

# Sites of Special Scientific Interest (Designation) Bill: Briefing

## April 2024

### Key points

- The Sites of Special Scientific Interest (Designation) Bill, a Private Members Bill, would transfer the power to designate SSSI sites from Natural England to the Secretary of State for the Environment, Food and Rural Affairs.
- This would put in place a subjective, political exercise instead of the current expert-led, objective and thorough Natural England process, which assesses scientific evidence of environmental importance. This process has resulted in an SSSI network greatly valued by the public, which has made the UK a world leader in using scientific evidence to select precious sites for protection.
- Rather than offering genuine improvement on the current system, this Bill instead detracts from the real challenges that need addressing in relation to the management of SSSIs, namely:
  - The need for greater funding, both for Natural England to enable engagement with local communities and for farmers to support them improve the condition of SSSIs, through additional Environmental Land Management options.
  - The need to designate more sites quickly, to meet the Government's own environmental targets and to halt the decline of nature.
- The National Trust, RSPB, The Wildlife Trusts and Wildlife and Countryside Link urge parliamentarians to reject the Bill's turn away from evidence-based decision making and to instead increase funding and designation rates across the SSSI network.

### Introduction

Sites of Special Scientific Interest (SSSIs) provide important legal protections to natural habitats including woodlands, moorlands, meadows and freshwaters, and the species that depend upon them. These protections, and the special spaces and species they look after, contribute to productivity and resilience of the economy<sup>1</sup> are hugely valued by the public. A 'willingness to pay' research project undertaken in 2012 found that people were willing to pay £956 million annually to secure the levels of ecosystem services and benefits currently delivered by SSSI conservation activities, and a further £769 million to secure the benefits that would be delivered if SSSIs were all in favourable condition.<sup>2</sup>

Under the terms of the The National Parks and Access to the Countryside Act 1949, bolstered by provisions in the Wildlife and Countryside Act of 1981 and the Countryside and Rights of Way Act of 2000, Natural England has the power to designate any area of land which is of special interest by reason of its flora, fauna, geological, geomorphological, or physiographical features.

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<sup>1</sup> <https://www.nationaltrust.org.uk/services/media/tackling-the-nature-and-climate-crises-is-the-biggest-business-opportunity-this-century-say-industry-leaders>

<sup>2</sup> <https://www.sciencedirect.com/science/article/pii/S2212041612000095>

Over recent years, designation has taken place against a backdrop of declines in the abundance of flora and fauna. The 2023 State of Nature report revealed a 32% decline in the average abundance of English species since 1970, with 1 in 8 species now threatened with extinction.<sup>3</sup> This briefing sets out how the transfer of designation powers from Natural England to the Secretary of State for the Environment, Food and Rural Affairs, as proposed by the Sites of Special Scientific Interest (Designation) Bill<sup>4</sup>, would hinder rather help the response to this growing environmental crisis, whilst failing to improve engagement with SSSI processes.

The authors highlight that:

### **The current designation process is expert-led, objective and thorough**

The current Natural England process of designation is based on thorough assessment of available scientific evidence. The Joint Nature Conservation Committee, the expert body that advises the four UK Governments on conservation, sets detailed, objective guidelines for the consideration of possible SSSIs, which scientific teams at Natural England apply to determine whether early SSSI proposals should advance or not.<sup>5</sup> Months of assessment, featuring survey work, modelling and community consultation, lead to detailed proposals for sites which come through this scrutiny. A final decision is taken on the evidence by the Natural England board, drawn from a variety of relevant fields, all selected by the Secretary of State for their expertise and independent view.

These multiple rounds of evidence-driven selection and assessment, by teams of independent experts from a range of fields, results in a rigorous process. Consultation and transparency, at every stage, provides further checks and balances.

The contrast with the system suggested by the Private Members Bill, where the decision would lie entirely with the Secretary of State, is stark. A multi-layered, multi-teamed deliberative and independent process would be replaced by one decision maker, with no proposed structures to provide detailed assessment and ensure a balance of views. The supporters of the Bill have so far provided no detail about how the replacement process would be objective rather than subjective, and how long-term environmental needs would be protected against short term political considerations within it.

