

**GENERAL COMMITTEE OF COUNCIL**

**CONFIRMED MINUTES OF THE SEVENTEENTH MEETING OF THE GENERAL  
COMMITTEE OF COUNCIL HELD AT PETERBOROUGH ON 3 APRIL 2001**

**Present:** Professor D Norman (Acting Chairman)  
Ms M Appleby  
Mr D Arnold-Forster (Chief Executive)  
Dr A E Brown  
Mr T Burke  
Ms S F Collins  
Dr K L Duff  
Professor E Gallagher  
Dr S Gubbay  
Professor M Hart  
Mrs A Kelaart  
Professor G Lucas  
Dr M Moser  
Dr A Powell  
Professor S Tromans  
Miss C E M Wood  
Mr G N Woolley

**In attendance:** Mr M Felton (Strategy Manager)  
Ms F O'Mahony (Head, Top Management Unit)  
Mr R Barlow (Browne Jacobson)  
Dr J Foster (Item 3.1.3)  
Mr R Duff (Item 3.1.3)  
Dr R Morris (Item 3.1.7)  
Ms D Ramsay (Item 3.1.7)  
Mr T Hill (Item 2.5)

Chairman opened the session and welcomed the members of the public.  
He also welcomed Anne Powell and Malcolm Hart to their first meeting.

**1. Minutes of the sixteenth meeting of the General Committee of Council held on 6 February  
2001 (GC M01 1) and matters arising**

- 1.1 The minutes are approved and on the English Nature website. There were no matters arising.

## Casework

### 2. Regulation 33 Advice for European Marine Sites

2.1 Sue Collins introduced the paper and **advised** the Committee that she and Susan Gubbay, on behalf of Council, had signed off the packages for Great Yarmouth North Denes SPA, Hamford Water SPA and Thames Estuary and Marshes SPA. The packages for the Alde-Ore Estuary (GC P01 18) and Minsmere to Walberswick (GC P01 19) raise no strategic or significant issues. The Committee is therefore recommended to approve these packages and to agree to delegate authority to Sue Collins and Susan Gubbay to sign off future Regulation 33 advice packages for SACs where there are no outstanding strategic or significant issues as a result of consultation.

2.1.1 The Committee **approved** the Regulation 33 packages for the Alde-Ore Estuary cSAC and SPA and for Minsmere to Walberswick cSAC and SPA for issuing by Team Managers by 25 May 2001.

2.1.2 The Committee **delegated authority to approve** advice for cSACs under Regulation 33 to Susan Gubbay and Sue Collins where there are no outstanding strategic or significant issues following consultation.

**Action:** Corporate Governance Unit

#### 2.2 Duddon Estuary SPA (GC P01 21).

2.2.1 The Committee **noted** the concerns over the precautionary approach to exposure ratings for toxic contamination and the proposed note to the exposure tables to indicate that the ratings are precautionary until the discharges are located and characterised.

2.2.2 The Committee **delegated authority to approve** the final package to Chairman for issuing by the Cumbria Team Manager.

#### 2.3 Mersey Estuary SPA (GC P01 22).

2.3.1 The Manchester Ship Canal Company, Associated British Ports and Peel Airports (Liverpool) had all raised concerns over the section of the package on operations. Meetings have been held to address these and the text modified accordingly. ABP have written to say their concerns have been addressed; whilst the others have not, we believe that any remaining issues can be addressed through the Regulation 34 Management Scheme and that the package is ready to issue.

2.3.2 The Committee **delegated authority to approve** the final package to Chairman for issuing by the North West Team Manager by 25 May 2001.

#### 2.4 Solent cSAC, Solent and Southampton Water SPA, Chichester and Langstone Harbour SPA and Portsmouth Harbour SPA (GC P01 23). South Wight cSAC (GC P01 24).

- 2.4.1 The Hampshire Wildlife Trust raised concerns over the way the dynamic nature of the site is addressed, and how the precautionary principle is dealt with. They proposed amendments to the text. The dynamic nature of these sites is illustrated by the recent landslide near St Catherine's Point which has already changed the site.
- 2.4.2 The Committee **suggested** that Professor Hart is consulted on the proposed amended text on the dynamic nature of the site to ensure we addressed fully the types of change expected. The geological terminology in Appendix 4 must be corrected before the package is issued. The Committee **agreed** the amended text recommended by officers on the precautionary principle, and **noted** this would be included in future packages and in revisions of packages already approved, in due course.
- 2.4.3 The Committee **delegated authority to approve** the final package including the amended text to Chairman for issuing by the Hampshire and Isle of Wight Team Manager by 25 May 2001.

