THE LAW OF THE WILD:
THE EUROPEAN BIRDS DIRECTIVE
Meeting the challenge for birds and people
Out of 257 SPAs, a total of 94 (37%) contain an RSPB reserve wholly or partly within them. This amounts to some 112 RSPB reserves that are key to managing part of the UK’s SPAs.

The European Union Birds Directive arrived at a time when the conservation movement was struggling to fight on a level playing field and victories for nature were all too rare. In the 1970s, the RSPB was much smaller, and it was a significant commitment to enter the world of lobbying in Brussels.

Saving special sites was an important objective, as there were threats to wetlands and coastal habitats all over Europe; but the primary concern, then, was the killing of birds around the Mediterranean. I have seen the focus of the Birds Directive change over the last 30 years. Hunting pressures have reduced, although they are still there. Threats to habitats and special places that birds depend upon have, sadly, increased.

The Birds Directive has changed the way sites are protected. Before the Directive, the only sure way to protect a site was to buy it. The UK’s signatory to the Directive, Environment Minister, Dennis Howell, had first-hand experience of the role the new Directive could play. The previous year, the international wildlife importance of the Ribble Estuary in Lancashire had been recognised, yet this world-class wetland was saved from a development threat only by compulsory purchase by the Nature Conservancy Council.

Little did I realise that, through joint lobbying on the draft Birds Directive with conservation colleagues in Germany, Holland, France and Italy, we would lay the groundwork for what became BirdLife International. Today, this global partnership of conservation organisations strives to conserve birds and their habitats in more than 100 countries and territories.

A consequence of the adoption of the Birds Directive was the need to identify the most significant sites for birds across the EU. The description of Important Bird Areas across Europe is a defining achievement of the BirdLife partnership, adopted as a model worldwide.

A great and enduring strength is the underlying legislative model that allows a Directive enacted when the “Common Market” consisted of 10 Member States to remain effective and relevant 30 years later, when the EU has grown to 27. The Birds Directive is strong yet flexible: its clear, scientifically robust framework relies on the subsidiarity principle. Coupled with 30 years of case law, these characteristics ensure that the Birds Directive continues to be central to the conservation of Europe’s birds and wild places.

Those of us who love nature want to be sure that the Birds Directive has worked. The RSPB and BirdLife International have done the research to show that it is doing its job. Those birds of special conservation concern in Europe and listed on Annex 1 of the Directive have fared better inside the EU than outside. For those sites that are Special Protection Areas and form part of the Natura 2000 network across the EU, we know that the Birds and Habitats Directives can be very effective if properly implemented.

The future is one in which protecting our best sites is an essential first step in the face of climate change. Member States must ensure that designations are in place and funding is available to ensure these sites are managed properly. Governments need to invest in management practices that support livelihoods and communities in protected areas.

I sincerely believe that now is the time to be bold. The next few years will define the world’s response to the twin challenges of climate change and biodiversity loss. The Birds Directive, and its sister Habitats Directive, give the EU a world-leading opportunity to ensure that we don’t just “protect the best” but ensure that protected sites are set in a landscape that is capable of sustaining our incredible heritage of wildlife and wild places, a goal that should stand as a mark of our own civilisation.

Foreword
Alistair Gammell
Director, RSPB International Operations
It is 30 years since the Birds Directive came into force. Why is this moment in 2009 significant? The Birds Directive was justified as a mechanism for ensuring that no member state of the European Union could gain a short-term economic advantage by cashing in its environment. It was also a key stage in the internationalisation of nature conservation. Birds are mobile; action for their conservation has to be effective across national boundaries.

This booklet sets out a compelling portfolio of proof that, in the UK, the Birds Directive has shaped decisions that profoundly affect the natural world. The Birds Directive provided a means to protect and restore places that birds use: the feeding grounds, breeding sites and refuelling stations on their incredible journeys. The RSPB has developed a unique perspective on the role of the Birds Directive (and its more recent sibling the Habitats Directive), built up over 30 years working to ensure that implementation is effective and a force for good in a complex society.

The RSPB believes that the Birds Directive, alongside the Habitats Directive, will be central to ensuring that the UK and EU contribute to halting and reversing the loss of global biodiversity by 2020. They will be critical in helping wildlife to adapt to climate change.

A Climate Change Act became law in 2008 for England, Wales and Northern Ireland; parallel legislation, in Scotland, became law in 2009. At UK and European level, commitments to halt biodiversity loss by 2010 will not be met. Elections for the European Parliament and in the UK will be the prelude to shaping our response to climate chaos and declining biodiversity. The Birds Directive is a firm foundation to meet the challenges of the future.

While the 30th anniversary of the Birds Directive is a significant milestone, far more critical are the decisions made about its role in the future. Those decisions must lead to:

- **A complete Natura 2000 network both on land and at sea**: although great progress has already been made, there are still gaps in this hugely important set of protected areas, especially at sea.
- **Proper management of the Natura 2000 network**: each site needs clear conservation objectives, prescriptions for management and regulation of uses not compatible with conservation.
- **Adequate financing of the Natura 2000 network from both EU and national funds**: although all member states have allocated some EU funds to nature conservation, this is usually only a few percent of their total allocation and not enough for a world-class network of protected areas.
- **Synergies and reduced conflict with other EU and national legislation**: alignment with pieces of EU and domestic environmental legislation need to be exploited to enhance delivery of the objectives of the Nature Directives. On the other hand, several EU policies are in clear conflict with the Nature Directives objectives, which has to be rectified.
- **Help for wildlife to adapt to the impacts of climate change**: flexibility in the Nature Directives to tackle climate change has not yet been fully utilised through positive implementation of them, leaving Europe’s wildlife vulnerable in the face of climate change.
- **Increased public awareness and support**: despite efforts in all EU countries to communicate the Directives to the public, there is still much misunderstanding and misinformation surrounding their obligations and opportunities. This lack of understanding is often the cause of disquiet about the Directives from various groups representing industry, agriculture and other sectors. The challenge remains to inform and engage the relevant sectors, communities and interest groups in better implementation of the Nature Directives.
The Birds Directive addresses the conservation of all wild birds across the EU. It includes land and marine areas, and covers their protection, management, control and exploitation. It applies to the birds themselves, their eggs, nests and habitats. Member States have a requirement to take whatever measures are necessary to maintain the populations of all wild birds at levels determined by ecological, scientific and cultural needs, having regard to economic and recreational needs.

