



THE DIVERGENCE OF UK AND EU ENVIRONMENTAL POLICY

RESEARCH FOR LUND TRUST

Varun Bhattacharyya

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Section One: Introduction

Before the United Kingdom left the European Union, EU laws and directives played a significant role in shaping UK environmental policy. These regulations influenced how the UK managed biodiversity, controlled pollution, and approached agricultural practices. Since the UK's departure in December 2020, the paths taken by the UK and the EU in environmental and agricultural policy have increasingly diverged. This shift has significant implications for nature in the UK, though the full impact remains uncertain, especially given the different approaches within the UK's devolved nations.

This report looks at the similarities and differences between new post-Brexit environmental policy in the UK and EU policy and what these policy changes are likely to mean for nature in the UK. The report begins by examining the health and recent trends of nature in both the UK and among EU member states, before providing an overview of pre-Brexit EU environmental law. Section three then examines how policy frameworks regarding nature have diverged both between the UK and the EU as well as within the UK's devolved nations before examining what the implications of this divergence are for nature in the UK.

Given the different approaches taken by each of the UK's devolved nations regarding post-Brexit environmental policy, the analysis of this report will focus primarily on a comparison of policy and outcomes between the EU and England.

Methodology

I will be focusing on these four questions when writing my report:

1. What is the current state of nature in the UK and EU?
2. What is the current state of the UK's environmental policy?
3. How do the levels of ambition and implementation differ between the UK and EU's nature policies?
4. How does the UK's new agricultural policy compare with the EU in protecting nature?

To explore these four key questions, I employed a combination of desk-based research, informal interviews, and data analysis. The desk-based research involved a thorough review of scientific articles, policy and legal documents, and reports from reputable sources to build a comprehensive understanding of the current state of nature, environmental policies, and legislative measures in both the UK and EU. In addition to this, I conducted informal interviews with experts from academia, think tanks, and practising ecologists. These interviews provided valuable insights, helped refine the direction of the report, and ensured the relevance and accuracy of the findings. To further support the analysis, I utilised data visualization techniques in R, conducting textual analysis of policy documents to identify key themes and compare the levels of ambition and implementation in the UK and EU's environmental strategies. This mixed-method approach allowed for a well-rounded examination of the topics and ensured that the conclusions drawn were both informed and robust.

The UK and the EU: State of Nature

When considering the effects of the UK's withdrawal from the European Union on nature, we first need to understand what we mean by "nature". Nature encompasses all the systems on Earth that support life. This includes a diverse array of living organisms (biodiversity), their habitats (ecosystems), and the physical (non-living) landscapes they inhabit. It covers everything from forests, rivers, and oceans to urban green spaces and agricultural lands.

While neither the UK nor the EU uses a single definition of "nature", their legislation clearly targets biodiversity and ecosystem protection as key themes when it comes to nature-specific policies. The EU targets its nature-specific legislation predominantly through its Birds Directive and Habitats Directive, along with the Biodiversity Strategy for 2030 and the 2024 Nature Restoration Law.¹ Similarly, the UK's post-Brexit environmental policies, such as the Environment Act 2021 and the Agricultural Transition Plan, emphasise protecting biodiversity as a central component of its broader nature strategy.²

Before I can analyse the divergence between United Kingdom and European Union environmental policy, it is important to understand the current state of nature in each region. Despite substantial conservation efforts on paper, both regions have experienced significant declines in

¹ European Commission. (n.d.). *Nature and biodiversity*. Energy, Climate Change, Environment. Retrieved August 20, 2024, from https://environment.ec.europa.eu/topics/nature-and-biodiversity_en

² Brader, C. (2023). COP15: Global biodiversity framework. In *House of Lords Library*. UK Parliament. <https://lordslibrary.parliament.uk/cop15-global-biodiversity-framework/>

biodiversity, driven by intensive agricultural practices, urbanisation, infrastructure development, pollution, climate change, and invasive species.³

Protecting and preserving biodiversity are key targets embedded in both governments' environmental strategies, with longstanding commitments under the Sustainable Development Goals (SDGs) and the Convention on Biological Diversity (CBD)⁴. However, despite significant efforts by EU Member States that once included the UK, biodiversity across the UK and EU continues to decline and faces significant obstacles. The UK faces more severe biodiversity challenges compared to the EU, necessitating more ambitious and forward-thinking nature restoration policies.

The Biodiversity Intactness Index (BII)

The Biodiversity Intactness Index (BII) is a powerful indicator developed by the Natural History Museum to estimate the level of a region's natural biodiversity that is still left on average. This indicator measures biodiversity change using species richness and abundance data on plants, fungi and animals globally, providing a comprehensive picture of biodiversity health and loss⁵. A value of 100% would indicate that a country has all of its biodiversity intact, while a value of 0% indicates all its biodiversity has been depleted. The most recent estimate of the global BII is 77%, which is

³ Dasgupta, P. (2021). *The Economics of Biodiversity: The Dasgupta Review*; EEA. (2020). *State of nature in the EU*. <https://doi.org/10.2800/705440>

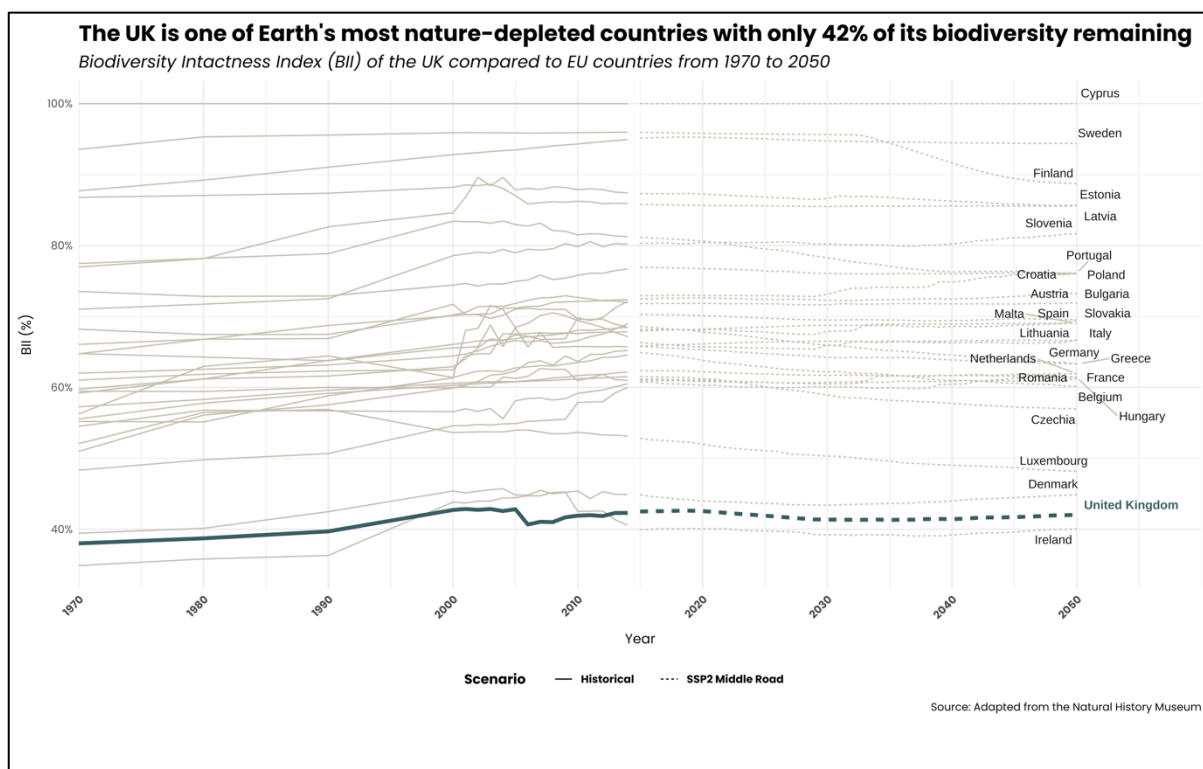
⁴ de Zylva, P. (2019). *How well are the UK and the EU protecting nature?*

⁵ Phillips, H., de Palma, A., Gonzalez, R. E., & Contu, S. (2021). *long_data.csv (from The Biodiversity Intactness Index – country, region and global-level summaries for the year 1970 to 2050 under various scenarios) [Data set resource]*. Natural History Museum. <https://data.nhm.ac.uk/dataset/bii-bte/resource/2876792f-98d9-4a8d-beee-7dc3e572e2b1>

substantially lower than the 90% threshold deemed necessary to maintain healthy, functioning ecosystems⁶. The BII varies globally and is typically lower in post-industrial countries. Among the G7 countries, only Canada has a BII above the suggested planetary boundary threshold.

“The UK only has 42% of its biodiversity still intact putting it at the bottom 10% of countries globally and the worst among the G7 countries”

Figure 1. Biodiversity Intactness Index (BII) for EU Countries and the United Kingdom 1970 – 2050 (Adapted from data from Natural History Museum)



Findings from the BII indicate that the UK is one of the most nature-depleted countries in the world. As it stands, the UK only has 42% of its biodiversity still intact putting it in the bottom 10% of countries globally and

⁶RSPB. (2023). UK State of Nature Report.

the worst among the G7 countries.⁷ When compared to countries across the EU, only Ireland comes out worse. **Error! Reference source not found.** illustrates the Biodiversity Intactness Index (BII) trends from 1970 to 2050 for EU countries and the United Kingdom. The solid lines represent historical data, while the dotted lines indicate projections under the SSP2 Middle Road scenario⁸. Figure **Error! Reference source not found.** emphasises the significant gap in biodiversity intactness between the UK and countries in the EU. The BII for the EU varies across member states with Cyprus preserving all its biodiversity while Ireland reports a BII low of around 40%. However, the majority of EU countries sit higher than 60% BII, with Sweden and Finland, the third and fifth largest countries by area reporting BII at approximately 95%. While the EU also grapples with significant challenges in biodiversity restoration, the UK faces an especially steep hurdle, needing to raise its BII from 40% toward the 90% threshold.

Conservation Status

The conservation status of habitats and species is another important measure used to assess the health of nature. Defined by the EU's Habitats Directive, it categorises habitats and species as "favourable" (good), "unfavourable-inadequate" (poor), or "unfavourable-bad" (bad) by assessing factors like the size and stability of its population, the area it occupies, the health of its natural structure and ecological functions, and

⁷ Davis, J. (2020, September 26). UK has "led the world" in destroying the natural environment. *Natural History Museum*. <https://www.nhm.ac.uk/discover/news/2020/september/uk-has-led-the-world-in-destroying-the-natural-environment.html>

⁸ This scenario assumes that social, economic, and technological trends continue along a path similar to historical patterns.

its ability to survive and thrive in the future.⁹ For instance, a “favourable” status means the habitat or species has a stable or increasing population, a healthy and intact environment, and no immediate threats to its continued existence.

