



This paper was provided to the Joint Committee for decision/discussion or information. Please refer to the minutes of the meeting for Committee's position on the paper.

To view other Joint Committee papers and minutes visit <http://www.jncc.gov.uk/page-2671>

To find out more about JNCC visit <http://www.jncc.gov.uk/page-1729>

JOINT NATURE CONSERVATION COMMITTEE

PROCEDURE BY WHICH MARINE AREAS WHOLLY OR PARTLY IN OFFSHORE WATERS ARE RECOMMENDED TO GOVERNMENT FOR CLASSIFICATION AS SPECIAL PROTECTION AREAS

Paper by Helen Baker & Caroline Turnbull, JNCC

1. Introduction

- 1.1 The responsibility for making recommendations to government on the classification of sites as Special Protection Areas (SPAs) lies with the country agencies when these areas are within the territorial jurisdiction of individual countries (terrestrial areas and marine areas to 12 nm). However, when these sites are outside of territorial waters (in offshore waters within the UK's Exclusive Economic Zone) then this responsibility lies with the Joint Committee, in consultation with the country agencies.
- 1.2 The procedures for assessing terrestrial areas for their suitability for SPA classification and for making recommendations on sites to government are well established (note that, although contributing to the UK list, SPAs for Annex I bird species in Northern Ireland use an all-Ireland selection threshold). Procedures for wholly inshore marine areas (within the 12nm territorial limit) differ little from that for terrestrial sites. To retain a UK perspective, the Joint Committee assesses the proposed addition of a site to the UK SPA Network and advises the country agencies on whether the UK SPA Selection Guidelines have been met (JNCC 03 P14). For inshore sites that also include a small area (less than 10% of total area) of offshore water, there is an additional stage that involves a direct recommendation from the Joint Committee to government on the inclusion of any offshore area (JNCC 04 P09).
- 1.3 The Joint Committee has determined the nature of the documentation it requires when considering offshore SACs (JNCC 04 P09), but has not yet determined this in relation to considering SPAs which occur 10% or more in offshore waters. This paper describes the documentation which will be provided to the Joint Committee in relation to such areas, and summarises the procedures relevant to offshore SPA selection.

2. Proposed procedure

- 2.1 The country agencies set out their submissions to Government in relation to terrestrial and inshore areas recommended for selection as Special Protection Areas in the form of a Departmental Brief for each area. The Departmental

Brief provides essential information on the area recommended, together with the justification for selecting a site. An example of a Departmental Brief (excluding the map) relating to an inshore site is given at Annex 1 for information.

- 2.2 Given that the submission documentation in the form of Departmental Briefs is an established and accepted process, it is recommended that this form of documentation be adopted for SPAs wholly or partly offshore. The precise format and content of Departmental Briefs varies somewhat between the country agencies. In consequence, a Departmental Brief proforma for offshore areas has been developed which draws on the format utilised by the country agencies, and incorporates the main elements of those as appropriate. This proforma is set out below.
- 2.3 ***Proforma for Departmental Briefs to be prepared by JNCC for areas to be recommended for classification as SPAs wholly or partially (>10%) in offshore waters:***
 - i. proposed site name;
 - ii. centre location (The geographical co-ordinates (longitude and latitude) of the centre in degrees, minutes and seconds);
 - iii. surface area (in hectares, rounded to the nearest hectare, and in square kilometres, rounded to the nearest kilometre);
 - iv. summary statement (citation);
 - v. map, including explanation of boundary features if relevant;
 - vi. general description of area: location, habitats if relevant, physical features, impacts and activities (resource exploitation and other uses, including planned; can identify vulnerabilities and consultation considerations if relevant);
 - vii. description of qualifying features (Annex I; migratory species), supporting data (appending detailed analytical information if relevant), and assessment of the national and European context for the species;
 - viii. assessment of area against the SPA Selection Guidelines, including comparison with existing SPAs;
 - ix. acknowledgements;
 - x. references.
- 2.4 Once an area has been approved by the Joint Committee, the Departmental Brief will be submitted to Defra and the devolved administrations as supporting documentation to assist in the consideration and approval of the area for SPA classification.

