



Wildlife and  
Countryside



## Joint Links Fitness Check Evidence Submission 25/03/2015

### Annex VIII: EU Added Value Case Studies

#### Case Study AV.1 (i): Thames Basin Heaths Special Protection Area (SPA)

The Thames Basin Heaths SPA generated a sub-regional strategic assessment that has provided a basis for a practical response to managing urban growth. It is unlikely that this would have occurred otherwise, as this assessment was required under the Birds Directive and in all likelihood would not have occurred with just a SSSI notification. The presence of the SPA resulted in 11 planning authorities working together to create a strategic solution which resulted in continued protection of a significant habitat whilst creating a framework for developers to work within, to enable development to occur within the area without a significant impact on the protected features.

See also Case Study 4c: Thames Basin Heaths (The Birds Directive 2009/147/ EC)<sup>1</sup>

#### Case Study AV.1 (ii): The Solent Waders and Brent Goose SPA

The designated features of the SPAs of the Solent Coast include populations of dark-bellied Brent geese. These geese fly from their Siberian Arctic breeding grounds to winter along the coasts of southern and eastern England and from northern Germany to northern France. The Solent supports up to 13% of the world population, and 30% of the UK population. The network of statutory protected areas around the Solent includes most of the Brent goose intertidal feeding grounds. There are significant advantages of protecting this species at a EU level as they are a migratory species using different parts of Europe during the year. European legislation allows us to protect this species across the whole of their migratory route not just the UK wintering sites.

See also Case Study 1c: The Solent Waders and Brent Goose SPA (The Birds Directive 2009/147/ EC)<sup>2</sup>

#### Case Study AV.1 (iii): Role of the Habitats Directive in improving protection for European Protected Species.

In 2003, in collaboration with Sussex Police, a merchant was found to be trading scarce large blue butterflies caught illegally in France. At the time this was not illegal under national law. Buglife opened a complaint file with the EC and eventually the EC ensured, through a ruling of the European Court in November 2005, that the UK took steps to make the sale of all EPS illegal – regardless of whether or not they are native to the UK. The UK eventually amended the relevant transposing regulations in England and Wales in 2010<sup>3</sup>.

<sup>1</sup> Wildlife and Countryside Link submission to the Defra Review of the Implementation of the Habitats and Wild Birds Directives [http://www.wcl.org.uk/docs/link\\_response\\_to\\_nature\\_directives\\_060212.pdf](http://www.wcl.org.uk/docs/link_response_to_nature_directives_060212.pdf)

<sup>2</sup> Wildlife and Countryside Link submission to the Defra Review of the Implementation of the Habitats and Wild Birds Directives [http://www.wcl.org.uk/docs/link\\_response\\_to\\_nature\\_directives\\_060212.pdf](http://www.wcl.org.uk/docs/link_response_to_nature_directives_060212.pdf)

<sup>3</sup> Case C-131/05 *Commission v United Kingdom of Great Britain and Northern Ireland* ECR 2005:703 [http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30dd4717f5a0f2d24cbead35e5a2e27ae3b0\\_e3](http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30dd4717f5a0f2d24cbead35e5a2e27ae3b0_e3)

### **Case Study AV.1 (iv): Habitats Directive as a driver for improving monitoring of cetacean bycatch**

The UK cetacean bycatch monitoring scheme was developed and funded by Government in order to fulfil its commitments under both the Habitats Directive and the Council Regulation 812/2004. This programme continues to inform assessment of the impacts of fisheries on protected species as well as supporting trials and development of mitigation.

### **Case Study AV.2 (i) Midsjö Bank wind farm**

The Wildfowl and Wetlands Trust (WWT) have recently responded to proposals to construct a 300 turbine wind farm on the Southern Midsjö Bank which supports 10% of the Baltic sea population of long-tailed duck. The site is a notable Important Bird Area (IBA), but currently not designated as an SPA, although the long-tailed duck action plan recommends that it should be as soon as possible. Southern Midsjö Bank is listed as being at very high risk of rapid to severe deterioration from renewable energy and human intrusion and disturbance<sup>4</sup>. The long-tailed duck is listed as Vulnerable on the International Union for the Conservation of Nature (IUCN) Red List of endangered species. Surveys of the wintering population in the Baltic Sea indicate that the species has undergone a precipitous decline there, from around 4,272,000 individuals in 1992-1993 to around 1,486,000 individuals in 2007-2009<sup>5</sup>. Had the site been designated as an SPA such a development would have been required to follow the Habitats Directive Article 6(3) and 6(4) procedures and the 130,000 long-tailed ducks would in all likelihood have been protected.