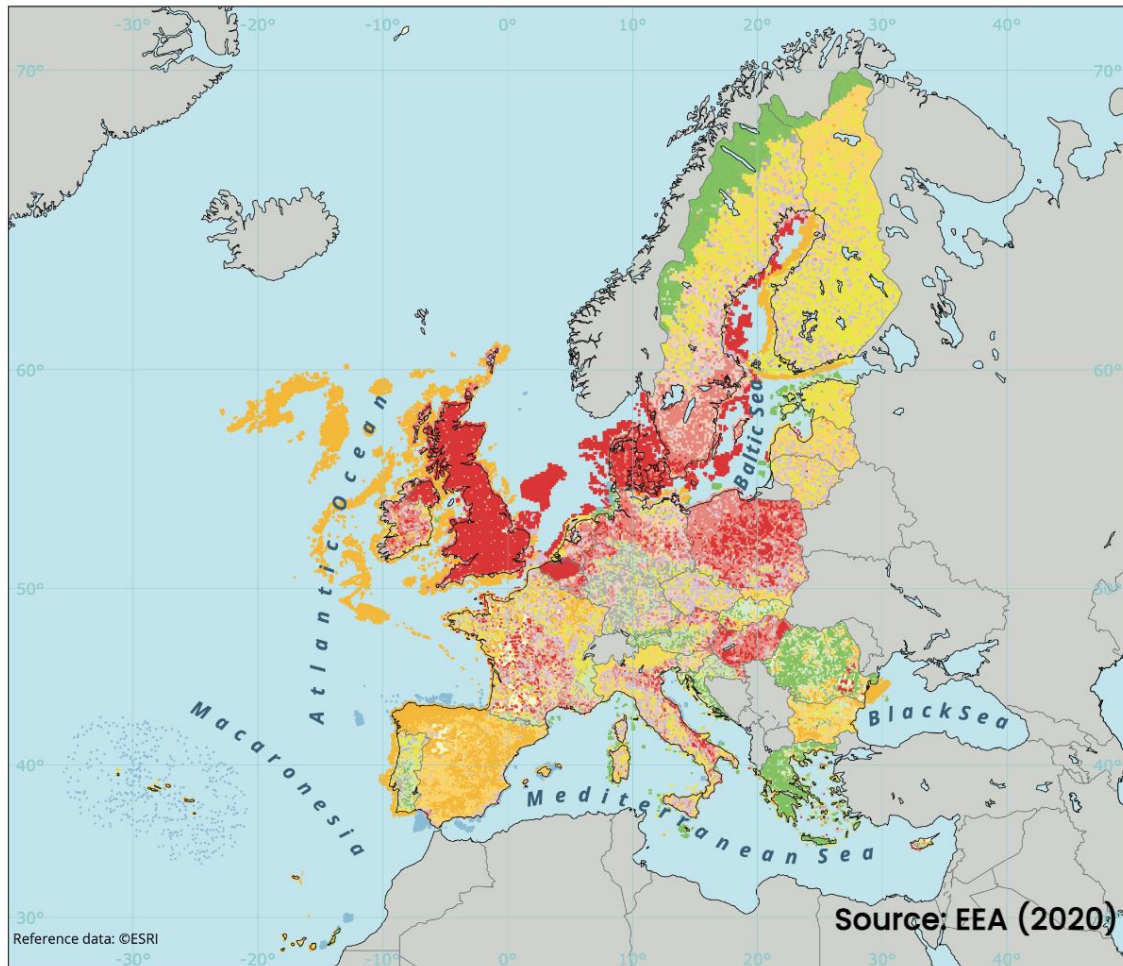
According to the latest EEA (2020) “state of nature in the EU” report (that includes the UK in its analysis), 80% of habitats across the UK and EU had “bad” or “poor” conservation status, while only 15% were in “good” condition. The UK stands out as a clear outlier among major economies due to its especially poor conservation status. Figure 2 illustrates this significant regional variation, with the UK appearing almost entirely in red, indicating a high concentration of habitats in bad condition.¹⁰ While the EU average shows 36% of habitats in bad condition, over 70% of the UK’s habitats fall into this category, underscoring the urgent need for targeted conservation efforts.

⁹ EEA. (2020). *State of nature in the EU*. <https://doi.org/10.2800/705440>

¹⁰These statistics and graph relate to habitat condition only. Data on species condition is presented separately in the original *State of Nature* report.

Figure 2. Distribution of the conservation status around the EU and UK, with green indicating good condition and yellow and red indicating poor and bad condition, respectively. Source: EEA (2020)

The UK has the highest concentration of habitats in bad condition



The UK's conservation efforts are further challenged by having the lowest coverage of protected areas among all EU countries when focusing on areas specifically designated for biodiversity conservation. While nearly 28% of the UK's land area has been designated as protected under national and international legislation, compared to an EU average of 26%, this figure includes broader designations such as Areas of Outstanding Natural Beauty (AONBs) and National Parks, which are not primarily focused on biodiversity conservation.

Figure 3. Percentage of Land Protected for Biodiversity in the UK vs. Natura 2000 Sites in EU Countries

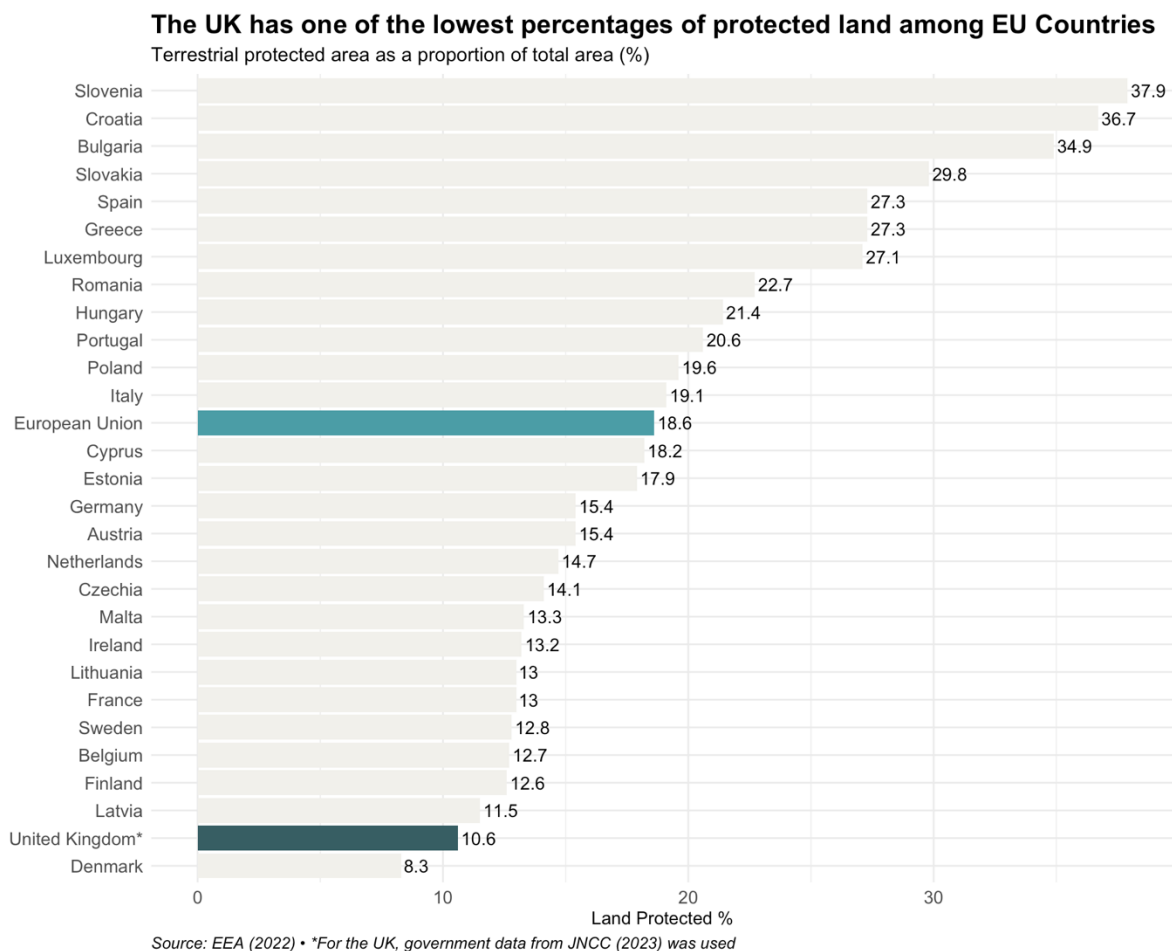


Figure 3 shows the percentage of land in the UK specifically designated for biodiversity conservation, focusing on areas like Sites of Special Scientific Interest (SSSI), Special Areas of Conservation (SAC), and Special Protection Areas (SPA). In contrast, the EU primarily reports its protected areas under the Natura 2000 network, which is dedicated to conserving biodiversity through the SACs and SPAs as mandated by the EU Habitats and Birds Directives.

Under this designation, the UK only protects 10.6% of its land, which falls short of the targets set by the Convention on Biological Diversity (CBD). The CBD's Aichi Biodiversity Targets, specifically Target 11, call for at least 17% of terrestrial land and inland water to be protected and effectively managed by 2020. Moreover, condition monitoring suggests that only 43–51% of these protected areas are in favourable condition, meaning that as little as 4.9% of UK land is effectively protected for nature.¹¹

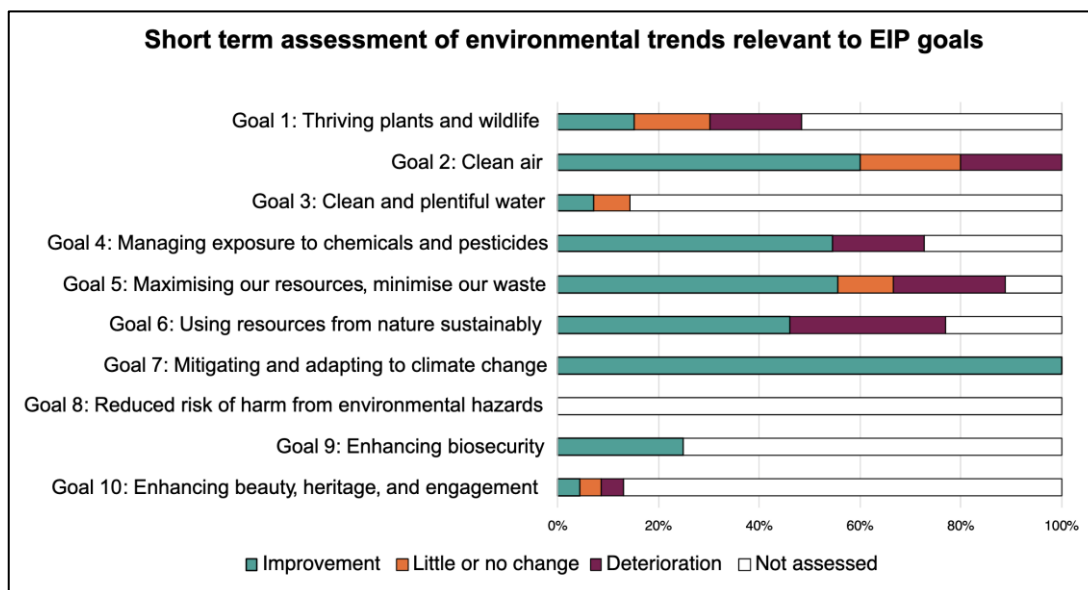
The UK's Environmental Improvement Plan: Recent Progress

On the 30th of July 2024, the UK government published the annual progress report on its 2023 Environmental Improvement Plan (EIP23) that had been released in accordance with the guidelines set by the Environment Act 2021.¹² The plan outlines ten specific goals and includes targets to measure progress against 66 environmental indicators. These indicators are grouped into ten broad themes covering various aspects of the environment, such as air, water, seas and estuaries, and wildlife. Figure 4 summarises the progress made based on a short-term assessment of five years of environmental change that accounts for normal yearly fluctuations. The graph shows the percentage of indicators for each goal that have improved, deteriorated, shown no change, or have not been assessed.

¹¹ Starnes, T., Beresford, A. E., Buchanan, G. M., Lewis, M., Hughes, A., & Gregory, R. D. (2021). The extent and effectiveness of protected areas in the UK. *Global Ecology and Conservation*, 30, e01745. <https://doi.org/10.1016/J.GECCO.2021.E01745>

¹² Defra. (2024). *Environmental Improvement Plan: annual progress report 2023 to 2024*. <https://www.gov.uk/government/publications/environmental-improvement-plan-annual-progress-report-2023-to-2024/environmental-improvement-plan-annual-progress-report-2023-to-2024>

Figure 4. High level view of short-term progress towards the 10 goals



While significant progress has been made around climate change adaptation and mitigation, there has been deterioration in other aspects of the environment in six of the goals, particularly the “apex” goal of thriving plants and wildlife.

Given the poor state of the baseline status of nature in the UK, especially relative to the EU, the UK cannot afford to fall behind in its environmental efforts. The current condition of UK habitats and the limited extent of effectively protected areas highlight the urgent need for robust and ambitious environmental and nature policies. If the UK is to address its rapid biodiversity decline and meet both national and international conservation targets, it must prioritise policies that not only expand the quantity of protected areas but also improve their quality and management. This will ensure that these areas truly contribute to biodiversity conservation and ecosystem health, aligning with the urgent global need to combat climate change and environmental degradation.

Section Two: UK and EU Policy Divergence

State of Environmental Policy: Pre-Brexit

On June 23 2016, the UK held the European Union referendum. With a vote of 52% to 48%, the British public voted to leave the EU, opening the potential for significant divergence in environmental policy. At the time, few people appreciated how embedded EU law was in UK environmental policy. The environment was not a significant part of debates leading up to the referendum, which focused on national sovereignty, immigration and the economy.¹³ Only when the specifics of the Brexit process began to unfold did issues of a post-Brexit environmental policy begin to emerge.

