Natural England Board

Title: **Confirmed minutes of the seventy second Natural England Board meeting on 19 July 2017**

Members attending	**Senior Leadership Team**
Andrew Sells (Chairman)	Tim Hill, Chief Scientist
Julia Aglionby	Paul Lambert, Chief Transformation Officer
Will Cockbain	Alan Law, Chief Strategy and Reform Officer
Andy Clements	Guy Thompson, Chief Operating Officer
Teresa Dent	Julie Lunt, Chief Officer Legal and Governance
Joe Horwood	**Guests**
Simon Lyster	Kirsty Shaw, Director for Service Delivery (APHA) (item 2)
Nigel Reader	Amanda Craig, Director Operations North (item 3) Marie Southgate, Defra Deputy Director Land Use (item 3)
Michael Winter	Andy Smith, Area Manager Thames (item 8)
James Cross, Chief Executive and ex-officio Board member	West Pennine Moors Caroline Cotterell - Director, Strategy Implementation Mike Burke – Area Manager Cheshire, Greater Manchester, Merseyside and Lancashire Allan Drewitt – Senior Specialist Ben Fraser – Senior Advisor Ben Hibbins – Lead Advisor Karen Rogers – Lead Advisor (item 19)
	Graham Tibbetts for item 16
	Jane Norman Stenographer for item 19
	Secretariat
	Lidia Hingle, Board and Executive Services Team

Welcome from the Chairman and Declarations of Interest

The Chairman welcomed everyone to the meeting and thanked everyone for attending.

In addition to the usual declarations of interest, declarations were received from

- Andy Clements, who advised that the BTO has a contract with the Grosvenor Estate on monitoring (item 8) and also has an interest in the Expert Panel on Bats (item 5 - NEB 72 04 b).
- Nigel Reader reminded the meeting he was still a member of the Defra Audit and Risk Assurance Committee.

1. Confirmation of the June Minutes and Matters Arising (NEB M71 01)

1.1 The minutes of the June Board meeting were confirmed subject to correction of the action under 4.3.3 which was to report on the species at risk of extinction for Species 2020.

Action: Board and Executive Services to produce final confirmed June Board minutes.

1.1.2 The Board noted actions from the last meeting were completed or in progress.

2. Countryside Stewardship update (NEB 72 01)

2.1 The Chairman welcomed Kirsty Shaw, Director of Service Delivery at the Animal and Plant Health Authority (APHA) who is on secondment to Natural England to develop a transfer plan for moving elements of Natural England's CS transactions work into a central hub, the implementation of that plan and improving the current delivery and quality of service of Countryside Stewardship.

2.1.2 Guy Thompson gave an update on operational progress and described the mitigating and improvement actions underway. Kirsty Shaw described how the Defra group decision to un-pause the transfer of the Countryside Stewardship processing function from NE to RPA is being followed up.

2.2**.** In discussion, the Board

2.2.1 Noted the detailed work being undertaken across the breadth of the operations and welcomed the end to end systems review.

2.2.2 Noted that the review of governance arrangements and reporting lines and found it helpful to understand the role of Natural England in this context

2.2.3 Commended the work done to date by Guy Thompson and Kirsty Shaw and agreed that the plan was achievable.

2.2.4 Agreed the Board should continue to receive monthly updates, and would wish to explore ways in which Natural England would deliver Countryside Stewardship using the Conservation Strategy 21 approach.

ACTION: Board and Executive Services to include Countryside Stewardship as a standing item on Board agendas and to invite Kirsty Shaw and Sarah Church to future meetings.

2.2.5 The Board requested key messages on the latest developments to take to external contacts.

ACTION: Guy Thompson to provide "lines to take" on Countryside Stewardship for Board members.

3. Upland Work Programme (NEB 72 02)

3.1 The Board welcomed Amanda Craig and Marie Southgate, Defra Deputy Director of Land Use to the meeting. Marie updated the Board on the progress being made by Defra in responding to the EU Commission on the infraction and explained what this meant for our upland work programme.

3.1.1 In discussion, the Board

3.1.2 Noted the revised response date of 31 July and the shorter timeframe for completion of long term plans to complete voluntary surrender of rotational burning consents on blanket bog by March 2019. The Board acknowledged the work being undertaken to address the risks and were supportive of the assistance being given to Defra's submission to the EU.

3.1.3 Cautioned against relying too heavily on only one source of information e.g. the Uplands Evidence Review, when considering the effects of burning on blanket bog and advised that more studies were needed to understand the effects to get a more holistic understanding and subsequent approach.

3.1.4 Were reminded that Natural England had responsibilities with regards to the environment irrespective of this case and that it should take a leading role in transforming how it achieves real outcomes for the future.

3.1.5 Noted resistance from some quarters on the application of the Habitat Regulations but Natural England was encouraged to capitalise on the support it is receiving from most other NGOs.

3.1.6 Noted the legal position post EU Exit.

3.1.7 Congratulated Amanda Craig's team on the work done so far.

4. Bovine TB Update (NEB 72 03)

4.1 Guy Thompson introduced the paper. The Board:

4.1.1 Noted the move of this work to Operations which reflects the "business as usual" nature of the work.

4.1.2 Noted the work being undertaken under new leadership by the newly enlarged and energised team which had invested in improving relationships with Defra and the NFU. The Board agreed to send a supportive message to the team.

ACTION: Guy Thompson to draft a supportive message from the Board to the bTB team.

4.2.2 Deliberated on the issue of biosecurity visits and concluded that as the licensing authority Natural England should continue to complete inspections.

4.2.3 Noted the update from Julie Lunt regarding the decision notice from the Information

Commissioners Office and recommended that Natural England should appeal this decision in order to protect people involved in the cull who were being affected by those who opposed it.

5. New vision for Bat Licensing and Conservation (NEB 72 04 a) and Review of Bat Licence Service (NEB 72 04 b)

5.1 Mel Hughes and Rob Cameron introduced the papers and invited the Board to give a steer on the direction of the continuing work to review the approach to bat conservation and licensing.

5.2 In discussing the new vision for bat licensing the Board:

5.2.1 Considered what would be optimum for the bat population and noted that although the evidence available on bats was good, there were gaps which needed further exploration.

5.2.2 Noted the approach being developed was for conservation that was more tailored to particular species needs and that rolling out such a policy for bats would be more complex than had been the case for Great Crested Newts.

5.2.3 Suggested that the vision for bat conservation should be led by the evidence in regards to population trends which are currently patchy (compared to birds for example)

5.2.4 Asked that the continuing work should seek to take all opportunities to adopt new approaches for the collection of evidence – including use of technology and survey methods that draw on community involvement.

5.3 In discussing the review of the bat advice service the Board:

5.3.1 Agreed that any change to the advice service process should preferably be co-designed with stakeholders, and that the goodwill of volunteers should not be lost as it was a key asset in delivering potential gains. The Board welcomed the setting up of an Expert Panel.

5.4.2 In conclusion, the Board:

5.4.1 Approved the reform vision of bat licensing and conservation and the direction of the Bat Advice projects and advised moving at a measured pace.

5.4.2 Noted that both papers benefitted from being brought before the Board Innovation Group (BIG) prior to the Board meeting.

6. Our vision for the Government's 25 Year Environment Plan (NEB 72 05)

6.1 Alan Law introduced the vision for the Government's 25 Year Environment Plan (25YEP) and invited the Board to advise on the priorities and opportunities presented.

6.1.1 In discussion the Board:

6.1.2 Agreed it was helpful that BIG had had previous discussions about the range of relevant themes in the 25YEP and suggested that Natural England's continuing advice to Defra should reflect a stronger and more explicit emphasis on issues related to people and social justice.

6.1.3 Noted the importance of momentum and noted that we need to continue giving encouragement and as much clarity as possible to projects established in the early phase of the 25YEP development, notably the four Pioneer Projects, two of which Natural England are leading on behalf of Defra,(North Devon and Manchester)

6.1.4 Considered how performance of payment by results was to be ascertained, managed and shared.

6.1.5 Noted the Secretary of State's views on Natural England's role.

Concluded the four key commissions following the board dinner were:

- Incentivising best practice and behaviours in agriculture.
- Evidence and blanket bog.
- Opportunities for planning and development.
- Social inclusion, young people and access to the environment.

ACTION: Alan Law to draft a short briefing for each 25 year Plan commission.

7. Engaging with HS2 Project progress report (NEB 72 06)

7.1 Guy Thompson introduced the paper to update the Board on Natural England's engagement with HS2 which had reaffirmed our early advice was welcomed and valued,

7.2 In discussion the Board:

7.2.1 Encouraged the team to build on the work on No Net Loss metric by moving HS2 towards a Net Gain commitment

7.2.3 Welcomed the assurance on how we separate our Discretionary Advice Service (DAS from our independent Statutory Remit.

8. Chief Executive's Report (NEB 72 07)

8.1 James Cross introduced his Chief Executive's Report and welcomed Andy Smith from the Thames Area Team (8.1.3).

8.1.2 <u>2017/18 Risk management:</u>

The Board requested the version of the draft risk register included in the papers be withdrawn because it was incomplete and a more comprehensive version be produced for consideration by the Board in September.

ACTION: Board and Executive Services to withdraw the 2017/18 Risk management paper from the Board pack

ACTION: the full iteration of the Corporate Risk Register to be included in the September Board papers

8.1.3 <u>Area Manager for the Thames Area Team</u>:

The Board welcomed Andy Smith to the meeting; he gave an update and overview of the current work, priorities and challenges of his team.

8.1.4 In response to the update, the Board thanked Andy and made the following comments:

8.1.5 Noted the depth and range of projects that the team were involved in, covering all strategic priorities over the long term in the context of London's expansion over the coming years, and Andy's excellent leadership skills in delivering them.

8.1.6 Recognised and were interested in the role of the local team Manager in bringing all the strands of activity together

ACTION: Guy Thompson to oversee the London Area Growth Board paper for submission to the November Board meeting.

ACTION: Board and Executive Services to invite Thames Area Team Manager, Adam Wallace, to a future Board meeting to describe the London Area Growth proposition.

8.1.7 Noted Andy's attendance at ARAC in June and encouraged all Area Managers to attend in order to learn more about how the governance and finance side of the organisation works.

8.1.8 Noted that culture and pace of change is a leadership challenge but was starting to achieve both through the use of a variety of leadership techniques and bespoke approaches.

8.1.8 Recognised the team's staff survey score results were positive and counselled that culture change takes time, and not to lose sight of the more experienced staff but to bring them along with the newer members of the team.

8.2 <u>The Board considered the issues in Annex 2 and in discussion:</u>

8.2.1 Noted that an application had been received for the re-introduction of lynx and the application would pass through the normal monitoring and control process via the Strategy and Reform Team, High Risk Casework Panel, SLT and Board. The Board noted the potential future conflict of interest of Simon Lyster's role as an independent non- Executive Director of Northumbrian Water.

ACTION: Alan Law to keep the Board informed on progress of the lynx application

8.2.2 <u>Natural Flood Management:</u> The Board agreed to re-constitute the NE Natural Flood Management Board sub group in order for it to be joined up with its equivalent at the Environment Agency.

8.2.3 The Board suggested a joint site visit to build on the operational good-will and signal joint working with a rotational Chair. The Board thanked Nigel Reader for volunteering to be on the group, the frequency of which is yet to be decided.

ACTION: Legal and Governance/Operations to establish a new NE-EA joint NFM Board subgroup.

ACTION: Legal and Governance to investigate options for a joint EA/NE site visit once the NFG is re- established.

8.2.4 Andy Clements declared an interest in the results from the breeding waders of English Upland Farmland 2016 Survey as Chief Executive of the BTO and requested to see the report prior to it being published.

ACTION: ACTION: Tim Hill to arrange for Andy Clements to receive the results from the breeding Waders of English Upland Farmland 2016 Survey before publication.

8.2.5 The Board thanked Alan Law for his performance alongside Defra at the House of Lords Scrutiny Committee – NERC Act (2006) and agreed that Natural England should take the opportunity to give formal evidence and to seek input on legislation, resourcing and cross government working. A recording of the session is available on Parliament TV or from the Legal and Governance Team.

ACTION: Legal and Governance Team to provide a link to the video of the House of Lords Scrutiny Committee NERC Act 2006 should Board members wish to see it.

8.2.6 The Board noted the management actions arising from the recent Review of Environmental Stewardship Payments and the judgement of the NAO that the control shortfalls had been an isolated incident. The Board agreed to the need to ensure alignment of the next Board effectiveness review and the continued implementation of the management action plan.

8.2.7 The Board noted the update on the recent developments with current legal issues.

8.2.8 The Board noted the finance update and that:

- The Natural England accounts have now had Parliamentary sign off and are now on GOV.UK.
- Natural England's revised Grant in Aid letter for 2017/18 has been further delayed
- The additional financial pressures on Natural England's transformation work with the Defra Group Transformation programme being refocussed on IT development and EU Exit.

9. Natural England Audit and Risk Assurance Committee (ARAC) update and Annual Report to the Board (NEB 72 08)

9.1 Nigel Reader gave a verbal update from the ARAC meeting held on 20 June which was primarily devoted to the management response to the Defra Internal Audit report on safe payments and the Natural England Annual Report and Accounts.

9.1.1 The Board noted the annual report and accounts had now been signed off. In addition, it was also reported that Richard Charles was now Natural England's Head of Internal Audit. The Board agreed the need to ensure no loss of continuity and standards as well as being mindful of succession arrangements for the Committee itself.

9.1.2 The Board noted the ARAC Annual Report to the Board.

10. Approval of the Framework Document (NEB 72 09)

10.1 Julie Lunt introduced the paper for Board endorsement in advance of final sign off by the Chairman and Chief Executive.

10.1.1 The Board agreed to the suggestion that sign off be delegated to the Chairman and Chief Executive as this would be needed during August when the Board does not meet.

