

CONSULTATION

Response Document



**Quinquennial Review 7
(Joint Nature Conservation Committee)**

30 January 2022

Introduction to CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM), as the leading membership organisation supporting professional ecologists and environmental managers in the United Kingdom and Ireland, welcomes the opportunity to comment on this consultation.

CIEEM was established in 1991 and has over 6,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. The Chartered Institute has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

CIEEM is a member of:

- Northern Ireland Environment Link
- Scottish Environment Link
- Wales Environment Link
- Wildlife and Countryside Link
- Environmental Policy Forum
- IUCN – The World Conservation Union
- Professional Associations Research Network
- Society for the Environment
- United Nations Decade on Biodiversity 2011-2020 Network
- Greener UK

CIEEM has approximately 360 members in Ireland who are drawn from across the private consultancy sector, NGOs, government and semi-state agencies, local authorities, academia and industry. They are practising ecologists and environmental managers, many of whom regularly provide input to and advice on land management for the benefit of protected species and biodiversity in general.

We welcome the opportunity to participate in this consultation and would be happy to provide further information on this topic. Please contact Jason Reeves (CIEEM Head of Policy and Communications) at JasonReeves@cieem.net with any queries.

Question 1: Do you agree with the eligibility criteria defined for the 7th Quinquennial Review (QQR7) for adding species to Schedules 5 and 8 of the Wildlife and Countryside Act 1981? (see section 6.1.1)

- No.
- The proposal is counter to the new Environment Act which aims to halt the decline of species. Further to this, protection of these species often acts as an umbrella so the removal of protections could have wider consequences for other species.
- The proposal is also counter to the 25 Year Environment Plan, which states that government will *“take action to recover threatened, iconic or economically important species of animals, plants and fungi, and where possible to prevent human induced extinction or loss of known threatened species”*.
- Restricting the number of species listed on schedules 5 & 8 will be detrimental to UK’s biodiversity and efforts to restore it.
- Species that are not included on the schedules risk their status worsening before the next QQR which is arguably more costly in terms of time and money to restore critically endangered species, therefore the better option would be to prevent less critical species reaching that point. This is particularly pertinent in the face of the current Biodiversity Crisis and for widespread, once-common but declining species such as hedgehogs and toads.
- Listing only Critically Endangered and some Endangered species is counter to the fact that Critically Endangered, Endangered and Vulnerable species are all considered at risk of extinction. All species in these Red List categories need urgent conservation action and attention.
- The Red List is not useful for detecting longer-term, gradual population declines. The Red List is highly reliant on recent trends so this proposal misses the chance to provide protection for species which have slowly been declining for decades e.g. hedgehogs. Recovering species could be threatened with removal from the schedules if their Red List status *“improves”*, which could then undermine hard won conservation successes.
- The Red List status varies for species between countries, so using GB status presents problems for species such as pine martens which are Least Concern in GB but still Critically Endangered in England and Wales where they have been lost from much of their natural range.
- The proposed criteria offer little flexibility or protection for species which have no baseline data, no known methods to assess population changes or monitor populations. As in our response to the initial QQR7 consultation, we remain concerned that Data Deficient (DD) species are excluded, when this should trigger use of the precautionary principle.
- IUCN categorisation relies heavily on standardised long-term survey data which are not readily available for many species, and for which there are no immediate responsibilities nor resources to fill these data gaps.
- The proposed criteria offer little future-proofing against new risks to species.
- The proposal to use European red-listing where GB status is lacking might provide a solution, but is unlikely to be useful as GB has better monitoring than other countries and is on the edge of the range for many rare species, so the situation for UK-resident species is likely to be different.
- It is unclear what factors would constitute *“a clear and present danger”* to the conservation status of a species.
- Consideration needs to be given to how the criteria will fit with any amendments to the Habitats Regulations.