## 2.5 Dungeness to Pett Level cSAC and SPA (GC P01 25)

- 2.5.1 Sue Collins introduced the paper and outlined the concerns raised during consultation on the Regulation 33 package by the Environment Agency (EA) concerning shingle recycling and flood defence. The Committee also noted that the EA has recently submitted a planning application for a flood defence scheme affecting this site to Rother District Council: as a plan or project this application was subject to a separate appropriate assessment process under the Habitats Regulations.
- 2.5.2 The Committee **considered** the package raised a number of issues which required consideration of the wider context, not least the dependence of some freshwater SPA sites on flood defences, as well as the flood risks to housing areas. Whilst many of these issues can be addressed through the Regulation 34 Management Schemes and through appropriate assessment of flood defence plans, it is important to acknowledge the wider context in the package and set out the issues in a sustainable development context.
- 2.5.3 The Committee **agreed** that staff will discuss appropriate new wording with Ed Gallagher and Stephen Tromans to address the wider sustainable development issues, and **delegated authority to approve** the final package, including the amended text, to Chairman for issuing by the Sussex and Surrey Team Manager by 25 May 2001.

## 3. **SSSI Cases (GC P01 17)**

**Secretariat note:** the following Council Members were present and constituted a quorum for this item: Professor Norman, Ms Appleby, Mr Arnold-Forster, Mr Burke, Professor Gallagher, Dr Gubbay, Professor Hart, Mrs Kelaart, Professor Lucas, Dr Moser, Dr Powell, Professor Tromans, and Mr Woolley. The following General Committee Members were also present: Dr Brown, Ms Collins, Dr Duff and Miss Wood. Mr R Barlow of Browne Jacobson was in attendance.

3.1 Council considered the following proposals in the closed session of the meeting.

3.1.1 Lower Coombe and Ferne Brook Meadow, Wiltshire.

Council considered two objections which raised a number of issues including the nature of the survey evidence used to support the special interest of the site and that the surveyor did not have permission to go on the land anyway.

Council **decided** to **withdraw** the notification because of procedural concerns and arrange a re-survey of the site, as agreed by the owners and occupiers, to establish a new basis for considering notification of the site in future. Council **advised** that Andy Brown should coordinate the work to take this forward and **noted** that Anne Kelaart will help the Local Team where needed.

**Action:** Andy Brown

3.1.2 Windsor Forest and Great Park, Berkshire and Surrey.

Council considered two representations concerning access and the use of the area for recreation events.

Council **confirmed** the site with **modification to the boundary and citation** in accordance with the recommendation in the paper.

3.1.3 Mobberley and Oversley Ponds, Cheshire and Greater Manchester.

Council considered 14 objections and 5 representations. The main concern was the scientific evidence to support the selection of the site and the determination of the boundary.

Council **decided** to **withdraw** the notification as there were uncertainties over whether the whole area was of special interest and whether the two parts of the site were ecologically connected. It was agreed that the existing data should be re-examined and up to date evidence to support the selection of the site should either be considered further or obtained with a view to the notification of some or all of the site in the future if appropriate.

Council considered the following cases in the open session of the meeting.

3.1.4 Carricknath Point to Porthbean Point, Cornwall.

Council considered one objection and one representation.

Mr J M and Mrs B A Shackleton object to the inclusion of a small area of their garden and question the boundary of the site in relation to the coastal footpath.

Council **agreed** that the boundary be amended to remove the area of garden which is not of special scientific interest.

Cornwall County Council questioned the inclusion of the coastal footpath in the site. It was explained that the boundary of the site is the landward edge of the coastal footpath. This ensures more open areas preferred by a nationally scarce plant, Hairy bird's-foot trefoil, *Lotus subbiflorus*, are included in the site. The maps have been updated using improved Ordnance Survey data, and annotated to indicate the precise boundary. Where the path crosses the beach the boundary runs five metres inland from the foot of the cliff to ensure

colonies of Shore Dock are included in the site.