10.1.2 The Board had already seen various iterations of the Framework Document and had several opportunities to comment on it. They confirmed that they were content with the current wording subject to final approval and sign off by the Chief Executive and Chairman.

10.1.3 The Board noted the CEO's comment that the Framework Document marked 'a profound

shift'

ACTION: Julie Lunt to arrange a gap analysis on the Framework Document for the Board's information.

11. Health, Safety and Wellbeing update (NEB 72 10)

11.1 Guy Thompson introduced the paper to provide the Board with the reported incident statistics in Quarter 1 2017/18.

11.2 The Board were content with the update and acknowledged that health and safety risks were increasingly being mitigated against and that capability was being built across the organisation in terms of health and safety culture.

11.2.1 The Board noted a RIDDOR report had been received since submission of the paper which was currently under investigation.

12. Remuneration Committee update (NEB 72 11)

12.1 Nigel Reader updated the Board on the outcomes of the 20 June meeting. The Board noted that the Committee had reviewed the proposals and the Chairman had now received recommendations.

13. Joint Nature Conservation Committee (JNCC) update (NEB 72 12)

13.1 Tim Hill and Joe Horwood updated the Board on the key points of relevance to Natural England from the meeting on 8 June.

13.2 The Board noted that the role of JNCC Chief Scientist and Deputy Chief Executive has now been recruited.

13.3 The Board's attention was brought to item 3.3 of the paper which was duly noted.

14. Natural England Science Advisory Committee update (verbal)

14.1 Since the Committee had not met since the last Board meeting in June, Andy Clements gave a verbal update on latest developments.

14.2 The Board noted:

14.2.1 NESAC's visit to the Hillesden arable estate in Buckinghamshire which has been the focus of research into the delivery of benefits for wildlife on an intensive arable farm. The visit covered issues such as payment by results and farm clusters. The Board agreed that it is a good example of how science engages with the real world.

15. Board Innovation Group update (verbal)

15.1 Simon Lyster gave a verbal update on the 17 July sub group meeting and reiterated how the group provided the opportunity to test out thinking on ways in which the organisation is reforming and working differently. He commended the team for their continued efforts in this regard.

15.2 The Board noted that we were on track to deliver an income of £4.5m but were cautioned this figure could plateau in future years unless we secured permission to charge for statutory

work and advised that this should be logged as a risk.

ACTION: Mel Hughes to log the risk of being unable to achieve and income increase on £4.5m in future years.

ACTION: Board and Executive Services to send Chairman the paper on Corporate Relationships

16. Engagement sub-group update (NEB 72 13)

16.1 Graham Tibbetts introduced the paper which provided an update on the work of the sub group and in particular it's messaging on the England Coastal Path (ECP)

16.2 In discussion, the Board

16.2.1 Noted that the ECP was now on track for 100% completion by 2020 and would provide a huge opportunity for establishing some very positive messages, particularly in regards to social justice and physical and mental health.

16.2.2 Enthusiastically supported the messages and suggested there might be television opportunities. The Board offered to assist with contacts.

16.2.3 Counselled that consideration needed to be given to how to mobilise non-walkers when looking at Monitoring Engagement with the Natural Environment (MENE) data.

17. Board Diary (NEB 72 14)

17.1 The Board noted the future programme of meetings but asked for clarification on expectations of the public session scheduled for 1 November

ACTION: Julie Lunt to provide clarification on expectations of the 1 November Public Session.

18. AOB

18.1 James Cross reported the call for evidence for the House of Lords Select Committee on whether the NERC Act was still delivering what it set out to achieve will be closed on 11 September and requested a draft paper reflecting our current thinking to give the Board an opportunity to comment over the summer.

ACTION: Alan Law to oversee the drafting of a Board paper setting out our thinking in relation to the NERC Act in preparation for giving official evidence to the Lords Select Committee.

19. PUBLIC SESSION
Confirmation of the notification of West Pennine Moore

19.1 The Chairman welcomed, Mike Burke, Area Manager of Cheshire, Greater Manchester, Merseyside and Lancashire; Ben Fraser (SSSI designations Senior

Advisor), Alan Drewitt (ornithology Senior Specialist), Ben Hibbins (local team Lead Adviser) and Karen Rogers (local team Lead Adviser)

19.2 The Chairman introduced the item to consider whether or not to confirm the notification of West Pennine Moors SSSI. The Chairman advised the Board that a full record of the proceedings for this agenda item would be taken by a stenographer.

19.3 Julie Lunt, Chief Legal Officer, reminded the Board of its role and responsibilities in relation to the legislation, the process of notification and the matters they needed to bear in mind during their deliberations. In particular, she reminded the Board that its decision should be made only on the basis of the scientific information presented. She also clarified the extent of discretion available to the Board under s28C of the Wildlife and Countryside Act 1981 (as amended) where a SSSI is being extended, as here.

19.4 Mike Burke, the Area Manager, outlined the case for designation by introducing the pack containing the report to the Board; formal notification and supporting information documents which describes the site and its special interests; the Senior Leadership Team meeting paper and minutes recording approval of notification; key correspondence and details on the remaining objections.

19.5 The Chairman asked members of the team to introduce themselves. Mike Burke made a short presentation setting out the context for the decision the Board was recommended to take.

19.6 The Board thanked the presenters and asked questions from Alan Drewitt, Karen Rogers and Ben Hibbins to satisfy themselves on the scientific interest of the site and to have a clear understanding of the rationale for notification. The Board:

19.6.1 Were confident of the evidence supporting the significance of the black headed gull colony and the Mediterranean gull colony on Belmont Reservoir and agreed that the use of photography from planes and drones was an accurate method of calculating the number of birds.

19.6.2 Andy Clements and Julia Aglionby gave a report on their visit to West Pennine Moor. They reported how helpful it was to enable them to get a full understanding of the special interest features of the site.

19.6.3 Noted that whilst there were no objectors attending the meeting in person objections and representations had been made which were outstanding and needed to be considered. The Chairman invited the Board to consider the evidence from the objectors that had been submitted in writing.

19.6.4. The Board noted 4 common grounds for objection. Each of these was considered:

19.6.4.1 Ground 1: in response to objections in relation to the inclusion of land as additional breeding bird habitat for the upland moorland and upland in-bye and allotment farmland assemblage, the Board were content with the team's response that the in-bye land provides significant suitable habitat for a number of species of birds which rely on it for nesting, feeding and reproduction.

19.6.4.2 Ground 2: In response to objections on the impacts on farming business and the application of the list of operations requiring Natural England consent (ORNEC) the Board were advised that legally it could not take account of socio-economic considerations when it was considering confirmation of a SSSI. The local team

confirmed that they were working with owners and occupiers to find workable consents that would allow them to operate their businesses whilst not damaging the SSSI

19.6.4.3 Ground 3: In response to objections regarding the banning of the use of lead shot under the ORNEC list, the Board were content with the clarification provided by the team but noted Teresa Dent's concerns about the practicalities. The Board noted her intention to abstain from any decision as to whether the ORNEC list should include an item banning the use of lead shot.

19.6.4.4 Ground 4: in response to objections regarding the assertion that Natural England has not followed its own guidelines, procedures and protocols for identifying or notifying the SSSI with reference to an English Nature Policy Statement of 2006, the Board were satisfied that Natural England had not adopted the English Nature Policy Statement and it was therefore not considered or adopted for this SSSI notification and potential confirmation. The Board were satisfied that Natural England had followed the guidelines and processes methodically.

19.6.5 Noted that some objections had been resolved immediately prior to the Board meeting and so the Board were being asked to consider the recommendation in NEBPU 72 15 – supplementary paper in place of the recommendations in paragraph 1.35 of their main pack**.**

19.7 Having had due regard to the legal context, having considered the objections in detail and the revised recommendations in the supplementary paper and having noted that these did not extend the boundary of the SSSI nor add any activities to the list of activities requiring consent the Board unanimously approved confirmation of the notification of West Pennine Moore SSSI.

19.8 With regard to the amendments proposed by officers it was agreed:

19.8.1 to confirm the modifications to the SSSI boundary to exclude 21 areas of land totalling 46.92 ha, to amend the citation (including the area figure as a result of the boundary modifications) and the statement of Natural England's views about management. The recommended confirmed area of the SSSI was agreed as 7,615.49 ha.

19.8.2 With respect to the unresolved objections, the Board agreed with the officer's recommendation to approve the confirmation without modification.

19.8.3 The Board agreed to approve the list of operations requiring Natural England consent without modification i.e. it would include the provision to ban the use of lead shot.

ACTION: The Area Team to serve formal SSSI confirmation papers on owners, occupiers, the Secretary of State, Local Planning Authorities and other relevant statutory consultees.

Actions log

No	Agenda Item/Paper	Ref	Action	Owner

1	**Confirmation of the June Minutes and Matters Arising (NEB M71 01)**	1.1	**Produce final confirmed June Board minutes.**	Board and Executive Services
2	**Countryside Stewardship update (NEB 72 01)**	2.2.4	**Include Countryside Stewardship as a standing item on Board agendas and to invite Kirsty Shaw and Sarah Church.**	Board and Executive Services
3	**Countryside Stewardship update (NEB 72 01)**	2.2.5	**Provide "lines to take" for Board members on Countryside Stewardship**	Guy Thompson
4	**TB Update (NEB 72 03)**	4.1.2	**Draft a supportive message from the Board to the bTB team.**	Guy Thompson
5	**Our vision for the Government's 25 Year Environment Plan (NEB 72 05)**	6.2.4	**Draft a short briefing for each SoS commission.**	Alan Law
6	**CEO Report (NEB 72 08)**	8.1.2	**Withdraw the 2017/18 Risk management paper from the Board pack** **The full iteration of the Corporate Risk Register to be included in the September Board papers**	Board and Executive Services Julie Lunt
7	**CEO Report (NEB 72 08)**	8.1.8	**Submit a Board paper on the London Area Growth Board proposition for submission to the November meeting.** **Invite Thames Area Team Manager, Adam Wallace, to a future Board meeting to support the above paper on the London Area Growth Plan**	Guy Thompson Board and Executive Services
8	**CEO Report (NEB 72 08)**	8.2.1	**Keep the Board informed on the progress of the lynx application**	Alan Law
9	**CEO Report (NEB 72 08)**	8.2.3	**Establish a new NE-EA joint NFM Board subgroup.** **Investigate options for a joint NE/EA site visit once the National**	Legal and Governance Team Legal and Governance Team

			Flood Group is re-established	
10	**CEO Report (NEB 72 08)**	8.2.4	**Arrange for Andy Clements to receive the results from the breeding Waders of English Upland Farmers 2016 Survey before publication.**	Tim Hill
11	**CEO Report (NEB 72 08)**	8.2.4	**Provide a link to the video of the House of Lords Scrutiny Committee NERC Act 2006 should Board members wish to see it.**	Board and Executive Services
12	**Approval of the Framework Document (NEB 72 09)**	10.1.2	**Consider the Framework Document further before final sign off** **Arrange a Gap Analysis on the Framework Document for the Board's information.**	Chairman/ Board Julie Lunt
13	**Board Innovation Group Update (verbal)**	15.2	**Log as a risk the inability unable to achieve an income increase on £4.5m** **Send Chairman the paper on Corporate Relationships**	Mel Hughes Board and Executive Services
15	**Board Diary**	17.1	**Provide the Board with clarification on what to expect at the 1 November Public Session**	Julie Lunt
16	**AOB**	18.1	**Draft a Board paper setting out our thinking in relation to the NERC Act in preparation for giving official evidence to the Lords Select Committee.**	Alan Law
17	**West Pennine Moore**	19	**Serve formal SSSI confirmation papers on owners, occupiers, the Secretary of State, Local Planning Authorities and other relevant statutory consultees.**	Area Team

Natural England Board

Meeting: 72
Date: 19 July 2017

Paper number: **NEB PU72 15**

Title: **West Pennine Moors Site of Special Scientific Interest (SSSI) – confirmation of notification**

Lead/s: **Alan Law, Chief Strategy and Reform Officer/Mike Burke, Cheshire to Lancashire Area Manager**

1 Purpose

1.1 The purpose of this paper is to seek approval to confirm the notification of West Pennine Moors SSSI. The Natural England Board confirmation report is attached at Annex 1.

2 Recommendation

2.1 The Board is asked to:

- Approve confirmation of the notification of West Pennine Moors SSSI with modifications to remove 19 areas of land (totalling 41.15 ha) from the boundary, the citation and the statement of Natural England's views about the management of the SSSI. The recommended confirmed area of the SSSI is 7,621.26 ha. The documents recommended for confirmation are attached at section 3 of Annex 1.

3 Report

3.1 Background

3.1.1 West Pennine Moors SSSI was notified on 17 November 2016 under section 28C of the Wildlife and Countryside Act 1981. A decision upon whether or not to confirm the notification of the SSSI is required on or before 16 August 2017, or it will lapse.

3.1.2 West Pennine Moors SSSI is of special interest for its nationally important:

- diverse mosaic of upland habitats centred on three large expanses of blanket bog, with associated heathlands, flushes, woodlands and grasslands;
- assemblages of breeding birds that depend on upland, in-bye/moorland-fringe and woodland habitats;
- Nationally Rare and Scarce flowering plant species.

3.1.3 Previously, three SSSIs were notified covering some of the habitats on the fringes of the West Pennine Moors. These three SSSIs were White Coppice Flush SSSI (0.56 ha, notified in 1985), Oak Field SSSI (21.01 ha, notified in 1985) and

Longworth Clough SSSI (24.18 ha, notified in 1994). The West Pennine Moors SSSI includes all three of these previously notified SSSIs. The notification rationalises and clarifies the special interests of the overall area within a single designation, combining the three previously notified SSSIs and with substantial extensions covering 7,616.72 ha. The total area of the enlarged SSSI as notified is 7,662.40 ha.

