



House of Commons Public Bill Committee  
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7 November 2022

Dear Sir or Madam,

**Call for written evidence: Retained EU Law (Revocation and Reform) Bill**  
**Written evidence from the New Forest National Park Authority**

*Executive Summary*

- The New Forest National Park Authority offers written evidence from the perspective of a planning authority for an area where over 50% of the land is designated under the EU Habitats Directive due to its international importance for nature conservation. The EU Water Framework Directive drives good ecological status for water quality.
- The EU Habitats Directive and associated regulations contain several key principles core to environmental protection in the New Forest. These include the precautionary principle, the consideration of 'in-combination' impacts, and the assessment of all relevant 'plans and projects' (rather than purely those defined as land use planning).
- The current protection afforded to internationally important sites and species through the EU Habitats Directive provides clarity. Unlike other material considerations that are assessed and weighed in the planning balance, the protection afforded through the EU Habitats Directive is clear and not open to negotiation.
- The legal framework of the EU Habitats Directive establishes a higher benchmark for proposals than the New Forest's National Park status. The loss of the legal protections afforded to large areas of the National Park through the EU Habitats Directive and related regulations would be detrimental to our work in delivering the statutory National Park purposes.
- The EU Habitats Directive does not preclude development – in most cases development is consented with appropriate mitigation measures in place. The application of the Habitats Directive in the New Forest National Park has enabled new development to proceed while ensuring that one of the nation's most internationally recognised areas for wildlife, habitats and rare species is protected.
- Without this legal framework in place, our experience is that important environmental issues - such as recreational pressures in the New Forest's designated sites and impacts on water quality from eutrophication - would not receive the attention they require to deliver on the Government's goal to reverse the decline in biodiversity.

**New Forest National Park Authority**

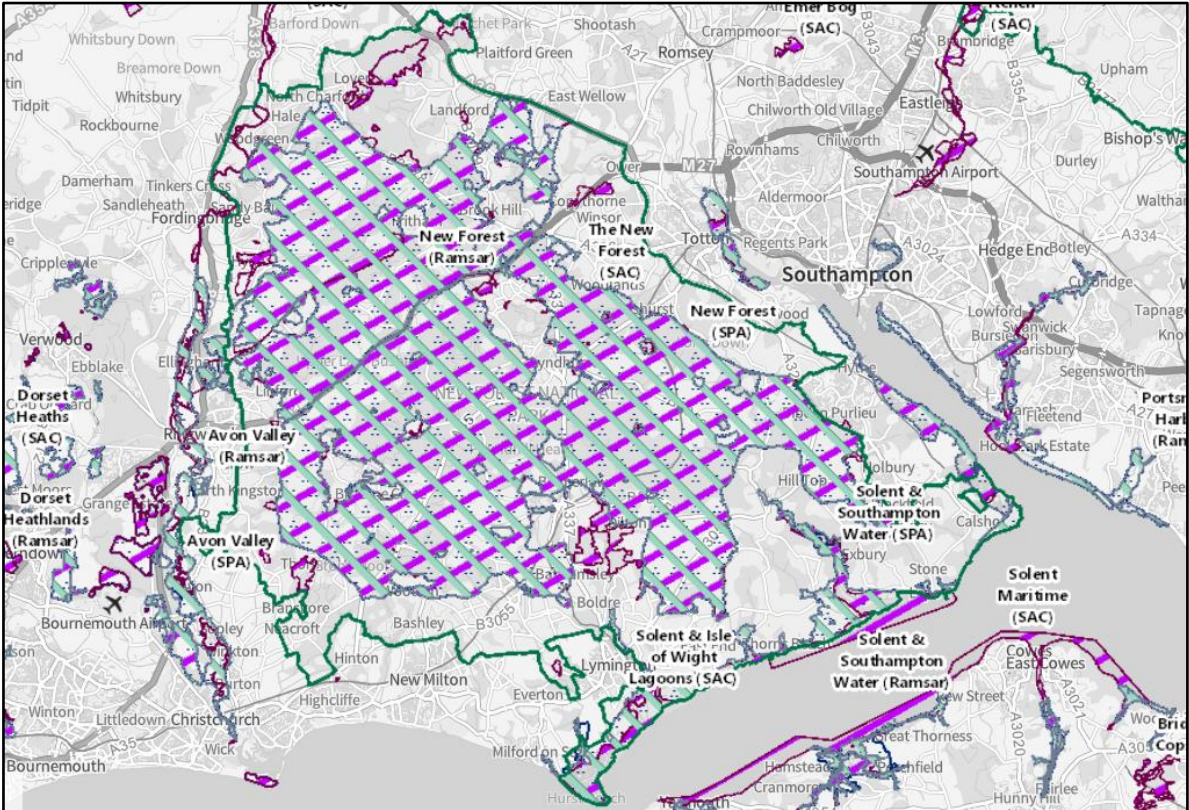
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CHAIRMAN GAVIN PARKER CHIEF EXECUTIVE ALISON BARNES

**Written evidence from the New Forest National Park Authority**

1. Over 50% of the New Forest National Park is designated as being of international importance for nature conservation – see map below (the National Park boundary is shown by the dark green line). These designations – comprising Special Areas of Conservation, Special Protection Areas and Ramsar sites – cover the heathland in the core of the New Forest, the Solent coastline, and the freshwater habitats of the River Avon in the west. This range of designations means the National Park Authority is well placed to offer written evidence on the application of the current legal framework for these sites and the vital protection provided to the New Forest.



