



Consultation on marine Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) in English, Welsh and offshore Waters around the UK

Frequently Asked questions

THE PROCESS

What are Special Areas of Conservation (SACs)?

SACs are areas which have been given special protection under the European Union's Habitats Directive. They provide increased protection to a variety of wild animals, plants and habitats and are a vital part of global efforts to conserve the world's biodiversity.

What are Special Protection Areas (SPAs)?

SPAs are the most important sites for birds in Europe. It is a designation required by the European Commission under the Birds Directive to provide increased protection and management for areas which are important for breeding, feeding, wintering or migration of rare and/or vulnerable species of birds.

An explanatory leaflet on the guidelines that have been used for selecting SPAs can be found on JNCC's website <http://www.jncc.gov.uk/page-1405> and hard copies are available from the Joint Nature Conservation Committee, Monkstone House, City Road, Peterborough PE1 1JY.

What is the process for designating Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)?

For SACs, each EU Member State has compiled a list of its most important wildlife areas, following the lists of habitats and species and selection criteria set out in the Habitats Directive. This list of sites must then be submitted to the European Commission for consideration and if the Commission agrees, the Member State must designate those sites.

For SPAs, Member States are required to classify the most suitable territories in number and size.

For both SACs and SPAs, once sites are identified, the proposals are discussed informally with stakeholders and members of the public and an assessment of the impacts that the designations may have on existing activities is also prepared. This work has been carried out by Natural England, the Countryside Council for Wales (CCW) and the Joint Nature Conservation Committee (JNCC), as the sites are in English, Welsh and off shore waters.

This is then followed by a three month formal consultation period – which is underway now (27th November 2009 - 26th February 2010).

Following the consultation, Natural England, JNCC and CCW will finalise the site recommendations and impact assessments and report the outcome to the Secretary of State and Welsh Ministers. The SAC sites are then put forward by the Government for designation by the European Commission, and the Ministers classify the SPA sites and inform the European Commission.

A guidance note '*Natura 2000: European marine sites - Site designation procedures*' is available <http://www.naturalengland.org.uk/ourwork/marine/sacconsultation/default.aspx> which provides further information on the process of designation.

How does this process relate to that for Marine Conservation Zones (MCZs) and other Marine Protected Areas?

Establishing these SACs and SPAs is a critical step in developing an ecologically coherent and well-managed network of marine protected areas (MPAs) by 2012, in line with UK Government and Devolved Administration's commitments. Such a network will enable the UK to meet its obligations under international conventions and contribute to measures aimed at achieving good environmental status in the marine environment under the EC Marine Strategy Framework Directive.

The existing MPA network is made up predominantly of previously designated Natura 2000 sites with intertidal elements underpinned by SSSI legislation. In the future the UK MPA network will comprise SACs and SPAs, Sites of Special Scientific Interest (SSSIs), Ramsar sites and new national MPAs (Marine Conservation Zones) which the UK Government and Devolved Administrations have or propose to introduce through the Marine and Coastal Access Act and other forthcoming Marine Acts¹.

Natural England, JNCC and the Department of Environment, Food and Rural Affairs (Defra) have also established the Marine Conservation Zone (MCZ) Project to begin identifying areas in English inshore waters and English, Welsh and Northern Irish offshore waters that could be recommended as MCZs under the UK Marine and Coastal Access Act. The identification of MCZs in this area will follow a different process to Natura 2000 sites, and will be developed through stakeholder involvement in four regional MCZ projects:

- Finding Sanctuary (South West England),
- Irish Sea Conservation Zones,
- Net Gain (North Sea), and
- Balanced Seas (South-East England).

CCW is working with the Welsh Assembly Government on a similar project in Welsh waters. New MPAs will also be identified in Scottish waters, through a collaborative project between JNCC, SNH and the Scottish Government. Unlike Natura 2000, the process of identifying MCZs may have regard to any economic or social consequences, in so far as this is compatible with the overriding objective of contributing to an ecologically coherent network of MPAs.

¹ Marine Nature Reserves, such as Lundy, will be replaced with Marine Conservation Zones in England and Wales.

THE CONSULTATION

What is being consulted on?

The scientific case for proposing the possible SACs and SPAs and their boundaries; and the assessment of the socio-economic costs and benefits of the designation of those sites, are both part of the consultation. The draft Conservation Objectives and Advice on Operations are made available to assist discussions on sites and their management, but these are not part of the formal consultation.

More information about the formal consultation, including a summary of the sites, the documentation, important information about confidentiality and how to respond is available in '*Consultation on marine Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) in English, Welsh and offshore waters around the UK*' <http://www.naturalengland.org.uk/ourwork/marine/sacconsultation/default.aspx>

What will happen to my response?