The Birds Directive makes it a requirement for Member States of the EU to “preserve, maintain and re-establish sufficient diversity and area of habitats for all wild birds”. Achieving this relies on protecting, managing and restoring the best areas, complemented by restoring and creating habitats in the countryside outside such sites. The following section looks at key aspects of that requirement – the identification, designation, protection and management of Special Protection Areas (SPAs).

These are just some of the special actions a Member State must take for rare, threatened or vulnerable species on Annex 1 of the Directive, as well as for regularly occurring migrants. There is an emphasis on wetlands, especially those that are internationally important. The network of sites should include the breeding, moulting and wintering areas for the species concerned, as well as vital staging posts along their migration routes.

The identification, designation, protection and management of SPAs all create challenges, which need to be met if the purpose of the Directive is to be fully met.

Each year, Loch Garten SPA and RSPB nature reserve is visited by approximately 30,000 people. People attracted to coming to see the ospreys there bring £1.5 million to the local economy.

**DEFINITION OF NATURA 2000 – A NETWORK FOR LIFE**

Imagine a network of the very best places for nature spread across all 27 countries of the European Union – from sweeping coastal wetlands, through towering forests to the highest mountains. These are some of the most iconic and most loved landscapes of Europe. Their protection should be a natural reaction to their beauty and intrinsic value.

The good news is that such a network – though in parts incomplete – exists. It is called Natura 2000. It is made up of Special Areas of Conservation designated under the 1992 Habitats Directive and Special Protection Areas designated under the 1979 Birds Directive. These are selected against rigorous scientific criteria to protect the most threatened and important species and habitats in Europe. They are not, generally, nature reserves; their emphasis is on ensuring that future management is sustainable, both ecologically and economically. The network of protected areas also fulfils some of the European Commission’s obligations under the UN’s Convention on Biological Diversity.

The RSPB’s network of nature reserves encompasses over 90 SPA sites in the UK. We also work through the planning system to try and ensure development proposals do not harm SPAs. In 2007 we engaged in 263 proposals affecting SPAs. We campaign to ensure that the UK Government honours its commitment to designate sufficient Natura 2000 sites, to meet its obligations to conserve Europe’s most important species and habitats.
Identification and designation

Defining a Special Protection Area on land or at sea depends upon the best available information. BirdLife International (of which the RSPB is the UK partner) has an unrivalled track record and experience of identifying priority areas for bird conservation. These are termed Important Bird Areas (IBAs) and have been identified globally. In Europe, the network of IBAs is a key consideration in helping member states to identify the location of SPAs, an approach that has been backed by the European Court of Justice on several occasions.

In the UK, the Government has developed its own guidelines for SPA selection. This has resulted in a much smaller SPA network than indicated by BirdLife’s UK IBA network.

Even though the UK Government has been designating SPAs for 30 years, analysis by the RSPB has shown significant gaps in the UK’s SPA network. This is leaving rare, threatened and migratory birds vulnerable to changes in land use and management. The key areas needing urgent attention include inadequate coverage:

- coastal, intertidal, grazing marsh and associated farmed habitats, essential to SPA waterbird populations
- in-bye habitats adjacent to many upland areas, important for breeding waders and birds of prey such as merlin
- rare and vulnerable species such as woodlark, nightjar, aquatic warbler, chough and bittern
- nearshore and offshore marine areas for breeding and non-breeding seabirds.

In Scotland, where some of the biggest gaps were, there has been significant and welcome progress in improving the SPA coverage for some of the UK’s most threatened birds, including hen harriers, chough, capercailzie and corncrakes, along with agreement over methods to identify sites for golden eagles. However, overall there is still a long way to go before the UK’s SPA network is fit for purpose. The biggest challenge lies in the marine environment, where failure to designate a coherent SPA network causes problems for the seabirds concerned and creates uncertainty in planning for the expansion of offshore renewable energy generation.

The UK has a crucial job to do to contribute to completing the Natura 2000 network. The RSPB will campaign to see this achieved on land by 2010 and at sea by 2012.

Protection and management

In 1992, the EU adopted a sister directive, the Habitats Directive (Conservation of natural habitats and of wild fauna and flora 92/43/EEC). This includes measures to protect, manage and, where necessary, restore Natura 2000 sites, including SPAs. Article 6 sets out duties to manage and protect SPAs in a way that avoids damage or deterioration to the species and habitats they have been designated for. The emphasis is very much on taking avoiding actions rather than taking action after damage, deterioration or disturbance has occurred.

The strict protection from damaging land-use change afforded by Article 6 to SPAs has not only stopped ill-judged development proposals, but also encouraged developers to find ways to avoid or reduce damaging impacts in the first place. Key sectors such as the ports industry have learned how to work constructively with the Directives and have set a positive example to other industrial and commercial sectors in the UK and EU (see page 18 for Thames case study). Used effectively, the key tests of Article 6 can produce real sustainable development. Our experience is that developers are increasingly seeing the Directives as a framework that can deliver effective outcomes.

Protecting SPAs is the first key step. Ensuring that they are managed, and, where necessary, restored to good health is the next. Adequate and targeted funding is needed to ensure robust site conservation objectives are set for all SPAs and the necessary management carried out to meet those objectives on the ground. This is essential to ensure SPAs contribute fully to the recovery and maintenance of the populations of Annex I and migratory species they are designated for.

