



**Assessment of plans and projects under  
Regulations 63 of the  
Habitats Regulations 2017  
(‘Habitats Regulations Assessment (HRA)’)**

**Casework Tracker/  
Application reference** n/a

**Case/Application title** Individual licences to permit lethal control of Herring Gull and Lesser Black-backed Gull in England

**Assessment made by** Natural England **Date:** 21 April 2020

**Sites considered:** All European Sites (SACs, SPAs) and Ramsar sites within England and all of their component SSSIs

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## PART A: Introduction and information about the plan or project

### A1. Introduction

This is a record of the Habitats Regulations Assessment (‘HRA’) undertaken by Natural England in its role of competent authority and in accordance with the assessment provisions set out in the Conservation of Habitats and Species Regulations 2017, as amended (‘the Habitats Regulations’).

Where a proposal may affect a European Site, Regulation 63 of the Habitats Regulations 2017 requires a prior assessment to be made. Natural England may only undertake or give its authorisation to the plan or project where it is able to ascertain *either*:

- that it will not have a ‘likely significant effect’ (LSE) on a European Site; or
- that it will have no adverse effect on the integrity of a European Site following an appropriate assessment

If such effects cannot be ruled out, the proposal cannot proceed unless the further tests given in regulations 64 and 68 of the Habitats Regulations 2017 can be satisfied.

The assessment must take into account the potential for the project to have adverse effects **in-combination** with other plans or projects.

Although Ramsar sites are not afforded any statutory protection under the Habitats Regulations, as a matter of government policy they are afforded the same protection as European Sites, namely Special Protected Areas (SPAs) and Special Areas of Conservation (SACs).

This is an assessment of the ‘project’ to issue individual licences under section 16 of the Wildlife & Countryside Act 1981 (as amended) to permit lethal control of Herring Gull and Lesser Black-backed Gull in England.

### A2. Details of the plan or project

**Locations:** England \*

\* Natural England’s licensing regime extends to all counties and unitary authorities in England landward of the mean low water mark. Below that mark is the purview of Marine Management Organisation. However, potential effects of the ‘project’ considered by this assessment are not limited by that mark. Additionally, whilst potential effects on all European Sites and all Ramsar sites in England are considered, the extent of this assessment is not limited by their boundaries and instead it examines the ‘project’ in the context of proposals anywhere in England.

#### Description of the plan or project and its constituent elements:

##### Scope

This assessment is of individual licences that permit the lethal control of Herring Gull and Lesser Black-backed Gull at any life stage, including eggs, nestlings, unfledged chicks and fledged gulls. It also covers

nest destruction. Further details about licensable purposes and actions are presented below. These two species are no longer listed under any General Licence in England. The only other type of licence that is in use and permits similar activities is the Class Licence issued for the purpose of preserving air safety. A separate HRA was completed for that particular licence (NE, Dec 2019).

#### Action to be permitted by the licences

Subject to the terms and conditions of any licence issued, actions to be permitted that would otherwise constitute offences described in the ‘Act’ under [section 1\(1\)](#), are here paraphrased -

- (a) kill, injure or take any wild bird;
- (b) take, damage or destroy the nest of any wild bird while that nest is in use or being built;
- (c) take or destroy an egg of any wild bird,

Licences will also permit, where clearly specified, certain actions, for example -

- destruction of eggs by:
  - pricking;
  - oiling using paraffin oil (also known as Liquid Paraffin BP or light/white mineral oil);
  - hand;
- injure (to then humanely despatch) or kill by falconry birds.

The use of prohibited methods described under [section 5](#) of the ‘Act’. Of these, the most likely methods in relation to the ‘project’ are the use of (again, here paraphrased) -

- (1)(c)(iii) automatic or semi-automatic weapons and ammunition combination appropriate for the species concerned;
- (1)(b) nets; but limited to any hand held or hand propelled net to take birds whilst not in flight
- (1)(a) traps that comply with NE’s ‘Standard Licence Conditions for trapping wild birds and using decoys under a Natural England licence’ ([WML-GL33](#)) and ‘The Animal Welfare Act 2006: what it means for wildlife’ ([WML-GU02](#), April 2019), noting that gull species will only exceptionally be licensed as captive decoys in traps.

#### Purposes for which these actions will be permitted

The purposes, or reasons for justifying actions (listed above) under the ‘Act’ are described in [section 16\(1\)](#) -

- a) for scientific, research or educational purposes;
- b) for the purpose of ringing or marking, or examining any ring or mark on, wild birds;
- (c) for the purpose of **conserving wild birds**;
- (ca) for the purposes of the re-population of an area with, or the re-introduction into an area of, wild birds, including any breeding necessary for those purposes;
- (cb) for the purpose of conserving flora or fauna;
- (d) for the purpose of protecting any collection of wild birds;
- (e) for the purposes of falconry or aviculture;
- (f) for the purposes of any public exhibition or competition;
- (g) for the purposes of taxidermy;

- (h) for the purpose of photography;  
(i) for the purposes of **preserving public health or public or air safety** (hereafter ‘PH&S’);  
(j) for the purpose of preventing the spread of disease; or  
(k) for the purposes of **preventing serious damage** to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries or inland waters.

The most commonly licensed purposes (as individual licences) and most frequently justified purposes (all other forms of licences), as indicated by 2019 data are shown in **bold** above.

#### Objectives of individual licences and their activities

Individual licences that permit the lethal control of gulls can be categorised as –

- Culling: the objective is to reduce the local or wider population by lethal control measures;
- Shooting-to-aid-scaring: the objective is to reduce the site’s population with minimal use of lethal control to augment non-lethal deterrents;
- Targeted: the objective is to minimise effects on the site’s population and to only target specific individual birds for lethal control.

The potential to cause ‘effects’ will vary between these different approaches and this is explored in Section B2.1 below.



## PART B: Screening of the plan or project

To check whether a more detailed appropriate assessment is necessary, there are two screening tests required by the assessment provisions of the Habitats Regulations:

### B1. Is the plan or project directly connected with or necessary to the (conservation) management (of the European Site’s qualifying features)?

The projects which Natural England proposes to permit through means of the licenses are lethal control of the wild bird species for the specific reasons listed above in section A2.

Generally, these proposed activities will not form part of the management to conserve or restore the qualifying features of these European Site(s).

Some individual projects, particularly those for the purposes of ‘conserving wild birds’ or ‘conserving flora and fauna’ may be proposed in order to conserve all or some of the features for which the European Sites were designated. However, since a protected site may support multiple qualifying features, the proposed activities, such as shooting, may still have implications for other qualifying features present on that site and thus subsequent steps of HRA will need to be considered. This HRA will assume that additional, potentially sensitive, qualifying features exist on European sites subject to proposed projects.

The assumption is also made that the licences could include land within and outside/ adjacent to European Sites and Ramsar sites.

#### Conclusion:

- ~~As the plan or project is directly connected with or necessary to the management of all of the European Site(s)’s qualifying features, it is considered to be exempt from further Habitats Regulations assessment~~
- As the plan or project is not directly connected with or necessary to the management of European Site(s)’s qualifying features, further Habitats Regulations assessment is required

### B2. Is there a likelihood [or risk] of significant [adverse] effects (‘LSE’)?

This section details whether those constituent elements of the plan or project which are (a) not directly connected with or necessary to the management of the European Site(s) features and (b) could conceivably adversely affect a European Site, would have a **likely significant effect**, either alone or in combination with other plans and projects, upon the European Sites.

In accordance with Court of Justice of the European Union case law, this HRA has considered an effect to be ‘likely’ if it ‘*cannot be excluded on the basis of objective information*’ and ‘significant’ if it ‘*undermines the conservation objectives concerned*’ (Case C127/02 Waddenzee (paras 45 & 47)). In accordance with Defra guidance on the approach to be taken to this decision, in plain English, the test asks whether the plan or project ‘*may*’ have a significant effect (i.e. there is a risk or possibility of such an effect).

This assessment of risk takes into account the “precautionary principle”. It excludes, at this stage, any measures that are specifically intended to avoid or reduce harmful effects on the European Site(s). Any such measures are considered further in section C.

An assessment of potential effects using best available evidence and information has been made in the following sections below.

## **B2.1 Risk of Significant Effects Alone**

The first step is to consider whether any elements of the project are likely to have a significant effect upon one or multiple European Sites ‘alone’ (that is when considered in the context of the prevailing environmental conditions at the site but in isolation of the combined effects of any other ‘plans and projects’). Such effects do not include those deemed to be so insignificant as to be trivial or inconsequential, i.e. *de minimis*.

The ‘project’ involves the proposal by Natural England to assess an uncertain number of applications and to issue licences to permit lethal actions against Herring Gull and Lesser Black-backed Gull, anywhere in England and throughout the year. Permitted actions include shooting gulls and destruction of nests, eggs and chicks. Some licence applications are likely to request to undertake lethal actions at locations within, adjacent, or at least within Maximum Foraging Distance (MFD) of European Sites (SPAs, SACs) and Ramsar sites. Potential impacts from wider scales are also considered.

The ‘project’ presents risk to the following categories of scenarios -

- [Taking action inside or adjacent to SPAs and Ramsar sites and their Functionally Linked Land \(FLL\) that support any other bird species as qualifying features/ named assemblage components.](#) The risk pathways are:
  - Direct but unintentional disturbance to other **bird features** through the course of undertaking licensed actions against the gull species. This could manifest through -
    - Impact on **breeding** bird features (or assemblages) by human presence, vehicle use and discharging of firearms, such as –
      - Disturbance resulting in nest site or colony abandonment, temporary nest exposure leading to exploitation by avian or mammalian predators;
      - Damage or destruction of ground-located nests, eggs and nestlings resulting from trampling and off-road vehicle use;
    - Impact on **non-breeding** bird assemblages by human presence, vehicle use and discharging of firearms, such as –
      - Wasted energy expenditure when dispersing to evade disturbance source, particularly during periods of severe weather and food shortages;
      - Displacement away from favoured optimal locations used for essential activities, e.g. nesting, foraging, roosting and bathing;
      - Distraction alertness and other indicators of lower levels of disturbance resulting in reduced feeding time.

