

Response ID ANON-6RAD-K74H-B

Submitted to NRW's proposed approach to regulating the release of gamebirds
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Introduction

1 What is your name?

Name:
Rachel Evans

2 What is your email address?

Email:
rachel-evans@countryside-alliance.org

3 If you are representing an organisation, please tell us which one?

Organisation:
Countryside Alliance Wales

General Questions

4 Do you agree that common pheasant and red-legged partridge should be added to Part 1 of Schedule 9 of the Wildlife and Countryside Act 1981 in Wales? This change would mean that releasing those species in Wales would need to be carried out under licence. Please give reasons for your views.

Adding to Schedule 9:

No – We can see no reason why common pheasant and red-legged partridge should be added to Schedule 9. Schedule 9 relates to animals and plants referred to in section 14 of the 1981 Act. Section 14 relates to the introduction of new species, invasive non-natives, etc. and those species listed on Schedule 9 because they are new, non-native and/or invasive. However, we struggle to see how bird species that have been present in the British countryside for hundreds of years qualify as either “new”, “invasive” or “non-native”. In the case of pheasant, they have been present, with wild breeding populations, since at least the Norman Conquest, like the brown hare, which is the subject of environmental action plans. Why should what are essentially gamebirds of the British countryside qualify as a schedule 9 species?

We would also note that of site improvement statements relating to European sites only 1.7% mention gamebird release as being a potential cause of harm, and then only in relation to disease transmission. This calls into question not only NRW's use of the available evidence but also the proportionality of what is being proposed, which is a ban on all gamebird releases across Wales unless licensed. There appears to be a deliberate exaggeration of the possible environmental impacts of gamebird releasing to attempt to justify a policy which has already been determined by the Welsh Government for reasons entirely unconnected with concern for the environment. We would also note that in focussing on shooting the Welsh Government and NRW are not applying the same rigorous scrutiny to a whole range of other activities that could also have negative environmental impacts on European sites and more widely, not least some intensive farming practices, the failure of dog walkers to control dogs, access rights etc.

The papers presented by NRW to accompany the consultation present no new evidence that would justify what is being proposed as either necessary or proportionate. There is some evidence of local and transient damage around release pens but these negatives are temporary harms and far outweighed by the environmental benefits associated with the habitat and wildlife management that is undertaken by gamebird shoots.

The effect of this change is to ban gamebird release anywhere in Wales, meaning that this key element of the majority of game shoots becomes unlawful, unless licensed. The licence provides the exception to a general prohibition. Without the ability to release, many shoots would become unviable due to economic concerns. If that were the case then all the associated environmental, economic and social benefits would be lost. Shooting in Wales contributes £75million to the Welsh economy every year and provides 2,400 full time equivalent jobs (THE VALUE OF SHOOTING. The economic, environmental and social contribution of shooting sports to the UK by Public and Corporate Economic Consultants (PACEC), 2014). NRW does not appear to have made any assessment, or attempted to do so, of the significant environmental harm that would result from a loss of gamebird shooting and its associated management. Across Wales, shooting contributes to an annual spend of £7.4m on conservation, which is the equivalent of 490 full-time jobs or 120,000 conservation workdays (PACEC 2014).

The future of game shooting across the whole of Wales, not just on designated sites as now, would be entirely in the gift of NRW and ultimately at the whim of ministers. Defra is currently undertaking a three year research project to fill the identified evidence gaps as to the impact of gamebird releasing on European protected sites, and the fact that these proposals have been brought forward before the findings of that research are available, and that despite the evidence and recommendations of NRW's own review ministers have already banned all game shooting on Welsh Government land, is clear evidence that game shoots have every reason to fear for the future. Evidence is simply ignored in favour of ideologically driven agendas.

What NRW is proposing to recommend to ministers is an enormous power grab. At present it regulates SSSIs and European sites and the 500m around European sites. NRW will now be licensing, via a General Licence all releasing in Wales, except for designated sites (unless deemed non-sensitive) where specific licences will be needed. In addition NRW is also proposing to extend SSSIs by 500m as far as gamebird releases are concerned. Other potentially harmful activities to SSSIs seem to be exempt from similar scrutiny.

Where is the evidence of damage on non-designated areas in Wales? Why is the existing consenting process for designated sites inadequate to ensure releasing is taking place according to best practice, where failure to follow best practice might pose a risk to a protected feature of a designated site?

We recognise that pheasant and red-legged partridge have been added to schedule 9 in England but only on a temporary basis and only in relation to releases on EU protected sites and within 500 metres of their boundaries. The very limited and temporary change in England reflects both the shortcomings identified in the existing evidence, and the fact that Natural England had failed to keep its consenting regime up to date, putting it at risk of legal challenge regarding its legal duties relating to EU sites. The three year research project to fill the identified evidence gaps as to the impact of gamebird releasing was commissioned by Defra as a result, and Natural England is reviewing its consents over sites.

In Wales, if NRW has been doing its job then these licensing proposals should be entirely unnecessary and given the state of the available evidence, premature. Are the consents on SSSIs and EU sites up to date in Wales? What evidence is there that current releases are a problem in undesignated areas where consents are not required?