When the UK joined the EU (then EEC) in 1973, it had a reputation as the ‘dirty man of Europe’. It was the only Western European country failing to control pollution from cars, power plants and farms. It also tried to avoid European rules on pesticides and did not follow regulations on nitrates and clean bathing water. UK environmental policy was unorganised and reactive, focusing on quick fixes rather than long-term preventive solutions.¹⁴ For example, instead of reducing pollution at the source, government policies focused on cleaning it up afterwards. Implementation was inconsistent and relied on voluntary agreements rather than enforcement. This meant that companies were often asked to follow guidelines rather than being required by law to meet specific standards.

¹³ Burns, C., & Carter, N. (2018). Brexit and UK Environmental Policy and Politics. *French Journal of British Studies*, XXIII(3). <https://doi.org/10.4000/RFCB.2385>

¹⁴ Burns, C., Gravey, V., Jordan, A., & Zito, A. (2019). De-Europeanising or disengaging? EU environmental policy and Brexit. *Environmental Politics*, 28(2), 271–292. <https://doi.org/10.1080/09644016.2019.1549774>

When the UK joined the EU, it had to follow EU rules because, as a member, it agreed to adopt and enforce laws on the environment, trade, agriculture, and more.¹⁵ Key pieces of EU legislation that influenced UK environmental policy included the Birds Directive, the Habitats Directive, the Water Framework Directive, and the Waste Framework Directive. These directives set binding targets for environmental quality and required member states to implement national legislation to achieve them. These rules ensured consistent standards across all member countries. The UK had to integrate these laws into its own system, with the risk of fines or financial sanctions if it did not comply. Between 2003 and 2016, 29 out of 63 judgments (46% of all UK cases) sent to the European Court of Justice concerned environmental matters¹⁶. The EU's high environmental standards aimed to protect the environment across Europe, and the UK's compliance helped achieve this collective goal. Following these rules also brought benefits like funding for environmental projects and access to a larger trade market. Ensuring consistent environmental standards across member states was essential to fair competition, preventing any country from gaining a competitive advantage by lowering environmental standards to cut costs.

“46% of all UK cases ending at the European Court of Justice between 2003 and 2016 concerned environmental matters”

¹⁵ UKLEA. (n.d.). *Impact of EU Membership on UK's environmental laws*. UK Environmental Law Association. Retrieved September 3, 2024, from <https://www.ukela.org/UKELA/UKELA/ReadingRoom/Brexit/Impact-of-EU-Membership.aspx>

¹⁶ Hogarth, R., & Lloyd, L. (2017). *Who's afraid of the ECJ?* <https://www.instituteforgovernment.org.uk/publication/report/whos-afraid-ecj>

Consequently, the UK's legal framework was significantly shaped by EU laws. Over 52,000 EU regulations and directives were incorporated into UK legislation since 1990, affecting a wide range of sectors such as trade, agriculture, financial services, and the environment¹⁷. High-profile EU regulations included those on climate and energy, chemicals, hazardous substances, and workers' rights. As a result of this close alignment with EU policy, when the UK voted to leave the union, it raised serious questions around how the UK would manage the legal continuity from EU law to a new domestic framework.

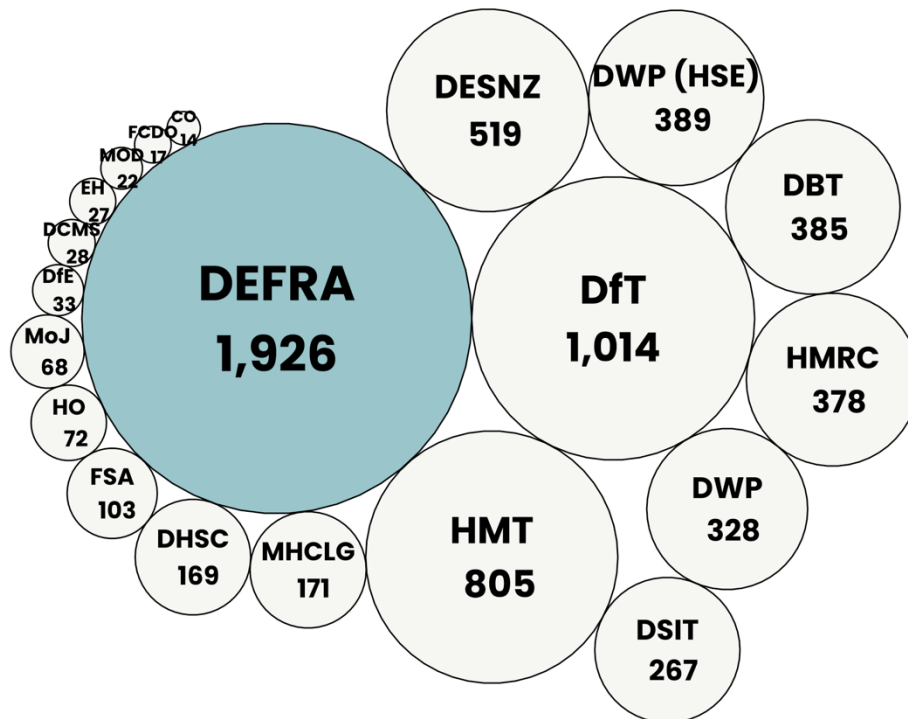
European Union (Withdrawal) Act 2018

To manage the UK's departure from the EU and ensure legal continuity, the European Union (Withdrawal) Act 2018 was introduced. It transferred existing EU laws into UK law, creating a new category called "retained EU law" (REUL). This ensured that EU regulations continued to function in the UK post-Brexit. The REUL and assimilated law dashboard, launched by the UK government (see Figure 5), provides the public with information on how much legislation is derived from the EU, along with the actions taken to either reform, revoke, or retain these laws. It includes UK-wide legislation, including those with mixed competence or under devolved powers, but notably excludes legislation made directly by the devolved institutions in Scotland, Northern Ireland, or Wales.

¹⁷ Sandell, P. (2017, March 27). EU Laws introduced in the UK over last 25 years highlights scale of challenge facing lawmakers following Brexit. *Thomson Reuters*. <https://www.thomsonreuters.com/en/press-releases/2017/march/eu-laws-introduced-in-the-uk-highlights-scale-of-challenge-facing-lawmakers-following-brexit.html>

Figure 5. Map of retained EU law (now known as assimilated law) by government department.

DEFRA sees the highest number of retained EU laws for any UK department



Source: Data adapted from GOV.UK

To handle this transition effectively, the Act granted the UK government limited powers to adapt and remove laws that were no longer relevant or needed adjustment to fit the UK's new independent context. The Department for Environment, Food & Rural Affairs (DEFRA) was significantly impacted by these changes since approximately 80% of DEFRA's responsibilities were governed by EU regulations before Brexit.¹⁸

This means that most of the rules and standards DEFRA had to follow were set by the EU. DEFRA organised its EU Exit programme into five main policy

¹⁸ National Audit Office, *Implementing the UK's Exit from the European Union: The Department for Environment, Food & Rural Affairs* (London, HC 647 Session 2017-2019, 20 December 2017)

streams: Environmental Regulations, Fisheries, Future of Farming, Animal and Plant Health (Biosecurity), and Food. Out of the 6,735 retained EU laws, 1,926 pertained to DEFRA, making it the most heavily influenced department by EU regulations. Given the significant influence of EU regulations on UK environmental policy, particularly within DEFRA, there has been understandable concern about how the UK would adapt these retained EU laws post-Brexit. As the transition period ended and most EU laws ceased to apply in the UK, questions arose regarding the potential divergence and how effectively the UK would maintain or modify these standards within a new legislative framework.

Despite the Brexit referendum taking place in mid-June 2016, the UK only officially left the EU on January 31, 2020. A transition period then followed until December 31, 2020, during which the UK remained subject to EU rules while negotiations for the future relationship took place. However, at the end of the transition period, the UK did not have any domestic legislation to replace the EU environmental policies. Although the UK introduced an Environment Bill (now the Environment Act 2021) in January 2020, it faced several delays due to political changes (from May to Johnson), capacity constraints within DEFRA, and the COVID-19 pandemic.¹⁹

It was a year after the transition period ended that the Environment Act was announced on November 9, 2021. The Act serves as the new foundation for environmental policy in the UK, setting binding targets for air quality, water quality, biodiversity, and waste reduction. It also established

¹⁹ Gravey, V., & Jordan, A. (2023). UK environmental policy and Brexit: Simultaneously de-Europeanising, disengaging and (re)-engaging? *Journal of European Public Policy*. <https://doi.org/10.1080/13501763.2023.2201613>

the Office for Environmental Protection (OEP) to oversee compliance and hold the government accountable for its environmental commitments, replacing the oversight previously provided by the European Commission and the Court of Justice of the European Union (CJEU). Table 1 presents an overview of the key events since the Brexit referendum in 2016.

Timeline of key events

Jun 2016 **Brexit Referendum**

The UK votes to leave the EU. During the Brexit referendum, the environment was a minor issue, and the government made few contingency plans for a Leave victory.²⁰

Jan 2018 **25-Year Environment Plan**

Originally set for release in 2016 but delayed by Brexit, the UK Government eventually outlined long-term environmental goals, including annual progress reports across ten key areas and a framework for regular updates.²¹

Dec 2019 **Presentation of the European Green Deal**

The European Commission announced the EU Green New Deal, which aimed to make Europe the first climate-neutral continent by 2050. The deal covers all sectors of the economy, notably transport, energy, agriculture, buildings, and industries such as steel, cement, ICT, textiles and chemicals.²²

January **Introduction of the Environment Bill**

2020

The UK government outlines new environmental governance and targets.

²⁰ Walker, G. (2022). Chronology: a timeline of environmental policy milestones in the UK. In *Lessons from the History of UK Environmental Policy* (p. 40). The British Academy.

²¹ Ibid

²² European Commission. (2019, December 11). *The European Green Deal [Press Release]*. https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6691

Nov 2021 UK Environment Act 2021

The UK Environment Act 2021 receives Royal Assent, marking a significant milestone in post-Brexit environmental governance. The Act establishes the Office for Environmental Protection (OEP), an independent body responsible for monitoring and enforcing environmental law in England. The Act sets legally binding targets for air quality, water, biodiversity, and waste reduction, aiming to ensure that environmental standards are maintained and improved in the absence of EU oversight.

May 2021 UK Agricultural Transition Plan

The UK Government introduces the Agricultural Transition Plan, detailing the shift from the EU's Common Agricultural Policy (CAP) to a UK-based system. This plan, focused specifically on England, outlines the phasing out of direct payments and introduces new schemes aimed at promoting sustainable farming practices, environmental stewardship, and innovation in agriculture.

Dec 2021 Agreement on reform of the EU common agricultural policy (CAP) was formally adopted.

The EU approves a new reform for the Common Agricultural Policy (CAP) for 2023–2027. This reform aligns the CAP with the European Green Deal, focusing on sustainable development and climate neutrality across the EU.²³

May 2022 Publication of the EU biodiversity strategy for 2030

The EU publishes its Biodiversity Strategy as a core part of its Green Deal. The strategy aims to put Europe's biodiversity on a path to recovery by 2030 and includes specific actions and

²³ European Commission. (2023). CAP 2023–27. https://agriculture.ec.europa.eu/common-agricultural-policy/cap-overview/cap-2023-27_en#

commitments. However, the targets set by the strategy are not legally binding.²⁴

Jun 2022 Nature Restoration Law Proposal

Recognising the failures of its previous 2020 Biodiversity Strategy, the EU publishes a new nature restoration proposal with legally binding targets.

