

The effectiveness of Environmental
Impact Assessment (EIA) for
uncultivated land and semi-natural areas
English Nature Research Reports



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**The effectiveness of Environmental Impact Assessment (EIA) for
uncultivated land and semi-natural areas**

Produced on behalf of English Nature by Land Use Consultants

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Executive summary

1. This report examines the effectiveness of the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (England) Regulations 2001 in securing conditions favourable to nature conservation and recommends changes which English Nature should recommend during the review of the Regulations.
2. The EIA Regulations have been applied in something over 200 individual cases since coming into force in February 2002. Of these, most cases involved proposals to modify unimproved grassland, heathland and moorland by cultivation or vegetation clearance.
3. English Nature was consulted on 41% of applications (to September 2003). The most common outcomes of the screening process were that the application was deemed outside the Regulations (as the land did not meet the screening tests) or that the Regulations applied but the proposal was allowed to proceed (subject in some cases to mitigation measures). A minority of applications were deemed to require preparation of an Environmental Statement.
4. This report's key findings are as follows:
 - The Regulations are difficult to enforce, as they apply to land which is often far from public view and to activities which may be gradual, such as fertilisation and oversowing.
 - While the Regulations have been applied in many cases to the benefit of nature conservation, in a number of cases land managers and/or Defra have required considerable prompting by English Nature or other conservation groups.
 - The guidelines developed for implementation of the Regulations indicate that the precautionary principle does not apply, which effectively places the burden of proof on conservation interests. This position should be reviewed as it is inconsistent with other EU and UK environmental legislation and policy.
 - The definition of 'intensive agricultural purposes' is restrictive. The Regulations should be broadened to include other activities that can damage uncultivated land and semi-natural areas but are not subject to other planning controls, such as horse grazing.
 - The initial screening test for grassland habitats (less than 25-30% improved pasture species) should be supplemented with other tests as it excludes sites which should be properly assessed under the Regulations. In particular, the screening process should also test for the presence of BAP animal species and for valued archaeological and landscape features.
 - The time period for consultations with English Nature and other consultees should be extended to 15 days, to allow reasonable time for accessing information about the site in question, and Defra should ideally contact local information sources directly with English Nature taking a mainly quality control role.

- Defra should also involve English Nature more closely in commenting on the findings of ecological assessments of sites, from the perspective of its knowledge of local and national conservation priorities.
- As the Regulations are presently drafted, the screening decision from Defra cannot include binding conditions on land managers but only recommendations on best practice. Binding conditions can only be attached to a full EIA decision. Amendment of the Regulations and guidelines to provide for binding conditions at the screening stage should be considered.
- A more interactive process with land managers following the screening decision (if the works are allowed to proceed) should be provided for. This would be optional for the land manager, but would provide the opportunity for English Nature to contact them and offer advice on management of the works in sympathy with nature conservation.
- The reform of the CAP offers opportunities for linkage with the EIA Regulations. It appears that there will need to be a national system for monitoring the conversion of permanent pasture (maintenance of which will be a cross-compliance requirement) to other uses. This may help to ensure that unimproved grassland of importance for nature conservation is not lost.
- The new agri-environment schemes which are under development should also support the operation of the EIA Regulations, if they are designed so that land managers see entering land into the schemes (the Higher Tier Scheme in particular) as an attractive alternative to bringing it into intensive agricultural use.

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1. Purpose and background

The purpose of this report is:

To assess the effectiveness of the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (England) Regulations 2001 in securing conditions favourable to nature conservation.

The report contributes to English Nature's input to the review of the Regulations. This review was scheduled for 18-months after the date the Regulations came into force (February 2002) but has been deferred for several months to allow consideration of the implications of the reformed Common Agricultural Policy (CAP).

The Regulations were developed in response to European Commission Council Directive 97/11/EC of 3 March 1997, amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment. The Directive related to a large number of types of activity with potential for significant effects on the environment, one of which was:

ANNEX II (1)(b) "Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes."

By the time the Regulations came into force much of the habitat they were designed to protect had been lost, mainly through agricultural intensification to meet policy objectives for increased food production. Between 1930 and 1984, for example, 96% of lowland unimproved grassland in England and Wales was lost and there was also significant conversion of heathlands, grazing marshes and other unimproved agricultural land.¹ The Regulations should, therefore, be a key means of safeguarding the little such habitat that remains.

This report assesses the current operation of the Regulations, mainly from the perspective and experience of English Nature. It also makes observations on other aspects of the Regulations such as the degree to which they are effective in protecting landscape and cultural values and how they can be integrated with the recent reforms to the Common Agricultural Policy (CAP) and intended restructuring of agri-environment schemes.

Evidence has been obtained from English Nature staff with experience of the Regulations in practice, other specialist English Nature staff and staff of other organisations such as local Biological Records Centres and Wildlife Trusts. The research has focused around eight case studies, of which three sites have been written up in detail.

The research has focused in particular on the following questions posed in the brief:

- Are the Regulations (because they place emphasis on the long term conservation of semi-natural grassland) discouraging farmers from entering land into arable reversion within agri-environment schemes? To counteract this potential problem there is a view that the policy for agri-environment payments needs to reflect longer term

¹ Townshend, D; Stace, H and Radley, D (2004). State of Nature: Lowlands – future landscapes for wildlife. English Nature, Peterborough.

conservation objectives rather than just habitat creation over a 10-year period after which time the habitat may be lost again.

- Should the Regulations step from being a policy neutral device to one that positively supports environmental gain, eg through direct links with the meeting of national Biodiversity Action Plan targets and the Defra PSA targets? One such target is to reverse by 2020 the downward trend in numbers of farmland birds, many of which rely on semi-natural areas for nesting and feeding.
- Should the Regulations seek to avoid indirect damage to important habitats and species, for example, by resisting the ploughing of grasslands (even if they themselves are not of high conservation quality) which act as a buffer adjacent to biodiversity-rich habitats, such as certain water courses where the loss of adjacent grassland may result in increased diffuse pollution and water turbidity?
- Linked to the above point and not directly related to English Nature's area of interest, should the Regulations explicitly address uncultivated land which is primarily valued for its landscape and / or cultural significance, rather than for its biological importance alone?
- Although English Nature originally suggested that the percentage of rye grass and white clover in the sward might be used to define semi-natural grasslands under the Regulations, is this the best method for defining such grasslands? This question recognises that:
 - a) areas with potential to develop into high quality conservation grasslands (eg areas in the early years of reversion) currently fall outside the Regulations;
 - b) the criteria currently give no recognition to areas of landscape or historical/cultural importance (as noted above).
- Is a 10-day consultation period too constrained to allow English Nature staff to provide a meaningful response to screening consultations, especially recognising that English Nature is often not the prime source of information on non-statutory sites? It is felt that it would at least be reasonable for this time limit to be extended to 10 working days or 14 days.
- Again, linked to the above, should the screening stage clearly signal consultation with a wider group of organisations either with English Nature Area Teams acting as the conduit for information held by others or with other organisations clearly identified as making a contribution at this stage? Such organisations might include County Wildlife Trusts, Biological Record Centres, and local authority ecologists.
- Ought a precautionary principle be applied within the Regulations? This recognises that the precautionary principle is embedded in the EIA process as it applies to other forms of development. In the case of these EIA Regulations a particular concern is if a judgement has to be reached in the middle of winter when the ecological interest of a site may not be discernable.

Should routine bone fide nature conservation management be exempted from the need for a full EIA? This particularly relates to conservation management activity undertaken by English Nature and the Wildlife Trusts, such as the reintroduction and intensification of grazing to achieve biodiversity objectives. It also potentially relates to traditional land management techniques which are only undertaken infrequently, such as liming of grasslands, but are an established part of land management systems and have been incorporated into ESA prescriptions.

2. Case studies and other evidence

The research for this report was based around case studies in which the Regulations had been applied with involvement by English Nature staff. Eight case studies were chosen as illustrating issues associated with the Regulations with three of these written up in detail. Further cases were also drawn on as appropriate.

The three detailed case studies are described below and the other five case studies summarised briefly.

2.1 Bole Ings, Nottinghamshire (EIA 142)

An application was made on behalf of West Burton Power Ltd to cultivate and reseed approximately 5 ha of land, for stocking with sheep. The land is near to the West Burton coal-fired power station in the Trent Valley near Bole and is also adjacent to a SINC designated by Nottinghamshire County Council, which is an old oxbow of the River Trent. The application site is enclosed by the oxbow.

At a site visit in October 2003 it was apparent that the land is very low-lying and likely to be wet and perhaps flooded at times during winter. The site was unfenced and had not been grazed for many years. The vegetation was dominated by coarse grasses and willow herb with scattered mature hawthorn and larger stands of hawthorn at the eastern edge of the site. Fly ash from the power station had been deposited on the perimeter of the site some considerable time ago and is now well vegetated.

The screening application was made in February 2003 and forwarded to English Nature for comment. English Nature staff did not visit the site but obtained information from Nottinghamshire Biological and Geological Records Centre and the Nottinghamshire Wildlife Trust. The reply to the Defra EIA unit from English Nature included the following information:

- The area is not part of an SSSI.
- Bird species that have national Species Action Plans and that are likely to occur in the area are corn bunting, skylark, reed bunting, grey partridge, linnet, song thrush and turtle dove.
- English Nature has been informed that the area supports breeding grasshopper warbler (a red-listed species of conservation concern), barn owl and marsh harrier (amber-listed).
- The area is an isolated pocket of wet grassland habitat in the Trent Valley, an area which has lost most of its wet grassland habitat.
- English Nature advises that an Environmental Statement is required to establish whether the site supports nationally important habitats and species and its local importance for wildlife.

The Defra EIA Unit decided, based on this information, that an ecological survey was necessary and this was carried out in late March/ April. The survey report was not passed on to English Nature but the conclusion stated in the reply to English Nature (20 May 2003) was

that, whilst the proposals are within the scope of the Regulations, the work was unlikely to have a significant effect on the environment. From this it appears that the vegetation was assessed as being less than 25-30% improved pasture species but that it was not a UK BAP priority habitat or under conversion to one, nor did it meet the other criteria in the Ecological Guidelines. The Defra EIA Unit reply did not mention whether any UK BAP species were sighted during the ecological survey.



Figure 2.1 Bole Ings site, view facing north showing coarse grass and hawthorn trees.

2.2 Watlington Park, Oxfordshire (EIA 63)

The land is about 85 ha on the lower slopes and base of the west-facing Chilterns escarpment just east of Watlington, in the Chilterns AONB. Parts of the site abut the Watlington and Pirton Downs SSSI and areas of ancient woodland. The previous owner had placed the fields (formerly in arable use) in the Countryside Stewardship Scheme and the land had been purchased by a new owner who wished to return it to arable use for a year or two before possibly re-entering CSS. The land had been re-colonised by a calcareous grassland community, although it was not close to SSSI standard.

English Nature was contacted in June 2002 on the application for screening. Staff visited the site and commented as follows:

- English Nature believes that this proposal would have a significant effect on the substantive botanical interest and biodiversity value of this site, and strongly recommends an EIA.

- Although the fields do not contain any national rarities they are all developing a diversity of flora typical of calcareous soils and contain a number of characteristic chalk downland species.
- The restoration of downland in the Chiltern Downs is a key local BAP target and contributes to meeting national BAP targets. The positions of the fields, adjacent to an SSSI and ancient woodland, enhance their environmental significance.
- The fields appear to be progressing toward meeting the EIA entry criteria (less than 30% improved pasture species, and are undergoing a natural transition in which clover species dominate while P and K remain relatively available).

The Countryside Agency was also consulted on the application and replied that it considered the proposed project would significantly affect landscape and amenity.

The subsequent ecological survey showed that parts of the fields (about 3.7 ha) fell within the entry criteria for the Regulations and were under conversion to a UK BAP habitat, lowland calcareous grassland, but the remaining areas were either not within the scope of the Regulations or not ecologically significant.

In the event, no Environmental Statement was prepared for those parts falling within the Regulations and the land manager agreed to return the whole area to CSS, which was a positive outcome, but the case illustrates potential difficulties with the Regulations where land is in reversion but still some way from becoming a UK BAP habitat.

2.3 Windover Farm, Hampshire (EIA 156)

This site is a small grass field (about 3 ha) adjacent to the River Test SSSI and in an ESA, but without an ESA agreement in force (unlike much of the surrounding land). The River Test is a nationally renowned trout fishery, the economic value of which is dependent on maintaining water quality in the chalk river. The owner wished to plough the land and applied for a screening decision in March 2003. At a site visit in October 2003 the site had not yet been cultivated, consisting of heavily over-grazed horse pasture and invading nettle and forming part of a chain of horse paddocks along this boundary of the Test SSSI.