The Habitats Directive

The Habitats Directive is designed to conserve a targeted list of animal and plant species (not including birds) and habitats of European Community importance. It establishes the Natura 2000 network for the protection of those species where protected areas are deemed as necessary to secure their conservation. It sets out a detailed process for designating, managing and protecting these sites, and it incorporates SPAs into Natura 2000. It also provides a system of protection and regulates the exploitation of a longer list of animal and plant species.

The protection for Natura 2000 sites is through a series of sequential tests that must be applied to a land-use plan or project that is likely to significantly affect a Natura 2000 site. The aim is to avoid damage to Natura 2000 sites wherever possible, given that these are the very best places for wildlife in Europe. On the whole the system works very well, but in rare cases where damage cannot be ruled out, the plan or project can only go ahead if:

- it is shown there are less damaging alternatives
- that the benefits of the plan or project override the need to protect the European importance of the site for nature conservation (that there are “imperative reasons of overriding public interest” to proceed with the plan or project)
- suitable compensatory habitat has been secured to protect the Natura 2000 network.
A tale of two wind farms – Lewis and the London Array

The haunting cry of red-throated divers heralds spring on the remote peatlands of the Isle of Lewis. The wild, open landscape is safeguarded as a Special Protection Area. In winter, the same species, now silent and drab in its winter plumage, gathers on the sea in the Outer Thames Estuary – an area now recognised as a Special Protection Area. One bird links two special places, both vital to its survival at crucial times of the year.

The wild wind is the diver’s companion, howling across the Western Isles or down the Thames Estuary. The wind, used wisely, can provide a crucial renewable energy resource and has brought both places to prominence as the UK seeks to develop wind energy.

Both locations have been at the centre of proposals to construct major windfarms. On the Isle of Lewis 181 turbines were proposed, while in the outer Thames some 270 turbines would form one of the largest windfarms in the world.

The likely impact of both proposals on red-throated divers led to the RSPB lodging objections. For the Thames Estuary, they were the central element of our concern. On Lewis, they were one of several SPA qualifying species, including golden eagles and breeding waders, threatened by the proposal.

Reaching the right decision

On Lewis, the RSPB maintained its objection through to the eventual rejection of the proposal by the Scottish Government. In the Thames, the “London Array” windfarm was given planning consent, with the RSPB not only withdrawing its objection, but adding its support to the proposal. What happened to produce two such contrasting outcomes?

Lessons learned

1) Start in the right place. The RSPB has demonstrated that there is sufficient capacity to meet the UK’s wind energy requirements without sacrificing our best wildlife sites. The Lewis Peatlands SPA is simply the wrong place to start developing major infrastructure. The RSPB supports wind farms as a solution to climate change in places where they don’t damage the best places for nature; there are enough of these “right” places.

2) Understand the impact. As a result of surveys carried out by the developer of the London Array, the true European importance of these waters for red-throated divers was realised. Surveys carried out by the developer of the London Array found more red-throated divers than had previously been counted around the entire coast of the UK. Recognition of the European importance of the area led directly to a redesign of the wind farm to negate the impact, allowing the RSPB to support the proposal on climate change grounds.

The Directives exist to provide effective protection, not to stop development. Used wisely they are an invaluable framework for sustainable development.
Protected areas are not enough on their own, a fact recognised by the Birds Directive some 30 years ago. The Birds Directive drew together measures both to protect and restore the places birds use to feed, live and breed. The focus has perhaps been too often on the dramatic set-piece “battles” between development and conservation. Such characterisation is one-dimensional. There remains an urgent need to take action to create and restore a sufficient diversity of habitats throughout the fabric of the countryside recognised in Article 3 of the Birds Directive. If we can achieve this, our wild bird populations can reverse their historic and ongoing declines to build healthy populations resilient and adaptable to the challenges posed by climate change and other battles to come.

This will require action and resource from the EU, member states, the conservation sector, key business and industrial stakeholders, as well as local communities if we are to help shape tomorrow’s natural landscapes or Futurescapes.

The RSPB is already deeply involved in this area of work.

Left: Somerset RSPB Ham Wall nature reserve, where, over the last few years we have created a vibrant reedbed of over 200 ha, from old peat workings. In 2009, the site held six bittern territories.
Case study
The Suffolk coast and the Fens
Adapting to climate change requires that some of our most threatened wildlife is helped to move to safer havens. Acquiring land for habitat restoration can play an important part in helping wildlife adapt to climate change.

At Lakenheath Fen, not far from Cambridge, the RSPB has returned former carrot fields to reedbeds and fen, in just a decade. These reedbeds are now bursting with life and provide new habitat for bitterns, whose current coastal reedbed strongholds, including the RSPB’s Minsmere nature reserve, are under threat from sea level rise and storm surges made worse by climate change. As our understanding of the impact of climate change grows, greater investment in habitat restoration will be required to enable species and habitats to adapt.

The direct and current threat to parts of the RSPB’s Minsmere nature reserve, which is designated as an SPA, is a result of the increased risk of the sea breaching through into part of the site, a consequence of the impact of climate change. The RSPB believes that the important freshwater habitats that make Minsmere so special should be protected. This is feasible for most of the site, for the foreseeable future, ensuring that vital habitat for bitterns is safeguarded. However, parts of the site are at greater risk and the Environment Agency considers that protection of the North Marsh beyond 20 years is unsustainable in the face of current predictions of the impact of climate change. The Environment Agency is responsible for coastal management and will need to provide freshwater habitat to compensate for the loss at Minsmere within this 20-year period.

The RSPB’s Futurescapes approach in the Fens demonstrates the practicalities of recreating just such freshwater habitat and, in addition, has already attracted 17,000 visitors in 2007/2008.

Our products are vital to the economic progress of the UK, it is right that the industry should commit itself to developing a strategy that puts us at the heart of contributing to UK biodiversity targets.