- 2.5 It is envisaged that the respective responsibilities between JNCC and relevant country agency(ies) with regard to selecting areas for recommendation to Government which lie partly in the inshore and partly in the offshore zone will be as follows:
- i. areas lying more than 90% but less than 100% in the inshore zone - responsibility for selecting the area and for preparing the Departments Brief lies with the country agency; the area (including the offshore area) to be endorsed by the Joint Committee (procedure already approved);
 - ii. areas lying 10%-89% in the inshore zone - responsibility for selecting the area and preparing the Departmental Brief will be shared between the country agency and JNCC (responsibility for undertaking the work to be agreed between them) and both the country agency and Joint Committee to approve the area;
 - iii. areas lying 90% or more in the offshore zone - responsibility for selecting the area and preparing the Departmental Brief lies with the Joint Committee; the area (including the inshore area) to be endorsed by the country agency.

3. **Types of SPA likely to fall wholly and partly in the offshore waters**

- 3.1 There are two main types of site which are likely to fall wholly or partly in the offshore zone, namely i) aggregations of seabirds in the non-breeding season, and ii) other (probably feeding) aggregations of seabirds.

3.2 *Aggregations of seabirds in the non-breeding season*

These are aggregations of sea duck, divers or grebes which form primarily in the non-breeding season. Such aggregations normally occur in inshore waters but may continue into the offshore zone. Examples of such areas are Carmarthan Bay and Liverpool Bay. The guidelines on the selection of SPAs (JNCC 1999; described in Stroud *et al* 2001), where they were developed for terrestrial sites, can be used for the selection of this type of marine SPA. The method for selecting such areas, and determining their boundaries, was set out in JNCC 04 P05 and adopted by the Committee in 2004.

3.3 *Aggregations of other (probably feeding) aggregations of seabirds*

These are (probably feeding) aggregations of seabirds occurring in the offshore zone. JNCC's approach to the selection of such areas will be based, initially, on analysis of the European Seabirds at Sea database (ESAS; see JNCC Report 325 *Natura 2000 in UK Offshore Waters*). JNCC will analyse the ESAS data and prepare a technical report for consideration by the Marine Natura Project Group. The SPA and Ramsar Scientific Working Group will also be consulted. The results of this work may show that the ESAS data are sufficient for the identification of areas in this category, or they may show that other survey data are required in addition. On the basis of this analysis, and of these consultations, JNCC will prepare a paper for the Joint Committee presenting conclusions on the method to be used in the selection of areas in this category for recommendation to Government as SPAs. Any

recommendation relating to an area falling in this category of SPAs is dependent on Joint Committee approval of the method used in its selection. However, with this proviso, areas recommended to Government would be accompanied by a Departmental Brief set out in the format described in paragraph 2.3 above.

4. Post-submission procedures

4.1 Because the Regulations for Offshore Natura 2000 sites have not yet been made, the statutory procedures to be followed, including in relation to the formal consultations to be carried out, in the classification of offshore SPAs are still to be determined. JNCC may be required to assist government with consultation on each potential SPA, including in the preparation of a consultation report. Once approved for classification by government, JNCC will prepare standard classification documents (Natura 2000 Standard Data Form and boundary map). These will be submitted to government for addition to the UK site register and for onward transmission to the European Commission.

ANNEX 1

DEPARTMENTAL BRIEF: CARMARTHEN BAY PROPOSED SPECIAL PROTECTION AREA

COUNTRYSIDE COUNCIL FOR WALES October 2002

1. Summary

Located on the south coast of Wales, Carmarthen Bay is the most important site in Britain for wintering common scoter (sometimes called black scoter). The site has a long history of occupancy by the species, and supports large numbers at high density. The site is also important for maintaining the species' wintering range. The shallow waters and sandy substrate in the sub-tidal range support large numbers of benthic invertebrates, including bivalves, and provide good feeding habitat for these sea-ducks. More than 1% of the biogeographic (western Siberia/western and northern Europe/north-west Africa) population of common scoter were consistently recorded at this site prior to the Sea Empress oil spill incident in February 1996. Although significant numbers of birds were killed in the incident and peak numbers declined in the following winter (1996 – 97) numbers have increased again in subsequent years, and the site now supports more than 1% of the biogeographic population.