English Nature was consulted and staff were unable to visit the site within the timeframe but responded with the following comments:

- Due to the close proximity of the field to the river we would not recommend it is ploughed as we would be concerned about the potential effects on pollution of the river, particularly through diffuse pollution such as soil erosion and use of chemicals should the field be returned to cultivation.

An ecological survey was undertaken, following which the Defra EIA Unit responded informally to English Nature suggesting:

- The retention of a 6 metre grass buffer strip along the boundary adjacent to the SSSI to minimise run-off into the river.
- Ploughing across rather than down the slope.

The English Nature member of staff responded that English Nature still had concerns and that the proposal would not fit in with the objectives of the Landcare project for the River Test and Itchen catchments, in which both English Nature and Defra were partners.

The screening decision stated that the site was found to be uncultivated land as defined by the Guidelines, but with the exception of the 6m strip adjacent to the river the proposed works were unlikely to result in significant effects on the environment. The decision also included guidance on avoiding water pollution.



Figure 2.2 Windover Farm site, view towards River Test beyond field edge

2.4 Other cases examined

The other five case study examples are briefly summarised below.

2.4.1 Turnastone Court, Herefordshire (EIA 62)

The land in question (60ha) had been managed as low intensity grassland by the former owner, whose executors put it up for sale. Local English Nature staff became aware that potential purchasers were interested in purchasing the land for potato cultivation. Local naturalists believed that the site had significant ecological value, both as semi-natural grassland and as a bird habitat, and English Nature advised Defra by letter in March 2002 that the land contained “*extensive areas of unimproved and semi-natural pasture*” and recommended that an EIA be required if the eventual purchasers intended to cultivate.

After sustained prompting from English Nature the intending purchaser made a screening application (June 2002) and Defra staff undertook an ecological assessment. Defra then advised the vendor (July 2002) that an EIA would be required. The site was eventually purchased by a conservation charity to be managed for conservation purposes, and as a result no environmental statement was prepared.

2.4.2 Peyton Hall Farm, Boxford, Suffolk (EIA 41)

This comprises 120 ha of grassland adjacent to the River Box within an AONB. The land was in an ESA agreement which was due to run out in spring 2003. The land manager applied for a screening decision for his proposal to use the land for arable and root crops. English Nature was consulted (April 2002) and, although not able to visit the site, an English Nature staff member discussed the site with the local Biological Records Centre. English Nature advised Defra that further assessment and possibly an EIA would be desirable, as the land: was adjacent to the River Box; appeared to include floodplain grazing marsh which is a Suffolk BAP habitat; contained freshwater springs; and lay adjacent to the River Box Meadows County Wildlife Site. In addition, there were signs of otter using land upstream and downstream of the site (including sightings at road bridges), similar evidence of water voles, and with records of badger on the site.

Defra ecologists visited the site. English Nature asked that the above points should be investigated in their assessment. It appears, although the ecological report was not available, that much of the grassland was found to be improved pasture. Defra notified the land manager (May 2002) that the proposed project was outside the scope of the Regulations, but attached copies of best practice guidance for soil and water management for information.

2.4.3 Old Hall Farm, Skeffling, Yorkshire²

This land was for sale and had been farmed at very low intensity for many years. English Nature was informed of the impending sale by local ecologists and the Yorkshire Wildlife Trust. Based on the views of local ecologists and old site records held by English Nature staff, English Nature notified the auctioneer that the Regulations might apply to the land and also the eventual purchasers. At sale part of the land was purchased by a conservation charity in recognition of its ecological value while the remainder passed on as commercial farmland.

One purchaser ploughed after taking possession and was issued with a stop notice. It appears that Defra later decided that as the land had always been registered as arable set-aside under IACS, the EIA Regulations did not apply. This decision was subsequently reversed when it appeared the IACS number had been incorrectly applied but by this time the fields had been ploughed and the nature conservation interest lost.

2.4.4 Ball Hill, Farway, Devon (EIA 26)

This site comprised 13ha of mainly lowland heath and acid grassland (both UK BAP Priority Habitats), designated as a County Wildlife Site lying within the East Devon AONB and containing two Scheduled Ancient Monuments. A public bridleway also runs along the eastern edge of the site. Cultivation (flailing and then ploughing) commenced prior to the introduction of the EIA Regulations. The purpose was to establish a game cover crop.

English Heritage became aware of the work, visited the site and advised the land manager to contact Defra regarding the possible need for EIA screening. Some confusion ensued regarding the legal position (whether the work could continue after the Regulations commenced, as they were already in progress). Defra advised the land manager to apply for screening (3 February 2002) and consulted English Nature and other agencies. The eventual

² This case had no EIA number as no application was made under the Regulations.

decision was that the land was within the Regulations (10ha of the 12ha site) but there would be no significant effect, and the work could proceed subject to mitigation measures including a buffer zone around archaeological sites and natural recolonisation of the cultivated areas after removal of the game cover crop.

2.4.5 Culm Grassland at Northlew, Devon (EIA 53)

In this case English Nature was consulted in June 2002 on an application to plough and reseed a 2.4 ha field in the Culm area of north Devon. English Nature staff were unable to visit the site but checked the location against aerial photographs. English Nature's response to Defra noted that the site did not fall within any statutory nature conservation designation but was adjacent to an area of unimproved culm grassland identified by the Devon Wildlife Trust, and appeared to be a similar habitat. As culm grassland is a priority habitat within the UK Biodiversity Action Plan it was considered appropriate that an EIA be carried out.

As a consequence, the land was identified as within the Regulations, requiring an EIA, with a final outcome that the area was secured through a CSS agreement negotiated with the owner.

2.5 Data from the screening register

The screening register to the end of August 2003³ (19 months from the introduction of the Regulations) indicates that there were a total of 202 applications for screening decisions under the Regulations. Of these:

- a. Seventy-nine were deemed outside the Regulations (ie did not meet the entry test, either the sward test for grassland or the other tests for habitats such as wetlands and open water).
- b. Seventy-nine were within the Regulations but with no significant effects (although in some cases provisos were attached to such decisions, such as the exclusion of parts of the site from any works).
- c. Fourteen were withdrawn.
- d. Nineteen were within the Regulations and required preparation of an Environmental Impact Assessment (EIA).

Of the 202 screening applications, English Nature was consulted on 82 (41%). Further information was obtained from the EIA section of the Defra website for those applications which were deemed to be within the Regulations (categories (b) + (d) above; although there is a slight difference in the totals). This is summarised in Table 2.1.

³ Summary data provided by Defra EIA unit (see Appendix 1)

Table 2.1 Habitat types where EIA screening has been applied, and proposed works (to September 2003)

Habitat type	Number of applications	Percentage of applications
Unimproved grassland, heath and moorland	87	90%
Other grassland	3	3%
Wetlands	6	6%
Scrublands	1	1%
Total	97	
Details of proposed works	Number of applications	Percentage of applications
Cultivations	78	80%
Clearing vegetation	7	7%
Spreading soil or other material	2	2%
Introducing livestock	1	1%
Drainage	1	1%
Other	1	1%
Infilling ditches, ponds, pits etc.	7	7%
Total	97	

Table 2.1 shows that the great majority of applications that were deemed within the Regulations were for works on unimproved grassland, heath and moorland (90%) and the most common type of works (project) was cultivation (80%) followed by clearing of vegetation (7%). There were a small number of applications relating to infilling of wetlands (6 applications) and one or two for each of the other types of works.

These data need to be viewed in context. They do not include enforcement cases, as these do not appear on the register although Defra does keep records. They also do not include works that might have required a screening decision but no application was made. It is possible that cultivation works, because of their highly visible nature, are more likely to be seen and hence are more strongly represented in the applications that were subject to screening decisions than, say, increased grazing intensity or application of fertiliser.

3. Issues arising from the case studies and other evidence

From discussions with English Nature staff it appears that the majority of the issues in relation to the application of the Regulations, as they presently stand, are to do with the screening stage of the EIA process. There are also some issues in relation to enforcement, and knowledge of the Regulations by land managers. No concerns were raised regarding the scoping of environmental statements, the production of environmental statements, the consent application process or the appeals process. To date there have been several scoping applications but no full consent processes leading to a decision.

The issues to do with screening and enforcement are discussed in this Chapter under the following headings:

- entry tests and their interpretation;
- tests of ecological significance;
- significance of environmental effects
- enforcement of and knowledge of the Regulations;
- other issues.

Several sets of guidelines are referred to in the following discussion, as some of the difficulties in implementing the Regulations relate to the content and interpretation of the guidelines.

- The **Public Guidelines**, which are distributed to land managers to explain the Regulations in general terms and how they may be affected by them.⁴
- The **Defra Internal Guidelines**, which advise EIA Unit staff and statutory consultees how to interpret the Regulations in practice.⁵
- The **Ecological Assessment Guidelines**, which specifically focus on the ecological tests required during the screening procedure.⁶
- The **English Nature Internal Guidelines** which are aimed specifically at English Nature staff in exercising the agency's role as a statutory consultee.⁷

⁴ Defra (2002) *Guidelines: Environmental Impact Assessment for Use of Uncultivated Land and Semi-Natural Areas for Intensive Agricultural Purposes*.

⁵ Defra (2002) *Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) Regulations 2001*. Internal guidance for Defra staff and statutory consultees.

⁶ Anon. *Ecological Assessment of Wetlands, Scrub and Unimproved Grassland, Heath or Moorland for EIA Screening Decisions*.

⁷ Anon. *The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) Regulations 2001*. Interim advice note to English Nature Area Teams.

3.1 Entry tests and their interpretation

A screening assessment is only required if the proposed activity is a project, within the meaning given in the Regulations and as clarified by the Public Guidelines and Internal Guidelines. The Regulations define a ‘project’ as being (emphasis added):

- “(a) the execution of construction works or other installations or schemes; or
(b) other interventions in the natural surroundings and landscape, involving the use of **uncultivated land** or **semi-natural areas** for **intensive agricultural purposes**.”

The two sets of guidance interpret the types of work that may constitute a ‘project’ very broadly. They can include cultivations; spreading soil or other material, including fertiliser or lime in excess of existing routine application rates; drainage works; land reclamation from estuaries or other wetlands; modifications to watercourses; operations on flood defences; infilling ditches, ponds, pools, marshes or historic earthworks features; clearing vegetation or land (by various means including physical removal, burning, herbicides or overgrazing); and introducing livestock at intensive stocking rates. The guidance states that this is an illustrative list only, but even so it is very comprehensive and there has been no suggestion that it is inadequate.

The potential difficulties in the definition of a ‘project’ relate to whether the land in question is **uncultivated land** or a **semi-natural area** (the *determination test*) and whether the works are for **intensive agricultural purposes**. All of these terms in bold are taken directly from the EC directive and have been interpreted by the competent authority (Defra) in the guidelines.

3.1.1 Uncultivated land and semi-natural areas

Because of the broad range of land types potentially falling within the Regulations, and the variation within and gradation between types of land, defining uncultivated land and semi-natural areas will always be difficult. The ADAS report⁸ prepared for Defra to assist in review of the Regulations has addressed this issue in detail, so it is addressed only briefly here.

Three separate tests have been adopted for whether land is ‘uncultivated land’ or a ‘semi-natural area’

- i. a test for grassland, heath and moorland;
- ii. a test for scrubland; and
- iii. a test for wetlands.

These tests are set out in the Ecological Assessment Guidelines. The tests for scrubland and wetlands are relatively clear, appear to capture all relevant habitats and are not a significant cause for concern.

The test for grassland, heath and moorland is relatively straightforward (though time consuming) to apply, but concerns have arisen over its operation in practice. As noted in the previous Chapter, most of the screening decisions are for this type of land. The test is:

⁸ ADAS (2003) ADAS Report on the Implementation of the Environmental Impact Assessment Regulations for Uncultivated Land and Semi-Natural Areas.

“[land containin]g less than 25% - 30% of ryegrass and/or white clover or other sown grass species indicative of cultivation.”

Off-site impacts: One concern with this test (the ‘species test’) is that it tests for whether the grassland itself is semi-natural, but not whether it has an important place in a wider ecological system, or whether there may be off-site impacts from the works. One example is coastal grazing marshes, in which the grassland itself is mainly improved but ditches and other wet areas within it may provide important habitat for birds and other species. Development of the land through cultivation or other works may impact on these species through runoff and loss of the surrounding pasture habitat.

