

# Natural England's approach to wildfowling consenting on Protected Sites



## Introduction

Responsible and sustainable wildfowling along our protected coastlines is a valid use of our wildfowl populations. Wildfowling clubs can also play an important role in contributing to the conservation of wildfowl sites through wardening, land management and pest control.

Wildfowling activity continues to occur in many places around the country. Natural England has, however, recently refused consent for wildfowling within a number of Special Protection Areas (SPAs), which we realise has raised a number of questions by the wildfowling community. This note aims to provide greater clarity on our approach to wildfowling consenting on Protected Sites.

## Consent decisions and wildfowling

Natural England uses guidance, developed during 2017 in consultation with stakeholders, to inform consenting decisions on wildfowling. Two key principles apply:

- Where populations of species are declining and there is insufficient evidence to rule out a further significant effect on that population from wildfowling, or where existing wildfowling levels are such that a wildfowling proposal would pose a significant cumulative risk to the population, it is likely that the declining species will be removed from a consent as a precautionary measure.
- Where there are gaps in our understanding of the levels of wildfowling on a site, we will adopt a precautionary approach and are likely to limit the duration of any consent we issue, to manage risk. This is likely to mean consents will be issued for a single season only, following which a renewal can be sought.

Due to the variable nature of the proposed activities and the unique sites on which these activities take place, there will always be site-specific issues and circumstances that will be taken into account.

Our Area Teams welcome early dialogue with wildfowling clubs before their proposals are formally submitted. To help us make our decisions as quickly and as accurately as we can, we ask wildfowling clubs to provide as much information as possible to support their proposals, including historic bag data and visit numbers. All of this information is incredibly useful to help us assess proposals.

Once a Notice of a Proposal is submitted, our Area Teams will assess what has been asked for and will use any supporting mitigation proposals to make their decision. During this time, we may seek further information if we have further questions. Our teams will determine the proposal on its merits and in accordance with Natural England's statutory responsibilities. [See Annex for more information]

## **Recent refusals on Special Protection Areas**

The recent refusals for wildfowling on SPAs has raised a number of queries about our decision-making process. In making these specific decisions, we considered a number of factors:

- wildfowling has the potential to affect large numbers of birds by inadvertently disturbing them, and to affect the abundance of SPA birds through direct mortality from shooting.
- the latest independent Bird Alerts from the British Trust for Ornithology (the BTO) have indicated that, on a number of sites, the numbers of some SPA species which form the basis of the site's designation are currently undergoing a significant decline.
- the level of knowledge about current levels of wildfowling activity within these sites is variable, which prevents us from accurately assessing the likely cumulative impacts.
- the potential for new proposals to combine with older wildfowling consents on the SPAs which have little or no restrictions to their duration or intensity of the activity.

In these cases, the concerns about the potential ecological impact that the requested activity could have on some of the features of these SPAs meant Natural England has been unable to confidently rule out an adverse effect to the integrity of the sites in question. This is an important legal test set out in the Habitats Regulations.

To mitigate this, in some cases Natural England has only been able to provide a consent for a more limited period that allows some wildfowling activity to continue in the short-term. In others, we have had to refuse to give our consent for any further activity. Our reasons why a consent has been refused or conditioned are always provided, so that this can be clearly understood.

We would like to reassure you that there is no 'ban' on wildfowling, nor have we 'suspended' wildfowling consenting.

## Looking forward

Natural England recognises the difficulty these current issues may cause to the local wildfowling community. As always, we remain keen to work with all affected wildfowling clubs and stakeholders to gather the further evidence we need and to find sustainable solutions for their sites.

We all have a shared interest in looking after the habitats and birds that we value. To achieve this we wish to work closely with the wildfowling community, their representatives such as the British Association for Shooting and Conservation, and others such as the British Trust for Ornithology.

## **Background to Natural England's decisions and our statutory responsibilities**

Sites of Special Scientific Interest (SSSIs) safeguard England's most important areas of natural heritage. A substantial number of these SSSIs are also designated as Ramsar Sites, Special Areas of Conservation (SAC) and Special Protection Areas (SPAs) to reflect their international importance for nature conservation. Together this network of protected sites helps the UK Government to meet its international nature conservation obligations.

Natural England is a public body responsible for carrying out statutory functions established in law. One of these responsibilities is a legal obligation, as specified in the Wildlife & Countryside Act 1981 (as amended), to take reasonable steps, consistent with the proper exercise of its functions, to further the conservation and enhancement of the special interest of SSSIs.

Natural England also has a duty to comply with the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations') and ensure that the integrity of internationally important sites designated as SACs and SPAs is protected. These regulations require all competent authorities, including Natural England, to consider any likely impacts of proposals alone or 'in combination' with the effects of other relevant activities within the sites. They also require a precautionary approach to decision-making where there is limited available evidence and significant uncertainty about the likely effects of a proposal. These regulations require all competent authorities, including Natural England, to be certain about the lack of adverse effects on a site's integrity.

It is these statutory obligations that Natural England is required to consider when carrying out its functions. This includes the determination of applications for SSSI consent, ('notices') which must be submitted by an owner or occupier of an SSSI before undertaking an activity listed in a SSSI notification as requiring Natural England's consent.

Whilst we will seek to permit activities on SSSIs as far as practicable, Natural England is only able to give consent in line with these statutory requirements. In other words, only when they can conclude that proposed operations are compatible with the conservation and enhancement of a SSSI and will not have an adverse effect on the integrity of a SAC or SPA. In some circumstances, conditions might need to be attached to a consent or consent may be refused, to ensure these tests are met. There is a right of appeal against these decisions.

When making any SSSI consent decision or giving advice to others, Natural England will:

- consider carefully the likely impact of the proposed operation on the site's notified features, taking into account the ecological requirements, current status and conservation objectives of those features.
- take into account the best evidence available at that time, both about the designated features themselves and about the likely impacts of the activity proposed.
- consider each case on its individual merits, taking into account local ecological circumstances.