Simon van der Byl, Director General of the Quarry Products Association

Creating high-quality habitats on mineral sites depends on location. Most habitats are determined by factors such as geology, soils, climate etc – and creating the right habitat in the right location is not only much better for wildlife, but is also likely to be much easier. In England, there are numerous habitat potential mapping projects. For example, the South West Nature Map shows the best strategic areas to maintain and expand terrestrial wildlife habitats at a landscape scale in south-west England.

Nature After Minerals sets out a vision showing how mineral sites could contribute to the UK’s Biodiversity Action Plan (BAP) habitat-creation targets. It works closely with planners and mineral operators to help realise this, England’s active mineral sites have the potential to exceed the targets for nine out of 11 habitats investigated. While mineral sites alone are not expected to meet the UK’s habitat expansion targets, there is clearly a significant opportunity for enhancing biodiversity.

A key output of the work allows users to look at any of the 1,300 active mineral sites in England and see the priority habitat(s) that could be created there (www.afterminerals.com).

The contribution of mineral sites to UK BAP targets currently falls far short of what is possible. This is where Nature After Minerals comes in. Biodiversity-led, the programme seeks to ensure that mineral restoration schemes are appropriate to the site and consider wider interests such as geodiversity, landscape and soil protection.

Simon van der Byl, Director General of the Quarry Products Association

The stakes are enormously high. Not only is Minsmere fabulously important to birds and wildlife, it’s also hallowed ground for generations of RSPB members and nature lovers. We must do what we can to protect the site, but recognise that change is inevitable and plan carefully so the wildlife that depends on Minsmere has the best chance in the face of climate change.

Adam Rowland, Senior Site Manager, RSPB Minsmere nature reserve

Urgent action is need both to create and restore reedbeds in sustainable locations to ensure bitterns can recover and thrive in the future.
The first 30 years of the Birds Directive have seen a clear focus on identifying, designating and protecting the best sites. While this will continue to be an essential approach, other species-specific conservation measures will also be important to protect and secure populations of threatened birds. For example, experience gained in successfully reintroducing some bird species to parts of the UK will be important in equipping conservationists with the tools necessary to relocate populations overwhelmed by the speed of a changing climate, which are unable to adapt and move.

**Stopping the illegal killing of birds of prey**

The UK has seen significant, historic losses of birds of prey. Several species, including the white-tailed eagle and osprey, were driven to extinction in the UK as a result of illegal killing over many decades. Over the last 30 years, the fortunes of many birds of prey have turned a corner and they are now recovering in numbers and range. For some, such as the sparrowhawk and buzzard, full legal protection has been vitally important to their recovery. For others, active conservation policies, including reintroduction, have produced stunning results, with white-tailed eagles and red kites firmly re-established as breeding species. Against this positive trend, pockets of illegal killing still occur all too widely across the UK.

In 2007, the RSPB received 262 reports of shooting or destruction of birds of prey across the UK, the highest number ever. Despite sufficient habitat to support 500 pairs, only five pairs of hen harriers bred successfully on grouse moors in England and Scotland in 2008 — a consequence of illegal killing and deliberate disturbance over many decades. Illegal killing has halted the recovery of golden eagles in Scotland and is thwarting their return to northern England. Much of the killing occurs on land managed for driven grouse shooting, meaning large swathes of suitable habitat in the UK’s uplands are devoid of hen harriers and golden eagles.

Continuing to invest in protecting and conserving birds of prey is important because:
- they are a vital part of the UK’s biodiversity
- their populations are susceptible to human activity
- they are valuable indicators to the health of the environment
- they bring economic benefits through tourism
- they are a popular part of our natural and cultural heritage.

The UK’s international role in conserving birds of prey was reflected in the agreement, brokered by the UK and the United Arab Emirates in 2008, of new measures protecting migratory birds of prey and owls across Europe, Africa and Asia.

Maintaining strong legal protection, and eradicating hotspots of illegal killing, will enable birds including the hen harrier, golden eagle and red kite, all meeting special conservation measures under the Birds Directive, to return to parts of their former range from which they are currently missing. We must also ensure that land-use policies and practice, including the legal use of pesticides and lead ammunition, encourages a healthy environment that provides public goods, including habitat and food for birds of prey.

The recovery of most of the UK’s birds of prey is a conservation and cultural success story – a matter of celebration. The Birds Directive provides a rationale and impetus for conserving birds of prey that is as relevant to their protection today as when it was conceived.

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**Our countryside would be a poorer place without birds of prey… I want to help these magnificent birds thrive, and the international agreement the UK [has] signed… shows that the government is committed to their survival.**

Huw Irranca-Davies MP, UK Government Minister for the Natural and Marine Environment, Wildlife and Rural Affairs

**As well as enhancing Scotland’s biodiversity, the [sea] eagles on Mull have proven to be a significant tourist attraction… I am confident that we will soon look back and find it strange that we ever did without these incredible birds.**

Michael Russell MSP, former Environment Minister, now Minister for Culture

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Sea eagles are now a wonderfully familiar sight in many parts of Scotland, thanks to reintroduction projects run by Scottish Natural Heritage, the RSPB and the Forestry Commission.

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Species conservation

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The Greater Thames Estuary combines essential elements of the natural world and human society in ways that put the Birds Directive to a real test. Can the framework of the Directive, developed three decades ago, provide a robust yet flexible tool to help sustainable development in the 21st century? The RSPB’s analysis is that the Birds Directive has been instrumental in setting the context for the Thames and delivering some hugely encouraging outcomes.

Reconciling the needs of the hundreds of thousands of wild birds that depend on the Thames Estuary for their survival, and the pressing needs of an expanding human population in London and on both shores of the river, was always going to be a challenge. Historic losses of coastal grazing marshes, the landscapes of Dickens, in the face of expanding human demands are well recorded. But the essence of the wild Thames remains into modern times.