When all responses to the consultation have been collated, Natural England, the Countryside Council for Wales (CCW) and the Joint Nature Conservation Committee (JNCC) will consider the responses made on the scientific justification for the sites will be considered, and each agency will then consider whether to amend the site recommendations to Government. Responses on socio-economic grounds will be used to update or amend the impact assessments which accompany the site recommendations to Government.

A summary report of the responses to the consultation will be produced. Information in responses on industry activities at the sites may also be used to update or develop the Conservation Objectives and Advice on Operations for the sites, and in the development of future management measures for the sites.

When the report on responses to the consultation has been submitted to Government, Ministers will decide which sites to submit to the European Commission by late August 2010.

The report on the responses to the consultation will be made available through the Natural England and JNCC websites when they are completed following the closure of the consultation in 2010. Copies of the consultation report will be available on request for those without access to the internet.

THE SCIENCE

How did Natural England develop the scientific evidence required to select the English sites?

Work on identifying the proposed new sites began in 2003/4 when English Nature (one of Natural England's predecessors) produced maps showing indicative areas of potential sandbank and reef habitat based on hydrographic and sediment data from the British

Geological Survey. In 2005, following further analysis and wider consultation with key data holders, 7 areas of search were identified for further scrutiny. There followed a period of collating existing, and acquiring new physical and biological data. Natural England then applied Habitats Directive selection criteria to enable the identification of draft SACs. A more comprehensive scientific case for each site is detailed within the site assessment documents.

For the two marine SPAs, work on assessing the numbers and areas occupied by the wintering populations of red-throated divers and common scoters around England has been ongoing over a period of recent years. This has included counting birds from boat-based observations and, more recently from low-flying aircraft, both of these methods have provided a much clearer understanding of the size of these populations and areas of the sea in which they occur. From the information derived from these surveys Natural England, the Countryside Council for Wales and the JNCC have been able to develop boundaries for these populations using the selection guidelines already referred to above.

How did JNCC develop the scientific evidence required to select the offshore SACs?

JNCC's work on identifying offshore SACs began in 2000. Selection of sites is based on a coarse assessment of where areas of potential Annex I habitat (sandbank, reef or submarine structures made by leaking gases) might occur, based on a combination of geology and bathymetry. This was followed by collation of existing scientific data on the habitats and species, from a wide range of publications, industry and academic sources, supplemented by some survey. Seven offshore SACs were consulted on in 2007-08, and the remaining offshore sites will be consulted on in 2010 and 2011 once survey data have been analysed and reported.

What types of evidence will you take into consideration if we do not agree with your justification for any of the sites?

An important aspect of this consultation is to ensure that Natural England, CCW and JNCC have used the most robust science in order to identify the sites. We would welcome any biological or physical information, which is geographically referenced that can be used to underpin or query the site selection. It should be noted that anecdotal information is unlikely to be used to inform designations.

IMPACT ASSESSMENTS

What is the purpose of the impact assessments?

For each site, the impact assessment will identify the likely positive and negative impacts on the economy, society and the environment of the proposed designation. Because the detail of future management measures for the sites is not yet known, the assessment is based on estimated maximum and minimum management scenarios. An impact assessment is required to accompany all proposals for Government interventions that might lead to costs or savings for the private sector. These impact assessments will be submitted to Government along with the report on the responses to the consultation over the proposals to recommend the sites for designation in August 2010.

Will data from the impact assessments change the site boundaries?

No. Sites selected under the Habitats and Birds Directives must be selected only on scientific grounds. Economic or social impacts are not permitted to influence the choice

of sites or their boundaries. However, data provided to the impact assessments may be used to update information on activities at the sites in our Advice on Operations, and to help in developing management measures that may be needed at the sites.

THE SITES

Why do we need to designate these sites?

Without these designations these important sites, many of which are home to the UK's best examples of particular marine habitats and species, will remain unprotected and threatened by potentially damaging activities. By designating these sites we will be able to secure their protection and the important contribution they make to our marine ecosystems and biodiversity. As a Member of the European Union, the UK is required to identify areas which qualify under the respective Directives and provide special protection measures such as the designation of SACs and SPAs. Financial penalties (infractions) may be placed on Member States if insufficient areas of Annex I habitats or sites supporting qualifying Annex II bird populations are not brought within the respective designation.

Why do sites need to be designated where there are currently no damaging activities?

Sites, such as Bassurelle Sandbank, where there is little or no evidence of current damage or threat to the site, can still benefit from designation, by providing an effective mechanism to allow for any future proposals for development at the site which might damage the sandbank, to be properly considered against the objectives for the site.

Why have these areas been selected?