- **Taking action inside Special Areas of Conservation (SACs) and Ramsar sites with no bird features.**  
The risk pathways are:
  - Damage to habitats, flora and potentially other biota, e.g. invertebrates that are qualifying features/ named assemblage components through the course of travelling to undertake actions permitted under licence within that site. This could manifest through -
    - Human trampling or off-road vehicle use resulting in the crushing of biota, or
    - Supporting habitat damage/ substrate compaction.
  
- **NOT taking action inside or adjacent to European Sites and Ramsar sites and their Functionally Linked Land (FLL) that support any biota (particularly other bird species) as qualifying features/ named assemblage component.** The risk pathways are:
  - Where Herring Gull and Lesser Black-backed Gull predate other bird populations. the absence of their licensed control could exacerbate imbalance of the predator-prey relationship resulting in the decline of the prey species population. Highest risk is with ground-nesting and colonial species, the eggs and nestlings of which are susceptible to potentially significant levels of predation by these gull species;
  - Where Herring Gull and Lesser Black-backed Gull populations increase due to the absence or restrictions on their licensed control, this could result in the site’s population decline or dispersal from site of other qualifying feature biota. This could manifest by gulls -
    - outcompeting other biota for prey,
    - outcompeting other biota for available habitat, or displaced by disturbance,
    - stimulating any other demographic limiting influence on other biota;
    - habitat quality deterioration or fragmentation, e.g. where a gull colony, or any other dense aggregation of these gull species results in damage to the supporting habitat of other biota, for instance through guano eutrophication of heathland.
  
- **Taking action inside or adjacent to SPAs and Ramsar sites and their Functionally Linked Land (FLL) that support either or both **Herring Gull and Lesser Black-backed Gull** as qualifying features/ named assemblage components.** The risk pathways are:
  - Direct reduction in numbers of **Herring Gull or Lesser Black-backed Gull** that form part of that site’s population through the licensed destruction and despatch of nests, eggs, chicks and gulls;
  - Targeted and intentional disturbance as a condition of shooting-to-aid-scaring licences to disperse **Herring Gull or Lesser Black-backed Gull** from that protected site, or from parts of that site essential for the functioning and sustaining of those populations.
  
- **Taking action anywhere in England beyond the boundaries of SPAs and Ramsar sites and their Functionally Linked Land (FLL) that support either or both **Herring Gull and Lesser Black-backed Gull** as qualifying features/ named assemblage components.** The risk pathways are:
  - Reduction in the overall national populations of **Herring Gull or Lesser Black-backed Gull** by licensed action to the extent that –
    - Recruitment into SPA populations from the wider national population is significantly reduced;

- Gulls dispersing from the protected site into the wider national population are removed and the number that return has been significantly reduced.

## **B2.2 Risk of significant effects ‘in-combination’ with effects from other proposed plans and projects**

### Other types of licensed lethal control

The suite of licence types that Natural England issues to permit lethal control of Herring Gull and Lesser Black-backed Gull is to reduce in 2020 compared to 2019. The proposed ‘project’ to issue individual licences is to be in conjunction with only two additional types of licences -

- Class Licence
  - CL12; re-issued annually since 2011 to permit registered aerodromes to undertake actions for the purpose of preserving air-safety. Valid to 31 Dec 2019; since amended and renewed.
- Organisational Licence
  - OR19; re-issued biennially to National Grid Electricity Transmission PLC authorising actions to permit essential operation, maintenance or repair of the electricity transmission and distribution network. Currently valid 01 February 2019 to 31 January 2021. Reports on actions taken under this particular licence indicate no actions with respect to the two gull species so in being a highly unlikely pathway can be ruled out as constituting LSE.

All General Licences and interim emergency individual licences that may have listed either one or both of these gull species, expired on or before the 31 December 2019 and have not been renewed.

### Other types of anthropogenic lethal effects

Non-licensable potential anthropogenic ‘in-combination’ impacts -

- Offshore windfarms (OWF)
  - collision risk resulting in direct mortality
  - displacement from foraging habitat. Other HRAs have ruled this pathway out as constituting LSE with respect to the two gull species.

## **B3. Overall Screening Decision for the Plan/Project**

On the basis of the details submitted, Natural England has considered the plan or project under Regulation 63(1)(a) of the Habitats Regulations 2017 and made an assessment of whether it is likely to have significant effects on a European Site (or may have significant effects), either alone or in combination with other plans and projects.

The assessment of LSE relates to the proposal (the ‘project’) to adopt changes to the licensing regime for Herring Gull and Lesser Black-backed Gull in England, specifically the use of individual licences in conjunction with one Class Licence (CL12). It is concluded that LSE risk pathways exist alone, cumulatively and in-combination within and near European Sites, and perhaps throughout England.

**In light of section B of this assessment above, Natural England has concluded:**

- ~~As the plan or project is directly connected with or necessary to the management of all the qualifying features of the European Site(s), no further Habitats Regulations assessment is required [*delete Part C and go to Part D*]~~
- ~~The plan or project is unlikely to have significant effects (either alone or in combination with other plans or projects) on any Qualifying Features of the European Site(s) and no further Habitats Regulations assessment is required [*delete Part C and go to Part D*]~~
- As the plan or project is likely to have significant effects (or *may* have significant effects) on some or all of the Qualifying Features of the European Site(s), an appropriate assessment of the project is required [**go to Part C**].

## **PART C: Appropriate Assessment and Conclusions on Site Integrity**

### **C1. Scope of Appropriate Assessment**

In light of the screening decision in section B, this section contains the Appropriate Assessment of the implications of the plan or project in view of the Conservation Objectives for the European Site(s) and Ramsar sites at risk.

The Qualifying Features and named assemblage components of these designed sites for which significant effects (whether ‘alone’ or ‘in combination’) are likely, or cannot be ruled out, are examined in this Appropriate Assessment from Section C2 below.

### **C2. European Site Conservation Objectives (including supplementary advice)**

Natural England provides advice about the Conservation Objectives for European Sites in England in its role as the statutory nature conservation body. These Objectives (including any Supplementary Advice which may be available) are the necessary context for all HRAs.

The overarching Conservation Objectives for every European Site in England are to ensure that the integrity of each site is maintained or restored as appropriate, and that each site contributes to achieving the aims of the Habitats and/or Wild Birds Directive, by either maintaining or restoring (as appropriate):

- The extent and distribution of their qualifying natural habitats,
- The structure and function (including typical species) of their qualifying natural habitats,
- The supporting processes on which their qualifying natural habitats rely,
- The supporting processes on which the habitats of their qualifying features rely,
- The population of each of their qualifying features, and
- The distribution of their qualifying features within the site.

Where Supplementary Advice on Conservation Objectives (SACO) is available, this provides further detail about the structure, function and supporting processes required by features to maintain the main objectives mentioned above. The implications of the plan or project on specific attributes and on targets described in the advice packages will be taken into account in this assessment.

The ‘project’ covers all of England and therefore this assessment has scoped in examination of all terrestrial, coastal and intertidal European Sites and Ramsar sites and all of their component SSSIs within England. LSE has not been ruled out for any European Site. The overarching Conservation Objectives for all of these sites are summarised above (grey box) and more details about site specific objectives and targets can be found via links provided in Appendix A below.

Seven SPAs and three Ramsar sites (that overlap with three of these SPAs) support either or both Herring Gull and Lesser Black-backed Gull as qualifying features or named assemblage components for breeding and non-breeding features; or are proposed to be as such.

Key to tables below

**B** = breeding; **NB** = non-breeding; **QF** = qualifying feature; **N-C** = assemblage named component; **(p)** = potential, e.g. pSPA or pQF, i.e. the site or feature is at the public consultation or at a later stage and therefore must be considered in HRAs; **□** = the target is caveated in some way

[Alde-Ore Estuary SPA](#) and [Alde-Ore Ramsar site](#)

County: Suffolk

species	designated site	feature	abundance target	indicative condition
Lesser Black-backed Gull	Alde-Ore Estuary SPA	B QF	14,070 pairs	unfavourable
	Alde-Ore Estuary Ramsar			

Lesser Black-backed Gull

**Breeding:** “At classification the breeding population of Lesser Black-backed Gull was 14,070 pairs (derived from the JNCC Seabird Monitoring Programme database; agreed by NE’s Chief Scientist in 2012). After a peak of 23,400 pairs in 2000, numbers have reduced significantly below the abundance target to a 5-year peak mean (2011-2015) of just 1,940 breeding pairs (Joint Nature Conservation Committee (JNCC), 2014)” (NE’s DSV online, 15th September 2017). The feature’s abundance attribute target is to “restore” and latest evidence suggests this bird feature is in unfavourable condition.

[Bowland Fells SPA](#)

County: Lancashire

species	designated site	feature	abundance target	indicative condition
Lesser Black-backed Gull	Bowland Fells SPA	(p)B QF	[4,575 pairs]	favourable?

Lesser Black-backed Gull

**Breeding:** the draft citation to add this species as a qualifying feature provisionally states 4,575 pairs as a target, based on surveys 2009-2011, but there are as yet no formally agreed Conservation Objectives for this species at this SPA. The population has widely fluctuated in response to consented culling of breeding colonies, declining from 18,000 pairs in 2001 to just 3,274 pairs in 2012. Since the cessation of culling, the site’s population has recovered to 10,499 pairs in 2017 (NE’s HRA, June 2019).

[Flamborough & Filey Coast SPA](#) (formerly Flamborough Head and Bempton Cliffs SPA)

County: East Yorkshire, North Yorkshire

species	designated site	feature	abundance target	indicative condition
Herring Gull	Flamborough & Filey Coast SPA	B N-C	[1,421 individuals]	favourable

Breeding seabird assemblage (Herring Gull)

“During the breeding season, the Flamborough and Filey Coast SPA regularly supports 216,730 individual seabirds...herring gull *Larus argentatus*, [and]...are all included under the assemblage feature... Data from the Seabird Monitoring Programme (2008-2011) (Aitken et al., 2011) indicates a population of 1,421 breeding adult herring gulls,” (NE’s DSV online, 13th September 2019). Herring Gull is named, but is not a main component. An extract from the standard ‘Supporting Note’ with Supplementary Advice on Conservation Objectives for European Sites against the diversity target is that, “Each component makes a

*different contribution to the diversity of the assemblage, and changes to some components may be considered to affect diversity more than others. Negative changes to small numbers of relatively important assemblage components may have a similar overall effect to negative changes in larger numbers of less important components”.*

The Herring Gull population carries a lower weight of importance than some of the other species in the breeding assemblage. There is no evidence that its population has declined, nor declined significantly to offset the overall assemblage condition from one that is favourable.