The current science-led approach will be doubly important as climate change intensifies the pressures SSSI's face. Designation will need to be fully informed by the latest evidence to keep England at the forefront of climate adaptation.

The need to retain expert, objective and thorough decision making on designations is also particularly important in light of ongoing species decline, and the commitments made to tackle those declines. These include the promise to ensure that at least 30% of land and sea is effectively managed and

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<sup>3</sup> [https://stateofnature.org.uk/wp-content/uploads/2023/09/TP25999-State-of-Nature-main-report\\_2023\\_FULL-DOC-v12.pdf](https://stateofnature.org.uk/wp-content/uploads/2023/09/TP25999-State-of-Nature-main-report_2023_FULL-DOC-v12.pdf) p154

<sup>4</sup> <https://hansard.parliament.uk/Commons/2024-03-13/debates/36366D3F-7077-4F42-899D-209EBF256E94/details>

<sup>5</sup> See <https://jncc.gov.uk/our-work/guidelines-for-selection-of-sssis/>

protected for nature by 2030 (known as '30x30') and the legally binding Environment Act target to halt the decline in the abundance of species, also by 2030. As the Office for Environmental Protection, the Government's nature watchdog, has observed concerning the Bill:

*"There are only six years to meet the 30 by 30 commitment and the species abundance target. To achieve government's stated objectives, reforms should be pursued that will clearly improve on current protections and support nature's recovery at pace. **Any process for selecting and designating protected sites should be clear, transparent, evidence-led and based on scientific factors.**"<sup>6</sup>*

The current process of designation meets these criteria, the alternative proposed by the Bill does not.

For the same reasons that the Government entrusts fiscal decision making to the Bank of England and sentencing guidelines to the Sentencing Council, Natural England should continue to lead on SSSI designations, to assure expert, objective and thorough decision making, at a time when it is needed more than ever.

### **Natural England respects non-environmental factors**

Whilst the designation process is rightly focussed on protecting the best places for nature based on scientific evidence, Natural England respects social and economic factors across its work.

The JNCC guidelines for SSSI selection open with recognition that *"Britain is largely a cultural landscape"* and reminds assessors of the cultural and economic value of land which may be designated.<sup>7</sup> More broadly, the general principles that inform all of Natural England's work include a requirement to contribute *"to social and economic well-being through management of the natural environment"*.<sup>8</sup>

This requirement to respect non-environmental factors can be seen in how Natural England manages the current SSSI network in England, 30% of which is covered by working farms.<sup>9</sup> In making decisions on SSSI management, such as giving (or refusing) a consent for actions that may damage the SSSI, Natural England is required to consider wider issues in line with its general duties on social and economic wellbeing. If a consent is refused/modified, the landowner has a right of appeal to the Secretary of State. Decisions on planning permissions in SSSIs are made by local authorities, with Natural England serving an advisory rather than decision making role.

Natural England invests a sizeable chunk of its limited resources working constructively with farmers to ensure they are supported to make any changes required to improve SSSI management, through schemes such as the Conservation Enhancement Scheme (CES), which funds work by farmers to improve the condition of SSSIs.<sup>10</sup> Natural England has expressed a desire to go further and has asked for extra

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<sup>6</sup> <https://www.endsreport.com/article/1865582/fears-political-power-grab-following-tabling-natural-england-power-stripping-bill>

<sup>7</sup> <https://data.jncc.gov.uk/data/dc6466a6-1c27-46a0-96c5-b9022774f292/SSSI-Guidelines-Part1-Rationale-2013.pdf> p3 &7

<sup>8</sup> <https://www.gov.uk/government/publications/natural-england-framework-document/natural-england-framework-document-2022>

<sup>9</sup> <https://publications.naturalengland.org.uk/publication/47003>

<sup>10</sup> <https://naturalengland.blog.gov.uk/2023/08/24/investing-in-sites-of-special-scientific-interest-sssis/>

Government funding to enable greater engagement with, and support for, the farming community. The statement made by Natural England's Chair Tony Juniper to Cornish farmers on designation of the West Penwith Moors & Downs SSSI in 2023 is indicative of the organisation's approach:

*"We very much understand the need for positive incentives for farmers operating on SSSIs. At present, scheme payments don't go far enough to reward farmers and we are advising Defra on ways they can address that and improve the offer to help farmers like those at West Penwith to move their businesses to maintain the SSSI interest. I am strongly of the view that those who manage SSSIs need to be properly incentivised for their efforts."*<sup>11</sup>

Whilst advocating for a larger incentive for SSSI land managers and farmers, Natural England uses the enforcement tools at its disposal relatively sparingly. As its 2011 'Protecting England's natural treasures' report on SSSI monitoring and management sets out:

*"The notification package for each site includes a list of activities that may damage its natural features and which cannot be undertaken without consent. However, it is usually possible to carry out many of these operations in certain ways or at specific times of year, or on certain parts of the SSSI, without damaging the features of interest. Therefore, in the vast majority of cases advisors are able to give consent... During the period 2009-2010, less than 1 per cent of requests for consent were refused, while a greater proportion were granted with conditions."*<sup>12</sup>

These figures from 2009 are the last publicly available numbers on consent requests across SSSIs. It is notable they relate to a time before the Natural England budget had been significantly cut (see more below), when resourcing allowed for close engagement with farmers and land managers.

As the Natural England Chair stated when West Penwith Moors & Downs SSSI was designated:

*"I would like to reassure farmers that the designation does not mean sudden changes to agriculture on Penwith. In most of the SSSI land there will be no significant impact on management. In a minority (around 10 per cent of land) we will work with farmers to help them gradually reduce the amount of lime, fertiliser and pesticide run-off into the precious valley mires. We have introduced a five-year transition period to give people time to move towards a lower-input approach and consider entering into Countryside Stewardship agreements which can reward them for farming in a more Nature-friendly way."*<sup>13</sup>

The idea that SSSI designation and management is somehow incompatible with farming and other commercial operations is highly misleading. Indeed, the UK's largest port complex, Immingham in Lincolnshire, was included within the bounds of the new Humber Estuary SSSI in 2004 and continues to thrive commercially.<sup>14</sup>

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<sup>11</sup> <https://naturalengland.blog.gov.uk/2023/07/04/farmers-key-to-success-of-magical-new-sssi/>

<sup>12</sup> <https://publications.naturalengland.org.uk/publication/47003>

<sup>13</sup> <https://naturalengland.blog.gov.uk/2023/07/04/farmers-key-to-success-of-magical-new-sssi/>

<sup>14</sup> <https://www.theguardian.com/society/2004/oct/23/environment.environment>

## The alternative would leave capacity and resourcing issues unaddressed

Natural England has acknowledged that over recent years some aspects of engagement with local communities have not been up to standard.<sup>15</sup>

The cause is not hard to find. In 2008-2009, Natural England's budget stood at £265m.<sup>16</sup> By 2019-20, it stood at £90m, a cut of two thirds over the decade.<sup>17</sup> Although recent years have seen moderate budget increases<sup>18</sup>, these are not at the scale required to infill the years of underspending, and the loss of capacity and expertise the cuts resulted in. Much of the increase is in the highly ring-fenced capital budget, leaving significant gaps in flexible, day-to-day revenue budgets that support "boots on the ground" for expert advice and consultation.

The impact of sustained funding restrictions can be seen across the range of Natural England activities, including in the SSSI network. Natural England told the House of Lords Environment and Climate Change Committee in 2022: *"between 2010-19 pro-active work on SSSIs essentially stopped due to Government funding cuts"*.<sup>19</sup> The impact of this has been particularly apparent in the decline of SSSI monitoring and management outputs.<sup>20</sup> Only 22% of SSSIs were visited by Natural England by assessment between 2015 and 2021.<sup>21</sup> This has contributed to a worrying decline in condition of SSSI's; in 2023 only 36.82% of SSSIs (by area) were in favourable condition (a decline from 39% in favourable condition from 2022).<sup>22</sup>

Put simply, the way to fix these capacity issues is by funding Natural England better, getting more boots on the ground, enabling more thorough local engagement. This could be achieved by restoring the level of Natural England officers on the ground and working with communities to 2008-2009 levels. The Department for the Environment, Food and Rural Affairs is currently finalising Natural England's financial settlement following the Budget and could reinforce Natural England's capacity to engage with communities and landowners with tailored, expert advice, from locally based staff who know the local sites, places and people. Transferring decision making to the Secretary of State's office in Whitehall heads in the opposite direction to this fix.