Feb 2024 England's Biodiversity net gain (BNG) becomes mandatory

A new policy to mandate new developments to deliver at least a 10% increase in biodiversity from 2024 to obtain planning permission.²⁵

Aug 2024 EU Nature Restoration Law enters into force

The EU's Nature Restoration Law, the first continent-wide legislation of its kind, enters into force. This law is a critical component of the EU Biodiversity Strategy and sets legally binding targets to restore degraded ecosystems across Europe. The law focuses on ecosystems with high potential for carbon capture, storage, and resilience against natural disasters, reinforcing the EU's commitment to reversing biodiversity loss and addressing climate change through concrete, enforceable measures.²⁶

Current State of UK Environmental Policy Post-Brexit

Since the end of the transition period, the UK has worked to establish its own environmental framework, as evidenced by the introduction of the

²⁴ European Commission. (2020). *Biodiversity strategy for 2030*. https://environment.ec.europa.eu/strategy/biodiversity-strategy-2030_en#related-strategies

²⁵ Defra. (2023, February 21). *Understanding biodiversity net gain*. HM Government. <https://www.gov.uk/guidance/understanding-biodiversity-net-gain>

²⁶ European Commission. (2024). *Nature Restoration Law*. Energy, Climate Change, Environment. https://environment.ec.europa.eu/topics/nature-and-biodiversity/nature-restoration-law_en#implementation

2021 Environment Act and the Agricultural Transition Plan. These policies signal a shift towards a more UK-centric approach to environmental governance, characterised by a gradual disengagement from EU standards as the UK focuses on defining an independent regulatory framework that reflects domestic priorities.²⁷

In December 2019, the EU introduced the European Green Deal, an overarching framework that includes policies targeting all sectors of the economy, such as transport, energy, agriculture, buildings, and industries like steel, cement, ICT, textiles, and chemicals with the goal of becoming the first climate-neutral continent by 2050.²⁸ As the EU forges ahead with these comprehensive plans, the UK faces the challenge of determining its own regulatory path. This divergence creates three potential scenarios:

1. **Active divergence**, where the UK changes its rules while the EU maintains its existing ones. The UK may choose to develop its own environmental policies, which could be either more or less ambitious than those of the EU. This type of divergence allows the UK the flexibility to tailor its regulations to better suit domestic priorities, potentially leading to more innovative or context-specific solutions. However, it also requires the UK to build and maintain robust regulatory institutions that can effectively implement and enforce these new standards. If UK standards become less strict, it could face

²⁷Gravey, V., & Jordan, A. (2023). UK environmental policy and Brexit: Simultaneously de-Europeanising, disengaging and (re)-engaging? *Journal of European Public Policy*. <https://doi.org/10.1080/13501763.2023.2201613>

²⁸ European Commission. (2019, December 11). *The European Green Deal [Press Release]*. https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6691

trade issues with the EU, as products may no longer meet EU requirements, potentially complicating market access.

2. **Passive divergence**, where the EU updates its regulations, but the UK chooses not to follow suit. This form of divergence could lead to a gradual widening of the regulatory gap between the UK and the EU. The institutional challenge here lies in ensuring that the UK's environmental protections do not erode over time, particularly as EU standards continue to evolve.

3. **Active alignment**, where the UK voluntarily aligns with EU standards despite its newfound autonomy. The UK might choose to align closely with EU environmental standards, maintaining a level of consistency across both jurisdictions. This approach could minimize trade disruptions and regulatory complexity but requires the UK to balance its newfound autonomy with the practical benefits of maintaining alignment. It also involves establishing institutions that can monitor and enforce alignment with EU standards without direct oversight from Brussels.²⁹

These potential approaches reflect the broader strategic choices facing the UK post-Brexit. While divergence allows for greater flexibility and autonomy, it also places significant demands on the UK's regulatory institutions to ensure that environmental standards are not only

²⁹ Reland, J., Rutter, J., & Menon, A. (2021, October). *UK-EU regulatory divergence tracker - UK in a changing Europe*. UK in a Changing Europe. <https://ukandeu.ac.uk/reports/uk-eu-regulatory-divergence-tracker/>

maintained but potentially enhanced. The complexity of devolution further complicates this, as Scotland, Wales, and Northern Ireland may pursue their own environmental strategies, which could either align with the EU or diverge based on local priorities.

Devolution and the Role of Devolved Governments

The structure of devolved governance in the UK means that while the UK Parliament legislates on matters for the whole of the UK, certain areas of policy are devolved to the governments of Scotland, Wales, and Northern Ireland.³⁰ This means each nation within the UK can create and enforce its own laws in areas that have been devolved, such as the environment, agriculture, and certain aspects of economic policy. This setup can lead to variations in environmental standards across the UK, especially if devolved governments choose to align more closely with the EU or to pursue different priorities from Westminster.

Scotland, for instance, has shown a strong inclination to maintain high environmental standards closely aligned with the EU, emphasising re-engagement and active alignment with European policies. This reflects Scotland's broader political stance, where there is a desire to remain connected to the EU framework despite Brexit. However, with the Scottish National Party (SNP) losing 39 out of the 48 seats it was defending (total of 57 seats) in the 2024 General Election, the aim for alignment with the EU

³⁰ Guidance on devolution, (2013). <https://www.gov.uk/guidance/guidance-on-devolution#how-devolution-affects-the-way-governments-work>

might shift, especially as the prospect of independence and EU membership now appears less of a political priority. Wales, similarly, has committed to non-regression in environmental protections, working to maintain continuity with pre-Brexit standards and avoid weakening its environmental commitments.³¹ Northern Ireland's situation is unique due to its border with the Republic of Ireland and the Northern Ireland Protocol, which is an agreement ensuring there is no hard border between Northern Ireland and Ireland post-Brexit. The region has continued engagement with the EU, albeit with some conflict, reflecting the complexities of its political situation. This has resulted in a cautious approach, trying to balance alignment with EU standards while navigating the broader UK context.

In contrast, lead researchers from the Brexit & Environment lab, Profs Jordan and Gravey argue that England has leaned more towards de-Europeanisation, notably through the Retained EU Law Bill, which has empowered the UK parliament to review, amend, or repeal EU-derived laws, including the devolved nations.³² However, devolved governments decide how to implement or modify these laws. The majority of English voters supported leaving the EU, which may explain the more significant shift away from EU standards compared to Northern Ireland and Scotland, where most voters preferred to remain. This divergence within the UK raises concerns about potential inconsistencies and regulatory fragmentation, which could complicate efforts to maintain a unified national strategy for

³¹ Gravey, V., & Jordan, A. (2023). UK environmental policy and Brexit: Simultaneously de-Europeanising, disengaging and (re)-engaging? *Journal of European Public Policy*.

³² Gravey, V., & Jordan, A. (2023). UK environmental policy and Brexit: Simultaneously de-Europeanising, disengaging and (re)-engaging? *Journal of European Public Policy*.

environmental protection and biodiversity conservation. While the Labour Party's significant majority in the 2024 UK general election across the devolved administrations of Scotland and Wales could lead to more policy consistency across the UK, it remains too early to determine the full impact of these recent developments.

UK's Environment Act vs EU's Nature Restoration Law

The UK's Environment Act and the EU's Nature Restoration Law (NRL) represent the two most significant legislative measures targeted at nature conservation and restoration. On the 10th of November 2021, the UK signed the Environment Act into law to fill the vacuum of environmental policy left behind by Brexit. The Act's main goal is to establish how environmental laws will be created and managed independently, without the EU's oversight.

Instead of making major changes to existing environmental laws, the Act focuses on setting up the processes for developing future laws. This includes granting the UK government the power to create, adapt, and amend significant areas of environmental law through 'secondary legislation', a fast-track process that allows laws to be enacted with less parliamentary scrutiny.³³ This framework ensures that the UK can swiftly respond to emerging environmental challenges without the lengthy legislative processes that were characteristic of EU lawmaking.

³³ Abrahams, D., & Gillett, T. (2024). *Environment & Climate Change Laws and Regulations Report 2024 United Kingdom*. <https://iclg.com/practice-areas/environment-and-climate-change-laws-and-regulations/united-kingdom>

The Environment Act established the Office for Environmental Protection (OEP), a new independent body that essentially replaces the EU's role in monitoring and enforcing compliance with environmental laws in the UK. The OEP is tasked with holding the government and other public bodies accountable for their environmental obligations. The Act also provides mechanisms for setting environmental targets, which the Secretary of State (SoS) can introduce and which the OEP will oversee.

The European Council formally adopted the Nature Restoration Law (NRL) on the 17th of June 2024. The law establishes a framework for Member States to implement measures to restore at least 20% of the EU's land and sea areas by 2030, and all ecosystems "in need of restoration" by 2050.³⁴ The NRL is a more targeted piece of legislation than the EU Biodiversity Strategy, designed to implement the strategy as a key component of the European Green Deal. The NRL focuses on setting binding restoration targets for degraded ecosystems, aiming to reverse biodiversity loss and enhance the EU's natural habitats.

This is not the first time the EU has set ecosystem and biodiversity targets. It established a nature restoration target in 2010 as part of the EU Biodiversity Strategy to 2020, which aimed to restore at least 15% of degraded ecosystems by 2020—a period when the UK was still a member of the EU.³⁵ However, the bloc failed to achieve any of the six targets outlined in that

³⁴ European Parliament. (2024, February 27). *Nature restoration: Parliament adopts law to restore 20% of EU's land and sea* [Press release]. <https://www.europarl.europa.eu/news/en/press-room/20240223IPRI8078/nature-restoration-parliament-adopts-law-to-restore-20-of-eu-s-land-and-sea>

³⁵ Proposal for a regulation of the European parliament and of the council on nature restoration, (2022). <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52022PC0304>

strategy. The impact assessment identified several hindrances, including the absence of legally binding targets and ambiguity regarding which ecosystems and restoration activities were covered. The UK, like other member states, struggled to meet these targets, highlighting the need for stronger legal frameworks. Learning from these past shortcomings, both the UK's Environment Act and the EU's NRL introduce legally binding provisions for the first time.³⁶

Table 1 presents an overview of the key legally binding nature targets set by the UK and EU respectively.

Table 1. Comparison of Legally Binding Nature Targets in the UK and EU.

UK Legally Binding Targets	EU Legally Binding Targets
<p>Halt the decline in species abundance by 2030.</p> <p>Improve the Red List Index for England for species extinction by 2042 compared to 2022 levels.</p>	<p>Reverse the decline of pollinators by 2030</p> <p>Increase forest birds' population.</p>
<p>Increase species abundance so that by 2042 it is greater than in 2022 and at least 10% greater than in 2030.</p>	<p>Enhance two of these three indicators: the population of grassland butterflies, the stock of organic carbon in cropland mineral soils, and the share of agricultural land with high-diversity landscape features.</p>
<p>Restore or create more than 500,000 hectares of a range of</p>	<p>Restore 30% of habitats in poor conditions by 2030, increasing it to 60% by 2040 and to 90% by 2050.</p>

³⁶ Dwyer, O., & Quiroz, Y. (2024, February 28). Q&A: What does the EU 'nature restoration' law mean for climate and biodiversity? Carbon Brief. <https://www.carbonbrief.org/qa-what-does-the-eu-nature-restoration-law-mean-for-climate-and-biodiversity/#>

wildlife-rich habitats outside protected sites by 2042.	
Increase tree canopy and woodland cover to at least 16.5% of total land area by 2050.	<p>Ensure no net loss on urban green spaces and tree canopy cover until 2030</p> <p>Help plant at least 3 billion additional trees by 2030.</p>
Ensure that at least 70% of designated features in Marine Protected Areas (MPAs) are in favourable condition by 2042, with the remainder in recovering condition.	Restoring marine habitats such as seagrass beds or sediment bottoms that deliver significant benefits, including for climate change mitigation, and restoring the habitats of iconic marine species such as dolphins and porpoises, sharks and seabirds.
Restore precious water bodies to their natural state by cracking down on harmful pollution from sewers and abandoned mines and improving water usage in households	Remove artificial barriers to the connectivity of surface waters to turn at least 25,000 km of rivers into free-flowing rivers by 2030
Biodiversity Net Gain (BNG): New developments must demonstrate at least a 10% net gain in biodiversity, which means that any habitat affected by development must be restored or enhanced beyond its original condition.	No equivalent policy.

Divergence in Ambition?

