

THE TIGHTENING OF THE SCREW

There was once a time when farming was guided by the weather, the soil and no small amount of hard work. Unfortunately those days are now just a distant memory.

There is a phenomenon that increasingly has a great deal of bearing on our industry. We saw it recently with the whole sorry episode surrounding the mishandling of General Licences and the misguided involvement of the pressure group Wild Justice. It is when environmental legislation becomes progressively more draconian and as is often the case, when 'poorly drafted' slowly transforms into something far more terrifying, overbearing and cumbersome than was ever originally intended.

The prime example that springs to mind is the Environmental Impact Assessment (Agriculture) Regulations. Even as originally conceived as a means of protecting semi-natural habitats, it was a good example of these seemingly endless layers of new legislation – but it was, in practice, relatively easy to interpret and, as a hurdle to land management decisions, only really ever a problem if you had your heart set on some dangerous steep ploughing on the scarp slopes of the South Downs.

However, someone somewhere clearly decided that this was not sufficient and a process that originally required one form (albeit poorly set out) to deal with now not only requires the form (still unfathomable) but a raft of potentially costly

consultations and an Environmental Screening Report; all of which take some time to pull together.

To compound the issue, the brave new world of EIA also has had to take stock of archaeology (not to mention landscape if you're really unlucky) and, while it may be easy enough (and very often entirely self-evident from just a cursory glance at the field in question) to ascertain if it is the dreaded semi-natural habitat, woe betide you if there happens to be any archaeology within said field.

Given the presence of modern humans in Britain for a good 12,000 years, it seems to me that, on balance, if you really want to you can probably find some kind of archaeological remains in any given field if you look hard enough and this certainly appears to be the case on the chalk downs where the maps of archaeological interest are a wonder to behold. All very nice, but not if you want to bring a tired ley back into the arable rotation.

Having consulted the necessary bodies and commissioned the screening report, you may then find that some form of mitigation is proposed to lessen the environmental impact. This might range from a relatively minor provision such as a small grass buffer alongside a woodland designed to protect an unusual plant to an altogether greater imposition restricting types and depths of cultivation to protect archaeology.

It doesn't take a great leap of imagination to

foresee a scenario whereby a significant proportion of the fields in England are subject, in one way, shape or form, to some type of a mitigation plan under these regulations.

But aside from the rights and wrongs of such a state of affairs, how do those drafting such legislation believe that this is going to be policed?

A much-diminished Natural England already struggles to keep on top of the workload they have relating to anything from SSSI consents to issuing wildlife licences. How on earth are they proposing to police a sea of minor restrictions across the whole of the English countryside?

On the other hand, having read the legislation and perhaps even got to the end of this article, you might well conclude that the wisest course of action is to save yourself some trouble and potential expense and just go ahead and quietly reseed that old ley. Unfortunately, that is what the turn of the legislative screw is doing – it is becoming increasingly difficult not to break one of the many well-meaning but poorly drafted pieces of legislation on an almost daily basis.

Of course, if the field in question is next to the South Downs Way or another of the many well-trodden public rights of way that we have in the South East that could prove to be a risky strategy. I wouldn't recommend it – but the choice, as they say, is yours.

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