Similarly, increased Government funding is required to properly advise and reward farmers who manage SSSI land, as Natural England has advocated. There should be a dedicated, long-term fund to pay for positive SSSI management that delivers demonstrable ecological recovery, structured through multi-decade Environmental Land Management (ELM) agreements. Assessment work commissioned by the RSPB, National Trust and the Wildlife Trusts recommends that the overall farming budget rise by at least a billion a year to fund this and other nature imperatives.<sup>23</sup>

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<sup>15</sup> <https://naturalengland.blog.gov.uk/2023/12/12/dartmoor-next-steps-from-the-independent-review/>

<sup>16</sup> <https://assets.publishing.service.gov.uk/media/5a7cc9a240f0b6629523bcfc/0756.pdf>

<sup>17</sup> <https://assets.publishing.service.gov.uk/media/601a917cd3bf7f70be53a469/natural-england-annual-report-and-accounts-2019-to-2020.pdf>

<sup>18</sup> <https://assets.publishing.service.gov.uk/media/657044220f12ef07a53e02d2/natural-england-annual-report-and-accounts-2022-2023.pdf>

<sup>19</sup> <https://committees.parliament.uk/writtenevidence/120615/html/>

<sup>20</sup> <https://community.rspb.org.uk/ourwork/b/rspb-england/posts/knowplace>

<sup>21</sup> <https://questions-statements.parliament.uk/written-questions/detail/2021-02-09/151834>

<sup>22</sup> [https://www.wcl.org.uk/docs/WCL\\_2023\\_Progress\\_Report\\_on\\_30x30\\_in\\_England.pdf](https://www.wcl.org.uk/docs/WCL_2023_Progress_Report_on_30x30_in_England.pdf)

<sup>23</sup> <https://www.wildlifetrusts.org/sites/default/files/2023-06/Finance%20for%20UK%20Environmental%20Land%20Management%2C%20June%202023.pdf>

Defra must swiftly invest in an effective agri-environment offer through ELM to help properly fund the management expected on SSSIs, to justly reward and incentivise the farmers and land managers who are custodians of these sites. They should be at the front, not the back of the queue, for new ELM funding.

### **The alternative would leave the scale of the SSSI network unaddressed**

Currently, the SSSI network covers 8% of England. The last major period of expansion took place between 2001 and 2004, when 19 new SSSIs were designated.<sup>24</sup> Since 2005, coverage has remained at around 8%.<sup>25</sup>

This frozen coverage stands at just half the level that scientific evidence suggests should be strictly protected and managed for nature to create a resilient ecological network in England. A thorough scientific assessment of the actions needed to create resilient ecological networks in England, published in the *Journal of Applied Ecology* in 2018, recommended that the Government should “*at least double the area being protected (currently 8%) by designation*”.<sup>26</sup>

At its current coverage, the SSSI network does not sufficiently cover the habitats England’s most threatened species need to recover in. Two Government commissioned reviews carried out in 2011<sup>27</sup> and 2016<sup>28</sup> found critical gaps in England’s protected areas network for many of the most vulnerable species including curlews, hen harriers and puffins. The 2011 review also found that rarer habitats for nature have been identified but not designated in sufficient numbers in the SSSI network, including ancient woodland and wetland sites. The review recommended that the SSSI network not be seen as wholly ‘representative’ network (protecting only examples of natural habitats), but instead look to designate all that remains of rare habitats, all the habitats threatened species rely on, as well as a representative sample of widespread and common habitat types. Neither review has been implemented.

