



11th November 2022

RSPB Cymru's response to the Economy, Trade, and Rural Affairs Committee consultation on the Agriculture (Wales) Bill

RSPB Cymru welcomes the Agriculture (Wales) Bill as it will provide the vital framework to help farmers and other land managers use public money to produce food sustainably and tackle the Climate and Nature Emergency for this and future generations.

To achieve the joined-up approach required to tackling these huge challenges we have highlighted several areas we believe require further consideration to ensure the Bill delivers as intended and secures farming that's good for people, nature and climate.

Summary of key points:

1. We support the **UN's definition of Sustainable Land Management (SLM)** and recommend it is added to the *face of the Bill* and includes the balanced, joined up delivery of all four objectives.
2. We believe the **four objectives are appropriate** and compatible with the overall purpose of the Bill. However, *food produced in a sustainable manner* needs defining, and greater prominence must be given the restoration, maintenance and enhancement of nature.
3. To achieve SLM we believe the Bill should also:
 - Ensure **National Minimum Standards** are in place in time for the launch of the Sustainable Farming Scheme (SFS) in January 2025.
 - Establish **Multi-annual financial support** for farmers and land managers delivering SLM.
 - Establish a regular **food security assessment**, that would identify opportunities for Welsh food producers to enhance our food sovereignty by producing more of what we eat in Wales, and
 - A requirement to undertake impact assessments of **future trade deals** (and internal markets) on Wales' agriculture and environment.
4. If we are to successfully transition to and maintain SLM it's vital the Bill does not establish powers to retain and modify **CAP legislation and BPS payments**; and that all functions relating to the CAP and BPS cease when Welsh farming fully transitions to the new Sustainable Farming Scheme.
5. The Bill should include a requirement for **biodiversity and climate change targets and indicators** aligned with Wales' statutory biodiversity and climate change commitments.
6. To ensure the effective use of taxpayers' money the **principle of public value for public money** should be enshrined on the face of the Bill and translated into the design and delivery of associated schemes and support mechanisms.
7. The **purposes for which support may be provided should** (a) clearly define what is meant by *environmentally sustainable food* and (b) be broadened out to include restoring, maintaining and enhancing nature. Future amendments to *purposes* must be compatible with achieving SLM.
8. We are concerned that existing legislation may limit the extent to which environmental outcomes may be delivered by **tenants and on Commons**.
9. We believe the **purposes for which information may be processed** should be extended to include (a) the sustainable management of natural resources and (b) securing benefits for nature. Increases production should be sustainable.

10. We welcome the new **forestry powers** proposed, which have the potential to benefit vulnerable species like Curlew and carbon rich habitats like peatlands. We believe more could be done to protect ancient and veteran trees and small areas of ancient woodland, which can be felled without any felling licence.
11. We welcome the inclusion of a **ban on the use of snares and glue traps** but note it does not extend to include a ban on sale, which would be expected. We don't expect the measures in the Bill to negatively impact on RSPB's conservation work.
12. We welcome the broad scope of the **ancillary activities** listed, including supporting onward supply chains and draw the Committee's attention to [The Case for Local Food – Building better local food systems to benefit society and nature](#). This report highlights the socio, economic and environmental benefits of local, nature-friendly food systems.
13. We question whether the **financial implications of the Bill** fully reflect the costs of monitoring, reporting, investment in appropriate advice, guidance and support to deliver the Sustainable Farming Scheme successfully and the impact of rising costs.

RSPB Cymru's response to the Agriculture (Wales) Bill in more detail

1. Clause 1: The definition of Sustainable Land Management and associated Objectives

Sustainable Land Management (SLM) definition:

To ensure clarity of purpose the Bill must include (on its face) a clear definition of its overarching aim, i.e., Sustainable Land Management (SLM). We believe the UN's definition of SLM (which is closely aligned with similar definitions established in Welsh law e.g., the Sustainable Management of Natural Resources), provided in the Bill's explanatory memorandum (Ex Mem), is appropriate provided it is extended to include the *balanced* delivery of all four objectives (taken together).

Currently, the Ex Mem states "*Welsh Government believes that the four goals (objectives), when considered as a whole are complementary*" and that "*SLM brings these elements into a single concept for agriculture*". However, we are concerned that, in practice, the application of these objectives, as currently proposed, may be subject to the discretion of the decision maker, now and in the future.