In two of the case studies, concerns of this type were voiced by English Nature staff about the cultivation of land lying adjacent to a water course. At Windover Farm the subject site was an area of grassland adjacent to the River Test which is an SSSI and a renowned trout fishery. The ecological survey found that the grassland was not uncultivated or semi-natural and the screening decision was that consent (EIA) would only be required if cultivations occurred within 6m of the SSSI, ie a buffer strip had to be left. The English Nature officer’s assessment was that this would not be adequate to avoid risks of runoff affecting the river, given its high conservation status, although she was unable to visit the site at the time to confirm this assessment. On the other hand, the field concerned was small (3 ha), a recent site visit by ourselves confirmed that the slopes to the river are relatively shallow and the land manager’s intention appears to have been to re-seed an overgrazed horse pasture rather than to cultivate on an ongoing basis. Works had not commenced by early October 2003.

The case at Peyton Hall Farm, Boxford, appears to be more significant. The land manager wished to cultivate 110 ha of grassland, which was coming out of an ESA scheme, for grain and root crops. The land has approximately 1km of frontage to the River Box, slopes towards the river, with sign or sightings of otter and water vole had been recorded both upstream and downstream of the site. An ecological survey again found that the land did not fall within the Regulations and the land manager was advised that the works could proceed, although he was provided with best practice guidance material for avoiding erosion and water pollution.

Land in reversion: Another concern with the species test relates to land in reversion. In the case of Watlington Park Farm, because of residual fertility at the site from its arable use 10 years earlier, improved pasture species persisted even though species indicative of semi-natural grassland were colonising the area.

This case illustrates several important points. Firstly, the species test appears to be not well suited to testing for uncultivated land if the land is in reversion from former arable use. Secondly, it raises the question of whether it is appropriate for public funds to be expended to create a habitat (through CSS) which can then be lost to cultivation with no real net benefit to conservation. In most situations the 10 year term of CSS is not sufficient to allow a semi-natural grassland community to develop. It may be argued that both of these issues are outside the scope of the EIA Regulations as they were not established to cater for these circumstances. It has also been suggested that farmers would not enter CSS and similar schemes if the EIA Regulations would then restrict their land management options when the term of the agreement ended. If these arguments are accepted then other policy instruments may be necessary to cover such situations, such as a longer term for CSS agreements or

incentives (such as higher payment rates) to re-enter the scheme for a second term. These issues of policy integration are returned to in Chapter 4.

In summary, it appears that from a nature conservation perspective, the species test:

- Is adequate for distinguishing whether land (or more specifically, the botanical community on the land) is semi-natural.
- Does not address land in reversion as it can take a considerable number of years for semi-natural habitats to re-establish and because the residual fertility at former arable sites can persist for many years.
- Is not good at all at distinguishing situations where intensive agricultural operations are likely to cause significant effects off-site or to wildlife which may use a site, although the Internal Guidelines do make some allowance for such circumstances as a special case (see Tests of Ecological Significance below).

From perspectives other than nature conservation (such as landscape and archaeology) the species test also has major limitations, as the starting point for screening is based only on ecology. Although not directly within English Nature's sphere of responsibility this issue is addressed briefly in Chapter 4.

3.1.2 Intensive agricultural purposes

The ADAS report to Defra covers the definition of intensive agriculture in some detail, and also the extent to which agricultural activities are addressed in the land use planning system rather than under the EIA Regulations. Briefly, a pragmatic definition of what constitutes intensive agriculture has been developed in the various guidelines and through ongoing experience by the administering staff. The main difficulties in this area are:

- a. Where the activity is for the purposes of intensive agriculture but is permitted by the GPDO 1995 (eg farm buildings, tracks and spreading of soil and other material, if they meet the criteria in the GPDO). The problem here is that the GPDO does not contain significant safeguards for ecological values.
- b. Where the activity is on the boundary between the planning system and the EIA Regulations, but would have similar effects to the types of agricultural activities caught by the Regulations (eg use of land for running horses which does not classify as agricultural land).
- c. Where an agricultural-type operation is carried out (eg vegetation cutting, mulching, burning or ploughing) but the land is not immediately put to an agricultural use.
- d. Where an agricultural intensification occurs gradually, such as an increase in fertiliser application and stocking rate, or slot-seeding of ryegrass (which would also probably involve fertiliser application). Such activities are both difficult to define (ie at what point do they become intensive agriculture?) and difficult to detect.

Some of these issues have been resolved through experience. In the case of (c) above, Defra has interpreted agricultural use widely in practice, to include activities such as establishing a game cover crop (eg in the Ball Hill case). However, it remains difficult to detect gradual

intensification, and if current trends in the purchase of land by non-farmers continues then there may be an increase in the incidence of non-agricultural activities on land that would otherwise fall within the Regulations.

3.2 Tests of ecological significance

The species test for grasslands, and the related tests for scrublands and wetlands, simply determine whether the subject site contains land of a type covered by the regulations. The second test in the screening procedure is whether the land is of ecological significance. (The third test is whether the project will have a significant environmental effect – see next section).

The tests for ecological significance, set out in the Ecological Assessment Guidelines, are whether the land hosts:

- A statutory nature conservation designation.
- A UK BAP Priority Habitat.
- An area in the process of reversion to a UK BAP Priority Habitat.
- A significant population of a UK BAP Priority Species.
- Other regionally distinctive habitats of national or European importance.

These are in roughly decreasing order of ease of assessment. The assessment of whether land includes **(1) a statutory nature conservation designation** should be unambiguous. There is some debate whether County Wildlife Sites (CWSs) and Sites of Importance for Nature Conservation (SINCs) designated by local authorities should also be taken as ecologically significant and therefore trigger the need for an Environmental Statement. At present this is not the case although the site might still fall under one of criteria 3 – 5 in the list above. A potential problem with the inclusion of CWSs and SINCs is that the process of designating them is not as rigorous as that for designating a statutory site, but Defra is in the process of preparing guidance for local authorities which should lead to greater consistency. On balance, it would be desirable that CWS and SINC designations should be included within the tests for ecological significance.

It is also relatively clear (in principle) whether land is **(2) a UK BAP Priority Habitat** as these habitat types are well defined in a generic sense. In practice, the problem with this criterion is that the Priority Habitats are not mapped for the whole country, and in particular outside SSSI's where the Regulations are most needed (other safeguards applying within SSSI's). English Nature staff are expected to provide reasonable evidence to Defra that a site may be a UK BAP Priority Habitat to justify a visit by a team of ecologists to survey the site, and this is sometimes not possible within the 10 day consultation period for sites that are not already well known. Some English Nature staff have expressed the view that the presence of regional and local BAP Priority Habitats should also trigger an EIA. There have been several cases where regional or local BAP habitats have gone through the screening process and the project has been allowed to proceed. However, it may be difficult to argue for such a significant broadening of the scope of the EIA Regulations as they are presently designed around protecting only the most significant habitats and species.

Land that is **(3) in the process of reversion to a UK BAP Priority Habitat** can usually be clearly identified (eg the calcareous grassland at Watlington Park), but the question arises of how close the site is to becoming a priority habitat, which is a matter for judgement by the Defra ecologists and EIA team. In the Watlington Park case, approximately 4ha of the 20ha site was considered to be under reversion to lowland calcareous grassland, a UK BAP Priority Habitat, and the screening decision was that an Environmental Statement would be required for this part of the site. The majority of the remainder of the site was not considered to be within the scope of the Regulations (having failed the species test), and so the question of whether it was ecologically significant (ie under reversion) did not arise, although the view of English Nature staff was that it would revert to lowland calcareous grassland once residual fertility had fallen. In the event, the owners voluntarily returned the whole area into CSS so the outcome was positive from a nature conservation perspective, although it would not have been under strict adherence to the EIA Regulations...

Whether land hosts **(4) a significant population of a UK BAP Priority Species** is often difficult to assess for animals and invertebrates. The Ecological Assessment Guidelines specify different thresholds of significance (ie number of individuals or proportions of the known population) for

- i. UK BAP species that are also Species of European Importance
- ii. other UK BAP Species and
- iii. UK BAP species present as a suite of several species.

Whether these species are present and the extent to which the site is important for their survival can usually only be assessed by detailed field surveys. Time of year is often important for such surveys, such as the breeding season for birds. The issue of information availability is clearly the main problem here, as there is a short window for screening decisions (35 days) and an even shorter window for consultations with English Nature and other consultees (10 days), which will usually mean a field survey is not practical and may not even be possible if the application is made when the species are not using the site.

Some of the case study applications illustrate this issue. At Peyton Hall Farm, Suffolk, there was evidence of otter and water vole on either side of the application site but during the ecological survey (which appears to have focused on the grassland community itself) no evidence of the animals was noted.

Similarly at Bole Ings, Notts, English Nature's response to the screening consultation was that UK BAP species likely to occur in the area were corn bunting, skylark, reed bunting, grey partridge, song thrush and turtle dove (although no survey records were available to confirm this). The English Nature response also noted that the area was an isolated pocket of wet grassland in the Trent Valley, which has lost most of this habitat type. The ecological survey did not observe these species and the screening decision was that the land was within the scope of the Regulations but the work (ploughing and reseeded grassland) was unlikely to have significant effects on the environment, although guidance notes were included with the screening decision.

The difficulty for the UK BAP Priority Species test, where fauna are concerned, is that the surveys by Defra ecologists are focused on the vegetation community. The Ecological Assessment Guidelines state (p.10) that "RDS Ecologists will not undertake detailed surveys of associated fauna and will need to rely on statutory consultees for these. They should,

however, record incidental faunal records whilst undertaking vegetation surveys”. The problem is that the consultee (English Nature) usually does not have this information either, and even if anecdotal records are available from sources such as Biological Record Centres or Wildlife Trusts or local naturalists, does not have the resources to verify these within the 10 day consultation period.

Discussions with English Nature staff indicate that Defra staff have occasionally cited the need to keep within the 35 day processing deadline, and the agreement that the Precautionary Principle does not apply to the Regulations, as reasons why faunal use of application sites may not be investigated in detail when processing screening applications. We would argue that this is an incorrect interpretation of the Precautionary Principle, which is discussed further in Chapter 4 of this report.

The final ecological test is whether the land hosts **(5) other regionally distinctive habitats of national or European importance**. This test is something of a catch-all and is not very clearly defined, but includes:

- Sites which are not occupied by but provide important forage areas for, local populations of UK Priority bats, bumblebees or other invertebrates, where there is evidence that the current population size is dependent on that area of land.
- ‘Regionally distinctive habitats’ that are not UK BAP Priority Habitats but meet certain criteria defined in the Defra Internal EIA Guidelines.

The case studies did not include examples of this test of significance being applied in practice, so it is not possible to comment on its appropriateness.

3.3 Significance of environmental effects

The preceding two sections consider how the screening system assesses whether land falls within the Regulations (determination test), and whether the land is ecologically significant (significance test). The final step in screening is to decide, if the land passes the first two tests, whether the project will have significant environmental effects.

The Defra Internal Guidelines indicate how the test for significance of effects should be applied, based on Schedule 1 of the Regulations and paragraphs 19 to 21 of the Public Guidelines. The main criteria are the extent of the impact (geographical area and size of affected population⁹), the magnitude and complexity of the impact, the probability of the impact and the duration, frequency and reversibility of the impact. The guidelines expand upon these principles, but not in great detail. Statutory Sites are fairly well covered (European sites, SSSIs, NNRs, National Parks and AONBs), but the majority of controversial interpretations of the Regulations (from English Nature’s perspective) have been on non-statutory sites. The Guidelines’ comments on significance testing which would apply to such sites are briefly discussed below.

⁹ The size of the affected population appears to refer to the human population rather than the populations of other species, and is more relevant to other types of EIA such as large industrial developments than it is to EIA for uncultivated land and semi-natural areas.

Section 3.15 states:

“In the majority of cases the loss/damage of a **BAP Priority Habitat/Species** could be significant. Therefore any proposal that affects any of the BAP Priority Habitats or Species listed in Annexes F, G and H are likely to require EIA, although it may be possible to mitigate some of the effects.”

However, the guidance goes on to reiterate that the precautionary principle does not apply and that “it is not the intention to go to extremes to locate and identify all species that may be present on or use the land.” This places the burden of proof on statutory consultees to provide such information. Again, the problem is not that the Regulations and guidelines are not wide enough in scope, but that there is a lack of information with which to make decisions within the time available (eg Bole Ings, Peyton Hall Farm).

The Guidelines provide some further comment in relation to **non-statutory sites and other land, habitats and protected species, biodiversity and the wider countryside, and cumulative effects**, ie how to judge the significance of environmental effects in each of these categories. Overall, though, the guidance is quite general and leaves much to the interpretation of case officers. The need to consider off-site effects such as nutrient enrichment is referred to, but only in relation to designated European Sites, SSSIs and NNRs. This is a weakness.

