

Natural England Board



Title: **Confirmed minutes of the fiftieth Natural England Board meeting on 25 February 2015**

Members attending	Executives
Andrew Sells (Chairman)	James Cross, Chief Executive
Julia Aglionby	Paul Lambert, Executive Director, Corporate Services
Andy Clements	Tim Hill, Chief Scientist
Will Cockbain	Alan Law, Executive Director, Strategy
Teresa Dent	Guy Thompson, Executive Director Local Delivery
David Hill	In attendance
Joe Horwood	Caroline Cotterell, Director, Executive Office (item 3)
Simon Lyster	Rob Cooke, Director, Sustainable Development (item 4)
Nigel Reader	Julie Lunt, Head of Legal Services (items 6, 9, 21 and 22)
Apologies	Janette Ward, Director, Conservation Strategy and Innovation (item 9)
None	Tim De Keyzer, Director, Biodiversity Delivery (item 11)
	Jonathan Burney, Director of Marine (items 21 and 22)
	Alex Banks, Marine Ornithologist (items 21 and 22)
	Secretariat
	Emily Finnie, Board and Executive Services Team
	Observers for the Open Session (Items 20-22)
	Dr Matthew Denny, Freeths Consultancy
	6 Natural England staff

1. Welcome from the Chairman

The Chairman extended his welcome. There were no declarations of interest.

2. Confirmation of the January 2015 Minutes and Matters Arising (NEB 49 01)

- 2.1 The minutes of the January Board meeting were confirmed. It was noted Board sub-groups were being set up to provide opportunities for Board members input to the Conservation Strategy and Spending Review 2015, and that all other actions were

discharged. The Board Innovation Group's role to stand over beaver licencing was clarified.

Action: Board and Executive Services to produce confirmed January minutes.

3. Horizon Scan of External Activities and Issues (NEB 50 01)

3.1 Caroline Cotterell introduced the horizon scan of external activities and issues. Additional verbal reports were provided by Alan Law on Walshaw and Ilkeston Station.

3.2 **Walshaw:** The Board noted the update on ongoing management of the relationship with this estate and recent requests for consents for moorland tracks. The Board would be kept up to date with developments as necessary.

Action: Alan Law to keep the Board up to date with developments at Walshaw as necessary

3.3 **Ilkeston Station:** The Board queried Natural England's messaging in relation to the recent media interest, and noted the plans to get the information corrected.

3.4 **EFRA Committee:** The Board wished James Cross well in giving evidence on 4 March 2015.

3.5 **Local Nature Partnerships (LNPs):** The Board expressed concern about resourcing issues for LNPs, and their relationship with Local Enterprise Partnerships (LEP). Lincolnshire LEP was held up as a good example and James Cross agreed to investigate this.

Action: James Cross to investigate the good example provided by the Lincolnshire LEP.

3.6 **High Speed Two (HS2):** The Board advised Natural England had an important role in providing an independent review of the methodology to capture the full environmental impacts of HS2.

3.7 **Bolton Fell and Walton Mosses SSSI:** Following the Board review of the designation pipeline at its last meeting, Bolton Fell and Walton Mosses SSSI would be the first case to be presented to the Natural England Leadership Group (NELG).

3.8 **Beavers:** The Board noted Devon Wildlife Trust had accepted the terms of the licence as presented at the last Board meeting with a few minor refinements. The Board requested an opportunity to review the conditions for the licence exit strategy at its next meeting.

Action: Alan Law to bring the beaver licence to the March meeting for Board consideration of the exit strategy.

3.9 **Somers Road:** The Board sought clarification on the status of this site and noted the implications of the legislative framework for Environmental Impact Assessments for such cases.

4. 2014/15 Quarter Three Performance, Risk and Resource Update (NEB 50 02)

4.1 James Cross introduced his report. The Board reviewed the Quarter Three

performance, risk and resources report, noting the current RAG status for KPI performance and welcoming the inclusion of operational risk, the resource summary and Area Team commentaries. In response to a specific question it was agreed to circulate information on the funding of wintering stone curlew in Board Round Up (BRU).

Action: Board and Executive Services to circulate information on the funding of wintering stone curlew in BRU.

- 4.2 Alan Law introduced the drill down into Natural England's licencing delivery setting the context with a reminder of the current state of service provision, noting that plans were being developed to address current case backlog and improve future service provision. In response to Rob Cooke's presentation the Board:
 - 4.2.1 Explored the risks of legal challenge in issuing class licences, noting Natural England's role was to ensure adherence to standards and that a move to trusted status was consistent with better regulation. Members advised that rates for training should reflect where earned recognition conveyed a competitive advantage.
 - 4.2.2 Suggested the Bat Conservation Trust could be licensed, in the same way as the British Trust for Ornithology, to undertake work on Natural England's behalf, but noted to date no application had been encouraged or made.
 - 4.2.3 Noted Natural England was working with the professional institute around standards for developers, and that we looked to be more proportionate in taking risk based judgements.
 - 4.2.4 Recognised the reputational risk of newt licensing for Natural England.
 - 4.2.5 Noted the potential contribution of a pre-application service on a cost recovery basis to both improve service capacity and to support better quality applications leading to better environmental outcomes.
- 4.3 The Board welcomed Simon Lyster's involvement with the development of options to improve licencing work and noted that an options paper would be considered by the Board Innovation Group; proposals would be brought back to the May Board meeting. It was agreed in the meantime the BIG paper would be circulated to all Board members.

Action: Alan Law to bring a licensing paper to the May Board meeting.

Action: Board and Executive Services to circulate the BIG licensing paper to all Board members.

5. Financial Performance Update (NEB 50 03)

- 5.1 Paul Lambert introduced the paper. The Board:
 - 5.1.1 Noted the 2014/15 Grant in Aid and Rural Development Programme for England (RDPE) financial performance to the end of January 2015.
 - 5.1.2 Recognised the good management of the potential overspend and noted the executive's confidence to deliver the agreed forecast.
 - 5.1.3 Noted the audit of the interim accounts was underway and that the interim accounts

would be reviewed by ARAC.

6. Update on Benty Grange

- 6.1 At the Chairman's request, Will Cockbain reported on his visit to meet the owner and the site on 12 February 2015. Julie Lunt joined for this item.
- 6.2 The Board noted the feedback from the visit of the owner's view of the recent consents and site condition assessments, and his proposal for future management which included the offer of an alternate field which could be used to develop MG5 grassland. The Board discussed the information provided and sought advice from Julie Lunt on options available.
- 6.3 The Board discussed the options including revocation of the consent, negotiating a different management regime and de-notification of the SSSI. The Board was of a view that in order to achieve the best possible outcome for the environment it would wish if possible to adopt a consensus approach follow due process.
- 6.4 The Board recognised that it needed more information to inform any decision on the handling of the situation. Of particular concern was whether the SSSI remained of special interest.

Action: Alan Law to commission a report on the current status of the SSSI.

- 6.5 James Cross reported on the conclusion of the investigation and confirmed the generic lessons learned would be brought to the March ARAC meeting.

Action: James Cross to bring the lessons learned from the Benty Grange investigation to the March ARAC meeting.

7. Spending Review 2015 (SR 2015) (NEB 50 04)

- 7.1 James Cross briefed the Board on the Spending Review 2015. Nigel Reader, David Hill and Andy Clements, with Simon Lyster if needed, volunteered to join a sub- group of Board members to support the scenario-planning and development of Natural England's response to SR2015.

Action: Paul Lambert to set up a March meeting of the SR 2015 Board sub-group.

8. 2015/16 Corporate Plan Update (NEB 49 05)

- 8.1 Paul Lambert introduced the paper and the Board noted progress with developing the Corporate Plan for 2015/16 including:
 - 8.1.1 No confirmation in writing from Defra of Natural England's budget settlement for 2015/16. The Board was supportive of a letter to Defra from James Cross confirming the budgets natural England would be working to.
Action: James Cross to send a letter to Defra confirming the budgets Natural England will be working to in 2015/16.
 - 8.1.2 Additional pressures emerging already against the budget for 2015/16 which would have an impact Natural England's delivery.

8.2 The Board reviewed the draft Corporate Plan and made the following suggestions in discussion, and agreed to send any additional comments to Paul Lambert:

- 8.2.1 The Foreword should be redrafted building on previous versions and should:
- Refer to the Natural England and Environment Agency joint action plan;
 - Expand on Natural England's role in providing practical on the ground experience. As drafted it positioned Natural England as an advisory body.
 - Refer to the ecosystem approach.

Action: Paul Lambert to redraft the Corporate Plan Forward

- 8.2.2 In relation to the main text:
- The Landscape and Geodiversity section should be reviewed in relation to the wording of 'supporting businesses' which could be perceived as a cost, and noting resources were available for a pilot monitoring programme.
 - The opportunities presented by change in approach to the Biodiversity 2020 target to create environmental outcomes should be recognised.

Action: Board members to send Paul Lambert any further comments on the draft Corporate Plan.

8.3 The Board signalled its approval for the Corporate Plan and delegated final detailed agreement of the Corporate Plan to the Chairman and Chief Executive.

9. Bovine TB Update (NEB 50 06)

9.1 Tim Hill introduced the paper and Janette Ward and Julie Lunt joined for this item.

9.2 The Board noted the updates on: 2014 culling operations and ongoing action for 2015: monitoring; Environment Secretary announcements; a summary of legal matters; and, health, safety and security.

9.3 The Board supported the proposal that it should be Natural England who should write to the owner advising that the vaccination buffer associated with their land would no longer be a requirement by the Company to incorporate in their culling operation for Year 3 and 4.

10. Environmental Stewardship – Reclaims and Penalties Update (NEB 50 07)

10.1 Paul Lambert introduced his paper. The Board noted progress on the actions for improving handling of customers over reclaims and penalties within Environmental Stewardship.

10.2 The Board reviewed and supported the proposals for dealing with the Surrey Wildlife Trust case and accepted ARAC Chair's offer for ARAC scrutiny and cover for the specifics and generics arising from the case.

Action: ARAC to review the specifics and generics arising from the Surrey Wildlife reclaims and penalties case

11. Countryside Stewardship Update (NEB 50 08)

11.1 Guy Thompson gave an update to the paper on progress with Countryside Stewardship (CS) and alerted the Board to the latest delivery risks facing the CAP-

D programme. Tim De Keyzer joined for this item. The Board:

- 11.1.1 Recorded its concern around the dependencies of the new scheme on the IT functionality being delivered by the CAP-D programme, and took assurance from the three contingency options being explored by Natural England which would be considered in more depth by ARAC at its March meeting.

Action: ARAC to consider the contingency options for CAP-D at its March meeting.

- 11.1.2 Expressed concerns over the functionality of the new IT already available for the Basic Payment Scheme (BPS) and the impact on customers having to register and submit annual claims for Environmental Stewardship (ES).
- 11.1.3 While recognising the good evidence Natural England had made its contribution, Identified the risks associated with Natural England's launch of CS in July 2015.
- 11.1.4 Noted the position and risks associated with remaining policy issues for conclusion with Defra including (Higher Level Stewardship) HLS early conversion, dual use, guidance development and publication on GOV.UK.
- 11.2 Guy Thompson offered to update and involve the Board as necessary in the light of future progress with CS.

Action: Guy Thompson to update and involve the Board as necessary in the light of future progress with CS.

12. Health, Safety and Wellbeing (NEB 50 09)

- 12.1 Paul Lambert introduced the paper. The Board noted the update on progress made by the Health and Safety Team in managing the risks to Natural England's employees from noise and vibration, and in particular the position of those diagnosed with vibration related occupational diseases which had been reported to the Health and Safety Executive (HSE). The Board were reassured there would be no further action by HSE. The Board was pleased to note there had been no operational impact on NNRs and that the majority of the employees affected were able to continue to use the equipment and to carry on with their jobs.

13. Biosecurity in Natural England: Moving the organisation towards a consistent approach (NEB 50 10)

- 13.1 Paul Lambert introduced the paper. The Board noted the current position on biosecurity and supported the proposals for moving the organisation to a more consistent approach which involved a drive for a return to best practice and culture.

14. Triennial Review Action Plan

- 14.1 David Hill as a member, with Nigel Reader, of the Joint Environment Agency and Natural England Board sub-group reported on the last meeting. The Board noted the Triennial Review Action Plan was substantially delivered but that timing of delivery of the final report was still to be agreed; there was good evidence neither organisation was a blocker to growth; and, there was continued commitment to work together for the benefit of the environment.
- 14.2 The Board noted the sub-group planned to meet again after the election when a

decision on the future of the group would be made.

15. Upland Peat Working Group (UPWG) Update

15.1 Julia Aglionby, Chair of the UPWG reported on progress with completion of the Upland Evidence Review, conservation recommendations and assurance report.

15.2 The Board:

15.2.1 Noted a paper would be presented to the Upland Stakeholder Forum and Teresa Dent requested a copy.

Action: Board and Executive Services to provide Teresa Dent with a copy of the paper to be presented to the Upland Stakeholder Forum

15.2.2 Discussed concerns about the lack of a consultation phase over the UER conservation recommendations. Reassurance was provided from NESAC's review of the assurance report which concluded a world class process, with an excellent use of evidence, had been followed to develop the conservation recommendations. It was noted that the conservation recommendations were not a communications product and that communications would be built around the Outcomes Approach embedded within the emerging Peatland Restoration Strategy.

15.2.3 Noted the final version of the Peatland Restoration Strategy would be presented to the March Board meeting.

Action: Alan Law to present the final Peatland Restoration Strategy to the March Board meeting.

15.3 The Chairman thanked Julia Aglionby and her team in progressing this work.

16. Board Innovation Group

16.1 David Hill, Chair of the Innovation Group reported the next meeting would be held on 27 February 2015 with the agenda including: commercial development strategy; business plan for chargeable services; local delivery model proposals for a more sustainable approach; natural capital accounting; protected species think piece; and the NNR strategy. The Board noted the response to the trawl to staff for ideas demonstrated interest in the agenda.

17. Audit and Risk Assurance Committee (ARAC) Update

17.1 Nigel Reader, Chair of ARAC reported the next meeting, including its annual effectiveness review would be held on 11 March 2015 with Joe Horwood attending as the reserve member.

17.2 The Chairman confirmed John Varley had agreed to be a member of ARAC on his appointment to the Board.

Action: Board and Executive Services to arrange ARAC appointment letter for John Varley.

18. Natural England Science Advisory Committee (NESAC) Update

18.1 Andy Clements, Chair of NESAC reported on the last meeting held on 17 February

2015. The Board noted NESAC had reviewed: the independent assurance report on the Upland Evidence Review; the Conservation and Designation Strategies; and, Natural England's evidence summaries.

- 18.2 The Board noted NESAC Chair planned to review current membership and would be holding 1:1 conversations with members and considering a call for new members.

19. Forward Look of Board Business (NEB 50 11)

- 19.1 The Board noted the forward look of Board business and suggested the following issues for inclusion on future agendas: update on the beaver licence; a licencing strategy; and the biodiversity 2020 target.

Action: Board and Executive Services to update the Board forward look

OPEN SESSION

The Chairman welcomed everyone to the open session of the Board meeting.

20. Confirmation of November Open Minutes and Matters Arising (NEB M48 02)

- 20.1 The Board confirmed the minutes of the November meeting subject to an amendment to the first sentence in 3.3 to 'In conclusion the Board supported the importance of advising Defra on the designation of the site and species within the proposal, and supported the proposal for the landward boundary, but requested more work be done to examine the seaward boundary calculation, an analysis of the updated report from Baker consultants to be undertaken, and a note be submitted to the Chairman.

Action: Board and Executive Services to produce confirmed November minutes.

- 20.2 The Board noted the actions from the November Board meeting had been discharged.

21. Advice to Defra on the Falmouth Bay to St Austell Bay Potential Special Protection Area (pSPA) (NEB 49 20)

- 21.1 Tim Hill introduced the item and was joined by Jonathan Burney, Alex Banks and Julie Lunt. Tim Hill thanked Andy Clements and Joe Horwood for assisting the team with the issues raised at the November Board meeting. A letter to Natural England from Freeths dated 24 February 2015 was tabled.
- 21.2 Jonathan Burney introduced the paper reminding the Board of the views it had reached in considering this case at its November 2014 meeting, and reporting on the outcome the Board's requests for follow up on Baker consultants paper and the definition of the seaward boundary, on which the Board was now invited to take a view.
- 21.3 In discussion, the Board:
- 21.3.1 Expressed appreciation of the follow up work by Natural England and the Joint Nature Conservation Committee (JNCC).

- 21.3.2 Endorsed the further JNCC statistical analysis for estimating the 'best fit' maximum curvature model to define a revised seaward boundary.
- 21.3.3 Requested redrafting of point 5 in Annex 1 where there was a word or phrase missing.

Action: Jonathan Burney to redraft point 5 in Annex 1.

- 21.3.4 Acknowledged there would be insufficient benefit from further consultation (as requested by Baker Consultants) on the new information emerging since the Departmental Brief, and noted the legal view that this was not necessary.
- 21.3.5 Sought and received legal clarification on Freeth's point that a change in boundary necessitated a new consultation, and noted that this was not necessary.
- 21.4 In conclusion, the Board having considered the summary of the most recently expressed concerns from Baker consultants and from Freeths, agreed the new issues raised did not alter the conclusion it had reached in November 2014 to advise Defra on the importance of designation of Falmouth Bay to St Austell Bay as an SPA, and on the location of the landward boundary. The Board agreed the recommendation for the definition of the seaward boundary to be drawn as close as practically possible to the 41m seabed depth contour, which was different from that recommended to the November 2014 meeting.

Action: Natural England to submit advice to Defra on the Falmouth Bay to St Austell Bay pSPA.

- 21.5 The Chairman thanked all involved: Board members, Tim Hill, Jonathan Burney and Alex Banks.

22. Approval for Defra Submission of the Flamborough and Filey Coast Potential Special Protection Area (pSPA) and Flamborough Head possible Special Area of Conservation (pSAC) (NEB P5012)

- 22.1 Tim Hill introduced the item and was joined by Jonathan Burney, Alex Banks and Julie Lunt. Jonathan Burney introduced the paper which set out proposed extensions to the Flamborough and Filey Coast potential SPA and Flamborough Head possible SAC.
- 22.2 The Board noted:
 - 22.2.1 The outcome of the consultation was that there were no remaining objections to the Filey seabird colony and marine interest components of the pSPA, but that objections remained in relation to the landward boundary of the pSPA and pSAC.
 - 22.2.2 Support from legal counsel on the approach to using the predicted 50 year recession line as a boundary.
 - 22.2.3 How account had been taken of stakeholders concerns by revising the boundary and offering conversations about long term consents for areas of garden included within the boundary.
- 22.3 In discussion the Board:

22.3.1 Considered the most significant issue was the handling of inshore recession and supported the way objectors' concerns has been addressed as both legally and ecologically sound.

22.3.2 Requested consideration of a revision to the citation to include reference to the predicted 50 year recession line as a boundary.

Action: Jonathan Burney to consider revision of the citation to include reference to the predicted 50 year recession line as a boundary.

22.3.3 Was reassured that there would be a parallel SSSI notification exercise and that this would be referred to in our advice to Defra.

22.3.4 Had regard for the considerations raised by objectors.

22.3.5 Reflected that developing this advice had been costly exercise and recommended review before it was used as a model for other sites. In response it was noted that the introduction of Gate 0 step in the designations process would provide a mechanism to foresee any complexities that might require specific technical or legal advice in future cases.

22.4 In conclusion the Board having considered the evidence and consultation responses confirmed Natural England should submit the recommendation to Defra that the pSPA should be classified, and the pSAC should be recommended as a candidate SAC, and approved the consultation report for submission to Defra.

Action: Natural England to submit advice to Defra on the Flamborough and Filey Coast potential SPA and Flamborough Head possible SAC.