### Isles of Scilly SPA and Isles of Scilly Ramsar

**County:** Isles of Scilly [Cornwall]

species	designated site	feature	abundance target	indicative condition
Lesser Black-backed Gull	Isles of Scilly SPA	B QF, B N-C	3,608 pairs; [3,608 pairs]	Unfavourable Unfavourable?
	Isles of Scilly Ramsar	B QF		Unfavourable

#### Lesser Black-backed Gull

**Breeding:** the SPA was classified in August 2001 and its citation describes 3,608 breeding pairs (count as at 1999). This species declined -26% in the last nine years (to 2015/16) to 2,485 pairs, or -31% since classification. The peak of 4,050 pairs occurred in the early-1980s (Heaney & St Pierre, 2017). The ‘Common Standards Monitoring Guidance for Birds’ (JNCC, version 2004) states that, as a generic threshold, an absolute loss of 25% of a breeding population constitutes unfavourable condition.

**Breeding seabird assemblage:** the SPA [citation](#) states, “...the area supports 26,478 individual seabirds (count as at 1999), including... Lesser Black-backed Gull...”. A comprehensive survey of all the breeding seabirds on the Isles of Scilly was conducted in 2015/16. In summary, “The overall number of seabirds breeding within the Isles of Scilly archipelago in 2015/16 (8266 pairs) has decreased by 9.8% in the last nine years. There has been a 14.3% decline in the SPA population since the SPA baseline...The diversity of the seabird assemblage is almost unchanged since” (Heaney & Paul St Pierre, 2017).

### Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar

**County:** Cumbria, Lancashire

species	Designated site	feature	Abundance target	indicative condition
Herring Gull	SPA	B QF, B N-C	10,000 pairs	Unfavourable; Unfavourable.
		NB N-C	[10,802 individuals]	Favourable.
	Ramsar	B (national)	11,000 pairs (6.9% of GB population)	
Lesser Black-backed Gull	SPA	B QF, B N-C	[10,000] 4,860 pairs;	Unfavourable; Unfavourable.
		NB QF; NB N-C	9,450 individuals	Favourable; Favourable.

	Ramsar	B (national)	22,000 pairs (26.5% of GB population)	
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### Herring Gull

**Breeding:** this was a qualifying feature of the original Morecambe Bay SPA, holding 10,000 pairs according to the citation (1991), representing 7% of the GB population at time of classification, and retrospectively calculated as 1.0% of the biogeographic population.

“Latest data (2011-2015) show the five year peak mean to have declined to 1,596 pairs (0.5% biogeographic population of 340,000 pairs); this value includes birds nesting at South Walney (within Morecambe Bay SPA) and Hodbarrow (within Duddon Estuary SPA). Management action is being undertaken to try to restore the gull colony at South Walney to favourable condition. The principal driver behind the onsite declines is considered to be predator pressure which can be addressed through management.” (NE’s [departmental brief](#), 2016). The original target is retained, therefore latest figure show an -84% reduction.

“There is evidence from ringing studies that gulls hatched can move several hundred kilometres (Coulson & Butterfield, 2009). It is likely that birds nesting in urban areas in Barrow-in-Furness for example originated from Morecambe Bay and Duddon Estuary SPA. They could thus be considered to be within the same meta-population, with birds displaced from the SPA nesting, potentially only temporarily, on adjacent rooftops.” (pers. Tim Frayling (ed.) NE’s HRA, 2019).

**Breeding seabird assemblage:** Herring Gull is a named component of the breeding seabird assemblage. The recently classified, “Morecambe Bay and Duddon Estuary SPA supports a regular aggregation of 6,625 breeding pairs of seabirds (5 year peak mean 2011-2015), a decline from the original citation in 1997 of 20,336 pairs. This decline has been largely attributed to the decrease in breeding gull numbers.” This decline of -67.4% is largely attributed to declines in the SPA’s breeding gull populations.

**Non-breeding waterbird assemblage:** Whilst not a non-breeding qualifying feature in its own right, Herring Gull is a named component of the non-breeding waterbird assemblage. Using data in Table 3 of the departmental brief, the component population is 10,802 individuals (5-year peak mean 2009/10 – 2013/14).

### Lesser Black-backed Gull

**Breeding:** the Conservation Objective for Morecambe Bay SPA, before being amalgamated with Duddon Estuary SPA to form a new SPA classified in 2016, the breeding population target was 10,000 pairs, the count as in 1991.

“Latest data (2011-2015) show the five year peak mean to have declined to 4,860 pairs (2.7% of biogeographic population); this value includes birds nesting at South Walney (within Morecambe Bay SPA) and Hodbarrow (within Duddon Estuary SPA). Management action is being undertaken to try to restore the gull colony at South Walney to favourable condition. The principal driver behind the onsite declines is considered to be predator pressure which can be addressed through management.” (NE’s [departmental brief](#), 2016).

“The most recent count in 2018 was 2,782 pairs, which is significantly below the abundance target level, and therefore in unfavourable condition”. And, “Since the 1998–2002 Seabird 2000 census, South Walney has shown a marked reduction in breeding numbers, and at the same time increases in nearby urban

areas have been recorded; although the declines outweighed the increases (Sellars and Shackleton, 2011)” (pers. Tim Frayling (ed.) NE’s HRA, 2019).

**Non-breeding:** the SPA was recently re-classified with this new feature and its abundance target of 9,450 individuals (5-year peak mean 2009/10 – 2013/14). This represented 7.9% of the GB population and 1.7 % of biogeographical population. “*There is evidence from survey or monitoring that shows the feature to be in a good condition and/or currently un-impacted by anthropogenic activities*” (NE’s SACO, online 13<sup>th</sup> September 2019).

**Breeding seabird assemblage:** This is a named component of the breeding seabird assemblage; see Herring Gull above for details.

**Non-breeding waterbird assemblage:** This is also a named component of the non-breeding waterbird assemblage. When the SPA was re-classified as Morecambe Bay and Duddon Estuary SPA, its target for this feature was re-set to 266,751 individuals (based on 5-year peak mean 2009/10 – 2013/14). This assemblage has increased over recent decades.

**Ribble and Alt Estuaries SPA**

**County:** Lancashire, Merseyside

species	Designated site	feature	Abundance target	indicative condition
Herring Gull	Ribble and Alt Estuaries SPA	B N-C	1,460 individuals	[unfavourable];
		NB (not N-C)	[5,572 individuals]	
Lesser Black-backed Gull		B QF;	8,097 pairs;	Favourable;
		B N-C	3,600 individuals	[unfavourable]

**Herring Gull**

**Breeding seabird assemblage:** This is a named component of the breeding seabird assemblage. Latest evidence shows this component contributes 1,046 pairs (2,092 individuals) and the baseline contribution is 1,460 individuals (i.e. 730 pairs). Although the seabird assemblage is in unfavourable condition, this condition is not driven by the Herring Gull component, which is actually showing a positive trend.

**Non-breeding:** it should be noted that Herring Gull is an un-named component of this assemblage, but it warrants being a named component since the site supports >2,000 individuals or >1% of GB total, which using Musgrove et al (2013) is equivalent to 7,300 individuals.

The latest (2012/13 – 2017/18) peak mean WeBS count data (excluding 2016/17 due to its inexplicable low count) is 5,572 individuals. Many SPA citations omitted gulls and terns from their non-breeding assemblage totals.

**Lesser Black-backed Gull**

**Breeding:** the baseline target for this site has been repeatedly revised upwards from the citation figure of 1,800 pairs, based on a count in 1993. The most recent abundance target of 8,097 pairs is based on counts 2014 – 2016 at the Ribble Estuary National Nature Reserve (the only breeding lesser black-back gull colony in the SPA). The population is considered to be favourable.

**Breeding seabird assemblage:** This is a named component of the breeding seabird assemblage. “*The baseline population number is based on the 5-year peak mean (01/10/2002) (Natural England (NE), 2002)*”

as follows: black-headed gull 23,800 individuals (11,900 pairs - 1996); lesser black-backed gull 3,600 (1,800 pairs - 1993); common tern 364 (182 pairs - 1996); great black-backed gull 10 (5 pairs - 1998); herring gull 1,460 (730 pairs - 1998) and Arctic tern 2 (1 pair - 1999).” (NE’s [SACO](#) online, 13th September 2019).

The Objective for the breeding seabird assemblage is to, “Restore the overall abundance of the assemblage to a level which is above 29,236...”. Counts in 2015, indicate that the seabird population is currently 19,548 individuals. Although this feature is unfavourable, this condition is not driven by the Lesser Black-backed Gull component, which is actually showing a positive trend.

**Solway Firth pSPA** (Upper Solway Flats and Marshes SPA) and **Upper Solway Flats & Marshes Ramsar**  
**County:** Cumbria, Dumfries & Galloway

species	Designated site	feature	Abundance target	indicative condition
Herring Gull	Solway Firth pSPA	NB QF (SNH); NB N-C (NE)	[15,144 birds]	
	Upper Solway Flats & Marshes Ramsar site	[possible B] criterion 6	[7,211 AON, 1.9% GB population]	Not applicable
Lesser Black-backed Gull	Upper Solway Flats & Marshes Ramsar site	[possible B] criterion 6	[2,402 AON, 1.6% GB population]	Not applicable

#### Herring Gull

**Non-breeding waterbird assemblage:** [proposals](#) by SNH and NE to add a marine extension and to re-classify the Upper Solway Flats and Marshes as ‘Solway Firth SPA’ initially elevated Herring Gull to meeting criteria as a qualifying feature in its own right, according to Scottish Natural Heritage (SNH, to become ‘NatureScot’ in May 2020). By NE measures, the species does at least warrant status as a named component of the non-breeding waterbird assemblage by exceeding 1% of its GB population, which transpired following the 2003/04 -2005/6 National Winter Gull Survey. “The largest coastal concentrations are in the Firth of Forth and the Solway Firth and the largest inland concentration on the Roughrigg Reservoir, Strathclyde (15,144 birds)” (Solway Firth Proposed Special Protection Area [proposal](#), 2016). Collectively with existing and other proposed waterbirds, the assemblage would be in excess of 122,000 individuals.