3.4 Enforcement of and knowledge of the Regulations

Several English Nature officers raised lack of rigour in enforcement cases as an issue of concern. The most significant example was at Old Hall Farm, Yorkshire, where the new owners of the land commenced scrub removal and cultivation works despite being advised after purchase (by English Nature) that the EIA Regulations may apply. Confusion arose out of the land having been registered by the former owner as set-aside even though it had not been cropped during the qualifying period, or for many years beforehand. When Defra were tipped off that works had commenced a stop notice was issued but it was subsequently decided that the Regulations could not apply as the land was classed as set-aside (and the CAP requires that set-aside land is available for cultivation). It was only after the works were complete and the semi-natural grassland habitat destroyed that the error in the land classification was confirmed. No prosecution was taken, presumably because the original owner was deceased and the new owners had complied with Defra instructions once the stop notice was issued.

At a site at Pin Vin, Worcs (not one of the case studies) a Worcestershire Wildlife Trust liaison officer visited a site that had been the subject of a planning application and advised the land manager of the requirements of the Regulations. The site was, in the officer’s opinion, semi-natural neutral grassland with some parts showing ridge and furrow systems. The land manager subsequently ploughed three of the four fields before Defra was tipped off and prevented further work.

At both Old Hall Farm and Pin Vin, land managers commenced work without seeking a screening decision despite being advised (by English Nature and the local Wildlife Trust respectively) that an EIA might be required.

Of the screening applications, a sizeable proportion of those discussed with English Nature staff resulted from a tip-off, or prompting by English Nature or other organisations such as FWAG. This suggests that the requirements of the Regulations are not well known by land managers.

3.5 Other issues

English Nature staff have commented on a lack of feedback from Defra on cases in progress and would like to have greater involvement in the process of assessing significance and discussions with land managers about management alternatives. One comment was that “the system is not interactive”.

English Nature staff usually do not have time during the 10 day consultation period to visit the site and discuss options with the landowner, and as the system currently operates Defra does not expect English Nature to do this, but to supply existing information and quality check information from other sources. After the screening decision, English Nature again is not given a role in visiting the landowner and discussing how to do the works in sympathy with conservation values (use of best practices such as timing of works, buffer strips, etc.) The resources may not always be available to do so, but this would be a useful area to explore with Defra.

The written reply to consultation is usually the only means by which English Nature is able to influence the outcome of a screening decision. For this reason it needs to be as clear and informative as possible. The replies sighted during this research were all of a good quality, but most English Nature officers only see one or two screening applications in a year and it is hard for them to know how to put across their arguments in the most effective way in what is essentially a quasi-legal process. The English Nature internal guidelines already indicate the types of information to include in replies, but a review of these guidelines would be helpful. The information provided in responses should be laid out logically under a series of standard headings such as:

(a) Information held:

- Statutory designations at the site, and nearby
- Other nature conservation designations at the site, and nearby
- English Nature information about and staff experience of the site
- Other local organisations’ and individuals’ information about and experience of the site (including their contact details)

(b) Assessment of this information:

- Statement on reliability of the available information (eg high, medium or low for each data source)
- Assessment of the nature conservation significance of the site, including whether it contains or is under conversion to a UK BAP Priority Habitat, is likely to be used by UK BAP species and if so at what times of the year and in what numbers, whether it hosts a suite of species of conservation concern or whether it forms part of a network

of habitats in the area. These assessments should address the specific criteria for significance stated in the Defra Internal Guidelines and Ecological Guidelines.

- Assessment of whether and how this nature conservation significance may be affected by the proposed project.

(c) Recommendations:

- Whether, based on current information, English Nature considers that an Environmental Statement should be required of the applicant.
- Whether further ecological assessment is necessary to determine whether an Environmental Statement should be required of the applicant.
- Other recommendations such as potential means to mitigate the effects of the proposal.
- Whether English Nature wishes to participate in any ecological survey at the site, or has suggestions on how this should be undertaken.

It would be rare that all such information is available for any particular site, but following through such a sequence would ensure that all potentially useful information that English Nature holds is laid out clearly and would assist the Defra EIA Unit in its decision making.

4. Comment on issues raised in the brief

This Chapter addresses the specific questions posed in the study brief, which are italicised at the beginning of each section.

4.1 Coverage and effectiveness of the Regulations

Is the percentage of rye grass and white clover in the sward the best method for defining semi-natural grasslands under the Regulations?

Is this species test appropriate for areas with potential to develop into high quality conservation grasslands (eg areas in the early years of reversion), which currently fall outside the Regulations?

Should the Regulations seek to avoid indirect damage to important habitats and species, for example, by resisting the ploughing of grasslands (even if they themselves are not of high conservation quality) which act as a buffer adjacent to biodiversity-rich habitats, such as certain water courses where the loss of adjacent grassland may result in increased diffuse pollution and water turbidity?

Should the Regulations explicitly address uncultivated land which is primarily valued for its landscape and/or cultural significance, rather than for its biological importance alone?

The issues addressed under the various headings in this section can be summarised as:

- (a) Coverage or scope of the Regulations: Do they capture all of the situations of potential threat to significant nature conservation value that English Nature expects them to?
- (b) Effectiveness: Are they effective in producing results for nature conservation within the constraints of their scope?

4.1.1 The species test

The species test for entry (less than 25-30% improved grassland species) has proved to be robust in practice for many of the grassland types assessed but it would need to be supplemented with other tests to provide greater certainty in situations such as:

- off-site effects (typically on water resources and their biota);
- effects on animal and invertebrate UK BAP species that use the site;
- uncultivated land in reversion from arable use and with high residual fertility;
- effects on landscape and cultural values.

These tests are already contained in the Internal Guidelines and Ecological Assessment Guidelines, with the possible exception of land in reversion, but according to the Ecological Assessment Guidelines they operate at the significance testing stage rather than at the entry

stage, so they are not applied unless the site passes the species test. It is likely that in practice Defra staff are more flexible on this and if, for example, they see evidence of a BAP species during the ecological survey they will investigate further regardless of the vegetation conditions.

There is a need to bring some of these tests forward into the entry tests. This would not require amendment of the Regulations but a revision of the Guidelines.

The simplicity of the species test is one of its main strengths. Although few land managers will be able to assess the improved grasses and clover content of a field to a high level of accuracy, the test can be applied by RDS staff without difficulty and the result is clear-cut. It is important that any further tests that are required preserve the simplicity of the current system as far as possible, although they will inevitably add some further complexity.

4.1.2 Areas with potential for reversion

Areas of land with ‘potential for reversion’ to a UK BAP habitat are considered, for the purpose of this report, to be those which:

- Have potential for becoming a UK BAP habitat based on their location, climate, geology and soils, eg they were known to have been such a habitat in the past.
- Have been uncultivated (and otherwise unmodified) for a considerable period but have not yet developed a semi-natural biota.
- Are expected to continue to develop into a UK BAP habitat over time, given favourable management.

This situation can arise where land has been retired from intensive management via agri-environment schemes (eg Watlington Park), via set-aside, or without such assistance for reasons of personal choice or circumstance. Examples of the latter are farmers who reject high-input farming methods (some of the older generation of farmers and also organic farmers) and land under low-intensity management because it is seen as uneconomic or not a priority for the business. This latter situation seems to have occurred at the Bole Ings site, which is an isolated pocket of the land holding around a power generation plant and has not been grazed or cultivated for many years.

As stated earlier, the species test shows whether grassland is semi-natural but does not always show if it has been uncultivated for many years, notably if high residual nutrient levels remain on former arable land.

The term ‘uncultivated’ is a relative term as much of lowland England (other than very wet soils, very rocky soils and steep parts of fields) will have been cultivated at some stage. The definition of uncultivated links back to the definition of semi-natural, in that land is considered uncultivated if it has been unmodified by cultivation, high fertiliser applications or herbicide use for long enough that a semi-natural community has developed. Certainly, land that is cultivable but has been in grassland for half a century (such as the land at Hall Farm, Yorkshire) is generally viewed as uncultivated. Indications at Watlington Park and from other research suggest that 10 years out of cultivation is not adequate for reversion to occur. The ADAS report to Defra concluded that a period of between 15 and 20 years since

last cultivation may be a suitable threshold for determining that land is uncultivated for the purposes of the Regulations.

If such a test is adopted in the Regulations it is likely to catch most land in reversion to UK BAP status, and 20 years would equate to two 10-year terms under Stewardship. However, such land would probably be caught by the species test in any case, so a 'period since last cultivation' requirement may not add anything to the Regulations' effectiveness.

On balance, it appears that the Regulations are not an appropriate means to identify and bring into conservation management land which is reverting from arable use but is still some way off BAP habitat status. The Regulations are designed to protect land which has already reached such status or is close to it, and there is likely to be resistance to extending their scope in this way. Other methods (ie promotion to farmers and incentives) would be more effective. Also, the regulatory EIA system should be designed so that it does not discourage entry into the voluntary agri-environment schemes, as explored further below in the section entitled 'Broader Issues'.

4.1.3 Off-site effects and effects on fauna using the site

As the entry test is based on on-site vegetation there have been concerns expressed by English Nature staff that other values potentially affected by a project are not given enough emphasis. If screening just focuses on the specific piece of habitat and not how it fits into the wider ecosystem, the screening process can miss the point. There are potential cumulative effects if an area is valuable as part of a wider suite of habitats, rather than just in its own right.

Projects can have wider effects on fauna which use the site occasionally, or only at certain times of the year. In this case, the concern is that the project will remove or modify part of their habitat. Examples are:

- foraging invertebrates such as bumblebees.
- birds that use the site either regularly as part of their range or as a seasonal habitat eg for nesting.
- otters and water voles that use the site regularly.

Projects can also affect aquatic ecosystems (typically rivers and streams but possibly also lakes and estuaries) through runoff of sediment and nutrients and possibly agrichemical spray drift. Fish and invertebrates may be affected. This will be more of a concern where the existing water quality of the river and its nature conservation value are high, where the species are sensitive to the effects of runoff, and where the activity at the site is to be ongoing (eg conversion of fields to arable use rather than re-grassing of pasture).

The Habitats Regulation will apply where the site is designated as a SAC, SPA or other European site. In other cases, some form of protection is required for UK BAP species that use the site or may be affected by activities at the site. The grassland species test is still likely to be the initial trigger, in that this is likely to be the reason for a screening assessment at the site. However, if the site fails the species test at survey but there is evidence of use by, or potential effects on, UK BAP species, there could be provision for a further (second stage) screening assessment of whether the site should fall within the Regulations. 'Evidence'

would include reliable sightings of the species or their sign at the site within the previous (say) three years, or sightings at similar habitats adjacent or nearby (eg within 1km of) the site. This would ensure that situations such as Peyton Hall Farm and Bole Ings are assessed adequately before a screening decision is made. The second stage would also require an extension to the time period for the assessment, which the land manager would be notified of.

The process for the second stage of screening would depend on the species concerned and whether the potential effects would be on-site or off-site. The exact nature of these surveys would need to be given further thought in line with existing standard survey methodologies. At the screening stage the survey does not need to be exhaustive but should yield data on presence or absence of various species and some indication of BAP species populations on or using the site.

The outcome of the screening process may well be some form of mitigation, consistent with the practice for most EIA screenings to date, such as leaving a buffer strip by a river to prevent runoff or to provide riparian habitat for amphibious species, or undertaking the work at the time of year when impact will be least. These can be negotiated with the land manager to cause minimum costs and disruption to operations. However, there should be some means of making such mitigation measures binding. At present, only a full EIA can result in binding conditions. ‘Negative’ screening decisions can only specify that certain parts of the site fall within the Regulations and that EIA would be required for those parts (ie in effect Defra advises that these parts should be excluded from the project). Other types of condition that would allow the applicant’s proposal to go ahead without causing significant effects, such as specifying a time of year for the works and methods of operation, cannot legally be imposed.

The issue of the Precautionary Principle arises here. Essentially, a degree of precaution is appropriate where there is reason to believe the site may be used by UK BAP species, to ensure that a survey is done at the appropriate time of year. As the appropriate time is usually in summer, most screening applications are for cultivation and most cultivation is done in autumn, a survey should not disrupt land management operations as long as the screening application is made by early summer. Farmers are used to planning ahead and if the Regulations are well publicised to the farming community the above suggestions should not cause significant disruption.

4.1.4 Areas of landscape or cultural importance

The point of entry into the Regulations (the determination test) is an ecological test. Landscape and cultural aspects are not currently part of the determination test (para. 12 of the Public Guidelines), although they are considered during the significance test (para. 19 of the Public Guidelines).

From a policy perspective landscape and cultural values are no less important than ecological values. All are aspects of the environment. Equally, there is nothing in the EC Directive or the Regulations themselves to prevent landscape and cultural values being triggers for initial screening of application sites. The selection criteria for screening decisions (Schedule 1 of the Regulations and Annex 3 of the Public Guidelines) include “2(c)(viii) landscapes of historical, cultural or archaeological significance.”