By adopting our approach, we believe the definition of SLM (extended to include the four goals) will adequately incorporate the aims and objectives of both the Well-being of Future Generation (Wales) Act 2015 (WBFGA) and the Environment (Wales) Act 2016 (EWA). It will also enable the integration of the Bill's objectives to ensure socio, economic and environmental benefits are achieved in a balanced way. Therefore, we **recommend the UN's definition of SLM is added to the face of the Bill and includes the balanced delivery of all four objectives**, e.g.,

Sustainable Land Management is the use of land resources, including soils, water, animals and plants, for the production of goods to meet changing human needs, while simultaneously ensuring the long-term potential of these resources and the maintenance of their environmental benefits; and it will be achieved by delivering the following objectives in a balanced way that will best contributes to achieving those objectives (taken together)".

We are aware the **World Bank's definition of SLM** is being proposed as an alternative:

"Sustainable land management is a knowledge-based procedure that integrates land, water, biodiversity, and environmental management to meet rising food and fibre demands while sustaining livelihoods and the environment."

We cannot support this definition for the following reasons:

- While the definition recognises the need for a knowledge-based approach it doesn't acknowledging fundamental resource limitations, including the fixed amount of land in Wales and the multiple demands on the use of that land.
- Saying objectives should be integrated is not the same as objectives have to be delivered in a balanced way. This may result in more challenging social and environmental objectives being marginalised in that integration.
- Reference to rising demand for food/fibre ignores resource and land availability constraints. We need the management of our land to address multiple mounting challenges, hence the need for a balanced approach to secure social, environmental and economic outcomes.
- "Sustaining the environment" is meaningless without clear definition, also there is no reference to addressing the Climate and Nature Emergency, and it does not encourage any discussion of the difficult issues and need for doing things differently e.g., circular economy, efficiency gains, demand management, behavioural change.
- There is no reference to protecting the interests of future generations.

The four objectives:

To ensure *future farming and land management meet the needs of present without compromising the ability of future generations to meet their own needs* we believe the four objectives, which cover food, climate, ecosystems and people, are appropriate and reflect Wales's commitment to sustainable development. However, greater emphasis must be given to nature to ensure the same level of consideration necessary to **restore, maintain and enhance** it (including vulnerable species and the habitats and sites they depend on) when balanced against the other objectives.

Why RSPB Cymru believes nature must have greater prominence: Farming and food production occupies over 80% of Wales and farming, therefore, has a huge impact on the state of nature and the ecosystems nature creates and maintains. Unsustainable agriculture is the main reason why **Wales is now one of the most nature depleted countries in the World with one in six of our species at risk of extinction**¹. In our lifetimes, almost half our farmland birds, mammals, amphibians, insects and invertebrates have disappeared, along with more than 90% of enclosed flower rich grasslands across Wales². As a consequence, none of our ecosystems on which we depend, including for food production, are resilient.

The Bill clearly highlights the role farming must play in tackling climate change and includes objectives and purposes to this end. While our food and farming sector is the fourth largest emitter of greenhouse gases, the way we farm has the **biggest** impact on the state of our biodiversity. As such this Bill must ensure farming plays a significant role in restoring nature at scale and in time that ensures Wales meets national and international biodiversity commitments. For this reason, we believe it's reasonable that *benefiting nature* is explicitly included in the Bill's objectives and purposes. This in turn will serve to enhance the extent and quality of our ecosystems, essential for social well-being and economic activities and resilience, including farming and rural communities.

[The Economics of Biodiversity – The Dasgupta Review](#) highlights this fundamental relationship between nature and human well-being. It also clearly states we are facing a global crisis. The review goes on to say that we are totally dependent upon the natural world, it supplies us with the oxygen we breath and every mouthful of food we eat. But we are currently damaging it so

¹ <https://www.rspb.org.uk/globalassets/downloads/about-us/48398rspb-biodiversity-intactness-index-summary-report-v4.pdf>

² [State of Natural Resources Report \(SoNaRR\) 2020](#)

profoundly that many of its natural systems are now on the verge of breakdown. Therefore, its clearly vital Wales' new Ag Bill works for nature.