3.1.4 The West Pennine Moors rise above Manchester and the Lancashire plain and function as one landscape for wildlife, water and approximately 1 million people who live nearby. The area of highest importance for its upland habitats, rare plants and breeding birds is notified as a SSSI. The SSSI covers less than 20% of the wider West Pennines area.

3.1.5 This SSSI will stimulate sustainable conservation within the upland landscape. It will encourage the widest possible collective commitment to safeguard the functions and services provided by the West Pennine Moors, in particular, wildlife and water provision along with recreational and economic interests. Notification provides formal recognition of the site's national importance, which will help all those with an interest to realise the landscape's potential for people and wildlife.

3.1.6 The notification document (attached at section 2 of Annex 1) was issued on 17 November 2016 and explains why West Pennine Moors is notified as a SSSI. The selection of this site against the relevant guidelines is dealt with fully in the supporting information document to the SSSI notification (also attached at section 2 of Annex 1).

3.2 Issues

3.2.1 West Pennine Moors SSSI has 180 owners and occupiers. The notification is the subject of 17 unresolved objections and a further five objections that have been resolved subject to the Board agreeing the officers' recommended modifications, as well as 272 representations supporting the SSSI. The period for making objections and representations ran from 17 November 2016 to 17 March 2017.

3.2.2 Thirty-nine owners/occupiers received their packs after the notification date and, where possible, all were given four months in which to submit objections or representations. The latest identified owner/occupiers were given the statutory minimum of three months, the last of which expired on 21 June 2017.

3.2.3 Annex 1 describes the site and its special interest, and considers the objections and representations made in respect of the 17 November 2016 notification. The grounds for the objections have been carefully considered by officers of Natural England.

Annex 1

Natural England Board Confirmation Report:
West Pennine Moors SSSI, Lancashire and Greater Manchester

Contents

Section 1
Report to the Board of Natural England meeting on 19 July 2017

West Pennine Moors Site of Special Scientific Interest, Lancashire and Greater Manchester

1.1 Executive summary

The West Pennine Moors SSSI is a diverse mosaic of semi-natural upland habitats centred on three large expanses of blanket bog, with associated heathlands, flushes, woodlands and grasslands. These habitats support breeding birds that depend on upland, in-bye/moorland-fringe and woodland habitats, and a number of Nationally Rare and Scarce plant species.

Previously, three SSSIs were notified covering some of the habitats on the fringes of the West Pennine Moors. These three SSSIs were White Coppice Flush SSSI (0.56 ha, notified in 1985), Oak Field SSSI (21.01 ha, notified in 1985) and Longworth Clough SSSI (24.18 ha, notified in 1994). The West Pennine Moors SSSI includes all three of these previously notified SSSIs. The notification rationalises and clarifies the special interests of the overall area within a single designation, combining the three previously notified SSSIs and with substantial extensions covering 7,616.72 ha. The total area of the enlarged SSSI as notified is 7,662.40 ha.

The notification document issued on 17 November 2016 explains why the West Pennine Moors is notified by Natural England as an SSSI. West Pennine Moors SSSI has 180 owners and occupiers. The notification is the subject of 17 unresolved objections and five objections that are resolved subject to the Board agreeing the officers recommended modifications to the boundary and other legal documents. A further 272 representations expressed support for the SSSI. The grounds for the objections have been carefully considered by officers of Natural England.

Officers recommend to the Board of Natural England that the notification of the SSSI under section 28C of the Wildlife and Countryside Act 1981 should be confirmed with modifications identified in objections and representations and by the area team to:

- the boundary, to remove 19 areas of land (total area of 41.15 ha) which officers recommend should not be considered to be of special scientific interest;
- the citation, to clarify the descriptions of some interest features; and
- the statement of Natural England's views about the management of the SSSI to address errors and improve clarity of the management principles.

1.2 Introduction

West Pennine Moors SSSI was notified on 17 November 2016 under section 28C of the Wildlife and Countryside Act 1981. The notification under section 28C enlarged the site previously known as White Coppice Flush SSSI, previously notified in 1985, and incorporates the previously notified Oak Field SSSI (as notified in 1985) and Longworth Clough SSSI (as notified in 1994). Section 28C(5) of the Wildlife and Countryside Act 1981 has the effect that the previous notification of White Coppice Flush SSSI ceased to have effect from 17 November 2016.

Natural England has a duty to notify land as SSSI where it is of the opinion that land is of special interest. Having formed an opinion that the land is of special interest, Natural England has discretion as to whether to enlarge a previously notified SSSI under section 28C. That discretion was exercised in this case.

This report describes the site and its special interest, and considers the objections and representations made in respect of the 17 November 2016 notification.

1.3 Site description and special interest

West Pennine Moors SSSI, which extends for approximately 18 km from east to west and 10 km from north to south, is situated mostly in south Lancashire, with 10% of the total site in Greater Manchester. It lies within the South Pennines National Character Area (NCA)[1], but the West Pennines is a distinctive landscape dominated by moorland plateau rising above surrounding mill towns, dissected by locally distinct valleys providing transport corridors, with reservoirs, villages and scattered farms, in an area very popular for recreation. 13% of the SSSI is registered common land. The SSSI is an example of upland and moorland fringe habitats that occur at lower altitudes, providing an important contrast to the higher South Pennine Moors further east.

Figure 1: Moorland fringe landscape at White Coppice

[1] National Character Areas (NCAs) divide England into 159 natural areas, each defined by a unique combination of landscape, biodiversity, geodiversity and economic and cultural activity. West Pennine Moors SSSI lies within the Southern Pennines NCA. NCAs are now used as 'areas of search' for the purposes of SSSI selection (where appropriate) in England. For more information on NCAs, see https://www.gov.uk/government/publications/national-character-area-profiles-data-for-local-decision-making

The site comprises three distinct moorland blocks (amongst the most intact peatlands in the NCA) where blanket bogs extend downslope to moorland fringe habitats on the lower slopes; a mosaic of blanket bog, heathland, flushes, wooded cloughs and unimproved grassland. As well as its extensive areas of blanket bog, a notable feature of the West Pennine Moors is the large extent of moorland fringe communities with particularly abundant flushes.

1.3.1 Blanket bog (50% of total area)

The principal vegetation of the blanket bogs is a community of hare's-tail cottongrass *Eriophorum vaginatum* with heather *Calluna vulgaris,* common cottongrass *Eriophorum angustifolium* and purple moor-grass *Molinia caerulea*. In areas where the water table is close to the bog surface, bog-mosses *Sphagnum* species are commonly found. More species-rich blanket bog vegetation occurs in patches with bilberry *Vaccinium myrtillus*, crowberry *Empetrum nigrum*, cranberry *Vaccinium oxycoccos*, bog-rosemary *Andromeda polifolia* and, very locally, royal fern *Osmunda regalis*.

Figure 2: Carpets of cottongrass on Turton Moors (credit: Alistair James)

1.3.2 Upland heathland (4% of total area)

On the shallower soils of the lower slopes lie small distinctive patches of wet heath, containing cross-leaved heath *Erica tetralix* and bog-mosses, and larger expanses of dry heath. As a result of previous grazing and burning management, the dominant species of the dry heath communities is heather, although more species-rich areas also support bilberry, tormentil *Potentilla erecta*, heath bedstraw *Galium saxatile* and wavy hair-grass *Deschampsia flexuosa*.

1.3.3 Flushes (3% of total area)

Acid flushes are an important component of the blanket mire landscape. Many support species such as round-leaved sundew *Drosera rotundifolia*, sedges including common sedge *Carex nigra* and mosses which may otherwise be scarce across the peatlands.

Of greater rarity is the suite of lime-rich flushes, such as those occurring on the Anglezarke/Withnell Moor complex and at White Coppice Flush, where the spring water is so rich in lime that it forms calcareous deposits. The springs contain carpets of lime-loving mosses and the insectivorous plants round-leaved sundew and common butterwort *Pinguicula vulgaris* grow around them.

1.3.4 Moorland fringe grasslands (2% of total area)

Throughout the lower slopes of the moorland blocks and the enclosed in-bye land are areas of rush pasture and mire grassland. The more species-rich stands are dominated by blue-green sedges such as star sedge *Carex echinata* and common sedge, with sweet vernal-grass *Anthoxanthum odoratum*, red fescue *Festuca rubra,* cuckooflower *Cardamine pratensis* and a thick carpet of brown mosses.

Figure 3: Moorland fringe on the east side of Holcombe Moor

The more limited number of unimproved neutral hay meadows are equally significant. These traditionally managed grasslands support frequent sweet vernal-grass and red fescue, with pignut *Conopodium majus*, common mouse-ear *Cerastium fontanum*, meadow vetchling *Lathyrus pratensis*, yellow-rattle *Rhinanthus minor* and red clover *Trifolium pratense*. One particular example supports an outstanding population of globeflower *Trollius europaeus*.

1.3.5 Woodland (1% of total area)

Upland woodlands, mostly ancient, are found along steep-sided cloughs and water courses. Typically, these are oak woods with a species-poor heathy understorey in a mosaic with other, generally wet woodland and scrub. Of greatest diversity is Longworth Clough where, amongst the many flushes, is an area of an uncommon wet woodland type with alder *Alnus glutinosa* and greater tussock-sedge *Carex paniculata*.

Smaller stands of trees are scattered across the upland massifs, many of which are unfenced and grazed with the wider moorland habitats. These woodlands have thinner canopies than the dense woodland blocks and can support a richer ground flora.

1.3.6 Breeding birds (occur throughout the SSSI and the remaining 40% not covered by the habitats listed above is additional breeding bird habitat)

Collectively the habitats within the SSSI support the nationally important assemblages of upland and woodland breeding birds and will help to ensure the long term sustainability of bird populations in the West Pennine Moors, providing nesting and feeding areas.

The open moorland and adjacent moorland fringe or in-bye support a diverse assemblage of upland breeding birds including teal *Anas crecca*, red grouse *Lagopus lagopus*, merlin *Falco columbarius*, peregrine *F. peregrinus*, golden plover *Pluvialis apricaria*, lapwing *Vanellus vanellus*, dunlin *Calidris alpina*, curlew *Numenius arquata*, short-eared owl *Asio flammeus*, wheatear *Oenanthe oenanthe*, raven *Corvus corax* and twite *Linaria flavirostris*.

Figure 4: Belmont Reservoir

The SSSI also supports a diverse assemblage of woodland breeding birds, including scarce and/or rapidly declining species such as tree pipit *Anthus trivialis*, wood warbler *Phylloscopus sibilatrix*, spotted flycatcher *Muscicapa striata*, pied flycatcher *Ficedula hypoleuca* and willow tit *Poecile montana*.

Belmont Reservoir and the surrounding area support nationally important numbers of breeding black-headed gulls *Chroicocephalus ridibundus* (7,673 pairs, 5.9% of the GB population) and Mediterranean gulls *Larus melanocephalus* (18 pairs, 3% of the GB population). Belmont Reservoir probably supports the largest colony of black-headed gulls in Britain and the largest inland colony of Mediterranean gulls. An important colony of grey herons *Ardea cinerea* nests in plantation woodland on the banks of Turton and Entwistle Reservoir.

1.3.7 Flowering plants

The unimproved neutral hay meadows at Sunnyhurst in the north-west of the site support important populations of two Nationally Rare species: starry lady's-mantle *Alchemilla acutiloba* and large-toothed lady's-mantle *A. subcrenata*. One of the water-bodies within Troy Quarry is home to an important population of the Nationally Scarce floating water-plantain *Luronium natans.*

1.4 SSSI boundary as notified

The boundary has been drawn to include land supporting the features of special interest and those areas required to ensure the long-term sustainability of these features. The West Pennine Moors SSSI comprises three distinct upland blocks:

- Withnell, Anglezarke and Rivington Moors to the west of the site;
- Darwen and Turton Moors in the centre of the site; and
- Haslingden, Oswaldtwistle and Holcombe Moors to the east of the site.

These upland blocks comprise the core of the site and are chosen because they are amongst the most intact peatlands in the NCA. These areas incorporate mosaics of upland habitat, particularly blanket bog, within large management units. The three upland blocks are separated and surrounded by improved agricultural land, reservoirs, conifer plantations and urban settlements, which have generally been excluded from the SSSI. The western and central upland blocks lie in close proximity to each other and are linked ecologically by the wetland features around Belmont. The eastern upland area is slightly apart from the remaining site (about 5 km between Turton Moor and Edgerton Moss) but is linked by the smaller and lower-lying peatland expanses of Cranberry Moss and Hoddlesden Moss. Hence, there is no more than 0.5 km between these upland habitats that share a common underlying geology and, as a result, they are considered to function as a single ecological and topographical unit.

All continuous or near-continuous areas of upland moorland vegetation have been included within the boundary, either on the basis of their botanical interest, their hydrological and topographical connectivity, and/or their interest for birds. In combination, these habitats provide the full representation of upland habitats in the area and ecological functions across the interdependent elements of hydrologically-linked units.

Contiguous enclosed land on the periphery of the moorland blocks, including moorland fringe or in-bye grassland and woodlands at lower altitudes, is included where it is of sufficient quality to have biological interest. Species-rich hay meadows and acid grasslands as well as good quality rush pastures and mire grasslands complete the compliment of habitats within the topographic unit, providing a representation of habitats running from high moorland to valley bottom.

Figure 5: View north from Musden Hill

All habitats within the SSSI boundary support important upland, in-bye and woodland breeding bird assemblages which depend on a wide variety of habitat features. Many bird species nest in one habitat and often forage in others commonly some distance away from nesting locations. For example, twite and golden plover both breed in the open uplands, one in structurally diverse heathlands and the other on short blanket bog vegetation, but often feed in neighbouring moorland fringe areas (seed-rich meadows and pastures respectively). The SSSI boundary has been determined to meet breeding and feeding requirements of the breeding birds within the site.