2. Site ownership and management

The site lies almost entirely below Mean Low Water Ordinary Tides and within UK territorial limits. The Crown is the sole land-owner (of the seabed) and the water body part of the UK territorial seas. Approximately half the site falls within MoD firing ranges.

The subtidal area of the site is not currently subject to any management regimes for nature conservation purposes, although it is worth noting that it lies entirely within the Carmarthen Bay & Estuaries candidate Special Area of Conservation (cSAC) proposed under the 1992 EC Habitats and Species Directive. The relevant authorities have begun the process of developing a management scheme to conserve the habitats and species of the cSAC.

Intertidal areas within the site boundary (lying above Lowest Astronomical Tide) are included within a number of Sites of Special Scientific Interest (SSSIs) notified under the Wildlife & Countryside Act 1981.

Air and surface craft are subject to movement restriction during military firing operations. Fisheries activities are subject to EU, national and local (South Wales Sea Fisheries Committee) legislation.

3. Regularly occurring migratory species

These species are identified under the EEC Council Directive of 2 April 1979 on the conservation of wild birds (79/409/EEC). Article 4.2 of the Directive states that these species 'shall be the subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution'.

i. Common scoter *Melanitta nigra*

Status

The global non-breeding range of the common scoter includes the Atlantic, North Sea and Baltic coasts of north-west Europe and north Africa, with very limited areas in the Adriatic and northern Mediterranean (Snow & Perrins 1998). It additionally occurs in eastern Asia and north America (Rose & Scott 1997). Common scoters wintering in UK waters are from the single biogeographic population (western Siberia/western and northern Europe/north-west Africa) of the nominate sub-species.

Non-breeding common scoters can be found around most of the UK shoreline, with concentrations around the Moray Firth, Firth of Forth, north-east England, East Anglia, Carmarthen Bay, Cardigan Bay, north Wales and north-west England (Lack 1986; Kirby *et al.* 1993).

There is generally poor monitoring at international level. Extensive surveys within the Baltic in 1993 led to a re-estimation of the size of the population of the nominate sub-species (1,600,000 individuals: Pihl & Laursen 1996). Lack of annual monitoring of the major centre of wintering common scoter in the Baltic (where 75% of the population occur) means that there is no information about annual or long-term trends (Delany *et al.* 1999). The best information available suggests that the biogeographical population is probably stable (Rose & Scott 1997).

Estimates of the UK non-breeding numbers have varied but the population appears to be stable, with 25,000-30,000 in the early 1980s (Lack 1986) and 27,350 from 1986-1991 (Kirby *et al.* 1993). Individual areas have suffered declines, notably Carmarthen Bay following the Sea Empress oil spill in 1996 (Cranswick *et al.* 1998). Since then numbers have recovered, and systematic and ongoing aerial and shore-based surveys of the site since that oil spill incident show that numbers have recovered and regularly exceed 10,000 individuals (L. Smith in prep.). Monitoring effort has also been increased in other parts of the UK, particularly in Cardigan Bay, north Wales coast and north-west England (Oliver *et al.* 2001), with ongoing long-term monitoring anticipated in relation to planned offshore windfarm developments. An updated UK population estimate is now likely to exceed 50,000 individuals (P. Cranswick, pers. comm.), although this increase from a previous estimate of 27,350 (Musgrove *et al.* 2001) is in part due to increased survey effort.

Habitat

During the non-breeding season common scoter congregate in shallow offshore areas with sandy seabeds. This sandy substrate provides habitat for the bivalves and other molluscs on which the species feeds.