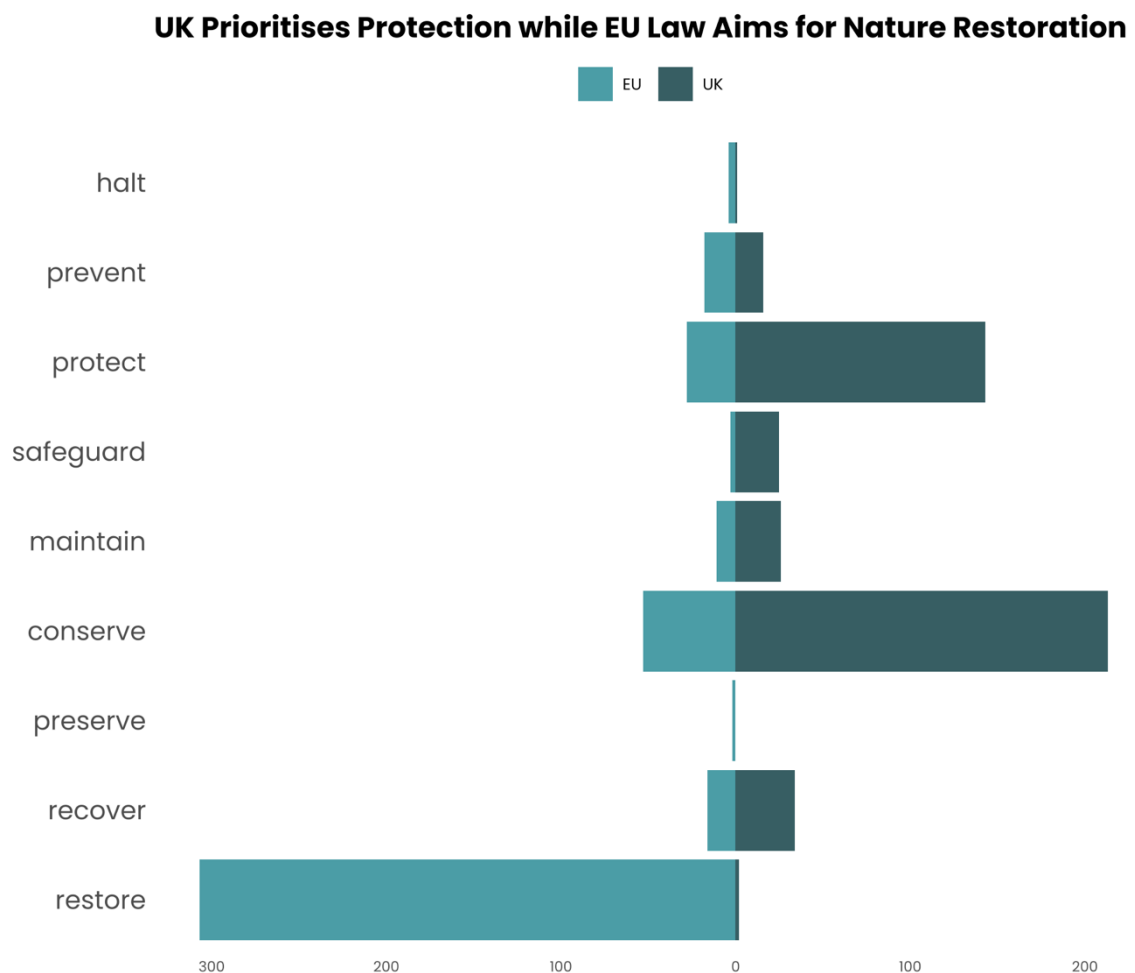
When comparing the legally-binding targets for the UK and EU at face value, two initial points of divergence become apparent: the level of ambition and the specificity of the targets themselves. Comparing the targets in Table 1 reveals differences in the terminology and phrasing used in both pieces of legislation, even though the broad aims are the same. The UK's primary target of "*halting decline in species abundance by 2030*" is objectively less ambitious than the EU's goal of restoring 30% of degraded land and marine habitats. The UK's approach focuses on stopping further decline, which, while crucial, is geared towards maintaining the current state of nature rather than improving it. While the UK has made provisions for habitat restoration like its target of creating "*500,000 hectares of wildlife-rich habitats outside protected sites by 2042*", this equates to roughly 2% of its total land area as opposed to the EU's target of 30% habitat restoration. The language used is general and makes monitoring and enforceability open-ended. The phrasing "restore or create" introduces flexibility that allows for potentially weaker or easier goals to be pursued, and the lack of a clear definition for what qualifies as "wildlife-rich" further adds to the ambiguity. This lack of clarity risks undermining the effectiveness of the UK's nature restoration efforts.

Conversely, while the EU's targets are more ambitious, they are also more specific than those proposed by the UK.³⁷ The EU's Nature Restoration Law contains specific targets for ecosystems and EU-protected species, as well

³⁷ Tucker, G. (2022). *Divergence of environmental policy post Brexit: a comparison of biodiversity targets emerging in the EU and UK*. Institute for European Environmental Policy.

as pollinators in general. For instance, the EU has sub-targets for key groups like grassland butterflies, pollinators, and farmland birds, with a quantified target for farmland birds that is more ambitious than the general species targets set in England. In contrast, the UK's approach involves broader targets for improving species extinction risk without detailing specific measures for species groups.

Figure 6. Keyword frequency analysis comparing conservation terms in the UK Environment Act and EU Nature Restoration Law



I conducted a keyword frequency analysis of both pieces of legislation to explore the underlying themes and priorities. This analysis counted key

terms such as “protect”, “halt”, “restore”, or “conserve”. Figure 6 shows a clear pattern of divergence between the UK and EU, in terms of their strategic focus on conservation/protection versus restoration. Terms like “protect” and “conserve” dominate much of the UK’s Environment Act, while “restoration” is used throughout the EU’s Nature Restoration Law. The differences in legal terminology of nature “conservation/protection” vs “restoration” may seem insignificant, but they reflect fundamentally different approaches to environmental policy. Restoration implies a proactive effort to return degraded ecosystems, habitats, or species populations to a former, healthier state. This involves not just halting decline, but reversing damage, rebuilding biodiversity, and restoring natural processes to levels closer to their original conditions. Restoration is inherently ambitious, requiring significant investment, detailed planning, and a long-term commitment to ecological recovery.

In contrast, conservation or protection focuses on maintaining the current state of nature, preventing further degradation but not necessarily improving or rebuilding what has already been lost. While this is crucial in preserving what remains, it does not address the historical losses and ongoing declines in biodiversity, especially in a country like the UK where nature is already in a poor state. Ireland, with 41% of its biodiversity remaining compared to the UK’s 42%, offers a useful comparison as an EU member. Its geography and environment are like the UK, with the main difference being their political context of EU membership. Despite a similar state of nature, Ireland led a coalition of eleven EU Member States advocating for the Nature Restoration Law during intense debate and

negotiation.³⁸ The UK, like Ireland, should pursue a more ambitious restoration effort to meet international commitments and ensure long-term ecological resilience. Protecting existing habitats is essential, but without significant efforts to restore what has been lost, the UK risks falling short of global biodiversity targets and failing to secure a sustainable future for its natural environments.

Ambition vs. Implementation

While the EU's Nature Restoration Law is more ambitious in setting legally binding targets for ecosystem restoration, its success depends heavily on individual member states to implement these measures effectively. The EU expects member states to submit a National Restoration Plan (NRP) to the European Commission within two years of the law coming into force (so by mid 2026), outlining their strategies and timelines for meeting the 2030, 2040, and 2050 targets.³⁹ The European Commission will support member states in drawing up these plans, but the responsibility for implementation lies primarily with the individual countries. While decentralising responsibility allows member states to tailor their actions to local contexts and needs, this approach introduces significant limitations in ensuring targets are met. In contrast, England's Biodiversity Net Gain (BNG) policy is a key instance where the UK has taken a positive lead in nature restoration with legal mandates requiring developers to deliver a minimum of 10%

³⁸ Government of Ireland. (2024, May 14). Eleven EU states so far sign up to Ireland-led call to approve the Nature Restoration Law [Press release]. *Department of the Environment, Climate and Communications*. <https://www.gov.ie/en/press-release/3f723-eleven-eu-states-so-far-sign-up-to-ireland-led-call-to-approve-the-nature-restoration-law/>

³⁹ European Commission. (2024). *Nature Restoration Law*. Energy, Climate Change, Environment. https://environment.ec.europa.eu/topics/nature-and-biodiversity/nature-restoration-law_en#implementation

biodiversity gain in all new developments.⁴⁰ This approach might offer more practical and enforceable outcomes, potentially leading to better implementation and measurable biodiversity restoration.

Challenges with the EU's Implementation Structure

Although the targets of the NRL are legally binding, the specific measures required to meet them are voluntary and left to the discretion of landowners and managers.⁴¹ This voluntary mechanism and reliance on member states to develop NRL plans can lead to significant disparities in implementation. For example, Southern European countries such as Italy, Greece, and Spain, along with several newer EU member states, have historically struggled with implementing EU environmental legislation such as those found in the Birds & Habitats Directives.⁴² They faced issues like insufficient resources, under-qualified personnel, and weak political commitment, which led to delays and non-compliance. In contrast, countries like Germany and Finland, with stronger administrative capacities, performed better, highlighting the disparity in implementation effectiveness across the EU.

“Although the targets are legally binding, the specific measures required to meet them are voluntary”

⁴⁰ <https://www.gov.uk/government/collections/biodiversity-net-gain>

⁴¹ Hering, D., Schürings, C., Wenskus, F et al. (2023). Securing success for the Nature Restoration Law. *Science*, 382(6676), 1248–1251. <https://doi.org/10.1126/science.adk1658>

⁴² European Union. (2015). *The implementation of the Natura 2000, Habitats Directive 92/43/ECC and Birds Directive 79/409/ECC*. <https://doi.org/10.2863/16342>

The NRL also faces significant financing challenges. The law allows member states full flexibility in using or foregoing funds from the Common Agricultural Policy (CAP) and Common Fisheries Policy (CFP) for NRL implementation. The CAP, which has the largest EU budget of €386.6 billion and impacts nearly 40% of the EU's land area, is crucial in this context. If member states prioritise agricultural production—a leading driver of biodiversity loss—over restoration, this could severely limit the financial resources available for implementing the NRL. Additionally, the law includes an “emergency brake” provision that permits member states to halt NRL implementation in farmland if agricultural production is at risk.⁴³

The NRL also requires member states to submit their National Restoration Plans by 2026, which leaves a narrow window for preparing comprehensive and effective plans. Given that the first target is to restore at least 30% of habitats in poor condition by 2030, it is unlikely that this will be met. Disparities in implementation will significantly weaken any progress made towards these ambitious targets, leaving a gap between the EU's restoration goals and the practical realities of achieving them.

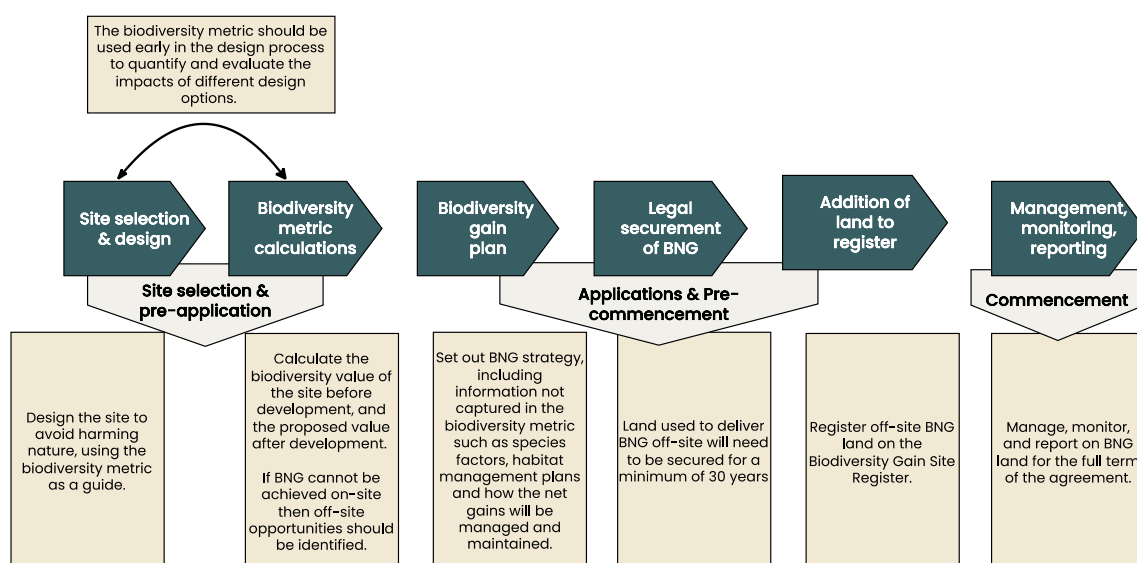
Potential of England's Biodiversity Net Gain (BNG) Policy

Biodiversity Net Gain (BNG) is a policy in England that mandates new developments to deliver at least a 10% increase in biodiversity from 2024 to obtain planning permission. The process begins with developers conducting an ecological assessment of the site before any development

⁴³ Ibid., Hering et al.

takes place. This assessment identifies the types of habitats present and evaluates their ecological value using a biodiversity metric. The metric assigns biodiversity units to each habitat based on factors such as its distinctiveness (how rare or important the habitat is), condition (the quality of the habitat), and area (the size of the habitat).⁴⁴

Biodiversity Net Gain Process Diagram



Source: Natural England (2022)

Once the baseline is established, developers must create a biodiversity gain plan. This plan outlines how the development will achieve at least a 10% increase in biodiversity. It includes strategies for enhancing or restoring habitats either on-site or off-site. If on-site gains are not feasible, developers can invest in off-site biodiversity projects or purchase biodiversity credits from a market designed for this purpose. Long-term management and monitoring are also key components of BNG. Any gains

⁴⁴ Ronish, Y., & Hillburn, H. (2022). Biodiversity – gaining ground? *Environmental Law Review*, 24(1), 3–9. <https://doi.org/10.1177/14614529221085937>

made must be secured for a minimum of 30 years. This involves legal agreements, often in the form of conservation covenants, ensuring that the biodiversity enhancements are maintained and monitored over time. Regular reports are required to track the progress and effectiveness of the biodiversity improvements. The new Labour government's commitment to build 1.5 million homes over the next five years, equating to 300,000 homes annually, is expected to create a market for biodiversity credits worth an estimated £135 million to £274 million per year.⁴⁵ This policy therefore has significant potential to boost funding for nature conservation in England.