END OF OPEN SESSION

23. Any Other Business

23.1 There was none.

Actions log

No	Agenda Item/Paper	Ref	Action	Owner
1	Confirmation of the January 2015 Board Briefing Minutes and Matters Arising (NEB M49 01)	2.1	Confirm the January 2015 Board minutes.	BES
2	Horizon Scan of External Activities and Issues (NEB 50 01)	3.2	Keep the Board up to date with developments at Walshaw as necessary	Alan Law
3	Horizon Scan of External Activities and Issues (NEB 50 01)	3.5	Investigate the good example provided by the Lincolnshire LEP.	James Cross
4	Horizon Scan of External Activities and Issues (NEB 50 01)	3.8	Bring the beaver licence to the March meeting for Board consideration of the exit strategy.	Alan Law
5	2014/15 Quarter Three Performance, Risk and Resource Update (NEB 50	4.1	Circulate information on the funding of wintering stone curlew in BRU.	BES

	02)			
6	2014/15 Quarter Three Performance, Risk and Resource Update (NEB 50 02)	4.3	Bring a licensing paper to the May Board meeting.	Alan Law
7	2014/15 Quarter Three Performance, Risk and Resource Update (NEB 50 02)	4.3	Circulate the BIG licensing paper to all Board members.	BES
8	Update on Benty Grange	6.4	Commission a report on the current status of the SSSI.	Alan Law
9	Update on Benty Grange	6.5	Bring the lessons learned from the Benty Grange investigation to the March ARAC meeting.	James Cross
10	Spending Review 2015 (SR 2015) (NEB 50 04)	7.1	Set up a March meeting of the SR 2015 Board sub-group.	Paul Lambert
11	2015/16 Corporate Plan Update (NEB 49 05)	8.1.1	Send a letter to Defra confirming the budgets Natural England will be working to in 2015/16.	James Cross
12	2015/16 Corporate Plan Update (NEB 49 05)	8.2.1	Redraft the Corporate Plan Foreword.	Paul Lambert
13	2015/16 Corporate Plan Update (NEB 49 05)	8.2.2	Send Paul Lambert any further comments on the draft Corporate Plan.	Board members
14	Environmental Stewardship – Reclaims and Penalties Update (NEB 50 07)	10.2	Review the specifics and generics arising from the Surrey Wildlife reclaims and penalties case.	ARAC
15	Countryside Stewardship Update (NEB 50 08)	11.1.1	Consider the contingency options for CAP-D at its March meeting.	ARAC
16	Countryside Stewardship Update (NEB 50 08)	11.2	Update and involve the Board as necessary in the light of future progress with CS.	Guy Thompson
17	Upland Peat Working Group (UPWG) Update	15.2.1	Provide Teresa Dent with a copy of the Strategy Document to presented to the Upland Stakeholder Forum	BES
18	Upland Peat Working Group (UPWG) Update	15.2.3	Present the final Peatland Restoration Strategy to the March Board meeting.	Alan Law
19	Audit and Risk Assurance Committee (ARAC) Update	17.2	Arrange ARAC appointment letter for John Varley.	BES
20	Forward Look of Board Business (NEB 50 11)	19.1	Update the Board forward look.	BES
21	Confirmation of November Open Minutes and Matters Arising (NEB M48 02)	20.1	Produce confirmed November minutes.	BES
22	Advice to Defra on the Falmouth Bay to St Austell Bay Potential Special Protection Area (pSPA) (NEB 49 20)	21.3.3	Redraft point 5 in Annex 1.	Jonathan Burney
23	Advice to Defra on the Falmouth Bay to St Austell Bay Potential Special Protection Area (pSPA)	21.4	Submit advice to Defra on the Falmouth Bay to St Austell Bay pSPA.	Natural England

	(NEB 49 20)			
24	Approval for Defra Submission of the Flamborough and Filey Coast Potential Special Protection Area (pSPA) and Flamborough Head possible Special Area of Conservation (pSAC) (NEB P5012)	22.3.2	Consider revision of the citation to include reference to the predicted 50 year recession line as a boundary.	Jonathan Burney
25	Approval for Defra Submission of the Flamborough and Filey Coast Potential Special Protection Area (pSPA) and Flamborough Head possible Special Area of Conservation (pSAC) (NEB P5012)	22.4	Submit advice to Defra on the Flamborough and Filey Coast potential SPA and Flamborough Head possible SAC.	Natural England



Natural England Board Meeting

Agenda 25 February 2015

Location: **Eastbrook, Shaftesbury Road, Cambridge. CB2 8DR**

25 February 2015 14:15pm start	Board Meeting in Eastbrook, Cambridge.	Paper Number	Sponsor	Supporting presenter
	OPEN Session			
1.	Confirmation of November Open Minutes and matters arising	NEB M48 02	A Sells	
2.	Advice to Defra on the Falmouth Bay to St Austell Bay potential Special Protection Area (pSPA)	NEB P50 12	T Hill	J Burney and Alex Banks
3.	Approval for Defra submission of the Flamborough and Filey Coast potential Special Protection Area (pSPA) and Flamborough Head possible Special Area of Conservation (pSAC)	NEB P50 13	T Hill	J Burney
	CLOSE			

Natural England Board

Meeting: 50
Date: 25 February 2015



Paper No: NEB P50 12

Title: Advice to Defra on the Falmouth Bay to St Austell Bay potential Special Protection Area (pSPA)

Sponsor: Tim Hill, Chief Scientist

1. Purpose

- 1.1 Natural England's advice to Defra, and the draft consultation report, was discussed at the Board meeting on 26 November 2014. The purpose of this paper is to provide Natural England Board with further information on two specific issues which the Board requested at its previous discussion.
- 1.2 The paper to the November 2014 Board highlighted a number of remaining objections following the consultation process. The paper considered these. The Board confirmed that it understood all the issues raised by consultees. It concluded, having taken account of comments received during the consultation period, that Natural England should recommend classification of this important site as an SPA for the three species suggested; that it supported the proposals for the landward boundary, but wanted to consider further the seaward boundary (see below).
- 1.3 The Board noted the receipt of a paper from Baker Consultants in November 2014, which arrived just before the Board paper was completed. The Board also received and read a letter from Baker Consultants dated 25 November 2014. The Board asked for an analysis of the Baker Consultants' paper to check that it did not raise any new concerns about which Natural England may not have been aware, in case they were sufficiently material to change the Board's conclusions from the November 2014 meeting.
- 1.4 The second issue relates to the definition of the seaward boundary. The Board asked for further consideration to confirm that the maximum curvature calculation in this case was appropriate to the circumstances of this site.

2. Recommendations

- 2.1 It is recommended the Board:
 - **note** the summary of the most recently expressed concerns from Baker Consultants (see paragraphs 3.3 - 3.4, and annex 1);
 - **confirm** that having considered the new issues raised, its conclusions at the November 2014 meeting remain unaltered; and
 - **agree** the recommendation in this paper for the definition of the seaward boundary to be drawn as close as practically possible to the 41m seabed depth contour, which is different from that recommended at the November 2014 meeting.

3. Analysis of the Baker Consultancy paper (November 2014)

- 3.1 The following provides a summary of communications with Baker Consultants.
 - 3.1.1 Consultation response received from Baker Consultants on 18 July 2014 which included a number of challenges to the scientific evidence supporting the recommendations.
 - 3.1.2 The consultation period ended on 21 July 2014.
 - 3.1.3 Natural England responded in detail to the concerns raised by Baker Consultants on 29 August 2014.
 - 3.1.4 Meeting held between Baker Consultants and Natural England on 14 October 2014 to discuss the points raised.
 - 3.1.5 Letter sent to Baker Consultants on 20 October 2014 noting the 14 October 2014 meeting and requesting confirmation of the accuracy of the note by 27 October 2014.
 - 3.1.6 Further detailed report response received from Baker Consultants on 14 November 2014. The report further challenged Natural England's response dated 29 August 2014 and discussions held on 14 October 2014. Natural England acknowledged receipt of the report on 19 November 2014 via email.
 - 3.1.7 Letter to Natural England Board from Baker Consultants dated 25 November 2014; receipt acknowledged by Natural England.

4. Summary of new issues raised by Baker Consultants

- 4.1 Annex 1 summarises the principal issues raised by Baker Consultants in their November 2014 paper. Many of these, as indicated, re-stated concerns of which Natural England was aware through the earlier dialogue, and had discussed in-depth with Baker Consultants at a meeting which Natural England arranged on 14 October.
- 4.2 The Board is asked to note especially the points in table 1 which might be seen as new concerns raised, and which, therefore, the Board may not have had full sight of at its November meeting. These are the points asterisked in annex 1.
- 4.3 These new concerns, or re-stated concerns with further explanation, can be summarised as follows:
 - 4.3.1 further points relating to the debate about the legitimacy of rejecting the aerial survey data and the definition of the seaward boundary; and also the desirability of collecting more digital aerial survey data because of the temporal limitations of the current data (see annex 1, points 2 & 6). The general views of Baker Consultants on this issue have been known for some time, and we have specifically noted the suggestion to collect more data;
 - 4.3.2 the view that new information, some of which was specifically brought into the discussion with Baker Consultants, should be formally consulted on (see points 5 and 19). There is no requirement for Natural England to consult a second time on information which has emerged since the Departmental Brief, and Natural England considers there would be insufficient benefit from a further consultation exercise;

- 4.3.3 the view that the data from the Scottish sites is not sufficiently transferable to be used to define the seaward boundary in this English site (point 9). Natural England has considered this concern. It has concluded that the Falmouth to St Austell Bay site falls within the range of depth profiles of the Scottish sites studies, and that there is sufficient evidence of a relationship between bird numbers and seabed depth, to apply the data from the Scottish sites;
- 4.3.4 the view that Natural England should have chosen the Black Throated Diver, not the Great Northern Diver, as the species which defines the seaward boundary (point 10). Natural England notes that this would possibly push the boundary out further to sea, and considers the ecological literature that we have supports the choice of Great Northern Diver to define the seaward boundary;
- 4.3.5 the view that Natural England has, since the Departmental Brief, changed the basis of the qualification for Black Throated Diver and Great Northern Diver (to WeBS data) since the Departmental Brief, which should require further consultation (points 12 & 13). This is a misunderstanding – Natural England has not relied on WeBS data for the qualifying criteria for this species;
- 4.3.6 the view that there is insufficient evidence of regular use of the area by Slavonian Grebes (point 15). Natural England accepts that it used 4 years' data over a 5 year period to make this judgement. Having been informed by Baker Consultants that a 5th year's data is available, it is clear that this does not materially alter the evidence that qualifies this species for classification as an SPA feature;
- 4.3.7 the view that Slavonian Grebe does not warrant relaxation of the 'minimum 50 individuals' guideline, and the view that there should be further peer review of the recommended inclusion of Slavonian Grebe (points 15, 16 and 17). Natural England believes this species clearly merits inclusion as an SPA feature, albeit that the 'minimum 50 individuals' guideline has been relaxed to ensure sufficient protection of this species. There is insufficient benefit to seek additional peer review;
- 4.3.8 the view that Natural England is under direction to classify the area irrespective of its merit (point 21). Natural England acknowledges that it has been asked to work to a timetable that will allow the Government to identify as many as possible of the potential marine SPAs by December 2015. However, it is under no direction to and would not recommend any sites that do not merit classification.
- 4.4 As identified above, the Baker Consultants' November paper includes a number of new or differently stated arguments alongside its re-stated concerns from previous dialogue. However, our view is that none of these would have altered the judgements the Board made at its November 2014 meeting.

5. Consideration of the seaward boundary

- 5.1 The recommendation considered at the November Board meeting was for a seaward boundary defined by the 49m sea depth contour (as close as practical). This followed a recommendation from an analysis by the Joint Nature Conservation Committee (JNCC), based on their maximum curvature approach. Generally, this approach uses bird observations at the site to model, using 1km squares, how the density of birds in each of these areas reduces as distance from the coast increases. It finds a point of maximum change in the curve (specifically the arc of the curve), after which one sees – for each

additional area included within the boundary – diminishing returns in terms of birds protected.

- 5.2 At its November 2014 Board meeting, Natural England confirmed its agreement with this overall approach but was concerned about whether the best estimate – within the overall approach - has been derived given the circumstances of this site. This acknowledges the fact that because of the lack of useable aerial survey data, data has been transferred from studies of Great Northern Diver at 11 sites in Scotland being considered for SPA designation. In its application to this site, the statistical relationship was to sea depth, not area.
- 5.3 Since the November Board meeting, there has been significant further discussion between JNCC and Natural England, and involvement of Natural England Board members. JNCC in consultation with Natural England undertook a further investigation of the different mathematical options for estimating the 'best fit' maximum curvature model.
- 5.4 Following this further analysis, both organisations agreed that the 'generalised E-maximum' model produced the best fit, and this would entail reducing the seaward boundary from a 49m depth line to a 41m line. JNCC's subsequent advice suggests the 41m contour as a sensible seaward boundary.
- 5.5 It is worth clarifying that the maximum curvature approach is a mathematical model, so does not have any inherent ecological basis in its design. Consequently, it is useful to be able to corroborate the results from this approach with ecological ground-truthing, where this is possible. JNCC have been able to do this, to an extent, at other sites where it has been applied, and the results seem sensible overall in relation to what we know from the ecological literature
- 5.6 Given the above, and the circumstances of this site, where we are translating evidence about Great Northern Divers from 11 Scottish sites, Natural England has undertaken further analysis of the depth of the Scottish sites at their seaward boundary, accepting that depth was not a determining variable for the boundary at these sites. This is a complex analysis and results are approximate, but they indicate that the average seabed depth of the seaward boundary of the Scottish sites, conservatively estimated, is about 39m. Natural England's view is that this provides some corroboration for the revised suggestion of a seaward boundary at 41m using the JNCC recommended maximum curvature approach.

Annex 1: Table displaying concerns raised by Bakers Consultants dated 14 November 2014 and Natural England's response to these concerns.

Baker Consultants concerns dated 14 November 2014	Natural England's response to these concerns
<p><i>See Chapter 4: "Aerial data/seaward boundary", pages 15 - 24 of Baker Consultants response for further detail.</i></p> <p>1. BC query the exclusion of the aerial survey data and dismiss NE's "speculation" as to why the surveys did not detect the birds in the offshore area. BC agree that aerial surveys designed for offshore surveying may result in data loss in the inshore area and quote a number of references in support of this. BC indicate a number of reasons why NE's approach to disregard the aerial survey data is misconceived and cite the Liley <i>et. al.</i> (2014) report as providing evidence to support this conclusion. BC suggest that the seaward boundary could in fact be set within the 2km near-shore zone based on the new digital aerial survey data or on dispersion data collected by Liley <i>et al.</i> (2014).</p>	<p><i>This point was initially raised in previous correspondence and addressed at the time.</i></p> <p>Natural England (NE) explained in previous dialogue that the aerial surveys appear to undercount the bird numbers inshore, and that in any case there was insufficient aerial survey data to apply the usual modelling approach to defining the seaward boundary. NE was aware of the suggestion to draw the boundary at 2km from the shoreline; NE's conclusion was that this suggestion had less scientific justification than for example the maximum curvature approach.</p> <p>The Liley <i>et. al.</i> 2014 report is currently in draft format and undergoing external peer review. The report represents a "snapshot" in time (Feb-Mar 2014) and was commissioned by NE to build understanding of how wintering divers and grebes are utilising the pSPA. The survey period was dominated by an exceptional series of depressions and storms and therefore distribution data should be treated with an element of caution. Making inferences from the near-shore distribution of diver species to the offshore populations is difficult because areas beyond the visible limit (approx. 2km) were not surveyed during the study.</p>
<p><i>See Chapter 4: "Aerial data/seaward boundary", pages 15 - 24 of Baker Consultants response for further detail.</i></p> <p>*</p> <p>2. BC conclude that aerial surveys were never intended to define the inshore populations and instead intended to provide data to define the seaward boundary. Consequently, it is suggested that any inaccuracy in under-counting the inshore bird population does not negate the accuracy of the offshore data.</p>	<p><i>This point was initially raised in previous correspondence and explained in more detail in the 14 Nov 2014 paper</i></p> <p>NE does not agree with this view; our experience is that aerial surveys attempt to count birds accurately across all the area they survey. Other marine SPAs (Carmarthen Bay, Outer Thames Estuary, Liverpool Bay) have used aerial survey data to define the extent of distribution in both 'inshore' and 'offshore' areas; there has been no division between methods based on proximity to shore.</p>

<p>See Chapter 4: “Aerial data/seaward boundary”, pages 15 - 24 of Baker Consultants response for further detail.</p> <p>3. BC concerned about NE’s assertion dated 29 Aug 2014 that the presence of 16% of diver records outside of the recommended seaward boundary displayed that the boundary is not excessively precautionary. BC states this finding does not quantifiably justify anything other than to show that divers occur at a similarly low density both beyond 2km within the pSPA and immediately outside the proposed seaward boundary. BC feels this supports the conclusion that the proposed area does not constitute “a most suitable territory” for either diver species.</p>	<p><i>This point was initially raised in previous correspondence and addressed by Natural England at the time.</i></p> <p>NE accepts that there is no suggestion of a major decrease in bird numbers just at the point the boundary is suggested. NE was pointing out that the proposed boundary is not set at a highly precautionary point i.e. it is not encompassing near to 100% of the bird population.</p>
<p>See Chapter 4: “Aerial data/seaward boundary”, pages 15 - 24 of Baker Consultants response for further detail.</p> <p>4. BC recommend that a full non-breeding season’s aerial survey is required via digital aerial survey method to define a new seaward boundary. BC provide a number of reasons why this approach is appropriate.</p>	<p><i>This point was initially raised in previous correspondence and addressed by Natural England at the time.</i></p> <p>The 27.11.14 Board paper specifically notes this suggestion, though NE’s view is that 3 years’ additional survey work would be required to demonstrate “regularity of use”.</p>
<p>See Chapter 4: “Aerial data/seaward boundary”, pages 15 - 24 of Baker Consultants response for further detail.</p> <p>★</p> <p>5. BC assert that WeBS data with aerial survey data to justify the exclusion of the aerial survey data, represented the presentation of new data and analysis. BC’s view is that the data was not available in the Departmental Brief and therefore should be subject to formal consultation under Regulation 12B of the Conservation of Habitats and Species Regulations 2010.</p>	<p><i>This is a new concern raised on 14 Nov 2014</i></p> <p>In dialogue with BC, NE had discussed WeBS data as additional information to support the evidence in the Departmental Brief for diver species. NE reiterates that WeBS data was not relied on in the Departmental Brief for evidence for classification. NE’s view is that there is no need or requirement to consult further.</p>
<p>See Chapter 4: “Aerial data/seaward boundary”, pages 15 - 24 of Baker Consultants response for further detail.</p> <p>★</p> <p>6. BC indicate that the aerial survey data collected is temporally limited consisting of single survey visits for the months of Jan, Feb & Mar only. BC recommend further aerial surveys are required to examine whether the absence of divers offshore (as identified by the surveys to date) is or not a general pattern between and throughout the wintering season/s.</p>	<p><i>The specific point about the temporal limitation of the current aerial survey work is a new concern raised on 14 Nov 2014.</i></p> <p>Natural England has argued that there is an insufficient amount of aerial survey data to derive the seaward boundary from such data. BC seem to be making the same point – that there is a limited set of data available to fully describe temporal patterns in diver distribution at the site. Also see response to point 4.</p>