Greening the Gateway
The Thames Estuary has seen many changes and this process continues. The RSPB is playing a leading role in the latest programme for change – the Thames Gateway. In support of the Parklands programme, the RSPB is creating 20 sq km of green space in Kent, London and Essex that is vital for the long-term conservation of the estuary’s wildlife and will be accessible to all. We support the objectives of establishing the Gateway as an exemplar of low-carbon growth and sustainable regeneration.

The RSPB is bringing to life our Futurescapes vision of large-scale habitat creation for the Thames Estuary, recreating familiar landscapes and vital habitats. This will turn the area into a high quality environment for people and sustainable development along the Thames.

The RSPB is convinced the central role that the natural environment of the Thames Gateway is now playing in establishing an “eco-region” is due in no small part to the recognition brought by designations under the Birds Directive. The Thames Estuary is demonstrably world class for wildlife conservation, and is designated to reflect that fact. This ensures the benefits to human society that come from a wild coast, protected and managed both for its wildlife and the people, can be achieved.

The coast of the Thames Estuary has long inspired me and it convinces me that placing nature at the heart of a vision for change is one of the keys to sustainable regeneration in the Thames Gateway.

Sir Terry Farrell, Parklands Design Champion
Case study
Ports in the Thames

London is one of the world’s leading cities. The economic pressure created around the capital is considerable, not least on the Thames, the river that has, for centuries, been the major artery connecting London with the rest of the world. Two examples of port development highlight the way in which changing attitudes toward the Birds Directive have helped to reconcile pressures on the natural world.

In 1989, the Medway Ports Authority sought and received planning permission for a car and goods storage facility on land that later was to be recognised as an integral part of the Medway Estuary and Marshes SPA; an area called Lappel Bank. The development was delayed until after the SPA designation. But the Secretary of State excluded Lappel Bank from the SPA, even though there were no scientific grounds for doing so and it was contrary to provisions of the Birds Directive.

The RSPB mounted a legal challenge to this decision, which was eventually referred to the European Court of Justice. The Court ruled that the UK Government had acted illegally and the Government accepted it had to compensate for the loss of Lappel Bank as, by that time, the development had gone ahead and the site was destroyed. The eventual compensation site was created on Wallasea Island in Essex, although this took another 11 years to achieve.

By 2001, the ports industry had developed a more constructive attitude to the Nature Directives. An application by P&O (now DP World) was made to construct a major container port – London Gateway – next to the Thames Estuary and Marshes SPA at Shellhaven on the Essex coast. The predicted damage to intertidal habitat and the implications for wildfowl and wading birds formed the basis of an objection by the RSPB and others. In this case, P&O reached agreements that have not only allowed development to gain its permission, but which will put in place comprehensive mitigation and compensation measures. A port development will proceed and create 12,000 new jobs, alongside effective protection of one of the UK’s most important wildlife sites.

The more positive relationship between the ports industry and conservation is illustrated by a partnership between the RSPB and the Port of London Authority. The result is a Conservation Management Framework that integrates the operation and development of the port with the needs of biodiversity, including safeguarding the Natura 2000 sites in the Thames. Such an approach could provide significant benefits if adapted in other estuaries where ports and wildlife interact.

The scope and scale of both Crossrail and the Wallasea Island Wild Coast projects is breathtaking. The message this sends out for developers and conservationists to work together is extremely powerful.

Jeff Kew, RSPB Operations Manager (Projects)

Wallasea Island Wild Coast

Wallasea Island is bounded by the rivers Crouch and Roach, as they join the Outer Thames Estuary. The island has been farmed for decades and is part of the 90% of the Essex coast that has been claimed from the sea. It is a coastline not only lost to the wildlife that depends on it, but cut off from its people.

Already on Wallasea’s northern edge the tide once again ebb and flows across mudflats rich in birds. This is the site chosen by the UK Government to compensate for the loss of Lappel Bank, Kent, and Fagbury Flats, Suffolk, nearly 20 years earlier. The low-lying farmland of the rest of Wallasea Island, some 750 ha, is ultimately doomed as sea-level rise driven by climate change, will overwhelm the coastal defences.

The Wallasea Island Wild Coast project exemplifies the RSPB’s Futurescapes principles. We will re-create habitat carefully integrated with the Crouch and Roach Estuaries SPA. Restoring this part of the Essex coast will be carefully managed, so that it is the best it can be for wildlife but also, crucially, for the people who live in Essex and love the wild coast.

The restoration is both innovative and costly, and one of the largest projects of its kind in Europe. The key to achieving it is a partnership with Crossrail, the project that is creating a new rail link across London. Crossrail needed a sustainable solution for the disposal of waste material dug from the new east-west rail link under London. Pairing this with the objectives of the Wallasea Island Wild Coast project not only provides an elegant solution, but gives a cost-effective means of delivering both projects. It is a marriage of a vital development for London with an innovative coastal restoration project. This has, at its core, the imperative of the need to restore the places birds use to feed, live and breed ensnirhed within the Birds Directive.

Groundhog day

The proposal to construct London’s third airport on Maplin Sands, off the Foulness coast of Essex, was a hot topic during the 1960s. Vehement opposition by the nature conservation movement of the day struggled to develop a fully compelling case, in part due to the lack of systematically collected and analysed data. This led directly to the establishment of the Birds of Estates Enquiry in 1969, which runs to this day in the form of the Wetland Bird Survey (WeBS) run by the British Trust for Ornithology, with funding from the JNCC, RSPB and WWT.

The airport proposal prompted the modern era of objective-led, scientific nature conservation, and forms a direct link to the development of the Birds Directive a decade later. The proposal for the airport fell under the weight of its economic shortcomings.

