

## **General Committee of Council**

### **Unconfirmed minutes of the twenty ninth meeting of the General Committee of Council held on 2 December 2003 at the Solstice, Peterborough**

**Present:**

- Sir Martin Doughty (Chair)
- Ms M Appleby
- Dr A Brown (Chief Executive)
- Mr T Burke
- Dr A Clements (Director)
- Ms S Collins (Director)
- Dr K Duff (Director)
- Prof E Gallagher
- Dr S Gubbay
- Prof M Hart
- Mr S Hockman
- Mr D Hulyer
- Mrs A Kelaart
- Prof D Macdonald
- Dr M Moser
- Mr P Newby (Director)
- Dr A Powell
- Mr H van Cutsem
- Ms C Wood (Director)

**In attendance:**

- Mr M Tither (Head of Private Office, Minuting Secretary)
- Mr J Marsden (Item 4)
- Mr T Ash-Vie (Item 4)
- Mr I Alexander (Item 5)
- Mr G Dalglish (Item 6)
- Mr J Jackson (Item 6)
- Mr A Gordon (Item 6)
- Ms W Fojt (Item 6)
- Mr R Barlow (Browne Jacobson) (Item 6)
- Dr D Townshend (Item 7)
- Mr M Howat (Item 7)
- Dr C Prosser (Item 8)

#### **1. Apologies and welcomes**

1.1 There were no apologies and Chair welcomed the Committee and general public.

**2. Minutes of the twenty eighth meeting of the General Committee of Council held on 24 September 2003 (GCM03 03)**

- 2.1 Minor typographic changes were proposed in paragraphs 5.3 and 10.2.3, these having been accepted the minutes were then confirmed. The minutes of the closed session were also confirmed.

**3. Matters Arising**

- 3.1 There were no matters arising.

**4. Annual Review of Sector Analysis (GCP03 48)**

- 4.1 Ms Collins introduced the paper and reminded Council that this was an annual review process which set the priorities for the three years ahead - Council's views and endorsement were sought. A further paper would come before Council early next year. This was a part of the audit process and sign-off by Council was an important part of that process. The Sector Analysis linked into Position Statements which set out English Nature's view on a whole range of important topics.

- 4.2 Council **discussed** the paper and the following points were raised:

- 4.2.1 **Coastal Management Sector Analysis:** Council **noted** that shoreline management plans operated on a 50 to 70 year basis. Reference to Defra's Futurecoast programme was also needed and information was sought on the Foresight project, about which a report was due in Spring upon which English Nature would comment. The sector analysis was agreed subject to inclusion of reference to Defra's Futurecoast programme

- 4.2.2 **Forestry Sector Analysis:** The priority actions on forestry were **approved**. With regard to the potentially damaging effects of CAP reform on woodland planting, the derogation was intended to protect pasture land, but this could possibly inhibit broadleaved planting. With biodiversity now a central component of changes going

through the Forestry Commission, there was risk of blurring of roles. However, with the newly-signed Statement of Intent, there was a good deal of liaison and the Forestry Commission was committed to achieving PSA targets with its own delivery plan. Deer control was added to the list of priority actions.

- 4.2.3 **Tourism, Recreation and Access Sector Analysis:** On tourism, there was concern that some aspects of the rights of way legislation were complex and confusing. Countryside Stewardship information had been put onto the Countryside Agency website and which people read to imply access - the result was damaging over-use of certain sites, particularly by horse riders. As a result of these actions, some farmers may consider withdrawing from Countryside Stewardship. Access did need to be encouraged, but with care. There were similar problems with motorcyclists and field margins were often perceived as access land. Chair observed that if the Haskins report is pursued our position on access and conservation would be clear and difficult cases resolved internally. Dr Clements promised an update on the issues around access in the new year.

**Action point 1:** Update on access issues – Dr Clements

- 4.2.4 Council considered the **inland transport sector analysis**, noting that transport would be a major pressure area in the years ahead. There was a lack of attention paid to wildlife in the roads consultation process and area teams were covering this. Not all verge management regimes could be applied across the country, some fine tuning was necessary.