### **C3. Assessment of potential adverse effects considering the ‘project’ alone**

This section considers the risks identified at the screening stage in section B2.1 and assesses whether adverse effects can be ruled out, having regard to the manner in which the plan or project, as submitted and described in Section A2, would be carried out if a permission was granted.

This assessment is concerned with the ‘project’ to change the licensing regime for Herring Gull and Lesser Black-backed Gull in England from 2020 onwards to one that is predominately delivered through Individual Licences. Also considered here are the conditions that Natural England routinely imposes to restrict actions taken under these types of licences. A precautionary view has been taken where there is doubt or uncertainty regarding the likely impact of taking actions under the ‘project’. The ability of additional licence conditions and other measures to further reduce or eliminate potential adverse effects is reviewed in this

assessment by considering their likely effectiveness, reliability, timeliness, certainty and duration over the lifetime of the ‘project’.

In section B2.1 above, broad categories of European Site and credible pathways for potential impacts on their qualifying features/ named assemblage components were identified. These categories and risk pathways are examined here in more detail.

### C3.1 [Taking action inside or adjacent to SPAs and Ramsar sites and their Functionally Linked Land \(FLL\) that support any other bird species as qualifying features/ named assemblage components.](#)

The ‘strategic HRA for individual licences for control of species on the general licences, part 2: effects on SPAs and bird features on Ramsar sites’ ([NE](#), April 2020) assessed licensable methods and actions relating to the lethal control of General Licence listed bird species. It concluded that a number of bird qualifying features, and thus the SPAs and Ramsar sites (plus their underpinning SSSIs), could be ruled out from LSE. Of those species and assemblages that remained as considered to be sensitive, these included three non-breeding species, 32 breeding species (including Herring Gull and Lesser Black-backed Gull) and two breeding assemblage features. These listed species and assemblages are features of 50 SPAs and many of their underpinning SSSIs.

Alongside identifying the sensitive features and sites, that HRA considered the following:

- The likelihood of contact between sensitive features and licensed activity to control general licence species (this was considered through a consultation exercise with Natural England’s Area Teams)
- Application of generic conditions to safeguard sensitive features
- The need for additional site or case level assessment and the attachment of bespoke conditions to licences.

That HRA did not assess the effects of control of the two gull species but the lethal control methods which are considered in that HRA encompass those used for control of the two gull species, and the potential geographic and temporal scope of the licensing covered is the same as that for the two gull species (a licence application could be submitted on any site for a licensing period up to the end of 2020). Thus the conclusions reached in that HRA can also be applied to the project being assessed here. The conclusions are the italic text below:

*It has been ascertained that there will be no adverse effect in the following scenarios:*

- *Where the generic conditions in tables D3.1, 3.2 and 3.3 are applied*
- *Where the classified bird features are not identified as vulnerable in section D3 and Annex 2*
- *Where local factors make it likely that there will be spatial separation between the vulnerable bird species and project activities, as set out in Annex 4*

*In the applications which do not fall within these scenarios, it will be necessary for Natural England’s area team to consider the licence application in detail. In particular they will consider:*

- *The specific locations at which project activities are proposed and their proximity to vulnerable features*
- *The need for bespoke conditions to safeguard against adverse effect.*

*They will undertake further Habitats Regulations Assessments on the detail of both of these points. A licence will be granted only if this concludes that there will be no adverse effect.*

**C3.2 Taking action inside Special Areas of Conservation (SACs) and Ramsar sites with no bird features, and instead supports of habitat, flora or invertebrate features of interest.**

The ‘strategic HRA for individual licences for control of species on the general licences, part 1: effects on SACs and non-bird features on Ramsar sites ([NE](#), April 2020) assessed licensable methods and actions relating to the lethal control of General Licence listed bird species. It took forward four risk pathways to the Appropriate Assessment stage, where it was concluded that adverse effects on integrity could be ruled out and that additional conditions were not necessary as measures to reach this conclusion. Since the lethal control methods which are considered in that strategic HRA encompass those used for control of the two gull species, and since the potential geographic and temporal scope of the licensing covered is the same as in this HRA (a licence application could be submitted on any site within the licensing period up to the end of 2020)) the same conclusions can be applied here. The conclusion are the italic text below:

*Each habitat which is a feature of a SAC or Ramsar site, on account of its flora, and each plant species which is a feature of a SAC has been considered in relation to a range of factors which determine whether there is a risk of adverse effect on integrity. These factors are whether:*

1. *There is a spatial overlap between the feature and the project, i.e. whether the project is likely to be undertaken in locations where the feature exists*
2. *The feature is large enough or widely enough spread not to be significantly affected by the project, given the low scale of effect of trapping*
3. *The feature is found in locations which are physically inaccessible for daily activities, for example if they are too wet or steep to walk or drive on. This factor interacts with the first factor in this list.*
4. *They are inhospitable (or, in the case of species features, occupy habitat which is inhospitable) to the species which may be controlled within the project. This means that the project will not be implemented in these areas. This factor interacts with the first factor in this list.*
5. *The features normally occur in places where the general public are present, which as a rule are places where traps are not set for the species which can be controlled within the project.*
6. *The features are intrinsically robust and unlikely to be damaged by traps or vehicles.*

*Adverse effect on the integrity all of the habitats and flora which are SAC and Ramsar features is in practice ruled out by the first three of these factors. In many cases it will also be reduced or ruled out by the other factors but where any of the first three factors determines that there will be no adverse effect, the other factors have not normally been assessed.*

**C3.3 NOT taking action inside or adjacent to European Sites and Ramsar sites and their Functionally Linked Land (FLL) that support any biota (particularly other bird species) as qualifying features/ named assemblage component.**

The absence of adequate gull control could have knock-on effects in situations where this action is necessary to maintain certain features. For example, where gull control is necessary to reduce predation of a breeding tern colony.

In 2020, the ‘project’ enters a period with different circumstances than those that influenced the licensing of these two gull species up to and including 2019. One outcome is that more stringent technical assessment

criteria will be used to determine the justification of licence applications submitted under the ‘conservation’ purposes; and another is that licensing criteria will be more strictly applied to in order to maintain a sustainable licensing regime that avoids deterioration in the conservation status of these two gull species. These changes are explained in NE’s ‘Lesser Black-Backed Gull and Herring Gull Licensing Changes: A Q&A for licence users and applicants’ - <http://publications.naturalengland.org.uk/file/6494403667689472>. These changes mean that a lower scale of lethal control will be licensed in 2020 and this presents the possibility of increased predation of SPA species and other effects arising from increased numbers of the two gull species on European sites.

However, a prioritisation system will be introduced to ensure that applications with an important conservation purpose are prioritised (see [C4.5.1 below](#)). Where control of lesser black-backed or herring gulls is necessary for the maintenance or restoration of a European site, and the licensing tests are met, an individual licence will be granted for the scale of control which is necessary.

3.4 Taking action [inside or adjacent](#) to SPAs and Ramsar sites and their Functionally Linked Land (FLL) that support either or both **Herring Gull and Lesser Black-backed Gull** as qualifying features/ named assemblage components. AND Taking action [anywhere in England beyond](#) the boundaries of SPAs and Ramsar sites and their Functionally Linked Land (FLL) that support either or both **Herring Gull and Lesser Black-backed Gull** as qualifying features/ named assemblage components.

With regard to the first risk pathway (in blue font above) in this sub-section, the same approach may be applied as for other vulnerable SPA species, described in section C3.1 above. To ensure no likely effects on herring gull and lesser black-backed gull SPA features, escape assessment, all of the SPAs listed in section C2 above have been added to the internal list of sites which are vulnerable and must be safeguarded by either:

- the use of generic conditions, or
- through a requirement for site or case level assessment and the use of bespoke conditions where necessary .

Also, as alluded to in Section 3.3, strict technical assessment criteria and monitoring procedures will ensure that the scale of licensing does not reach levels which could have an adverse effect on Herring Gull and Lesser Black-backed Gull features .

However, despite these new measures and restrictions, the ‘project’ has inherent risks that could manifest as ‘**cumulative effect**’ and thus are assessed in the next Section **C4**. The effect of these cumulative effects ‘**in-combination**’ with other anthropogenic influences are assessed in Section **C5**.

#### **C4. Assessment of potential ‘cumulative’ adverse effects of the ‘project’ alone**

The risk of ‘cumulative’ effects is considered here. This is not to be confused with ‘in-combination’ effects which are considered in the next section. This examines the potential for any appreciable effects from a

succession of individual impacts by the existing or proposed plans/ projects, which even if have each been assessed and authorised in isolation as being trivial or insignificant, could, given sufficient time, accumulate to become significant enough to result in an adverse effect on site integrity.

The ‘project’ essentially describes a licensing regime to be made up of individual licences that incrementally deliver a succession of individual potential impacts. Whilst measures described above will adequately avoid and mitigate potential impacts by each individual case “alone” through scrutiny of each at the technical assessment stage and by restrictions imposed as licence conditions through the internal consultation procedures, the cumulative effect by all licensed actions upon gull features of SPAs requires further assessment.

In Section C3.4 above, the assessment of the ‘project’ inside or adjacent to the designed site reaches out further than for many other bird features due to the highly mobile nature of both Herring Gull and Lesser Black-backed Gull. Furthermore, it is reasonable to assume that European Site populations of these two gull species intermix with their wider national and biogeographical populations. If cumulative licensed lethal control of these species throughout their range could generate sufficient impact to result in population declines, then there is a risk of impact cascading down to the site scale. This risk could hypothetically occur in one or two ways – gulls that disperse from a European Site and do not return due to their removal by licensed action, or gulls raised at breeding sites elsewhere that would otherwise have recruited into the site’s population do not due to their removal by licensed action.

The concept of examining potential impacts on European Site bird feature population abundance over vast distances is not unprecedented – for example the assessment of impacts on Gannet *Morus bassanus* from off-shore wind farms located hundreds of kilometres away from their colonies.