Council **confirmed** the site **with modification** of the boundary in accordance with the recommendation in the paper.

3.1.5 Braithwaite Moss, Cumbria.  
Council considered one objection.

Mr G Barnes objected on various grounds including the inclusion of an area in the site, the reliability of the evidence for the occurrence of Marsh Fritillary butterfly on much of the site, the impact of the OLD list on the value of the land and the survey was done without access permission.

Staff have visited the site to check the interest on the area questioned and the survey contractors have written to apologise for going on the site without permission. Council **agreed** that the area should be excluded as it is not of special scientific importance.

Council **confirmed** the site **with modification** to the boundary in accordance with the recommendation in the paper.

3.1.6 River Itchen, Hampshire.  
Council considered two objections and one representation.

Mr Russell and Mrs Markham question the extent of new areas of grassland included in the SSSI. Council noted that the areas were required for egg laying and roosting habitats of Southern damselfly and that these are essential to sustain a viable population.

Mr Chatters, Hampshire Wildlife Trust objected to the exclusion of Alresford Pond SSSI and raised concerns about the relationship between the current OLD list and previous lists, and objected to the wording of some OLD listed on the grounds that English Nature could not delegate responsibility to other organisations. It was explained that Alresford Pond SSSI was not included as the interest feature is substantially different to the rest of the site and we cannot add areas at confirmation. They noted that it had been explained to the objector the new OLD list replaces the earlier lists and is the only one that is relevant. Only one operation in the list may be delegated in exceptional circumstances and then only to organisations with a duty of care to SSSIs under the CROW Act 2000.

The Environment Agency proposed some changes to the citation which Council accepted.

Council congratulated the Local Team on their work to resolve most issues raised during the notification process.

Council **confirmed** the site **with modification to the citation in accordance with the recommendation in the paper.**

- 3.1.7 Humber Flats and Marshes:  
Pyewipe and Cleethorpes Coast, Lincolnshire.  
Barton Barrow and Clay Pits, Lincolnshire.  
The Grues, Lincolnshire.  
Upper Humber, Lincolnshire, East Riding of Yorkshire and Kingston upon Hull.

These four sites were introduced by reviewing the issues raised in the objections to all the sites. The sites form part of a large and complex estuary. A wide range of organisations, owners and occupiers are affected by the notifications. Andy Brown reported on the meeting with Associated British Ports (ABP) to explore the basis of their objections and to help formulate his advice to Council. He advised Council that in his view:

1. there were procedural weaknesses in the handling of these sites;
2. there is no doubt about the overall importance of the estuary and that there are areas of special interest not yet designated;
3. due to the complexity of the site and the timescales involved we have not fully addressed the scientific issues raised.

On this basis Council was advised to withdraw the notification. English Nature should continue with the scientific analysis with the intention of reaching strongly based proposals for extending the existing sites to ensure that the special interest in the estuary is included within the boundaries of the designated sites. It was observed that the estuary is not only of national importance, it is also recognised to be of international importance.

In discussion Council:

1. expressed **disappointment** that officers felt the notification could not be confirmed;
2. **noted** that there had been some procedural weaknesses;
3. **endorsed** the view that the estuary needs to be seen as a whole system and recognised the difficulties which are inherent when seeking to extend the existing sites;
4. **accepted** that the objection about the interpretation of the available data to derive boundaries for the estuarine ecosystem had not been fully addressed in the available time;
5. **noted** that the data and its interpretation to establish the proposed boundaries was consistent with the approach on other estuaries but

**accepted** that alternative interpretations relating bird numbers to structure and functions of the estuarine system, and hence alternative boundaries, have been presented and need more time to be considered fully;

6. **noted** the possible threats to the integrity of the site that may arise from two proposals to develop the Humber International Terminal, one of which is permitted but not yet built, and the other which is not yet permitted;
7. **recognised** the hard work of the team on this complex site and that progress had been made by building on effective partnership with a large number of organisations and industries to manage the estuary successfully and to develop ways of making the designation work within the needs of the other users of the area;

Council **withdrew the notification** so further work could commence to prepare a new package with a robust scientific rationale for the boundaries for notification later in the year.