<p>See Chapter 4: “Aerial data/seaward boundary”, pages 15 - 24 of Baker Consultants response for further detail.</p> <p>7. BC references the peer review comments which indicated a weak correlation from the Scottish diver data between bird density and water depth. BC express concern about extrapolating Scottish data to the south Cornwall site. BC argue there are likely to be site-specific reasons why an even lower proportion of the divers using the south Cornwall pSPA area are found in these deeper water areas, and therefore it does not form a “most suitable territory” for diver species.</p>	<p><i>This point was initially raised in previous correspondence and addressed by Natural England at the time.</i></p> <p>NE has explained that the analysis was sufficient to conclude that within the proposed boundary there are likely to be areas of high, medium and low densities of the birds, whereas outside the boundary there are likely to be only low bird densities found.</p>
<p>See Chapter 4: “Aerial data/seaward boundary”, pages 15 - 24 of Baker Consultants response for further detail.</p> <p>8. BC indicate the novel approach applied to south Cornwall ignores the basic principles of gathering proper evidence and data in the usual way through surveys. BC provide a number of reasons why these methods are not comparable as the interest features are not bound by a central place such as nest site locality. BC indicate that non-breeding birds are likely to follow an “ideal free distribution” relating mainly to food availability.</p>	<p><i>This point was initially raised in previous correspondence and addressed by Natural England at the time.</i></p> <p>As outlined in NE’s response on 29 Aug 2014, the seaward boundary option is based on generic habitat (depth) preferences of the recommended features, using established scientific techniques for SPA boundary setting. The limited amount of ecological literature on these birds suggests their feeding pattern is depth related. The use of generic data for individual sites is not unprecedented.</p>
<p>See Chapter 4: “Aerial data/seaward boundary”, pages 15 - 24 of Baker Consultants response for further detail.</p> <p>★</p> <p>9. BC indicate that there is no evidence to show similarities in bathymetry to support the assumption as stated in the Departmental Brief “by looking at the bathymetry of the areas contained within the draft Great Northern Diver (GND) boundaries in Scotland, it is possible to define a draft boundary for the South Cornwall Coast that has similar bathymetric characteristics to the Scottish areas”. BC also indicate there was no exploration of the variation in bathymetric features within Scottish waters as well as there being no correction for sampling effort between sites, years and contours which should have been input as explanatory variables in the analysis.</p>	<p><i>This general view was initially raised in previous correspondence but the 14.11.14 report fully explains the concern.</i></p> <p>It is accepted that the Scottish sites are varied in characteristics and will not exactly mirror the depth profile of the Cornwall site, but NE’s response on 29 Aug 2014 explained that the depth profile in the Cornwall Area of Search (AoS) fits within the range of depth profiles observed in the Scottish AoS.</p>
<p>See Chapter 4: “Aerial data/seaward boundary”, pages 15 - 24 of Baker Consultants response for further detail.</p>	<p><i>This is a new concern raised on 14 Nov 2014.</i></p> <p>We have no evidence to believe that BTDS are likely to be distributed</p>

<p>*</p> <p>10. BC makes reference to the Liley et. al. (2014) report which indicates that great northern divers are bottom feeding whereas black-throated divers are likely feeding in the water column. BC indicate that whilst GND distribution may be effected by seabed depth, it is highly unlikely this is the case for Black Throated Diver (BTD). BC conclude that BTD are not constrained by seabed depth and therefore suggest that BTD may be distributed even further offshore than GND and therefore the current boundary may not include the most “suitable territory” for this species.</p>	<p>further offshore than GNDs. From the literature, we expect Red-throated Divers (RTDs) to be distributed in shallower waters (as per Departmental Brief page 9), and we expect BTDs to behave similarly because of their similar size and ecology.</p>
<p><i>See Chapter 5: “Regular Use of the pSPA by Divers”, pages 25 - 28 of Baker Consultants response for further detail.</i></p> <p>11. BC reiterated that the marine UK SPA selection guidelines (Webb & Reid, 2004) make it clear that Stage 1 process for SPA selection is intended to be based on data less than 10 years old. They assert that data older than 10 years is only relevant to Stage 2 of the selection guidelines if Stage 1 tests have first been met. BC maintain that Stage 1 requirements have not been met for the diver species to allow progression to Stage 2. BC interpret regular use to mean an established pattern of use over the near-term and not sporadic use over lengthy periods of time. BC indicated the approach applied by NE is a novel departure from the selection guidelines and therefore should be subject to further formal consultation.</p>	<p><i>This point was initially raised in previous correspondence and addressed by Natural England at the time.</i></p> <p>NE maintains that the UK marine SPA selection guidelines have been followed and the site qualifies under Stage 1 process. Data from four years (2 years data less than 10 years old and 2 years data older than 10 years) are presented in the Departmental Brief. There are, therefore adequate data available, with priority given to the most recent data. Natural England’s view is that the evidence is sufficient to make a recommendation for classification for this site.</p>
<p><i>See Chapter 5: “Regular Use of the pSPA by Divers”, pages 25 - 28 of Baker Consultants response for further detail.</i></p> <p>*</p> <p>12. BC indicate that NE are now proposing that BTD qualify under paragraph 3.15(ii) of the marine SPA guidelines (Webb & Reid, 2004) using WeBS data instead of paragraph 3.15(i) as indicated in the Departmental Brief, and therefore further public consultation is required.</p>	<p><i>This is a new concern raised on 14 Nov 2014</i></p> <p>See response to Point 5. NE reiterates that WeBS data was not relied on in the Departmental Brief for evidence for classification. BTD qualifies under Stage 1 process, paragraph 3.15(i) of the marine UK SPA guidelines as outlined in the Departmental Brief which states “<i>the requisite number of birds is known to have occurred in two thirds of the seasons for which adequate data are available, the total number of seasons being not less than three</i>”.</p>
<p><i>See Chapter 5: “Regular Use of the pSPA by Divers”, pages 25 - 28 of Baker Consultants response for further detail.</i></p>	<p><i>This is a new concern raised on 14 Nov 2014.</i></p> <p>As explained above [see point 5 above], NE has not relied on WeBS</p>

<p>★</p> <p>13. BC indicated that NE's apparent reliance on WeBS data to demonstrate qualifying numbers for great northern diver results in this species not reaching the minimum 50 guideline. BC indicated that NE had not provided any justification whatsoever in relation to its decision to waive the minimum 50 guideline for this species. BC request further peer review is required for this species given the minimum 50 guideline.</p>	<p>data to recommend GND as a feature for inclusion in site classification, and as the data presented in the Departmental Brief show an average number of GNDs greater than 50, the guideline is not a factor in recommending this species.</p>
<p><i>See Chapter 6: "Regular Use by Slavonian grebe" and Chapter 7 "Minimum 50 rule", pages 29 - 32 of Baker Consultants response for further detail.</i></p> <p>14. BC indicate that NE had not provided any scientific data and / or meeting minutes or other documents relating to the UK Special Protection Area and Ramsar (Avian) Scientific Working Group (SPAR SWG) decision to relax the "minimum 50" guideline for this species. BC requested full and comprehensible explanation, evidenced by reference to the documents NE referred to regarding why the guideline has been relaxed for this species. BC indicated that breaching the "minimum 50" guideline represents a departure from long established NE/JNCC policy and therefore BC (and the general public) has been unable to make a full or informed appraisal of this point.</p>	<p><i>This point was initially raised in previous correspondence and addressed by Natural England at the time.</i></p> <p>The decision to relax the "minimum 50" guideline for this species is justified. NE reiterates that outputs from the imminent SPA review performed by the SPAR SWG indicate that the non-breeding (overwintering) SPA suite for Slavonian grebe in the UK was 'insufficient'. The general interpretation of the 'minimum 50 guideline' and the specific case of Slavonian grebe were discussed at the SPAR meetings on 10 November 2011 and 23 June 2014 respectively.</p>
<p><i>See Chapter 6: "Regular Use by Slavonian grebe" and Chapter 7 "Minimum 50 rule", pages 29 - 32 of Baker Consultants response for further detail.</i></p> <p>★</p> <p>15. BC indicated the Departmental Brief did not present sufficient data to meet the definition of "regular use" as defined by Webb & Reid (2004) paragraph 3.15(ii) for Slavonian grebe. BC specified that the Departmental Brief presented only four years of data and not the required five years of data as required under 3.15(ii) as the 2010/11 data was omitted. BC queried why NE were then able to provide the data for this year in their response (dated 29 Aug 2014) and why this data was not included in the Departmental Brief as it was evidently available at the time of publication in a report cited as <i>Holt et. al.</i> 2012. BC indicated that as a result of the presentation of this new data further public consultation is required.</p>	<p><i>This point of view was initially raised in previous correspondence and addressed by Natural England at the time but the 14.11.14 paper clarified their concern.</i></p> <p>The key methods for demonstrating "regularity" is either through the requisite number of birds being present in two thirds of the seasons or mean of peaks of 5 years' worth of data. NE maintains that Slavonian grebe meets both tests of "regularity".</p> <p>In previous discussion, BC helpfully pointed out that while the Departmental Brief had relied on 4 years' data, in fact a 5th year was available: the confusion arose from a discrepancy between the WeBS Website statistics and their underlying data reports. The addition of the 'missing' 2010/11 WeBS data results in a very minor change to the previously estimated 5 year peak mean (2007/08 – 2011/12), from 15.0 to 14.8 individuals (note the 1% qualifying threshold is 11</p>

	<p>individuals). Consequently, the data on Slavonian Grebe demonstrates regularity of use and where the changes make no material difference to the original proposals as defined in the Departmental Brief, it is not beneficial or required to re-consult on this data.</p> <p>The Departmental Brief was finalised at Natural England's Executive Board meeting in June 2013 (though it was held until December 2013 so it could be submitted to Defra alongside other documents being prepared). The WeBS 2010/11 data was uploaded to its online system in August 2013.</p>
<p><i>See Chapter 6: "Regular Use by Slavonian grebe" and Chapter 7 "Minimum 50 rule", pages 29 - 32 of Baker Consultants response for further detail.</i></p> <p>*</p> <p>16. BC requested clarification of the population size that the new qualifying level has been set for this species. BC indicated Slavonian grebe does not warrant this relaxed guideline because in the context of the total biogeographic, northeast or northwest European populations, the UK wintering population is not significant. Furthermore BC indicated the bulk of the northwest EU population winters in Scotland and designating a site based on a small and isolated population does not constitute protecting a "most suitable territory".</p>	<p><i>This is a new concern raised on 14 Nov 2014.</i></p> <p>The reference population for qualification is 1% of the GB population (as per Stage 1.1 of the SPA Selection guidelines). Slavonian grebe is listed in Annex I of the Directive. NE considers that this site represents a 'most suitable territory' as we believe the SPA network to be insufficient for this species, and for the reasons set out in the Departmental Brief. This view was endorsed by the Joint Nature Conservation Committee (JNCC) when they approved (dated 5 Dec 2013) the scientific proposals set out in the Departmental Brief as meeting with UK marine SPA selection guidelines. Additionally, refer to Point 14.</p>
<p><i>See Chapter 6: "Regular Use by Slavonian grebe", pages 29 - 30 of Baker Consultants response for further detail.</i></p> <p>*</p> <p>17. BC state they do not accept any of the points made as justification of the decision to not seek further peer review for the inclusion of Slavonian grebe in the recommendations. BC contest the decision not to seek further peer review.</p>	<p><i>This concern was known on 4 Oct 2014 and supplemented on 14 Nov 2014.</i></p> <p>NE notes that the inclusion of Slavonian grebe after peer review did not result in any alterations to the seaward, landward or east-west boundary. Additionally, NE does not consider it necessary to further peer review its status as a qualifying species for the reasons outlined in point 15. As the boundary did not change, and as the case for recommendation of Slavonian grebe was clearly made (and consulted upon) in the Departmental Brief, NE maintains additional peer review is unnecessary.</p>
<p><i>See Chapter 8: "Landward boundary", page 33 of Baker Consultants response for further detail.</i></p>	<p><i>This point was initially raised in previous correspondence and addressed by Natural England at the time.</i></p>

18. BC indicate the information provided does not demonstrate significant use of the intertidal area by any of the recommended species and therefore was not consistent with the marine UK SPA guidance in Webb & Reid (2004).	The additional information provided by Liley <i>et. al.</i> 2014, sought to corroborate the existing evidence as outlined in the Departmental Brief by further demonstrating there was some evidence of use of the intertidal area. It demonstrated some, albeit limited use. In addition there was evidence of sightings by a surveyor undertaking the shore-based count. There is no requirement in the marine SPA selection guidelines to demonstrate significant evidence of use of the intertidal region, rather to demonstrate evidence that there is no use of this area.
<p><i>See Chapter 8: "Landward boundary", page 33 of Baker Consultants response for further detail.</i></p> <p>*</p> <p>19. BC indicated the Liley <i>et. al.</i> 2014 report which Natural England refer to is "new data" and therefore subject to further public consultation.</p>	<p><i>This is a new concern raised on 14 Nov 2014.</i></p> <p>There is no requirement to consult further on additional information received, and NE does not consider it sufficiently beneficial to do.</p>
<p><i>See Chapter 8: "Landward boundary", page 33 of Baker Consultants response for further detail.</i></p> <p>20. BC indicate the information (distribution maps displaying some GND feeding in the intertidal) provided by NE in support of the Mean High Water landward boundary decision was not available in the draft Liley <i>et. al.</i> (2014) report which NE supplied to BC on 29 Sept 2014.</p>	<p><i>This point was initially raised in previous correspondence and addressed by Natural England at the time.</i></p> <p>NE letter dated 20 Oct 2014 explains that the geographic coordinates for observations made in Liley <i>et. al.</i> (2014) are not included in the report, although the GIS package could be provided on request. No further request for this information has been made.</p>
<p><i>See Chapter 7 "Minimum 50 rule", pages 29 - 32 of Baker Consultants response for further detail.</i></p> <p>*</p> <p>21. BC suggest that NE are under direction to classify the area as an SPA irrespective of its value or its ability to meet the required standards and irrespective of the lack of data to support such classification</p>	<p><i>This is a new concern raised on 14 Nov 2014.</i> NE has been asked to advise on suitable SPA designations in the marine environment to a timetable which will allow these to be identified by Government by the end of 2015. However, if some sites under consideration do not meet the criteria then we would recommend it is not designated. NE maintains that this site meets with the marine UK SPA selection guidelines (Webb & Reid, 2004) as demonstrated in the Departmental Brief.</p>

References

Liley, D., Fearnley, H., Waldon, J. & Jackson, D. (2014). Distribution and Ecology of wintering grebes and divers in the Falmouth-St. Austell pSPA. Unpublished report by Footprint Ecology for Natural England;

Webb, A. & Reid, J.B. (2004). *Guidelines for the selection of marine SPAs for aggregations of inshore non-breeding waterbirds*. Annex B in:
Johnston, C., Turnbull, C. Reid, J.B. & Webb, A. (2004). *Marine Natura 2000: Update on progress in Marine Natura*

or fishing within 3 miles of the coast in Ligger Bay owing to the existence of disused instruments and cables.

TRAFFIC SEPARATION SCHEMES

Charted Traffic Separation Schemes are listed in Annual Notice to Mariners No 17, which is updated annually. It indicates which schemes are IMO-adopted and includes other relevant information. For the latest information on individual schemes, see Admiralty Sailing Directions.

FIRING PRACTICE AREAS

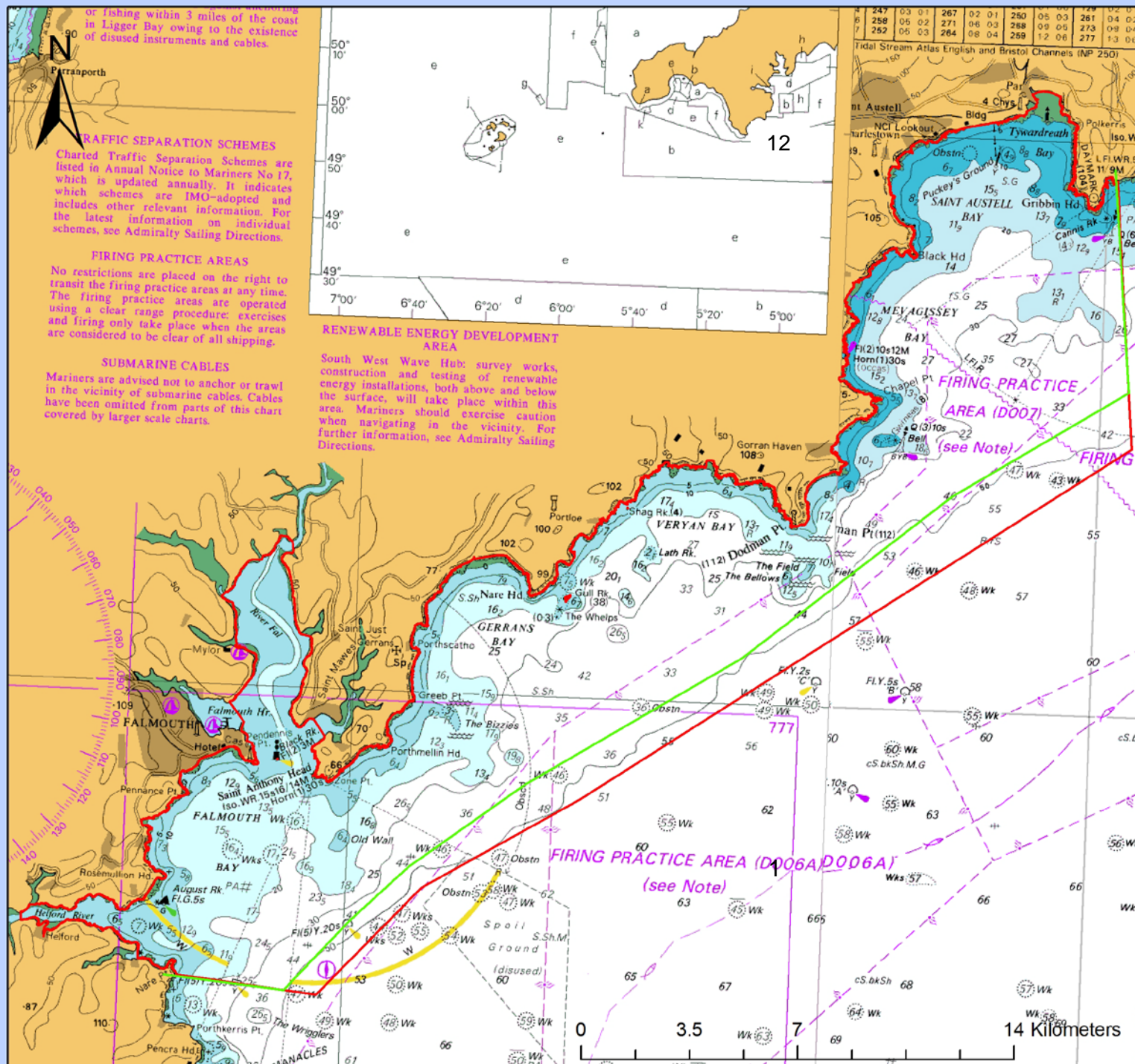
No restrictions are placed on the right to transit the firing practice areas at any time. The firing practice areas are operated using a clear range procedure; exercises and firing only take place when the areas are considered to be clear of all shipping.

SUBMARINE CABLES

Mariners are advised not to anchor or trawl in the vicinity of submarine cables. Cables have been omitted from parts of this chart covered by larger scale charts.

RENEWABLE ENERGY DEVELOPMENT AREA

South West Wave Hub: survey works, construction and testing of renewable energy installations, both above and below the surface, will take place within this area. Mariners should exercise caution when navigating in the vicinity. For further information, see Admiralty Sailing Directions.



Falmouth Bay to St Austell Bay pSPA map displaying 49m and 41m seaward boundary

- 41m Contour
- 49m Boundary

Map produced on 09/02/2015 by
Area 12 Team, Natural England

Map Reference: FBtoSAB Boundary
49m & 41m seaward boundary options

Scale (at A4): 1:176,975

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Natural England Board



Meeting: 50
Date: 25 February 2015

Paper No: NEB P50 13

Title: Approval for Defra submission of the Flamborough and Filey Coast potential Special Protection Area (pSPA) and Flamborough Head possible Special Area of Conservation (pSAC)

Sponsor: Tim Hill, Chief Scientist

1. Purpose

The purpose of this paper is to seek Natural England Board approval for Natural England's final recommendations to Government, following formal consultation, for the extension to Flamborough Head and Bempton Cliffs SPA and modification to Flamborough Head SAC which is currently known as Flamborough and Filey Coast potential Special Protection Area (pSPA) and possible Special Area of Conservation (pSAC).