Population within the Carmarthen Bay proposed SPA

Common scoter numbers in Carmarthen Bay are normally highest in the period December to January. There is also an earlier peak in the number of migrating birds in the bay during August as birds fly south to feeding grounds (Smith in prep.; Stewart, 1996). Throughout the winter there are regular fluctuations in bird numbers almost certainly because common scoter arrive or pass through the bay to other sites, implicating the importance of Carmarthen Bay as a major staging area as well as an

overwintering site. Between February to March birds leave the bay to start their journey to breeding grounds in the sub-Arctic.

The distribution of common scoter varies from year to year. The northwest of the bay (Saundersfoot to Amroth) was one of the most important common scoter areas in the year before the Sea Empress oil spill (winter of 1995/96), but in the two years subsequent to this its importance changed. During the winters of 1996/97 and 1997/98 the winter peak numbers were much lower than normal and, although the most important areas were still in the northwest of the bay, larger numbers of common scoter were found off Rhossili. In the winter of 1998/99 the greatest numbers recorded, in early January, were mainly between Amroth and Pendine, 1-2km from land in water less than 2 m deep. The following winter, nearly all the common scoter in this part of the bay were 2-4 km offshore and larger numbers of birds were recorded at Pembrey. Data from the winter of 2000/01, again show a shift in distribution towards the north east of the bay, a trend that has been repeated over the last winter(2001/02). Overall, food availability is an important criterion in determining wintering areas of diving duck (Pehrsson, 1984) but many other factors including interactions with other bird species and certain human activities may also contribute to the observed distributions in Carmarthen Bay (L. Smith in prep.).

ii. Other species

Several other species, particularly divers, are regularly recorded in Carmarthen Bay including red throated diver (up to 200 birds in winter). Small numbers of velvet scoter and eider duck are also regularly seen in winter. Large numbers of Manx shearwaters have been occasionally observed in the bay during summer months, suggesting that the bay is an important feeding and / or resting area for the shearwater population of the Skomer and Skokholm SPA to the west.

4. References

- Cranswick, P., Stewart, B., Bullock, I., Haycock, B. & Hughes, B. (1998) *Common Scoter Melanitta nigra monitoring in Carmarthen Bay following the Sea Empress oil spill: April 1997 to March 1998*. CCW Sea Empress Contract Report 320. CCW, Bangor.
- Delaney, S., Reyes, C., Hubert, E., Pihl, S., Rees, E., Haanstra, L. & van Strien, A. 1999. Results from the International Waterbird Census in the Western Palearctic and Southwest Asia 1995 and 1996. Wetlands International Publication No. 54. Wageningen, The Netherlands, 178 pp.
- Kirby, J.S., Evans, R.J. & Fox, A.D. (1993) Wintering seaducks in Britain and Ireland: populations, threats, conservation and research priorities. *Aquatic Conservation: Marine and Freshwater Ecosystems* 3: 105-117.
- Lack, P. (1986) *The Atlas of Wintering Birds in Britain and Ireland*. Calton, T. & A.D. Poyser.
- Oliver, F., Robinson, P. & Harrod, C. (2001) *Common Scoter Melanitta nigra survey in Liverpool Bay*. CCW Contract Science Report 470. CCE, Bangor.
- Pihl, S & Laursen, K. (1996) A re-estimation of Western Palearctic wintering seaduck numbers from the Baltic Sea 1993 survey. *Gibier Faune Sauvage, Game and Wildlife* 13: 191-199.

- Rose, P.M. & Scott, D.A. (1997) *Waterfowl population estimates. Second Edition.* IWRB Special Publication 44. 106pp.
- Smith, L. in prep. "Common scoter *Melanitta nigra* in Carmarthen Bay, UK" PhD Thesis, University of Wales, Swansea.
- Snow, D.W. & Perrins, C.M. (1998) *The birds of the Western Palearctic. Volume 1: Non-Passerines.* Concise Edition. Oxford & New York, Oxford University Press.