3.1.8 Mersey Narrows, Merseyside.  
Council considered two objections.

The Mersey Docks and Harbour Company objected in principle and in particular to the inclusion of three operational areas which are not of special scientific interest. Council agreed these areas were not of special interest.

European Metal Recycling Ltd objected to the inclusion of one of the same areas mentioned above which they lease from the Mersey Docks and Harbour Company.

Council **confirmed** the site **with modification** to the boundary and to the citation in accordance with the recommendation in the paper.

3.1.9 Rochdale Canal, Greater Manchester.  
Council considered three representations.

British Waterways considered the boundary includes grassland areas of no special scientific interest, questioned the inclusion of *Potamogeton alpinus* in the citation and considered the OLD list to be too generic. Council **agreed** the grassland was not of special interest and should not be included and that *Potamogeton alpinus* should be retained on the citation pending results of future survey work.

Mr Bielderma representing the Stockport and District Anglers Federation was concerned the OLD list would prevent angling on the canal. Council **agreed** this should be addressed through a consent regime and a site visit to discuss how angling can be accommodated without adverse impacts on the special interest.

The Inland Waterways Association expressed concern about the effect of notification on the use of the canal after notification. Council **noted** the good working partnership with British Waterways over the restoration plan which addresses this issue.

Council **confirmed** the site **with modification** in accordance with the recommendation in the paper

3.1.10 Sefton Coast, Merseyside.

Council considered three objections and two representations and **noted** one objection was considered in confidence.

Southport and Ainsdale Golf Club objected on the grounds that the rights of the members as owners may not be properly considered. Council **noted** that meetings have been held and discussions included plans for a golf course seminar hosted by the Club.

Hillside Golf Club Ltd objected on the grounds that the notification could affect the management and development of their land. Council **noted** the correspondence with the club and that day to day management could be consented and that developments which are compatible with the conservation of the special interest of the site would not be opposed.

Formby Golf Club objected **in confidence**. Those present in the audience were excluded from the meeting whilst this objection was considered. The main basis of their objection concerned the interpretation of survey data concerning the special interest. Council **agreed** that further discussion with the Club would be helpful.

Sefton Metropolitan Borough Council requested further information about the areas omitted from the site, the conservation objectives and the consultation zone and suggested a wider public consultation to explain the implications of the notification and proposed a modification to the citation. Council **noted** that further information had been provided and the extensive nature of the consultation process.

The Wildlife Trust for Lancashire, Manchester and North Merseyside proposed some modifications to the citation.



Council **delegated authority to confirm** the site **with modification** to the citation **to Chairman** to give time for further discussion with Formby Golf Club in the hope that their concerns could be addressed perhaps through a management agreement. Council also asked for the boundary along the railway embankment to be checked.

**Action:** Andy Brown

3.1.11 Dew's Ponds, Suffolk.

Council considered one objection and two representations.

Mr P R Fielden objected on the basis that the data to support the special interest was not collected by an independent body. He also considers the notification would impair his options to diversify his business and states that he manages the ponds sympathetically. Council had no compelling evidence to undermine the survey results and noted that officers had offered an independent survey of the ponds. Council also **advised** that any concerns over ponds with current fish populations should be addressed with Mr Fielden as the extension of any angling and introduction of fish was likely to be a concern.

Dr T Langton and Ms C Beckett (joint owners) proposed changes to the citation. Council **noted** that some proposed changes were helpful.

Mr P W Bloomfield expressed concern about the data, the need for designation, and the possible implications for planning permission he may seek on his land. Council **noted** Mr Bloomfield is not an owner or occupier but owns land nearby and that planning matters could be dealt with through the usual procedures.

Council **delegated to the Chairman authority to confirm** the site **with modification to the citation** along the lines proposed by Dr Langton and Ms Beckett.

**Action:** Andy Brown

3.1.12 Arnecliffe and Park Hole Woods, North Yorkshire.

Council considered one objection.

David Arnold-Forster declared an interest based on his friendship with the objector and withdrew from the meeting whilst this item was considered.

Mr S Foster objected to the full extent of the site which included woodland areas with no special interest, and this interfered with the management of his pheasant shooting interest. Council agreed that the

area could be reduced as some of it was not of special interest and that management of the pheasant shoot could be addressed through consent procedures.