2. The **EU Habitats Directive** and associated regulations offer legal protection for internationally important habitats and species within the New Forest National Park. This includes wet and dry heath, valley mires, fens, wet grasslands and chalk rivers, which support internationally important populations of breeding and over-wintering birds.
3. The Directive and associated regulations contain several key legal principles that are core to the protection of the features of the New Forest National Park. 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.
4. The protection afforded to habitats and species through the EU Habitats Directive provides clarity in the Authority’s role as the statutory planning authority for the National Park. The key principles – see paragraph 3 – are understood by applicants and decision makers, whether that be Authority officers for delegated decisions, members of our Planning Committee, or the Planning Inspectorate at appeal. 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.
  5. Our experience as a planning authority (including development management, enforcement and plan-making) is that the legal framework of the EU Habitats Directive establishes a higher benchmark for new development than the New Forest’s National Park status achieves. The Directive and related regulations are a key driver behind the adopted planning policies for the National Park, including the housing site allocations contained within our adopted Local Plan (2019). The area’s National Park status – and the framework provided by the National Parks & Access to the Countryside Act 1949 and paragraph 176 of the NPPF (2021) – do not offer the same level of legal protection. The loss of the legal protections afforded to over half of the New Forest National Park through the EU Habitats Directive and related regulations would be immediately noticeable and detrimental to the delivery of the statutory National Park purposes.
  6. For example, it is through the EU Habitats Directive and regulations that the need to address increased recreational pressures arising from new development on the New Forest and Solent designated sites has been highlighted and accepted by relevant bodies. The requirement for neighbouring authorities to undertake Habitat Regulations Assessments of their relevant plans and projects ensures due consideration is given to impacts on the New Forest and Solent coast. The Directive has ensured appropriate mitigation strategies are in place to protect our environment alongside the delivery of planned new development. Without this legal framework, our experience is that these important issues would not receive the attention they require. The EU Habitats Directive and regulations provide the legal framework within which planning authorities are co-operating to deliver cross-boundary approaches to mitigating impacts. They provide clarity and certainty for developers so they can plan new proposals confidently. Our experience is that developers understand that the impacts of their proposals should be assessed and a contribution to agreed, costed mitigation measures is accepted.
  7. Similarly, it is through the EU Habitats Directive and associated regulations that serious issues around the nutrient enrichment of our rivers and seas has been highlighted. In the context of the New Forest National Park this includes eutrophication in the River Avon and the Solent. The existing consenting and permitting regimes within the catchments have not addressed the issue and it is through the Habitat Regulations that the need to reduce nutrients in our rivers and coasts is being addressed in the River Avon and Solent to enable planned new development to be delivered.

8. As outlined in paragraph 1, a large area of the National Park is designated as being of international importance as a wetland. The New Forest holds many of the best examples of waterbody and wetland habitats in the UK, hosting some of the rarest wetland related habitats and species. The quality of water within these habitats is key to conserving their existing value and allowing nature recovery. The **EU Water Framework Directive** - with its framework of legislative drivers for good ecological status applying to a range of stakeholders - has been fundamental to supporting such a diverse group of habitats and species. This legislation is particularly important as freshwater biodiversity is often under-represented in the identification of designated sites.
9. The consistent definition and target for condition of waterbodies through the legislation - and duties which apply to private business as well as other sectors - ensures clarity and consistency. Associated frameworks such as Water Framework Directive Assessments within the planning process provide effective mechanisms to embed protection and conservation of the water environment into decision making which might otherwise be overlooked. The New Forest National Park Authority has played a part in piloting government approaches to delivering the Water Framework Directive in England via the Catchment Based Approach and continues to co-host a Catchment Partnership. The legislative and delivery framework provided by the EU Water Framework Directive has been important in securing effective partnership to improve water quality and deliver nature recovery for water dependent biodiversity. In our experience the loss of this legislation would detrimentally impact on the engagement of partners and the delivery of water quality objectives.

## Conclusions

10. Our experience is that the EU Habitats Directive and regulations ensure impacts from plans and projects are properly considered, using a precautionary approach. As evidenced by the housing allocations in our adopted National Park Local Plan (2019) and those of neighbouring authorities, 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. Without this legal framework in place our experience is that important environmental issues will not receive the attention they require to deliver on the Government’s goal to reverse the decline in biodiversity. As a planning authority dealing with proposals that trigger consideration of impacts on designated sites on a regular basis, our view is that the loss of these protections would significantly weaken our environment, even in the context of an area that benefits separately from National Park status.
11. 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, including the policy focus on ‘Recovering nature and enhancing the beauty of landscapes’. It would also undermine the National Park Authority’s ability to tackle the nature emergency that it has formally declared for the New Forest.
12. The EU Water Framework Directive has been a key driver for good ecological status in our wetlands, helping to support a diverse group of habitats and species. The potential loss of this legislation would detrimentally impact the delivery of water quality objectives that have helped protect wetland areas like the New Forest’s designated sites.

I hope this written evidence from the New Forest National Park Authority is helpful to the House of Commons Committee and we will be following the process of the Retained EU Law (Revocation and Reform) Bill with interest.

Yours faithfully

*Steve Avery*

Steve Avery  
Executive Director (Strategy & Planning)