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<sup>4</sup> Birdlife International (downloaded 25th February 2015) Important Bird and Biodiversity Areas  
<http://www.birdlife.org/worldwide/programmes/important-bird-and-biodiversity-areas-ibas>

<sup>5</sup> Birdlife International (downloaded 25th February 2015) Long-tailed Duck *Clangula hyemalis*  
<http://www.birdlife.org/datazone/speciesfactsheet.php?id=490>

**Case Study AV.2 (ii): The role of EU intervention in driving protection of horse mussel beds in Northern Ireland (The Habitats Directive 92/43/EEC)**

Unique natural features, outstanding beauty and high economic, recreational and cultural value have led Strangford Lough to be the most highly designated and protected site in Northern Ireland. However management of certain aspects of wildlife and ecosystems within the Lough, particularly horse mussel reefs, has been of concern to conservationists since the late 1980's. The uniqueness of the horse mussel (*Modiolus modiolus*) reefs in Strangford led to them being a key feature in the Lough's European designation as a Special Area of Conservation (SAC). However, the horse mussel community was in decline due to a lack of appropriate regulation and management of activities in the Lough.

Over two decades of lobbying the local and UK government on the need for action by Ulster Wildlife Trust had no effect until 2003, when the European Commission investigated a Wildlife Trust complaint regarding the horse mussel community decline and inadequate protection as required by the Habitats Directive. The European Commission responded by notifying the government that it was considering taking infraction proceedings. This led to the implementation of a temporary ban on mobile fishing gear, a restoration plan aimed at bringing the horse mussel communities back to 'favourable conservation status', and £1 million of funding over three years to undertake the restoration work.

Despite these efforts the decline continued and timelines and specific objectives within the plan were not met (including a commitment to bring in total protection for both pristine and damaged reefs by 2007). Ulster Wildlife Trust issued another complaint, which has since resulted in a new restoration plan with more robust management, monitoring and enforcement measures.

**Case Study AV.3 (i): The EU 2010 Biodiversity Baseline – progress made and action required**

In 2010, the EU's 2010 Biodiversity Baseline<sup>6</sup> illustrated some of the progress being made against the objectives set out in the Birds and Habitats Directives. For example, the establishment of Natura 2000 has progressed well in the terrestrial environment, with nearly 18% of EU land designated. whilst also clearly demonstrated how much remains to be done if we are to deliver against biodiversity objectives, including those set out in the Birds and Habitats Directives<sup>7</sup>.

The Baseline supports the EU in developing post-2010 sub-targets to halt the loss of biodiversity and ecosystem services by 2020 as set out in a revised (and ambitious) Biodiversity Strategy. The new strategy<sup>8</sup> includes six main targets and 20 actions to help Europe reach its goal, including: (i) full implementation of EU nature legislation to protect biodiversity; (ii) better protection for ecosystems, and more use of green infrastructure; (iii) more sustainable agriculture and forestry; (iv) better management of fish stocks; (v) tighter controls on invasive alien species; and (vi) a bigger EU contribution to averting global biodiversity loss. The Strategy confirms that the need to address biodiversity loss – including the EU's most threatened habitats and species covered by the Birds and Habitats Directives – is still urgently required.

**Case Study AV.3 (ii): The need for trans-boundary cooperation on the Dogger Bank SAC**

<sup>6</sup> European Environment Agency (EEA) (20 10). EU 2010 Biodiversity Baseline, Technical report No 12/2010 <http://www.eea.europa.eu/publications/eu-2010-biodiversity-baseline/>

<sup>7</sup> Day, C (2015) "The EU "Fitness Check" on Nature Legislation: Legal Analysis of certain Mandate questions" unpublished legal research for WWF-UK

<sup>8</sup> Communication from the Commission to the European Parliament, the Council, the Economic and Social COMMITTEE and the committee of the Regions our life insurance, our natural capital: an EU biodiversity strategy to 2020 /\* COM/2011/0244 final <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52011DC0244&from=EN>

Dogger Bank SAC is an example where EU level action has, and will continue to be essential to achieving biodiversity objectives. Adjacent sections of this area were designated by Germany, The Netherlands and the UK under the Habitats Directive and an intergovernmental steering group has been convened to develop a fisheries management plan for the combined transboundary area.