Council complimented the amount of work done on aviation. Further discussions were due with the Civil Aviation Authority on the exclusion guidelines in December.

**Action point 2:** Chair raise road consultation issues with Secretary of State for Transport – Chair

- 4.2.5 Concerns were raised that the future programme on was too heavy a load for staff to cope with and too ambitious. However, the list was prioritised, and whilst it would be subject to pressures, it was achievable. Council expressed **satisfaction** with the way the transport theme was developing and looked forward to seeing how this worked through Position Statements and action on the ground.

4.2.6 It was important to keep a close eye on the planning sector and Council Members should be involved in the considerations.

4.3 The future programme was **agreed**.

## 5. **Draft position statement on organic farming in England (GCP03 45)**

5.1 Ms Collins reminded Council that the paper had been produced after wide consultation in an effort to capture the importance of the contribution of organic farming to biodiversity. She introduced Ian Alexander who briefly outlined how the recent research related to the position statement.

5.2 Council **welcomed** the position statement, **agreeing** that it addressed the issues, recognising organic farming was one farming system that could be beneficial to wildlife but other management systems can also deliver benefits.

5.3 The paper related to farming and biodiversity, the issues around why English Nature valued organic farming and what we were doing to promote it could be brought in later, including the benefits of mixed farming and the importance of the entry level scheme. Council was reminded that within the entry level scheme organic farming had a separate strand, but market forces were likely to prevail and the entry level scheme might not provide sufficient incentive to promote organic farming. On the relationships between the environment, biodiversity, the quality of food produced and human health, it was important to understand the big picture but also be clear about the boundaries between English Nature and the remit of the Food Standards Agency (FSA). This would be raised by Chair in his meeting shortly with Sir John Krebs, Chair of FSA. Council **agreed** that it would improve the paper to include reference to water quality.

5.4 Council called for the paper to have a wider distribution since it formed a useful contribution to the bigger debate on what was currently a very active

topic. Council highlighted the potential linkages with other documents that could be achieved through web publication.

5.5 Council **approved** the layout and structure of the position statement and wanted to see a summary definition and a clear exposition of English Nature's role, with a reference to partnership and a reference to the website.

5.5 Council **agreed** that subject to these amendments Chair would sign it off.

**Action Point 3 : Ms Collins**

**6. SSSI Cases**

Chair advised the meeting that it was now meeting as Council not the General Committee and that officers and legal adviser, Richard Barlow, would provide guidance only.

**6.1 Orwell Estuary, Suffolk**

Chair welcomed Ms Rebecca Carriage, representing Trinity College Cambridge and Suffolk Yacht Harbour and Mr Christopher Penn, Chairman of the Suffolk Fly Fishers' Club. Members of the Suffolk Team gave an account of the importance of the site, its significance in nature conservation terms and the current state of negotiations with owners and occupiers.

In response to questions from Council it was explained that extensions to the existing SSSI were part of the Orwell Estuary as a comprehensive unit, with both habitat and ornithological special interest. It was noted that numbers of breeding cormorants were 1% of the national population, which is the Guideline figure for selection as an SSSI.

6.1.1 Rebecca Carriage then made representations to Council on behalf of Trinity College and Suffolk Yacht Harbour. Ms Carriage had produced a written summary of the representations on behalf of both Trinity College and Suffolk Yacht Harbour and copies of these were circulated to all members of Council.

#### 6.1.2 Trinity College.

Two main legal objections were maintained:-

- i) That when relying on the power contained in s28C of the 1981 Act, the land added to the pre-existing SSSI had to be of special interest of itself.
- ii) That the discretion to notify the SSSI under s28C of the 1981 Act, in her view, had not been exercised lawfully.

#### 6.1.3 Suffolk Yacht Harbour.

The Trinity College legal arguments were endorsed as being of equal application.

The Yacht Harbour would like increased comfort in relation to the foreshore re-charge of dredged material. The Yacht Harbour's main objection related to its entrance channel and a request that it be excluded from the SSSI.