In addition, the proposed licensing would end the existing consents without any certainty that specific licences will be granted to replace those consents. If a specific licence does not replace an existing consent what rights of appeal and compensation have been considered or provided for? The existing consenting regime has a proper appeals process but there is no such process under the proposals. It should be noted that the proposed licensing of grouse shooting in Scotland does have an independent appeals process. Simply relying on NRW's internal process is not satisfactory.

There is simply not the evidence to justify the extent of the current proposals and the effective wholesale licensing of game shoots in Wales.

A consultation should be about genuine options, but this consultation provides no options and appears to have a pre-determined outcome. NRW should re-visit this piece of work and come forward with a proposal that is supported by the evidence and is proportionate, regardless of what the Welsh Government may have requested. If ministers wish to go further, then that is their prerogative but NRW should provide objective evidence-based advice and not simply justification for an already taken ministerial decision that disregards the evidence.

Annex 3 refers to advice from "specialists" although we have no knowledge of who these specialists are. The Annex also conflates peer-reviewed evidence with anecdotal evidence, lacks nuance and seems at odds with Professor Madden's latest publication.

There is also no recognition of the value of shooting to the Welsh economy and to communities. It is noteworthy that when NRW undertook research into game shooting on the Welsh Government estate it was found that there was scope to increase game shooting both for economic and social reasons, but that recommendation was ignored due to diktat from Welsh ministers who object to game shooting in principle. While it is the minister's prerogative to take such a position, even if contrary to the evidence, in relation to government land, it cannot be acceptable to take the same approach to all land in Wales and expect NRW to provide a justification for subjecting all game shooting to government control on this scale. It also raises serious legal questions under ECHR and the Aarhus Convention.

Given the significant evidence gaps and the fact that the impact of the licensing regime of releasing and land management practices associated with it are far from certain, the addition of pheasant or red-legged partridge to schedule 9 as proposed cannot be justified. Existing powers are sufficient to manage gamebird release in accordance with best practice, protecting the environment and ensuring the continued environmental gains associated with game shoot management.

5 If these species are added to Schedule 9, please give us your views on whether our proposed licensing approach would be effective and proportionate?

Views on proposed licensing approach:

The proposed licensing approach would only be proportionate if evidence-based and proven to be necessary. We do not believe these proposals are either justified or necessary and therefore cannot be considered proportionate. Considering the evidence, the proposals risk causing more harm than good and could undermine the very land management and conservation work that is so vital to delivering the Welsh Government's environmental targets and obligations.

The proposals could only be considered effective if there is reason to believe the existing powers are ineffective, and if there is a problem in those areas where current regulation does not apply that would require such a huge expansion of state power. If there is not a problem needing to be addressed then these proposals cannot logically be effective, nor considered necessary or proportionate.

To ban all releasing on the promise that it will continue to be licensed in the future, with no guarantee that this will be the case, is the wrong approach and draconian.

No changes should be made until the full evidence is available that shows a clear problem and that existing regulation is not working. There should be no extension of government control over game shooting beyond designated sites, where powers to regulate already exist. There is significant research into gamebird releasing currently being undertaken; therefore pre-empting the results of that research means these proposals cannot be regarded as proportionate.

Given the nature of shoot management and the way in which investment is made in gamebird releasing, the use of an annually renewable General Licence is not feasible. It fails to recognise the amount of upfront investment, long-term conservation work, or the employment of keepers and others as part of the broader economy that are tied up with game shooting and its management.

We fail to understand why a General Licence cannot apply to protected sites when this is the approach taken in England with GL43, at least as far as SACs are concerned.

We would disagree with the idea that sections 6 and 7 of the Environment (Wales) Act 2016 imposes any new duty on NRW or Welsh ministers to add species to Schedule 9. Moreover, any duties would apply to a wide variety of activities that could impact negatively in terms of the 2016 Act's duties. Gamebird releasing seems to have been singled out for exceptional treatment based on ministerial instruction and not because of the available evidence.

The proposal is neither necessary or proportionate. In the absence of a proper appeals process, not to mention the loss of existing rights of appeal, it violates Article 6 of the European Convention on Human Rights (ECHR). As a disproportionate control/interference with property rights, the proposal also violates Article 1 (Protocol 1) of the ECHR, and it is at odds with international obligations under the Aarhus Convention due to the absence of a substantive appeals process. Judicial Review is not an adequate substitute for a substantive appeals process.

Specific Questions

6 We have based the proposed general licence conditions for pheasant release on the recommendations in the GWCT guidelines for sustainable gamebird releasing. However, the guidelines do not include specific density thresholds for red-legged partridge and there appears to be less evidence on which to base conditions relating to partridge. We have used what evidence is available, and expert opinion, to propose conditions for partridge releases. These are either based on a density threshold linked to the area of cover crop provided, or on density per hectare of release pen (as with pheasants), depending on how the birds are released. We would welcome views on whether these proposals are appropriate and workable and whether they could they be improved.

Views on conditions for partridge release:

Regardless of whether the introduction of a General Licence covering non-designated areas is necessary, the proposed densities for releases for pheasant appear reasonable based on the evidence available from the GWCT. These guidelines can already be applied to designated sites under the existing regime of consents.