The current SSSI coverage is also too patchy to connect the habitats that are protected. Connectivity between habitats is vital for ecological resilience, allowing species to move through the landscape and find new spaces to shelter, feed and breed, an ability which climate changes make all the more vital. As the Lawton review of England’s Wildlife Sites and Ecological Network concluded in 2010: “*We need more, bigger, better and joined up sites to create a sustainable, resilient and more effective ecological network for England.*”<sup>29</sup>

The expansion, restoration and connection of important habitats is not a ‘nice to have’. It is essential to halting the decline of nature, to meeting Environment Act targets including halting the decline in species

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<sup>24</sup> <https://hansard.parliament.uk/Commons/2004-04-30/debates/d79c1f48-eb65-4462-914d-75794f3afd5b/SitesOfSpecialScientificInterest>

<sup>25</sup> <https://www.gov.uk/government/statistics/england-biodiversity-indicators/1-extent-and-condition-of-protected-areas--2>

<sup>26</sup> <https://besjournals.onlinelibrary.wiley.com/doi/full/10.1111/1365-2664.13196>

<sup>27</sup> <https://users.aber.ac.uk/mec/Publications/Reports/Benefits%20of%20SSSIs%20final%20revised%20report%20June%202011.pdf>

<sup>28</sup> <https://data.jncc.gov.uk/data/d1b21876-d5a4-42b9-9505-4c399fe47d7e/ukspa3-status-uk-spas-2000s-web.pdf>

<sup>29</sup> [https://webarchive.nationalarchives.gov.uk/ukgwa/20130402170324mp\\_/http://archive.defra.gov.uk/environment/biodiversity/documents/201009space-for-nature.pdf](https://webarchive.nationalarchives.gov.uk/ukgwa/20130402170324mp_/http://archive.defra.gov.uk/environment/biodiversity/documents/201009space-for-nature.pdf)

abundance by 2030 and to achieving the promise to protect and manage 30% of land for nature by 2030<sup>30</sup>. As the Environment and Climate Change Committee's 2022 report on achieving 30x30 observed:

*"Evidence from the Environment Agency suggests that habitats and species remain increasingly isolated and at risk in protected areas. A critical component of meeting 30 by 30 will be developing connectivity between the current network of protected areas through establishing nature corridors and new sites which will help to join up areas of rich biodiversity in the UK."*<sup>31</sup>

In this context, the Sites of Special Scientific Interest (Designation) Bill answers precisely the wrong question. Rather than reducing the environmental input into designation decisions in favour of the political, the Government should instead bolster designation process to better respond to the scale of the environmental challenge. The simplest approach would be to resource Natural England better to protect more essential wildlife habitats and to work with communities and landowners to ensure they are in good condition.

One further option would be giving *additional and temporary* designation powers, duties and capability to the Secretary of State to expand the SSSI network ahead of 2030. This could be achieved by giving the Secretary of State a properly resourced power and duty to ensure the protected area network is expanded to achieve 30x30, with guarantees to ensure that an equivalent level of expertise, objectivity and thoroughness to the Natural England system is applied.

Such an emergency extension of powers would have to learn lessons from the current SPA and SAC process, whereby the investment of designation powers in the Secretary of State has seen slow designation rates. For example, proposals to add another feature to the Bowland Fells SPA, consulted on in 2013, have remained in Defra's 'to decide on' pile for over a decade.<sup>32</sup> Secretary of State direct involvement in SSSI designation would have to be founded on an explicit duty to designate more sites quickly, to avoid the poor outcomes that have resulted from Secretary of State direct involvement in SAC and SPA designation.

A temporary and additional designation process, established the clear objective of reaching 30x30 in time and with Natural England contributing their expertise and data, is the only way in which greater Whitehall involvement could feasibly improve outcomes for nature.

England needs many more SSSI designations, not less, to meet the Government's own environmental targets and to preserve the protected spaces people cherish.

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<sup>30</sup> <https://wcl.org.uk/30-by-30-progress-report.asp>

<sup>31</sup> <https://publications.parliament.uk/pa/ld5803/ldselect/ldenvcl/234/23402.htm> (chapter 3)

<sup>32</sup> <https://webarchive.nationalarchives.gov.uk/ukgwa/20140605100656/http://www.naturalengland.org.uk/ourwork/conservation/designations/spa/bowlandfells-spa-consultation.aspx>

19.04.24

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