2. Recommendations

It is recommended the Board:

- 2.1. consider** the evidence and consultation responses and confirms that it is satisfied with the recommendations;
- 2.2. note** that no objections remain regarding the qualifying seabird data for the proposed pSPA, the principle of the northern extension of the pSPA to protect the cliffs at Filey, or the seaward extension for the pSPA;
- 2.3. consider** the remaining objections regarding the landward boundary, the use of contemporary bird data and the potential impacts of the designations on undertaking activities (outlined in section 6), and agrees the recommendation for an amended recession boundary from that which was consulted on;
- 2.4. confirm** that Natural England should submit the recommendation to Defra that the pSPA should be classified and the pSAC should be recommended as a candidate SAC as per the consultation; and
- 2.5. approve** the consultation report to be submitted to Defra.

3. Background

- 3.1. Flamborough Head and Bempton Cliffs SPA was classified in 1993 for an internationally important population of migratory black-legged kittiwake *Rissa tridactyla*. An extension to this site has been proposed to include an additional important component of the breeding seabird colony to the north of the existing site on the cliffs at Filey, the addition of a marine extension to protect seabirds on the water, and a change to the landward boundary to include sufficient area to take into account predicted coastal change over the next 50 years.
- 3.2. The scientific case for the Flamborough and Filey Coast potential Special Protection Area (pSPA) was set out in the 'Proposed extension to Flamborough Head and Bempton Cliffs Special Protection Area and renaming as Flamborough and Filey Coast potential Special Protection Area' Departmental Brief. The pSPA citation can be seen in Annex 1.
- 3.3. Flamborough Head SAC, designated in 2005, qualifies under article 4.4 of the Habitats Directive as it hosts the following Annex I habitats; vegetated cliffs of the Atlantic and Baltic coasts, submerged or partially submerged sea caves, and reef habitats. Natural England proposes to modify the existing landward boundary of the SAC to align with that of the pSPA and take into account predicted coastal change over the next 50 years. The pSAC citation can be seen in Annex 2.
- 3.4. There are already over 108 SPAs with marine components designated within UK inshore waters and, currently three fully marine SPAs. The UK is committed to identifying SPAs in the marine environment, and classifying as many as possible of the recommended sites by 2015 in order to fulfil the requirements of the Birds Directive, see section 4.1.

4. pSPA and pSAC Proposals

- 4.1. Article 4 of the Birds Directive (2009/147/EC) requires that Member states classify the most suitable territories for defined species (those listed in Annex I) and regularly occurring migratory species in the geographical sea and land area covered by the Directive.
- 4.2. The site qualifies for SPA designation in accordance to the following JNCC SPA selection guidelines: Stage 1.2, for regularly supporting more than 1% of the bio geographical population of four regularly occurring migratory species; black-legged kittiwake *Rissa tridactyla*, northern gannet *Morus bassanus*, common guillemot *Uria aalge* and razorbill *Alca torda*; and Stage 1.3, for regularly supporting an assemblage of more than 20,000 individual breeding seabirds, including over 2,000 northern fulmar *Fulmarus glacialis*. All regularly occurring migratory and Annex I species comprise the assemblage and therefore, Atlantic puffin, herring gull, European shag and great cormorant are also afforded protection as components of the assemblage.
- 4.3. The JNCC SPA selection guidelines state that the boundary should delimit an area which provides the conservation requirements of the species in the seasons(s) and for

the particular purposes for which it is classified. Accordingly, the proposal includes an extension of the current SPA to the north to include cliffs used by the breeding seabird colony, a marine extension to incorporate important maintenance areas and a landward extension to ensure the breeding cliffs remain within the site into the future.

- 4.4 The coastal stretch from Filey Brigg to Cunstone Nab supports a diverse assemblage of breeding seabirds, with 20,504 breeding adults counted between 2009 and 2011, contributing approximately 10% of the overall seabird assemblage of the proposed pSPA. Between 2009 and 2011 the extension area from Filey Brigg to Cunstone Nab supported 15.5% of the pSPA total for black-legged kittiwake, 4.7% for common guillemots and 5.4% for razorbills as well as 39% of the pSPA total for northern fulmar. The seabirds occurring within the entire area from Cunstone Nab in the north to Flamborough south Landing in the south can be considered as one population separated by a sandy coastal stretch in Filey Bay, which does not provide suitable breeding habitat.
- 4.5 To implement conservation measures at sea, the Joint Nature Conservation Committee (JNCC) has recommended that the boundary of certain existing seabird colony SPAs be extended into the marine environment to include waters vital for ensuring some essential ecological requirements, including preening, bathing and foraging, of the breeding seabird populations are met. Three qualifying features and a named assemblage component of the pSPA qualify for a generic seaward extension of the SPA; northern fulmar and northern gannet both qualify for a generic 2km seaward extension and common guillemot and razorbill both qualify for a generic 1km seaward extension. Therefore the pSPA incorporates a marine extension out to 2km from the cliffs in all directions.
- 4.6 In terms of the landward boundary of both the SPA and the SAC the features will be affected by coastal erosion. Natural England has to consider what would be an appropriate and proportionate landward boundary to protect the features in the context of the predicted coastal erosion. Natural England has considered the requirements of the Birds Directive and the Habitats Directive and the associated guidance in considering the landward boundary and take the opportunity to seek legal advice. A summary of this legal advice is in Annex 3. Natural England has proposed extending the landward boundary for both the pSPA and pSAC, using a 50 year recession line to take account of local coastal erosion rates.
- 4.7 The proposed landward extension was based on an analysis of coastal change, '*Flamborough Head, Filey Brigg to South Bay: Prediction of 50-Year Cliff Recession distances*', commissioned by Natural England. This analysis involved the review of recession prediction methods, the identification of cliff units and the assessment of historical recession rates for each cliff unit, which combined enabled the development of 50 year recession predictions. The predicted coastal recession rates detailed in the report reflected differences in geology and exposure to the elements along the coastline. Ground truthing field work enabled us to determine a robust cliff line from which to plot the 50 year recession line predicted by the commissioned survey. The pSPA and pSAC boundary was drawn using the data from the survey combined with mapping from ground truthing site visits. A map of the existing SPA boundary and the proposed pSPA boundary can be seen in Annex 5.

- 4.8 In relation to drawing the boundary, article 1(j) of the Habitats Directive, states that a site is “a geographically defined area whose extent is clearly delineated”. It has been held that “the definition requires that the boundaries be capable of being shown on a map,and of being ascertained on the ground by reference to the map.” They must also be registered as a local land charge and movable land charges are not permitted. Therefore a descriptive boundary such as ‘the cliff top’ is not appropriate. Using the analysis (mentioned in 4.7) the proposal is to adopt a 50 year recession line as the longer timeframe that is used, the greater confidence there is in the prediction of coastal change. This is due to the way in which the cliffs within this SPA and SAC respond to erosive forces ie with slumping episodes as well as incremental recession. Slumping can cause significant and unpredictable loss of cliff material up to 8 metres at a time. If this occurred this could move the cliff beyond the 20 year time frame in one episode and therefore not protect the features of interest for the long term as required under the Directives. The Directives’ references to long term protection and the foreseeable future would suggest 100 years recession line might be theoretically possible but 50 years seems a more proportionate approach.
- 4.9 To ensure consistency with the pSPA, Natural England also proposes to amend the landward boundary of the existing SAC to take into account predicted coastal change over the next 50 years. No features will be added to the existing SAC site and no other boundary changes are proposed. By amending the SAC boundary to incorporate the eroding cliffs and take consideration of predicted coastal change, we are consistently aligning the pSAC and pSPA using the most recent evidence. A map of the existing SAC boundary and the proposed landward boundary extension can be seen in Annex 4.
- 4.10 At consultation the total area of the pSPA site was 8039.60 hectares, with the marine extension covering an area of 7471.78 hectares. The pSAC was 6623.00 hectares at consultation. More detailed information can be found in the pSPA Departmental Brief and the pSAC Selection Assessment Document.
- 4.11 These cases constitute Natural England’s advice to Defra. The Secretary of State is the final decision-maker.

5. Consultation process

- 5.1 Natural England sought approval from the Executive Board for submission to Defra to allow the pSPA to go forward for formal consultation in January 2013. Approval from Defra to carry out a formal consultation was received in July 2013. The initial intention was to align the pSPA consultation with the Flamborough Head SSSI and Filey to Scarborough to South Bay SSSI which will underpin the pSPA. For this reason formal consultation of the pSPA did not begin immediately after approval was received. However, the SSSI notification was delayed due to outstanding and ongoing issues raised by members of the public. Further delays were also not acceptable to Defra and therefore we were unable to align the pSPA and SSSI consultations without compromising commitments to Defra regarding the identification of marine SPAs by 2015.
- 5.2 Natural England approached the Board again in December 2013 to agree changes that had been implemented to the pSPA landward boundary as well as to seek approval to

formally consult on the pSAC at the same time as the pSPA. Approval was given by Government to proceed with formal consultation for both the pSPA and pSAC in January 2014. The consultation included the Departmental Brief, a socio-economic Impact Assessment and site maps.

- 5.3 47 responses were received for the pSPA and pSAC consultation. Of these 11 stakeholders were supportive of the proposals, 8 were neutral responses or general enquiries and 1 was an enquiry which raised a specific issue. Supportive responses included representations from members of the public, environmental groups such as Filey Brigg Ornithological Group, and organisations with economic interests including Network Rail Infrastructure Ltd. and the Royal Yachting Association. A total of 22 stakeholders objected to the proposals, either questioning or asking for clarification of the rationale behind setting of the boundary. A further 5 responses were supportive of the proposal but raised specific issues; these issues are detailed in section 6.
- 5.4 After the formal consultation a Natural England evidence panel, comprising of Local Advisors, Senior Advisors and Specialists, was assembled to review the consultation responses. Response letters were sent out to stakeholders and in addition, following these letters, work has been carried out locally through letter responses, emails, telephone calls and on-site meetings with stakeholders as requested, fielding local staff and Natural England's coastal geomorphology senior specialist as appropriate. This work to try and resolve any outstanding objections has continued up until the preparation of this paper.
- 5.5 For the formal consultation Natural England drew the boundary following internal guidance which stipulated that physical markers on the ground should be used to delineate the boundary. This meets the requirement to have a boundary which can be drawn on a map and identified clearly and unambiguously on the ground. This resulted in some cases with the boundary being considerable distance from the recession line. During the consultation it became obvious that this method for drawing the boundary was not the best approach and in response to stakeholders concerns, Natural England reviewed the approach and with agreement from Senior Advisors the boundary was drawn using a combination of visual markers and GPS points. This has resulted in the boundary now being closer to the recession line. In some places the boundary is still a considerable distance from the recession line due to the lack of visual markers and the indentations of the cliff line. How the distance between the recession line and the boundary occurs can be explained by the map in Annex 7.
- 5.6 The Marine Biological Association (MBA), in their consultation response, specifically questioned the references made to sea fans in the current SAC citation which was provided with the consultation documents. Natural England acknowledged that this was included in error, and have since contacted Defra to recommend that this is changed as a result of the consultation.
- 5.7 Post consultation, Natural England was contacted by Smartwind regarding our treatment of Atlantic puffin *Fratercula arctica* in the Flamborough and Filey Coast pSPA Departmental Brief. Smartwind raised concerns with the methodology used to estimate puffin population numbers of 490 pairs or 980 breeding adults within the pSPA. The 980 breeding adults figure was derived from census data from 2008 to 2011 which counted puffins as 'individuals on land'. The 'individuals on land' figure of 980 was

converted to a pairs estimate by dividing the count by two to give a population estimate of 490 pairs. There is concern that using this methodology may result in a serious underestimation of the puffin population. Natural England's marine ornithologists have reviewed the puffin population estimate in the Flamborough and Filey Coast pSPA Departmental Brief in consultation with JNCC and consider that it is not appropriate to halve the number of 'individuals on land' counts for puffin to derive a figure for the number of pairs within the Flamborough and Filey Coast pSPA. Therefore, the puffin population estimate for Flamborough and Filey Coast pSPA will be amended from 490 pairs, 980 breeding adults to 980 pairs, 1960 breeding adults. These figures do not change the status of the puffin within the breeding seabird assemblage and it still remains an unnamed component. The overall assemblage number in the citation will however be amended to incorporate this increase in puffin numbers.

- 5.8 The Consultation Report outlines any representations or objections that were made and in each case sets out Natural England's response and recommendation to Defra.

6. Outstanding objections:

- 6.1 Following the consultation and Natural England's responses we have not received any further communication stating that stakeholders are now satisfied with our response. Therefore all the objections received are still considered as outstanding.
- 6.2 A summary of the issues and Natural England's response is provided in Table 2. Further detail is provided in the Consultation Report.

Table 2: A summary of the issues still considered as outstanding and how Natural England responded to these issues.

Concern raised	Natural England's response
The amount of land incorporated in the boundary when using existing visual markers.	Alternative ways were considered to map the boundary to ensure that the landward boundary line sat closer to the predicted recession buffer. The boundary was amended using GPS points as this approach delivered a tight fit in many locations. More detail is provided in sections 6.3 – 6.6.
The accuracy of the predicted 50 year recession line.	Further clarification was sought from Dr Mark Lee regarding his 50 year recession predictions. Natural England still regards this as the most robust scientific evidence available. More detail is provided in sections 4.6-4.9 and 6.3 – 6.6.

Seabirds not using the south facing cliffs.	<p>The original classification of the Flamborough Head and Bempton Cliffs SPA, classified in 1993, makes reference to kittiwakes being present on the south side of Flamborough Head, at South Landing.</p> <p>More detail is provided in section 6.8.</p>
Breeding seabirds not using the land which is incorporated by the landward boundary (i.e. private gardens and farmland).	<p>It was explained that the land within the recession boundary was included to accommodate the migration of features following erosion and cliff recession, including the breeding seabirds that rely on the cliffs.</p> <p>More detail is provided in sections 6.7- 6.9.</p>
The use of contemporary bird data to inform the updated citation for the site.	<p>We acknowledged the concerns regarding the use of contemporary bird data and explained that Natural England will give all seabird population data full consideration when identifying conservation objectives. It was further explained that the approach used is consistent with other cases.</p> <p>More detail is provided in sections 6.11-6.12.</p>
The undertaking of statutory activities within a designated site.	<p>It was explained that Natural England do not wish to stop the undertaking of statutory activities and that a long-term blanket SSSI assent/consent can be issued for activities, providing they are not likely to affect the features of the planned SSSI.</p> <p>More detail is provided in section 6.10.</p>

- 6.3 The area of land incorporated within the landward boundary and the recession prediction data remain the main outstanding objection where consultees have continued to raise concerns. In response to concerns regarding the predicted 50 year recession line, Natural England's evidence panel reviewed the objections on a scientific basis and agreed that the '*Flamborough Head, Filey Brigg to South Bay: Prediction of 50-Year Cliff Recession distances*' remains the best available scientific evidence on which to base our recommendations.
- 6.4 As noted in 5.5, in response to concerns raised Natural England reassessed the landward boundary. The landward boundary, which was initially drawn to physical

reference points which in some cases would have been created using marker posts, was amended using GPS coordinates where there are no physical reference points in close proximity to the buffer. These changes enabled the boundary line to be drawn considerably closer to the predicted recession line than was initially possible. Significant areas of land which were previously included in the pSPA and pSAC due to visual markers not being within close proximity to the edge of the recession line were removed, as shown in Annex 5. These amendments meant that the boundary was reduced.

- 6.5 The revised area of the pSPA is 7821.72 hectares (a reduction of 2.71% from the consultation proposal) and the pSAC is 6405.89 (a reduction of 3.28%) hectares. These amendments were explained to stakeholders and revised boundary maps were produced and sent out to stakeholders in follow up communication.
- 6.6 We have received ongoing responses from Mr and Mrs Coats, homeowners who initially objected at the time of consultation due to the pSPA and pSAC boundary including part of their garden. Mr and Mrs Coats have continued to raise their objections with ongoing correspondence to Natural England. After the consultation closed we also received follow on objections from neighbouring home owners R & M Thompson, B Jackson, and A & D Harker. Despite further explanation of the rationale behind the use of recession predictions, and reassurance to these stakeholders that the inclusion of part of the gardens in the pSPA and pSAC will not affect the way they currently use their properties, the residents remain concerned. Recent contact has been made by the residents to their local MP, Rt Hon Sir Greg Knight, who in turn has contacted James Cross. A response was sent back to Rt Hon Sir Greg Knight on 21 November 2014.
- 6.7 An associated area of concern is the inclusion of areas of agricultural and private land within the site boundary. Eight consultees, including landowners and the National Farmers Union (NFU), have suggested that there are no birds using specific areas of farmland which have been included in the site boundary. It was explained that the land within the recession boundary has been included to accommodate the migration of features following cliff recession. Whilst these objections remain outstanding, Natural England consider these concerns to have been reduced through the revision of the boundary using GPS points.
- 6.8 Eight landowners, 3 of whom raised concerns regarding birds not using their land, also stated that birds do not use the south-facing cliffs – though no survey reports were provided to support these statements. In response, Natural England have noted that the south facing cliffs were included in the original 1993 Flamborough Head and Bempton Cliffs SPA classification. The case for the inclusion of these cliffs is set out in the original Flamborough Head and Bempton Cliffs Departmental Brief which references that kittiwakes are present on the south of Flamborough Head at South Landing. Black-legged kittiwakes are known to still be breeding at South Landing, with 365 pairs present in 2008 when the kittiwake colony was last formally monitored. In addition, the 1987 surveys that supported the SPA classification also recorded 107 pairs of northern fulmar at South Landing; this species is also known still to be present at South Landing. Furthermore, the Natural England Flamborough Head site lead advises that whilst the other south-facing cliffs hold lower bird densities than areas such as Bempton Cliffs, SPA species (including black-legged kittiwake and northern

fulmar) are still present. Therefore Natural England believes that the south facing cliffs still warrant inclusion in the pSPA.

- 6.9 Natural England has not received any further correspondence regarding this issue. It is likely that these stakeholders will still view this as an outstanding issue.
- 6.10 Trinity House General Lighthouse Authority raised concerns regarding the potential impact that a pSPA and pSAC would have on the daily operations of the lighthouse and fog station. Trinity House sought assurance that the proposals would not affect their operations and statutory function including installation and maintenance of offshore beacons and laying buoys. It was explained that Natural England do not wish to stop the undertaking of statutory activities outside of the area in which bird or vegetation features occur but would be obliged to provide assent/consent for activities undertaken within the planned SSSI, which will underpin the pSPA and pSAC. We explained that a long-term blanket assent/consent can be issued for activities, providing they are not likely to affect the features of the planned SSSI. It was also explained that the SSSI is not currently being proposed and that Natural England would consult with them with regards to the SSSI in due course.
- 6.11 The final outstanding issue is regarding the use of contemporary bird data when producing the pSPA citation. We acknowledged the concerns raised by the RSPB and Yorkshire Wildlife Trust, and have assured them that Natural England will give the population trends for all species full consideration when identifying conservation objectives for the proposed site, not just the citation figures. It was further explained that the approach used for this site is consistent with that used in other cases as we must apply the SPA selection guidelines to contemporary data for the site.
- 6.12 We have not received any further correspondence regarding this issue since we sent our formal response. It is likely that these stakeholders still view this as an outstanding issue, although set in the context of a generally supportive position.

7. Recommendations

Natural England's evidence panel reviewed the consultation responses on a scientific basis. Other than the revised approach set out in section 5.5, it was concluded that there was no scientific evidence for further changes to the proposed boundary. Therefore we do not consider that there are any outstanding scientific issues. It is Natural England's recommendation that the site should be classified as per the revised boundary.

Annex 1: Flamborough Head and Filey Coast pSPA Citation

Directive 2009/147/EC on the Conservation of Wild Birds potential Special Protection Area (pSPA)

Name: Flamborough and Filey Coast pSPA

Counties/Unitary Authorities: East Riding of Yorkshire, North Yorkshire, Scarborough

Boundary of the SPA: The landward boundary of the pSPA generally follows the coast line at Flamborough Head from the South Landing in the south to Speeton in the north and an additional section from the forefront of Filey Brigg headland to Cunstone Nab. The seaward boundary extends approximately 2 km parallel to the coast from the landward boundaries before moving seawards and extends approximately 2 km into the marine environment.