The aspiration to build an airport in the Thames has never really gone away and in 2002 resurfaced as a proposal to build a four runway airport on the Hoop peninsula in Kent. This time the knowledge base was considerably and the impact on SPAs was clearly analysed. In combination with the weakness of the economic case, the environmental impact of the proposal was key to the option being dropped from the Government’s Aviation White Paper. This ruled out the option of an airport in the Thames Estuary.

Yet that is not the end of the story. The Mayor of London has commissioned further studies into another proposal for such an airport, despite the clearest of signals from history that this is the wrong option, in the wrong place.

Richard Everitt, Chairman of the United Kingdom Major Ports Group and Chief Executive of the Port of London Authority

We work in some of the most sensitive coastal environments in the United Kingdom. Huge amounts of work and effort are put into balancing the need to expand ports with protecting some of the most sensitive sites in Europe.
The Severn Estuary’s massive tidal range has long been the subject of a challenging question. How can the abundant tidal energy be harnessed without destroying the natural environment of the Severn? As governments grapple with the reality of tackling the climate crisis facing the world, the case to construct a barrage across the Severn appears compelling. The RSPB is committed to supporting a renewables revolution, one that puts at its core the need to tackle climate change and ensure we meet our commitments to conserve the natural world.

The current analysis of proposals to harness the tidal energy of the Severn is the hardest political test for the Birds and Habitats Directives in the UK. We believe that the tried and tested framework of the Nature Directives provides a vital tool to help make the right choices for the Severn, difficult as they will be. They should not be considered a hindrance to the right kind of development.

We refute the view that climate change is so serious that the checks and balances put in place by the Nature Directives are inappropriate. It is because the situation is so serious that we need a robust and tested system to help ensure that the natural world is not sacrificed unnecessarily. The RSPB is arguing that tidal energy solutions that cause less damage to the environment than a barrage should be investigated, with the goal of finding the most benign option.

The designations themselves allow rigorous analysis of likely impacts against clearly defined baselines. The requirements placed upon the UK to consider mitigation, and, if necessary, compensation measures, frame the arguments around the proposals in a way that shows their true costs. The truth may be inconvenient, but it is the only basis for wise decision-making and verification of the true sustainability of proposals. The Sustainable Development Commission (SDC), in their 2007 report, *Turning the Tide – Tidal Power in the UK*, not only recognised the international importance of the Severn for wildlife but reinforced our view that the Birds and Habitats Directives provide good tests of sustainability of any proposal to harness the tidal energy of the Severn.

In considering the role of the Birds and Habitats Directives in relation to tidal energy in the Severn, the SDC concluded:

> “The Directives should be seen as representing an enlightened approach to dealing with environmental constraints, and one that is at the heart of Sustainable Development.”

Sustainable Development Commission, *Turning the Tide*
The Birds Directive in action
Scotland: for peat’s sake

The peatlands of northern Scotland

The Caithness and Sutherland Peatlands, in the far north of mainland Scotland, form the largest and most intact area of blanket bog in Europe, if not the world. More than a third of the 400,000 ha of blanket bog in this corner of Highland Scotland is protected by the Natura 2000 network, not only for the quality of its peatland habitat, but also for its remarkable breeding populations of wetland birds including golden plovers, dunlins, greenshanks, red- and black-throated divers, common scoters, teals and wigeons. Drier areas also provide breeding sites for raptors such as hen harriers, merlins and golden eagles.

The sheer size and wetness of the Caithness and Sutherland landscape protected much of the peatland habitat from development until the late 1970s, when large-scale plantations of non-native, commercial coniferous trees were first proposed for the area. By the mid-1980s, nearly one-fifth of the peatland area had been planted, or identified for planting, by both state and private forestry concerns. Peatland was prepared for planting by deep-ploughing with heavy machinery, extending the damage to blanket bog habitats beyond the areas actually planted.

At the time, government rules allowed planting of all land not specifically designated for nature conservation. The damage was driven by tax breaks. Following campaigning by the RSPB and other NGOs, and representations by government nature conservation advisers, in 1988 the Secretary of State for Scotland announced support for protection of up to 175,000 ha of remaining peatland habitat by expanding the Sites of Special Scientific Interest (SSSI) network. During the next 10 years, 40 SSSIs were notified to protect peatland and peatland birds in Caithness and Sutherland. In 1999, these sites were classified as a single SPA – the Caithness and Sutherland Peatlands – followed, in 2005, by its designation as a Special Area of Conservation (SAC).

Over the same period, the RSPB was able to purchase land in the peatlands around Forsinard, where, as part of a wider peatland strategy agreed by the Scottish Government, SNH, Forestry Commission Scotland and the Highland Council, a programme of work has begun to restore forested blanket bog to peatland habitat, able to function in something approaching its natural state.

An EU LIFE-line

Since 1994, funding from the EU LIFE-Nature Programme has supported management and restoration work, largely on RSPB and Forestry Commission Scotland land, but also on private ground. Large-scale drain blocking within the European designated peatland restores damaged hydrology and reverses the effects of drainage. Tree removal and peatland restoration on targeted areas adjacent to the SPA and SAC helps protect and enhance the Natura 2000 site features.

The RSPB is a major landowner (with 15,500 ha) in the Peatlands, with management agreements to promote conservation objectives over a still-larger area. We employ seven full-time staff equivalents (FTEs) directly in land management, with a further 11 FTEs in 2002 supported by grazing lets and visitor expenditure. Tourism underpins around a quarter of the local economy and most visitors to the RSPB’s reserve come from outside the area and have planned their trip specifically to visit the Peatlands.

Besides their wildlife value, the peatlands of Caithness and Sutherland are a significant carbon store: protection by nature conservation designations and peatland restoration will both help mitigate adverse climate impacts.

