. The benefits they bring have also been reduced due to resourcing constraints. To bring these ALBs together would reduce the benefit even further and carry the following risks:

- cost a huge amount of resource to undergo such a merger and would be an unjustifiable waste of public money
- vital focus on tackling the biodiversity and climate crises would be lost and the most crucial time in this country's history
- as such it would work completely counter to the declared aims of the consultation paper to enable Nature Recovery
- it would cause widespread confusion to all stakeholders and members of the public who deal with these ALBs

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

Provide a comment to explain your views:

None, we oppose this approach.

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

Provide a comment to explain your views:

We agree with the polluter pays principle used as a foundation for effective cost recovery. This could help reduce impacts on the environment and give the protections some real meaning. Those businesses that incur financial impacts will be impacted in line with their violation of environment protections or, in business-as-usual cases will be valuing natural capital alongside other financial considerations. Financial burdens on businesses would be expected to be in line with their levels of damage to biodiversity and the degree to which they negatively impact the Environment Act targets.

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

Provide a comment to explain your views:

The polluter pay principle is a valid approach. But we would caution that where someone is in material breach of environmental law, they would have to pay for the time it takes the regulators to identify and remediate the breach to avoid cases where the breach actually saved industry more money than complying with the law and/or paying to "identify and remediate".

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

Provide a comment to explain your views:

No response.

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?

Provide a comment to explain your views:

We agree that with the right framework of standards, rules and data, the private sector can play its part in helping to deliver our ambitious nature goals, while guarding against 'greenwash' and 'double counting'.

However, there are dangers associated with it. Internalisation of polluters into the process requires careful policing to prevent "greenwashing" and influencing of decisions. Who will oversee this?

37 What financial impact do you think the proposals set out in this Green Paper would have either on business (e.g. landowners) or government?

Provide a comment to explain your views:

No response.