The approach taken above has then been practically applied so that, wherever possible for reasons of ecological integrity, practicality and ease of identification, the boundary of the SSSI has been drawn to follow the nearest physical feature on the ground. This usually follows existing walls, fence lines, hedgerows, ditches, drains, drove roads and metalled roads. Where the boundary follows a road, the inner edge of the road has been used and the road has therefore been excluded from the site. Conversely, where the boundary is drawn to a stream, ditch or drain, the outer bank has been used therefore including the stream, ditch or drain in the site. The site is, therefore, physically bounded by ditches, drains, hedgerows, fences and drove roads as well as metalled roads.

A conifer plantation on the banks of Turton and Entwistle reservoir has been included because it supports a large heronry. Equally, Belmont Reservoir has been included within the SSSI boundary because it supports nationally important populations of breeding gulls and Troy Quarry is included because it supports a population of the floating water-plantain.

Figure 6: Bog pools on Aushaw Moss

1.5 Assessment of West Pennine Moors against the SSSI selection guidelines

The selection of this site was assessed against the *Guidelines for the selection of Biological SSSIs. Part 1: Rationale, Operational Approach and Criteria for Site Selection* (JNCC, 2013) and *Part 2: Detailed guidelines for habitats and species groups*; hereafter referred to as 'the Guidelines'.

The assessment is dealt with fully in the supporting information to the SSSI notification document, which is attached as an annex to this report (section 2).

1.6 Procedures

1.6.1 Pre-notification

Initial preparations commenced in 2012 for the West Pennine Moors SSSI notification, when owners and occupiers were contacted to seek permission to access their land for survey. In 2012, initial meetings were held with United Utilities' tenant farmers, the Assheton Estate and Aggregate Industries (rights now held by W Maher & Sons) to discuss the proposal and listen to concerns. In October 2013 an update was sent to 90 parties who had expressed an interest in being kept informed about development of the proposal.

Further meetings were held during summer and autumn 2014 with around ten landowners who were known to have concerns, resulting in some amendments to the draft boundary, and one group of common rights holders. An update was circulated to all 195 known owners and occupiers in December 2014, with an offer to meet or to discuss any issues. No requests for meetings or telephone queries

were received in response to the December 2014 update. It was also sent to a further 93 interested parties.

In April 2016, West Pennine Moors was included in the published designation programme for 2016/17 and the final preparations were made for formal consideration of the SSSI notification proposal.

1.6.2 Notification

The SSSI was notified on 17 November 2016, following approval by the Chief Executive on 18 October 2016. The site has 180 owners and occupiers of whom 177 own or occupy land outside the previously notified White Coppice Flush, Oak Field and Longworth Clough SSSIs and are therefore 'new' owners or occupiers. Approximately 71% of the SSSI is owned by United Utilities and a further 21% by four landowners (Assheton Estate, National Trust, Woodland Trust and Ministry of Defence), with the remaining 8% held by a large number of smaller land owners.

In addition to despatching notification documents by post to 180 owners and occupiers (with tailored unit based habitat maps) and 50 statutory bodies, 40 notices were posted on site and notices were placed in the local press: Bolton News and Lancashire Telegraph on 21 November, Chorley Citizen on 23 November and Bury Times on 24 November 2016. A further 217 observing bodies were informed of the notification by letter or email. The consultation documents were available, together with an online survey, on Citizenspace (Defra's online consultation portal). The period for making objections and representations ran from 17 November 2016 to 17 March 2017.

Thirty-nine owner/occupiers who received their packs after the initial notification date (for instance, because we had incorrect address details from the Land Registry) were given at least three months to submit objections or representations. The final deadline expired on 21 June 2017.

On 18 November 2016 a press release was picked up by the Lancashire Telegraph, Lancashire Evening Post, Bolton News and Chorley Guardian. A follow up press release on 28 February 2017 to remind readers of the consultation deadline was carried by the Lancashire Evening Post.

Objections were received from 23 owner/occupiers and three interested parties, four of which (from Mr C Mercer, Nuttall Bros., Miss J Smalley and the Woodland Trust) have subsequently been withdrawn following discussions with officers.

Of the 22 outstanding objections, 17 are wholly or partially unresolved (in some cases pending formal confirmation that they are resolved subject to agreement of officers' recommended modifications):

- Ms E Batchelor
- British Association for Shooting and Conservation (BASC)
- Mr I J Drinkall
- Alex Fowler
- Mr A R Hargreaves
- Mr J A Holden and Ms S M Holden
- W Holden & Sons
- Mrs D Mares
- Mr J Mares
- Mr D Sharples

- Mr J Smith
- E and G Tattersall
- Taylor family
- Mr N Teague
- Urban Springside
- The Trustees of the Wheeler Property Trust
- Mr D R Wood

The remaining five objections are confirmed to have been resolved, subject to the Board agreeing officers' recommended modifications:

- Arqiva Ltd
- Ms E Berry
- Bolton Gun Club
- Mr T Foley
- United Utilities

Representations were received from a further 282 owners, occupiers, statutory bodies and interested parties, 272 of which expressed support for the notification (see section 1.31).

1.6.3 Decision

The Board is required to take a decision upon whether or not to confirm the notification of the West Pennine Moors SSSI under section 28C on or before **16 August 2017**.

1.7 Objections and representations

Objections and representations to the notification of the West Pennine Moors SSSI have been received from the owners, occupiers and interested parties detailed in sections 1.9-1.31, below. The land subject to each of the objections is shown in the map that follows section 1.35 of this report. Key correspondence relating to the objections and representations is presented at section 5 of this report.

1.8 Common grounds for objection

Four grounds for objection were raised by more than one objector, particularly (but not exclusively) those represented by land agents. These issues are presented below for ease of reference and to avoid unnecessary duplication. One or more of these grounds was raised by 14 of the objectors (see Table 1). In some cases (for instance, where the issue relates to the inclusion of specific areas of land or to concerns about land management activities) there is a more detailed assessment specific to the individual objector. Where this is the case, the relevant issues and responses are presented (along with individual-specific grounds for objection and the concerns of the remaining eight objectors) in sections 1.9 to 1.30.

Table 1: Common grounds for objection

Name of objector	Ground 1 – additional breeding bird habitat	Ground 2: impacts on farming businesses	Ground 3: use of lead shot	Ground 4: SSSI notification process
Unresolved objections				
British Association for Shooting and Conservation			✓	
Mr I J Drinkall	✓	✓	✓	✓
Mr A R Hargreaves	✓			
Mr J A Holden and Ms S M Holden		✓		
W Holden & Sons	✓	✓		
Mrs D Mares	✓	✓		✓
Mr J Mares	✓	✓		✓
Mr D Sharples		✓		
Mr J Smith	✓	✓	✓	✓
E and G Tattersall	✓	✓	✓	✓
Urban Springside	✓	✓		
The Trustees of the Wheeler Property Trust		✓	✓	
Mr D R Wood	✓	✓	✓	✓
Resolved objections				
Mr T Foley	✓			✓

1.8.1 Ground 1: Inclusion of land as 'additional breeding bird habitat' for the upland moorland and upland in-bye and allotment farmland assemblage

Summary of concerns

Natural England has not provided any evidence to demonstrate the importance of the land for breeding birds. In addition, some objectors raised a related concern that the timing of the notification consultation (November to March) does not provide sufficient opportunity for them to conduct their own surveys during the breeding season.

Summary of responses

Most land within the West Pennine Moors SSSI supports the upland and in-bye breeding bird assemblage. All priority habitats such as dry heath or hay meadows provide appropriate habitat for a range of birds within the assemblage and some land, not considered to be of special interest for its vegetation communities, has been included because it also provides supporting habitat for breeding and foraging birds within the assemblage. Its inclusion is informed by consideration of the following factors:

- Tetrad-level data on breeding birds sourced from the Lancashire Bird Atlas[2].
- Finer resolution bird data sourced from local bird recorders, which indicates the contribution of individual fields to the habitat supporting nesting and foraging birds. Nearby fields with similar habitat have been included on the basis that species within the assemblage will utilise these fields as well.
- The appropriateness of the habitat for birds – for example, many in-bye fields with rush management and sheep grazing are ideal nesting and foraging areas for wader species (such as curlew and lapwing). Officers have reviewed the habitat suitability and, in some cases, visited the land to assess this.
- The location of the land within the wider area of suitable habitat for nesting and foraging birds. For example, a small parcel of non-priority habitat surrounded by priority habitat will have been included as species within the assemblage will utilise this area.
- Defined physical features such as walls, fences and tracks have also been taken into account in determining the exact location of the SSSI boundary.

We have shared the tetrad level data and (where available) finer resolution data from local bird recorders with objectors as part of our responses. In some cases, additional finer resolution data were submitted in representations to the SSSI notification by local bird recorders and this has also been shared with the relevant objectors.

Finally, for some land parcels subject to objection, officers commissioned a bird survey during April-May 2017 in order to clarify the usage of individual fields by different bird species, to assist in future monitoring of the bird interest, and to provide information on land management requirements for breeding and foraging birds. Again the results have been shared with the relevant objectors.

[2] White, S. *et al*. 2013. The state of Lancashire's birds: an atlas survey of the breeding and wintering birds of Lancashire and North Merseyside, 2007-2011. Lancashire and Cheshire Fauna Society, Riston.

In light of all of the above, officers have reviewed, shared and explained the evidence for inclusion of all land identified as 'additional breeding bird habitat'. Where appropriate we have agreed to recommend boundary modifications and these have addressed some concerns. In all cases, the evidence available prior to formal SSSI notification has been used to justify the SSSI boundary, with the later evidence from representations and the commissioned survey being used to corroborate and explain finer resolution use of land parcels by birds.

Where objectors identified that they may wish to commission their own surveys, we agreed that these could be submitted to us by 31 May 2017 (to align with the timetable for Natural England's own commissioned survey), a deadline which we extended into June upon request, but no reports have been submitted to us.

1.8.2 Ground 2: Impacts on farming businesses

Summary of concerns

The application of the list of operations requiring Natural England's consent could impact on the future economic viability of farming businesses.

Summary of responses

Officers appreciate that all landowners and occupiers within the West Pennine Moors SSSI have been carefully considering the implications of the new designation in the context of wider agricultural policy changes. We recognise that many of the habitats within the SSSI have been formed through years of land management.

Inclusion of an activity on the list of operations requiring consent does not mean it is viewed negatively. We understand that land managers will, of course, wish to undertake many of these operations routinely to look after the land and maintain their farming businesses.

We are already working in partnership with many land managers, discussing their current management of the land, their longer term plans and, on the back of this, agreeing consents for a wide range of agricultural and other activities consistent with the conservation of the SSSI.

To ensure that day to day management activities can continue under current agri-environment agreements, officers gave consent for the relevant activities soon after notification. We are also aware that many farming landowners would be undertaking a series of other common management activities (such as boundary repairs, using a vehicle as well as shooting) that are not explicitly mentioned within any agri-environment agreement. Hence, Natural England worked up some general consent wording that was presented at a meeting organised by the NFU on 15 February 2017. We have sought to agree tailored versions of this with individual land managers.

Natural England prefers to take an outcomes-focussed approach that relies upon a description of sward condition rather than referring to specific stocking rates, which we hope will allow land managers to manage their stock around the year according to local conditions. In the future we do not anticipate introducing numerical limits on stocking rates unless we have reason to believe this is necessary to prevent damage to the protected features of the site, although some elements of the Countryside Stewardship scheme do require the agreement of an annual stocking calendar.

Since the start of the consultation at least 67 consents have been negotiated and agreed with owner/occupiers:

- 12 are short-term for specific tasks (of which five have since expired);

- ten are consenting land management activities under Environmental Stewardship agreements, mainly HLS options;
- 40 run for a couple of years to allow time to negotiate specific longer term consents (all include the use of lead shot – see section 1.8.3); and
- Five run for 5-10 years, one of which covers farming activities including the use of lead shot).

Officers are continuing negotiations on at least 17 further consents.

1.8.3 Ground 3: Use of lead shot

Summary of concerns

Banning the use of lead shot on the SSSI, other than in line with current legislation, is completely unnecessary and unjustified.

Summary of responses (see also section 1.10.3)

There is no intention to introduce a site-wide ban on the use of lead shot and this is not the effect of any operation being listed as requiring Natural England's consent. For the West Pennine Moors SSSI we have worked with BASC to develop consent wording to manage the risks from using lead shot in a proportionate way based on local existing good practice and the findings of the recent Lead Ammunition Group report. We will typically consent the use of lead shot on the following basis:

> "Use of lead shot is permitted provided reasonable steps are taken to recover and remove all carcasses. The exceptions to the use of lead shot are:
>
> - When shooting ducks and geese, coot and moorhen, wherever they occur as legislated within the Environmental Protection (Restriction on Use of Lead Shot) (England) Regulations 1999 (as amended).
> - For shooting on or over any water body (including reservoirs, lakes, ponds, large scrapes/pools)."

We are discussing the detail on a case-by-case basis and we have agreed this consent with at least 41 owners and occupiers in the West Pennine Moors SSSI.

1.8.4 Ground 4: SSSI notification process

Summary of concerns

Objectors assert that Natural England has not followed its own guidelines, procedures and protocols (with specific reference to an English Nature policy statement) for identifying and notifying the SSSI, including seeking permission for carrying out surveys, making evidence available to land owner/occupiers and seeking views prior to formal notification. This may render the notification invalid.

Summary of responses

English Nature's SSSI Notification Policy Statement, produced in August 2006, has not been considered or adopted by the Board of Natural England and, accordingly, it has not been used by Natural England staff in the notification process for this SSSI. The English Nature policy statement is not available on, or via, Natural England's webpage on Gov.uk, although it is available online elsewhere.

Early in the notification process, officers sought evidence over several years to inform assessments of special scientific interest. We sought owner/occupier permission to access land to undertake vegetation surveys and have provided the

objectors with copies of either their written permission or notice that we would use our statutory powers of entry (where permission had not been granted); details given in individual objection sections below. Bird surveys were not carried out by, for, or on behalf of Natural England; third party data which had been collected independently of Natural England were used to inform the assessment of the breeding bird assemblages.