The areas covered by this proposed list of sites have been selected because they contain examples of qualifying Annex I interest feature(s) (sandbanks, reefs and sea caves) as defined by the Habitats Directive or they support a population of birds (in this case red-throated diver *Gavia stellata* or common scoter *Melanitta nigra*) which are of national or biogeographical importance. The main aim of these Directives is to ensure that habitats, species and bird populations are maintained or where appropriate restored to a condition that is favourable to the conservation of the habitat and species they support.

Why do some SACs contain large areas of non-qualifying Annex I habitat?

In determining the best examples of these habitats Natural England and JNCC have assessed the biological and ecological functioning of these habitats on a whole-site basis. These habitats do not exist in isolation and the communities inhabiting them are dependant, to varying degrees, on the supply of nutrients, sediment or larval food from other parts of the marine environment. In many cases we consider that some habitats, particularly sandbanks, even if not in close proximity to each other, often depend on one another for sediment supply. As such the areas between these features, even if non-qualifying, may be included in the site boundary as supporting areas and that natural levels of interaction between the features is not affected or interrupted. Where the habitat is fragmented into smaller pieces, it is also more practical to combine these into one area, rather than having a site made up of multiple small areas.

More information on how the boundaries are delineated around the SACs can be found online: http://www.jncc.gov.uk/pdf/SACHabBoundaryGuidance_2008Update.pdf.

Why not other areas or sites?

Under the Habitats Directive, we are not required to protect all areas of Annex I habitat in UK within the network of sites, we only need to protect enough area within sites in proportion to the amount of the habitat we have in UK waters. Other areas of Annex I habitat not proposed or under consideration as sites have been assessed by Natural England, JNCC and CCW, but have not been included as site recommendations as they are considered to contain less extensive or representative examples of these features or non-qualifying numbers of birds. The network of sites in inshore waters will largely be complete with the addition of these sites, but additional sites are under consideration in UK offshore and Northern Irish waters in particular (for further information on forthcoming sites see the JNCC paper at http://www.jncc.gov.uk/pdf/comm_08P14a.pdf).

Why are the boundaries on some sites very 'square' – they do not appear to follow the interest features?

As a general principle site boundaries have been drawn closely around the qualifying habitats or areas occupied by qualifying species for which the sites have been selected or as close to it as possible making allowance for some movement of the qualifying features (e.g. sandbanks). In following this principle the need to ensure that the site operates as a functional whole for the conservation of the habitats or species has been taken into account. In addition the seaward boundaries of the sites have been drawn largely as straight lines, to ensure ease of identification of these boundaries on charts and at sea.

Guidance on drawing boundaries around SACs in the marine environment has been agreed between the UK's statutory nature conservation bodies (including Natural England, CCW and JNCC). This guidance was modified following the first consultation on offshore SACs that was held from December 2007-March 2008 to take into account feedback received from stakeholders. It is intended that these boundaries are easily understood using a minimum number of straight lines, however, all site boundary coordinates can be provided in degrees and minutes. More detailed guidance on boundaries of sites is available from the JNCC at http://www.jncc.gov.uk/pdf/SACHabBoundaryGuidance_2008Update.pdf.

What will happen if you are given information that supports the existence of interest features or species in areas beyond the sites under consideration (either an extension of an existing site or a site in a different location?)

We have arrived at the list of potential sites through a comprehensive process of research, refinement, and adherence to selection criteria. We believe that this process has identified the most appropriate sites. However, an important aspect of the consultation is to ensure that we have used the best scientific evidence available to make final decisions. Any information which is robust enough to be considered (see above) pertinent to the designation of the relevant habitats and species will be considered further.

FUTURE MANAGEMENT

How will SACs and Special Protection Areas be managed?

Natural England, CCW and JNCC have a duty to advise on conservation objectives for the sites, and on operations which may cause damage or disturbance to the habitats or species. The responsibility for managing activities that take place or are licensed on the sites is then the responsibility of Competent or Relevant authorities (see below), who license, approve or manage marine activities. That management consists of assessing proposals for new developments or licenses (termed 'plans or projects') and a review of some existing licenses/approvals, as well as any management of ongoing activities that may damage the habitats or species for which the site is identified. Our experience is that in most cases it is usually possible to find mutually acceptable solutions where sustainable use of the sea allows wildlife to flourish.

What are competent and relevant authorities?

A competent authority is a body which grants consents to activities in the marine area: e.g. The Department of Energy and Climate Change (DECC) for windfarm, oil and gas licensing. All relevant authorities are competent authorities with local powers or functions which have, or could have, an impact in the marine area within or adjacent to a European marine site: e.g. local authorities, harbour authorities or sea fisheries committees.

Will there be Management Schemes for the sites?

A Management Scheme is a process to decide management needs for a site, based on the Conservation Objectives for that site. A management scheme must be undertaken by Relevant or Competent Authorities, and may include the formation of a management group and production of a documented plan, subject to periodic review. This process provides a framework through which the site features and activities which may affect them are clearly identified and considered, with associated management action undertaken.