We do question the approach to red-legged partridge as they are fundamentally different from pheasants. The consultation does not set out what the "available evidence", referred to in the question, is, or who provided "expert opinion" and what the substance of that opinion was. We are far from clear how density based on area of "dedicated cover crop" would work. What is a "dedicated cover crop" and how would area be calculated? Is this a specific crop that NRW will require or does it recognise existing crops such as beet or overwinter stubble or other crops planted, including where the primary purpose of the crop may not be as a cover crop?

Extending the powers of the state beyond designated sites by introducing a general prohibition on releasing anywhere and promising a General Licence to allow what would otherwise become unlawful is unacceptable. The chaos of recent years surrounding General Licences for the control of pest birds is clear evidence of the issues that could arise and why the shooting community is right in not supporting the approach being proposed. Where will shoots be if in the future a General Licence is not issued, it is suddenly withdrawn, or the conditions become so burdensome as to render releasing unworkable or uneconomic? Why would shoots invest in conservation, pest control and all the management which benefits biodiversity and sustainability when they will no longer have certainty as to their future? What about the jobs involved? Why train as a gamekeeper if you do not know whether you will have job from one season to the next? What happens to birds bred and due for release where an individual licence is revoked or modified, or if a General Licence is suddenly withdrawn or changed? An entire industry is left in a permanent state of uncertainty affecting livelihoods, investment and the wildlife and land management which is key to biodiversity and long-term nature gain. It undermines the very environmental goals that the Welsh Government seek to achieve.

7 The GWCT guidelines include a recommendation that no more than one third of woodland with game interest should be used for release pens. This is to ensure sufficient woodland remains that can benefit from habitat management activities. We would like to include this recommendation in our proposed general licence. However, we would prefer to be able to define what can be included in the calculation. Do you have suggestions for how this might be achieved?

View on including a limit on woodland used for pens:

No comment. We would suggest further advice is sought from the GWCT.

8 Location and density appear to be the main factors influencing the environmental impact of releases, but we recognise that smaller releases in less sensitive areas are likely to present reduced risks. It may be appropriate that small gamebird releases taking place away from sensitive protected sites and their buffer zones are not subject to the same general licence conditions that apply to larger releases. Do you think this is something we should consider? Please give reasons

Views on taking a lighter touch approach for small releases:

This proposal is unnecessary, given that the existing proposals are neither necessary nor proportionate.

However, reducing the regulatory burden on small shoots where releasing takes place at a small scale would clearly be welcome, but it is hard to see how this might be achieved given the proposal to add pheasants and red-legged partridge to schedule 9, which would make unlawful the release of any bird of these species anywhere. Even the release of a single bird would have to be covered by a licence. Whether the conditions applying to smaller releases could be fewer in number, or whether the General Licence could simply permit these releases without any further conditions, does not change the fact that any release must now be a licensed activity to be lawful. What is lawful now will be made unlawful unless NRW/ministers choose to issue the necessary licences. It is indicative of the fact that adding pheasant and red-legged partridge to Schedule 9 is not a proportionate approach.

Welsh Language Considerations

9 Could the proposals affect opportunities for people to use the Welsh language?

If yes, please explain in the box below:

Yes. Shooting has been woven into the fabric of Wales for centuries. People involved in shooting predominantly come from Welsh speaking villages and towns and are frequent users of the Welsh language in the shooting field. Shooting in Wales is very much part of the Welsh culture and heritage, from the people to the landscape, and the use of the Welsh language in the shooting field is critical to maintain our culture and heritage.

It is of huge cultural importance that the Welsh language is preserved in rural areas. Visitor experience to shoots in Wales is enhanced and rendered culturally deeper when Welsh is spoken on a shoot day. Furthermore, learners or second language Welsh speakers can nurture their use of the language and gain confidence by speaking Welsh in a relaxed setting.

The restrictions on game shooting that will be inevitable should these proposals come to fruition will undoubtedly dilute the use of the Welsh language and the frequency with which it is spoken.

10 Is there a way we can increase the use of Welsh or provide more opportunities for people to use the Welsh language?

If yes, please explain in the box below:

Encouraging and supporting shooting would encourage more people to participate and experience the Welsh language and to speak it with others.

11 Are there any aspects of the proposals that could disadvantage people in using the Welsh language?

If yes, please explain the effects and how they could be mitigated:

Yes, the proposals would undoubtedly reduce the number of shooting days available in Wales which will reduce the social opportunities for participants, thus reducing the amount of Welsh spoken in rural areas. The approach of the Welsh Government to shooting underestimates not simply the importance of shooting economically but also the value of shooting with regards to our heritage, culture and the Welsh language from both urban and rural perspectives.

12 Do you believe the proposals treats the Welsh language less favourably than the English language?

If yes, please explain in the box below:

No. However, by damaging shooting in Wales it reduces the opportunity to speak Welsh in the countryside and for others to experience the Welsh language. In this sense it might be seen as impacting the Welsh language in a negative way and therefore less favourably compared to English.