Size of SPA: 7821.72 hectares.

Site description: Flamborough and Filey Coast pSPA is located on the Yorkshire coast between Bridlington and Scarborough. It includes the RSPB reserve at Bempton Cliffs, the Yorkshire Wildlife Trust Flamborough Cliffs nature reserve and the East Riding of Yorkshire Council Flamborough Head Local Nature Reserve.

The cliffs of Flamborough Head rise to 135 metres and are composed of chalk and other sedimentary rocks. These soft cliffs have been eroded into a series of bays, arches, pinnacles and gullies with an extensive system of caves at sea-level. The cliffs from Filey Brigg to Cunstone Nab comprise a range of sedimentary rocks including shales and sandstones.

The cliff top vegetation comprises maritime grassland vegetation growing alongside species more typical of chalk grassland. The intertidal area below the cliffs is predominantly rocky and part of reefs that extend into the subtidal area. The adjacent sea out to 2 km off Flamborough Head as well as Filey Brigg to Cunstone Nab is characterised by chalk reefs comprising kelp forest communities in the shallow subtidal and faunal turf communities below 2 metre water depths. The southern site of Filey Brigg shelves off gently from the rocks to the sand bottom of the Bay.

Qualifying species: The site qualifies under article 4.2 of the Directive (79/409/EEC) for supporting over 1% of the biogeographical population of four regularly occurring migratory species.

Species	Count (period) ¹	% of subspecies or population (pairs) ²
Black-legged kittiwake <i>Rissa tridactyla</i>	44,520 pairs 89,041 breeding adults (2008-2011)	2% North Atlantic
Northern gannet <i>Morus bassanus</i>	8,469 pairs 16,938 breeding adults (2008-2012)	2.6% North Atlantic
Common guillemot <i>Uria aalge</i>	41,607 pairs 83,214 breeding adults (2008-2011)	15.6% (<i>Uria aalge albionis</i>)
Razorbill <i>Alca torda</i>	10,570 pairs 21,140 breeding adults (2008-2011)	2.3% (<i>Alca torda islandica</i>)

Assemblage qualification:

The SPA qualifies under **article 4.2** of the Directive (2009/147/EC) as it is used regularly by over 20,000 seabirds in any season:

During the breeding season, the area regularly supports 215,750³ individual seabirds including: black-legged kittiwake, northern gannet, common guillemot, razorbill, northern fulmar *Fulmarus glacialis* (2008-2012).

¹ Bird counts from: JNCC Seabird Monitoring Programme (SMP) (2008 – 2009, see <http://jncc.defra.gov.uk/page-1550>), RSPB data (2009 – 2012, unpublished).

² Biogeographic populations cited in AEWA – African-Eurasian Waterbird Agreement (2012): Report on the Conservation Status of Migratory Waterbirds in the Agreement Area. Fifth Edition. AEWA, Bonn

³ Bird counts from same sources as above

Annex 2: Flamborough Head pSAC Citation.

This citation was not consulted on as there were no additional habitats added to the designation. The only difference to the original citation is the area of the SAC from 6311.96 hectares to 6405.89 hectares.

EC Directive 92/43 on the Conservation of Natural Habitats and of Wild Fauna and Flora Citation for Special Area of Conservation (SAC)

Name: Flamborough Head

Unitary Authority/County: East Riding of Yorkshire, North Yorkshire

SAC status: Designated on 1 April 2005

Grid reference: TA257701

SAC EU code: UK0013036

Area (ha): 6311.96

Component SSSI: Flamborough Head SSSI

Site description: The site lies close to the boundary between two North Sea waterbodies and encompasses a large area of hard and soft chalk cliffs which extend seaward as bedrock, boulder and cobble reefs further than at other site in the UK.

The reefs at Flamborough are important due to their substrate type, biogeographic position and the influences of hydrodynamic processes on reef topography and community structure. The reefs and cliffs on the north side of the headland are harder and more exposed than those of the south side of the headland and as a result they support a different ranges of species. The site supports an unusual range of marine species, rich animal communities and some species that are at the southern limit of their North Sea distribution, e.g. the northern alga *Ptilota plumosa*. More than 110 species of seaweed and over 270 species of invertebrates have been recorded on the rocky shores. In the shallow waters the hard nature of the chalk have enabled kelp *Laminaria hyperborea* forests to become established. These are important as they are considered to be a key structural and functional component of the reefs at Flamborough. In the deeper waters the reefs become dominated by faunal turfs which are made up of sea mats, sponges and soft corals.

The site contains caves cut into soft rock exposures and is important for its specialised cave- algal communities, which contain abundant *Hildenbrandia rubra*, *Pseudendoclonium submarinum*, *Sphacelaria nana* and *Waerniella lucifuga*. There are more than 200 caves within the site. Some are partially submerged at all stages of the tide, others dry out at low tide, and some lie above the high water mark but are heavily influenced by wave splash and salt spray. The largest extend for more than 50 m from their entrance.

The vegetated sea cliffs are characterised by both a maritime influence, and by the chalk underlying the boulder clay. Thrift *Armeria maritima* and sea plantain *Plantago maritima* grow alongside herbaceous species more typical of chalk grassland such as kidney vetch *Anthyllis vulneraria*. Where the undercliff has slipped and is flushed by calcareous runoff, northern marsh orchid *Dactylorhiza purpurella* may be found with saltmarsh species, including sea arrowgrass *Triglochin palustris* and sea-milkwort *Glaux maritima*. Towards the northern and southern end of the site the chalk is masked by drift deposits, which support mesotrophic and acidic grassland communities.

Qualifying habitats: The site is designated under **article 4(4)** of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

- Reefs
- Submerged or partially submerged sea caves
- Vegetated sea cliffs of the Atlantic and Baltic coast

Annex 3: Summary of legal advice regarding the landward boundary

- I. In terms of the landward boundary of both the SPA and the SAC the features will be affected by coastal erosion. Natural England has therefore had to consider what would be an appropriate and proportionate landward boundary to protect the features in the context of the predicted coastal erosion. Natural England has considered the requirements of the Birds Directive and the Habitats Directive and the associated guidance in considering the landward boundary.
- II. Article 4 of the Birds Directive provides for the classification of SPAs. It states (paraphrasing) that the intended areas should be “*suitable... in size...for the conservation*” of the relevant species. The relevant recitals to the Directive state in this regard:

“(7) Conservation is aimed at the long-term protection and management of natural resources as an integral part of the heritage of the peoples of Europe....

(8) The preservation, maintenance or restoration of a sufficient diversity and area of habitats is essential to the conservation of all species of birds....”
- III. The Habitats Directive which considers the designation of SACs states at Art. 2.2:

“measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest”
- IV. Conservation status of a habitat and a species are defined in Art 1 of the Habitats Directive both definitions provide that conservation status will be favourable when (amongst other matters), in respect of habitats that “*the specific structure and functions which are necessary for its long term maintenance exist and are likely to continue to exist for the foreseeable future*” and in respect of species that “*the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future*”.
- V. Natural England has also considered the relevant JNCC Guidance for SPAs and SACs. This Guidance might be read to suggest that the boundary should be drawn quite tightly however, in our view (and that of Counsel, see below) such a boundary does not directly address the questions that may arise when the location of relevant habitats are subject to predictable change as a result of coastal erosion. Such a boundary would only provide protection in the very short term and yet both the Birds and the Habitats Directive

indicate that the aim should be long term maintenance of the habitats or for the foreseeable future.

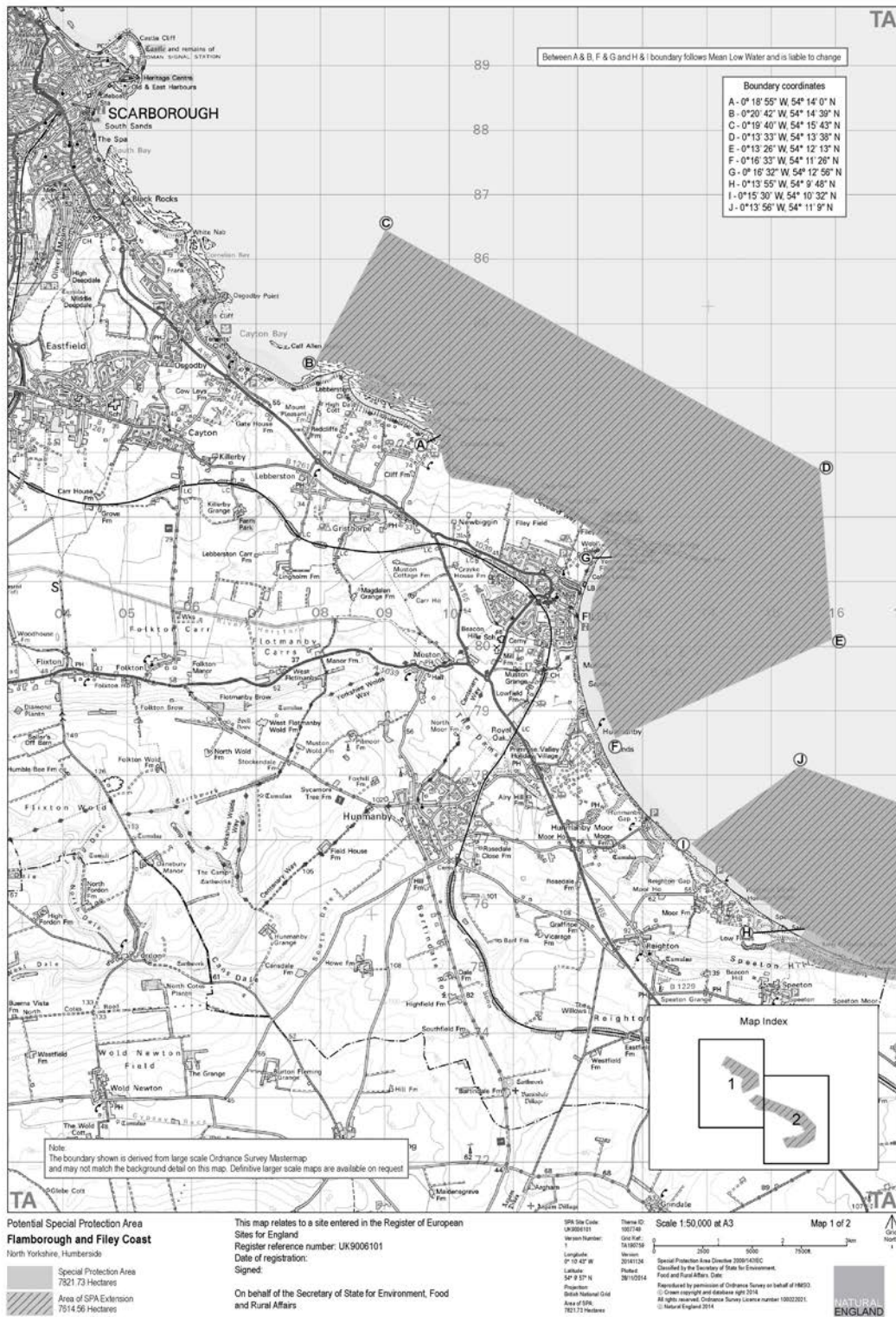
- VI. By contrast, the JNCC has addressed the issues arising from coastal erosion directly when dealing with boundaries to be chosen for sites of special scientific interest. It has stated in its Guidelines for Biological SSSIs that:
- VII. *“8.2 SSSI boundaries should be drawn to encompass the special features of the site and all land necessary to ensure the sustainability of those features. Consideration should be given to the inclusion of whole management units, entire ecological units and supporting processes (such as hydrology or sediment supply). Boundaries should take account of dynamic processes (such as active coastal and floodplain geomorphology). Where part of a site does not hold the special features at the time of selection, the guiding principle is that:
there must be good evidence that this part of the site could support the special features for which others parts of the site are notified.
For example, this could be as a result of natural processes (such as coastal erosion or accretion), predictable rotational management (such as that associated with forestry and agriculture) or the known ecological requirements of a species which uses a series of habitat patches but where not all patches are occupied at one time.*
- VIII. *8.7 Dynamic habitats
In a small number of cases, a feature of interest will be part of a dynamic habitat, where the physical landscape will change over time. These include seacliffs and sandy shores experiencing erosion or accretion, mobile dune systems, estuarine sites where managed realignment may be under consideration, and river systems where the river channel may change its course. In each of these cases consideration should be given to including an element of adjacent land to allow for these processes to occur naturally....
How much land to include will be based on case by case judgements, for example influenced by known rates of erosion or accretion.”*
- IX. Whilst this Guidance is not aimed at SACs or SPAs it does offer some insight on the JNCC's views on how designation of a protected area should be considered where there is a dynamic coastline due to coastal erosion.
- X. Natural England has taken Counsel's advice on the approach to be taken when setting a landward boundary where the features may be affected by coastal erosion. Counsel has advised that, taking account of the requirements of the Directives¹ when determining the boundaries of SPAs or potential SACs, the aim should be to identify an area in which the relevant habitats can be maintained in the long term or for the foreseeable future. When the precise location of those habitats will predictably change, then in Counsel's view the aim should be to determine boundaries that will accommodate and facilitate their changing location so as to afford them

¹ These principles are neither affected, nor have they been modified following the transposition of the designations provisions into English law. The relevant provisions are found in regulation 10 (SACs) and regulations 12A and 12B (SPAs) of the Conservation of Habitats and Species Regulations 2010.

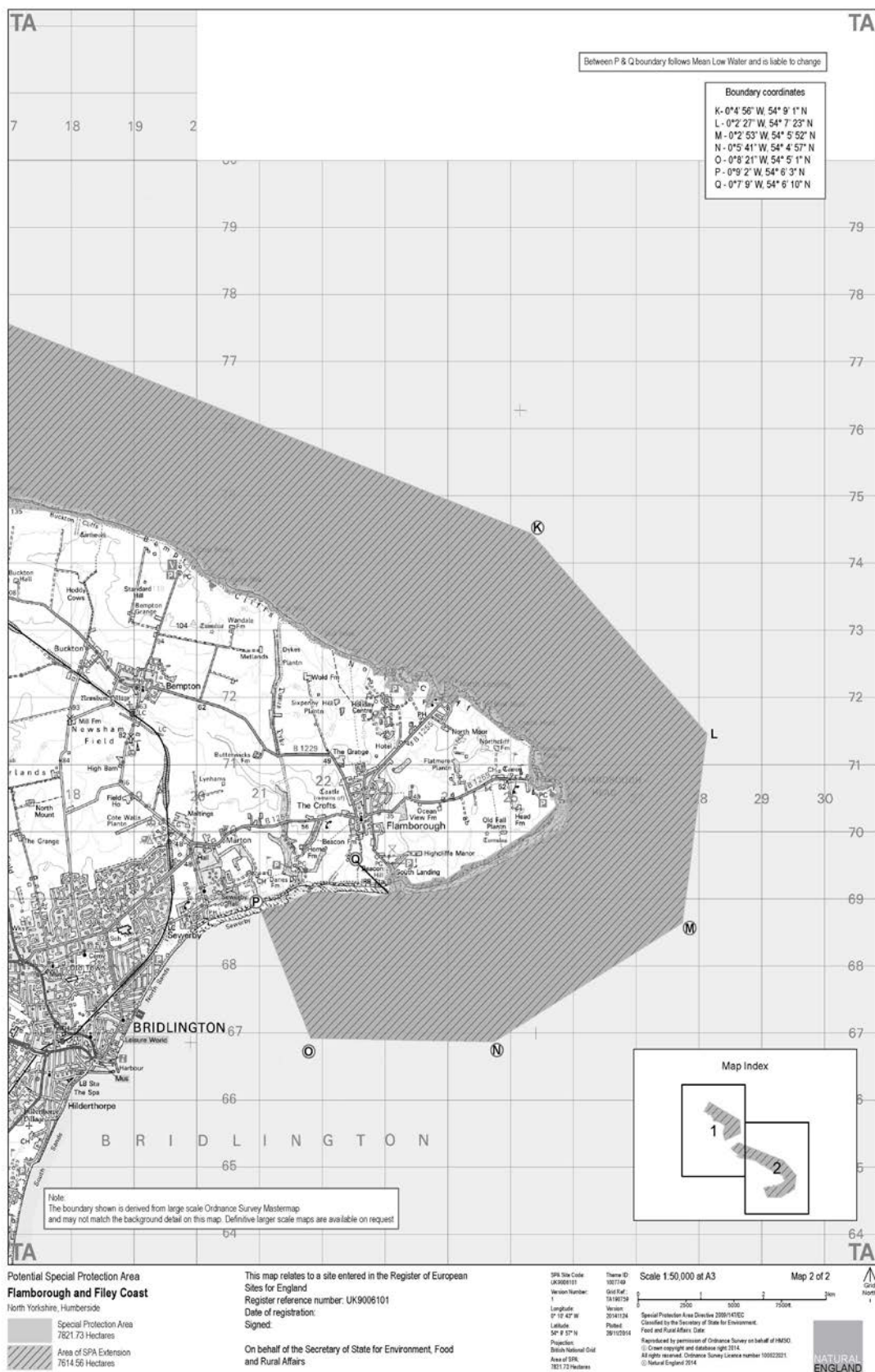
protection in the long term or for the foreseeable future. Such effect will give effect to the conservation objective of Natura 2000.

- XI. Currently the management of change in coastal areas in England looks, as a matter of policy at three periods: short term (0-20 years); medium term (20-50 years); and long term (up to 100 years). While this may provide some guidance as to periods over which it may be possible to make predictions with certain degrees of a confidence, it has no particular standing in terms of the Directives. What would count as long term or the foreseeable future are ultimately a matter of judgment.

Annex 4: Maps showing the boundary of the existing Flamborough Head and Bempton Cliffs SPA and the proposed boundary of the Flamborough and Filey Coast pSPA.



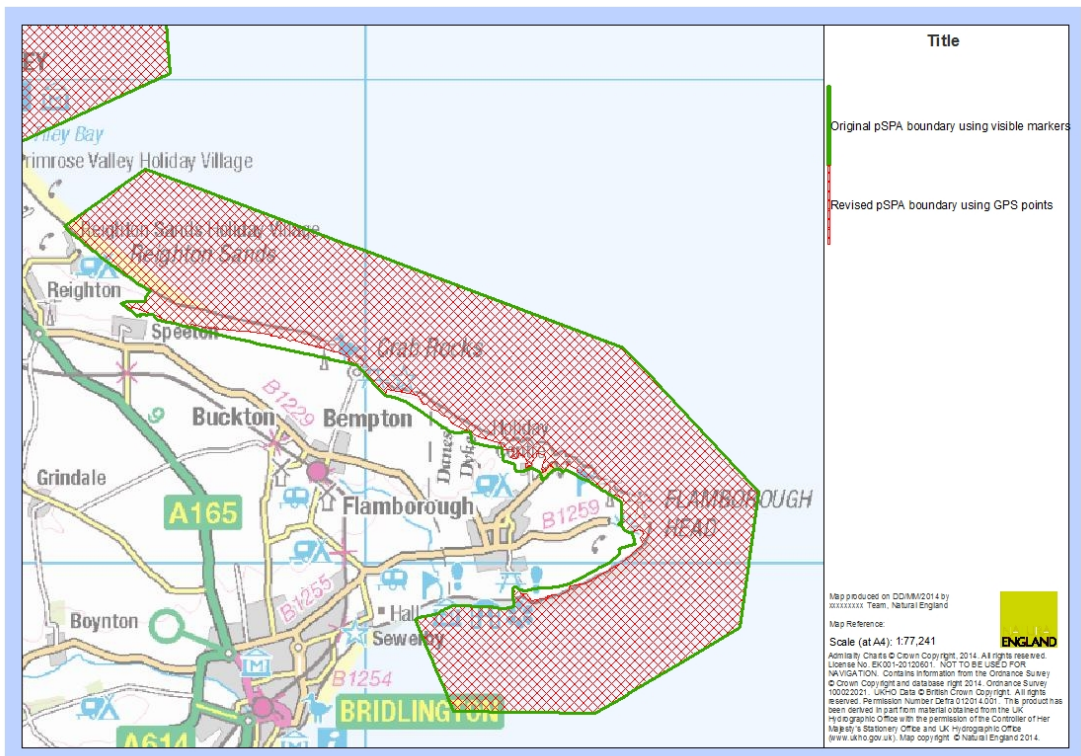
Map 1: The proposed pSPA northern extension.