The vegetation survey is listed as one of the sources of evidence in the supporting information document to the SSSI notification and has been made available to all interested parties during the notification process. It is published online and, where appropriate, extracts relating to each objector's land holding have been provided with responses to objections. Similarly, the evidence for breeding birds is also listed in the supporting information document and relevant extracts have been provided to objectors.

In 2013 and 2014, we wrote to all known owner/occupiers with updates on the designation project, an invitation to request copies of surveys and offering to discuss the project further. Copies of this correspondence have been provided to the relevant objectors.

The West Pennine Moors SSSI is notified in accordance with Natural England's duties and powers under the Wildlife and Countryside Act 1981 (as amended). The four month period for submitting objections and representations gives owner/occupiers the opportunity to raise any concerns with Natural England staff. Officers have sought to resolve any concerns through discussions, correspondence, agreeing management and, where appropriate, recommending changes to the SSSI. Unresolved objections will be considered by the Natural England Board when it meets to decide on the confirmation or withdrawal of the notification.

1.9 Objection from Ms E Batchelor

Ms Batchelor submitted her objection via Citizenspace on 16 March 2017.

1.9.1 Objection

Ms Batchelor objects to the notification of land that she owns with her partner at Greenlowe Farmhouse because she is concerned about the implications for property value, restrictions on current and future use and Natural England staff accessing the land. The detailed points raised in support of Ms Batchelor's objection are presented in Table 2 (below).

1.9.2 Consideration of objection

Officers met Ms Batchelor (at a meeting hosted by her neighbours) on site on 29 April 2017, to explain the SSSI notification and discuss concerns. Officers set out the issues discussed in a letter dated 30 May 2017, also enclosing evidence from surveys of Ms Batchelor's land, heathland management advice and a draft consent. Ms Batchelor confirmed receipt on 6 June and thanked officers for the visit which had given her a much better understanding of the SSSI.

On 30 June an officer contacted Ms Batchelor by telephone to inform her that she would receive an invitation to the Board meeting. Ms Batchelor stated that it was likely that the only remaining element of her objection would be the fact that the SSSI notification proposal was not picked up by land searches when she and her partner purchased their property. Ms Batchelor agreed to clarify this in writing.

Table 2 Unresolved objections from Ms E Batchelor

Grounds for objection	Consideration of objection
The SSSI will have a negative effect on the value of the property. Ms Batchelor and her partner undertook a property search in 2015. This did not pick up the proposed SSSI and the previous owners did not pass on any information so they were unaware of it until receiving the notification pack.	SSSIs are not registered as a local land charge until they have been formally notified, which took place on 17 November 2016 for the West Pennine Moors. The previous owners gave permission for an ecological survey in 2012.
The original intention of Ms Batchelor and her partner was to be self-sufficient on their new property. She is concerned about operations requiring consent, particularly in emergency situations such as removing dead animals to protect the water supply and flood avoidance measures.	These concerns were discussed on site in April and followed up in writing, including the approach to dealing emergencies. A draft consent for general management activities was sent to Ms Batchelor on 30 May. A boundary amendment is recommended on their neighbour's land (Rev Dr & Rev Edwards) which would safeguard access to their water supply.
Natural England staff will access land without permission and could sue as a result of injuries sustained during survey work. Ms Batchelor is also concerned that Natural England could demand management on the land at her expense in order to maintain condition.	Officers confirmed that we would always agree access in advance and that Ms Batchelor is welcome to accompany staff. Natural England officers are insured against injury. Officers explained that funding could be sought or other mechanisms explored to support positive management.

1.9.3 Scientific justification

The land is included in the SSSI because it supports upland dry heathland. This is contiguous with neighbouring areas of upland dry heath, prevalent on the steep eastern slopes of Darwen Moor. The area owned by Ms Batchelor is largely unmanaged but is in good condition.

1.9.4 Officers' recommendation

With respect to the objection from Ms Batchelor, the Board is recommended to approve confirmation without modification.

1.10 Objection from British Association for Shooting and Conservation (BASC)

BASC stated its objection in a letter dated 14 March 2017.

1.10.1 Objection

BASC objects to the listing of 'use of lead shot' as an operation requiring Natural England's consent and the reference to game shooting and heronries in the statement of Natural England's views about management. The detailed points raised in support of BASC's objection are presented in Table 3 (below).

1.10.2 Consideration of objection

Officers wrote on 7 April 2017 setting out our intended approach to consenting to the use of lead shot and agreeing to recommend that the 'views about management' be amended in line with BASC's concerns. In a letter dated 30 May, BASC confirmed that its objection to the views about management is resolved but re-iterated its concerns about consent for the use of lead shot.

Officers met BASC on 19 June to discuss their concerns and exchanged emails on 21-22 June to agree revised wording for consents. On 22 June, officers provided BASC with a list of SSSIs in England that include 'use of lead shot' as an operation requiring consent and on 23 June confirmed that the three previously notified SSSIs in the West Pennine Moors did not list 'use of lead shot'.

BASC confirmed by email on 30 June 2017 that its objection remains to the inclusion of 'use of lead shot' as an operation requiring consent.

1.10.3 Scientific justification

The use of lead shot is restricted for shooting certain bird species under the Environmental Protection (Restriction on Use of Lead Shot) (England) Regulations 1999 (as amended). This includes teal, which breed in the West Pennine Moors SSSI as part of the upland moorland bird assemblage. However, the Regulations do not prevent lead shot lawfully being used to target other (non-waterfowl) species from incidentally entering wetlands where it may be ingested by teal (and other species); neither do they address any risk of lead ingestion by non-wetland birds in the SSSI.

There is evidence that some of the species in the breeding bird assemblage for this site are vulnerable to lead poisoning. These include waterfowl (teal, snipe, dunlin), raptors/scavengers (including buzzard, peregrine, raven) and gamebirds (grey partridge) that may ingest lead shot with grit or through preying upon injured birds and scavenging on carcasses shot with lead. The evidence for effects of lead ingestion is at the individual level, in some cases proving fatal.

The relatively small populations of several sensitive species in the limited area of the SSSI means that the local populations which form the breeding bird assemblages of special interest are inherently vulnerable to loss or reduced fitness of a comparatively small number of birds. This is distinct from the lack of agreed evidence of national population level effects (other than for some wildfowl) and the Secretary of State's decision in 2016 not to ban the use of lead shot in England.

Requiring consent for 'use of lead shot' ensures discussion with owners and occupiers about their shooting activities and, if appropriate, to seek avoidance of certain areas or the use of non-toxic shot where notified bird species are likely to be more vulnerable to lead poisoning. Our use of consents is a proportionate approach to managing the greatest risks to vulnerable species whilst minimising the burden on those who shoot within the SSSI. Consents for the use of lead shot have been agreed with 41 of the owners and occupiers.

1.10.4 Officers' recommendation

With respect to the objection from BASC, the Board is recommended to approve confirmation with a modification to the statement of Natural England's views about the management of the SSSI.

Table 3 Unresolved and resolved objections from BASC

Grounds for objection	Consideration of objection
Lead Ammunition Group report indicated no evidence that ingestion of lead is having an England population level impact. It is not the job of regulators to protect every individual of a species. Environmental Protection (Restriction on Use of Lead Shot) (England) Regulations 1999 (as amended) prohibit the killing of water birds with lead shot. BASC can see no justification for a site-wide ban. The lack of evidence to support additional restrictions on use of lead shot places NE in breach of the Regulator's Code.	See section 1.10.3 for consideration of the scientific justification for requiring consent for the use of lead shot, with particular reference to the relationship between effects on individual birds and the risk of population impacts at the SSSI assemblage level. See also section 1.8.3 for a summary of our approach to consents for the use of lead shot. There is no intention to introduce a site-wide ban and this is not the effect of any operation being listed as requiring Natural England's consent.
Imposition in views about management document "banning game shooting completely in areas where birds are nesting" as difficult to see how game shooting could cause disturbance to nesting herons when the season finishes on 1 February.	We agreed to recommend that the phrase "whilst shooting for game should be avoided completely in areas where the birds are nesting" be deleted from the 'views about management'. BASC confirmed that this aspect of its objection is resolved subject to that change being agreed.

1.11 Objection from Mr I J Drinkall

Mr Drinkall stated his objection in writing from his agent on 15 March 2017.

1.11.1 Objection

Mr Drinkall objects to the notification because:

- Natural England have not followed their own guidelines, procedures and protocols, which may render the notification invalid;
- parts of the farm identified in the objection do not contain sufficient ecological interest to warrant inclusion in the SSSI;
- the application of potential management prescriptions could impact on the future economic viability of the farm; and
- banning the use of lead shot on the SSSI, other than in line with current legislation, is completely unnecessary and unjustified.

The detailed points raised in support of Mr Drinkall's objection are presented in Table 4 (below).

1.11.2 Consideration of objection

Prior to receiving Mr Drinkall's objection, an officer met his agent, Neil Bland, on 7 February and his daughter, Helen Drinkall, on 15 February 2017 to discuss land management and consent. Officers sent consent for activities covered by Mr Drinkall's Higher Level Stewardship agreement on 21 December 2016 which Mr Drinkall signed and returned 9 March 2017. Officers also supplied a draft general consent for farming activities to Helen Drinkall on 21 February, inviting comments.

Officers formally responded to Mr Drinkall's objection in a letter dated 30 May 2017, enclosing copies of pre-notification correspondence, vegetation and

breeding bird evidence, and draft consent for farming activities and use of lead shot. Officers also offered to arrange a meeting to discuss consent in more detail.

The report from the 2017 bird survey was sent to Neil Bland 16 June 2017 along with additional bird records received from interested parties through the SSSI consultation process, and confirming our recommendation not to amend the SSSI boundary. Neil Bland requested long term consent for winter feeding stations by email on 21 June, to which officers responded on 30 June. Officers wrote again on 6 July inviting Mr Bland to clarify Mr Drinkall's land management requirements for consideration for consent.

1.11.3 Scientific justification

The land that Mr Drinkall has requested be excluded from the SSSI is known as 'Foggs', 'Paddock', 'Far Foggs' and 'Hempshaws' (which collectively form part of unit 47) and land at 'Bromileys' (which forms unit 73 and part of units 48 and 74). The *Vegetation Survey of the West Pennine Moors SSSI* (produced for Natural England by Penny Anderson Associates in 2014) identified the land within unit 47 as including as mixture of blanket bog, mire grasslands and rush pasture, acid flush, and neutral grassland. These are all important elements of the nationally important upland habitats in the SSSI.

The remainder of the land is identified as 'additional breeding bird habitat'. The evidence shows species included in the SSSI assemblage are present and breeding in the locality. This includes tetrad-level records and finer resolution records relating specifically to parts of Mr Drinkall's land. The land Mr Drinkall has asked Natural England to remove from the SSSI is regularly used by many of the species in the upland moorland and inbye breeding bird assemblage, including breeding lapwing, curlew, snipe, redshank, cuckoo, wheatear, stonechat and reed bunting, as well as providing good feeding ground for golden plover, curlew and redshank. The 2017 breeding bird survey was consistent with this, recording breeding lapwing, snipe, curlew, stonechat and wheatear. Additional records covering 2009-2017 received from a local bird recorder through the SSSI consultation also showed several assemblage species regularly using the land.

1.11.4 Officers' recommendation

With respect to the objection from Mr Drinkall the Board is recommended to approve confirmation without modification.

Table 4 Unresolved objections from Mr I J Drinkall

Grounds for objection	Consideration of objection
Natural England have not followed their own guidelines, procedures and protocols for identifying and notifying the SSSI, including seeking permission for carrying out surveys and making evidence available to land owner/occupiers. This may render the notification invalid.	See section 1.8.4. On 24 March 2012, Mr Drinkall gave written permission to conduct an ecological survey on his land. Officers wrote to Mr Drinkall on 8 October 2013, inviting him to request copies of surveys and offering to discuss any concerns. Officers repeated the offer on 19 December 2014. Copies of the letters were sent to Neil Bland on 30 May 2017.
Parts of the farm identified in the objection do not contain sufficient ecological interest to warrant inclusion in the SSSI, specifically parts of site unit 47 known as 'Foggs', 'Paddock', 'Far Foggs' and 'Hempshaws' and land at 'Bromileys' which forms unit 73 and part of units 48 and 74.	See section 1.11.3 for a summary of the scientific justification for notifying the areas referred to and section 1.8.1 for an overview of the approach to 'additional breeding bird habitat'. The relevant evidence relating to Mr Drinkall's land was sent to Neil Bland on 30 May, with additional data from interested parties and Natural England's commissioned breeding bird survey on 16 June 2017.
Concerns about the application of potential management prescriptions that could impact on the future economic viability of the farm.	See section 1.8.2 for an overview of the approach to consenting farming activities. Mr Drinkall's HLS agreement was consented to in March 2017 and officers have offered draft wording for general farming consents.
Banning the use of lead shot on the SSSI, other than in line with current legislation, is completely unnecessary and unjustified.	See section 1.10.3 for consideration of the scientific justification for requiring consent for the use of lead shot. See also section 1.8.3 for a summary of our approach to consents for the use of lead shot. There is no intention to introduce a site-wide ban and this is not the effect of any operation being listed as requiring Natural England's consent.

1.12 Objection from Alex Fowler

Alex Fowler, whose address is outside the SSSI in Lancashire, submitted an objection via Citizenspace on 28 November 2016.

1.12.1 Objection

Alex Fowler's submission simply states "object to SSSI listing".

1.12.2 Consideration of objection

Officers responded on 5 December, seeking elaboration of Alex Fowler's reasons for objecting but received no response. No further consideration is possible.

1.12.3 Officers' recommendation

With respect to the objection from Alex Fowler the Board is recommended to approve confirmation without modification.

