Summary

The Select Committee sets questions on the functions, powers, resources and performance of Natural England (NE), created under the Natural Environment and Rural Communities Act 2006. The writer’s response focuses solely on NE's land-holdings managed as nature reserves. He finds that issues of incompetence, induced by deficient resources and mistaken priorities, affect the agency’s performance. By not paying due regard to statutory duties, and disregarding the achievements of former agencies, NE risks blighting the state’s nature reserve mission. For seven decades, UK governments have exercised a duty to preserve, in statutory nature reserves, 'flora, fauna or geological or physiographical features of special interest' (National Parks and Access to the Countryside Act 1949). This pledge to future generations will be broken if NE fails to secure its share of UK's hitherto best-managed heritage. The writer advocates immediate government steps to address the issues and restore NE’s competence.

Response to questions set in the Select Committee’s call for evidence

1. The remit of bodies established by the 2006 Act, Natural England (NE) and the Joint Nature Conservation Committee (JNCC), includes a function which, for seven decades, has been a cornerstone of statutory nature conservation in the UK. This response to questions 4, 5, 6 & 10 focuses entirely on National Nature Reserves (NNR) and other land-holdings managed as nature reserves. Annex A outlines the writer's experience of statutory nature conservation. Annexes B and C remind readers of the laws, statutory duties and priorities pertinent to nature reserves in England. Annex D offers a base-line NNR management model.

Question 4: How well has Natural England fulfilled the mandate that it currently has? How well do its wide-ranging functions fit together, and does it have the appropriate powers and resources to perform its function?

2. This composite question gives an opportunity to voice concerns, widespread amongst former public service practitioners, about the future of nature reserves held and managed by UK governments. In a study of issues that have hindered state endeavour for seven decades (see Annex A), the writer advocates an urgent health-check of the UK's nature reserve estate. Apropos NE's participation, this would entail time-consuming investigation of two crucial questions about every nature reserve. What is the present condition of notified scientific
interests? Has the agency kept up long-term management in accord with statutory duties? Sufficient evidence is unlikely to be found in NE's Reports to Parliament or elsewhere in the literature. The investigation might have to compare objectives in a sample of reserve management plans with delivery in the field. Within the Select Committee's time-scale, very little relevant evidence is available. This response therefore is expressed in terms of perceived risks to England's natural heritage; and doubts about the agency's competence in dealing with issues such as wide-ranging functions, resources and inappropriate powers. Paragraphs 3 to 14 comprise responses to the several parts of Question 4.

**How well has Natural England fulfilled its mandate for statutory nature reserves?**

3. NE has added 4 sites to the UK’s National Nature Reserve (NNR) series. Currently NE manages 142 NNR and has bestowed the title NNR on 82 Approved Body sites (see Annex B). In 2013 the agency published *NNR Management Standard* applicable to both types of NNR. NE adopted this standard as a *Key Performance Indicator* for the first time in 2014/15, proclaiming: *'By 2020 70% of England’s NNRs will be meeting the NNR Management Standard'.* If this aspirational standard for NNR upkeep were fully met in practice, the NNR series would be on a robust footing. However, very little positive evidence has come to light that NE's actions have secured the natural heritage within the suite of NNRs. NE's competence to do this up to the standard of former agencies is open to considerable doubt.


* Commitment to GB (international) NNR programme is not strong enough in the face of austerity and other chronic issues. Reserve acquisition has almost halted. During its 15 years, English Nature (EN) expanded the number by 83; compared with NE's 4 in 11 years.

* A lower priority share of annual grant-in-aid is deployed on the NNR estate.

* Staff time dedicated to NNRS is insufficient compared with the minimum demonstrated by former agencies.

* Complement of specialists does not match the needs (upkeep and research) imposed by diverse notified interests of the estate.

* Obligatory management programmes have not been sustained.

* Reports to Parliament yield inadequate data on the condition of natural resources in NE’s care year by year. EN's final report (2005) states that 86.4% (by area) of state-controlled and Approved Body NNRs was in *'favourable or recovering condition'.* NE's monitoring of this kind is
inconsistent. There is no subsequent report of NE's formal performance target adopted in 2013-14. Likewise, the target proclaimed in 2014/15 has not been reported on for two years.