The difficulty in including landscape and cultural criteria is that they may be viewed as a further imposition on land managers and, from a practical viewpoint, it is difficult to identify workable criteria. From a landscape perspective it may be possible to define landscapes that are particularly sensitive to the effects of agricultural intensification of uncultivated land and semi-natural areas but these would need to be clearly marked as ‘zones of sensitivity’ or similar, in landscape character assessments – something that has not been done to-date. Without such mapped information it is difficult to see how land managers can know whether they should be seeking approval for their activities. The one existing exception is the parkland of historic designed landscapes which will usually be identified for conservation within Local Development Plans and may well be on the listings register of English Heritage¹⁰ However, over time a mapped identification of other sensitive landscapes may be achieved through tools such as LaMIS being piloted by Hampshire County Council and partners.

There is somewhat greater potential in the immediate future to take account of archaeological sites and monuments, as these are more easily pinpointed (once they are known). Scheduled Monuments are protected by the Ancient Monuments and Archaeological Areas Act 1979 but sites that are not scheduled may still be worthy of preservation. Sites and Monuments Records exist but current records are far from complete and they are not all digitised. Should a comprehensive digital record be available this could be included on the Geni GIS system and the Public Guidelines and Internal Guidelines could be modified to make their presence a reason for a screening assessment. In the meantime it should be possible to require in the Guidelines that obvious surface evidence of archaeological sites, such as fort structures and ancient ridge and furrow systems, should trigger a screening assessment prior to agricultural works at the site.

4.2 The consultation process

Is a 10-day consultation period too constrained to allow English Nature staff to provide a meaningful response to screening consultations, especially recognising that English Nature is often not the prime source of information on non-statutory sites?
Should the screening stage clearly signal consultation with a wider group of organisations either with English Nature Area Teams acting as the conduit for information held by others or with other organisations clearly identified as making a contribution at this stage? Such organisations might include County Wildlife Trusts, Biological Record Centres, and local authority ecologists.

4.2.1 Time period for consultation

Some English Nature staff considered that the timeframe for their input was too short, but this was not a universal view. One comment was that although some more time would be useful, there is no real problem as long as there are few applications. The formal timeframe is 10 calendar days from the date on the consultation letter, which equates to no more than 7 working days after subtracting a day for postage and a weekend, but EIA Unit staff are able to lengthen this on request and do so quite frequently.

¹⁰ Historic Designed Landscapes are listed by English heritage as for buildings.

English Nature usually does not consistently hold data outside statutory sites and staff may not have personal knowledge of the site in question. If staff feel more information is needed they must contact the local Biological Records Centre and/or Wildlife Trust and any other reliable local sources of information. These then search their records and provide the information, along with any personal knowledge of the site, to the English Nature staff member. English Nature then assesses the data for quality and makes a written response to the EIA Unit. This sequence of events could easily take more than 7 working days given the number of people who are involved and the potential for one or more to be fully committed or on leave at the time. A courtesy call from the EIA Unit to advise that a screening application is to be sent out may assist staff to plan this work.

It would be reasonable to give consultees a small amount of extra time to carry out investigations, given that they are usually busy with other work and may not be able to attend to the screening application immediately. A timeframe of 10 working days plus a day to allow for postage of the application from Defra would seem fair. This would make a total of 15 calendar days from the date of the consultation letter. This may put pressure on Defra staff if an ecological assessment is deemed necessary, and to allow for this the overall timeframe for processing of an application could be extended to 40 days.

4.2.2 Purpose of consultation

At present English Nature's role is to provide information as an input to the EIA Unit's assessment, rather than participating in the overall process of assessment. Some English Nature staff felt that they could usefully provide a professional opinion of the site's significance in the context of similar habitats regionally and nationally. In other words, they would like to be able to request to see a copy of any eventual ecological assessment at the site and provide feedback to the EIA Unit. Occasionally the ecological assessments are made available on request, but not always, and it would be useful to build in this loop if possible.

4.2.3 Who should be consulted and how

As an alternative to the current process, at non-statutory sites the EIA Unit could consult directly with local organisations such as Wildlife Trusts and Records Centres. These would provide their information to both the EIA Unit and English Nature at the same time. English Nature staff would then provide Defra with any further information they hold, and their assessment of the quality of the local organisations' information. The logic for this is that the local organisations are more likely to hold information on non-statutory sites so it is more efficient for the EIA Unit to contact them directly. The drawback, perhaps, is that English Nature already have service agreements with the local organisations and the EIA consultations are presently part of these. Defra does not have such existing agreements and the local organisations may wish to charge for their services. Biological Records Centres and Wildlife Trusts have not been asked for their views on this option during this research.

4.3 The Precautionary Principle

Ought a precautionary principle be applied within the Regulations? This recognises that the precautionary principle is embedded in the EIA process as it applies to other forms of development. In the case of these EIA Regulations a particular concern is if a judgement has to be reached in the middle of winter when the ecological interest of a site may not be discernable.

The Rio Declaration and the Convention on Biological Diversity both contain a commitment to the Precautionary Principle, which applies when there is a “lack of full scientific certainty”. The Precautionary Principle is also explicitly referred to in the preamble to the Directive which establishes the need for the Regulations (Council Directive 97/11/EC), ie:

“(2) Whereas, pursuant to Article 130r (2) of the Treaty, Community policy on the environment is based on the precautionary principle and on the principle that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay;”

Despite this, there is an inter-agency agreement that the precautionary principle does not apply in relation to the Regulations and the Internal Guidelines refer to this being the case several times. This position is at odds with the EIA procedures for other activities and the approach to environmental law generally in the UK, Europe and other OECD countries.

Application of the precautionary principle would be most useful when there is some evidence to indicate that UK BAP species use a site but time is required to make a definitive assessment of this. Relevant cases include Boxford and Bole Ings (both involving wildlife) and there has also been suggestion that vegetation surveys may be misleading at times of the year (generally winter) when species indicative of semi-natural grasslands are less evident. At Bole Ings local nature conservation organisations were certain that UK BAP bird species used the site, but the ecological survey for the screening assessment did not include a specific bird survey.

In EIA screenings at small, clearly defined sites, it is arguable that the inability to identify UK BAP species at the time of survey does not indicate that there is “a lack of full scientific certainty”, as reasonable certainty could be achieved with a modest input of resources at the right time of the day (eg dawn or dusk) or year. The science is very much achievable within current knowledge. At Bole Ings, the English Nature staff member suggested that a single dawn survey should be adequate to show presence or absence of the species in question and three surveys on different days would yield information on numbers of pairs.

In conclusion, the lack of application of the precautionary principle under the EIA Regulations is at odds with other environmental law and regulation and with the Directive that established the Regulations, and its reintroduction should be considered as part of the Review. If this cannot be achieved, there is still grounds at sites where there is reasonable evidence that UK BAP species may be present for modest additional effort to be applied to detect such species, and/or having the option of delaying the ecological survey until the appropriate time of year, without this being seen as overly precautionary.

4.4 Application of the Regulations to nature conservation activities

Should routine bone fide nature conservation management be exempted from the need for a full EIA? This particularly relates to conservation management activity undertaken by English Nature and the Wildlife Trusts, such as the reintroduction and intensification of grazing to achieve biodiversity objectives. It also potentially relates to traditional land management techniques which are only undertaken infrequently, such as liming of grasslands, but are an established part of land management systems and have been incorporated into ESA prescriptions.

There has been some concern that activities undertaken for nature conservation purposes may be caught by the Regulations and require an EIA, leading to needless expense and delay. A typical case would be the re-introduction of grazing to undergrazed semi-natural grasslands and/or the removal of scrub from such grasslands. The types of organisation that may undertake such works include English Nature, Wildlife Trusts, RSPB and other conservation organisations.

Would such activities be considered as “for intensive agricultural purposes”? Generally it is unlikely they would, but the decision on this should be made on a case by case basis by Defra, as the competent authority administering the Regulations. Even if the works are considered to be for such purposes, it is unlikely that they would be considered to have a “significant effect on the environment”, since the intent of the works is environmental enhancement. English Nature and other organisations should therefore submit a screening application for such works if there is any concern that they might fall under the Regulations.

As to whether an exemption should be built into the Regulations to cater for such situations, this may be convenient for conservation organisations but overall it would be inadvisable. As discussed above, it is unlikely that anything more than a screening assessment would be required. The time delay can easily be accounted for in the planning for such conservation works, just as farmers have to build the EIA screening into their own planning. Furthermore, it would be counterproductive for relations between conservation organisations and farmers for the latter to be seen to have special treatment in the EIA process. It would, however, be useful to seek clarification from the EIA Unit (possibly through a statement in the Guidelines) on the types of conservation projects for which screening may be necessary and those for which it would not.

4.5 Linkages with Agri-environment schemes

Are the Regulations (because they place emphasis on the long term conservation of semi-natural grassland) discouraging farmers from entering land into arable reversion within agri-environment schemes? To counteract this potential problem there is a view that the policy for agri-environment payments needs to reflect longer term conservation objectives rather than just habitat creation over a 10-year period after which time the habitat may be lost again.

There is potential for land in agri-environment schemes to fall under the EIA Regulations, or at least require screening, when the term of the agreement has ended, potentially preventing the land manager from exercising his or her preferred management option of returning it to more intensive management. The Watlington Park case illustrated this situation. It should

also be noted that this can happen for land which is managed favourably for nature conservation but is not receiving agri-environment payments. A number of questions then arise, such as:

- Are the EIA Regulations intended to apply to land in reversion, if not should they be extended to do so, or should other policy instruments be applied such as better incentives for land managers?
- Is it fair that land managers who undertake voluntary environmental improvements should have their land management options restricted at the end of the term of the agreement?
- Is there any net benefit from the public purse paying for the development of a semi-natural habitat (potentially a UK BAP habitat) if there are no safeguards to prevent its subsequent loss?
- In practice, does the possibility of land in reversion having to go through the screening procedure and possibly requiring EIA create a disincentive for entry into agri-environment schemes?

At present, the EIA Regulations and the associated guidelines do not distinguish between land which has been uncultivated/semi-natural for a long period (eg has been farmed traditionally for many years) and land which has become so through participation in voluntary reversion. There is therefore no bar to the Regulations applying to land in reversion, but it must be close to becoming a UK BAP habitat and be under favourable management, or be presently used by UK BAP species at the levels specified in the Ecological Guidelines, before they will apply.

Discussions with English Nature staff, and the ecological survey data from Watlington Park, indicate that the nature conservation interest at reversion sites takes time to develop and it is greatest in the later years of a 10 year period, as would be expected. Also, more than 10 years is required at most former arable sites for a semi-natural community to develop, because of residual fertility. The view was that there is little net benefit from having sites in reversion for only 10 years. As a hypothetical example, from a nature conservation perspective it would be far better to have 100 sites of 10 ha each (1000 ha) in permanent reversion than to have the same number and total area of sites but having 10 of them returned to arable use each year and 10 new sites retired from arable use.

From a land manager's perspective, it is desirable that the benefits from keeping the land in reversion are greater than the benefits from returning it to arable use. This may be achievable by having increasing rates of payment for a second term in reversion, if the fields meet objective criteria of ecological value (which would have to be set out clearly) such as being under conversion to a UK BAP habitat.

It is also relevant that not all land in arable reversion is expected to develop into a UK BAP habitat or a habitat likely to be used by UK BAP species. Nevertheless, it is still likely to develop greater ecological value than if it remained in arable use, but if it does not meet these criteria then it will not be a priority for conservation and it will not fall under the EIA Regulations.

Discussions with English Nature staff yielded little hard evidence that the EIA Regulations actually create a disincentive for entry into agri-environment schemes. This may be because

the Regulations have been in operation only a short time and there have been no cases yet where land managers have been required against their will to maintain such land in conservation management. In the Watlington Park case an amicable agreement was made to re-enter CSS and English Nature and Defra work together in such cases to ensure that the conservation option is made as attractive as possible. There has been one case where a farmer urged neighbouring farmers along the Ridgeway not to retire land, to avoid being potentially subject to the Regulations, but this appears to have been an isolated case. In conclusion, the Regulations do not appear to be a significant disincentive to entry into agri-environment schemes, and agri-environment schemes continue to be over-subscribed. Should this become a real concern at a later date then the matter should be addressed then. In the meantime, land managers should be informed prior to entering agri-environment schemes whether there is a likelihood that their land may develop sufficient ecological value to become subject to the Regulations at a later date, and the possibility of providing greater incentives for re-entry into agri-environment schemes should be seriously investigated – in other words, the higher the biodiversity value, the higher the level of payment.

