

SSSI enforcement policy statement

Introduction

We are the statutory body whose functions include conserving and enhancing England's natural environment. We work in partnership with others by:

- **advising** the Government, other agencies, local authorities, interest groups, businesses, communities and individuals on nature conservation;
- **regulating** activities affecting nature conservation sites;
- **helping** others to manage land for nature conservation through grants, projects and information; and
- **enthusing** and promoting nature conservation for all.

We have legal responsibilities for nationally important nature conservation sites known as Sites of Special Scientific Interest (SSSIs), the most important of which are managed as National Nature Reserves.

There are more than 4,100 SSSIs in England covering over a million hectares, or about 7.6%, of England. SSSIs represent the very best of the rich variety of wildlife and geology that makes England's nature special and distinct from any other country in the world. SSSIs can be small areas that protect populations of a single species or large expanses of upland moorland or coastal mudflats and marshes. The smallest SSSI is a seven metres square roof space in a private building in Gloucestershire used as a roost by lesser horseshoe bats. The biggest is The Wash covering a vast 62,000 hectares of coastal and marine habitats and which is also of international importance for birds. Over 800 SSSIs also support internationally important wildlife sites such as Special Protection Areas, Special Areas of Conservation and Ramsar sites.

Our enforcement role

Section 28 of the Wildlife and Countryside Act 1981 as replaced by Schedule 9 to the Countryside and Rights of Way Act 2000 and inserted by the Natural Environment and Rural Communities Act 2006 ('the Wildlife and Countryside Act') gives us the power to make sure SSSIs are protected and managed effectively now and in the future. As part of our work, we are responsible for enforcing this section of the law and can take appropriate enforcement action when the law is broken and when the

habitat and features of SSSIs are damaged, disturbed or destroyed. We use a range of enforcement methods appropriately, effectively and quickly, to deal with these criminal offences. These methods range from information site notices and warning letters through to formal investigations and prosecutions.

We also have an advisory role in relation to investigating offences against protected species under Part I of the Wildlife and Countryside Act. The police are responsible for enforcing and prosecuting these criminal offences.

We also work with other partners to identify species and habitats that are at a significant risk from illegal activities to tackle wildlife crime more effectively.

Our enforcement aims

We consider that we are a firm but fair regulator in relation to our enforcement role.

We work with over 32,000 separate owners and land managers, many of whom work hard to conserve SSSIs. We recognise that the best way of managing SSSIs effectively is to build and maintain relationships with these owners, land managers and public organisations. In doing this, we aim to create an understanding of their responsibilities and focus efforts on positive management which we hope will reduce the damage and disturbance caused to SSSIs and the need to take enforcement action.

Wildlife and environmental crime can threaten the habitats and features within SSSIs so we have to take enforcement action to protect and restore these features. We are always disappointed when we have to take this type of action as, inevitably, the habitat or features of an SSSI have already been damaged, disturbed or destroyed. However, we will not hesitate to use enforcement action where appropriate when offences are committed. Enforcement sends a clear message that we will not let a small number of people spoil our natural heritage which we look after on behalf of everyone.

Our main enforcement aim is to benefit nature conservation by protecting and restoring the habitats and features of SSSIs. When habitats and features of an SSSI have been damaged or disturbed, we will ask those responsible to put right the damage or disturbance caused. We will take account of any co-operation when deciding on the enforcement action to take. However, those responsible will not avoid enforcement action just because they have carried out, or offered to carry out, restoration work.

It is also worth noting that some of the enforcement action that we take is in response to activities which are carried out by people who neither own nor occupy land within an SSSI.

Principles of enforcement

There are general enforcement principles that apply to the way in which we approach every case and how we decide what enforcement action to take. These include the following:

- **Investigate** all reported incidents of damage or disturbance to SSSIs fairly and quickly.
- **Judge** all cases individually but consistently.
- Have a **balanced approach** in deciding the level of enforcement action against the nature and seriousness of the offence, the attitude of the person responsible and the damage or disturbance to the SSSI, in a local, national and international context and, any other circumstances.
- Be **open** when dealing with all enforcement cases, decisions made and action taken.
- **Create** an understanding of the legislation and responsibilities, and clearly **explain** this and any restoration needed.
- Where damage is being caused by other people, **work closely with owners and land managers of those SSSIs** to decide the most appropriate course of action to take.
- **Work with and support other enforcement agencies** to encourage the use of appropriate powers to tackle wildlife and environmental crime.
- **Follow** the **Home Office guidelines** when deciding whether to serve a **caution**.
- **Apply** the **evidential and public interest tests** as outlined in the **Code for Crown Prosecutors** when deciding whether to prosecute.
- In **all cases**, consider the overall **benefits to nature conservation**.

Types of offence

SSSI owners and occupiers

- Carrying out, causing or allowing operations likely to damage an SSSI without consent.
- Failing to keep to a management notice.
- Failing to let us know about a change in ownership or occupation of land in an SSSI.

Public bodies

- Carrying out or authorising operations likely to damage an SSSI without meeting the requirements to notify us.

- Failing to minimise any damage to an SSSI and if there is any damage, failing to restore it to its former state so far as is reasonably practical and possible.

Any person

- Intentionally or recklessly damaging, destroying or disturbing any of the habitats or features of an SSSI.
- Intentionally or recklessly damaging, destroying, obscuring or taking down a site notice put up on land within an SSSI.
- Preventing one of our officers lawfully accessing an SSSI.