However, for this risk pathway to become *credible* with cumulative effects of licensed activities extending beyond the ordinary scope of the HRA and other protected site assessment processes, a number of factors would need to be apparent - i) these wider national or biogeographical scale populations of gulls would need to be susceptible to this impact, perhaps with relatively poor ability to recover and perhaps already in decline due to other factors; ii) licensed lethal control would need to be persistent, widespread and intense enough to influence populations at wider scales; and iii) significant exchange between gull populations of European Sites and their wider biogeographical population would need to exist, i.e. the maintenance of site populations is reliant on recruitment from the wider population of that species. These three factors are investigated below to determine whether or not the risk is credible.

#### C4.1 Conservation status of Herring Gull and Lesser Black-backed Gull

The current breeding populations of Herring Gull and Lesser Black-backed Gull in England are unknown. A national survey, coordinated by the JNCC, commenced in 2019. The latest published population estimates are those made by Avian Population Estimates Panel (APEP4; [Woodward et al, 2020](#)), which used survey data that refers back to Mitchell *et al*, 2004 and ‘Seabird 2000’, the survey data for which was obtained 1998 - 2002. Therefore gull population estimates published in 2020 are actually 20 years old.

The most recent Birds of Conservation Concern (BOCC4) report ([Eaton et al, 2015](#)) describes Herring Gull as **red-listed** due to long-term decline (-60%) in its breeding population, and for its shorter-term decline (-53 to -60%) in its non-breeding population. It describes Lesser Black-backed Gull as **amber-listed** due to 70-80% of its breeding population being located at ten or fewer sites. “*The UK breeding Lesser Black-backed Gull population trend has reversed, with a 32% decline between 2000 and 2011 (Balmer et al. 2013),*

corresponding to a 31% fall in England (JNCC 2012) (Fig 3). This trend is largely influenced by population crashes at the key breeding sites that held a large proportion of the UK’s breeding population” ([Ross-Smith et al, 2014](#)).

Using Seabird 2000 figures (Mitchell *et al*, 2004 cited by JNCC online), the UK supported 18.5% of the biogeographical breeding population of [Herring Gull](#) *Larus argentatus argenteus* and 12.1% of its World population. The UK also then supported 62.6% of the biogeographical breeding population of [Lesser Black-backed Gull](#) *Larus fuscus graellsii* and 38.4% of the World population.

However, disparities exist in the fortunes of populations at a more localised scale. Both Herring Gull and Lesser Black-backed Gull have experienced breeding range expansions inland, including nesting within urban areas (e.g. Raven & Coulson, 1997; Rock 2005), especially West Midlands, West Country and Greater London. The number of 10 km<sup>2</sup> occupied by Herring Gull and Lesser Black-backed Gull in Britain from 1988-1991 to 2008-2011 has increased by +40% and +63%, respectively (Balmer *et al.* 2013, also [online](#)).

By contrast, available evidence suggests declines in the breeding, ‘natural-nesting’ populations of both species in the UK, i.e. colonies located in rural areas. Population trends 2000 - 2015 estimated declines of -39% and -41% in ‘natural-nesting’ Herring Gull and Lesser Black-backed Gull, respectively (JNCC, [online](#)). Low productivity rates, partly caused by predation, are a key demographic limitation on recovery for both species, and low adult survival rate may be an additional factor limiting Lesser Black-backed Gull (JNCC, [online](#)).

In summary, it appears that ‘natural-nesting’, rural gull populations more clearly meet the criteria of vulnerability to impacts compared to roof-nesting, urban gull populations, but overall at the national scale gull populations may have experienced significant levels of decline and the risk of impact is credible.

#### C4.2 Licensed lethal control impact on Herring Gull and Lesser Black-backed Gull

An interim individual licence process was introduced after the General Licences that listed these gull species were revoked in April 2019. These interim emergency licences had no restrictions on the numbers of birds that could be taken nor on the number of sites where action could be taken, and so in many respects approximated to permissions under the former General Licences. This offered an unprecedented opportunity to explore levels of lethal actions taken against Herring Gull and Lesser Black-backed Gull across the spectrum of licensing in a comprehensive way.

A telephone-based sample survey of these interim individual licence holders was conducted by NE in summer 2019. Sampling was stratified by site size category, figures were then extrapolated to provide estimates for each of these site categories. These sub-totals were then summed to provide overall estimates with calculations performed separately for each age class and for both gull species.

All Individual Licences and Class Licences require licensees and registered persons to report on actions taken. Available reporting data from recent years from all forms of licences were examined in-combination with the interim individual licence extrapolated estimates. Final sets of results are presented in Tables 1A and 1B below. In both, the y-axis shows licensable purpose categories and the x-axis gull age-classes. There are also two ‘SITES’ columns. Figures in the ‘*Total*’ column indicate total numbers of licensed or registered sites and the ‘*Used*’ column figures are actual or extrapolated totals of sites where licensed action was actually taken in 2019. Delays with issuing some of these interim individual licences led to

many being issued too late in the season to be used and thus ‘Used’ figures, particularly for Lesser Black-backed Gull, which was nearly entirely reliant on this form of licensing April - December 2019, are artificially lower than would be expected in a typical year.

Considering that some stratified sample sizes were small and that licence reporting in 2019 did not request differentiation between chicks and gulls killed, these results must be regarded cautiously with large margins of error. For some combinations the symbol ‘?’/ ‘??’ is entered to indicate insufficient or no data available; and ‘+’ indicates where in reality the actual level is likely higher than stated, and ‘<’ indicates where the actual level of activity is likely lower.

Use of figures shown in green is expanded on later in this assessment; these are licensable purposes that mostly relate to rural, or mixed rural/ urban populations of these gull species.

Note: Decimal points that were simply by-products of calculations have mostly been rounded up and removed; some figures are indicative and should not to be taken as precise.

Table 1A: estimated totals of licensed activities involving Herring Gull in England in 2019

Herring Gull	nests destroyed	eggs destroyed	chicks destroyed	gulls killed	SITES	
					Used	Total
conservation	265	725	??	1498	68	74
PH&S	4113	15030	?+	<745.5	90	256
serious damage	0	0	??	20	2	3
air safety	0	13	?	393.5	27	27
disease	0	0	??	100 ?	1	2
falconry	0	0	0	20.5	6.5	17
<b>TOTAL (all):</b>	<b>4378</b>	<b>15767</b>	<b>??+</b>	<b>-2777.8</b>	<b>194.5</b>	<b>379</b>
<b>TOTAL (green):</b>	<b>265</b>	<b>738</b>	<b>??</b>	<b>2032 ?</b>	<b>104.5</b>	<b>123</b>

Table 1B: estimated totals of licensed activities involving Lesser Black-backed Gull in England in 2019

Lesser Black-backed Gull	nests destroyed	eggs destroyed	chicks destroyed	gulls killed	SITES	
					Used	Total
conservation	??	??	134.4	2350.5	30	330
PH&S	7639	26231.4	30.5+	15.2+	55	184
serious damage	??	??	??	507.1	15	149
air safety	0	74.7	0	471.2	27	27
disease	??	??	??	??	0	5
falconry	0	0	0	10	4	7
<b>TOTAL (all):</b>	<b>7639.5+</b>	<b>26306.1+</b>	<b>164.9+</b>	<b>3354.0+</b>	<b>131</b>	<b>702</b>
<b>TOTAL (green):</b>	<b>??</b>	<b>??</b>	<b>134.4+</b>	<b>3338.8+</b>	<b>76</b>	<b>518</b>

Returning to the question about whether or not lethal control has been sustained, widespread and intense enough to influence populations at wider scales, The ‘Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds “The Birds Directive”’ ([EC, 2008](#)) is used here to define a sustainable level of lethal control..

This proposes that a threshold of “small quantities” should be fixed as a given percentage of the total annual mortality of the population(s) concerned by derogations (section 3.5.31). It further quantifies this as *“the taking must have a negligible effect on the population dynamics of the species concerned. A figure of 1% or less meets this condition as the parameters of population dynamics are seldom known to within less than one percentage point and bird taking amounting to less than 1% can be ignored from a mathematical point of view in model studies”* (3.5.34).

The 1% value is described as being undetectable in mathematical model studies and thus presented as a universal standard approach that is not based on known species population dynamics. Given the broad range of demographic rates and influences of limiting factors, some bird species will be able to sustain relatively higher levels of artificially induced mortality than others. In respect of this, the Guidance also states, *“For abundant species with a favourable conservation status, taking in excess of the 1% threshold (up to 5% of annual mortality) may be considered following an in-depth scientific analysis by the competent authority which authorises the derogation.”* (3.5.42).

Both Herring Gull and Lesser Black-backed Gull are abundant species in England with non-breeding populations numbering in the hundreds of thousands of individuals. Also, since NE is able to perform ‘in-depth scientific analysis’, use of the 5% figure appears justified as an indication of a sustainable level of lethal control. However, since ‘natural-nesting’, rural gull populations are more clearly vulnerable to impacts than roof-nesting, urban gull populations, it is necessary to consider whether this sustainability threshold could be applied differently in rural and urban contexts.

Rural versus urban gull populations

Gull colonies located in urban areas have increased in abundance and range (e.g. Raven & Coulson, 1997; Mitchell *et al.* 2004, Rock 2005, Balmer *et al.* 2013); in contrast ‘natural-nesting’ rural colonies are declining (e.g. JNCC’s SMP report, 2020 *in prep.*). These diverging population trajectories were taken into account when exploring the 5% figure with the result of focussing on the more vulnerable ‘natural-nesting’ rural population.

Extracted from Table 1A & 1B above, figures shown in green font against those licensable purposes that predominately involve rural gull populations are summarised in Table 2A & 2B below. From these totals, the ‘gulls’ column figure is compared against a number that represent 5% of annual natural mortality of rural populations in England for each gull species. The corresponding difference between levels of licensed activity in 2019 and sustainable levels of licensed activity is represented as a percentage change.

Table 2A: estimated totals of licensed activities involving Herring Gull from rural populations in England in 2019 compared to a sustainable level of harvest and corresponding difference.