4.6 Promotion of environmental gain

Should the Regulations step from being a policy neutral device to one that positively supports environmental gain, eg through direct links with the meeting of National Biodiversity Action Plan targets and the Defra PSA targets?

The Regulations essentially act as a backstop to prevent land of high ecological value being lost, if that loss would be to intensive agriculture. Given the current consensus that incentives should be used wherever possible to encourage positive environmental actions by land managers, it is difficult to envisage the EIA Regulations being used in a more proactive way without their becoming viewed as too much of an imposition on land managers. Annual targets could be set for areas of land of various classes to be brought into conservation management by means of the Regulations, but this could lead to allegations that particular screening decisions or EIA consent decisions were motivated by a desire to meet targets rather than being based on objective assessment of ecological significance at the site.

In conclusion, there seems little to be gained and potentially a great deal to be lost by applying the Regulations in such a proactive way. Other policy instruments exist to bring further land into conservation management. Agri-environment schemes are currently being restructured, providing an opportunity to ensure integration of the EIA Regulations with these as discussed in the following Chapter.

5. Future role of the EIA Regulations

5.1 Factors driving change in rural land management

In considering how the EIA Regulations may apply in future, it is necessary to assess possible future changes to the way land of high nature conservation value is managed. The following factors are likely to affect such management over the next 10 years.

5.1.1 Land managers' awareness of environmental issues

The general awareness of environmental management issues amongst farmers and other land managers is likely to continue to improve. Almost all the pressures that farmers are exposed to emphasise their role as stewards of the environment. The introduction of cross-compliance conditions to all CAP payments (covered in greater detail later), the greater access to agri-environment schemes and the demands of farm assurance schemes are likely to further raise the profile of environmental management and, over time, the baseline expectations on farmers for good environmental land management.

Commercial farmers' technical knowledge of environmental management (as opposed to their understanding of the general issues) is also likely to improve through legislation (for instance the removal of 'grandfather rights' for sprayer operators) and through industry schemes (for instance the adoption of higher tier quality assurance schemes such as the LEAF Marque and the Voluntary Initiative's Crop Protection Management Plans). As a result, there will be fewer occasions when farmers damage areas of high nature conservation value in ignorance of the expectations, legal or otherwise, on them and without the technical knowledge of how to manage these areas.

On the other hand, it is likely that many of the new land owners acquiring land in the countryside will not have strong knowledge or experience of traditional land management techniques. Though they are likely to be well disposed towards public environmental objectives in general, lack of detailed understanding may result in inadvertent damage by these new (often non-agricultural) land owners and managers.

5.1.2 The mid term review of the CAP

The recent agreement over reform of the Common Agricultural Policy (CAP), reached in Luxembourg in June 2003, will cause major changes in the pressures affecting land management. Firstly, the decoupling of direct payments to farmers for production (the replacement of the beef and sheep headage payments and arable area payments with a single farm payment) in January 2005 will remove one of the major incentives for intensive agricultural production. In some areas, particularly where higher tier agri-environment incentives are available, this is likely to lead to a reduction in the intensity of production.

Secondly, certain aspects of the CAP (specifically the premium quotas in the suckler cow and sheep sectors and production quotas in the dairy sector) have acted as a brake on the economic and socially driven structural change that has been evident in agriculture over many decades. The decoupling of subsidies from production (the removal of the premium and production quotas) is therefore likely to lead to an increase in the pace and scale of

agricultural restructuring, with increasing areas of land changing management and, to a lesser degree, ownership. These long term trends are considered below.

Thirdly, cross-compliance conditions will be applied to businesses receiving Pillar 1 payments (in England this is likely to equate to the single farm payment only, assuming fully decoupling is adopted). Cross-compliance is considered in more detail later in this section.

Finally, key aspects in the way the new Single Payment Scheme is implemented will have further significant impacts. The decision in England to gradually move to regional averaging as a means of calculating the Single Farm Payment will lead to a significant redistribution of aid from more intensive livestock farmers to extensive livestock farmers and to field vegetable producers. Defra has estimated that 20% of farmers would see a reduction of more than 20% of the subsidy payments. The funding allocated to the Entry Level Scheme through modulation will also be a significant influence on future land use change arising from CAP reform.

5.1.3 Long term structural change in agriculture

Two distinct trends, that have been evident for many decades, are likely to continue and, following the CAP reforms outlined above, accelerate. Firstly, farming businesses that are pursuing primarily agro-economic objectives (the production of commercial food and other land based products) will continue to decline in number but those that remain will grow in size and become more specialised, also increasing the quality and professionalism of their management. These businesses will become further concentrated on land of the highest agricultural quality relevant to their sector (for instance arable businesses on grade 1, 2 and 3a in the eastern counties and dairy businesses on land of the same grade in the western counties). Land will generally be intensively managed by these businesses, though areas of land of low productive potential will be available for management under agri-environment schemes.

Secondly, the number of small scale holdings owned primarily as residential properties with land attached will continue to rise. These new holdings will tend to be created as small farms (up to 80 ha or 200 acres) and marketed as residential holdings, or when larger farms are split between a residential unit of the farmhouse and adjoining land, and the vacant land which will tend to be sold to a neighbouring farmer. This trend is evident throughout England, with rural properties close to centres of urban employment being purchased as permanent residences and properties in more remote areas purchased as holiday homes.

While caution should be used in characterising what is a very diverse group of landowners, the people buying these properties often do not consider themselves to be farmers and many do not have much experience of managing agricultural land. While they may keep grazing livestock, their motivation for managing the land is likely to be more for amenity than for economic benefit or agricultural production. Frequently, the management of the land may be let to a neighbouring farmer under either a Farm Business Tenancy or under a less formal and shorter arrangement. Horse keeping is characteristic of many of these ‘hobby’ farms. Horses are generally regarded as less effective grazing animals than sheep and cattle, in terms of their impact on the ecological quality of grassland.

It is significant that land management activities that take place for amenity reasons, as opposed to agricultural intensification, are excluded from the scope of the EIA Regulations. It is therefore likely that the area of land which lies outside the Regulations will increase over time.

Current trends suggest that most land will change management under short term lets (farm business tenancies or agreements of less than a year) or under contract farm agreements, rather than through sales of land. Increasingly, land is released from other farms where the owner takes the decision to withdraw from commercial farming but wants to retain ownership of the land (typically family run farms where this change of management is forced by retirement of the older generation and a decision by the younger generation to earn the majority of his/her income off the farm). Land will also become available to these larger, more intensive businesses, from new non-farming landowners who have neither the skills nor the wish to manage the land themselves.

5.1.4 Capital investment by farmers

Levels of re-investment by farmers have been low during the last eight years of depressed agricultural profitability (the high point being 1996 since when the strength of sterling against the euro depressed farm incomes). The lack of capital available for re-investment has been manifest in a lower than normal (and probably lower than economically optimal) replacement of agricultural machinery (such as sprayers) and plant (such as slurry stores), maintenance of buildings and the management of land. The kind of land management operations that have been delayed by farmers are the application of lime to land, the subsoiling of improved grassland, the clearing of drain outfalls and ditches and the replacement of fences. The environmental impacts of this lack of investment will vary – lower levels of liming, subsoiling and ditch clearance are likely to have environmental benefits, whereas lower levels of repairs and replacement of slurry stores and sprayers could increase the risk of environmental damage.

At some stage, farmers will redress the low levels of re-investment. It is possible that the increased profitability in 2003 in the arable, beef and sheep sectors will lead to higher levels of re-investment. Against this, it is possible that the decoupling of agricultural support may reduce the economic justification for re-investment in production related activities (such as liming and subsoiling).

5.1.5 Summary

The forces for change outlined above will influence land management in several different directions, giving rise to environmental benefits in some areas but threatening environmental damage in others. In what will be a complex picture, the following conclusions are evident:

- Awareness of the environmental objectives amongst farmers and other land managers will continue to improve.
- While environmental knowledge and technical competence of commercial farmers will increase, many new land owners will be unfamiliar with technical needs of environmental management.
- The withdrawal of the individual commodity support schemes in the CAP and their replacement by a Single Payment Scheme is likely to speed structural change in the countryside, with an increased area of land changing management.

- Overall, there will be a general trend towards less intensive agricultural management of land, driven largely by CAP reform. However, this will mask an increasing focus on agricultural production from a declining number of large, commercial farmers.
- The area of land where the main motivation for management is amenity rather than economic income or food production will increase. While this is likely to reduce the ecological damage done to sites of high nature conservation value in general, it will mean that an increasing area of land, and activities which are potentially ecologically undesirable (such as pony grazing) will become outside the scope of the Regulations.
- Any upturn in the profitability of farming is likely to be accompanied by renewed investment in the holdings which may be either environmentally beneficial (such as replacement of worn out slurry stores) or damaging (such as the liming of fields or clearance of ditches and drain outfalls).

5.2 Cross-compliance under the reformed CAP

This section considers the extent to which the protection afforded by the EIA Regulations will be provided by the cross-compliance obligations contained in the reformed CAP.

The EC regulation that establishes the horizontal rules of the reformed CAP (1782-2003) lays down the agricultural and environmental conditions that all recipients of ‘Pillar 1’ direct payments must adhere to. The Government’s intention to pursue the fully-decoupled option, with early decoupling of the dairy regime, means that, in practice, the cross-compliance standards will apply in England to the Single Payment Scheme and the new Energy Crops Scheme. (Annex 1 of the regulation lists a total of 24 ‘Pillar 1’ schemes but most either do not apply in the UK or will become part of the Single Payment Scheme in England).

The cross-compliance conditions are split between legislative requirements (Article 4 of the Regulation) and Good Agricultural and Environmental Conditions (GAEC) (Article 5). It is significant that, while the Regulation specifies precisely which legislation will apply and allows little discretion for member states to expand this, the GAEC provide only general guidelines which member states will develop, taking account of the characteristics of the areas concerned.

5.2.1 Article 4 – The statutory management requirements

The legislative requirements which recipients of Pillar 1 payments must meet are listed in Annex III of the Regulations. This annex lists 18 EC directives, divided under the five headings, one of which is environment (the others cover public, animal and plant health and animal welfare). Five directives are listed under the environmental heading. These are: the Birds Directive (79/409/EEC), the Groundwater Directive (80/68/EEC), the Sewage Sludge in Agriculture Directive (86/278/EEC), the Nitrates Directive (91/676/EEC) and the Habitats Directive (92/43/EEC).

While each of these Directives, and the domestic legislation through which they have been implemented in the UK, place obligations on farmers in the way they manage land, none of them provides the breadth of coverage in relation to the agricultural improvement of land that is contained in the EIA Directive, which is not included in the list. The Birds Directive and Habitats Directive are concerned with the notification and protection of EU Natura 2000 sites, while the Groundwater Directive, Nitrates Directive and Sewage Sludge in Agriculture

Directive affect the application of materials to land. The majority of activities relating to intensive agricultural management on land outside Natura 2000 sites, such as ploughing, reseeding and draining are therefore outside the scope of these legislative requirements of the cross-compliance that will apply to Pillar 1 payments.

5.2.2 Article 5 – Good agricultural and environmental conditions

These standards of good practice which recipients of Pillar 1 payments must meet are listed in Annex IV of the Regulations and are shown below in Table 5.1. As stated above, these represent the minimum application of the standards and Member States are able to develop and add to these standards to reflect local circumstances.

With respect to the protection of unimproved land of significant ecological value from agricultural intensification, the fourth section is the most significant, covering the ‘minimum level of maintenance’ which includes standards for ‘protection of permanent pasture’.

It is significant that Article 5 (2) specifically states that “Member States shall ensure that land which was under permanent pasture at the date provided for the area aid applications for 2003 [31 December 2001] is maintained under permanent pasture”. Member States may choose to derogate from this requirement but if they do, must take action to prevent any significant decrease in the total permanent pasture area. The requirement also does not apply to permanent pasture that is converted to woodland, provided the afforestation is compatible for the environment.

At the very least, this places a requirement on Member States to monitor the area of permanent pasture at a regional level (in this case England) and to regulate conversion of permanent pasture at the level of individual holdings through the GAEC applied to the Single Farm Payment.

In England, Defra is shortly to consult on how the GAEC will be implemented. We understand that Defra’s proposals will be broadly as follows. The IACS forms submitted by farmers claiming the Single Farm Payment will (as now) identify all parcels of permanent pasture on the holding. The GAEC will require any farmer wishing to convert this permanent pasture to other uses to apply to Defra first. Defra will then, on a case by case basis, decide whether this conversion can take place. Defra’s criteria for allowing or denying the conversion of permanent pasture is not yet know to us. However, one can imagine a similar process to the screening of EIA applications.