Council **confirmed** the site **with modification** of the boundary in accordance with the recommendation in the paper.

3.1.13 Kirk Deighton, North Yorkshire.  
Council considered two objections.

Sir Anthony and Lady Margaret Josephine Wilson objected to the inclusion of a finger of land for newt hibernation as they consider alternatives are available and expressed concern over the possible increased number of unwanted visitors to this easily accessible site. Council **asked** whether alternative arrangements could be made to address the habitat needed for hibernating newts and whether the contested area was essential for this function. Council also **enquired** whether the site was viable on its own in a dry period given its relatively small size. This was confirmed, as was the potential to enhance the site through positive management including the creation of new ponds.

Mr A Alton supports the objection to the area for hibernation habitat and is concerned over the restrictions he may face over his management particularly with regard to fertiliser application and grazing levels.

Council **delegated authority to confirm** the site to Chairman and **proposed** Anne Powell, Jim Foster and possibly Andy Brown visit the site to explore the significance of the contested area for hibernation and advise Chairman on any **modification to** the citation and boundary they consider to be justified.

**Action:** Anne Powell, Andy Brown and Jim Foster

3.1.14 River Till, Wiltshire.  
Council considered four objections and one representation.

Mr and Mrs E Grant objected on grounds that the notification was likely to prevent them improving the land agriculturally. Council **noted** that discussions had addressed their concerns.

Mr Roger Moore objected as the area included a heavily modified drainage ditch which is not of special scientific interest and is not a functional part of the river. Council **agreed** the ditch was not of special interest.

Messrs D B and A T Johnson and Mrs E F Sturgess objected as the site included an area of land which was not of special scientific interest. Council **noted** a site visit had taken place and it was agreed that the area in question was not of special interest.

Mr S W D Shepherd, a neighbouring landowner, objected on the grounds that notification would preclude management of the river and thereby increase flooding. Council **noted** that correspondence clarified that the designation does not preclude appropriate sensitive management of the river.

Council **congratulated** the Team on the low number of objections and the way the few objections had been addressed.

Council **confirmed** the site **with modification** to the boundary in accordance with the recommendations in the paper.

- 3.2 Council **noted** the overall designation programme to set the sites considered today in context. English Nature has now consulted on 228 pSACs, of which 199 have been sent to Brussels by DETR. A further 11 are now complete and will be sent to DETR. 18 SSSIs were considered at this meeting, and only six have had their notification withdrawn. This is an excellent performance overall and it has always been appreciated there would be a few complex and contentious cases within the overall programme. Council **congratulated** all the staff involved for their efforts in achieving this success and **thanked** Andy Brown for his oversight of the process.
- 3.3 Council **decided** to establish a SSSI Process Review Group to explore matters affecting the approach to identifying, notifying and work up to confirming or enhancing SSSIs. The Group will make a presentation on the main issues at an informal meeting in May 2001 and make recommendation to the General Committee in July 2001.
- 3.3.1 The Committee **agreed** that Stephen Tromans and Nick Woolley should represent Council on the Group and **noted** that Andy Brown will chair the group, supported by Richard Barlow (Browne Jacobson) as deputy chair and that two other members of staff will also be members.
- 3.3.2 The Committee **suggested** the Group consider the following issues:
1. the age and extent of data required to support designation;
  2. criteria on the basis for deciding to consider matters in closed sessions, using precedents from local government;

3. management of the consultation process to avoid late submission of objections and supplementary evidence;
4. how to establish and maintain positive relations with the majority of consultees and to ensure the necessary legal matters do not hinder the development of a positive partnership.

**4. Delegation of Council's powers and duties and sealing of documents (GC P01 29)**

4.1 Caroline Wood introduced the paper which reflects changes in legislation and the need to make changes to reflect our way of working. The financial delegations now better match the DETR delegations to English Nature. A supplementary paper to cover delegations where we are consulted by others will be presented to Council at a later date. Formal guidance to staff on when a matter should be referred up above the lowest level particularly for SSSI matters will be prepared by Director Operations. The material has been subject to legal advice and checked by staff. The Committee **noted** the amendments and corrections required and agreed to implement the Schedule of Delegations from 1 May 2001 with the following amendments:

- 4.1.1 On page 12 Habitat Regulation 33(1) should be delegated to Team Managers and the text for Habitat Regulation 33(2) should be amended to read "advise other relevant authorities on conservation objectives . ." by deleting ". . as to the . ."

