

The seizure of the Eich

Compulsory conservation can quickly turn semi-natural, managed woodland into a landscape that belongs in a museum, according to estate owner Georg Nesselrode.

GEORG Nesselrode's Eich is an impressive woodland at every time of year. Situated in northern Germany, and covering about 85 hectares, it has been owned by his family since 1471.

The Eich is considered one of the most important woodrush beech forests in the Lüneburg Heath landscape. Scattered throughout it are many deciduous tree species plus larger coniferous stands, consisting mainly of spruce. Originally oaks grew there, hence the name 'Eich'. Historically, the forest was simply plundered until the 18th century. The oak disappeared; pine, willow, alder and birch spread.

The current structure of the Eich was drawn up in 1864 by Max von der Kettenburg. Going against the trends of the time, instead of clearfelling and reforesting with spruce, he filled existing gaps mainly with beech that he had bred himself, and used larch, spruce and Douglas fir as bread-and-butter trees. Only individual trees were felled and sold – just those with the thickest girth. By doing so, the structure and functioning of the forest improved and a self-regulating dynamic was brought about with regard to the texture of the woodland, adapting the Eich to the changing environmental conditions that occurred over generations. Nowadays it is a diverse, multi-layered, mainly self-regenerating forest with a variety of tree species of all ages and sizes, and it has proven to be both ecologically and economically viable.

The Eich is no primeval forest. It is a landscaped, semi-natural woodland, the diversity of which was brought about by human intervention that took into account its natural conditions.

For decades, the entire Kettenburg Estate has been a prime example of natural forest management across 800 hectares of woodland. It has been run by Georg Nesselrode – great-grandson of Max von der Kettenburg – for 40 years. His wife Nanett has a diploma in wood science.

ROOM FOR MANOEUVRE

Nowadays, properties such as the Eich arouse the interest of pressure groups. In 1992, EU member states adopted the Habitats Directive and drew up a list of protected areas, together with bird sanctuaries, to turn them into the European biotope network Natura 2000. This is intended to consist of areas with 'natural habitat types' that should be preserved or restored. In Germany, the federal states are responsible for safeguarding these areas. They have wide



discretion and may impose conservation categories that vary considerably in their impacts:

- Basic conservation regulations, without any requirements or constraints for the owners, who may voluntarily develop or maintain semi-natural habitats.
- Landscape conservation to preserve a landscape image, with few restrictions on use.
- Nature conservation areas aimed at the conservation, development and production of habitats and biotope types. Their restrictions are considerably wider in their effects.

The federal states implement the Habitats Directive guidelines completely differently. Niedersachsen, where the Eich is situated, has drawn up its own regulations, and they are implemented on a local basis. This moves the Habitats Directive into local politics and to minor ENGOS. Currently they impose measures that go far beyond the directive.

For forest owners, this means third parties laying claim to large parts of their private woodlands, with major encroachments on their property. 21.4 per cent of privately owned woodlands are affected, totalling 69,700 hectares. How many forest owners are affected is unclear. With an average estate size of 12 hectares, it may be up to 5,800.

Above: Halls of beech' have a poor understory. There is a lot of life in the canopy, but on the ground it is dark and still.

Above left: Habitat trees are also designated as biotope trees and are often marked with plaques.

Right: Soon to become an image of a forest from the past? It is intended that the public will be excluded from the Eich.

In 2005, the Eich was proposed for inclusion on the Habitats Directive list, with habitat types 'transition mires and quaking bogs'; and 'woodrush beech forest', which actually occurs only on its upland areas. The woodland owner lodged a successful appeal, and the Niedersachsen Environment Ministry guaranteed that 'grandfather's rights' applied and that 'agricultural and forestry uses could be continued within the scope of the previous framework'. Additionally, the state promised not to impose statutory measures restricting good forestry practice.

In 2017, the Eich was nevertheless designated as falling under the Habitats Directive, and coming under the strict regulations applicable to a conservation area. Court cases continue, but the Eich has clearly been selected to be a nature reserve. The good news: forestry use is still permitted. The bad news: the Nesselrodes' ability to continue their work, which formed the basis for the area to come under the Habitats Directive, is considerably restricted. This flies in the face of the objectives of the Habitats Directive: namely to allow the Eich, a species-rich and functioning forest, to continue to grow and to be harvested – even though this remains possible in almost all other German states.



A SYLVAN HALL FOR BATS

The dos and don'ts in the conservation regulations are extensive. In the opinion of Nanett and Georg Nesselrode, they lead to a permanently changed forest, which, in a relatively short time, will lose those characteristics that originally made it worth protecting. The aim is to conserve and nurture tree species appropriate to the habitat of the Eich and to promote the protection of particular animal species.