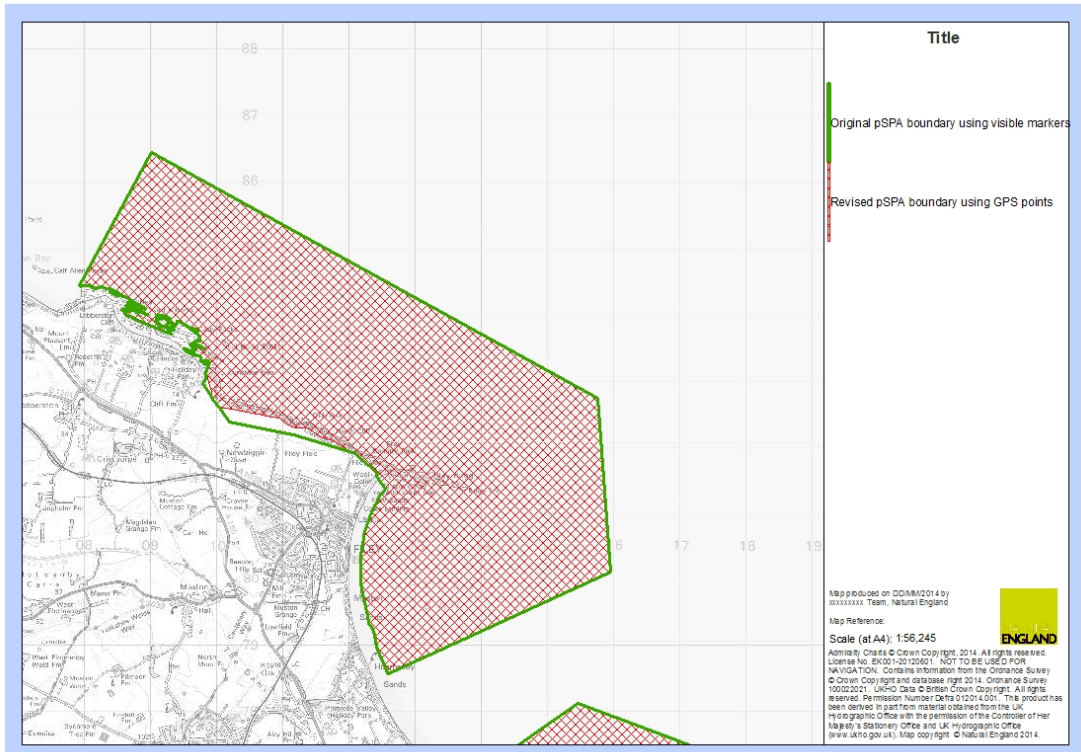
Map 2: The proposed pSPA extension around Flamborough Head.



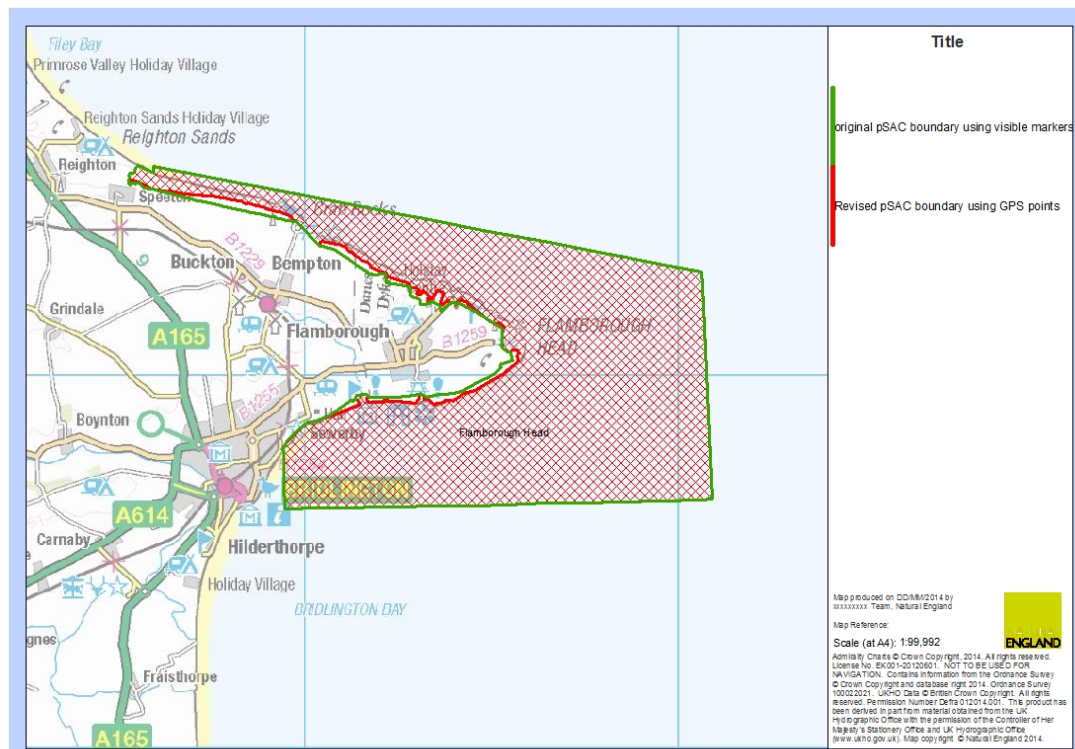
Annex 6: Maps showing revisions to pSPA and pSAC boundary made between consultation and final recommendations



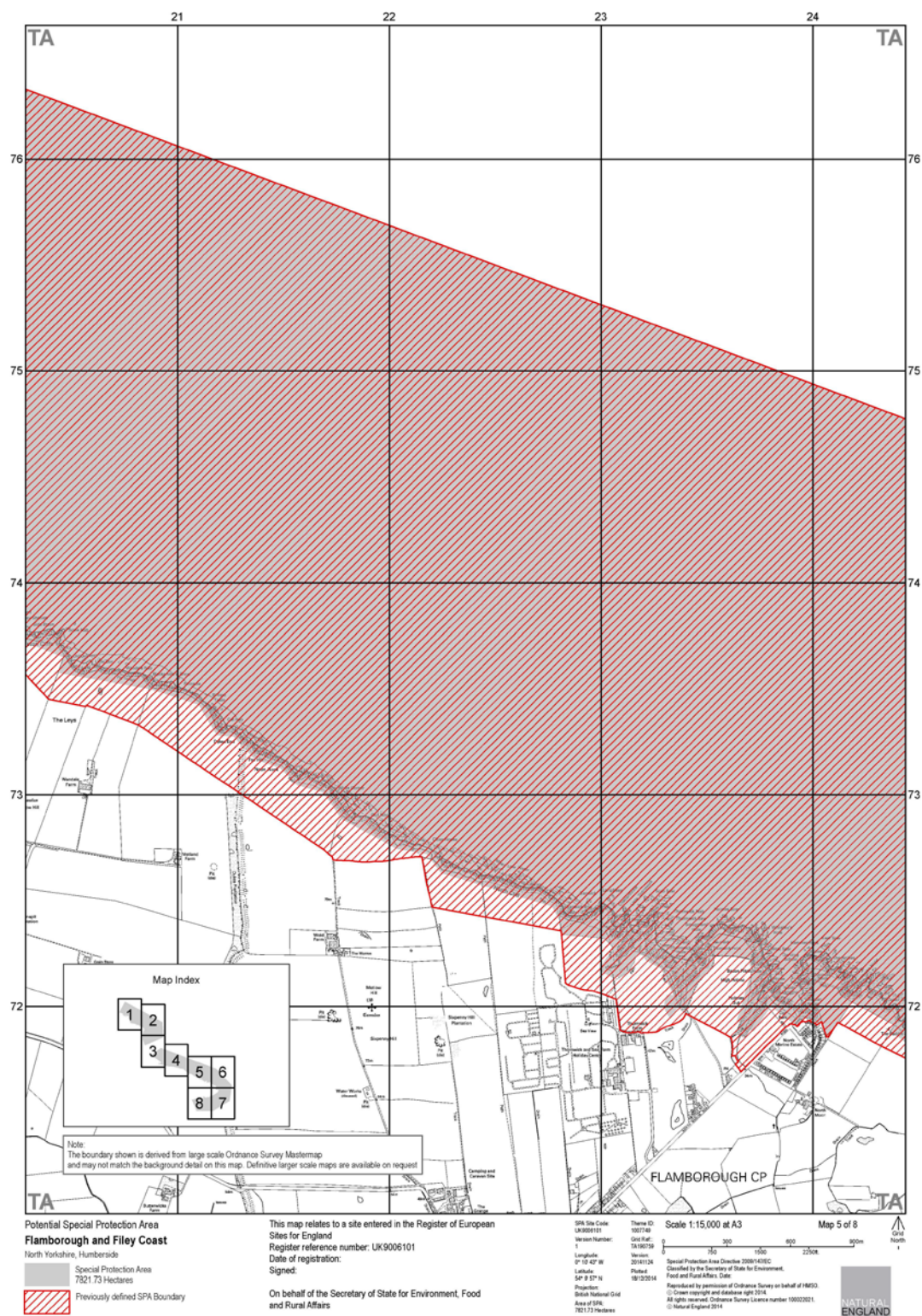
Map 4: The original proposed pSPA boundary drawn to visual markers and the revised pSPA boundary drawn using GPS points.



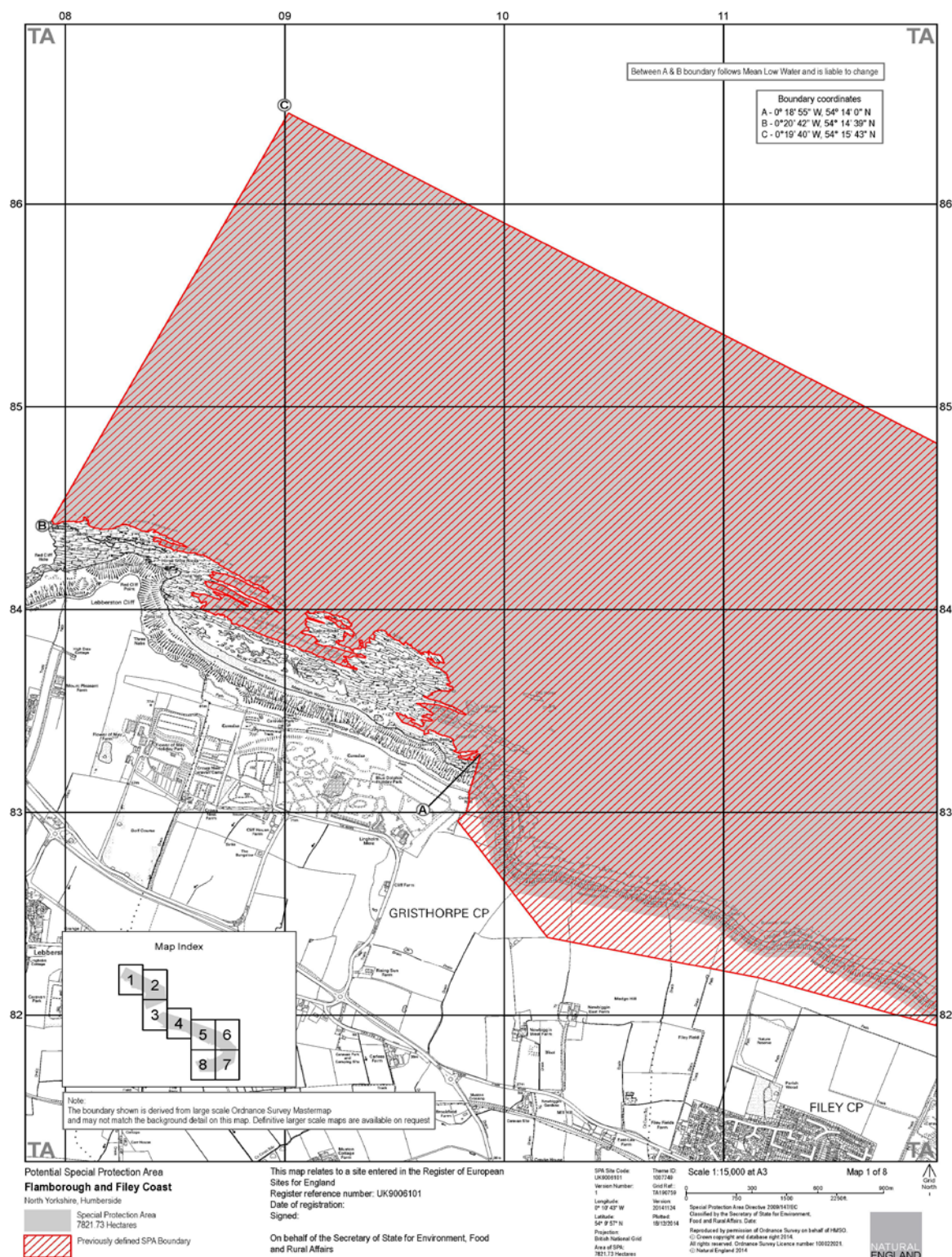
Map 5: The original proposed pSPA boundary drawn to visual markers and the revised pSPA boundary drawn using GPS points.



Map 6: The original proposed pSAC boundary drawn to visual markers and the revised pSAC boundary drawn using GPS points.

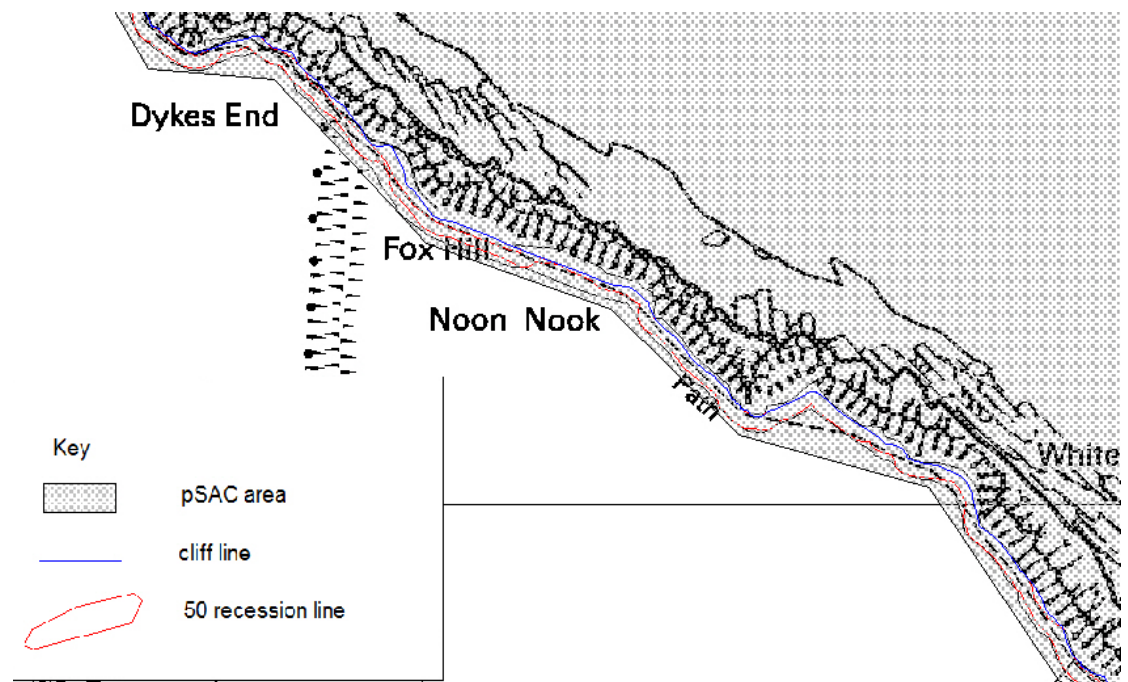


Map 7: A close up section showing the original proposed pSPA boundary drawn with visual markers compared to the revised proposed boundary drawn using GPS points. This landward boundary is the same for the pSPA and pSAC.



Map 8: A close up section showing the original proposed pSPA boundary drawn with visual markers compared to the revised proposed boundary drawn using GPS points.

Annex 7: Map section of Flamborough Head pSPA boundary showing close up of cliff line and 50 year recession mapping.



Flamborough & Filey Coast potential Special Protection Area (pSPA) and Flamborough Head possible Special Area of Conservation (pSAC)

Report of Consultation by Natural England

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Version Control

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1. Introduction

The purpose of this Consultation Report is to clearly set out all correspondence received by Natural England and the associated responses during the Flamborough & Filey Coast potential Special Protection Area (pSPA) and Flamborough Head possible Special Area of Conservation (pSAC) consultation.

Table 1: Summary of responses

Site Name	Flamborough & Filey Coast pSPA and Flamborough Head pSAC
Formal consultation period	20 th January 2014 – 14 th April 2014
Total number of stakeholder responses	47*
Owners and occupier	21
Local Authorities/other competent authorities	7
Interested parties	12
Members of the public/unsolicited responses	7
Number of supporting responses	11
Number of responses supportive of the proposals but objecting to/raising specific issues	5
Number of general enquiries/neutral responses	8
Number of general enquiries/neutral responses but objecting to/raising specific issues	1
Number of objections	22
Scientific only objections	3

Socio-economic only objections	1
Both scientific and socio-economic objections	18
Number of consultees with outstanding objections	21

***Note:** 7 stakeholders responded to the consultation both individually and via an appointed land agent. In this report these responses have been treated as **one response for each stakeholder**, encompassing both the individual's response and the corresponding response from the agent.

2. Background

Natural England works as the Government's statutory adviser to identify and recommend Special Protection Areas and Special Areas of Conservation in England to meet the requirements of the European Birds and Habitats Directives.

The Birds and Habitats Directives require the creation of a network of protected areas for important or threatened wildlife habitats across the European Union known as 'Natura 2000' sites. Once sites are identified as potential SPAs or possible SACs, they are recommended to government for approval to carry out a formal public consultation. Government decides which sites are put forward to the European Commission for inclusion in the Natura 2000 network.

Flamborough & Filey Coast pSPA consultation

The existing Flamborough Head and Bempton Cliffs SPA encompasses the clifftop, sea cliff and intertidal rock habitats around the majority of Flamborough Head. The existing SPA was classified in 1993 under the Birds Directive due to its breeding population of black-legged kittiwake *Rissa tridactyla*, which is of international importance. In 2001, a review of the UK SPA network also identified an internationally-important assemblage of over 20,000 seabirds within the SPA. Recent surveys along an area of cliffs at Filey, to the north of the existing SPA, have identified important numbers of breeding seabirds outside the SPA. In addition, work carried out by the Joint Nature Conservation Committee (JNCC) has identified that some seabird species use the waters around seabird colonies in significant densities. Therefore, the Flamborough & Filey Coast pSPA includes a terrestrial extension, and marine extensions of 2km from the cliffs at Flamborough and Filey.

The proposed landward boundary of the pSPA takes into account predicted coastal change over the next 50 years, to ensure that the boundary of the site will continue to protect the interest features of the site for the long term. Natural England has undertaken analysis and ground-truthing work to provide data to inform the landward boundary delineation, which was then set to features that can be clearly identified on maps and on the ground. See Annex 2 for further detail.

Flamborough Head possible Special Area of Conservation (pSAC) – consultation on the proposal to revise the landward boundary of the site

As a result of the work to define a landward boundary for the pSPA that takes into account predicted coastal change over the next 50 years, Natural England has also identified the need to update the landward boundary of the existing Flamborough Head SAC. Again this is to ensure that the boundary of the site will continue to protect the interest features of the site into the future. No changes to the interest features of the SAC (reefs, vegetated sea cliffs and sea caves) are proposed.