Considering the above we believe the detail of the objectives requires further consideration to ensure that, in combination, they secure SLM for Wales. Areas to focus on include:

- **The first objective is to produce food and other goods in a sustainable manner.** The Ex Mem states that this objective “*encapsulates the three pillars of sustainability: economic, social and environmental*”. However, to ensure clarity “sustainable manner”, must be clearly defined on the Bill, including reference to the WFGWA’s requirements of “sustainable development”, the “sustainability principle” and “well-being goals” along with the need to balance economic, social, environmental and cultural considerations at an intergenerational level.
- **The second objective is to mitigate and adapt to climate change.** This is appropriate.
- **The third objective is to maintain and enhance the resilience of ecosystems and the benefits they provide.** If we are to meet our biodiversity commitments this objective must be explicit in the need to (a) restore, maintain and enhance nature, as well as recognising (b) nature’s fundamental role/value in underpinning ecosystem resilience e.g.; the third objective is to:
restore, maintain and enhance biodiversity (including habitats, species and sites designated for nature) and the resilience of ecosystems;
- **The fourth objective is to conserve and enhance the countryside and culture resources (including cultural heritage and the historic environment) and promote public access and engagement with them, in addition to the sustaining/promoting/facilitating the use of the Welsh language.**

As proposed we are concerned this objective has the potential to cut across environmental considerations. This is because activities to conserve/enhance the countryside and cultural resources may include environmentally damaging practices e.g., inappropriate grazing levels or the burning of moorland vegetation etc. We recommend Welsh Government revisits this objective to ensure that it doesn’t result in unintended negative consequences that would work against the delivery of SLM.

2. Clauses 2 – Welsh Ministers’ duty in relation to the objectives

To ensure the Bill is effective at achieving SLM we believe there are key areas where additional duties are likely to be required. These include:

- For the reasons given above ensuring *the Bill’s objectives are delivered in balanced way that best contributes to achieving the aims of the objectives (taken together)*.
- The Bill lacks reference to new **National Minimum Standards (NMS)**. While we appreciate the intent to bring these forwards in a future Bill, we are concerned that waiting for further primary legislation to be introduced before work can start on the regulations, runs the risk that the full set of standards will not be in place in time for the SFS launch. It’s vital, therefore, *the Bill guarantees that NMS will be brought forward in time for the launch of the Sustainable Farming Scheme (SFS) in January 2025.*
- To provide farmers and other land managers with the confidence to engage in activities enabled by the Bill, including the SFS, *the Bill should ensure multi-annual financial support for farmers and land managers delivering SLM.*
- One of the aims of the Bill is to promote a **sustainable food system for Wales**. This should include encouraging the sustainable production of more of what we eat (to enhance our food

[sovereignty](#)) and increasing consumption of local, seasonal produce. This should include enforcement of public procurement requirements centred around healthy, sustainable and local food.

To inform the development of a Welsh sustainable food system a better understanding of what we produce and what we consume is essential. We believe [this Bill has the potential to establish the requirement for a regular *food security assessment*, that could identify opportunities for Welsh sustainable food producers to enhance our food sovereignty by producing more of what we eat in Wales.](#)

- The **impacts of future trade deals and the UK Internal Market Act** are uncertain and may have positive or negative consequences for Welsh farming and the environment. It may therefore be appropriate to use [this Bill as an opportunity to establish a requirement on Ministers to undertake impact assessments of future trade deals \(and internal markets\) on Wales' agriculture and environment.](#)

3. Clauses 3, 15 & 16 – Common Agriculture Policy (CAP) & Basic Payment Scheme (BPS)

Clause 3 exempts functions relating to the Basic Payment Scheme (BPS) or the Common Agricultural Policy (CAP) from achieving SLM. While **clauses 15 and 16** provide the Welsh Ministers with the power to make regulations to modify legislation concerning the BPS and CAP.

This is of significant concern as the powers in clauses 15 and 16 could be used to extend CAP legislation and the BPS scheme to maintain the status quo, meaning that no Sustainable Farming Scheme is implemented. As clause 15 exempts BPS from achieving SLM there would be no, much needed, positive impact on the natural environment and/or climate change.

The escalating Nature and Climate Emergency and its impacts on society and biodiversity demands we take urgent and decisive action for the well-being of this and future generations. As such, the powers to maintain non-objective support (e.g., BPS), which are shown not to deliver for nature or climate, or provide value for public money, should not be included in this Bill.