#### 6.1.4 Chair then invited Mr Penn to make representations on behalf of the Suffolk Fly Fishers Club.

Mr Penn outlined the basis of the Fly Fishers Club's objections to the inclusion within the SSSI of the man-made Loompit Lake and its adjoining wooded land. He explained the apparent conflict between cormorants and trout and suggested that it was both unnecessary and inappropriate to specifically protect the cormorants at Loompit Lake.

#### 6.1.5 At the Chair's request, Richard Barlow gave legal advice upon the two legal arguments advanced by Ms Carriage. The substance of the advice was that:-

- i) Council needed to decide whether, having considered all of the scientific information, objections and representations, they judged the whole new SSSI to be of special interest.
- ii) As to the exercise of the discretion to notify the SSSI under s28C, Council were not concerned with the decision taken by the Executive Committee which was a matter of record. The whole purpose of the meeting of Council was to consider all objections and representations to this SSSI and weigh all

the factors which arose in respect of this land being an SSSI in deciding whether or not to confirm this SSSI either as notified or otherwise.

6.1.6 Council had a long discussion about the cormorant colony at Loompit Lake which, it was contended, was having a damaging effect on the fishery. Officers clarified that the cormorants comprise two distinct sources:-

- i) the inland nesting colony of cormorants at and around Loompit Lake;
- ii) cormorants which form part of the over-wintering assemblage of non-breeding birds.

Council resolved to omit breeding Cormorants from the list of special features for notification of the site.

6.1.7 Council discussed the management of dredging and observed that the entrances to the two other marinas were on the boundaries of the site, whereas Suffolk Yacht Harbour entrance was within the body of the site. Recognising the concerns no boundary changes were proposed in relation to Suffolk Yacht Harbour channel in view of its location within both, the body of the site and one of the count sectors providing bird evidence of importance, but it was noted that all dredging within or adjacent to the SSSI would be subject to similar ecological assessment. Council also endorsed the whole estuary approach to the notification of the site which also indicated inclusion of the Suffolk Yacht Harbour entrance channel.

Council agreed to approve confirmation of the Orwell Estuary SSSI with minor modification to the boundary of Wolverston Marina and consequent minor change to the area figures in the citation together with an amendment of a typographical error to the citation and that reference to breeding cormorants as a special feature should be omitted.

## **6.2 Compton Chine to Steephill Cove, Isle of Wight**

- 6.2.1 Chair welcomed Mr Moore, representing Isle of Wight Council and Mr Rice, representing Brook Green Residents. He reminded members that they were convened as Council with officers at hand for advice. Wanda Fojt from the area team explained that this case had arisen since the features of interest of the existing SSSI had migrated inland, beyond the original boundaries, and as a consequence were not fully protected. The area team was of the view that a new SSSI was justified because a range of new scientific features had been identified.
- 6.2.2 The crucial point was the definition of a new boundary. Having considered a number of options the new inland boundary was proposed with a limit to the scientific interest allowing advancement of the cliff line over a fifty year period. The intention would be to influence land use and to include additional areas required to align the boundary with identifiable features on the land.
- 6.2.3 Mr Moore challenged the methods for defining the boundary, having accepted the protection of the interest by the 20m buffer zone, but felt that long term protection could be secured more effectively by the use of rolling boundaries to cope with the management of the dynamic features of the site, drawing comparisons with the Dorset World Heritage site and the use of low water mark on coastal sites. English Nature's legal adviser was of the view that both options were tenable, but that the rolling boundary would potentially exclude owners and occupiers at this stage whose land would subsequently come within the boundary of the SSSI without their having been consulted about the SSSI now and given the opportunity to become fully aware of the nature conservation importance of their land. Council concluded that a rolling boundary was not appropriate for this SSSI.
- 6.2.4 Mr Rice sought assurances that designation and future changes would not impede access to properties. He proposed a written agreement that would give residents some comfort and which would allow them to maintain access. Council discussed this assurance, and were advised that some attempts at this had already been made but agreement had yet to be reached. Council agreed that work should continue on reaching agreement with residents which would not compromise English Nature's ability to advise the planning authority on any development proposals such as coast protection works.