5. The agency's performance, in terms of legal duty, policy, priority and technique, has been flawed by incompetence. The condition of natural features under care is not on public record. Thus, pending further research, the jury is out on how well Natural England has fulfilled its nature reserve mandate. Incompetence has been induced by NE's mistaken priorities during the period of shrinking resources since 2008; these issues are addressed again at paragraph 10. The agency has not paid due regard to its legal duty to preserve England's natural heritage in nature reserves (see Annex C). Putting the cream of England's heritage of ‘fauna, flora and features of geological or geomorphological interest’ at risk is a serious error by the government and a disheartening prospect for a large body of UK tax-payers.

How well do Natural England's wide-ranging functions fit together - in relation to statutory nature reserves?

6. NE's responsibility for nature conservation sits alongside farm business services and rural recreation functions. Nature reserves and rural recreation generally fit well together. There are two benefits to nature conservation: a proxy educational remit and opportunity to build public pride in Britain's NNR series. The educational potential of nature reserves is stressed in the government's seminal paper (Cmd 7122, published in 1947), but not promulgated by the founding 1949 Act. Nevertheless, practitioners incline to lump education, particularly at higher levels, with access and recreation as a suitable use of NNR. Habitually, the general public pays scant regard to places of interest to specialists. Recent demand for more recreational and educational facilities on NNRs has been welcomed as a sign of growing popular support. But there is a dilemma.

7. Access and recreation may be desirable on NNR but are always subordinate to conservation management. The 1949 Act, as amended, defines a nature reserve as ‘(a) land managed solely for a conservation purpose, or (b) land managed not only for a conservation purpose but also for a recreational purpose, if the management of the land for the recreational purpose does not compromise its management for the conservation purpose’ (see Annex C). In terms of policy, the inference is that management of a nature reserve for a recreational purpose must not compromise its management for a conservation purpose. Former agencies, while welcoming the coupling of recreation and nature conservation on NNRs, have followed this overriding guidance. One naturally expects NE to make similar decisions in all circumstances. In years when the grant-in-aid is adequate, management for recreational purposes should proceed so long as it's compatible with obligatory conservation management. In lean years, when budgets
are reduced, essential conservation management must have priority, over the entire estate, while recreational management, however desirable and compatible, must be reduced or postponed.

8. Another priority issue crops up within the nature conservation function. The adoption in 2016 of NE’s conservation strategy ‘Conservation 21’ suggests some NNRs could be left behind in the enthusiasm for landscape-scale conservation, especially if a site’s strategic role does not tie-up with NE’s current selection of important landscapes. Similarly, NNR Management Plans may be regarded as ‘microplans’, not to be effected unless ‘substantially contributing to landscape priorities’. If so, this is out of accord with legislative duties, and another retrograde step in the 70 year endeavour to secure England's natural heritage.

Does Natural England have the appropriate powers to perform its nature reserve function?

9. NE has appropriate powers, with one exception. No conservation agency is empowered to enforce the approved management of Approved Body NNRs. Technically, these are not state-managed nature reserves. They qualify as statutory when a government agency declares them under the title NNR, promulgated in the Wildlife and Countryside Act (see Annex B). The agency’s role ends when it approves the managing body’s site prescription. If the Approved Body defaults, the Agency's only recourse, bar persuasion, is de-declaration. To sustain the reputation of NNR for best-practice conservation management (see Annex D) NE has sought compliance since 2013 with its excellent NNR Management Standard; and offered Approved Bodies specific grant-aid.

Does Natural England have the appropriate resources to perform its statutory nature reserve function?

10. Ever since section 96 of the 1949 Act was enacted (see Annex B) government funding of statutory nature reserves has been an issue. Former agencies hoped that, given legal duty to preserve GB’s scientific heritage (see Annex C), they could rely on ring-fenced funding for long-term management and apposite research on nature reserves. This never happened but, despite four decades of inappropriate grant-in-aid, NC, NCC and the first generation of devolved agencies secured the heritage in an expanding estate of NNRs (see Annex D). Three decades later, Natural England’s participation in this mission is challenged more severely; by reduced government funding coupled with poor in-house priorities.
11. Far from ring-fencing, NE’s grant-in-aid has declined, severely and progressively after the global financial crisis; even though annual expenditure on obligatory site-upkeep is likely to be insignificant in state budgetary terms. NE’s total grant-in-aid has declined from £225m in 2006/7 to £105.9m in 2016/17. Seeking alternative resources for NNR upkeep is out of step with the legal imperative; deployment of skilled staff & essential site-upkeep should not have to depend on lottery or other hit or miss funding.