Although the BNG policy is a major step in the right direction, there have been several implementation challenges that need to be addressed for the policy to be successful. Insufficient capacity and resources at the local planning authority (LPA) level to adequately monitor and enforce BNG commitments have been critical issues so far. Many LPAs are currently under-resourced, with a significant portion lacking in-house ecological expertise. The rollout of the BNG policy has not been matched by an increase in resourcing for the "lower tier" authorities that generally deliver planning policy. This shortfall means that LPAs may struggle to critically assess the biodiversity net gain assessments submitted by developers, increasing the risk of approving plans that are ecologically unrealistic or overly optimistic in their biodiversity projections.

These governance gaps are especially concerning for on-site BNG commitments, where compliance with ecological mitigation and

⁴⁵ Marshall, C. A. M., Wade, K., Kendall, I. S., Porcher, H., Poffley, J., Bladon, A. J., Dicks, L. v., & Treweek, J. (2024). England's statutory biodiversity metric enhances plant, but not bird nor butterfly, biodiversity. *Journal of Applied Ecology*, 61(8), 1918–1931. <https://doi.org/10.1111/1365-2664.14697>

compensation measures is often low. Early assessments have shown that most biodiversity units—about 95%—are being delivered on-site or in areas directly adjacent to development projects.⁴⁶ Monitoring of numerous fragmented habitats across widespread building projects is costly and not within the capacity of the LPAs. For example, habitats intended to mature over decades may not be adequately enforced if they fail to reach the desired condition levels, and local government guidelines often prioritise enforcement only in cases of “serious harm to a local public amenity”.⁴⁷ Furthermore, newly created on-site BNG habitats face the risk of being compromised by high levels of human activity due to their proximity to built environments. Current implementation risks delivering minimal benefits to biodiversity and misses opportunities to invest in regional biodiversity priorities that could help restore biodiversity at a landscape scale.⁴⁸

For the BNG policy to enable the UK to lead the EU in nature restoration, it should focus on two critical strategies: mandating a threshold for off-site biodiversity projects and encouraging investment in biodiversity credits. Focusing on off-site biodiversity projects can significantly enhance the effectiveness of the BNG policy by allowing for the restoration and creation of larger, contiguous habitats that better support diverse ecosystems. These off-site habitats can be developed in regions where they contribute to existing ecological networks that can be more effectively managed and

⁴⁶ Ermgassen, S., Marsh, S., Ryland, K., Church, E., Marsh, R., & Bull, J. W. (2021). Exploring the ecological outcomes of mandatory biodiversity net gain using evidence from early-adopter jurisdictions in England. *Conservation Letters*, 14(6), e12820. <https://doi.org/10.1111/CONL.12820>

⁴⁷ Ibid

⁴⁸ Ibid

monitored, ensuring that the habitats reach the desired ecological conditions over time.

When on-site or off-site BNG options are not feasible, developers can purchase statutory biodiversity credits, directing private finance into government-approved habitat projects under the Environment Act. This would enhance nature restoration in the UK by focusing investments on regions with higher ecological potential supporting habitat creation and preservation where biodiversity gains are most achievable. Prioritising restoration in existing Nature Recovery Areas or protected sites would ensure that financial resources are used more effectively, leading to greater and more lasting biodiversity benefits across the UK.

In conclusion, the divergence in nature restoration policies between the UK and the EU underscores two distinct approaches to combating biodiversity loss. The EU's Nature Restoration Law sets ambitious, legally binding targets for widespread habitat restoration, but its success is contingent on the capacity of individual member states to effectively implement these measures, potentially leading to inconsistent progress across the EU. In contrast, the UK's Biodiversity Net Gain policy is an innovative part of the Environment Act that also integrates legally binding restoration measures into its building & planning policy. However, in its current form it faces teething problems, particularly around monitoring and enforcement.

However, if the UK refines its approach by incentivising off-site restoration and biodiversity financing and encouraging greater investment in biodiversity credits, it could not only overcome these challenges but also set a new standard in nature restoration. This strategy would allow for more strategic and impactful conservation efforts, focusing resources where they can achieve the greatest biodiversity gains. By aligning its policies more closely with these strategies, the UK could potentially surpass the EU in its nature restoration efforts, leading to more practical and sustainable outcomes for nature and biodiversity.

Section Three: Comparative Analysis: UK vs. EU Agricultural Policy in Improving Nature Outcomes

Divergence in Agricultural/Farming Policy

The EU's Nature Restoration Law and the UK Environment Act are pivotal pieces of legislation aimed at reversing biodiversity decline and protecting ecosystems. However, they fall short in addressing the primary driver of nature and biodiversity loss: agriculture. As discussed previously, global agriculture alone poses a direct threat to over 85% of the 28,000 species at risk of extinction.⁴⁹ In the UK, farmland accounts for 70% of land, making agricultural practices critical to the health of the nation's wildlife and environment.⁵⁰ The most significant pressures on biodiversity stemming from agriculture include the abandonment of grassland management, the

⁴⁹ Benton, T. G., Bieg, C., Harwatt, H., Pudasaini, R., & Wellesley, L. (2021). Food system impacts on biodiversity loss. In *Chatham House*. <https://www.chathamhouse.org/2021/02/food-system-impacts-biodiversity-loss>

⁵⁰ Defra. (2023). *Agricultural Land Use in United Kingdom at 1 June 2023*. <https://www.gov.uk/government/statistics/agricultural-land-use-in-the-united-kingdom/agricultural-land-use-in-united-kingdom-at-1-june-2023>

use of plant protection products, intensive grazing, conversion of land use, drainage, removal of landscape features, and diffuse pollution. These pressures particularly impact pollinator species, farmland birds, and semi-natural habitats.⁵¹ Consequently, what happens on farms will significantly influence the UK's and EU's ability to meet legally binding targets on nature conservation and biodiversity.

While existing EU legislation, such as the directives on habitats, birds, water, nitrates, and sustainable pesticide use, attempted to curb nature and biodiversity decline, these measures were overshadowed by the broader Common Agricultural Policy (CAP). With a total budget of €362.8 billion for the 2014–2020 period, it provided finances, policy mechanisms, and control systems with higher environmental impact than all other policies and directives, and wielded greater influence over European ecosystems than any other environmental policy.⁵²

Historically, the UK's agricultural policy was shaped by its membership in the EU's CAP. For decades, CAP dictated the framework for farming subsidies and land management across the UK. With Brexit, the UK gained the opportunity to reform its agricultural policies independently. In 2020, England introduced the Agricultural Transition Plan, which marks a significant departure from the EU's CAP. The plan seeks to repurpose agricultural subsidies to better protect and enhance biodiversity, build

⁵¹ WWF, EEB, & Bird Life. (2021). *An assessment of draft eco-schemes proposed by Member States*.

⁵² Pe'er et al. (2014) EU agricultural reform fails on biodiversity. *Science*, 344(6188), 1090–1092.
<https://doi.org/10.1126/science.1253425>

resilience against climate change, and promote sustainable farming practices.

The European Union's Common Agricultural Policy

The European Union's Common Agricultural Policy (CAP) was launched in 1962 to ensure stable food production and food security in post-war Europe.⁵³ At the time, European agriculture was technologically backward and faced significant structural challenges. Europe was still recovering economically and heavily relied on food imports, with farm incomes growing more slowly than non-farm incomes, making rural poverty a major policy issue during those initial post-war decades.⁵⁴

To address these challenges, the CAP established a subsidy system with the goals of increasing agricultural productivity, improving farmers' incomes, stabilising markets, and ensuring a reliable food supply at reasonable prices for consumers.⁵⁵ While the CAP successfully expanded agricultural production and increased the scale of operations across the EU, particularly in new member states where agrochemical inputs like fertilisers surged, these achievements came at a significant environmental cost. CAP subsidies have promoted agricultural intensification, leading to a

⁵³ Matthews, A. (2015). Food security as a driver of integration in Europe. In *Drivers of Integration and Regionalism in Europe and Asia* (1st ed., pp. 180–195). Routledge. <https://doi.org/10.4324/9781315744193-21>

⁵⁴ Ibid.

⁵⁵ Pe'er et al. (2020) Action needed for the EU Common Agricultural Policy to address sustainability challenges. *People and Nature*, 2(2), 305–316. <https://doi.org/10.1002/PAN3.10080/SUPPINFO>

6.4% decrease in permanent grasslands across the EU between 1993 and 2011 and an 11.8% decline in new member states.⁵⁶

The 2014–20 CAP Reform: Failing Nature

In December 2013, the EU reformed the CAP for the 2014–2020 period, allocating almost 40% of the EU's budget to influence the management of half of its terrestrial area.⁵⁷ The reform introduced new “greening” measures that included crop diversification, maintaining permanent grassland, and establishing ecological focus areas (EFAs).

Despite these efforts to enhance environmental performance, the reform did not change the fundamental way subsidies were allocated and retained weak mechanisms to incentivise nature-friendly farming.⁵⁸ The CAP funding is structured into two “pillars”. The first pillar – 75.6% of the budget – is funded by the European Agricultural Guarantee Fund (EAGF). It provides direct income support to farmers based on the size of their farmland. These payments have become a way for big landowners to accumulate public funds, regardless of what they farm or how they do it. Roughly 80% of all CAP direct payments go to 20% of farmers.⁵⁹ While these hectare-based payments were conditional on compliance with basic

⁵⁶ Assandri et al. (2019) Toward the next Common Agricultural Policy reform: Determinants of avian communities in hay meadows reveal current policy's inadequacy for biodiversity conservation in grassland ecosystems. *Journal of Applied Ecology*, 56(3), 604–617. <https://doi.org/10.1111/1365-2664.13332>

⁵⁷ Pe'er et al. (2014) EU agricultural reform fails on biodiversity. *Science*, 344(6188), 1090–1092. <https://doi.org/10.1126/science.1253425>

⁵⁸ Matthews, A. (2015). Food security as a driver of integration in Europe. In *Drivers of Integration and Regionalism in Europe and Asia* (1st ed., pp. 180–195). Routledge. <https://doi.org/10.4324/9781315744193-21>

⁵⁹ Eräjää, S. (2021, May 24). Why is EU farm policy so hard to change? *Greenpeace European Unit*. <https://www.greenpeace.org/eu-unit/issues/nature-food/45625/why-is-eu-farm-policy-so-hard-to-change/>

environmental standards, evaluations of the policy reforms found 21% of Pillar 1 expenditures were designated as green payments in 2019, with only 3 per cent being deemed effective.⁶⁰ The evaluations found that 89% of arable land across the studied countries already met the requirements for crop diversification (70%) or was exempt (19%), leading to only a 0.8% increase in the diversity of cropping patterns.⁶¹ Measures to maintain permanent grasslands were also largely ineffective, with 12 countries showing declines in grassland ratios between 2015 and 2016, and some even exceeding the 5% threshold.⁶² This ineffectiveness was due to inconsistent implementation across member states and varied interpretations of what constitutes environmentally sensitive permanent grasslands (ESPG). While seven Member States designated their permanent grasslands as ESGP within protected areas like Natura 2000, only 2% of these ESGP areas received equivalent levels of protection, significantly limiting the measure's overall effectiveness.