**Action:** Caroline Wood

**5. Progress on designation of Special Protection Areas (GC P01 26)**

- 5.1 Andy Brown introduced the paper and set out the progress since 1998 when nine new sites were identified; five of these are now classified, three are with Government, and one did not qualify. Seven extensions were also required of which four are complete, two are out to consultation and one requires more data. The JNCC review of SPAs identified one more site in England. The RSPB accept that all high priority sites have been addressed, and some others that they feel are important can be addressed at the next review when there are more data available. The next step is marine SPAs, starting with seaward extensions and then off-shore to 200 miles. The JNCC is developing criteria and defining the benefits of designation of sea areas.
- 5.2 The Committee **noted** the progress report and asked about Clifford Hill and Barn Elms. The latter site is likely to qualify in due course, and we will consider how to proceed when the data to support designation is available. Work on designations is moving towards a structured review process; it would help plan work more effectively if we had a strategic forward look. Ideally, we would like to look at all designations simultaneously in a single area, and consider how to manage for all interests in an integrated way. We will develop some ideas on this

for Council in future.

**Action:** Andy Brown

6. Completing the SAC designation process in England - peatland sites (GC P01 27)

6.1 Andy Brown introduced the paper. The Committee considered proposed changes to citations and new sites following the EU moderation process in February 2001 (GC P00 11). 199 of the 228 sites have now been submitted to Brussels. Council is considering SSSI notifications on 15 sites, 11 await completion and three are peatland sites. For Solway Moss we have agreed to await an independent assessment of the feasibility of restoration before deciding whether to submit the case to DETR (via the JNCC). The Committee was asked to advise on how to proceed with Thorne Moors and Hatfield Moors.

6.2 The Committee **noted** the extensive requests from the site occupiers for information including general requests which are hard to conclude, and **noted** that no substantive objection or specific challenge to the basis for selecting the sites had yet been received. It is important to ensure we have responded appropriately to all requests for information, and where the information is not ours to ensure we have clearly indicated where it can be obtained. Our role is to ensure the information used to support the selection of a site is clear, put the portion we own into the public domain, and ensure the sources for the remainder are clear. The SSSI Process Review Group should consider how best to compile a register of information used, to ensure interested parties are able to review it and reach their own conclusions on the rationale for a site.

**Action:** Andy Brown

6.3 The Committee **decided** the cases for Thorne Moors and Hatfield Moors pSACs should be submitted to DETR, **noting** that if further substantive information becomes available they can be referred back to English Nature for consideration.

7. Any other business

7.1 The Committee thanked David Norman for his excellent work as Acting Chairman which they appreciated. The staff also appreciated the accessibility and link to the Committee he had provided. David Arnold-Forster expressed his personal appreciation for the assistance and support provided during a difficult period when the Hills Task Force work needed to be given priority.

7.2 English Nature needs to develop a strategy on using the new powers under the CROW Act to ensure we use them appropriately.

**Action:** Andy Brown

7.3 The Committee reiterated its interest in becoming involved in the early scoping

discussions on key topics. Airport development was seen as one such topic, where decisions about further runways in the South East are the next contentious issue. English Nature needs to influence these issues early and present arguments in an integrated sustainable development context. There is an opportunity for think pieces to be considered by DETR, and our internal capacity will shortly increase with the appointment of two new policy advocates. The coastal processes workshop a year ago was an example of good practice of involving Council Members early in the process of developing English Nature's thinking. Council Members wish to be similarly involved in discussions on options for the post FMD Recovery Programme for livestock farmers: Nick Woolley, Melinda Appleby, Mike Moser, Anne Powell and Ann Kelaart all expressed an interest in being involved.

**Action:** Andy Brown to discuss with Sue Collins

- 7.4 Future meetings and agendas were **noted** including the options planned depending on the FMD restrictions. There will be an optional visit to the BTO HQ in Thetford as part of the May meeting. Our response to the JNCC Review will be on the May agenda.

**Action:** Committee Support Unit