- 6.2.5. There was discussion of the suitability of the fifty year timescale and Council agreed that this was the most pragmatic period to implement, particularly bearing in mind that colonisation of vegetation and other coastal processes which form part of the special interest are occurring over that period and also that the period accords with the broader shoreline management planning time frame.
- 6.2.6 Council were advised that certain owners and occupiers had only been identified and given notification of the SSSI as recently as 13<sup>th</sup> October 2003. Council wished to afford those late notified owners and occupiers the full three months in which to submit any objections or representations. As a result, a final decision about whether or not to confirm the site could not be made until after 14<sup>th</sup> January 2004.
- 6.2.7 Council decided to delegate the decision upon whether or not to confirm the site to the Chair, such decision to be taken after 14<sup>th</sup> January 2004 in the light of any further objections and representations from the late notified owners and occupiers. Council observed that had they been in a position to take a decision, that it would have been to confirm the site with both the boundary recommendations set out in the officers report and those identified by the officers at the meeting in the vicinity of Brook Green and to the east of Blackgang and Gore Cliff, together with the recommended amendments to the OLD list and the area figure stated on the citation.
- 6.2.8 Council also requested the officers to have further discussions with Mr Rice and the residents of the Brook Green properties with a view to reaching agreement on a form of words to address protection of road access to the dwellings.

## **7. Hen Harrier Recovery Project: Progress Report (GCP03 49)**

- 7.1 Dr Duff welcomed Martyn Howat and David Townshend to the meeting and gave the background and history of this paper, a progress report at the half-way point in the project and summarised what had been learnt. Next year the population trends would be clearer allowing work for the way ahead to be planned. Council **welcomed** results to date but sounded a note of caution that the increased monitoring might have created

too rosy a picture. It was possible that the numbers are, in fact, falling and the time had come to move from monitoring to action.

- 7.2 A number of strands were going forward which included education, management, habitat re-creation and re-introductions. There was a need to get agreement on burning, not only more widely but also in relation to our own procedures where some inconsistencies had not helped.
- 7.3 David Townshend explained that the work had concentrated on establishing figures in order to establish a baseline from which to work and allow actions to extend the range and to have successful re-introduction programmes in the future. He reported that there was continuing engagement with partners, some of whom were more co-operative than others, but work was going ahead well.
- 7.4 Chair **thanked** the team for a lot of very hard work, sometimes in difficult conditions, which has served to raise the profile of the issues and the results where encouraging.

## **8. Annual Progress Report on English Nature's Geological Strategy (GCP03 44)**

- 8.1 Dr Duff introduced the paper, and Dr Prosser explained that English Nature was very much at the forefront of geological conservation work in this country. We were recognised as trailblazers and standard setters, leading the field. It was **noted** that in area teams geology was not strongly represented and this meant that much of the advice came from the Environmental Impacts Team based in Peterborough. While this enabled re-active work to be maintained it was felt that opportunities were being lost. Professor Hart welcomed the paper and offered his congratulations to those who had worked on the Position Statement on Fossil Collecting and was particularly appreciative of some of the careful phrasing that had been used. He supported the views about geological support and lost opportunities. It was his view that geologists have a major role to play in the interpretation of protected sites, even those which had not been designated for their geological interest, since geology was the basis on which the sites' interest had developed. A number of Council members expressed their interest in geology and their desire to learn more.

**Action point 4:** Book just published on geodiversity to be issued to interested Council Members – Dr Duff/Dr Prosser

8.2 *The Geological Conservation Review* had been hugely important and Professor Hart asked what would happen when the series is complete. It was his view that it was not an end in itself, but a starting point. For instance, there were strong links to the nature mapping exercise recently demonstrated to Council where geologists had a key role to play. He could see three hazards ahead for geology; one was that the RIGS groups needed further help and direction; that liaison with English Heritage needed to be close as was demonstrated at the recent highly successful ALSF event where all involved deserved to be congratulated; and that there were significant challenges ahead in relation to fossil hunters where people were being encouraged in an un-informed and uncontrolled way to go out and collect fossils. There was a need for English Nature messages on these topics to be clear and widely distributed, without deterring would-be enthusiasts.