3. The Consultation Process

There was a 12 week formal consultation carried out on these proposals from 20th January 2014 to 14th April 2014.

The purpose of this consultation was to seek the views of all interested parties on:

- The scientific case for the classification of the pSPA and pSAC boundary extension; and
- The assessment of the likely economic, environmental and social impacts of the proposals, as set out in the Impact Assessment (IA).

Raising awareness of the consultation

Natural England contacted all major stakeholders and known owner-occupiers with an interest in the area being proposed as a pSPA and pSAC. Over 650 stakeholders were contacted in total, by email or post, announcing the submission and the start of formal consultation. Each stakeholder was provided with consultation documents comprising a cover letter, briefing/consultation document providing a detailed explanation of the consultation process and ways to respond. Where relevant, an overview map of the proposed site and detailed map of the specific area relevant to the landholding of the stakeholder was also included. A link to the relevant page of the Natural England website was provided in the cover letter, and the web page provided an outline of the proposal and links to the following documents:

- Briefing/consultation document.
- Frequently Asked Questions.
- Maps (both site overview and specific areas) for both the pSPA and pSAC.
- Citation for the pSPA.
- Departmental brief providing detailed scientific evidence supporting the pSPA presented to Government.
- Rationale for Natural England's recommendations for the pSPA.
- Selection Assessment Document for the Flamborough Head SAC proposed landward boundary amendment, containing details and rationale for the proposed amendments to the SAC boundary and details of the process undertaken to delineate the revised landward boundary.
- Summary and details of the IA for both the pSPA and pSAC.

In addition to the above, informal dialogue was carried out with relevant individuals and organisations from July 2012 until the start of the formal consultation period in January 2014.

During the consultation Natural England staff led stakeholder engagement, which took the form of individual conversations with stakeholders and attendance at partnership meetings to provide briefings. A drop-in session was held for owner-occupiers to discuss the proposals, during which Natural England staff were available to answer questions and concerns. Port visits were also carried out to engage with fisheries stakeholders. Natural England has also made every effort to be available to talk to via telephone or email, and any further

documentation has been made readily available on request. During the consultation period some additional owner-occupiers were identified and the consultation documents were supplied promptly to these stakeholders.

Four weeks before the end of the formal consultation Natural England issued a reminder to a number of stakeholders by e-mail and a press release, to encourage a response before the closing date.

The landward boundary for the pSPA and pSAC is expected be the same as for the required underpinning Site of Special Scientific Interest (SSSI). Although the consultation for the planned underpinning SSSI will be carried out separately to this pSPA/pSAC consultation, there has inevitably been some overlap as the same stakeholders will be affected. As such, a number of comments were made in stakeholder's correspondence that related specifically to the planned SSSI notification. Natural England responded to these points by clarifying the difference between the designations, but also addressed the concerns as far as possible by explaining that long-term blanket consents could be issued for the management of their land, and detailing the processes involved.

4. Consultation Representations

NE was contacted by **47** stakeholders during the formal consultation. **11** stakeholders were supportive of the proposals and a further **5** supportive of the proposals in principle but raised concerns about certain aspects.

2 local authorities were contacted – both were supportive of the proposals in principle but one raised concerns about specific points, and one proposed a change to the site name.

23 stakeholders raised concerns about the landward boundary of the pSPA and pSAC, either questioning or asking for clarification of the rationale behind the setting of the boundary, particularly around the use of a 50-year recession prediction and the inclusion of additional land due to the proposed fitting of the boundary to identifiable features on map and ground. **14** stakeholders queried the bird use of specific areas, such as the south-facing cliffs or farmland. **14** stakeholders (3 organisations and 11 owner-occupiers) had concerns specifically relating to the socio-economic impacts of the designations on farming and/or land value.

The purpose of this report is to detail all correspondence received by Natural England and the associated responses during the Flamborough & Filey Coast pSPA and Flamborough Head pSAC consultation. Comments received relating to the IA are dealt with separately as part of the process to update the IA document before it is passed to Defra.

All stakeholder responses were collated and a scientific evidence panel convened to re-evaluate the evidence for the proposed designations, in light of the information we received from consultees.

Natural England replied in writing to each stakeholder who raised issues during the consultation, addressing each of the points raised. Each stakeholder's representation and Natural England's response is outlined in Table 3, below, together with Natural England's recommendation to Defra. Where further communications were received, Natural England responded with further written correspondence and, in some cases, telephone conversations and face-to-face meetings. This dialogue has been captured in Table 3 under 'Further Representations and Discussions (outside the formal consultation period)'. Copies of correspondence and meeting notes are provided in Annex 3.

Stakeholder responses have been categorised as follows:

Table 2: Stakeholder response categories

Categories of Responses	
Number	Type
1.	Simple acknowledgement/neutral response
2.	Support
3.	Do not understand the implications/request clarification/general views
4.	Objection in principle to designation
5.	Objection on scientific grounds to the recession boundary
6.	Objection on scientific grounds regarding bird distribution
7.	Objection on other scientific grounds
8.	Objection on socio-economic grounds
9.	Issues with the consultation process in general

Consultees are categorised as follows:

A - Owner/Occupiers

B - Local authorities/other competent authorities

C - Interested parties

D - Members of the public and unsolicited responses

Table 3: Consultation responses

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
A. Owners and occupiers				
Mr J. Foster	<p>1. Questions the rate of erosion of the cliffs that has been used to draw the line of predicted recession.</p> <p>2. Raises concerns regarding the effect of the designation on the market value of his land.</p>	5/8	<p>1. Provided further justification for the recession prediction.</p> <p>2. Referred to previous studies which found no impact of site designation on land value.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	<p>Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.</p>

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr & Mrs J. Coats [†]	<p>1. Have an issue with the inland boundary and the line of predicted recession.</p> <p>2. Raise the issue that there are no breeding birds using either their land or the adjacent cliffs.</p> <p>3. Raise concerns about the designation discouraging potential future buyers of the property.</p> <p><u>Further Representations and Discussions (outside the formal consultation period)</u></p> <p>4. A number of further letters and e-mails have been exchanged following the formal consultation period (see Annex 3). The issues raised by the stakeholders centred around the inclusion of part of their land within the site boundary. The stakeholders reiterated the points previously raised, in particular their dispute of the line of predicted recession and the data used to derive the boundary.</p>	5/6/8	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the cliffs in this location are already included in the original 1993 SPA classification which makes reference to kittiwakes being present on the south side of Flamborough Head at South Landing. There is no other evidence to suggest that kittiwakes are no longer using these areas. Explained that the land within the area of predicted recession has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Clarified that Natural England do not wish to control the activities undertaken on the property but are obliged to provide consent for activities undertaken within the planned SSSI, which will underpin the pSPA and pSAC. Included an example of long-term blanket consent for lawn mowing and other personal activities as an example.</p> <p>4. Responded with further justification and explanation of the 'Prediction of 50-year cliff recession distances' report and the rationale behind the boundary, but this was not accepted by the stakeholders. Natural England advisers also attended two separate meetings with the stakeholders and some of their neighbours, the second of which was also attended by Natural England's Senior Environmental</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

[†] Note: Some of Mr & Mrs Coats' correspondence

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr R. Stiles	<p>1. Says that the rate of cliff erosion is minimal</p> <p>2. Says that the south-facing cliffs on their land are not good seabird habitat and very few seabirds nest there.</p>	5/6	<p><u>1.</u> Provided further justification for the recession prediction.</p> <p>2. Explained that the pSPA boundary does not include their land and therefore the pSPA designation proposal does not apply.</p> <p>No further communication has been received.</p>	<p>Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.</p>

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr T. Houghton	<p>1. Does not think there is any scientific evidence to support the rate of erosion of the cliffs that has been used to draw the line of predicted recession.</p> <p>2. Raised the issue that the birds in question do not use farmland.</p> <p>3. Raised concerns regarding the effect of the designation on the market value of his land and profitability of his business.</p>	5/6/8	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the land within the area of predicted recession has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Referred to previous studies which found no impact of site designation on land value. Explained that Natural England do not expect current farming activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Ms S. Shepherdson	<p>1. Disagrees with the scientific basis for the prediction of the 50 year cliff line recession rates.</p> <p>2. Disagrees with the landward boundary, stating that farmland should not be included on the basis that birds do not use these areas.</p> <p>3. Raised concerns regarding the detrimental effect on farm and leisure businesses, both in terms of reduction in value and the inhibition of leisure businesses leading to reductions in employment and negative effects on the local economy.</p> <p>4. Says that the overall consultation process was confusing and that there were inconsistencies in the proposals.</p> <p><u>Further Representations and Discussions (outside the formal consultation period)</u></p> <p>5. Reiterated concerns about the landward boundary and the amount of farmland included.</p>	5/6/8/9	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the land within the area of predicted recession has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Referred to previous studies which found no impact of site designation on land value. Explained that Natural England do not expect current farming activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>4. Provided further clarification and details regarding the consultation process.</p> <p>5. A Natural England adviser visited Mrs Shepherdson to discuss amendments to the boundary to sit more closely to the line of the recession buffer, following the use of GPS co-ordinates (see Section 4 below). Natural England have responded to requests by Mrs Shepherdson by remapping the proposed boundary as near to the line of the recession prediction buffer as possible.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr J. Thompson	<p>1. Disagrees with the way in which the landward boundary has been drawn and does not accept the rate of cliff erosion used to define the line of predicted recession.</p> <p>2. Questions the validity of using relatively recent bird population data and thinks that the increasing population of gannets is having a detrimental effect on the availability of nesting sites for other bird species.</p>	5/7/8	<p>1. Provided further justification for the recession prediction.</p> <p>2. Outlined the evidence available regarding the declines of some bird species, which does not suggest any relationship between declines in some species and increasing gannet numbers.</p> <p>The changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr A. Wielkopolski	<p>1. States that the cliffs are very stable and only a 'very narrow strip along the top' would be required to protect them.</p> <p>2. Raises the issue that the birds in question do not use farmland.</p> <p>3. States that the proposals will impose restrictions on farming activities and would result in an extra management and financial burden, as well as devaluing land. Quantifies this loss of value.</p> <p>4. States that he did not receive the consultation documents and the consultation process has been poor.</p>	5/6/8/9	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the land within the area of predicted recession has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Referred to previous studies which found no impact of site designation on land value. Clarified that Natural England do not expect current farming activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>4. Explained that Natural England made every effort to identify land owners using local knowledge and details gained from the land registry, however when the consultation commenced we were unaware that they were a prospective landowner which is why they were not initially made aware of the consultation process. Once Natural England was made aware of the prospective landowner, consultation documents were sent out and the process was explained.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr B. Walker*	<p>1. States that the recession line is unnecessary as the cliffs are stable and not eroding.</p> <p>2. States seabirds only use the land away from cliffs to collect nesting material and therefore the proposals will have no protective effect. Says that seabirds do not use the south-facing cliffs.</p> <p>3. States that there has not been sufficient consideration of the economic facts relating to the proposals in respect of tourism and the ability of land owners to manage their land use.</p>	4/5/6/8/9	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the south-facing cliffs are already included in the original 1993 SPA classification which makes reference to kittiwakes being present on the south side of Flamborough Head at South Landing. There is no other evidence to suggest that kittiwakes are no longer using these areas. Explained that the land within the area of predicted recession has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Referred to previous studies which found no impact of site designation on land value. Clarified that Natural England do not expect current land management activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr J. Makin*	<p>1. States that the natural flora and fauna of the area are thriving and no interference necessary.</p> <p>2. States that the cliff face is the boundary and there is no need to draw an 'arbitrary' line.</p> <p>3. States that seabirds do not use the south-facing cliffs.</p> <p>4. Suggests that the increasing gannet population is responsible for the decline in kittiwake numbers.</p> <p>5. States that the designation will render his land 'un-sellable' and there has not been sufficient consideration of the economic facts relating to the proposals in respect of tourism and the ability of land owners to manage their land use.</p>	4/5/6/ 7/8/9	<p>1. Outlined reasons for designation.</p> <p>2. Provided further justification for the recession prediction.</p> <p>3. Explained that the south-facing cliffs are already included in the original 1993 SPA classification which makes reference to kittiwakes being present on the south side of Flamborough Head at South Landing. There is no other evidence to suggest that kittiwakes are no longer using these areas.</p> <p>4. Discussed available evidence regarding the declines of some bird species, which does not suggest any relationship between declines in some species and increasing gannet numbers.</p> <p>5. Referred to previous studies which found no impact of site designation on land value. Explained that Natural England do not expect current land management activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>43</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr Rogerson*	<p>I.</p> <p>1. Disagrees with the rate of cliff erosion used to calculate the line of predicted recession.</p> <p>2. States that seabirds do not use the south-facing cliffs.</p> <p>3. Says that the proposals will devalue his land and there has not been sufficient consideration of the economic facts relating to the proposals in respect of tourism and the ability of land owners to manage their land use.</p>	5/6/8/9	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the south-facing cliffs are already included in the original 1993 SPA classification which makes reference to kittiwakes being present on the south side of Flamborough Head at South Landing. There is no other evidence to suggest that kittiwakes are no longer using these areas.</p> <p>3. Referred to previous studies which found no impact of site designation on land value. Clarified that Natural England do not expect current land management activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	<p>Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.</p>

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr S. Coultas*	<p>1. Questions the rate of erosion of the cliffs that has been used to draw the line of predicted recession.</p> <p>2. Raises the issue that the seabirds use neither farmland nor the south-facing cliffs.</p> <p>3. States that there has not been sufficient consideration of the economic facts relating to the proposals in respect of tourism and the ability of land owners to manage their land use.</p>	5/6/8/9	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the south-facing cliffs are already included in the original 1993 SPA classification which makes reference to kittiwakes being present on the south side of Flamborough Head at South Landing. There is no other evidence to suggest that kittiwakes are no longer using these areas. Clarified that the land within the recession boundary has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Referred to previous studies which found no impact of site designation on land value. Clarified that Natural England do not expect current land management activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	<p>Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.</p>

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr J. Stainforth*	<p>1. Disagrees with the rate of erosion used to define the line of predicted recession.</p> <p>2. Raises the issue that nesting seabirds do not use the south-facing cliffs or farmland.</p> <p>3. States that there has not been sufficient consideration of the economic facts relating to the proposals in respect of tourism, land value and the ability of land owners to manage their land use.</p>	5/6/8/9	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the south-facing cliffs are already included in the original 1993 SPA classification which makes reference to kittiwakes being present on the south side of Flamborough Head at South Landing. There is no other evidence to suggest that kittiwakes are no longer using these areas. Clarified that the land within the recession boundary has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Referred to previous studies which found no impact of site designation on land value. Clarified that Natural England do not expect current land management activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr T. Waines*	<p>1. Disagrees with the line of predicted recession and says that cliff erosion is minimal.</p> <p>2. Raises the issue that the birds in question do not use the south-facing cliffs or any inland areas.</p> <p>3. States that there has not been sufficient consideration of the economic facts relating to the proposals in respect of tourism and the ability of land owners to manage their land use.</p>	5/6/8/9	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the south-facing cliffs are already included in the original 1993 SPA classification which makes reference to kittiwakes being present on the south side of Flamborough Head at South Landing. There is no other evidence to suggest that kittiwakes are no longer using these areas. Explained that the land within the area of predicted recession has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Referred to previous studies which found no impact of site designation on land value. Clarified that Natural England do not expect current land management activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Ms. F. Gilliat	<p>1. States that not enough information/ scientific evidence has been presented to justify why so much additional land is required.</p> <p>2. Raises concerns about reduction to land values and the effect on farm incomes if the land cannot be used for agricultural processes.</p>	5/8	<p>1. Provided further justification for the recession prediction. Explained that the land within the area of predicted recession has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>2. Referred to previous studies which found no impact of site designation on land value. Explained that Natural England do not expect current farming activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr P. Towse	1. Disagrees with the line of predicted recession and says that cliff erosion is minimal.	5	<p>1. Provided further justification for the recession prediction.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	<p>Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.</p>

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr R. Garbutt	<p>1. Says that the proposal is unnecessary.</p> <p>2. States that cliff erosion is very slow.</p> <p>3. States that the birds do not use the south-facing cliffs.</p> <p>4. States that the SPA designation will devalue land.</p>	4/5/6/8	<p>1. Clarified the basis for the proposals and the difference between the three designations types (SPA, SAC and SSSI).</p> <p>2. Provided further justification for the recession prediction.</p> <p>3. Explained that the south-facing cliffs are already included in the original 1993 SPA classification which makes reference to kittiwakes being present on the south side of Flamborough Head at South Landing. There is no other evidence to suggest that kittiwakes are no longer using these areas.</p> <p>4. Referred to previous studies which found no impact of site designation on land value.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>50</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Thornwick & Seafarm Centre	<p>1. Disagree with the rate of cliff erosion used to calculate the line of predicted recession.</p> <p>2. Raises the issue that nesting seabirds do not use the south-facing cliffs. States that the inclusion of inland areas is unnecessary.</p> <p>3. States that there has not been sufficient consideration of the economic facts relating to the proposals in respect of tourism and the ability of land owners to manage their land use. Concerned that the SPA/SAC proposals will lead to SSSI designation, which in turn will impose restrictions on farming operations and the development of affected businesses, and have a negative impact on tourism.</p>	5/6/8/9	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the south-facing cliffs are already included in the original 1993 SPA classification which makes reference to kittiwakes being present on the south side of Flamborough Head at South Landing. There is no other evidence to suggest that kittiwakes are no longer using these areas. Explained that the land within the area of predicted recession has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Referred to previous studies which found no impact of site designation on land value. Clarified that Natural England do not expect current land management activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Flamborough Golf Club	<p>1. Do not accept the rate of cliff erosion used to define the line of predicted recession and say the cliffs are very stable.</p> <p>2. Raise concerns about the erection of marker posts on the golf course and the negative effect this will have on their business.</p>	5/8	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained the changes to the boundary in terms of the use of GPS co-ordinates (see Section 4 below), and therefore no physical marker posts would need to be erected on the course. Revised boundary maps were sent in a follow-up communication. Explained that Natural England do not expect current golfing activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>No further communication has been received.</p>	<p>Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.</p>