1.13 Objection from Mr A R Hargreaves

During a site visit with an officer on 9 March 2017, Mr Hargreaves verbally objected to the inclusion of his land in the SSSI. He was not prepared to put this in writing.

1.13.1 Objection

Mr Hargreaves objects to the notification because he asserts that his land does not hold the scientific interest for which it has been notified, additional habitat supporting upland breeding birds, as it is improved pasture.

1.13.2 Consideration of objection

Officers wrote to confirm Mr Hargreaves' objection on 14 March 2017 and informed him that we may seek to undertake a breeding bird survey on his land. Following a habitat assessment undertaken on 5 May and the results of Natural England's commissioned breeding bird survey, officers wrote to Mr Hargreaves on 23 June 2017 to set out recommended boundary modifications.

1.13.3 Scientific justification

See section 1.8.1 for a summary of our approach to upland breeding bird habitats. The majority of the landholding consists of enclosed parcels of improved pasture intensively grazed by sheep and goats with a very short even sward providing no cover for birds, distinctly different from the surrounding moorland. A small area in the east of the holding is higher in elevation and with a mixture of different sward types (including rushes, tall and short grass), providing a gradual transition away from improved pasture to the surrounding moorland. This provides ideal breeding and feeding habitat for curlew. Although this species was not recorded during the 2017 bird survey, it has been recorded as a probable breeding species by the Lancashire Bird Atlas in the survey tetrad within which this land is located.

A review of all the evidence concluded that the majority of the landholding has no scientific interest and our recommendation is to remove this area from the SSSI. The land parcel in the east should be retained in the SSSI because of its suitability for upland breeding birds, including curlew.

1.13.4 Officers' recommendation

With respect to the objection from Mr Hargreaves the Board is recommended to approve confirmation with modifications to the boundary to exclude one area of 4.89 ha and, consequently, with a modification to the area figure on the citation.

1.14 Objection from Mr J A and Ms S M Holden

Mr and Ms Holden stated their objection in a letter dated 6 March and reiterated it in a further letter dated 21 March 2017.

1.14.1 Objection

Mr and Ms Holden object to their land being included in the SSSI because they feel it will ruin farming.

1.14.2 Consideration of objection

Officers sent a proposed consent for continuation of general land management activities on 2 March 2017 (see section 1.8.2 for a summary of our approach to consents for farming activities). Following Mr and Ms Holden's objection dated 6 March, their subsequent letter dated 21 March requested that officers should not contact them again. The Area Manager wrote to Mr and Ms Holden on 25 May 2017, advising that their objection will be considered by the Board of Natural England and that we will not contact them again unless our legal duties require it or they request it. A further search of the land registry identified other land held by the Mr and Ms Holden in the valley outside the SSSI, which is apparently more

actively farmed than the land they object to, raising the possibility that Mr and Ms Holden have misinterpreted the land area within the SSSI.

1.14.3 Scientific justification

The objection relates to two strips of land, each estimated to measure 120m x 15m running down the hill, about 240m apart, both at the same height on the hill. The area is registered common land and open access land. The two small land parcels are within a continuous moorland landscape of blanket bog dominated by purple moor-grass, with occasional cottongrass and bilberry and some bog-moss *Sphagnum*. There are signs of past peat extraction but these run along the hill contours whereas the land parcels run down the hill.

1.14.4 Officers' recommendation

With respect to the objection from Mr J A Holden and Ms S M Holden the Board is recommended to approve confirmation without modification.

1.15 Objection from W Holden & Sons

W Holden & Sons stated their objection in a letter received on 17 March 2017.

1.15.1 Objection

W Holden & Sons object to the notification because:

- part of the land (map 1 enclosed with the objection) is planned for a free range egg production unit and two wind turbines; and
- the land shown on map 2 (enclosed with the objection) produces 80% of their winter grass forage. The business would suffer greatly through constraints on manure spreading and timing of cutting if this land is included in the SSSI.

During a site visit, the Holdens also questioned the justification for including their fields in the SSSI for breeding birds and the classification of some fields as blanket bog. The detailed points raised in support of W Holden & Sons' objection are presented in Table 5 (below).

1.15.2 Consideration of objection

Prior to receiving the objection, officers visited W Holden & Sons at their request on 26 January 2017 and explained the reasons for SSSI notification and our approach to consents for farming activities. Officers also viewed some of the land and agreed to check peat depths to verify the presence of blanket bog. Officers sent a draft consent covering general farming activities on 13 March 2017.

Officers met the Holdens on site again on 31 May to clarify the status of the planning permission for the free range egg production unit and wind turbines, and also discussed land management and consents in depth. The Holdens confirmed verbally that one area highlighted on map 2 with their objection (the site of the former Warmwithens Reservoir) is not of concern as it is of limited agricultural importance. An officer visited again on 7 June 2017 to check peat depths in three fields and to view the land subject to objection again.

Officers formally responded to W Holden & Sons' objection in a letter dated 23 June 2017, setting out our recommended boundary modification (to exclude the field planned to hold the free range egg production unit), the rationale for retaining other areas and thoughts on land management issues.

1.15.3 Scientific justification

See section 1.8.1 for a summary of our approach to upland breeding bird habitats. In the field planned to hold a free range egg production unit, the habitat suitability for breeding waders or any other assemblage species known in the tetrad is not high, with a short and uniform sward and intensive spring grazing. It is crossed by rights of way which the Holdens describe as being well used, including by dog walkers. This field is not mapped as containing any blanket bog and is recommended for exclusion.

Peat depths were checked in three other fields where the presence of blanket bog had been queried by the Holdens. Two of these fields were found to contain deep peat indicating blanket bog extent as currently mapped. The third field was found to contain a smaller extent of deep peat than current habitat maps suggest but still with areas of deep peat sufficient to confirm a significant proportion of blanket bog. All three fields are recommended to be retained within the SSSI.

1.15.4 Officers' recommendation

With respect to the objection from W Holden & Sons the Board is recommended to approve confirmation with a modification to the boundary to exclude one area of 9.4 ha and, consequently, with a modification to the area figure on the citation.

Table 5 Unresolved objections from W Holden & Sons

Grounds for objection	Consideration of objection
Part of the land is planned for a free range egg production unit and two wind turbines.	Planning permission was not granted for wind turbines and has expired for free range egg production unit. Owners now concerned Natural England would object to a re-application in the SSSI. Officers have reconsidered the scientific justification for inclusion of this field and agreed to recommend its exclusion.
Business would suffer constraints on manure spreading and timing of cutting if land used to produce 80% of their winter grass forage remains in the SSSI.	See section 1.8.2 for an overview of the approach to consenting farming activities. Officers have entered into discussions to consent appropriate land management.
Question justification for including their fields for breeding birds.	See section 1.8.1 for an overview of the approach to 'additional breeding bird habitat'. One field is recommended for exclusion as described in section 1.15.3. Some land contains blanket bog (see below).
Question classification of some fields as blanket bog.	Officers measured peat depths and confirmed presence of deep peat, as described in section 1.15.3.

1.16 Objection from Mrs D Mares

Mrs Mares stated her objection in writing from her agent on 16 March 2017.

1.16.1 Objection

Mrs Mares objects to the notification because:

- it has not followed proper procedure and is therefore not a valid notification;
- it does not rely on sound scientific evidence;
- the land subject to this objection is not of special scientific interest; and

- she is concerned about the application of the list of operations requiring Natural England's consent and the implications of the designation.

Mrs Mares is seeking exclusion of specific land parcels but the agent's covering letter noted the objection to some parcels may be withdrawn, subject to agreeing a long term consent for land management activities. The detailed points raised in support of Mrs Mares' objection are presented in Table 6 (below).

1.16.2 Consideration of objection

Prior to receiving the objection, officers gave consent for activities under Mrs Mares' Entry Level Stewardship agreement on 6 January 2017. Officers met Mrs Mares' agent, John Akrigg of WBW Surveyors Ltd, on 7 March and discussed land management and our approach to consents, providing a working draft of consent for general farming activities.

Officers formally responded to Mrs Mares' objection on 26 May 2017, enclosing copies of pre-notification correspondence, breeding bird evidence and a draft consent to cover general farming activities up to 31 May 2019.

On 16 June 2017 officers wrote to John Akrigg with additional bird records received from interested parties through the SSSI consultation process and confirmed our recommendation not to amend the SSSI boundary. Mr Akrigg wrote on 7 July to clarify his client's concerns about the inclusion of part fields and highlighting areas for removal.

1.16.3 Scientific justification

There are two notified features on Mrs Mares' land: blanket bog and supporting upland breeding bird habitat. Blanket bog is an important element of the nationally important upland habitats in the SSSI and it was identified on Mrs Mares' land by the *Vegetation Survey of the West Pennine Moors SSSI* (produced for Natural England by Penny Anderson Associates in 2014).

We understand one particular land parcel (SD69195842) to be the main focus of Mrs Mares' objection to the SSSI boundary. The evidence shows species included in the SSSI assemblage are present and breeding in the locality. This includes tetrad-level and finer resolution records that include Mrs Mares' land. The finer resolution records show lapwing and snipe breeding in this area and curlew feeding, with a wider range of species recorded at the tetrad level. Additional records covering 2009-2017 received from a local bird recorder through the SSSI consultation also show several assemblage species using an area that includes Mrs Mares' land, including lapwing, curlew, snipe and reed bunting.

1.16.4 Officers' recommendation

With respect to the objection from Mrs Mares the Board is recommended to approve confirmation without modification.

Table 6 Unresolved objections from Mrs D Mares

Grounds for objection	Consideration of objection
Natural England have not followed their own guidelines, procedures and protocols for identifying and notifying the SSSI, including seeking permission for carrying out surveys and making evidence available to land owner/occupiers. This calls into question the validity of the notification.	See section 1.8.4. On 18 June 2014, Mrs Mares gave written permission to conduct an ecological survey on her land. Officers wrote to Mrs Mares on 8 October 2013, inviting her to request copies of surveys and offering to discuss any concerns. Officers repeated the offer on 19 December 2014. Copies of the letters were sent to John Akrigg on 26 May 2017.
The notification does not rely on sound scientific evidence.	The key sources of evidence are listed in the supporting document to the SSSI notification, which has been made available through the notification process. The vegetation survey is published online and extracts from the breeding bird evidence have been supplied to John Akrigg.
The land subject to this objection is not of special scientific interest, specifically the habitats present do not conform to the descriptions given in the notification documents and the condition of the habitats does not warrant SSSI designation.	See section 1.16.3 for a summary of the scientific justification for notifying the land and section 1.8.1 for an overview of the approach to 'additional breeding bird habitat'. The relevant evidence relating to Mrs Mares' land was sent to John Akrigg on 26 May, with additional data from interested parties on 16 June 2017.
Mrs Mares is concerned about the list of operations requiring Natural England's consent and the implications of the designation. For instance, where the SSSI does not follow a discernible physical boundary, controls on stocking rates, supplementary feeding and vehicle movements are impractical.	See section 1.8.2 for an overview of the approach to consenting farming activities. Mrs Mares' ELS agreement was consented to on 6 January 2017 and officers have offered draft wording for general farming consents. The lack of a field boundary to demarcate the SSSI in places is not ideal and we wish to arrange consent that avoids complications for Mrs Mares. For instance, we currently do not intend to introduce limits on stocking rates on Mrs Mares' land.

1.17 Objection from Mr J Mares

Mr Mares stated his objection in writing from his agent on 16 March 2017.

1.17.1 Objection

Mr Mares objects to the notification because:

- it has not followed proper procedure and is therefore not a valid notification;
- it does not rely on sound scientific evidence;
- the land subject to this objection is not of special scientific interest; and
- he is concerned about the application of the list of operations requiring Natural England's consent and the implications of the designation.

Mr Mares is seeking exclusion of specific land parcels but the agent's covering letter noted the objection to some parcels may be withdrawn, subject to agreeing a long term consent for land management activities. The detailed points raised in support of Mr Mares' objection are presented in Table 7 (below).

1.17.2 Consideration of objection

Prior to receiving the objection, officers gave consent for activities under Mr Mares' Higher Level Stewardship agreement on 21 December 2016 and on 2 March 2017 gave consent for general farming activities valid to 31 August 2018. Officers met Mr Mares' agent, John Akrigg of WBW Surveyors Ltd, on 7 March and discussed land management and our approach to consents.

Officers formally responded to Mr Mares' objection on 26 May 2017, enclosing copies of pre-notification correspondence and breeding bird evidence, and offering to discuss longer term more tailored consent.

On 16 June 2017 officers wrote to John Akrigg with the results of the 2017 breeding bird survey and additional bird records received from interested parties through the SSSI consultation process, and confirmed our recommendation not to amend the SSSI boundary. Mr Akrigg wrote on 7 July to clarify his client's concerns about the inclusion of part fields and highlighting areas for removal.

1.17.3 Scientific justification

Mr Mares' land within the SSSI contains a mix of blanket bog, upland fen in transition with rush pasture, together with a small area of dry heath and an acid flush. These are all important elements of the nationally important upland habitats in the SSSI and were identified by the *Vegetation Survey of the West Pennine Moors SSSI* (produced for Natural England by Penny Anderson Associates in 2014). The remainder is classified as additional upland breeding bird habitat.

We understand four particular land parcels (SD69187784, SD69185788, SD69195613 and SD69188046(A))) to be the main focus of Mr Mares' objection to the SSSI boundary. The evidence shows species included in the SSSI assemblage are present and breeding in the locality. This includes tetrad-level and finer resolution records that include Mr Mares' land. The land is regularly used by breeding lapwing, redshank and snipe, as well as providing good feeding ground for golden plover and curlew. The 2017 breeding bird survey recorded breeding stonechat and reed bunting, as well as feeding lapwing and curlew. Additional records covering 2009-2017 received from a local bird recorder through the SSSI consultation also showed several assemblage species regularly using the land.