Management schemes may be established once the sites have been submitted to the European Commission (SACs) or classified (SPAs), but there is no obligation to do so. In cases where there is a low general level of human activity, or where there is only one type of activity is to be managed, there may be limited need.

If a management scheme is thought necessary, it is expected that all relevant authorities will wish to join the management group. However there are reserve powers (Regulation 35 of the Habitats Regulations for inshore sites) for Ministers to direct relevant authorities to do so.

So when will management measures be put in place?

Once a site has been accepted by the Secretary of State and submitted to the European Commission in the case of a SAC or classified as an SPA, Competent Authorities must follow a step-wise assessment and decision-making process provided for under the Habitats Directive before granting consents for plans or projects that may affect them. As soon as reasonably practicable, review previous consents, permissions or authorisations which might impact upon these sites insofar as they have been implemented.

As above, it is the responsibility of the Competent Authority to determine what measures are to be put in place for each SAC, based on advice provided by Natural England, CCW or JNCC through Conservation Objectives and Advice on Operations.

What is involved in the review of existing consents?

Once a site has been submitted to the European Commission in the case of an SAC or classified as an SPA, Competent Authorities are required under the Habitats Regulations to review outstanding decisions, permissions, consents and other authorisations, not yet completed, which would be likely to have a significant effect on the site (either individually or in combination with other plans or projects); and which would not be directly connected with or necessary to the management of the site.

The decisions, permissions, consents and other authorisations are those under Acts such as the *Town and Country Planning Act 1990*, *Pipelines Act 1962*, *Control of Pollution Act 1974*, *Highways Act 1980*, *Electricity Act 1989*, *Environmental Protection Act 1990*, *Water Resources Act 1991*, and the *Transport and Works Act 1992*. It is the responsibility of the Competent Authority to determine what measures are to be put in place based on advice provided by the relevant statutory nature conservation body (e.g. Natural England, JNCC or CCW).

If the plan or project relies on consents from more than one competent authority, the Habitats Regulations provides for the most appropriate authority to undertake the "appropriate assessment" and for the other authority, or authorities, to have regard to the views of the authority that carried out the assessment

As a fisherman what will these designations mean to me?

The SACs and SPAs are being designated as they contain habitats and species that are rare or threatened and of international importance. In order to maintain them in or restore them to good condition they will need to be protected from activities that could damage them. They are sensitive to certain types of activity, particularly those that have the ability to alter the seabed or entangle birds. These types of activity may need to be managed in order to ensure that the habitats can remain in, or can be restored to, good condition.

We currently do not know what management measures will be put in place for each site. In some instances the existing management may be considered to be sufficient, but in others additional management may be needed. For further specific information in relation to fisheries, please see the separate document, "SAC and SPA Frequently Asked Questions – Fisheries supplement"

<http://www.naturalengland.org.uk/ourwork/marine/sacconsultation/default.aspx>

What will the designation of these sites mean for recreational activities such as divers and users of the coastal footpath?

As with any other activity, the effects that the designation will depend on the impact that they have or could have on the habitats and species that are being conserved at each site. If a human activity is not damaging the habitats or species at the site at its current level of intensity or frequency, it is unlikely to be affected by the designation. If the

activity is currently significantly affecting the habitat or species at the site, additional management may be needed.

Designation of the sites may actually enhance recreational activities by improving the chances to encounter wildlife and in doing so enjoy the natural environment more. This is likely to be complemented by a higher degree of public information. For example, boards that describe what is being protected in a site and the benefits of protection may be provided to inform people walking on adjacent coastal footpaths.

FUTURE DESIGNATIONS

Are there any plans for designating further sites in the future?

For SACs we expect the 10 proposed sites to complete the Natura 2000 network for English inshore waters.

Additional SACs are under consideration by JNCC in UK offshore waters, and Scotland and Northern Ireland also have a limited number of sites under consideration in their inshore waters. These additional sites are expected to be consulted upon and put forward to the European Commission by the end of 2012. The final say in whether there are sufficient Natura sites in the network in UK will depend on discussions with the European Commission and other Member States.

For SPAs in English inshore waters, Natural England is conducting annual surveys of seabird (mainly terns, auks and gannets) breeding and foraging areas (the majority of which are already designated as SPA), and once these have been analysed, consideration will be given by Natural England and the Joint Nature Conservation Committee (JNCC) to bringing forward additional recommendations to extend the seaward boundaries to include important areas. Any potential designations resulting from this are likely to be some years in the future and will be subject to the same consultation procedures. CCW is currently reviewing the case for marine extensions to existing breeding colony SPAs in Wales.