12. Something has gone badly wrong with priorities. NE has made budget deployment choices which have steadily shrunk the sums it spends on NNR upkeep. The 2016/17 budget for management of state-run NNRS was £1,240,800. This represents 1.2% of NE’s total budget, for a purpose which is core to state nature conservation. The spend per hectare per year by grant aid to private land under temporary schemes greatly exceeds that on NE’s own reserves. NE made £827,000 from NNR income in 2016/17, but didn’t declare it supplemental to grant-in-aid funding for NNR purposes. 2016/17 Annual Report states that the £16.6m earned income that year is used to fund only non-statutory work. The total number of staff dedicated to, or contributing to, nature reserve management is well below the minimum number per site established by former agencies. Through early departures, the number of ecological specialists, NNR Managers and Estate Workers is severely depleted. NE no longer has the job category Estate Worker.

14. Government’s grant-in-aid awards are insufficient to sustain NE’s wide-ranging functions. NE’s nature reserve incompetence is due to shortage of government resources exacerbated by inappropriate priority choices. The agency has given priority to functions other than nature reserve upkeep; and has deployed insufficient staff and budgetary resources for securing England’s scientific heritage in nature reserves. By disregarding statutory duties and priorities (see Annex C), the government and NE are putting our natural heritage at risk. Appropriate state funding and agency competence should be reinstated.

**Question 5: Are any changes to the remit and responsibilities of Natural England required, either as a result of Brexit or of other significant developments in the period since 2006?**

15. NE’s questionable nature reserve endeavour during many years of austerity, should be countered by changes to responsibilities. The Cabinet Office and Treasury Departments should emphasize the primacy of the 1949 Act by:

* reinforcing the statutory duty to preserve nationally important scientific resources in nature reserves for the benefit of future generations;

* restoring state funding and staff levels consistent with obligatory reserve management up to the standard set by former agencies;
* reinforcing statutory priorities - conservation first, recreation second and only if compatible with conservation - and ensuring that scarce state resources for nature reserves are not switched mainly to enjoyment by the present generation.

16. NE's statutory Reports to Parliament would be much improved by consistently informing Parliament (and tax-payers, indirectly) of the condition of notified scientific features in statutory nature reserves. At present the JNCC monitors GB protected sites year by year, without analysis of special interest, reserve type or distribution. JNCC should be mandated to collect and report more meaningful information for all the UK countries.

Question 6: Do the arrangements and provisions for enabling and managing access to the countryside remain appropriate? How effective have Natural England - and other partners - been in promoting better access?

17. NE has carried on significantly EN's work to better NNR access e.g. with ‘Spotlight Reserves'; and devoted much effort to promoting and achieving enhanced access for recreational visitors on its inherited state-run estate. Under the Countryside and Rights of Way Act 2000, NE has recently dedicated a legal right of access on 64 of its freehold and long-lease NNRs. NE accounts show increased spending on visitor infrastructure and health and safety compliance. NE's big push on improving and extending recreational access and facilities on its NNRs, and setting public engagement standards for all NNRs, has been in competition for the declining human and financial resources.

18. Access to state nature reserves for purpose other than conservation is a special case in the spectrum of countryside sites with recreational or educational potential. Issues that arise from the conservation/recreation dilemma in two different circumstances are discussed at paragraph 7. There is no evidence on public record that NE has made competent decisions about the compatibility of recreational and conservation management of particular NNRs. NNR habitat and species quality may be losing ground. During the current period of restricted staff and budgets, NE have failed to ensure that recreation management, however compatible and desirable, does not deflect state funding away from imperative conservation management. This is a strategy that should embrace the entire NNR estate. Continued spending on recreational projects since 2007/8 has compounded the risk to the notified interests of NNR due to austerity and efficiency saving.

Question 10: Will the structure established by the Act be sufficient to ensure appropriate protection for nature and environmental standards following Brexit? Are any modifications or
changes to the structures established by the Act required to address the implications of Brexit?

19. The writer understands that the statutory conservation structure in the UK comprises: NE, embedded in DEFRA; three other country agencies, variously configured within government bodies in Scotland, Wales and Northern Ireland; and the JNCC. As this paper focuses on NE's nature reserve function, the implications of Brexit for nature conservation as a whole are not addressed. Suffice it to say: the situation is highly fluid, and the fundamental objective must be that domestic conservation legislation and European conservation legislation are seamlessly merged into post Brexit UK and English law, standards and practice, setting the bar higher for the state of UK’s terrestrial and marine environments. This demands robust, adequately resourced country agencies, to further integrate statutory and policy goals for nature conservation and wider environmental interests.