The importance of land management beyond the boundaries of land in direct conservation ownership was recognised in 2005, by the publication of a strategy for the peatlands and a new management scheme. The Scottish Natural Heritage scheme will be subsumed into the Scottish Rural Development Programme (SRDP). SRDP provides one of the lowest land management subsidy rates by area in the whole of the EU. Therefore, funds must be carefully targeted to ensure that correct management continues. This will bring clear socio-economic benefits to this fragile area, as well as nature conservation.
Situated in the middle of Northern Ireland, the Lough Neagh and Lough Beg SPA is a wetland complex of international importance for waterbirds. The site supports almost 100,000 waterbirds in the winter, including internationally important numbers of whooper swans that roost and feed in the area.

The Northern Ireland Roads Service put forward a proposal in 2003 to construct a dual carriageway, to provide an important link between the two principal cities in Northern Ireland, Belfast and Londonderry; to improve road safety; and to reduce journey times for road users. However, one of the original proposals passed through the southern fringes of the SPA in an area used by a large number of whooper swans. This raised concerns that suitable habitat would be lost and that swans would be deterred from using the area by the traffic.

The RSPB raised this issue with the Roads Service and their consultants, and the road was re-routed further from the SPA, affecting fewer swans. Nevertheless, an assessment under Article 6 of the Habitats Directive was still required. Following advice from the RSPB, consultants undertook comprehensive surveys of the use of the area by whooper swans. A rigorous assessment concluded that the new road proposal was unlikely to impact significantly on the SPA and its whooper swans.

However, to minimise any impacts on the site, a number of measures were identified and have been incorporated into the proposed road scheme. These included minimisation of loss of swan grazing habitat through careful choice of road alignment, sympathetic landscaping, and requirements to restrict construction activities during sensitive times.

Further work has been planned that would involve annual monitoring of whooper swans in the area, habitat management to improve the area for whooper swans in the future, and the establishment of a Working Group to oversee enhancement of the area for the birds. The Working Group would include relevant statutory agencies and advisory groups, local farmers and the RSPB.

Although the development of a road scheme through a wetland site such as the Loughs Neagh and Beg SPA may seem to be a major threat, the use of the Habitats Directive’s decision-making process to assess the threat to the SPA will ensure a positive future for whooper swans if the proposal goes ahead.
The Birds Directive in action

Wales: silent fields

Wales: Article 3 and declining common birds

The Birds Directive covers the conservation of all species of naturally occurring wild birds in a Member State. Implementation, so far, has primarily focused on the designation, protection and management of SPAs for rare, endangered and migratory species. Yet what of the fortunes of our populations of birds that rely on a healthy countryside outside protected areas? Surely the health of characteristic common birdlife is in fact the true test of governmental commitment to the aims of the Birds Directive?

Article 3 of the Birds Directive sets out the steps that governments should take to maintain and restore sufficient diversity and areas of habitats to ensure our wild bird populations are healthy and prospering. But few governments have taken all the steps necessary, meaning that many historically widespread and common species are in serious decline.

In Wales, conservationists have been flagging concerns over declines in many birds of farmed habitats for more than 10 years. Losses that started to be recorded in the 1970s have continued unabated. Curlews have declined by more than 80% between 1993 and 2006, with just 1,093 pairs left. Lapwings declined from 7,448 pairs in 1987 to 1,699 in 1998. If, as other data suggest, this decline has continued, then there are now only 600-700 pairs left in Wales. The tragedy is that if these trends continue, these species could well be lost from the farmed countryside of Wales within a decade, and breeding confined to nature reserves. Yellowhammer numbers and starlings have declined by 44% and 51% respectively since 1994. Corn buntings and turtle doves no longer breed regularly and appear to be effectively extinct as breeding birds in Wales.

The scarcity of once widespread species, such as lapwings and tree sparrows, means the national breeding bird monitoring programme is unable to produce meaningful information about their status in Wales. This, coupled with a lack of historic data available on Wales, presents a problem for the Welsh Assembly Government in reporting on the health of its breeding bird populations. Accepting these limitations, it has adopted a two-part indicator that covers long-term changes in geographical distribution of birds, alongside a widespread breeding bird abundance indicator from 1994. Even without the evidence from species-specific surveys, this indicator alone clearly shows that birds of farmed habitats in Wales are in trouble.

Policy commitments to address declines in wild bird populations have not been in short supply: with a UK Government commitment in 2004; a Welsh Assembly Government commitment in 2001; which was followed up in 2006 with the Wales Environment Strategy outcome target to halting declines in biodiversity by 2010; and recovery to be underway by 2026. And in 2008, the Welsh Assembly increased its list of bird species of Principal Biodiversity Importance in Wales from 23 to 51.

However, it is clear, that these commitments have so far failed to drive the levers of governmental policy and resources to effect the necessary changes. Considerably greater action is needed, particularly in resourcing and designing the new Glastir agri-environment scheme, integrated protected site management and the Biodiversity Action Planning process, if these declines are to be halted.

There is now consensus that the EU will fail to meet its 2010 target to halt the loss of biodiversity. In Wales as in the rest of the UK, it is time to look again at Article 3 of the Birds Directive and its clear intention to conserve wider birdlife.
Wildlife around the world is becoming an early, and powerless victim of climate change. This trend is set to continue. Predictive modelling of the impact of a warming climate is of profound concern. By the middle of the 21st century, as many as 1 million species will be committed to eventual extinction. Researchers at the RSPB and Durham and Cambridge Universities have modelled the future impacts of climate change on birds in Europe. They have found that suitable climate conditions will shift, on average, 550 km north-east by the end of the century, under a moderate warming scenario. This will challenge species’ ability to adapt set against a fragmented and damaged natural environment. Some species will benefit – more are predicted to lose out.

There is great uncertainty and a huge risk to survival if climate change spins out of control. The greatest hope for keeping species diversity lies in transforming our approach to energy generation and use, and keeping climate change manageable.