The CAP's Ecological Focus Areas (EFAs) also fell short due to several structural challenges. In 2016, 39% of EFAs consisted of nitrogen-fixing crops, chosen by farmers for their low cost and minimal change to existing practices, which provided little to no biodiversity benefits. Furthermore, the flexibility in EFA regulations allowed for a broad range of low-impact measures, such as fallow land, which made up 24% of EFAs. These regulations prioritised administrative ease over ecological effectiveness,

⁶⁰ Pe'er et al. (2020) Action needed for the EU Common Agricultural Policy to address sustainability challenges. *People and Nature*, 2(2), 305–316.

⁶¹ Hart, K. (2018). *Evaluation of the CAP Greening Measures*.

⁶² Ibid.

resulting in EFAs that were often poorly placed and managed, thus failing to achieve meaningful environmental outcomes.⁶³

The second pillar, funded by the European Agricultural Fund for Rural Development (EAFRD) received only 23% of the CAP budget in 2019. Although it includes measures like the Agri-Environment-Climate Measures (AECMs) and payments for organic farming and protected areas, these measures were underfunded and voluntary, leading to low farmer participation. A 2015 policy shift that allowed funds to be transferred from Pillar 2 to Pillar 1 further weakened the overall environmental focus. Additionally, some measures, such as support for Areas of Natural Constraints (ANC), had mixed environmental impacts, and the overall structure failed to ensure that more environmentally friendly practices received adequate support. As a result, Pillar 2 struggled to effectively drive the environmental objectives it was designed to achieve, leaving significant gaps in promoting biodiversity and sustainable land management across the EU.

If subsidy payments are not effectively linked to pro-nature farming techniques, there is a risk that farmers or landowners may prioritise economic gains over environmental stewardship. In France, for example, the more farmers implement environmentally friendly practices, the less they receive in CAP direct payments per hectare.⁶⁴ This gap isn't fully offset

⁶³ Nilsson et al. (2019). A suboptimal array of options erodes the value of CAP ecological focus areas. *Land Use Policy*, 85, 407–418. <https://doi.org/10.1016/j.landusepol.2019.04.005>

⁶⁴ Fouilleux, E. (2021). The Common Agricultural Policy: an environmental, social and sanitary failure. In *Key Controversies in European Integration* (3rd ed., pp. 130–137). Bloomsbury Publishing Plc.

by second pillar support, effectively penalising them for pursuing environmental objectives. Why would environmental goals be prioritised by farmers and landowners when implementing them leads to reduced financial support? Given these shortcomings in the 2014–2020 CAP reform, it became evident that substantial changes were necessary to align the policy with the EU’s environmental and climate objectives.

The 2023–27 Reform: Persistent Structural Flaws

The latest EU CAP reform entered into force on 1 January 2023 with the main objective of paving the way for a “fairer, greener and more performance-based CAP”.⁶⁵ The reform retains the two-pillar funding structure and continues area-based payments that have historically failed to protect nature and farmland biodiversity. Of the €264 billion of EU funds allocated to the CAP Strategic Plans for the period 2023–2027, 75% is allocated to direct income payments in Pillar 1 through the European Agricultural Guarantee Fund (EAGF) (see

⁶⁵ European Commission. (2023). CAP 2023–27. https://agriculture.ec.europa.eu/common-agricultural-policy/cap-overview/cap-2023-27_en

Figure 7).⁶⁶

Pillar 1's structure grants Member States considerable discretion in defining and implementing the conditions tied to direct payments. This flexibility has led to a "race to the bottom", where countries, aiming to maintain competitive agricultural sectors, opt for the least stringent environmental requirements.⁶⁷ As a result, the effectiveness of these payments in achieving meaningful biodiversity outcomes is weak. Payments are based primarily on farm size rather than environmental outcomes, leading to significant inequalities in funding distribution. For example, in 2017, only 0.5% of beneficiaries received over €100,000 each, accounting for 16.4% of the direct payment budget, while 76% of beneficiaries, mainly smaller farms, received less than €5,000, representing just 15% of the budget.⁶⁸ This funding inequality exacerbates biodiversity loss by incentivising intensive farming practices that prioritise short-term economic gains over environmental sustainability. Large-scale farms, which benefit the most from these payments, are more likely to engage in monoculture and other intensive practices that reduce habitat diversity and degrade ecosystems.⁶⁹

⁶⁶ European Commission. (2023). *Approved 28 CAP Strategic Plans (2023–2027) [Data]*.

<https://www.europarl.europa.eu/factsheets/en/sheet/106/financing-of-the-cap>

⁶⁷ Pe'er et al. (2020) Action needed for the EU Common Agricultural Policy to address sustainability challenges. *People and Nature*, 2(2), 305–316.

⁶⁸ Heyl et al. (2021) The Common Agricultural Policy beyond 2020: A critical review in light of global environmental goals. *Review of European, Comparative & International Environmental Law*, 30(1), 95–106.

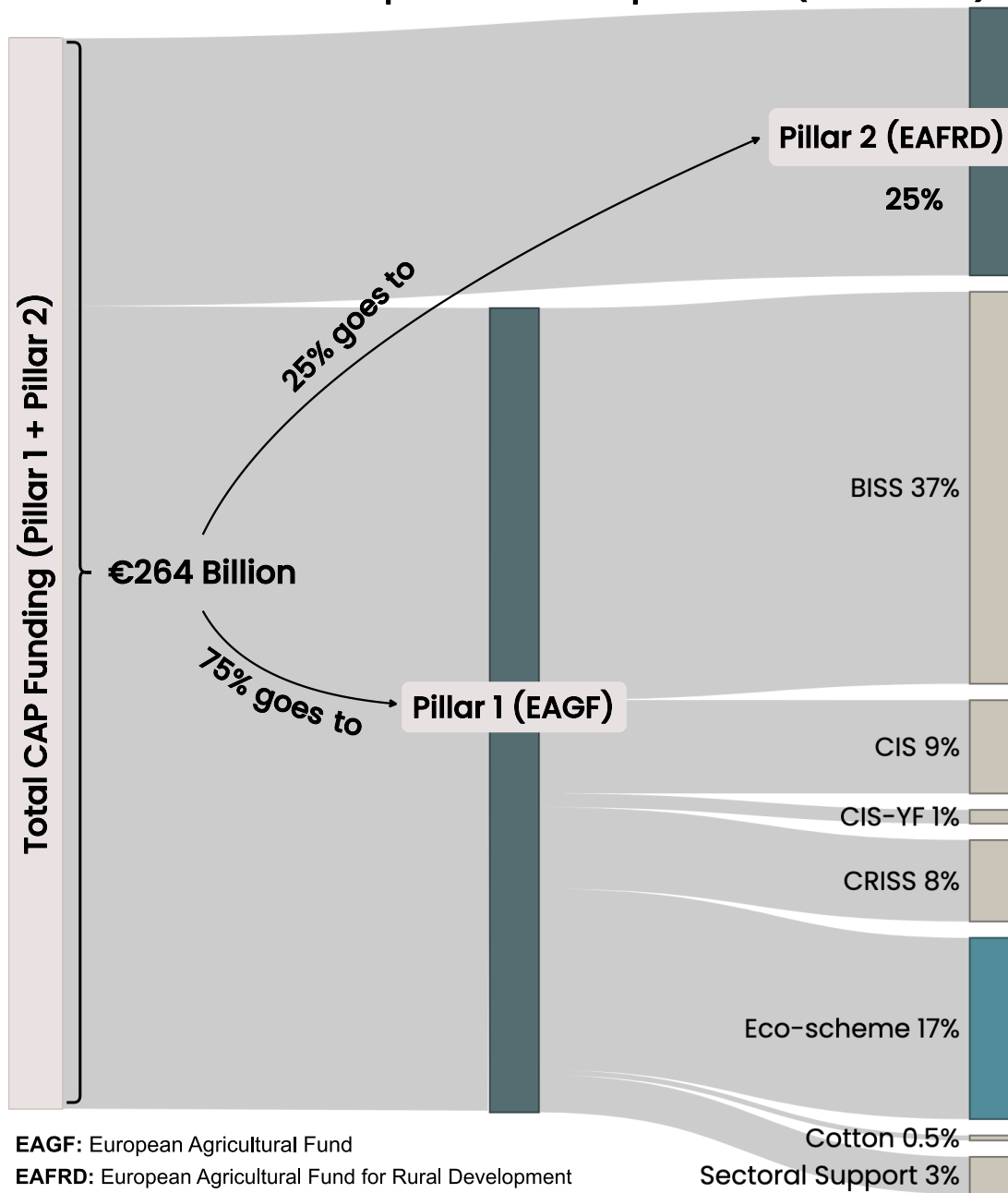
<https://doi.org/10.1111/REEL.12351>

⁶⁹ European Commission. (2019). *Evaluation of the impact of the CAP on habitats, landscapes, biodiversity*.

<https://doi.org/10.2762/818843>

Figure 7. Distribution of the total public planned expenditure for EAGF and EAFRD, underpinning the implementation of all 28 CAP Strategic Plans (2023–2027)

Distribution of the total planned CAP expenditure (2023–2027)



- EAGF:** European Agricultural Fund
- EAFRD:** European Agricultural Fund for Rural Development
- BISS:** Basic Income Support for Sustainability
- CIS:** Coupled Income Support
- CIS-YF:** Complementary Income Support for Young Farmers
- CRISS:** Complementary Redistributive Income Support for Sustainability
- Eco-scheme:** Schemes for Climate, Environment, and Animal Welfare
- Cotton:** Crop-specific Payment for Cotton
- Sectoral Support:** Supports for Specific Agricultural Sectors

Source: European Commission (2023)

The reform's weak monitoring and enforcement mechanisms, such as the vague conditions under Good Agricultural and Environmental Conditions (GAEC), fail to ensure that the limited environmental requirements are effectively implemented. For instance, while the reform introduces new standards like crop rotation, the European Court of Auditors (ECA) has found these measures challenging to enforce, with little impact on improving soil health or reducing greenhouse gas emissions. The failure to adopt more rigorous standards, such as limiting livestock density, further undermines efforts to address climate change and biodiversity loss. The persistence of weak conditions, combined with inadequate monitoring and enforcement, raises serious doubts about the CAP's ability to meet the EU's Green Deal targets, particularly in relation to biodiversity conservation and sustainable land management.

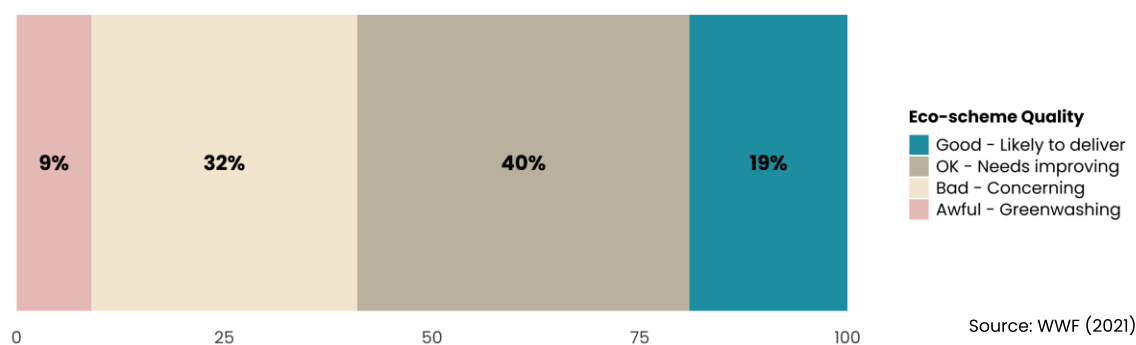
Eco-schemes: Green Promises, Little Impact

Eco-schemes are a new feature introduced under Pillar 1 designed to deliver environmental and climate benefits as well as enhanced animal welfare. They are fully funded by the EU and take the form of annual payments to farmers who voluntarily enrol. Rather than providing direct income support, eco-schemes aim to reward farmers who manage their land in a nature-friendly way and to incentivise farming practices with greater environmental benefits. These schemes replace the previous reform's failed greening payments, which were the first attempt to use direct payments for agri-environmental purposes.