1.17.4 Officers' recommendation

With respect to the objection from Mr Mares the Board is recommended to approve confirmation without modification.

Table 7 Unresolved objections from Mr J Mares

Grounds for objection	Consideration of objection
Natural England have not followed their own guidelines, procedures and protocols for identifying and notifying the SSSI, including seeking permission for carrying out surveys and making evidence available to land owner/occupiers. This calls into question the validity of the notification.	See section 1.8.4. On 13 April 2012, Mr Mares gave written permission to conduct an ecological survey on his land. Officers wrote to Mr Mares on 8 October 2013, inviting him to request copies of surveys and offering to discuss any concerns. Officers repeated the offer on 19 December 2014. Copies were sent to John Akrigg on 26 May 2017.
The notification does not rely on sound scientific evidence.	The key sources of evidence are listed in the supporting document to the SSSI notification, which has been made available through the notification process. The vegetation survey is published online and extracts from the breeding bird evidence have been supplied to John Akrigg.
The land subject to this objection is not of special scientific interest, specifically the habitats present do not conform to the descriptions given in the notification documents and the condition of the habitats does not warrant SSSI designation.	See section 1.17.3 for a summary of the scientific justification for notifying the land and section 1.8.1 for an overview of the approach to 'additional breeding bird habitat'. The relevant evidence relating to Mr Mares' land was sent to John Akrigg on 26 May, with the results of the 2017 breeding bird survey and additional data from interested parties on 16 June 2017.
Mr Mares is concerned about the list of operations requiring Natural England's consent and the implications of the designation. For instance, where the SSSI does not follow a discernible physical boundary, controls on stocking rates, supplementary feeding and vehicle movements are impractical.	See section 1.8.2 for an overview of the approach to consenting farming activities. Mr Mares' HLS agreement was consented to on 21 December 2016 and officers gave consent for general farming activities on 2 March 2017. The lack of a field boundary to demarcate the SSSI in places is not ideal and we wish to arrange consent that avoids complications for Mr Mares. For instance, we currently do not intend to introduce limits on stocking rates on Mr Mares' land.

1.18 Objection from Mr D Sharples

Mr Sharples stated his objection in an email dated 10 March 2017.

1.18.1 Objection

Mr Sharples objects to the notification because the land is used for cattle grazing so it is necessary to maintain fences and access the land with vehicles and farming equipment in order to maintain and improve the grazing available.

At a site meeting on 15 June, Mr Sharples clarified that the focus of his objection is a small area of acid grassland pasture below the moorland line because it is not heathland and is not managed as heathland, unlike the rest of holding in the SSSI.

1.18.2 Consideration of objection

Following receipt of the objection, officers understood that Mr Sharples would attend a meeting on 29 April organised by a neighbour (Mr Humphreys) to discuss

the SSSI but unfortunately Mr Sharples sent his apologies. Officers wrote to Mr Sharples, enclosing draft consent wording, on 12 May; no response was received.

An officer spoke to Mr Sharples by telephone on 7 June. He reiterated his objection and agreed to a meeting on site on 15 June 2017. At the site meeting Mr Sharples confirmed that he and his brother would be happy for their moorland parcel to be included within the SSSI as its inclusion will not hamper their farming activities but they seek removal of the pasture area below the moorland line, which does not support heathland.

The officer inspected the land and found Mr Sharples' description to be correct. Officers informed Mr Sharples on 16 June that we would recommend a boundary modification and set this out formally in a letter dated 29 June 2017. Officers understand the objection to be resolved subject to the Board agreeing the recommended boundary modification but we are awaiting written confirmation from Mr Sharples.

1.18.3 Scientific justification

Mr Sharples land consists of dry heath that slopes downwards from Darwen Moor and then becomes the acid grassland pasture between the moor and farmhouse. The majority of this land sits within a single land parcel and is above the moorland line. This land has been included because it supports dry heath, one of the notified features of the SSSI. Mr Sharples and his brother use the dry heath as additional grazing for their small herd of beef cattle during the summer period, always removing them by November. The area is sensitively managed.

An area at the southern end of this field has been included in error at the time of notification. As described by Mr Sharples, the land is part of the acid grassland pasture field immediately below the moorland and is managed together with the acid grassland field. It is therefore recommended that this portion of the field be removed from the SSSI to re-align the SSSI boundary with the land parcel boundary, the moorland line and the start of the dry heath vegetation.

1.18.4 Officers' recommendation

With respect to the objection from Mr Sharples the Board is recommended to approve confirmation with a modification to the boundary to exclude one area of 0.26 ha and, consequently, with a modification to the area figure on the citation.

1.19 Objection from Mr J Smith

Mr Smith stated his objection in writing from his agent on 15 March 2017.

1.19.1 Objection

Mr Smith objects to the notification because:

- Natural England have not followed their own guidelines, procedures and protocols, which may render the notification invalid;
- parts of the farm identified in the objection do not contain sufficient ecological interest to warrant inclusion in the SSSI;
- the application of potential management prescriptions could impact on the future economic viability of the farm; and
- banning the use of lead shot on the SSSI, other than in line with current legislation, is completely unnecessary and unjustified.

The detailed points raised in support of Mr Smith's objection are presented in Table 8 (below).

1.19.2 Consideration of objection

Prior to receiving Mr Smith's objection, an officer met his agent, Neil Bland, on 7 February to discuss land management and consent. Officers sent consent for activities covered by Mr Smith's Higher Level Stewardship agreement on 21 December 2016. On 13 April 2017, officers issued consent for general farming activities and use of lead shot until 31 August 2018, to which Mr Smith has agreed (25 April 2017).

Officers formally responded to Mr Smith's objection in a letter dated 30 May 2017, enclosing copies of pre-notification correspondence and vegetation and breeding bird evidence.

Officers wrote to Neil Bland on 16 June 2017 with additional bird records received from interested parties through the SSSI consultation process, and confirming our recommendation not to amend the SSSI boundary. On 21 June Mr Bland asked for a sheep feeder to be included in long term consent. Officers replied on 28 June 2017 that this should be fine provided the ground is firm enough to avoid poaching. Officers wrote again on 11 July with a revised consent incorporating the proposed winter feeding station and extended to 31 August 2019.

1.19.3 Scientific justification

The land that Mr Smith has requested be excluded from the SSSI is within units 24 and 67 of the SSSI. The *Vegetation Survey of the West Pennine Moors SSSI* (produced for Natural England by Penny Anderson Associates in 2014) identified the land within unit 24 as including areas of blanket bog, whilst unit 67 includes neutral grassland. These are important elements of the nationally important upland habitats in the SSSI.

The remainder of the land is identified as 'additional breeding bird habitat'. The evidence shows species included in the SSSI assemblage are present and breeding in the locality. The land Mr Smith has asked Natural England to remove from the SSSI is within tetrads with records of many of the species in the upland moorland and inbye breeding bird assemblage, including red grouse, buzzard, merlin, snipe, curlew, short-eared owl, raven and reed bunting. Additional records covering 2010-2017 received from a local bird recorder through the SSSI consultation also showed several assemblage species regularly using the land.

1.19.4 Officers' recommendation

With respect to the objection from Mr J Smith the Board is recommended to approve confirmation without modification.

Table 8 Unresolved objections from Mr J Smith

Grounds for objection	Consideration of objection
Natural England have not followed their own guidelines, procedures and protocols for identifying and notifying the SSSI, including seeking permission for carrying out surveys and making evidence available to land owner/occupiers. This may render the notification invalid.	See section 1.8.4. On 23 March 2012, Mr Smith gave written permission to conduct an ecological survey on his land. Officers wrote to Mr Smith on 8 October 2013, inviting him to request copies of surveys and offering to discuss any concerns. Officers repeated the offer on 19 December 2014. Copies of the letters were sent to Neil Bland on 30 May 2017.
Parts of the farm identified in the objection do not contain sufficient ecological interest to warrant inclusion in the SSSI, specifically Mr Smith's land within unit 24 of the SSSI.	See section 1.19.3 for a summary of the scientific justification for notifying the areas referred to and section 1.8.1 for an overview of the approach to 'additional breeding bird habitat'. The relevant evidence relating to Mr Smith's land was sent to Neil Bland on 30 May, with additional data from interested parties 16 June 2017.
Concerns about the application of potential management prescriptions that could impact on the future economic viability of the farm.	See section 1.8.2 for an overview of the approach to consenting farming activities. Mr Smith's HLS agreement was consented to 21 December 2016 and officers gave consent for general farming activities on 13 April 2017.
Banning the use of lead shot on the SSSI, other than in line with current legislation, is completely unnecessary and unjustified.	See section 1.10.3 for consideration of the scientific justification for requiring consent for the use of lead shot. See also section 1.8.3 for a summary of our approach to consents for the use of lead shot. There is no intention to introduce a site-wide ban and this is not the effect of any operation being listed as requiring Natural England's consent. Mr Smith's consent dated 13 April covers use of lead shot.

1.20 Objection from E & G Tattersall

Messrs Tattersall's agent stated their objection in writing on 15 March 2017.

1.20.1 Objection

Messrs Tattersall object to the notification because:

- Natural England have not followed their own guidelines, procedures and protocols, which may render the notification invalid;
- parts of the farm identified in the objection do not contain sufficient ecological interest to warrant inclusion in the SSSI;
- the application of potential management prescriptions could impact on the future economic viability of the farm; and
- banning the use of lead shot on the SSSI, other than in line with current legislation, is completely unnecessary and unjustified.

The detailed points raised in support of Messrs Tattersall's objection are presented in Table 9 (below).

1.20.2 Consideration of objection

Prior to receiving Messrs Tattersall's objection, officers met their agent, Neil Bland, on 7 February to discuss land management and consent. Officers sent consent for activities covered by Messrs Tattersall's Higher Level Stewardship agreement on 21 December 2016.

Officers formally responded to Messrs Tattersall's objection in a letter dated 30 May 2017, enclosing copies of pre-notification correspondence, breeding bird evidence and draft consent for general farming activities and use of lead shot.

Officers wrote to Neil Bland on 16 June 2017 with additional bird records received from interested parties through the SSSI consultation process, and confirming our recommendation not to amend the SSSI boundary. On 21 June Mr Bland asked for two fields to be excluded on the basis that, in their view, the bird data is inconclusive and this is the only meadow land in the holding. Officers replied on 30 June 2017, explaining the reasons for retaining both fields in the SSSI and indicating potential flexibility to enable productive management. Officers wrote again on 6 July inviting Mr Bland to clarify Mr Tattersall's land management requirements for consideration for consent.

1.20.3 Scientific justification

The land that Messrs Tattersall have requested be excluded from the SSSI is within unit 34 of the SSSI and is identified as 'additional breeding bird habitat'. The evidence shows species included in the SSSI assemblage are present and breeding in the locality. This includes tetrad-level records and finer resolution records relating specifically to parts of Messrs Tattersall's land. The land Messrs Tattersall have asked Natural England to remove from the SSSI is regularly used by many of the species in the upland moorland and inbye breeding bird assemblage, including breeding lapwing, curlew and snipe as well as providing good feeding ground for golden plover and curlew. Additional records covering 2009-2017 received from a local bird recorder through the SSSI consultation also showed several assemblage species regularly using the land.

1.20.4 Officers' recommendation

With respect to the objection from Messrs Tattersall the Board is recommended to approve confirmation without modification.

Table 9 Unresolved objections from E & G Tattersall

Grounds for objection	Consideration of objection
Natural England have not followed their own guidelines, procedures and protocols for identifying and notifying the SSSI, including seeking permission for carrying out surveys and making evidence available to land owner/occupiers. This may render the notification invalid.	See section 1.8.4. On 10 May 2012, Mr E Tattersall gave written permission to conduct an ecological survey on the land. Officers wrote to Mr Tattersall on 8 October 2013, inviting him to request copies of surveys and offering to discuss any concerns. Officers repeated the offer on 19 December 2014. Copies of the letters were sent to Neil Bland on 30 May 2017.
Parts of the farm identified in the objection do not contain sufficient ecological interest to warrant inclusion in the SSSI, specifically the four Rural Land Register (RLR) parcels listed in section 3.1 of the objection, which are said to be agriculturally improved.	See section 1.20.3 for a summary of the scientific justification for notifying the areas referred to and section 1.8.1 for an overview of the approach to 'additional breeding bird habitat'. The relevant evidence relating to Messrs Tattersall's land was sent to Neil Bland on 30 May, with additional data from interested parties 16 June 2017.
Concerns about the application of potential management prescriptions that could impact on the future economic viability of the farm.	See section 1.8.2 for an overview of the approach to consenting farming activities. Messrs Tattersall's HLS agreement was consented to 21 December 2016 and officers shared a draft consent for general farming activities on 30 May 2017.
Banning the use of lead shot on the SSSI, other than in line with current legislation, is completely unnecessary and unjustified.	See section 1.10.3 for consideration of the scientific justification for requiring consent for the use of lead shot. See also section 1.8.3 for a summary of our approach to consents for the use of lead shot. There is no intention to introduce a site-wide ban and this is not the effect of any operation being listed as requiring Natural England's consent. The draft consent shared on 30 May covers use of lead shot.

1.21 Objection from the Taylor Family

The Taylor's stated their objection in a letter from their agent dated 8 March 2017.

1.21.1 Objection

The Taylors object to the notification because they do not accept the need for any restrictions to be placed upon their land, nor the rights of Natural England and their representatives to enter the land without consent and appropriate compensation. The detailed points raised in support of the Taylor Family's objection are presented in Table 10 (below).

1.21.2 Consideration of objection

Officers first responded by email to the Taylor Family's agent, John Pallister, on 21 April 2017 clarifying the whereabouts in the notification document of the list of operations requiring consent, as requested in the objection letter, and seeking a discussion about his clients' concerns. Officers formally responded to the objection on 19 May 2017 and again sought a meeting.