8.3 Council **agreed** that it was good to see so much of the Strategy as originally devised being delivered and **recognised** that there was a greater need now to link geology to other topics such as soil, and to biodiversity. There needed to be reference to sustainable development and local distinctiveness. Council members need to be involved in development of the strategy.

**Action point 5:** involve some Council Members who expressed interests in helping to develop our thinking on early draft of the Strategy – Dr Duff

8.4 On marine aspects, it was noted that JNCC had undertaken a review of options for conservation of geological features in the marine environment. This is a big topic and needs to be considered at a Great Britain level. Ms Collins agreed to include geodiversity in policy discussions, where education at all levels was important. Dr Brown drew attention to the very high percentage of geological sites which now met PSA targets.

8.5 Dr Duff thanked Council for their present and past support, and noted that he and geological colleagues were confident that the overall direction is sound. He also

reminded them that geology had not been mentioned in the Haskins report, and its importance should not be overlooked.

**9. Corporate Governance – Annual Review of the Schedule of Delegations (GCP03 51)**

Ms Wood introduced the paper, which set out changes resulting from the Financial Memorandum. Council had no questions and the Schedule of Delegations was **approved.**

**10. Performance Report April 2003-September 2003 (GCP03 46)**

Dr Brown introduced this report and explained that he was satisfied with the expenditure profile. Early anxiety over targets had been addressed, action taken and if promises were delivered then most targets should be met. Teams were focused and were working very hard. Dr Brown explained that it was highly unlikely that more staff could be recruited despite new demands. There was a call for greater effort in the marine environment and Dr Brown recognised the concerns, and explained that this would be pressed hard with Defra in the budget discussions for next year and in the next Spending Review.

**11. Chair, Chief Executive, Directors' Topical Reports**

11.1 **Congratulations** were offered to all those involved in the recent Health and Nature Conference.

11.2 An update was requested on the work of the Land-Use Policy Group.

**Action point 6:** An update on the Land Use Policy Group was needed – Ms Collins

11.3 It was **noted** that the Natural Sciences Advisory Group was going well.

**12. Unconfirmed Minutes of the Sixtieth Meeting of the Joint Nature Conservation Committee (GCP03 50)**

These minutes were **noted** by Council.

### **13. Annual Review of Position Statements (GCP03 47)**

- 13.1 Ms Collins introduced the paper explaining the purpose of it and seeking Council's view as to what future issues should be included as position statements and whether there were gaps in the portfolio. Council thought it would be useful to see how the Position Statements would appear in web-format and a group would be set up to consider this particular point as part of Nature On-line, and include Council Members. It was felt that in some cases position statements were too bald for the website on their own and, in some cases, supporting papers and references could be very useful. Council considered whether position statements were required on the ecosystem-based approach and on wind turbines, catchments and country sports.
- 13.2 Council discussed what the ecosystem-based approach position statement might include and it was proposed that, given the developing nature of the topic, it should not be a position statement but should be offered as a discussion paper. Dr Brown's view was that it was important to have clarity on such a very central and current topic. He also supported the need for a position statement on wind energy and agreed that the hunting issue would be explored and a view would come back to Council. Ms Collins asked whether Council **agreed** that a position statement on marine protected areas was necessary as it was a very important topic, potentially controversial, where clarity was needed. It was felt that the time would be right, with opinion moving towards acceptance although there were plenty of options to discuss. Council agreed that it did not require position statements on financial incentives, invasive species or sea fisheries.

#### **Action Point 7: Ms Collins**

### **14. Any other business**

There was no other business.

In closing the meeting Chair thanked Council for their hard work, particularly in relation to dealing with the SSSI objection cases. Council also recorded a vote of thanks to members of the Secretariat and the contractors who had worked so hard to make a lengthy meeting operate so smoothly.