No legal obligation links the CAP with the agricultural targets of the European Green Deal. Instead, the CAP regulation includes a requirement for each eco-scheme to cover, in principle, at least two “areas of action” for the climate, the environment, animal welfare and antimicrobial resistance.⁷⁰ The CAP allocates less than 20% of its funding to eco-schemes, which does not provide farmers with enough financial incentive to implement meaningful environmental practices. An analysis of 166 eco-schemes across 21 member states has revealed that only 19% of schemes are deemed likely to deliver on their stated environmental objectives, 40% would need significant improvements to be effective, and 41% are completely misaligned (See Figure 8).⁷¹

Figure 8. Assessment of the quality of eco-schemes

Only 19% of eco-schemes deemed likely to deliver on their environmental objectives.



A major criterion in determining whether eco-schemes will meet their objectives is how much farmers are paid to apply them. By mid-November 2021, only 14 EU countries had shared payment details, and, where data is available, many schemes either overpaid for unambitious efforts or underpaid for more meaningful ones. This imbalance channels a large

⁷⁰ WWF, EEB, & Bird Life. (2021). *An assessment of draft eco-schemes proposed by Member States.*

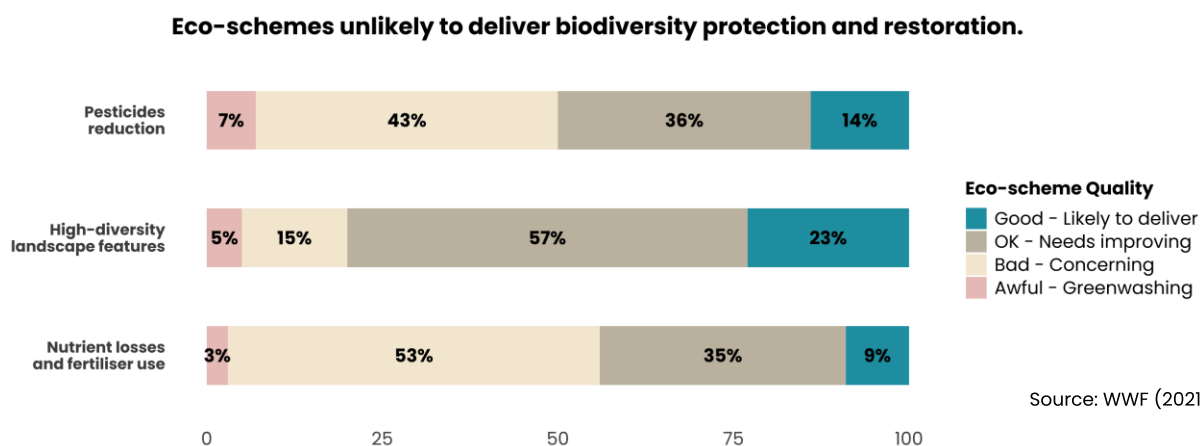
⁷¹ Ibid.

portion of the budget into less impactful schemes, absorbing funding that could be used for initiatives with greater environmental benefits.

Meanwhile, more ambitious schemes, which require significant effort from farmers, offer inadequate compensation, leading to a mismatch between the level of effort and the rewards. As a result, farmers are incentivised to adopt easier, low-ambition practices rather than more impactful, nature-friendly approaches.

For instance, when examining schemes focused on pesticide reduction, high-diversity landscape features, and fertiliser use, it becomes evident that these initiatives are plagued by design flaws, underfunding, and ineffective execution that severely limit their potential to restore and protect biodiversity.

Figure 9. *Eco-schemes with relevance to biodiversity protection and restoration*



Pesticide reduction schemes, which are essential for protecting amphibians, insects, mammals, and birds, had only 14% of their initiatives deemed likely to deliver significant environmental benefits. Although some

countries like Bulgaria and Slovenia have imposed limits on pesticides such as glyphosate, most of these schemes offer vague guidelines that do little to bring about substantial changes in farming practices, making them more of a greenwashing exercise. Similarly, high-diversity landscape features, essential for maintaining habitat diversity and supporting wildlife, are significantly underfunded and poorly implemented. Only 23% of these schemes are considered likely to deliver positive outcomes. For example, in Germany, these initiatives cover only 2.4% of arable land, and in Poland, less than 0.3%, far below the EU's 10% target for biodiversity.⁷² Nutrient management schemes, which are critical for reducing fertiliser use and improving soil health, also suffer from inadequacies, with only 9% likely to deliver meaningful environmental improvements. These schemes often focus on basic practices like developing fertilisation plans or using precision farming without setting proper benchmarks or limits to prevent over-fertilisation, thereby failing to address broader issues like nutrient runoff and soil degradation. These deficiencies across the board—insufficient ambition, poor design, and inadequate funding—undermine the effectiveness of these eco-schemes in achieving their intended goals of biodiversity protection and restoration.

Transitioning to Sustainable Farming: The UK's Post-Brexit Agricultural Policy

In the wake of Brexit, the United Kingdom has had the opportunity to redefine its agricultural policies, free from the constraints of the European Union's Common Agricultural Policy. While the CAP has been instrumental

⁷² Ibid.

in shaping European agriculture for decades, it has failed to protect and restore nature and biodiversity. The UK's exit from the EU provides an opportunity to address these issues head-on and implement a more holistic and environmentally focused agricultural strategy.

The UK's Agricultural Transition Plan serves as England's new farming strategy, replacing the EU's CAP with the transition period beginning on January 1, 2021. Unlike the rigid seven-year policy cycles of the EU, England's new agricultural policy is designed to be more flexible, with policies co-developed alongside farmers and experts. This approach is adaptive, allowing for ongoing testing and continuous learning. In contrast to the multiple EU CAP reforms that failed to overhaul the subsidy structure, England's new policy will gradually reduce and eventually stop untargeted direct payments between 2021 and 2027.⁷³

The substantial EU funding that previously supported Pillar 1 and 2 of the CAP will now be redirected to support new schemes that reward sustainable farming practices under a "public money for public goods" framework. This framework is based on the principle that protecting and restoring nature and biodiversity, along with promoting environmentally-friendly farming practices, generates significant benefits for society. Therefore, farmers and land managers should be compensated for providing these public goods. The primary vehicle for this funding will be the rollout of the new Environmental Land Management (ELM) schemes, to

⁷³ Defra. (2020). *The Path to Sustainable Farming: An Agricultural Transition Plan 2021 to 2024*.

pay for environmental and climate goods and services while ensuring continued food production.⁷⁴ The ELM is made up of three components that are listed below.⁷⁵

1. **Sustainable Farming Incentive (SFI)** pays farmers to adopt and maintain sustainable farming practices that protect and enhance the natural environment, such as improving soil health, water quality, and biodiversity, while also supporting farm productivity through better animal welfare, optimised use of inputs, and efficient resource management. For example, farmers might reduce pesticide use, manage hedgerows to support wildlife, or implement crop rotation to improve soil quality. The SFI is designed to be easy to adopt, offering straightforward actions that fit into daily farming operations. It is open to a wide range of farmers, supporting both basic and more ambitious environmental goals, while also improving farm productivity.
2. **Local Nature Recovery Scheme (LNR)** is the evolved and more ambitious successor to the Countryside Stewardship (CS) scheme in England. It pays farmers, land managers and foresters to undertake actions that support and deliver on actions relating to specific locations, features and habitats. Unlike the SFI, which targets broad accessibility and uptake, LNR is designed to be more ambitious,

⁷⁴ Defra. (2023). Environmental Land Management (ELM) update: how government will pay for land-based environment and climate goods and services. In *HM Government*.

⁷⁵ Little, R., Lyon, J., & Tsouvalis, J. (2022). The co-design of post-Brexit agri-environmental policy – focusing on environmental land management in England. In *Rural Governance in the UK; Towards a Sustainable and Equitable Society* (1st ed., pp. 54–77). Routledge.

contributing significantly to biodiversity, climate change commitments, and national environmental priorities.

3. **Landscape Recovery (LR)** scheme supports bespoke, longer-term and larger-scale projects, like reforestation, rewilding, or peatland restoration. This scheme is ideal for projects that may involve significant changes, such as converting farmland into woodland or restoring a degraded peat bog. For example, a group of landowners might work together to reforest a large area or restore a wetland to improve biodiversity and carbon storage, with funding awarded through a competitive process based on the project's potential impact.

Evaluation of England's Agri-Environment Schemes

In August 2024, Natural England released its latest evaluation of environmental land management schemes, including the Environmental Stewardship programme. The evaluation revealed a positive association between higher scheme participation and increased species richness, diversity, and abundance, particularly among butterflies, moths, and two bat species. The study also highlighted that landscapes with extensive scheme interventions supported a greater number of larger and more mobile species, such as butterflies, moths, and hoverflies.

The findings indicate that these schemes are effective at enhancing biodiversity, as they provide improved habitats that support roosting and

nesting opportunities for wildlife. In particular, the study showed that areas with high levels of eco-friendly scheme engagement had on average, 117 more butterflies—a 53% increase—compared to areas with lower participation.⁷⁶ This demonstrates the tangible benefits of these schemes in boosting wildlife populations and biodiversity at the landscape level.

Conclusion

The divergence between the UK and EU in environmental and agricultural policy, particularly following Brexit, underscores the different approaches each region is taking towards nature conservation and biodiversity restoration. While both the UK and the EU have established legally binding targets to address biodiversity loss, their strategies and levels of ambition vary significantly, reflecting broader differences in environmental governance and priorities.

The EU has set ambitious and detailed targets under its Nature Restoration Law, aiming to reverse biodiversity loss through proactive restoration efforts. This includes restoring 30% of degraded habitats by 2030, with legally binding measures designed to restore ecosystems at a continental scale. However, the success of these targets depends heavily on the capacity of individual member states to implement and enforce these measures effectively. Historical challenges in implementing EU environmental legislation, particularly in Southern and newer member

⁷⁶ Waygood, U. (2024). Agri-Environment Evidence Annual Report 2023. In *Natural England*.

states, raise concerns about the potential disparities in progress across the Union.

In contrast, the UK's approach, encapsulated in the Environment Act and the Biodiversity Net Gain (BNG) policy, is less ambitious in scope but more focused on maintaining current biodiversity levels and integrating nature restoration into development projects. The BNG policy, which mandates a 10% net gain in biodiversity for new developments, offers a promising framework for integrating environmental considerations into economic activities. However, the effectiveness of this policy will depend on addressing key implementation challenges, such as enhancing monitoring and enforcement capabilities, particularly at the local planning authority level.

The UK's post-Brexit agricultural policy, through the Agricultural Transition Plan, represents a significant shift from the EU's Common Agricultural Policy (CAP). By moving away from untargeted direct payments and focusing on rewarding sustainable farming practices, the UK has the opportunity to address the environmental shortcomings of the CAP. The Environmental Land Management (ELM) schemes, particularly the Sustainable Farming Incentive, Local Nature Recovery, and Landscape Recovery, offer a more flexible and adaptive approach to promoting biodiversity and environmental sustainability in agriculture.

However, both the UK and EU face significant challenges in achieving their nature restoration goals. The EU's ambitious targets may be undermined

by uneven implementation across member states, while the UK must overcome the practical challenges of enforcing its BNG policy and ensuring that its agricultural reforms deliver meaningful environmental benefits. To succeed, both regions will need to invest in stronger governance structures, enhance funding mechanisms, and foster greater collaboration between public and private sectors.

Ultimately, the effectiveness of the UK and EU in reversing biodiversity loss and restoring nature will hinge on their ability to not only set ambitious targets but also to implement them effectively. The UK has the potential to lead in nature restoration if it can refine its policies to focus on strategic, landscape-scale restoration projects and leverage biodiversity credits to finance conservation efforts. By aligning its environmental and agricultural policies with these strategies, the UK could set a new standard in nature restoration, potentially surpassing the EU in delivering practical and sustainable outcomes for biodiversity and the environment.

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