The main tree species in a woodrush beech forest habitat are beech and sessile and pedunculate oaks. Companion species are Scots pine, hornbeam, sycamore, downy and silver birches and rowan. For the habitat to qualify for conservation status A (very good), only these species should be present. Stands with conservation status B (good) and more especially C (medium poor), with inadequate amounts of old timber, and 'non-local woody plants' such as Douglas fir as well as spruce, larch and red oak, are expected to be raised to a better status. In actual fact, the Habitats Directive only requires 'favourable' conservation statuses. Classifications A, B and C exceed this.

The regulations require the preservation and development of cathedral-like beech woods that are suitable as hunting grounds for bats, although they are not somewhere where bats can live. They are characterised by acid soils and a cold, relatively species-poor woodland climate. There is a lot of life in the lush crowns of the beech, but there is little in the way of understorey. Only when a tree begins to decay or is removed for use does light re-enter this type of woodland.

“Politicians are not brave enough to design landscapes of the future.”

Basically, the Habitats Directive seeks merely to preclude the deterioration of a woodland, but in Niedersachsen regulations prohibit change yet enforce improvements. More trees suitable for nesting are required, as well as hollow trees and standing and fallen deadwood. There must also be precise quantities of ancient and habitat trees – at least 20 per cent per hectare in conservation statuses B and C and 35 per cent in conservation status A. According to the directive, trees that are ready for felling are considered to be old timber – beech aged 100 years or more, with a diameter at breast height of at least 50 cm. In the Eich, this amounts to several hundred trees, and it is mainly valuable, usable timber.

Habitat types recognised by the Habitats Directive cover approximately 62 ha of the Eich. Of these, 1.5 ha are in conservation status A. In conservation statuses B and C, three living mature trees per hectare are designated as 'habitat trees'. These remain in the forest until they decay. This amounts to 186 habitat trees, totalling some 2,800 cubic metres, including veneer, that are immediately removed from use. In addition to the financial loss, there is a loss of space. Each habitat tree blocks off 300 square metres of the stand, and this hampers management considerably. The harvesting of 'permitted' trees becomes much more difficult – and also more dangerous due to the presence of more deadwood – because only a few scattered areas totalling around six hectares remain available to work in.

Marking the trees is also time-consuming. Completing the entire area means an extra 20 days of unpaid work.

FREEDOM TO PRACTISE FORESTRY

Georg Nesselrode feels the regulations mean accepting political money that is given today and taken away tomorrow. He wants certainty and the freedom to practise forestry. “Everything in life is subject to constant change. A woodland is a living system, not something rigid that you can squeeze into a corset,” he said.

Nanett and Georg Nesselrode defer to nature. They operate in accordance with the principles of the Swiss association Pro Silva, managing a multifunctional, socially acceptable, lasting and economically viable forest without widespread felling. “Our forest has proved to be fit for the future because we have interpreted its signals correctly,” they said. With the exception of Quimburga, the Eich has survived all the storms of the past 150 years virtually unscathed. They see this resilience threatened, because the regulations insist on mosaic-like monocultures of beech in stands that are particularly vulnerable to storms.

Georg Nesselrode's ideal wood is multi-layered, uneven-aged and mixed. A wide age range means that any intervention designed to regenerate the woods will not be needed until long into the future or, ideally, ever. From seedlings to ancient trees, all stages of growth are present along with a high degree of biodiversity.

This type of multi-aged forest, with a high leaf mass on all levels, presents a large filtration surface for nutrients, which makes for a resilient and species-rich increase in animals and plants, not one consisting predominantly of special species such as bats. A sheltered climate is created, with partial and full shade and high humidity.

Georg Nesselrode sees this as being threatened by an inflexible conservation scheme with a limited variety of tree species. No one can say how the woods will respond – even though the previous approach can be shown to have been successful for 150 years.

The dangers of limiting the number of tree species can already be seen. After two successive dry springs, the beech is endangered by slime flux. It blows bubbles. How exactly are forest owners allowed to react, if this iconic tree species dies out over a wide area? On being asked this question, the local conservation authority responded that this is a “hypothetical future scenario that is much discussed in science, and to which there is as yet no final answer”. The forest owners see it differently. For them, the future has already begun due to climate change, and woodlands that consist of formal ranks of trees are a thing of the past.

“Politicians are not brave enough to design landscapes of the future,” said Nanett Nesselrode. “The authorities say that restrictions must come from a conservation perspective to protect the forest. But they cannot justify and explain them.” Forest owners do not feel included in policy-making or in its implementation.

Some districts in Niedersachsen depart markedly from state government guidelines, which contain only minimum standards. Local nature conservation authorities can choose to be guided by them, or to go beyond them.