Question 2: Do you agree with the decision criteria and the way they have been applied by the 7th Quinquennial Review (QQR7) for adding species to Schedules 5 and 8 of the Wildlife and Countryside Act 1981? (see section 6.1.2)

- No.
- Whilst the Wildlife and Countryside Act 1981 (WCA) was established partly to protect animals and plants from individual threats of persecution, a broader benefit has been that many species have received a degree of protection for their habitat through the broad interpretation of places of shelter. Species not listed but using the same niches and habitats as protected species also receive indirect benefits.
- The proposed amends to the Decision Criteria appear to undermine these benefits by the narrow framing of the phrase “*direct human pressures*”. The implication is that direct human pressures are limited to a narrow range of threats arguably seeks to restrict listing for many species declining due to *human-induced* threats.
- Habitat loss due to land use and land management changes, along with climate change, are key threats to many species, and arguably can be considered direct human pressures.
- WCA is commonly used to protect Schedule 5 species from land use changes and is widely used during development planning, avoidance, and mitigation.
- WCA is however rarely used in terms of agriculture, and to a lesser extent Forestry, and despite the protections these activities continue to harm protected species.
- JNCC’s proposal to exclude species endangered predominantly as a result of habitat loss and to limit interpretation of human pressure directly contradicts both Bern Convention guidance and the benefits provided by the Act acknowledged by JNCC in previous QQRs.
- The Eligibility Criteria appear to identify species based on their conservation status and need, yet the proposed Decision Criteria will limit applications that have any real conservation impact such as large housing developments and road expansion schemes
- The suggested definition for the term “*place of shelter*” for animals appears to narrow the scope for interpretation of a species’ needs to survive. The use of the word “*permanently*” is unnecessarily restrictive; many species use multiple sites to rest or nest, moving frequently (e.g. dormice, harvest mice), or lack clearly defined territories (e.g. hedgehogs), or have seasonally changing shelter requirements (e.g. amphibian species).
- The use of “*regularly*” is unhelpful and unclear; without frequent and regular monitoring of sites, how will the regularity of the use of a site be established? A more useful definition could be: “*a place that provides elements of habitat essential for the species’ survival which may include for protection, reproduction, growth, resting, hibernating, raising young, dispersal, etc.*” This would take into account the connection of meta-populations and the potential for dispersal of young from their home range.
- It is unclear how the Decision Criteria have been applied for retaining, adding, or rejecting species within this review.
- Consideration needs to be given to how the criteria will fit with any amendments to the Habitats Regulations.

Question 3: Do you agree with the use of the ‘non-detriment’ approach for retaining species on Schedules 5 and 8 of the Wildlife and Countryside Act 1981 when they do not meet the eligibility/decision criteria but when populations would be harmed if protection were removed? (see section 6.1.4)

- Yes.
- In principle we welcome that species will be retained if it is likely that populations will be harmed otherwise. However, it is not clear what this evidence should consist of and how it will be assessed both in this and future reviews.

Question 4: Do you agree with the use of the precautionary approach for retaining species on Schedules 5 and 8 of the Wildlife and Countryside Act 1981 when they do not meet the eligibility/decision criteria? (see section 6.1.4)

- Yes.
- In principle the use of the precautionary approach is welcome. But only in addition to the objections outlined in the responses to the first two questions which seem contrary to that precautionary principle.
- It is however unclear how different elements of evidence were weighted and what will be required in future reviews.

Question 5: Do you think that the special protection of species by listing on Schedules 5 and 8 of the Wildlife and Countryside Act could be part of a range of measures designed to reverse the biodiversity loss we are currently experiencing? (see section 6.2)

- No.
- Schedules 5 and 8 currently provide a very narrow protection for a small range of species. However, it is often the only legal protection that many UK species have, so proposals to reduce its effectiveness are extremely concerning.
- The proposed changes to the criteria could potentially be used to prevent the use of schedule 5 to protect animals from habitat loss through development. Despite this not being the original remit of the WCA, it is a benefit acknowledged in previous QQRs by JNCC.
- Currently over 40% of UK species are in decline (Nature Positive 2030), 15% of assessed species are currently threatened with extirpation from Great Britain and 2% are already gone.
- Over the last 50 years there has been a 13% decline in average species' abundance, with signs of a worsening trend in the past decade. Many species in the UK are undergoing rapid changes in range. Agriculture and land management, and increasingly climate change, are causing these declines but the WCA currently misses these impacts by labelling agriculture operations under "*lawful operations that could not otherwise have been reasonably avoided*".
- A comprehensive and consistent approach would be to give all fauna and flora similar protection that birds receive under the 1954 Protection of Birds Act.
- Statutory protection for the habitats in which listed species occur would be a more systematic and holistic approach.
- Robust legislation should include proportionate positive intervention measures, rather than being limited to provisions to tackle negative impacts.
- Further conversation between JNCC and interested parties, including CIEEM, is welcomed in the future.

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