Table 5.1 Standards of good agricultural and environmental practice listed in Annex IV.

Issue	Standards
Soil erosion: Protect soil through appropriate measures	<ul style="list-style-type: none"> • Minimum soil cover • Minimum land management reflecting site-specific conditions • Retain terraces
Soil organic matter: Maintain soil organic matter levels through appropriate practices	<ul style="list-style-type: none"> • Standards for crop rotations where applicable • Arable stubble management
Soil structure: Maintain soil structure through appropriate measures	<ul style="list-style-type: none"> • Appropriate machinery use
Minimum level of maintenance: Ensure a minimum level of maintenance and avoid the deterioration of habitats	<ul style="list-style-type: none"> • Minimum livestock stocking rates or/and appropriate regimes • Protection of permanent pasture • Retention of landscape features • Avoiding the encroachment of unwanted vegetation on agricultural land

It is important to understand that the policy objectives behind Article 5(2) are very different from the objectives of the EIA regulations. Article 5(2) stems from a concern that the decoupling of agricultural support will lead to agricultural abandonment of land, leading to scrub encroachment or commercial forestry. Preventing the loss of biodiversity arising from agricultural intensification or other positive management activities, which is the focus of the EIA regulations, would appear to be a secondary, and relatively minor, aim of Article 5(2).

5. While the main purpose of the GAEC, at least in the way they are framed at an EU level, may be very different from the purpose of the EIA Regulations, it is nevertheless clear that the GAEC, and specifically the obligation on Defra in Article 5(2), will provide a new and potentially more robust mechanism into which the EIA screening process can sit. However, as will be explained below, it cannot replace the EIA process on land not covered by the Single Payment Scheme and the GAEC.

5.2.3 Land covered by cross-compliance

Article 6(2) makes clear that cross-compliance applies “to (a) any agricultural activity, or (b) any agricultural land of the holding, including the parcels on set aside”. “Agricultural activity” is given a wide definition and includes “maintaining the land in good agricultural and environmental condition as established under Article 5”. “Holding” covers “all the production units managed by a farmer situated within the territory of the same Member State”. “Permanent pasture” is not defined in the regulations, but Member States are required to define it at a national level (Article 145).

The activities to be covered by cross-compliance will therefore be defined by the Member State and may extend beyond the intensive agricultural activities addressed by the EIA Regulations.

While the Regulations also make it clear that cross-compliance will apply to all the land under the management control of the recipient of Pillar 1 payments (likely to be the Single Payment Scheme and the Energy Crops Scheme in England), it is equally clear that it will not apply to land that is managed by someone who is not receiving any form of Pillar 1 support.

The issue of which land will be covered by cross-compliance therefore comes down to who is entitled to claim under the scheme.

The eligibility criteria for the Single Payment Scheme are listed in Article 33 of the Regulation. These are that the person must have received a payment from at least one of the qualifying direct payment schemes¹¹ during the reference period of 2000 to 2002, or they should have received land through inheritance from someone who received a payment from one of these schemes, or they should have been granted an entitlement from the national reserve or by transfer.

This will tend to favour existing farmers who have received support in the past and exclude existing landowners who did not apply to the current schemes, as well as new landowners, unless they acquired entitlements through the transfer of land. However, Defra's decision to use regional averaging as a means of calculating the single farm payment is likely to extend cross-compliance to landowners and managers who had not received 'Pillar 1' support in the past, particular to those with small numbers of livestock kept extensively on a non-commercial basis for whom the complexity of the schemes dissuaded them from applying.

5.2.4 The extent of the sanction applied through cross-compliance

Farmers who fall foul of the cross-compliance conditions will face the loss of part or all of their single farm payment. Article 6 makes clear that the loss of payment should only apply for the year in which the failure to comply occurred. Article 7 distinguishes between non-compliance as a result of negligence (in which case the penalty would be limited to 5% of the single farm payment each year or up to 15% in the case of repeated non-compliance) and as a result of intentional non-compliance (in which case the penalty would be between 20% and 100% of the single farm payment, depending on the severity, extent, permanence and repetition of the non-compliance).

5.2.5 Summary

Article 5(2) of the EC 'horizontal regulations' implementing CAP Reform requires that Defra take steps at the individual farm level, through the GAEC, to regulate the conversion of permanent pasture on holdings receiving Pillar 1 support. This potentially provides a relatively robust means of screening changes of use of permanent pasture so as to implement the EIA regulations.

Cross-compliance as a means of discouraging undesirable impacts from agricultural land use change has several advantages over current process used to implement the EIA Regulations. These are as follows:

- Farmers' awareness of the cross-compliance standards, through the publicity attached to the rules of the new Single Payment Scheme is likely to be higher than their awareness of the EIA Regulations.
- The scope of cross-compliance, in terms of the definition of good agricultural and environmental practice, is far wider than that contained in the EIA Regulations. In

¹¹ These schemes include the Arable Area Payment Scheme and the livestock headage schemes, the Suckler Cow, Sheep Annual and Beef Special Premium Schemes.

particular, it is not limited to the agricultural intensification of land, but could include non-agricultural activities such as keeping horses.

- The threat of withdrawal of the single farm payment is likely to be a more significant sanction on farmers than the requirement to prepare an environmental statement under the EIA Regulations.
- Cross-compliance is likely to be easier to enforce than the EIA Regulations, requiring a lower burden of legal proof on Defra.
- Cross-compliance will be subject to routine monitoring and enforcement, whereas the EIA Regulations are currently not.
- Defra has more flexibility to amend the cross-compliance standards to reflect experience in their operation, whereas the EIA Regulations are defined in statute with less potential for flexibility.

However, the EIA Directive is not specifically mentioned in the CAP Regulations and it would appear that protection of biodiversity was not the primary purpose of Article 5(2). Defra has the opportunity, but is not obliged, to include the loss of semi-natural character and biodiversity from permanent grassland within the scope of the GAEC.

Other disadvantages of cross-compliance compared to the EIA Regulations are as follows:

- Cross-compliance will only apply to land managed by someone receiving direct payments under a Pillar 1 scheme – the Single Payment Scheme and Energy Crops Scheme in England. This is likely to leave a significant number of non-farming landowners outside the scope of cross-compliance.
- The penalty for breaching the cross-compliance conditions is limited to the single farm payment received by the landowner or manager in the year in question. In certain circumstances (such as where the payment is received on only a small part of their holding), this penalty may be insufficient to dissuade them from breaching the conditions.

This makes it clear that cross-compliance and implementation of Article 5(2) through the Good Agricultural and Environmental Conditions will not, on their own, fulfil the objectives of the EIA regulations. Firstly, in order to ensure that cross-compliance is used as an effective means of screening changes to the management of permanent pasture, Defra will need to make clear in the GAEC that ‘loss of permanent pasture’ potentially includes relatively subtle management activities that will lead to loss of semi-natural character.

Secondly, a test for loss of semi-natural character, as defined in the EIA regulations, will need to be added to the screening process established by Defra for farmers claiming the single farm payment and who wish to convert permanent pasture to other uses.

Finally, the EIA regulations will need to stay in place to cover activities on holdings not in receipt of Pillar 1 CAP support and therefore not subject to cross-compliance.

5.3 Future agri-environment Schemes and the EIA Regulations

Defra is currently undertaking a thorough review of the structure of agri-environment schemes that operate through the England Rural Development Programme. The new Environmental Stewardship Scheme will consist of an Entry Level now being piloted in four areas of England and a Higher Tier which will combine elements of the current Environmentally Sensitive Area (ESA) Scheme and Countryside Stewardship Scheme (CSS).

Agreement holders under the current agri-environment schemes are subject to cross-compliance conditions that are described in Annex VI of the England Rural Development Plan. This lists legislation and standards of good practice under the headings of water pollution, air pollution, fertilisers and pesticides, linear features, designated sites and agricultural and forestry management. It is the last category that might be expected to cover the agricultural intensification of land. However, it does not include the EIA legislation (the only legislation covered is the Forestry Act 1967) nor do the standards of good practice cover operations such as ploughing, though they do seek to prevent damage arising from over-grazing, under-grazing and unsuitable supplementary feeding.

Most of the ESAs are 'whole farm' schemes and, for those that are not and for CSS, agreement holders are required to adhere to the cross-compliance conditions over the entire holding. Article 12 of regulation EC 1750/1999 requires that all "grassland management shall continue" on the holding receiving an agri-environment scheme agreement, though it is unclear to what extent this has affected the routine management of this land.

The precise management requirements, or prescriptions, vary between the agri-environment schemes and between the different management options or tiers in the schemes. This study has not analysed all the prescriptions of the ESAs but it is understood that they are likely to prevent agreement holders from undertaking ecologically damaging operations on the basis that the more valuable areas will be entered into the higher tiers in which the prescription standards are higher. The ecological monitoring that has taken place for the ESAs has suggested that the schemes have been effective at reducing the loss and damage to sites. However, for the CSS and ELS, it would appear that, other than the general requirements of cross-compliance, outlined above, agreements do not prevent ecologically damaging operations to land that has not been entered into the appropriate tier.

For instance, a farmer who has entered land into the traditional orchards option of CSS, but has not entered (or has not been approved entry) of permanent pasture into the meadows and pastures option, is not prevented from agriculturally improving that land through his CSS agreement (though he would, of course, have to comply with the EIA Regulations).

Similarly, a farmer entering the Pilot ELS is required to identify and maintain his/her permanent grassland and has the opportunity to enter the land into Option J1 (maintain permanent grassland). However, this would only prevent the grassland from being ploughed and not other forms of agricultural intensification such as drainage or applications of fertiliser.

The future of a separate, and higher, set of cross-compliance conditions in the ELS and HTS is not clear. Defra's latest consultation on the future of agri-environment schemes (dated 14 October 2003) implies that the new cross-compliance conditions applying to the Single Payment Scheme and other 'Pillar 1' schemes will apply at the same level to agri-

environment schemes. However, the draft EC Regulations state that the new cross-compliance conditions applied to all 'Pillar 1' schemes will operate without prejudice to existing conditions relating to agri-environment schemes (Article 5).

5.3.1 Summary

- The cross-compliance conditions that currently apply to agri-environment schemes offer only limited protection to sites of nature conservation value, limited to preventing over-grazing, under-grazing and unsuitable supplementary feeding.
- The ESA schemes are effective at preventing damaging activities on holdings under agreement through targeting different tiers at land of different quality. However, it is likely that the CSS and ELS are less effective and that operations that come within the remit of the EIA Regulations are not prevented by the CSS and ELS agreements.
- It is unclear whether there will continue to be a separate set of cross-compliance conditions for agri-environment schemes, or whether the new conditions will supersede these.

6. Conclusions

6.1 Current application of the Regulations and associated guidelines and procedures

- The EIA Regulations were brought in rather late, after much lowland grassland and other habitat had already been lost.
- Although the Regulations have been applied to the benefit of nature conservation in many cases, this has often required considerable prompting of Defra or land managers by English Nature and other conservation interests such as Wildlife Trusts.
- The full EIA process (through to consent) is a weighty instrument which is generally seen as a deterrent to inappropriate land management rather than as a practical and cost-effective option for land managers to go through. There is a need to address issues with the screening criteria that exclude some potentially significant sites from adequate assessment before a project commences, and to make the system more user-friendly for all concerned.
- The initial step in the screening procedure for grassland habitats is the species test (less than 25-30% improved pasture species), which is generally a good indication of whether the grassland itself is semi-natural and should be retained but supplemented with other tests as described further below.
- The species test is not always effective at detecting whether a site has an important role in a wider ecological system, or whether there may be off-site impacts from the works or effects on wildlife species using the site. Ecological surveys as part of screening rarely include a comprehensive survey for UK BAP wildlife species unless consultees provide convincing evidence that these are likely to be present. A lesser, but still reasonable, level of proof should be sufficient to trigger a wildlife survey during the ecological appraisal, and this should be undertaken at an appropriate time of the day and year.
- The species test is also not always effective at distinguishing whether land is uncultivated (eg land in reversion that has not been cultivated for many years), because the residual fertility at former arable sites can persist for many years. However, the Regulations were not designed for such situations and it would be preferable that incentive-based instruments are used to promote the continued reversion of such sites if they are developing slowly towards UK BAP priority habitats.
- The species test is not effective at detecting areas of landscape or cultural value. Further criteria could be developed for these to operate in parallel with the species test, but except in the case of obvious surface archaeological features and historic designed landscapes there does not appear to be the information base at present to support such tests. Without such information land managers cannot be expected to know when they should make a screening application. In the future these problems may be addressed by online GIS data such as that being promoted under LaMIS.
- The definition of whether a project is for “intensive agricultural purposes” has been refined in practice during the operation of the Regulations, but as it focuses on the activity itself rather than its effects on the environment it does not capture non-agricultural activities which may be of equal concern to agricultural activities. This suggests a need for broadening the scope of the Regulations to include such activities

when they occur on uncultivated land and semi-natural areas, given that the area of rural land not commercially farmed will continue to increase over time and is unlikely to be subject to the coming CAP cross-compliance requirements.

