

Countryside Rights of Way Act : Part 3 Good News for England's Sites of Special Scientific Interest

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Introduction

England's 4,100 Sites of Special Scientific Interest (SSSIs) are our best sites for wildlife and geology and well over half by area are internationally important. Whilst the majority are in good condition and well managed, gaps in previous legislation meant that some SSSIs have continued to decline through inappropriate management or neglect. Around 70% of SSSIs are currently in favourable condition. Government's target is to increase this to 95% by

2010 and the Countryside and Rights of Way Act 2000, gives English Nature the statutory powers to ensure that it can make a major contribution towards achieving this target.

Whilst primarily thought of as 'access' legislation during its progress through Parliament, the Countryside and Rights of Way Act 2000 is also the most important national nature conservation legislation for twenty years. It makes significant changes to the Wildlife and Countryside Act 1981 that will greatly improve our chances of securing appropriate management for the whole suite of England's SSSIs.

Changes to SSSI legislation

The provisions of the Countryside and Rights of Way Act (which also applies in Wales) came into force on 30 January 2001. The basic process for notifying owners and occupiers of new SSSIs remains largely unchanged. Just as they do now, they will receive a map, a citation listing the special interests and a list of operations that are likely to damage those interests. In addition, however all SSSI owners and occupiers will get a short statement of English Nature's views on how the site should be managed to maintain its special features.

The list of damaging operations continues to form the basis for consultation with English Nature over management of SSSIs. Under the old Wildlife and Countryside Act 1981, an owner or occupier was required to notify English Nature before carrying out any of the operations listed, but could legally go ahead after four months if an agreement had not been reached over appropriate management. In some cases this meant paying owners not to damage

sites, rather than for positive management to maintain the nature conservation interest. Under the new legislation, however, it is illegal for owners of SSSIs to instigate damaging operations without English Nature's consent, and those refused consent will not have to be compensated. A formal process for imposing suitable management (e.g. where a site is declining through neglect) has also been introduced, though this will be accompanied by management advice and in some cases, financial support from English Nature.

The new legislation considerably extends the community of individuals and organisations responsible for ensuring that SSSIs are maintained into the future. Firstly, it is now an offence for any person to intentionally or recklessly damage the special interest of an SSSI or disturb any of its special fauna, provided they knew it was within an SSSI. Byelaws may also be introduced on any SSSI to control activities that may damage the site. Secondly, there is a requirement on public bodies to further the conservation and enhancement of SSSIs and to consult English Nature before carrying out, or permitting anyone else to carry out work that is damaging. Public bodies are defined very widely and include not only Government departments and agencies, but also local authorities and privatised utility companies that have public functions.

Of course, there are exemptions for owners, public bodies and other people, who carry out damaging operations in an emergency or after having got appropriate permissions. However, anyone convicted of an offence can face much larger penalties under the new legislation: up to £20,000 in the Magistrates' Courts or unlimited fines in the Crown Court for some offences. The Courts can also order restoration of SSSIs to the condition they were in before they were illegally damaged. Even those who do not recognise that there are moral arguments for conserving these national wildlife and geological treasures should at least realise that damaging an SSSI could now be distinctly unprofitable.

Access and SSSIs

English Nature welcomes increased public access to the countryside provided that wildlife can continue to flourish. Current estimates suggest that around 45% of England's SSSI land will be designated access land under the Countryside and Rights of Way Act. This is the approximate area of SSSI land likely to be mapped by the Countryside Agency as access land because it comprises mountain, moor, heath, down or common land (see Anne Ewins article on Part 1).

English Nature will be assessing the vulnerability of each SSSI affected and developing a range of options to ensure, with the Countryside Agency, that nature conservation and access can be compatible wherever possible. Where that is not possible, then a cautious approach will be taken that favours nature conservation.

Conclusions

With these new powers, of course, come responsibilities to act fairly and rights of appeal (often to the Secretary of State) have been introduced to ensure that the legislation is compliant with the European Convention on Human Rights. We expect most owners and occupiers, however, to notice little change in their relationships with English Nature. We will continue to achieve positive management on the bulk of SSSIs through cooperation and partnership, using the new powers to achieve favourable condition on those sites where the old legislation let us down.

Rachel Cook and John Holmes work for English Nature's SSSI project.

More information on SSSIs and English Nature's work can be found on their Web site www.english-nature.org.uk. More information on the access provisions of the Countryside and Rights of Way Act can be found on the Countryside Agency's Web site: www.countryside.gov.uk.