Herring Gull	nests	eggs	chicks	gulls	SITES	
					used	total
TOTAL (green):	265.1	737.7	??	2032.3 ?	104.5	123
5% mortality				600		
% drop required to meet 5%				-70.5%		

Table 2B: estimated totals of licensed activities involving Lesser Black-backed Gull from rural populations in England in 2019 compared to a sustainable level of harvest and corresponding difference.

Lesser Black-backed Gull	nests	eggs	chicks	gulls	SITES	
					used	total
TOTAL (green):	??	??	134.4+	3338.8+	76	518
5% mortality				900		
% drop required to meet 5%				-73.0%		

The results show that the licensed lethal control of both gull species would need to reduce by over two-thirds, or by nearly three-quarters, to meet a sustainable threshold set at 5% of annual natural mortality. These results suggest that licensed lethal control of gulls has been at levels that could impact on gull populations at the national scale.

The potential impact described above from licensed lethal control of gulls does not take account of the additional impacts of licensed removal of nests, eggs and chicks. Section C5 will describe measures to be implemented to ensure that all forms of ‘in-combination’ licensed action (including the Class Licence) are appropriately accounted for in order to avoid impacts that might otherwise cascade down to the site level.

#### C4.3 Interrelationships between gull populations

Levels of exchange between SPA/ Ramsar site populations of gulls and their wider national or biogeographical populations are explored here. Both gull species are highly mobile and this assessment has already touched on divergence in the population trajectories, put concisely, declines in rural/ ‘natural-nesting’ populations in contrast to increase and expansion shown in urban/ ‘roof-nesting’ populations. It appears likely that gull populations are re-distributing, with migration to conurbations from the countryside. Not all gulls show philopatry or return to their natal colony, sometimes switching to colonies located several hundred kilometres away. There is good evidence of this through ringing studies and other research, and exchange between colonies has been known for decades, e.g. Herring Gulls from the Isle of May (Parsons & Duncan 1978, cited by Sellers & Shackleton 2011). And annual rates of increase in the numbers of Herring Gull nesting in towns in Great Britain in decades up to the 1970s was found to be at a rate so high as to almost certainly involve birds recruiting from natural sites (Monaghan & Coulson 1977).

This rapid colonisation of urban centres was at that time postulated as resulting from birds moving away from saturated, high-density colonies of gulls in natural areas, chiefly located in the west of Britain, seeking new nesting sites (Monaghan & Coulson 1977). However, the main mechanism for colonisation may have changed over recent decades, or at least it is now recognised that more than one factor is influencing gull re-distribution. Some coastal gull colonies, including of the site populations of some SPAs, have drastically declined due to pressures that include predation of ground-nesting colonies; also changes in the availability of food sources, disease outbreaks and flooding, resulting in poor productivity, reduced survival, and also emigration. In short, multiple mechanisms can potentially drive gulls to spurn their natal colonies.

Also, as shown in Cumbria, decreases at coastal colonies are greater than corresponding increases in urban areas (Sellers & Shackleton 2011), so overall population decline is inferred.

Lesser Black-backed Gulls colour-ringed at the formerly large colony at Alde-Ore Estuary SPA as both chicks and adults have subsequently been found breeding in several urban colonies relatively close by (e.g.

Felixstowe, Ipswich and Lowestoft), while others are further afield, including Norwich, Greater London, Gloucester, Swindon and Worcester, as well as Rotterdam and Zeebrugge (Ross-Smith, 2014). This is another example of evidence of former SPA gull populations moving to urban areas. Evidence of movement of gulls in the opposite direction is more scant, but reliable. One example of colonisation from an urban/‘roof-nesting’ site back to a SPA is of Lesser Black-backed Gull moving from Bristol to Bowland SPA (Ross-Smith et al, 2014), where the colony has expanded since large scale control ceased. The Lesser Black-backed Gull colony on Isle of May, Scotland increased dramatically due, in part, to immigration recruitment following cessation of culling (Wanless et al 1996). It is a credible and logical assumption that if favourable opportunities exist, gulls have the potential to re-colonise rural sites, including from urban sites.

Also, evidence is clear that aggregations of gulls wintering on estuarine sites, where they often roost overnight, comprise significant proportions of individuals from beyond that site’s resident population. For example the Herring Gull ‘non-breeding feature’ of Morecambe Bay & Duddon Estuary SPA has a population of 10,802 individuals (2009/10-2013/14), but the ‘breeding feature’ of that SPA comprises of only 1,596 pairs (2011-2015). By making standard assumptions about a productivity rate, survival and proportions of non-breeding immatures that may be resident in summer but not counted in the baseline target, an estimated ‘resident’ population of 7,037 Herring Gull is still only c. two-thirds of the total that winter there, so approximately a third must commute or winter on that SPA from outside of it.

#### C4.4 Summary and conclusions

Effects on SPA population abundance by reductions in national population, beyond the usual scope of FLL considerations, only becomes a credible risk if a number of factors contrive to cause this. Drawing on evidence (presented in Sections C4.1-C4.3 above) about the three main criteria that influence the pathways described in C3.4, it is concluded that the risk is credible and that lethal control, if it was to reach the same level as licensed in 2019, could have an adverse impact that would cascade down to the SPA/ Ramsar site level.

#### **C4.5 Measures to avoid adverse impact from cumulative effects**

A number of measures are described along with the ways each of these will contribute to reducing the risk of adverse impacts. As explained in Section C4.4 above, a credible risk exists beyond the normal limits of FLL considerations. All of these measures will, or have already been, implemented.

##### C4.5.1 Casework prioritisation

In a scenario where licence application proposals collectively threaten to exceed site-level or national-level sustainable thresholds, a casework prioritisation mechanism will be triggered. This is a way to prevent adverse impacts but will still allow prioritised cases to be licensed.

Casework prioritisation is not to be confused with the strength of the evidence in support of the justification. This will have to be dealt with at the technical assessment stage. Working instructions and guidance in the IGNs describe what evidence is required to satisfy licensing criteria. Casework that fails any one of these licensing tests will be rejected and therefore not subject to the prioritisation procedure.

Prioritisation will be based on two main criteria that are interdependent but not of equal weight. Emphasis will be placed on licensable purpose, the effect being that where two hypothetical cases have similar strengths of justification, the case submitted under the prioritised purpose will score more highly than the

other. Public health and safety (PHS) cases will be given a higher weighting than other purposes, though important applications submitted for a conservation purpose will be prioritised above non-critical PHS applications. The cost-benefit of ‘conservation’ purpose applications will be central to the prioritisation procedure. The ‘cost’ is a function of the number of gulls to be subject to lethal control and benefit a function of the gain to other species by undertaking that action to remove those gulls.

Casework can be ranked and made comparable by attributing to it a numerical score. The score will be a product of three sub-scores – one relating to the licensable purpose, one relating to the risk or chance of the problem occurring and the third sub-score relates to the size of the hazard or problem. A centralised casework recording system will include a field to input this score. A score is only needed for licence applications that satisfies the licensing tests relating to purpose and alternatives, and provisionally satisfies the other test, which is about the impact on the target species and therefore includes conservation of these gulls (the application species) as a consideration of the proportionality test. These cases will be held temporarily for their final prioritisation procedure assessment. Cases that are screened by this procedure and that are successfully licensed will have fully satisfied all four licensing tests. If the prioritisation procedure is not required because sustainable thresholds relating to the SPA have not been reached, the fourth licensing test will automatically become fully satisfied.

This way, despite limits imposed on the numbers of gulls that can be subject to licensed action, gull control that is absolutely necessary for the recovery or maintenance of SPA features will still be licensed.

#### C4.5.2 Defining sustainable thresholds for rural populations of gulls

C4.5.2.1 Section C4.2 above notionally introduced a national threshold based on a total that represents 5% of natural annual mortality of the rural populations of each gull species. The EC Guidance referred to states that deviation from the standard 1% up to 5% should be subject to, “*an in-depth scientific analysis by the competent authority which authorises the derogation.*”

To satisfy this, [NE’s PVA Phase II](#) publically-accessible population growth modelling tool was used to perform trial analyses of multiple scenarios. Variables used were demographic rates (e.g. productivity) and proportions of impacts at different age classes, all based around applying the 5% rate to immature and adult gulls.

C4.5.2.2 This next sub-section describes key issues in the data preparation and the analysis performed.

Figures presented in Tables 1A, 1B, 2A and 2B above are based on incomplete data; and the PVA tool uses different age-classes in its analyses from those age-classes reported by licensees. Some data preparation was needed before its analysis was possible.

The numbers of Herring Gull chicks destroyed under licence is absorbed by the ‘gulls’ column figures (Table 1A) due to the way that information is reported to NE by licensees. To partially resolve this, it is assumed (due to similar clutch sizes) that the proportion of chicks compared to adults is similar to that shown in Lesser Black-backed Gull (Table 1B). From this, calculations then show the proportions of eggs plus chicks taken is 85.8% and 88.8% of licensed activities for Herring Gull and Lesser Black-backed Gull, respectively. The remaining 14.2% and 11.2% are the killing of adult and immature birds; these calculations exclude nests. Casework relating to both urban and rural-themed casework was used in these particular calculations.

To improve the rigour of population modelling analysis and investigation of the sustainability of the 5% threshold, this figure was converted using a simplified ‘life-table’, guided by published research (e.g. Furness & Trinder, 2014), to split it proportionately between immature gulls and adult gulls. Current rural gull population estimates were calculated using published population change indices since the last national survey. For these purposes, rural-based colonies are those where surveys identified gulls as not ‘roof-nesting’.

These various proportions could then be used in the PVA model. Its primary use is to quantify projected differences to a ‘baseline’ gull population that has no anthropogenic impacts, compared to what happens if numbers of eggs, chicks and gulls are removed from that population annual; this projection is called the ‘counterfactual’ population.