- The test for ecological significance is currently only applied once it is determined that the project involves uncultivated land or semi-natural areas and for the purposes of intensive agriculture. The information requirements for assessing significance are high, and this information (such as maps of UK BAP priority habitats outside statutory sites or personal knowledge of the wildlife species using the site) is often not available within the consultation timescale. A lesser standard of proof for presence of wildlife should be accepted. The present mapping process for priority habitats should provide a better evidence base for the significance of application sites when completed. It would be desirable to apply the tests for BAP habitats and BAP species in parallel with the species (sward) test rather than at this later stage in screening, in cases where the information is available. In addition, CWS and SINC designations should be included within the tests for ecological significance.
- The final test for screening, that for the significance of environmental effects, does not appear to have caused significant problems in practice, but the Internal Guidance should be more specific on how this is to be applied.
- The time period for consultations is demanding for consultees and a reasonable extension of this to 15 calendar days should be argued for, with the overall timeframe for screening extended if necessary to 40 days. Time pressures would be reduced if Defra consulted local conservation organisations directly, and English Nature could comment on the information provided by these where it had further information or a view on the significance of the site.
- There have been cases of land managers failing to apply for a screening assessment even when advised (by organisations other than Defra) that it was likely to be necessary. There is also some evidence that the requirements of the Regulations are not well known or understood by land managers, which is perhaps not surprising given their complexity and the large number of land managers who need to know about them. Further promotion of the Regulations would be helpful, perhaps with illustrations of cases where the Regulations have been applied to yield favourable results for all concerned.
- The options for decisions arising from screening are too restricted. Defra must either require a full EIA, or allow some of the work to go ahead (by stating that other parts of the site would require an EIA), or advise that the works can go ahead and give non-binding guidance. A more flexible process with the possibility of including binding conditions on works should be considered, such as ploughing along contours, specifying the time of year for works, establishing cover within certain period, or allowing a single cultivation to establish new grass. These could be established in discussion with the land manager and possibly involve limited discussions with English Nature or other consultees. This needs to be followed up with monitoring and advice if required.
- The precautionary principle should have greater application in the screening process where reasonable but not conclusive evidence is available on the significance of a site and, in particular, its use by wildlife. Land managers should be encouraged to apply under the Regulations well before the summer period when most wildlife is evident, but the option of delaying an ecological survey at the site until the appropriate time should be available as a last resort.

- English Nature responses to consultation need to be very specific in terms of the information English Nature holds or is aware of and the action requested. This will assist Defra in responding to English Nature's concerns.
- English Nature staff expectations also should be realistic. As the Regulations and Guidelines presently stand, English Nature is a source of information rather than a partner in assessing the significance of a site and the significance of a project's effects.

6.2 Wider issues – The CAP and agri-environment schemes

- Based on the limited evidence available, the Regulations do not appear to be a significant disincentive to entry into agri-environment schemes. Should this become a real concern at a later date then the matter should be addressed then. In the meantime, land managers should be informed prior to entering agri-environment schemes whether there is a likelihood that their land may develop sufficient ecological value to become subject to the Regulations at a later date. In support of this approach, the possibility of providing greater incentives for re-entry into agri-environment schemes should be given serious thought.
- While the cross-compliance conditions under the reformed CAP have the potential to provide more effective protection to sites of high conservation value, there will continue to be situations where these conditions do not apply, or where the conditions on their own are insufficient to stop undesirable land management operations. In these circumstances, the EIA Regulations will continue to be an important control to prevent land use change with significant effects on uncultivated land and semi-natural areas.
- The requirement under the reformed CAP to maintain the area of permanent pasture offers a means to ensure the EIA Regulations are fully implemented, as it appears that Defra will be required to monitor farmers' proposals to convert permanent pasture to other uses. Defra staff responsible for such assessments should be instructed to verify whether such pasture may also fall within the scope of the EIA Regulations and, if so, to notify the EIA Unit.
- The future form of the proposed new agri-environment schemes, the Entry Level Scheme and the Higher Tier Scheme, is not yet clear. There may be a separate, and higher, set of cross-compliance conditions in these schemes than those applying to holdings receiving the Single Farm payment, but this cannot be relied on at present.

7. Recommendations

7.1 Recommendations on review of the Regulations and associated Guidelines

English Nature should promote the following amendments to the EIA Regulations and the various guidance documents that interpret them.

(a) Clarify the intent of the Regulations

Develop a policy agreement between departments which gives a clear statement of the purpose of the Regulations and how they will be applied.

English Nature, Defra and other interested parties should develop guidance on the types of nature conservation projects to which the Regulations may apply and procedures for assessment of such projects.

(b) Improve the coverage of the Regulations

Ensure that the Regulations capture other activities outside conventional agriculture but with similar effects, so that combined set of EIA regulations (uncultivated land, forestry and drainage) have full coverage. This could be achieved by either:

- i. Redrafting the Regulations and guidelines to focus on the effects that are of concern (damage to significant ecological values, regardless of the source of this damage), rather than a list of activities, or;
- ii. Broadening the definition of ‘intensive agricultural purposes’ in the Guidelines to include any intensification of rural land that is not subject to other controls such as the Forestry and Drainage EIA regulations, the Habitats Regulations or the development control system.

(c) Improve the sensitivity of the screening procedure to nature conservation values

Advocate an improved procedure for testing whether a site hosts or is important for UK BAP animal species. Measures would include:

- i. placing increased emphasis on survey for such species where there is reasonable evidence they are present (at present the standard of proof required of consultees is quite high);
- ii. encouraging applicants to make screening applications by late spring, so that ecological assessments occur at an appropriate time of year for most species and;
- iii. enabling the delay of the screening decision if there is evidence of the presence of UK BAP species but the application was made at a time of year when they are unlikely to be present.

Clarify the definition of ‘other important environmental considerations’ (para. 19 of Public Guidelines) as a criterion for ecological significance of a site, as this is presently unclear and does not appear to be used often.

Include the presence of a County Wildlife Site or a Site of Importance for Nature Conservation as a criterion for ecological significance of a site.

Provide guidance on the approach to be taken when land of significance has already been damaged prior to the screening application, such as ploughing of heathland, and recovery is possible. This may include the ability to impose a requirement to allow land to recover.

Investigate whether gradual intensification of land use can be defined more effectively in the various guidelines.

Provide clearer guidance on how cumulative effects will be assessed and the point at which no further loss or damage will be acceptable.

(d) Improve the sensitivity of the screening procedure to landscape and cultural values

The presence of visible surface archaeological features should be a ‘first step’ (determination) test, rather than a test of significance to be applied only after the ecological screening test.

Investigate with Defra whether countryside character and landscape values can be defined clearly enough to become a determination test, by reference to identified sensitive landscapes in national registers or planning documents.

(e) Improve the operating effectiveness of the screening procedure

Advocate that Defra consults directly with information providers such as Wildlife Trusts and Biological Records Centres, with English Nature having an oversight role on the information provided rather than being the intermediary.

Increase the screening consultation timeframe to 15 calendar days (from 10 days) and, in cases when an ecological survey is required, increase the overall screening timeframe to 40 days (from 35 days).

(f) Improve the effectiveness of decisions

Consider whether the Regulations can be redrafted to enable binding conditions to be placed on decisions where a full Environmental Statement is not required but specific management practices are recommended to minimise impacts. This would be particularly helpful in minimising the off-site impacts of projects.

Develop a procedure for monitoring of projects after decisions are made, based on auditing a sample of projects and focusing on those projects of greatest potential risk.

(g) Publicise the Regulations more widely

Advocate that Defra, in partnership with other organisations including English Nature, targets promotion of the Regulations to managers of high nature conservation land, as is presently

practiced by some Wildlife Trusts and National Parks. This would include but not be limited to holdings that include or are adjacent to designated sites (including locally designated sites).

Develop case study examples for use in promotion, demonstrating how the Regulations have been applied in practice and emphasising positive results such as securing CSS agreements for land management.

7.2 Recommendations on the relationship between English Nature and Defra under the Regulations

English Nature should enter discussions with Defra to develop a more interactive application of the Regulations, and in particular the screening procedure, subject to resources being available to implement such an approach.

Advocate that Defra provides ecological assessments to English Nature, in cases where this is requested in writing (letter, email or fax).

Advocate that English Nature has an advisory role in assessments of ecological significance, once an ecological survey has been completed.

Advocate that English Nature has a role in providing advice and assistance to land managers who are undertaking approved projects, where the land manager is agreeable to this approach.

Advocate that Defra provides feedback to statutory consultees in all cases where they have made an input and provides ongoing feedback on enforcement cases.

7.3 Recommendations for internal action by English Nature

English Nature should consider the following independent actions to improve its ability to contribute to the process under the Regulations.

Complete the mapping processes for BAP Priority Habitats and national vegetation classes as a matter of priority, to enable English Nature field staff to rapidly assess the significance of sites not personally known to them. Make this information available electronically, either through regularly updated CDs or over secure internet systems.

Develop a set of policies on what English Nature considers to be acceptable loss of or damage to particular BAP species or habitats through projects assessed under the Regulations, and the extent to which mitigation or tradeoffs will be accepted in such cases.

Provide clearer guidance to staff on the format in which English Nature will respond to screening consultations and the required content of such responses, including a set of suggested statements which can be selected for insertion into responses.

7.4 Recommendations on integration with the CAP and Agri-environment Schemes

English Nature should take the following actions to maximise the nature conservation benefits available from CAP reform and the review of agri-environment schemes, and to ensure that these measures work in synergy with the EIA Regulations.

(a) Reform of CAP

Explore with Defra the implications of fully implementing Article 5(2) of the new Horizontal Regulations for the CAP (the requirement to maintain permanent pasture that was present at 31 December 2001). If adopted, this is likely to require new legislation.

Advocate that Defra develops internal processes that link the monitoring of the permanent pasture rule to the implementation of the EIA Regulations, so that proposals to modify permanent pasture that is also potentially subject to the Regulations are picked up at an early stage.

Work with Defra to develop the set of standards of agricultural and environmental practice (the cross-compliance required of all CAP payment recipients) that address the main threats to land of high conservation value.

(b) Integration with agri-environment schemes

Advocate that the new agri-environment schemes provide for a higher level of payment in the second and later terms of an agreement, where land is identified as being in reversion to a priority habitat.

Under both the current and any new agri-environment schemes, ensure that land managers are advised before entering the scheme whether it is likely that their land may develop conservation values which would bring it within the scope of the EIA Regulations, so that they are able to make informed decisions about entry.

Appendix 1. Summary data for EIA screening decisions, February 2002 to August 2003 (inclusive)

By End Month	Total Applications Received in this month	EIA Applications Concluded in this month				Total EIA Applications Concluded in this month	Currently being Processed this month	Consultees in month				
		Outside Regulations	Within Regs no significant impact - project forward with provisos	Withdrawn	Requiring EIA			EN	EH	CA	EA	ALGAO
Feb 02-Jan 03	125	52	44	7	13	116	9	54	18	52	35	33
Feb-03	16	0	7	1	0	8	17	1	1	1	1	1
Mar-03	15	7	9	4	1	21	11	8	3	8	6	10
Apr-03	13	9	4	0	1	14	10	7	4	6	7	7
May-03	6	5	2	0	2	9	7	2	2	2	2	2
Jun-03	13	1	3	2	1	7	13	4	2	1	2	3
Jul-03	8	2	8	0	0	10	11	4	2	2	2	3
Aug-03	6	3	2	0	1	6	11	2	2	2	2	2
Total Feb – Aug 03	77	27	35	7	6	75	11	28	16	22	22	28
Total Feb 02 – Aug 03	202	79	79	14	19	191	11	82	34	74	57	61

EN English Nature
EH English Heritage
CA Countryside Agency
EA Environment Agency
ALGAO Association of Local Government Archeology Officers

Source: Defra website www.defra.gov.uk



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Top left: Using a home-made moth trap.
Peter Wakely/English Nature 17,396
Middle left: CO₂ experiment at Roudsea Wood and Mosses NNR, Lancashire.
Peter Wakely/English Nature 21,792
Bottom left: Radio tracking a hare on Pawlett Hams, Somerset.
Paul Glendell/English Nature 23,020
Main: Identifying moths caught in a moth trap at Ham Wall NNR, Somerset.
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