In reality, their legal and decision-making basis is often a woodland directive from October 2015. At the time, the objective in Niedersachsen was to turn all areas coming under the Habitats Directive into nature reserves. Many districts therefore show a preference for strict safeguards, even though the Habitats Directive explicitly states that regional, cultural, social and economic characteristics should be borne in mind.

By talking to other woodland owners, Nanett and Georg Nesselrode have worked out what the conservation regulations will mean for them: bureaucracy, higher costs

and the imposition of management plans. The regulations turn the decision-making hierarchy in the Eich upside down, and the management plan comes in on top.

MANAGEMENT PLAN FOR THE EICH

The conservation authority said it is working to complete a management plan for the Eich by 2020, and this will apply not only to areas falling under the Habitats Directive, but to the entire nature reserve. The plan will include 'mandatory and additional objectives'. The mandatory measures may be imposed by the authorities to contribute to 'maintaining or restoring a favourable conservation status' in the Eich. The authority cannot force a woodland owner to turn a status C conservation area into status B. However, they would be forced to accept such measures being carried out by third parties – even in areas not designated as habitat types.

The conservation authority said it would implement the measures “in agreement with the landowner”, but past experience reinforces the Nesselrodes' impression that, in the case of the Eich, a working forest is being taken from them and destroyed.

“The forester wants to shape the future. The conservationist wants to hold onto what's long gone,” said Georg Nesselrode.

‘PROTECTING TREASURES’

Nature conservation also devalues the Eich financially. This begins with a poor rating by banks, who regard a forest that is subject to conservation measures as worthless. The absolute power that comes with protected status gives the state a right of first refusal when it comes to purchase. A loss of jobs in the forestry business ensues.

“One thing leads to another,” said a worried Georg Nesselrode. “Ideological conservation leads first to economic and social disaster for the individual, then for the forest, and then to ecological catastrophe.”

The Nesselrodes have calculated that the compensation to which they are entitled will amount to around €5,000 per annum. This does not even cover the additional administration costs, because, for example, every habitat tree has to be documented. All other obligations, such as taxes, insurance, liability, risk and duty of care continue to be fully borne by the forest owners.

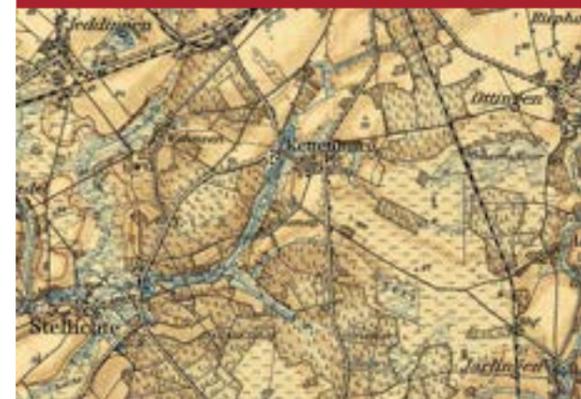
The PEFC-certified business already fulfils numerous obligations in protecting its water, soil, biotopes, wildlife and ancient monuments. Parts of the forestry area are already protected landscapes and nature reserves. Miles of electricity and gas pipelines pass through the forests and many of the most valuable stands are protected. “If this continues, we will soon be allowed to operate the way we want on just 30 per cent of the area,” Georg Nesselrode said.

The Eich is the heart of the Kettenburg Estate and has been cherished by the Nesselrode family for 150 years. It is their principal commercial forest, now burdened with regulations. Georg Nesselrode will file a lawsuit against its protected status, to preserve a semi-natural and sustainable forest that works in harmony with an ecologically friendly forestry business. He also feels the level of interference in his property has got wildly out of proportion.

If the Eich loses more than 30 per cent of its market value, then, according to case law in the Federal Court of Justice, the effect would be equivalent to dispossession. The Eich is being confiscated.

When local councillors were voting on the nature reserve regulations covering the Eich, one of them campaigned unopposed under the slogan 'protecting treasures'.

It sounds like a land grab.



Above: Nanett and Georg Nesselrode with their dogs X of Leiten, an alpine Dachsbracke, and the German rough-haired pointer Enno of Bastauwiesen.

Left: A habitat tree intentionally left in the semi-natural Eich. The still-living beech rots into deadwood and remains in the stand until it has decomposed.

Below: The Eich, south-west of the Kettenburg Estate, and the adjacent Ochsenmoor to the east, on a topographic map of the German Reich from 1906.

Abridged from an original article by Max Riemann that appeared in *HOLZmachen* magazine (www.holzmachen.info). The full article is available at www.nesselrode-forst.de/presse.html.