We have already seen proposals for renewable energy within or directly affecting Natura 2000 sites and the wider protected sites network; there will be more in the future. Designation itself does not necessarily block development, but careful assessment of the environmental impacts of energy developments is vital. The Birds and Habitat Directives have a crucial role to play in guiding our response to climate change, so that we can manage the climate crisis we have created without adding further insults to these existing injuries.

The planning system is central to ensuring timely and sustainable deployment of renewables. The RSPB will work with governments across the UK to deliver the highest quality land-use planning for renewables. This could combine appropriate national, regional and local targets with spatial planning and benefits for communities. Good planning at sea will depend on identifying the best areas for wildlife and integrating their needs into effective plans and management. One area where implementation has been particularly slow is offshore. Governments urgently need to designate marine SPAs for offshore congregations of seabirds, seaducks and divers. This will involve investment in data collection to allow them to identify the areas important for birds at sea.

Sites protected under the Nature Directives are essential in our efforts to buffer the natural world from the negative impacts of climate change. Protecting the best we have now is central to any approach to helping wild nature adapt to a changing climate. Completing the network by urgently designating sites that qualify and investing in the management of them to ensure they are delivering the best they can for the wildlife that depends on them, is a wise investment in the future health of our planet.

Golden plovers are threatened by climate change as conditions change the abundance of their insect food.

“Natura 2000 sites provide vital island strongholds in a sea of changing climate, safe havens we can both strengthen and adapt to the changing needs of Europe’s wildlife. Yet, nature needs more than just protected areas. Coherent biodiversity management across landscapes will be increasingly important to achieve the shift in species distribution that climate change is already starting to cause.”

Dr Olly Watts, RSPB Senior Policy Officer, Climate Change
The EU Birds Directive has been around for 30 years, with the aim of tackling long-term declines in all European birds from decades of habitat destruction and degradation, and species persecution and exploitation. Although it applies to all wild birds, most effort has gone into those for which the European Union has a clear responsibility: rare and vulnerable species listed on Annex I of the Directive, and migratory species dependent on the EU for key parts of their life cycle. The main mechanism used has been to establish an EU-wide network of SPAs.

Recent work looking at population trends for all wild birds since 1970, has shown how important the Birds Directive has been for these birds, especially those on Annex I. The rate of recovery of Annex I species has been significantly greater inside the EU than outside, and within the EU has been greater for Annex I species than species not listed on the Annex. The role of protected areas in this recovery is critical. The greater the area of SPAs, the stronger the recovery, especially for the rare and vulnerable species on Annex I. This was borne out by evidence that these trends were more positive in those countries that designated larger areas of SPAs.

This confirms the central role of the Birds Directive in ensuring the recovery of Europe’s rarest and most vulnerable species at a continental scale, and the vital role that protected areas are playing in that recovery.

The great strength of the Birds Directive is that it can protect nature and at the same time be entirely compatible with economic activities provided that they are designed and planned to respect the environmental limits that are at the heart of the Birds Directive.

Has the Birds Directive worked?

Stavros Dimas, EU Environment Commissioner

“...”

I would like to correct one of the misconceptions about Natura 2000 – which is that once a site is designated all economic activities have to stop. This is simply not true and it is a shame if the myth continues. The Natura network consists of living landscapes in which farming, fishing and hunting can continue. Even major development projects can be carried out once certain safeguards have been respected. The experience from most Member States is that it is perfectly possible to use the flexibility provided in the Nature Directives in an intelligent manner and find a good balance between biodiversity protection and economic needs.

Stone-curlew breeding numbers have increased through close collaboration between conservation staff, farmers and landowners. LIFE-Nature funding has helped make this possible.

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The Birds Directive and its sibling, the Habitats Directive, are the cornerstones of the EU's drive to ensure a healthy natural environment. As well as providing inspiring landscapes, habitats provide us with vital life-support services, such as food, water and human mental and physical health.

Despite 30 years of real achievement driven by the Birds Directive, the EU is likely to fail to meet its own target of halting the loss of biodiversity by 2010. Perversely, many EU policies are accelerating that loss, while funding for biodiversity remains sorely lacking. An ambitious plan, with the Nature Directives at its heart, is needed now to turn the tide for the conservation of nature and lay out a rescue plan for our natural world.

The challenge is clear – action is needed to:

- adopt a target for 2020 that goes beyond halting the loss of biodiversity to championing the recovery of habitats and species in the EU. At its heart should be the key role of biodiversity in combating climate change
- strengthen and support successful biodiversity policies such as the Birds and Habitats Directives, in particular placing the visionary Natura 2000 network of protected areas within a sustainably managed landscape
- ensure that the many EU policies that affect and damage biodiversity are reformed to secure the environmental services on which society depends
- ensure €3–4 billion per year is dedicated from the EU budget to protect and manage the Natura 2000 network as the backbone of the EU’s ecosystems. Land managers should be fairly rewarded for the contribution they make to care for the network
- ensure that urgent action is taken to complete the network of Natura 2000 sites on land and at sea, in the UK and across the European Union.

Wildlife is a natural tonic that lifts our spirits, clears our minds and helps us get some exercise. So, helping our best wildlife places also helps people, too.
The RSPB speaks out for birds and wildlife, tackling the problems that threaten our environment. Nature is amazing – help us keep it that way.

The RSPB is part of BirdLife International, the global partnership of bird conservation organisations.

References


Contacts
The RSPB
UK Headquarters
The Lodge, Sandy, Bedfordshire SG19 2DL.
Tel: 01767 680551

Northern Ireland Headquarters
Belvoir Park Forest, Belfast BT8 7QT.
Tel: 028 9049 1547

Scotland Headquarters
Dunedin House, 25 Ravelston Terrace, Edinburgh, EH4 3TR.
Tel: 0131 311 6500

Wales Headquarters
Sutherland House, Castlebridge, Cowbridge Road East, Cardiff CF11 9AB.
Tel: 029 2035 3000

www.rspb.org.uk/savingspecialplaces

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