20. Apropos state-managed nature reserves, Brexit has no implications because this cornerstone in the portfolio of NE and JNCC derives from long-standing, unequivocal domestic legislation. However, there are structural issues in England today. Embedding NE in a department with diverse environmental and other functions has removed the independence enjoyed by former agencies. While country agencies take the coupling of conservation and recreation in their stride (see Question 6), the consequences of broader merging - such as indirect funding, director's loss of seniority, in-house compromise with competing land-use interests and muddled management planning - severely challenge the nature reserve programme. It is important to remove this impediment to NE's competence.

21. But structural change is not required; the way to overcome this issue in EN and DEFRA is to reinstate the staffing, funding and monitoring imperatives advocated in this paper (paragraph 15). In JNCC, too, a non-structural change is advocated (paragraph 16). JNCC should be encouraged to oversee state-managed nature reserves from a UK perspective, to assess the result of management activity by the constituent country agencies. JNCC should be required to report periodically to Parliament and tax-payers the condition of special scientific features under state management throughout UK.

The future of statutory nature reserves

22. The writer's advocacy in this paper springs from conviction that statutory direction is appropriate for the mission to secure UK's natural heritage. For more than fifty years, empowering government agencies to hold and manage land as nature reserves has been a successful statutory provision. Current difficulties arising mainly from the global economic crisis,
shortly after the NERC Act was enacted, must be overcome to get Natural England (and other country agencies) back on the right track. Statutory National Nature Reserves must come to be seen again as relevant, exemplary beacons of excellence and inspiration, offering the benefits we expect from the best of UK’s natural environment.

**Annex A: Profile of writer**


1963-96 Government Scientific Officer-Grade 7: The Nature Conservancy East Anglia & South Wales Regions; Nature Conservancy Council Head of Science & Policy Branch Wales; Countryside Council for Wales Head of Earth Science and Landscape,

1996-2017 UK tax-payer motivated to respond herein by studying threats to the future of the UK’s statutory nature reserves (*NNR Matters*, 2016 Newsletter, 49 Club).

**Annex B: Laws defining the nature reserve remit of Natural England and Joint Nature Conservation Committee**

B1. Governmental nature conservation functions derive from a series of laws over the past seven decades. Powers to hold and declare land as nature reserve, given initially in 1949 to a Great Britain agency, have been devolved (and extended by other statutes to Northern Ireland and the Isle of Man). The 2006 Act (Section 2 and Schedule 1) transferred, from English Nature to Natural England, a portfolio of nature conservation responsibilities, including, albeit cryptically, nature reserve powers dating from the earliest legislation. NE no longer has the policy independence of its predecessors; it is embedded in DEFRA, and its nature conservation role is merged with other functions.

B2. The principal statutes conferring responsibility for nature reserves in England are as follows:

* National Parks and Access to the Countryside Act 1949: created The Nature Conservancy, an independent agency with powers to hold and declare terrestrial nature reserves in England and Wales; section 96 empowered the Treasury to 'make grants to the Nature Conservancy in respect of their expenditure, whether incurred under this Act or otherwise'.

* Nature Conservancy Council Act 1973: replaced NC by Nature Conservancy Council, a nature conservation agency operating throughout GB.
* Wildlife and Countryside Act 1981: section 35 empowered NCC to declare as statutory National Nature Reserves its own nature reserves and those held and managed by public sector or NGO partners.

* Environmental Protection Act 1990: replaced NCC by independent NCC for England, two other country agencies, and non-statutory JNCC.


* Natural Environment and Rural Communities Act 2006: replaced EN by Natural England; and re-constituted JNCC as a statutory body with UK international function but no explicit remit for statutory nature reserves.

**Annex C Statutory nature reserve duties & priorities inherited by Natural England**

C1. The effect of the 2006 Act on government nature reserve operations is to transfer to NE statutory duties and priorities under the 1949 & 1981 Acts. These are substantially the same as those transferred, under other Acts, to all British agencies currently represented in JNCC. Nature reserve definitions and purposes promulgated in the 1949 Act (section 15) have been amended, none has been repealed.