Enforcement action

Each enforcement case that we deal with is unique in either the way it has arisen or the effect that it has had on the individual habitat and features of the SSSI. So, it is not easy to set any guidelines about the enforcement action to take for every possible incident affecting an SSSI given the wide variety of the wildlife and geology that might be affected, or the scale and severity of damage and disturbance that could be caused. However, we will carry out an ecological assessment of the damage and disturbance caused based on the scale, vulnerability and rarity of the habitat and features of the site in a local, national and international context.

We use a range of enforcement methods to deal with cases. Depending on the circumstances of the incident, we may use one or more enforcement methods at the appropriate time during different stages of the case. In some cases, one level of enforcement action may be appropriate and effective in dealing with the incident. In other cases where an earlier enforcement action has been unsuccessful, legal obligations continue not to be met or damage and disturbance carries on, we will consider further enforcement action.

We will investigate an incident as soon as possible after we have become aware of it. We will try to contact the landowner or land manager to discuss the incident and get permission to visit the SSSI to assess the damage or disturbance and collect evidence. If we are unable to get permission for a visit, we have a legal power to enter the land to find out if an offence is being or has been committed.

We will assess the facts of the incident and take the appropriate enforcement action. In cases where we need to get legal advice, carry out a formal investigation or have discussions with other enforcement agencies, it may take us longer to make a decision and take the appropriate action.

The enforcement methods that we regularly use are given below.

Information and awareness

In some cases, information and awareness is the best way to stop certain activities. For example, we may use site notices and leaflets to tell people about the habitat and features in the SSSI and the offences they could be committing.

Letters

We may decide that it is appropriate to send a warning letter to the people or organisations who are responsible. If this is the case, we may ask those responsible to agree that the unauthorised activities will stop and restoration work will be carried out.

Formal investigations

In certain circumstances, we may decide that a formal investigation is appropriate to collect evidence. In carrying out a formal investigation, we will use trained investigators and follow the legal requirements of the Police and Criminal Evidence Act 1984 and Codes of Practice made under it.

Cautions

In cases where we think that a prosecution is not appropriate but a high level of enforcement action should be taken, we will then consider a formal caution. We will only consider a caution where the necessary evidence we have collected shows that there is a realistic chance of conviction. As a prosecuting authority, we will follow the Home Office guidelines as they apply to cautioning. If an individual who has been previously cautioned is later prosecuted for another offence under section 28 of the Wildlife and Countryside Act, we will bring the previous caution to the court's attention.

Prosecution

We have a discretionary power, not a duty, to prosecute for offences relating to SSSIs. We will only prosecute where the evidence we have collected shows that there is a realistic prospect of a successful conviction and where we think that it is in the public interest to do so. If we prosecute, we will always try to recover the costs of the formal investigation and legal proceedings. We will also publicise successful prosecution cases widely to the national, local and specialist press.

As well as providing specific penalties, the legislation also allows a court to consider any financial benefit the offender has gained or may gain as a result of the offence.

Wherever appropriate following a successful prosecution, we will apply to the court to make a formal restoration order. This will order the offender to restore the damaged area of the SSSI to its condition before the offence was committed (at the offender's own expense).

Civil action

In certain limited circumstances, the only option to prevent damage, disturbance or destruction to SSSIs is to take civil action to get an injunction or a possession order. We will only take this sort of action after voluntary co-operation or other enforcement methods have been explored and there is still a serious threat to the SSSI.

Where unauthorised camps are present on National Nature Reserves that we manage, we will make a reasonable effort to get them to leave voluntarily. However, if the unauthorised camp does not leave, where we have the necessary legal power to do so, we will apply to the civil courts for a possession order to remove them. We will also support landowners and other organisations in their action to remove unauthorised camps from those SSSIs which they own or are responsible for.

Activities of people other than owners and occupiers of SSSIs

Many of the cases of damage and disturbance to SSSIs are carried out by people who neither own nor occupy land within SSSIs. We realise that this type of wildlife and environmental crime can be tackled by working with landowners, local communities and other agencies such as local authorities and the police. We fully support this positive partnership approach and we welcome working together to offer advice on nature conservation, the enforcement action that can be taken, and agree positive solutions to benefit nature conservation. In some cases, where practical, it may be appropriate for us to offer the landowner funding to carry out work to secure the site from future unauthorised use.

The enforcement action and the legal process for dealing with such unauthorised activities will depend on the nature of the activities, the offence being committed and the legal powers available to landowners and enforcement agencies. Very often, these activities not only break the law under the Wildlife and Countryside Act but break other legislation as well, such as the Road Traffic Act. In some cases, it can sometimes be difficult to get the necessary level of proof needed for a criminal prosecution under the Wildlife and Countryside Act. In this situation, we will try to work with the other enforcement agencies, such as the police, who may have more appropriate enforcement powers to tackle this type of crime. In some cases, this may lead to a prosecution under legislation other than the Wildlife and Countryside Act.

Other information

This document sets out our enforcement policy statement in relation to SSSIs. It is not intended to be a detailed guide to the law (please refer to the relevant legislation and get legal advice if necessary). There are details of the Wildlife and Countryside Act 1981 (as amended), the Countryside and Rights of Way Act 2000 and the Natural Environment and Rural Communities Act 2006 from Her Majesty's Stationery Office on the Office of Public Sector Information website at www.opsi.gov.uk

There are more details of our business and contact details on our website at www.naturalengland.org.uk. We have a formal comments and complaints procedure which we use to deal with an enquiry, suggestion or complaint we receive about the way in which we have dealt with an enforcement case or any other area of our work. Details of this are also on our website.

Natural England
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