In addition to environmental and social failings research shows that non-objectives support is not an effective means of maintaining farming. For example [Stability of farm income: The role of agricultural diversity and agri-environment scheme payments \(Caroline Harkness et al, 2021\)](#) shows that:

- Direct subsidies paid to farmers based on the area farmed are associated with a relatively large decrease in the stability of farm income, across most farm types. In contrast, higher agri-environment payments increase the stability of farm income, for dairy, general cropping and mixed farms.
- Less Favoured Area (LFA) grazing farms receive additional dedicated area payments via agri-environment schemes to support farms in challenging environments. This flat rate income support for LFA farms appears to have a similar effect as direct payments and does not support income stability.
- Results suggest that engagement in environmentally sustainable farming practices, including increasing agricultural diversity, engagement in agri-environment schemes and reducing the intensity of inputs, can increase the stability of many farm businesses whilst also reducing negative impacts of farming on the environment.

There are 800 fewer Welsh farms today than 2014. Welsh farming emits 13% of our greenhouse gases³. Unsustainable agriculture is the main reasons why Wales is one of the most nature depleted countries in the World and a major contributing factor to why none of our ecosystems are resilient. All of which highlights the failings of a historic farm support system based on non-objectives payments. To maintain this approach, or the powers to do so, would represent a significant failure to recognise the seriousness of the situation we all face and the needs of future generations.

Retaining the ability to make BPS payments may also act as a signal to farming that maintaining the status quo is an option, which could serve to undermine the implementation of the Sustainable Farming Scheme. While there maybe those who argue we should keep our options open regarding future support we believe the powers in clauses 20 and 21 relating to exceptional market conditions are adequate to address any future, unforeseen circumstances impacting Welsh farming.

As such we strongly recommend [the Bill does not establish powers to retain and modify CAP legislation and BPS payments and that all functions relating to the CAP and BPS cease when Welsh farming fully transitions to the new Sustainable Farming Scheme.](#)

4. Clauses 4 and 5 – Indicators and Targets

Clause 4 imposes a duty on the Welsh Ministers to prepare a statement which sets out indicators and targets to measure progress towards achieving the SLM objectives. While **Clause 5** sets out the steps to be taken in preparing or revising indicators or targets.

[To ensure implementation of the Bill makes the required contribution to statutory environmental commitments its vital future Bill targets and indicators are aligned with Wales’ statutory commitments for nature and climate. This alignment should be a requirement of the Bill.](#)

5. Clause 8: Welsh Ministers’ power to provide support

With increasing pressure on the public purse, the Bill must ensure financial support, as well as providing economic stability for farmers, secures value for public money. Therefore, it is extremely disappointing there is no reference to securing value for public money in the Bill. Throughout the consultation proses we have maintained that, to ensure the effective use of taxpayers’ money, there must be guarantees that *public money secures public value*. Not only is this a *fair* use of public finance but also essential if we are to justify the ongoing use of taxpayers’ money to support farming. [Therefore, we believe the Bill must include the principle of public money for public goods, which is translated into the design and delivery of associated schemes and other support mechanisms.](#)

We are concerned the purpose of “*encouraging the production of food in an environmentally sustainable manner*” is a weak purpose (similar to our concerns regarding the Bill’s first objective) that may not impose strict obligations on farmers/land managers to ensure food is produced in ways that also contribute the other objectives of this Bill in a balance way. To address this [“Environmentally sustainable manner” must be clearly defined within the Bill and compatible with the Bill’s overarching purpose.](#)

³ Welsh Government figures

Given the impact of farming and food production on the state of Welsh biodiversity we believe it's essential that nature, including its restoration, is identified as an explicit purpose for which support is provided.

Finally, whilst we welcome the inclusion of landscapes, historic environment and maintaining and enhancing access, it's important that these activities/outcomes are *sustainable*.

Clause 8 also provides the powers to amend the purposes for which support may be provided. It's vital that any and all future amendments are compatible with the overall purpose and objectives of this Bill.

6. **Clause 23: Agricultural Tenancies**

We share the Tenant Farmers Association in Wales concerns that there is nothing in the Bill that addresses existing definitions of agriculture and good husbandry as applied to agricultural tenancies which can limit the extent to which farm tenants can use the holdings for environmental purposes, thus impacting their ability to achieve SLM.