Example extracts of some model inputs are tabulated below to show the data preparation needed to allow analyses. Reference notes are placed against some of these figures; see below. The first row of numbers shows a set of provisional thresholds that are to be licensed and the second row converts those into life-stages used by the PVA tool. This explains why reference is made above to a ‘life-table’ and research to estimate proportions of immature to adult gulls. Note that in this example, the scale used is national. The tool can equally be used at a site scale with suitable threshold inputs set accordingly.

scale	Threshold	Herring Gull				Lesser Black-backed Gull			
		Nests	Eggs + chicks	immature	adult	Nests	Eggs + chicks	immature	adult
national	Numerical	1800 <sup>3</sup>	5400 <sup>2</sup>	600 <sup>1</sup>		2700 <sup>3</sup>	8100 <sup>2</sup>	900 <sup>1</sup>	
PVA inputs:			5400	330 <sup>4</sup>	270 <sup>4</sup>		8100	477 <sup>4</sup>	423 <sup>4</sup>

<sup>1</sup> figure is based on calculations of 5% of the annual natural mortality rate total in England of ‘natural’/ rural populations of each gull species. Maintaining overall licensed totals below these national thresholds is regarded as sustainable.

<sup>2</sup> national thresholds for nests, eggs and chicks (combined) is calculated using a 90:10 ratio derived from the national thresholds for gulls. This ratio is based on weighting expected levels of demand for licensed action (based on 2019 data) against numbers of gulls.

<sup>3</sup> calculated as a third of the eggs and chicks combined total given an average clutch of three eggs. Since eggs and chicks are always associated with nests, the impact of nest destruction is excluded to avoid double-counting. Although nests alone are not always associated with eggs or chicks, given the ability of gulls to re-build (elsewhere), nests are also excluded as an impact from this perspective too.

<sup>4</sup> based on 45% adults, 55% immatures (Herring Gull) and 47% adults, 53% immatures (Lesser Black-backed Gull) based on ‘life-table’ and research.

Test results are shown by the PVA model as 5-year intervals and can be set to predict results decades into the future. The counterfactual population growth rate figures produced are absolute percentage change from the baseline. Some further calculations are therefore needed to express the *relative* change that impacts will have. To be sustainable, outputs will need to show gull population growth rates as not being deteriorated by the licensing regime. Although results from the model are only provisional, the thresholds to be used in the ‘project’ will all be well inside the limits that allow the populations of both species to maintain or recover towards meeting FCS targets.

### C4.5.3 A sustainable approach to urban populations of gulls – ‘integrated management plan’ strategy

Where not already subject to control measures, gull colonies based in urban areas generally experience relatively better productivity and these populations are, generally, increasing and expanding. However, since there is good evidence of gulls moving into urban areas from more natural and coastal locations, including exchange between SPAs and local towns (e.g. Barrow and Morecambe Bay SPA; Felixstowe and Alde-Ore Estuary SPA), maintenance of overall national populations and perhaps some SPA populations appear increasingly reliant on these urban areas as a source of recruitment. Some rationalising in the approach taken in the management of gulls within the urban environment is therefore needed to avoid adverse impacts.

Urban gull casework is characterised by roof-nesting or otherwise nesting within the built-environment, and will typically be for the purpose of preserving public health and safety. This category of licensing will include gulls nesting on -

- *“land and buildings within villages, towns and cities;*
- *power stations, business units and major industrial buildings;*
- *schools, universities and hospitals”* (NE, [2020](#))

Despite sometimes being close to a built environment, casework excluded from this theme and thus will be rural casework, includes -

- *“landfill sites; airports and aerodromes; ports; farm; reservoirs, fisheries and other large water bodies; nature reserves; and shooting estates”* (NE, [2020](#))

The ‘measure’ is to introduce a strategy that focusses on long-term and effective non-lethal, alternative measures to resolve or alleviate gull-related conflicts in our urban area, with less reliance on lethal measures. The vision is to achieve sustainable and harmonious cohabitation with gulls, not to eradicate them from the built environment. Delivery of this strategy will be through ‘Integrated Management Plans’ (IMP) that must accompany licence applications that involve urban casework. These IMPs will identify the opportunities exploited by gulls for nesting and scavenging and will set out the management and control methods to address these strategically.

Effective IMPs may result in localised declines in urban populations, but this should occur by displacement of gulls to alternative nesting sites, not their lethal control. Ideally, repatriation of colonies to protected sites would be a positive outcome for European Sites, although this may demand resourcing remedies at those sites to resolve issues that led to that site’s abandonment. For example, undertaking mammal predator control, reducing recreational distance, or re-instating suitable nesting habitat.

This strategy effectively introduces a stricter assessment of the alternative measures licence test. A failure to take reasonable steps to adopt an IMP could result in the rejection of applications that propose lethal actions. The overall effect is expected to reduce levels of licensed lethal action.

#### C4.5.4 Early warning system

NE has internal consultation procedures to ensure that mitigation measures that arise through the HRA process are implemented to avoid adverse impact to interest features. This process works relatively well. However, as described above, ‘cumulative’ potential impacts by multiple licence applications collectively

create credible risks to European Sites with gull features that reaches beyond the normal scope of HRAs. A new ‘early warning system’ will be introduced to augment existing procedures to help with this.

The system will use Arc-GIS to map casework and provide spatially defined, cumulative totals of the different types of actions proposed to be licensed. Thresholds will be built into this system that represent adverse effect. Where cumulative totals trigger these thresholds, site specific HRA will consider mitigation measures that can be imposed to avoid this impact *before* individual licences are issued. The ‘early warning system’ will collate information from all forms of individual licences and class licences for Herring Gull and Lesser Black-backed Gull, and detailed at all age classes (nests/ eggs/ chicks/ birds).

Gull licensing casework has seasonal peaks and troughs. From 2020, the gull licensing regime will invite customers to submit applications during a specified window in preparation for the peak spring/ summer season and for the rest of the year ahead. Inviting submissions during a defined and narrow window will assist the operational effectiveness of the system.

The centralised and cumulative collation and analysis of all gull control actions proposed under licence applications and class licence registrations will allow casework within ‘scoping’ areas around each SPA to be examined alone and cumulatively, and to either ‘screen-in’ or ‘screen-out’ cases for consideration against the ‘LSE’ test for each relevant protected site, depending on the level of association gulls at each application site has with the SPA.

*Distances* – the ‘large gull licensing’ [IGN V3.2](#) (NE’s internal working instructions, Aug 2019) introduced ‘scoping-in’ distances for HRAs under its section on ‘designated sites’. These distances are highly precautionary, taking into account a number of notable aspects about these gull species –

- very mobile, able to commute tens of kilometres daily to forage (with awareness that, particularly Lesser Black-backed Gull, also migrates distances of thousands of kilometres);
- examples exist of large numbers of gulls displaced from, or have emigrated from protected sites into urban areas (where remedies have yet to resolve threats/ pressures on the European Sites and IMPs have yet to effectively displace gulls from urban areas);
- absence of alternative established prescriptions for these gull species (e.g. Impact Risk Zone ([IRZ](#)) guidance; WebMap2 / MAGIC IRZ\_layers).

*Cumulative total* – at the individual site level, an HRA will be launched at case or SPA level if impacts increase by  $\geq 1\%$  of that protected site’s (or a standardised) natural mortality rate. The standard benchmark of  $\geq 1\%$  of a protected site’s current population will be used to signify adverse effect at the ‘appropriate assessment’ stage of an HRA, unless sound ecological reasons exist to deviate from these levels, such as through PVA modelling. [Note, the 1% proportion is derived from JNCC’s SPA and SSSI selection criteria which often uses 1% of a population as a basis for meeting criteria; see JNCC [online](#)].

Note that triggers expressed here differ from the 5% of annual mortality rate threshold, which relates to rural populations at the national scale.

Where it has not already been ascertained by this or another strategic HRA that there will be no adverse effect on integrity, each protected site’s SPA or licence specific HRA, if triggered, will appropriately consider the likelihood of effects and if necessary, that mitigation options are considered including reducing numbers on licences, rejecting certain licence applications through a prioritisation procedure (see below), or adding spatiotemporal conditions that further restrict actions.

#### C4.5.5 Additional measures to reduce cumulative effects of individual licences

A number of tools and mechanisms are proposed to impose restrictions on proposals to avoid impacts at the site and national scales. Additional measures to those already described in this assessment:

*Application assessment* – criteria to justify licensed action will be more stringent than in the past. The ‘Licensing lethal control of birds for the purpose of conservation’ ([SD/IGN/2017/002](#)) is to be followed. Applicants will need to provide robust evidence demonstrating the significant detrimental contribution that gulls are having, or are anticipated to have, on the conservation of the species of concern. Also, there will need to be a high degree of confidence that intervention through licensed action on the gull species will contribute in a positive way to the species of conservation concern.

*Licensing solution* – where gull-related issues involve large numbers of gulls, the ‘shooting-to-aid-scaring’ strategy is to be used, not licences that aim to significantly reduce populations by lethal action.

*Limit licensed totals* – working instructions will set upper limits on the numbers of gulls to be expressed on each licence that can only be exceeded under particular circumstances. Emphasis will be on targeting individual gulls that are the main causes of the problem.

#### **C4.5 Can ‘no adverse effect on integrity’ through cumulative effects be ascertained?**

Yes; implementation of the raft of measures described above (also summarised in section D below) will ensure that potential alone and cumulative effects of all individual licence application will be considered and appropriately mitigated. Since individual licence applications will continue to be submitted, assessed and a proportion of those licensed, the ‘project’ will continue to be furnished with up-to-date, quantitative and objective information by the tools to be built to support the ‘project’, thus it will remain under constant monitoring. Where impacts need to be averted, additional measures, e.g. the prioritisation procedure, will be launched.

#### **C5. Assessment of potentially adverse effects considering the project ‘in combination’ with other proposed plans and projects**

The risk of ‘in-combination’ effects is considered here. This examines the potential for any appreciable effects from other existing or proposed plans/ projects, which when combined with the current proposal, the credible risk will be significant enough to result in an adverse effect on site integrity.

##### **C5.1 Other types of licensing in England**

In addition to individual licensing (the project), the only other type of licence brought considered able to contribute to a likelihood of significant effect is the Class Licence (CL12) ‘Birds: licence to kill or take them for air safety purposes’ ([CL12](#)) valid from 01 January 2020.

Typical class licences issued by NE do not set limits on numbers of birds, creating the potential for high numbers to be controlled and for this only to become apparent to the licensing authority after that action has already taken place. This could present an ‘in-combination’ risk.