C2. Extant statutory definitions are as follows:

* **Nature reserve**: ‘(a) land managed solely for a conservation purpose, or (b) land managed not only for a conservation purpose but also for a recreational purpose, if the management of the land for the recreational purpose does not compromise its management for the conservation purpose’.

* **Conservation purpose**: ‘land is managed for a conservation purpose if it is managed for the purpose of (a) providing, under suitable conditions and control, special opportunities for the study, and research into, matters relating to the fauna and flora of Great Britain and the physical conditions in which they live, and for the study of geological and physiographical features of special interest in the area, or (b) preserving flora, fauna or geological or physiographical features of special interest in the area, or for both those purposes. The reference to preserving flora or fauna includes enabling or facilitating its recovery or increase’.

* **Recreation purpose**: ‘land is managed for a recreational purpose if it is managed for the purpose of providing opportunities for the enjoyment of nature or for open-air recreation’.

C3. The 1949 Act duty to maintain scientific resources in nature reserves, together with a duty to report to Parliament annually, persist as an inescapable part of country agencies' mission
in 2017. This amounts to a government pledge to future generations for an indefinite period, implicitly in perpetuity. The priority given to conservation over recreation re-emphasizes the heritage goal of the legislation. The nature conservation context, in which all country agencies operate today, has been greatly widened by statutes during the last four decades. NE, furthermore, performs reserve establishment and management roles alongside farm business services and rural recreation functions.

**Annex D: Former agencies' nature reserve management model**

D1. During the writer's career (see Annex A) NC, NCC and CCW fulfilled their mandate for nature reserves. They paid due regard to statutory nature reserve provisions (see Annexes B & C); and recognized that special scientific interests require not only legal protection but also sustained, skilled management. NCC managed a growing GB estate (171 NNRs by 1981) with considerable success, despite frequent budgetary deficiency. The survival of special scientific interests in nearly all NNR declared previously was confirmed by commissioned enquiries (*Nature Conservation Review, 1977* & *Geological Conservation Review*). Insiders believed that GB’s natural heritage was secure in statutory nature reserves for at least four decades.

D2. In 1990, the writer took part in the transition to a body created to fit together nature conservation and countryside recreation functions. As Head of Science and Policy in Wales, he drafted a prospectus based on NCC's portfolio of statutory powers and duties. The Welsh Office melded this with a similar draft by the Countryside Commission to design an agency with staff complement and other resources appropriate for both functions.

D3. The writer witnessed, for seven years, success of the NNR mission by a body with wider-ranging functions in Wales. CCW staff, like their NC and NCC predecessors recognized the government pledge to maintain natural resources for future generations. Increased attention to landscape-scale conservation and countryside recreation provisions was not allowed to blur the focus on NNR; and increased demand for recreational management was met but regulated, following statutory priorities (see Annex C).

D4. Until 1996 at least, declared NNRs held and managed by the state were widely acknowledged to have the most robust system of site-safeguard available in GB. This state-of-the-art achievement may serve as a base-line for assessing the performance of subsequent agencies. Key attributes are noted below:

* **GB vision:** a firm policy commitment to advance NNR establishment; and endeavour to meet statutory duties re. GB’s natural heritage.
* **Deployment of grant-in-aid:** nature reserve programme given priority for a share of annual grant-in-aid. Intermittent funding from other sources considered inappropriate for meeting the statutory duty.

* **Staff complement:** in-house staff in sufficient number to acquire and manage the growing suite of land-holdings; local field staff full-time; HQ specialists in land agency, applied science, cartography, etc available whenever necessary.

* **Specialist skills:** appropriate range of experienced scientific specialists to plan management of diverse special interests - rock exposures, landforms, physical processes, populations, communities, biomes, ecological relationships & the interplay of natural & cultural processes.

* **Prescribed management:** highest nation-wide priority given to obligatory measures essential to long-term survival of notified features in the whole estate; less priority to optional access, educational, recreational, interpretative and cosmetic prescriptions.

* **Apposite research:** expert priority decisions re experimental management needed to find out how best to maintain or improve notified interests; and essential monitoring of management results.

* **Sustained implementation:** obligatory field operations consistent with NNR prescription carried out without fail. Optional management and research tailored to available resources.

* **Progress reports:** acquisition/declaration statistics updated in statutory annual Reports to Parliament. *Nature Conservation Review* 1977 is the only report in the public domain that fulfills the need for objective monitoring of NNR management.

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