We have similar concerns with regards to **Commons**, where existing legislation and/or conditions attached to Commoner's right may also limit the delivery of desired environmental outcomes.

7. **Clause 28: Requirement to specify purposes for which information may be processed**

We are concerned the following purpose specifies *increase productivity* without any qualifying criteria, therefore we recommend this is changed to *increase sustainable productivity* (in the following text):

28. Requirement to specify purposes for which information may be processed

1. The list of purposes is—

- a. helping persons in agri-food supply chains or persons carrying on relevant activities to—
 - (i) increase *sustainable* productivity,

To ensure a balanced approach to delivering Bill's objectives we also recommend including the following additional purposes for which information may be processed:

- To manage natural resources sustainably,
- To restore, maintain and enhance biodiversity, including habitats, species and sites designated for nature

8. **Clause 34 - 41: Forestry**

We welcome the new forestry powers proposed, in particular the conditions relating to felling licences as these could be helpful in helping restore, maintain and protect open habitats and landscape which rare and vulnerable ground nesting species like Curlew depend. The same measures may also be useful in restoring and maintaining valuable organic rich soils which, in addition to providing valuable wildlife habitats, lock-up and sequester atmospheric carbon and play a vital role in storing drinking water and providing natural flood management. However, we believe the Bill could do more and introduce measures to protect ancient and veteran trees and small areas of ancient woodland, which can be felled without any felling licence.

9. **Clause 42 - 45: Wildlife**

We welcome the inclusion of a ban on the use of snares and glue traps but note it does not extend to include a ban on sale, which would be expected. The RSPB does not use snares because they are non-selective and risk catching non-target mammals such as hares, badgers and deer. In

addition, we do not consider that snares are a humane way of controlling predators. Where deemed necessary, and where non-lethal methods are judged to be unsuitable or ineffective, the RSPB may control predators on RSPB reserves and as part of some projects, but not through snaring. The RSPB believes that landscape-scale habitat restoration is necessary to sustainably reduce predation impacts on ground-nesting birds. We don't expect the measures in the Bill to negatively impact on RSPB's conservation work.

10. Clause 49: Meaning of "ancillary activity"

We welcome the broad scope of the ancillary activities listed, which expands the reach of the Bill's objectives and duties and which we believe are essential in delivering SLM, rather than merely providing for food production. The fundamental flaws of the existing approach that prioritises production without doing enough to protect our environment are evident throughout Wales.

This Bill is a unique opportunity to establish a new way for the public to invest in Welsh farming, land management and key supply chains to achieve outcomes that will benefit nature, climate and wider society. This includes establishing a resilient environmental base essential to maintaining our capacity to produce food in a rapidly changing World.

Supporting the establishment of sustainable, local supply chains will be a vital function of this new legislation. With increasing pressure on public funding (and no guarantee of future funding) establishing markets based on sustainability will be vital in maintaining farming and food production that balances social, economic and environmental need.

In 2021 the RSPB and Sustain published [The Case for Local Food – Building better local food systems to benefit society and nature](#). This report presents a vision for a revival in localised, nature-friendly food systems, supported by investment in infrastructure, skills and co-ordination, alongside policies that enable these businesses to operate successfully while providing a range of benefits to society. The report provides a comprehensive overview of the evidence to date on the environmental, economic and social benefits of localised food systems. It shows that smaller food outlets create three times the jobs as supermarket chains; and a shift in retail market share could create 200,000 jobs.

Local food systems allow for a larger proportion of revenues to be retained in the local economy; every £10 spent with the box scheme results in total spending of £25 in the local area, compared with just £14 when the same amount is spent in a supermarket. A shift to more localised food systems would help level up the country, with every part of the UK having the potential to benefit.

11. Explanatory memorandum

The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).

We note that the Regulatory Impact Assessment (RIA) suggests additional costs to Welsh Government and NRW (compared with current system) of £38K and £5k respectively. These seem very low given the monitoring and reporting requirements in the bill, so we hope that this does not reflect a lack of appropriate investment in these aspects.

We also question whether the financial implications of the Bill fully reflect recent *rising costs* and the need to adequately invest in appropriate advice, guidance and support to deliver the Sustainable Farming Scheme successfully.

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