To negate this risk, new conditions to this annually issued licence were introduced following measures described in its strategic HRA (NE, 2019). It requires -

- additional information at registration (by 31 January) about the numbers of gulls (including nests and eggs) anticipated to be taken at each registered site during the term of the licence (valid one year);
- the registered person must inform NE of updated figures if anticipated level of control of these gull species is expected to exceed levels proposed at the time of registration;
- actions within 300 metres of protected sites to be restricted to periods outside of the peak season for the bird features of interest it was classified/ notified for.

This modified class licence permits actions under restricted circumstances. Typically only modest numbers of registered persons use it and the majority of actions occur at predictable locations (as indicated by licence return information). Provided that persons can operate under its many specified conditions, this licence is unusual in that it permits actions on all SSSIs and European Sites in England under s.281 of the Wildlife and Countryside Act 1981.

### **C5.2 Other gull licensing in Great Britain**

Scottish National Heritage (SNH) re-issued a set of [General Licences](#) valid until 31 March 2020 unchanged from those in 2019. These continued to list Herring Gull and Lesser Black-backed Gull under the PH&S and disease licence (GL 03/2020; with the requirement to report number of Herring Gull; and the protect air safety licence (GL 04/2020), but not the licences for conservation of wild birds (GL 01/2020) and prevention of serious damage (GL 02/2020)). SNH launched a public consultation on its General Licences in Sep 2019 and as a result from 01 April 2020 these species will be removed from their General Licences.

Natural Resources Wales (NRW) has announced a comprehensive review of licensing arrangements for birds in Wales. Its [General Licences](#) are valid until 31 December 2020. The conservation of wild birds (GEN/WCA/004/2020) permit lethal action against Herring Gull and Lesser Black-backed Gull nests, eggs and chicks only. However, NRW general licences for the prevention of serious damage (GEN/WCA/001/2020), and prevention of PH&S and disease (GEN/ WCA/002/2020) **exclude** both gull species.

Natural England previously listed Herring Gull and Lesser Black-backed Gull under a number of General Licences until these were withdrawn in April 2019.

Throughout Great Britain, the three national devolved licensing authorities that previously listed these two gull species under General Licences will largely remove these species from their suite of General Licences, or have already entirely done so. The overall licensing regime is shifting toward a more rigorous and stricter approach. This reduces the potential for in-combination effects. Individual licence decisions in the other country agencies will need to put in place a method for assessing cumulative and in-combination affects and will be required to take into account Natural England’s approach, set out here. The country agency’s will therefore remain in contact on this. This ensures that there will be no adverse effect in integrity from licensing decisions acting ‘in-combination’.

### **C5.3 Offshore wind farms**

Considerable work has focused on assessing the alone and in-combination effects of OWFs developments on gulls; and on mitigating such potential impacts (for instance Lesser Black-backed Gulls at Alde-Ore Estuary SPA implemented (*pers comms* SSP Senior Marine Ornithologists, Natural England). Nonetheless, any residual impacts from OWFs will be considered alongside those from licensing in site specific HRAs, assisted by the ‘early warning system’ (detailed above), to ensure that cumulative and in-

combination effects are avoided. The assessment of OWFs is periodic. Even in the unlikely event that the consideration of residual impacts falls out of step with the assessment of seasonal peaks of gull licensing, there will be opportunities to intercept and avoid adverse effects on an annual basis –

- combined assessment of proposals to examine potential cumulative and in-combination effects, including use of the ‘early warning system’, to implement measures on licences before issue;
- amend extant licences (e.g. reduce numbers) as a potential reactive option;
- monitoring and analysis of licence return data and other in-combination effects data; account for updates to gull population estimates; review sustainable thresholds; amend working instructions and other measures accordingly in time for the next seasonal peak.

**C5.4 Can ‘no adverse effect on integrity’ through in-combination effects be ascertained?**

Yes; a tighter class licence; consistency in a more rigorous approach to licensing these two gull species by each of the devolved SNCBs; and coordination with HRA of OWF developments plus additional safeguards for out-of-step assessments, are measures that will ensure that potential in-combination effects will be considered and appropriately mitigated.

## C6. Conclusions on Site Integrity

Natural England has carried out this Appropriate Assessment as required under regulation 63 of the Habitats Regulations 2017 to ascertain whether or not it is possible to conclude that there would be no adverse effect on the integrity of a European Site(s) from the plan or project.

The ‘project’ proposal to implement a new licensing regime, based on individual licences, for two large gull species in 2020 has been examined at a conceptual level. It has not been the purpose of this assessment to examine any proposals requested by any particular individual application. This assessment is as an over-arching ‘strategic HRA’ that assesses the ability of existing, adapted and new processes to stimulate site-specific HRAs, wherever there is a potential effect from individual licence applications on any European site. This ‘sHRA’ has taken account of other ‘sHRAs’ prepared in parallel to this one.

This assessment is both high level and broad, having considered effects on Herring Gull and Lesser Black-backed Gull on SPAs and Ramsar sites where they are qualifying features, named components of assemblages, and in one instance a non-named component. It has also taken into account unintentional and inadvertent potential impacts on non-target bird species and other biota as interest features of these sites in England.

Typical risk pathways that could exist on or adjacent to these sites were assessed, but this assessment also evaluated risks beyond the normal reach of FLL by considering impacts on gull populations at the national scale that could cascade down as impacts at the site scale.

Alone, cumulative and in-combination impacts were examined. A raft of measures, including entirely new systems and procedures will be implemented to ensure that the ‘project’ does not cause adverse effect.

Natural England’s appropriate assessment has concluded that:

~~It can be ascertained that the plan or project will not have an adverse effect on the integrity of the following European Site(s), either alone or in combination with other plans and projects; a permission can be given without conditions~~

It **can be ascertained** that the plan or project will not have an adverse effect on the integrity of the following European site(s), either alone or in combination with other plans and projects, subject to restrictions and/or conditions (see section D)

**All European Sites**

~~It cannot be ascertained that the plan or project will not have an adverse effect on the integrity of the following European site(s) for the following reasons; a permission cannot be given at this stage.~~

## **PART D:**

### **Permission decision with respect to European Sites**

As the relevant competent authority, Natural England has carried out a HRA of the plan or project as required by regulation 63 of the Habitats Regulations 2017 and has decided that, with regard to European Sites and their qualifying features: -

- ~~Consent/Permission/Assent/Authorisation may be given\*~~
- ~~Consent/Permission/Assent/Authorisation may not be given (subject to regulation 64 (‘consideration of imperative reasons of overriding public interest’))~~
- ~~Consent/Permission/Assent/Authorisation/Consent~~ **Consent may be given but only subject to the strict implementation of the following measures to be stipulated by way of conditions or restrictions attached to the permission\***

The following is a summary of measures that will be imposed on the ‘project’ to avoid impacts, or to negate through mitigation, potential impacts on Herring Gull and Lesser Black-backed Gull features.

- All applications for individual licences and all class licences registrations will be required to submit details of proposed actions and numbers of nests, eggs, chicks and gulls of these two species.
- All class licence registrations will be required to inform Natural England of any anticipated increase to these proposed numbers before that action is taken.
- All licensed persons and class licence registered persons will be required to submit a report that details the actual numbers of nests, eggs, chicks and gulls destroyed, taken and killed under that licence.
- Figures relating to gull applications and licences will all be centrally collated and in a format that allows tools to analyse totals in real time.
- Natural England will create and maintain an ‘early warning system’ that plots gull casework to facilitate the assessment of alone and cumulative/ in-combination potential effects by licence action proposals at each relevant European Site where either or both of these gull species are features of interest.
- Natural England will undertake further site specific assessment of likely effects on SPA populations when the early warning system indicates that a threshold of significant effect may be passed in terms of the cumulative scale of control around an SPA
- Natural England will support and enhance as necessary its protected site internal consultation procedures to ensure all other risk pathways relating to other features of interest are not damaged.
- Natural England will calculate totals that represent 5% of the annual natural mortality of the rural/ ‘natural’ populations of both gull species in England. It will update these figures and the threshold used as evidence becomes available about the populations of these gull species. This level of sustainable licensing will prevent impacts cascading down to the site level.
- For use in licensing casework, Natural England will make a clear distinction between rural/ ‘natural-nesting’ gull populations and urban/ ‘roof-nesting’ gull populations. This distinction will be

precautionary in weighting balance of doubt towards regarding populations as originating or mostly comprising of gulls from rural populations, which will be subject to tighter controls.

- Natural England will impose a feedback process upon the licensing regime to ensure the 5% (or another sustainable level) is maintained.
- Working instructions (Internal Guidance Note) will guide assessing officers to require application proposals to have clear and robust evidence that relates to each of the four overarching principles (Section A2). Decision-making processes will be clear in deferring applications that supply insufficient information and to reject applications that do not meet these evidence tests.
- Natural England will require Integrated Management strategies to be put in place for all lethal control in urban areas
- NE’s PVA Phase II (currently being updated) will be used as a tool to examine long-term impacts on gull populations at the site and national scales. Where appropriate, this tool will be used to set numerical thresholds to reflect sustainability and to avoid adverse impacts.
- A casework prioritisation procedure will prioritise air-safety and PH&S related casework but will also have as one of its main criteria the prioritisation of situations that have the highest cost-benefit under the ‘conservation’ purposes.

\* Where it has been concluded that a permission may be given following appropriate assessment, the Habitats Regulations Assessment of the implications of this plan or project on European Sites has been completed.

Unless this assessment has already considered likely impacts by the plan/ project on those features of special interest for which the relevant SSSI(s) has been notified, written permission should not be issued by Natural England until there has been a separate and additional assessment.

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## Appendix A – European Sites considered

This HRA considers all European Sites (SACs, SPAs, and Ramsar sites) within England and all of their component SSSIs. Details of these can be found via –

- Designated Sites View (DSV) [search](#) page, including SSSIs
- Marine Protected Areas: conservation advice packages [home](#) page
- JNCC’s Special Protection Areas (SPAs) in England - [named](#) site listing
- JNCC’s Special Area of Conservation (SACs) in England - [named](#) site listing
- JNCC’s designated and proposed Ramsar sites in England - [named](#) site listing
- [MAGIC](#) geographic information about the natural environment including protected sites

## Document Control

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