

30th May 2023

Energy Bill: Written evidence from The Wildlife Trusts

About The Wildlife Trusts

The Wildlife Trusts are a grassroots movement of people from a wide range of backgrounds and all walks of life, who believe that we need nature and nature needs us. We have more than 900,000 members, over 35,000 volunteers, 2,000 staff and 600 trustees. There are 46 individual Wildlife Trusts, each of which is a place-based independent charity with its own legal identity, formed by groups of people getting together in their community to make a positive difference to wildlife and future generations, starting where they live and work.

Every Wildlife Trust is part of The Wildlife Trusts federation and a corporate member of the Royal Society of Wildlife Trusts, a registered charity in its own right founded in 1912 and one of the founding members of IUCN – the International Union for the Conservation of Nature. Taken together this federation of 47 charities is known as The Wildlife Trusts.

Submission summary

The Wildlife Trusts know we need to rapidly transition to renewable energy sources if we are to reach net zero. Achieving up to 50 gigawatts of offshore wind, including up to 5 gigawatts of floating wind, by 2030 will require a significant increase in the pace at which we roll out offshore wind.

The climate and nature crisis are inextricably linked, and it is vital that we take a concerted approach to addressing these twin crises. Habitats and ecosystems not only store large quantities of carbon, but also help us to adapt to the rising temperatures and increasingly extreme weather conditions caused by global warming.

Energy efficiency

The greenest energy is the energy we are not using. The Wildlife Trusts therefore want the Energy Bill to prioritise energy efficiency measures. Even the most sustainable renewable energy will have an impact on the environment, so we need to ensure we are not using more than is necessary.

The Government must focus on reducing energy bills in the UK. This can be done by offering subsidies for insulation in homes and businesses, as recommended by the most recent progress report from the Climate Change Committee. We must also ensure that people who rent their homes are included in these schemes, by incentivising landlords to climate-proof their properties.

Alongside improvements in energy efficiency, changes are required to unlock the power for local energy markets to support communities to build onshore wind and solar. Energy generated close to where it will be used is more efficient, as less energy is lost in transit. By empowering communities to generate their own green energy, the UK Government can increase energy efficiency, whilst also giving local people ownership over their transition to greener lifestyles.

Protecting the marine environment

Nature must be at the heart of the UK's vision for energy security. New onshore renewables are six times cheaper than the cost of running gas plants. The UK Government must realign its energy policy away from building new power stations and licensing further oil and gas.

However, the proposed 14-fold increase in offshore energy production will require vast amounts of infrastructure to be built in and on the delicate marine environment, and the UK is already one of the most nature depleted countries in the world.

The infrastructure required to bring the estimated 140GW of offshore wind energy onshore by 2050 must be strategically planned and coordinated to minimise environmental impacts. Without strategic planning, new developments will drive further declines in marine species, including of seabirds, porpoise, dolphins and whales. In addition, whether built offshore or onshore, the installation, running and decommissioning of grid and cabling for offshore wind can also disturb and destroy vital habitats for badgers, bats, reptiles and water voles.

An Environmental Audit Committee report recommended that the expansion of marine energy be **“extremely sensitive to biodiversity considerations given the obvious risks of disrupting important habitats”**.

Our concerns

The Wildlife Trusts broadly welcome the Offshore Wind Environmental Improvement Package (OWEIP), but we are concerned about the scope of the secondary legislation making powers included within the Bill. Below we outline our concerns surrounding Clause 248 and Clause 246 within the Energy Bill and propose amendments to address these.

Changes to the Habitat Regulations

Clause 248 pertains to the assessment of the environmental effects of offshore wind on protected sites. The clause will enable the appropriate regulation-making authority to revise the process for assessing environmental impacts on protected sites and species from offshore wind and associated infrastructure in the marine area.

We welcome elements of this clause, such as the requirements for earlier assessment. This will provide adequate time to resolve discrepancies in evidence and data and help identify measures to reduce environmental impact early in the process, which can cause delays and act as a barrier to adequate compensation.

However, Clause 248 will grant much wider powers beyond this - including the ability to ignore Habitat Regulations, Marine Act general duties and all current assessment requirements. These far-reaching powers will allow the Secretary of State to disregard or modify existing provisions which exist to safeguard our natural environment.

Strategic compensation

Clause 246 outlines the provisions for strategic compensation for adverse environmental effects caused by marine development. Part (4) defines “adverse environment effect” as anything that adversely affects the integrity of any site or hinders the achievement of the conservation objectives stated for a protected marine area.

We support this clause, but it must include the vital precautionary principle. Part (a) should therefore be amended to “could adversely affect...”. This would ensure that where there are threats of serious or irreversible environmental damage, a lack of scientific certainty shall not be used as a reason for postponing or excluding cost-effective measures to prevent environmental degradation.

Environment Act Provisions

It is a contradiction that the Energy Bill’s powers to alter Habitats Regulation currently do not have the same caveats as given to similar powers within the Environment Act. These are outlined below:

The Environment Act 2021:

Section 112 Habitats Regulations: power to amend general duties

(1) The Secretary of State may by regulations amend the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) (the “Habitats Regulations”), etc

....

(6) In making regulations under this section the Secretary of State must have regard to the particular importance of furthering the conservation and enhancement of biodiversity.

(7) The Secretary of State may make regulations under this section only if satisfied that the regulations do not reduce the level of environmental protection provided by the Habitats Regulations.

(8) Before making regulations under this section the Secretary of State must lay before Parliament, and publish, a statement explaining why the Secretary of State is satisfied as mentioned in subsection (7).

No explanation has been given as to why these vital caveats are not in the Energy Bill. The OWEIP policy statement promises to support the accelerated deployment of offshore wind “whilst maintaining environmental protections” and addressing the “impacts of offshore wind infrastructure in the marine environment”.

We supported Baroness McIntosh of Pickering’s new clause 242D which would put the mitigation hierarchy on the face of the Bill. The mitigation hierarchy – the principles of which are to avoid, reduce, mitigate and then compensate – is a vital component of this Bill.

Amendments

The Wildlife Trusts suggest the following amendments be added to the Energy Bill to ensure current or future Ministers cannot reduce or weaken environmental protection.

At a time of an ecological and climate crisis, measures to further the conservation and enhancement of biodiversity should be paramount within this Bill.

Amendment - Clause 248, page 209, after line 11

“(c) in making regulations under this section the appropriate authority must have regard to the particular importance of furthering the conservation and enhancement of biodiversity.

(d) The appropriate authority may make regulations under this section only if satisfied that the regulations do not reduce the overall level of environmental protection or the level of protection for individual sites and species.

(e) Before making regulations under this section the appropriate authority must publish a statement explaining why the appropriate authority is satisfied as mentioned in subsection (d).

(f) A statement published under subsection (e) must include an explanation relating in particular to protection provided by

- i. the Marine and Coastal Access Act 2009, the Marine Act (Northern Ireland) 2013 or the Marine (Scotland) Act 2010; and
- ii. the Conservation of Habitats and Species Regulations 2017, the Conservation (Natural Habitats, &c.) Regulations 1994 or the

Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 and the Conservation of Offshore Marine Habitats and Species Regulations 2017

Member's Explanatory Statement

This amendment will ensure there is no regression in environmental protections.

Amendment - Clause 248, page 210, after line 6, remove (i), (5) and (6)

Member's Explanation Statement

This amendment is to remove the ability to disapply current environmental protections.

For further information please contact:

Ailis Watt, Public Affairs Officer, The Wildlife Trusts awatt@wildlifetrusts.org