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Trinity House – General Lighthouse Authority	<p>1. Seek assurance that the proposals will not affect their operations and statutory function in respect of offshore beacons, laying buoys and other activities. Say that their land does not qualify for inclusion in SPA/SAC.</p> <p><u>Further Representations and Discussions (outside the formal consultation period):</u></p> <p>2. Trinity House contacted Natural England after the boundary amendment, in order to clarify that parts of the lighthouse and fog station were still proposed to fall inside the pSPA and pSAC.</p>	3/8	<p>1. A Natural England adviser met with Trinity House and explained the likely impact that the pSPA and pSAC extension would have on the day to day operations of the lighthouse and fog station. Explained that Natural England do not wish to stop the undertaking of statutory activities outside of the area in which bird or vegetation features occur but are obliged to provide consent for activities undertaken within the planned SSSI, which will underpin the pSPA and pSAC. Explained that a long-term blanket consent can be issued for activities, providing they are not likely to affect the features of the planned SSSI.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>2. Confirmed that parts of the lighthouse and fog station were still proposed to fall inside the pSPA and pSAC and reiterated our written response with regard to the undertaking of statutory activities. Trinity House still have concerns regarding the undertaking of these activities should the site be designated.</p> <p>53</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Blue Dolphin Caravan Park/ Bourne Leisure	<p>1. Question the basis for the line of predicted recession and suggest a 20-year line to fit with the Impact Assessment approach.</p> <p>2. Raise concerns about the cost of carrying out Habitats Regulations Assessment (HRA) etc. following designation.</p>	5/8	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the existing SPA and SAC mean that plans or projects would already require a Habitats Regulations Assessment because the area is functional land and would therefore warrant consideration. Further explained that the classification of a SPA or SAC would not change the requirement for an Environmental Impact Assessment as this assessment would depend on the type of project and whether it falls within the Annex I and II of Council Directive No 85/337/EEC which may have a significant environmental effect, regardless of whether they are in a protected area or not.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
The Crown Estate	1. Raise a number of existing/proposed projects for consideration in the consultation process.	1/3	<p>1. Acknowledged that Natural England has considered the presence of existing infrastructure as described and the proposed potential projects that may lie adjacent to the proposed pSPA and pSAC. Explained that consideration has been given in the IA to existing activities and future developments will be addressed on a case by case basis.</p> <p>No further communication has been received.</p>	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
B. Local Authorities/ other competent authorities				
East Riding of Yorkshire Council	1. Supportive in principal, however raise concerns over the data used to determine the line of predicted recession, and seek clarification regarding the use of Environment Agency LiDAR data to inform the erosion predictions.	2/3/5	<p>1. Provided further justification for the line of predicted recession and provided details of the data used. Explained that although LiDAR data was not directly used in the <i>'Flamborough Head, Filey Brigg to South Bay: Prediction of 50-Year Cliff Recession distances'</i> report, it was anticipated that the data was incorporated in the SMP2 and this was reviewed as part of the assessment.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Scarborough Borough Council	1. Supportive of the proposals but suggest a change of name to 'Filey Brigg and Coast SPA'.	2/3	<p>1. Thanked the council for their support and explained that the proposed name change is not considered a suitable alternative. Explained that we consider the seabird colonies at Flamborough and Filey as a single cliff-dwelling colony separated by an area of unsuitable habitat and therefore the current name reflects the geographical extent of the site. It was also explained that if assessed independently, the cliffs at Filey would not qualify as an SPA in their own right and therefore Natural England views the proposed name as the most suitable for the designation.</p> <p>No further communication has been received.</p>	No outstanding scientific issues.
North East Inshore Fisheries and Conservation Authority (IFCA)	Neutral response.	1/3	Acknowledgement letter sent.	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Environment Agency	1. Neutral response, however raise concerns regarding impacts on netting in Bridlington area.	1/3	<p>1. Responded that Natural England are not aware of any issues relating to seabird bycatch in the Bridlington area at the current fishing levels. Explained that we do not envisage any material changes to the outcome of the licenses from the proposed extension if they remain at the current level.</p> <p>No further communication has been received.</p>	No outstanding scientific issues.
Department for Energy and Climate Change (DECC)	Neutral response.	1/3	No further communication has been received.	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Marine Biological Association (MBA)	<p>1. Neutral response, but question the need for a landward boundary incorporating coastal recession.</p> <p>2. Questioned references to sea fans in the pSAC consultation material.</p>	1/3	<p>1. Provided further justification of the need for the recession boundary.</p> <p>2. Acknowledged error of sea fan reference and committed to updating the pSAC citation to reflect this. This change does not affect the designated features of the pSAC, which are unchanged from the original designation.</p> <p>No further communication has been received</p>	No outstanding scientific issues.
Marine Management Organisation (MMO)	Neutral response/acknowledgement.	1	Acknowledgement letter sent.	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
C. Interested Parties				
Bempton Parish Council	<p>1. Support the principal of the proposals but disagree with the line of predicted recession on the basis that cliff erosion is minimal.</p> <p>2. Have concerns about the impacts on the farming community.</p>	2/5/8	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that Natural England do not expect current farming activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	No outstanding scientific issues.
Flamborough European Marine Site (EMS) Management Scheme	Supportive of the proposals.	2/3	Acknowledgement letter sent.	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Hull Geological Society	1. No comment on the proposals but request some kind of official permission statement for geological studies.	1/3	<p>1. Explained that Natural England are obliged to provide consent for activities undertaken within the planned SSSI, which will underpin the pSPA and pSAC. Detailed the operations that could potentially require Natural England's consent and explained that legislation does not allow the issuing of a 'permission statement'. Outlined the process involved in seeking consent. Expressed that Natural England want to support those that are involved in study and education and would not withhold consent if the proposed activities are not likely to affect the features for which the sites are designated.</p> <p>No further communication has been received.</p>	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
National Farmers Union (NFU)	<p>1. Do not accept the approach used to draw the landward boundary and calculate the line of predicted recession.</p> <p>2. Raise the issue that seabirds do not use the landward sites/farmland.</p> <p>3. Have concerns about the impacts of the proposed designations on farming practices.</p> <p>4. Say that a number of landowners did not receive details of the consultation.</p>	5/6/8/9	<p>1. Provided further justification for the recession prediction.</p> <p>2. Explained that the land within the area of predicted recession has been included to accommodate the migration of features following cliff recession, allowing vegetation on the cliff top to persist and vegetation and breeding bird species to colonise newly exposed cliffs and slopes.</p> <p>3. Clarified that Natural England do not expect current land management activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>4. Outlined the processes undertaken to ensure all known landowners were contacted and requested details of landowners who did not receive the documents to ensure all were included in the correspondence list.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	Whilst the stakeholder's objection remains, Natural England consider that there is no outstanding scientific issue for consideration by Defra.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Filey Brigg Angling Society	Supportive of the proposals.	2	Acknowledgement letter sent.	No outstanding scientific issues.
Network Rail Infrastructure Ltd.	Supportive of the proposals.	2	Acknowledgement letter sent.	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
<p>Yorkshire Wildlife Trust (YWT)</p> <p><i>Note: YWT are also an owner-occupier</i></p>	<p>1. Supportive but raise concerns about the use of contemporary seabird data to define baseline populations on the basis that this approach does not take in to account past declines in kittiwakes and other species.</p> <p>2. Have concerns about landward extent of the boundary in terms of the potential impacts on local business owners and farmers.</p>	2/7/8	<p>1. Acknowledged the concerns of YWT with regard to use of contemporary data and confirmed that Natural England will ensure that the kittiwake and assemblage population trends are fully taken into account when identifying conservation objectives for the pSPA and associated SSSIs. Explained that the approach used is consistent with other cases.</p> <p>2. Provided further justification for the recession prediction and explained that Natural England do not expect current farming activities to require any additional management measures as a result of the proposed pSPA and pSAC.</p> <p>In addition, the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) were explained and revised boundary maps were sent in a follow-up communication.</p> <p>No further communication has been received.</p>	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
<p>Royal Society for the Protection of Birds (RSPB)</p> <p><i>Note: RSPB are also an owner-occupier</i></p>	<p>1. Supportive but seek assurance that the Filey Bay area will be given due consideration in the identification of marine SPAs for foraging seabirds.</p> <p>2. Raise concerns about landward extent of the boundary in terms of the placement of the site boundary further inland of the 50 year predicted recession line due to the lack of mappable features.</p> <p>3. Raise concerns about the use of contemporary seabird data to define baseline populations on the basis that this approach does not take in to account past declines in kittiwakes and other species.</p>	2/3/5/7	<p>1. With regard to the future identification of foraging areas such as Filey Bay, explained that Natural England value the ongoing tagging work and outputs and their contribution towards building the evidence base as the UK SPA network is kept under review.</p> <p>2. Explained the changes to the boundary following the use of GPS co-ordinates (see Section 4 below) explained and sent revised boundary maps in a follow-up communication.</p> <p>3. Acknowledged the concerns of the RSPB with regard to use of contemporary data and confirmed that Natural England will ensure that the kittiwake and assemblage population trends are fully taken into account when identifying conservation objectives for the pSPA and associated SSSIs. Explained that the approach used is consistent with other cases.</p> <p>No further communication has been received.</p>	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Filey Brigg Ornithology Group	1. Supportive but have concerns regarding the use of contemporary seabird data to define baseline populations on the basis that this approach does not take in to account past declines in kittiwakes and other species.	2/7	1. Acknowledged the concerns of FBOG with regard to use of contemporary data and confirmed that Natural England will ensure that the kittiwake and assemblage population trends are fully taken into account when identifying conservation objectives for the pSPA and associated SSSIs. Explained that the approach used is consistent with other cases. No further communication has been received.	No outstanding scientific issues.
English Heritage	Neutral response/acknowledgement.	1	Acknowledgement letter sent.	No outstanding scientific issues.
Defence Infrastructure Organisation	Neutral response. Highlight that there are some navy activities which may impact on the site.	1	Acknowledgement letter sent.	No outstanding scientific issues.
Royal Yachting Association (RYA)	Supportive of the proposals.	2	Acknowledgement letter sent.	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
D. Members of the public and unsolicited responses				
Mr J. Redhead	Member of the public – supportive of the proposals.	2	Acknowledgement e-mail sent.	No outstanding scientific issues.
Mr C. Mountain	Member of the public – supportive of the proposals.	2	Acknowledgement e-mail sent.	No outstanding scientific issues.
Mr D. Patton	Member of the public – supportive of the proposals.	2	Acknowledgement e-mail sent.	No outstanding scientific issues.
Ms K. Ball	1. Objects on the basis that contemporary seabird data has been used to define the baseline population, which does not take in to account past declines in kittiwakes and other nesting seabirds.	7	1. Confirmed that Natural England will ensure that the kittiwake and assemblage population trends are fully taken into account when identifying conservation objectives for the pSPA and associated SSSIs. Explained that the approach used is consistent with other cases. No further communication has been received.	No outstanding scientific issues.
Mr N. Aldridge	Member of the public – supportive of the proposals.	2	Acknowledgement e-mail sent.	No outstanding scientific issues.
Mr A. Hurd	Member of the public – supportive of the proposals.	2	Acknowledgement e-mail sent.	No outstanding scientific issues.

CONSULTEE	REPRESENTATION	Type	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Mr D. Hinde	Member of the public – supportive of the proposals.	2	Acknowledgement e-mail sent.	No outstanding scientific issues.

* These stakeholders responded to the consultation both individually and via an appointed land agent.

5. Amendments following the formal consultation

Landward boundary for the SPA and SAC

The landward site boundary presented at consultation was drawn to encompass the areas in which the classified or designated features occur and in addition, due to the eroding and slumping nature of the cliffs, further areas of land based on predictions of coastal recession over the next 50 years. The boundary was drawn to follow the nearest physical feature on the ground where possible, after allowing for the recession predictions. The boundary followed existing walls, fence lines, ditches, drains tracks and roadsides. Where there was no mapped feature that could be used to delineate the extent of an interest feature, the boundary was drawn as a straight line from one point distinguishable on the ground to another. In some locations this approach resulted in significant amounts of land beyond the recession predictions being included in the pSPA and pSAC.

In response to concerns from several owner-occupiers regarding this issue, Natural England has considered alternative ways to define the landward boundary, in order to achieve a boundary that sits closer to the recession predictions. It is Natural England's recommendation that the pSPA/pSAC boundary continues to follow fixed points of reference, e.g. fence posts, where they exist in close proximity to the landward side of the recession buffer, but where there are no physical reference points, the boundary now follows GPS points to set the boundary closer to the recession buffer. When revising the pSPA/pSAC landward boundary, we have used the minimum number of GPS points to achieve the desired effect, whilst still following mapped features or 'lines of sight' between mapped points where they exist and are reasonably close to the recession prediction buffer. This approach has, in many locations, significantly reduced the amount of land within the pSPA and pSAC that lies beyond the recession buffer.

Boundary maps showing both the original and proposed revised boundary for the pSPA and pSAC were circulated to relevant owner-occupiers.

SAC Citation

The Marine Biological Association (MBA), in their consultation response, specifically questioned the references made to sea fans in the current SAC citation which was provided with the consultation documents. Natural England acknowledged that this was included in error, and have since contacted Defra to recommend that this is changed as a result of the consultation.

Puffin population numbers

Post consultation, Natural England was contacted by Smartwind regarding our treatment of Atlantic puffin *Fratercula arctica* in the Flamborough and Filey Coast pSPA Departmental Brief. Smartwind raised concerns with the methodology used to estimate puffin population numbers of 490 pairs or 980 breeding adults within the pSPA. The 980 breeding adults figure was derived from census data from 2008 to 2011 which counted puffins as 'individuals on land'. The 'individuals on land' figure of 980 was converted to a pairs estimate by dividing the count by two to give a population estimate of 490 pairs. There is concern that using this methodology may result in a serious underestimation of the puffin population.

Natural England's marine ornithologists have reviewed the puffin population estimate in the Flamborough and Filey Coast pSPA Departmental Brief in consultation with JNCC and consider that it is not appropriate to halve the number of 'individuals on land' counts for puffin to derive a figure for the number of pairs within the Flamborough and Filey Coast pSPA. Therefore, the puffin population estimate for Flamborough and Filey Coast pSPA will be amended from 490 pairs, 980 breeding adults to 980 pairs, 1960 breeding adults. These figures do not change the status of the puffin within the breeding seabird assemblage and it still remains an unnamed component. The overall assemblage number in the citation will however be amended to incorporate this increase in puffin numbers.

Annex 1 Consultation questions

Scientific Case

Q1 - Do you accept the scientific basis for the potential SPA (pSPA) and possible SAC (pSAC)? If No, please explain why.

Q2 – Do you have any information additional to that included in the Departmental Brief about the distribution and populations of breeding seabirds in the Flamborough and Filey areas that you would like to share with Natural England?

If Yes, Please attach any additional information you hold concerning the distribution and populations of breeding seabirds in the Flamborough and Filey areas and provide a brief overview of the content. If you are unable to attach the file, please post to: Northern North Sea SPA team, Natural England, Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH or indicate below how you would prefer to share this information.

Q3 - Do you have any further comments on the scientific basis for the pSPA and pSAC?

Q4 - Please use this section to add additional comments or feedback about the recommendation to extend the existing SPA at Flamborough or about the proposal to revise the boundary of the Flamborough Head SAC.

If you are unable to attach the file, please post to: Northern North Sea SPA team, Natural England, Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH or indicate below how you would prefer to share this information.

Annex 2 Defining the landward boundary of the SPA

In terms of the landward boundary of both the SPA and the SAC the features will be affected by coastal erosion. Natural England has therefore had to consider what would be an appropriate and proportionate landward boundary to protect the features in the context of the predicted coastal erosion. Natural England has considered the requirements of the Birds Directive and the Habitats Directive and the associated guidance in considering the landward boundary. Natural England has proposed extending the landward boundary for both the pSPA and pSAC, using a 50 year recession line to take account of local coastal erosion rates.

It is a principle that has been agreed for previous designation cases that boundary delineation of coastal sites takes into account coastal erosion rates. For example the most recent cases are Pakefield to Easton Bavents SSSI (the analysis and approach taken is detailed in Rees, 2005) and Compton Chine to Steephill Cove SSSI.

In these analyses studies of coastal change have provided the basis for the predicted rates of movement of the coast over a 50 year period. Both these SSSIs support geomorphological and geological features of interest. This interest relies on functioning processes of erosion and sedimentation and the boundary ensures that all the features of interest can be conserved and encapsulated by the designated site for 50 years. Active processes are also fundamental for habitats at the coast and so the importance of having a 50 year boundary is of wider value than just the geodiversity interest.

This approach was followed in the determination of the boundary for Flamborough and Filey Coastal pSPA.

To meet this requirement (under Natural England's Shoreline and Geomorphological Advice call off contract) Dr Mark Lee was contracted to produce a report to predict the 50 year cliff line recession rates. This included the coastal stretch relevant to both the proposed pSPA boundary and the other existing SSSIs along that section of coast (Lee, 2012).

The assessment involved:

1. *Review of recession prediction methods*; this draws on recent research into the reliability of various prediction methods to estimate recession along the Holderness coast (Lee, 2011).
2. *Identification of cliff units*; these are lengths of cliff line with broadly consistent geological materials (bedrock and glacial deposits), exposure to wave attack and cliff types and shoreline forms. Over the long-term, they can be expected to retreat at relatively uniform rates i.e. a single 50-year retreat prediction should apply for the whole unit.
3. *Assessment of historical recession rates for each cliff unit*, based on a review of available reports (e.g. Future coast, Shoreline Management Plans 2 (SMP2) reports, North Eastern Coastal Authorities Group (NECAG) monitoring reports).
4. *Development of 50-year predictions*, providing both upper and lower-bound estimates, taking account of the historical recession rates and the expected impact of relative sea-level rise (RSLR).

From the recession rates recommended by Dr Mark Lee for the sections between Flamborough and Filey our Specialist advice from Siobhan Browne (Senior Specialist Coastal Geomorphology) was to use the historical 50 year projection as the more appropriate rate. This is because this also takes into consideration sea level rise (which the extrapolation of current rate does not) and is consistent with the approach taken previously. These represent the

upper boundaries of the predictions in the report and so are also the most precautionary based on best available information.

Further to this our GI Specialist Simon Coleman set about plotting the projected 50 year recession distances from the cliff edge using aerial photography. It was clear, however, that the accuracy of this approach was questionable as it was difficult to discern the cliff edge from the aerial photos and there was further uncertainty as the aerial photos may not have represented the current situation on the ground. The dates of the aerial photography were Flamborough Head (excluding Speeton Cliff) - September 2011 and Filey and Speeton Cliff - May/June 2010.

Since we were investigating a 50 year period the difference of 1 or 2 years was probably not very significant, but it could potentially reduce confidence levels. The main potential source of error was interpreting the rear-cliff from the aerial photos. The age of the photography was another minor source of error. The remedy of undertaking a site survey helped reduce both causes of error.

It was decided that ground truthing was needed to determine a robust cliff line from which to plot the 50 year recession line. Field work was undertaken in July 2012 by Simon Coleman and John Taylor (GI specialists) and the full extent of the cliff edge corresponding to the pSPA landward boundary extent was recorded on GPS devices with readings taken approximately once every 30 metres.

Both Simon and John, independently of each other, plotted a cliff line based on the ground truthing exercise. Two different lines of recession were then calculated from the two plotted cliff lines. There was considerable overlap in the recession lines produced with only minor differences. This gives us high confidence in the predicted line. The boundary was drawn to capture both plotted lines where they overlapped. In a few places the interpretation of the cliff edge differed this was always where another feature such as a gully or valley transacted the cliff edge. The more conservative approach taken by Simon was taken as the best interpretation of cliff edge as the further inland the cliff edge is interpreted to be the more it is influenced by other different processes.

The landward boundary of the pSPA was then drawn to encapsulate this recession line. The approach taken was to draw the boundary to the nearest inland boundary that could be identified both on a map and on the ground, such as a field corner or other obvious landmark if it did not seem unreasonable. Where it did, for example including a large field where only a smaller part of it was pSPA, the boundary ran through the field with a straight line drawn from two fixed points either side.

During the process the local advisers highlighted 4 areas where it was the view that local erosion rates are more rapid than those predicted in Dr Mark Lee's analysis. Mark comments that:

'...one of the problems with Flamborough is that there seems to have been no monitoring of cliff recession rates by the local council or other bodies. Various studies have quoted long-term recession rates, but these tend to be based on map comparisons over large sections rather than short-term erosion at specific locations such as Thornwick Bay. As far as I am aware nobody has compared aerial photography for different dates along the Flamborough coast'.

Simon Coleman then compared aerial photography between 2 time periods (most recent and from 2002/3) to determine whether this supports the view that more rapid erosion is taking place in these specific localities. For all areas except Thornwick Bay (East) the analysis has shown that the extent of actual recession, assessed from comparison of the aerial photos, is either that which is to be expected or indistinguishable from Dr Mark Lee's predictions over the same time period. There is a caveat here that these slippage events are infrequent and by their nature do not exhibit incremental change. The 8-9 years comparison therefore may not be enough time to draw firm conclusions that significant slippage greater than Mark's 50 year analysis cannot be ruled out at some point. There isn't any other analysis that can be done, however, to improve certainty in this judgement.

At Thornwick Bay (East) Simon's comparison appears to show, in 3 locations, rates of recession that are marginally greater than Mark's predictions. In drawing the boundary here, however, a proportion of the headland has been included in order to align the boundary to a field margin so this will encapsulate recession rates that are greater than the predictions in any case.

This exercise has given further confidence that the rates predicted by Dr Mark Lee are the best possible evidence base from which to determine the 50 year recession line and the pSPA boundary.

References

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Annex 3 Correspondence available on request.