At a meeting on 22 June, Mr E Taylor clarified that in principle he supports the purpose of the SSSI and that the objection is over potential restrictions on future mineral extraction. Mr Taylor noted though that he does not know if or when he may wish to extract minerals. Officers followed up the site visit with a letter on 6 July 2017 to clarify the issues discussed, including mineral extraction, the planning process and land management. Officers enclose draft wording for consent.

1.21.3 Scientific justification

The land holding is included within the SSSI for upland breeding bird habitat and an area of dry heath.

1.21.4 Officers' recommendation

With respect to the objection from the Taylor Family the Board is recommended to approve confirmation without modification.

Table 10 Unresolved objections from the Taylor Family

Grounds for objection	Consideration of objection
No need for restrictions to be placed on the landholding, which includes a quarry from which further excavation and extractions may be required at a future date.	Exercising mineral rights is through the statutory planning system and the Minerals Planning Authority must seek advice from Natural England before permitting any application likely to damage a SSSI. If the Taylors wish to apply for permission in the future we would welcome prior discussion as a suitable design of operations may allow extraction and avoid any impact on the SSSI. Officers explained the consenting process and that it does not amount to a ban on operations. Small scale non-commercial extraction that does not require planning permission could be consented if no impact on the features of interest.
Don't accept the rights of others (e.g. Natural England and their representatives) to access their land without consent and appropriate compensation.	SSSI notification does not confer any additional rights of public access. Natural England would not enter the land without first seeking permission. We only use powers of entry in exceptional circumstances. It is not an inevitable consequence of the SSSI notification that any operation or proposal will not be able to proceed, therefore no compensation would be payable. There are appropriate safeguards built into the SSSI notice and consent processes (as well as the minerals planning process) to address wider socio-economic considerations, including the right of appeal if consent is refused or conditions applied that are not acceptable to the applicant.

1.22 Objection from Mr N Teague

Mr Teague does not own or occupy land in the SSSI and submitted his objection by email on 27 February 2017.

1.22.1 Objection

Mr Teague objects to the notification because he feels that the land in question could be put to better economic use.

1.22.2 Consideration of objection

Officers formally responded on 30 June 2017, highlighting some of the active economic interests in the West Pennine Moors, including farming, recreation providers, telecommunications, sporting interests and water supply, which will continue and grow within the SSSI, and setting out that Natural England's wishes to see conservation practice where a thriving economy with a rich and resilient landscape is integral to everyday life. Mr Teague confirmed on 8 July that he wishes to maintain his objection.

1.22.3 Officers' recommendation

With respect to the objection from Mr N Teague the Board is recommended to approve confirmation without modification.

1.23 Objection from Urban Springside

Urban Springside stated its objection in a letter from its agent dated 7 March 2017.

1.23.1 Objection

The focus of Urban Springside's objection to the notification is a 4.12 ha land parcel known as 'Greenhill Farm Inbye' because:

- the land does not meet SSSI criteria (by their own calculations) for breeding birds and is in 'unfavourable – no change' condition;
- it already has a level of protection as a Biological Heritage Site (BHS); and
- additional restrictions cannot be accommodated and may constrain future agricultural use.

The detailed points raised in support of Urban Springside's objection are presented in Table 11 (below).

1.23.2 Consideration of objection

Officers formally responded to the points raised in the objection on 11 May 2017. During a brief telephone call on 31 May, Urban Springside's agent, Victoria Burrows of ERAP Consultant Ecologists Ltd clarified that her client's main concern is consenting for activities on the land. Officers followed this call up later the same day with an example of a draft consent for general farming activities. An officer met Victoria Burrows and her client on site on 3 July 2017 to discuss plans for leasing land, land management and consenting.

1.23.3 Scientific justification

Over half of the objector's land holding in the SSSI is woodland within Longworth Clough and they acknowledge the value of this habitat. The land which Urban Springside proposed for removal from the SSSI supports breeding snipe. It has been assessed by Victoria Burrows as providing suitable habitat for six of the nine species in the inbye breeding bird assemblage. Accordingly, it is not recommended for removal from the SSSI.

1.23.4 Officers' recommendation

With respect to the objection from Urban Springside the Board is recommended to approve confirmation without modification.

Table 11 Unresolved objections from Urban Springside

Grounds for objection	Consideration of objection
The land does not meet SSSI criteria (by their own calculations) – the field does not meet the threshold score for the upland inbye and allotment farmland breeding bird assemblage.	See section 1.23.3 for a summary of the scientific justification for notifying the land referred to and section 1.8.1 for an overview of the approach to 'additional breeding bird habitat'.
Land does not meet SSSI criteria due to its condition.	There are several notified interest features in unit 39. The upland and inbye breeding bird assemblage is assessed as being in 'favourable' condition, with the overall condition of the unit (unfavourable – no change) being determined by other features.
It already has a level of protection as a Biological Heritage Site (BHS).	Its BHS status under criterion Av9 (…in-bye land…which regularly supports a significant breeding population of a wader species…) reinforces the scientific value of the land. This is for the presence of breeding snipe.
Inclusion of the whole of the notified area in their ownership as they cannot accommodate additional restrictions and are concerned about constraints on future agricultural use.	See section 1.8.2 for an overview of the approach to consenting farming activities, which officers outlined to Victoria Burrows on 11 May. Draft example consent shared on 31 May and the future of the land, potential tenancy, and land management and consenting were discussed on site on 3 July 2017.

1.24 Objection from the Trustees of the Wheeler Property Trust

The Trustees of the Wheeler Property Trust stated their objection in a letter from Myerson Solicitors dated 14 March 2017.

1.24.1 Objection

The Trustees object to the notification because they are concerned that the operations requiring consent (in particular numbers 6, 10 and 28b) will affect their current use of the site. The Trustees also highlighted a number of inaccuracies in the notification. The detailed points raised in support of the objection are presented in Table 12 (below).

1.24.2 Consideration of objection

Prior to receipt of the objection, officers met one of the Trustees, Mrs Victoria Oyston, and Mr Karl Oyston on 2 February 2017 to discuss the SSSI notification, and consents. This was followed up with a letter dated 1 March confirming the discussion and an interim consent was issued on 2 March 2017. Officers formally responded to the points raised in the objection on 18 April 2017. Mrs Oyston has outlined the main management activities on the land with a view to agreeing a long-term management plan, which will be discussed on site on 12 July 2017.

1.24.3 Scientific justification

The majority of the landholding on Darwen moor is blanket bog, with two much smaller areas of dry heath on the eastern edge of the moor and a small area of additional upland breeding bird habitat, again on the edge of the moor. Lancashire Bird Atlas records for the relevant tetrads show several probable and confirmed upland breeding species in the area which are likely to use this habitat, including curlew, wheatear, short-eared owl, red grouse, buzzard and merlin.

1.24.4 Officers' recommendation

With respect to the objection from the Trustees of the Wheeler Property Trust the Board is recommended to approve confirmation with modifications to the statement of Natural England's views about the management of the SSSI.

Table 12 Unresolved objections from the Trustees of the Wheeler Property Trust

Grounds for objection	Consideration of objection
The list of operations requiring Natural England's consent (ORNECs) is restrictive, many having no scientific basis; especially restrictive are numbers 6 (use of veterinary products), 10 (disturbance of any wild animal in their place of shelter) and 28b (use of lead shot). A number of the ORNECs will affect their current use of the site which they feel is unfairly detrimental to them.	See section 1.8.2 for an overview of the approach to consenting farming activities. Interim consent for day to day land management activities was issued on 2 March 2017 with a view to agreeing a longer term plan, particularly for burning and shooting. The suggestion was made that they may like to consider a future application for Countryside Stewardship (they already hold a HLS agreement in the Forest of Bowland). See section 1.10.3 for consideration of the scientific justification for requiring consent for the use of lead shot. See also section 1.8.3 for a summary of our approach to consents for the use of lead shot. There is no intention to introduce a site-wide ban and this is not the effect of any operation being listed as requiring Natural England's consent. The interim consent shared on 2 March covers use of lead shot.
Inaccuracies about the notification raised: ravens and buzzards – please provide evidence of ravens and buzzards breeding on the moorland; confirm hen harriers are not a feature of special interest; disagree with statement that pheasant and game rearing is not recommended in woodland; and concerned about reference in the views about management to game shooting where herons are nesting.	Officers shared breeding bird information, confirmed that hen harrier is not a feature of interest (we recommend removing reference to hen harrier in the views about management), willing to discuss any proposals for game rearing in woodland, and advised that we will recommend deletion of the reference to game shooting from the views about management for heronries: (see table 3 in section 1.10.

1.25 Objection from Mr D R Wood

Mr Wood stated his objection in writing from his agent on 15 March 2017.

1.25.1 Objection

Mr Wood objects to the notification because:

- Natural England have not followed their own guidelines, procedures and protocols, which may render the notification invalid;
- parts of the farm identified in the objection do not contain sufficient ecological interest to warrant inclusion in the SSSI;
- the application of potential management prescriptions could impact on the future economic viability of the farm; and
- banning the use of lead shot on the SSSI, other than in line with current legislation, is completely unnecessary and unjustified.

The detailed points raised in support of Mr Wood's objection are presented in Table 13 (below).

1.25.2 Consideration of objection

Prior to receiving Mr Wood's objection, officers met his agent, Neil Bland, on 7 February to discuss land management and consent. Officers formally responded to Mr Wood's objection in a letter dated 26 May 2017, enclosing copies of pre-notification correspondence, breeding bird evidence and draft consent for general farming activities and use of lead shot.

On 16 June 2017 officers wrote to Mr Bland with the results of the 2017 breeding bird survey and additional bird records received from interested parties through the SSSI consultation process, and confirmed our recommendation not to amend the SSSI boundary. On 26 June, Mr Bland asked for the fields south of Dean Brook to be excluded on the basis that, in their view, the bird data are inconclusive. Officers replied on 3 July 2017, explaining the reasons for retaining the fields south of Dean Brook in the SSSI. Officers wrote again on 6 July inviting Mr Bland to clarify Mr Wood's land management requirements for consideration for consent.

1.25.3 Scientific justification

The land that Mr Wood has requested be excluded from the SSSI is within unit 50 of the SSSI and is identified as 'additional breeding bird habitat'. The evidence shows species included in the SSSI assemblage are present and breeding in the locality. This includes tetrad-level records and finer resolution records relating specifically to parts of Mr Wood's land. The land Mr Wood has asked Natural England to remove from the SSSI is regularly used by many of the species in the upland moorland and inbye breeding bird assemblage, including breeding lapwing, curlew, snipe, wheatear, stonechat and reed bunting.

The 2017 bird survey was consistent with this, recording breeding lapwing and curlew and feeding linnet. Additional records covering 2009-2017 received from a local bird recorder through the SSSI consultation also showed several assemblage species regularly using the land.

1.25.4 Officers' recommendation

With respect to the objection from Mr D R Wood the Board is recommended to approve confirmation without modification.

Table 13 Unresolved objections from Mr D R Wood

Grounds for objection	Consideration of objection
Natural England have not followed their own guidelines, procedures and protocols for identifying and notifying the SSSI, including seeking permission for carrying out surveys and making evidence available to land owner/occupiers. This may render the notification invalid.	See section 1.8.4. On 28 May 2012, Mr Wood gave written permission to conduct an ecological survey on the land. Officers wrote to Mr Wood on 11 October 2013, inviting him to request copies of surveys and offering to discuss any concerns. Officers repeated the offer on 22 December 2014. Copies of the letters were sent to Neil Bland on 26 May 2017.
Parts of the farm identified in the objection do not contain sufficient ecological interest to warrant inclusion in the SSSI, specifically the twelve Rural Land Register (RLR) parcels listed in section 1.3 of the objection, which are said to be agriculturally improved.	See section 1.25.3 for a summary of the scientific justification for notifying the areas referred to and section 1.8.1 for an overview of the approach to 'additional breeding bird habitat'. The relevant evidence relating to Mr Wood's land was sent to Neil Bland on 26 May, with the results of Natural England's commissioned survey and additional data from interested parties on 16 June 2017.
Concerns about the application of potential management prescriptions that could impact on the future economic viability of the farm.	See section 1.8.2 for an overview of the approach to consenting farming activities. Officers shared a draft consent for general farming activities on 26 May 2017.
Banning the use of lead shot on the SSSI, other than in line with current legislation, is completely unnecessary and unjustified.	See section 1.10.3 for consideration of the scientific justification for requiring consent for the use of lead shot. See also section 1.8.3 for a summary of our approach to consents for the use of lead shot. There is no intention to introduce a site-wide ban and this is not the effect of any operation being listed as requiring Natural England's consent. The draft consent shared on 26 May covers use of lead shot.

1.26 Resolved objection from Arqiva Ltd

Arqiva Ltd stated its objection in writing on 16 March 2017.

1.26.1 Objection

Arqiva objects to the notification because the SSSI boundary includes operational areas and manmade structures outside the main compound within the SSSI:

- stay cables and blocks;
- stay lanes;
- winch/anchor points and associated hardstanding;
- vehicle turning area;
- access road from security gate to the northern main compound access;
- satellite dish compound and associated access lane; and
- a verge within the compound.

1.26.2 Consideration of objection

Prior to receiving the objection, officers met Arqiva Ltd on 26 January 2017 when boundary details around their buildings were clarified. A site meeting was held 10 May 2017 at which officers identified and agreed to recommend boundary modifications. The recommended boundary modifications were provided to Arqiva by email on 19 June 2017, along with a ten year consent for operational activities. Arqiva signed the consent on 21 June 2017 and it runs to 30 September 2027. Arqiva confirmed by letter dated 28 June 2017 that the consent and recommended boundary modifications address the reasons for its objection, which is resolved subject to the recommendations being agreed by the Board.

1.26.3 Scientific justification

The notified boundary failed to exclude the area within the security fence of the main compound, the winch points and section of access road referred to in the objection, which are on hardstanding and are recommended for removal from the SSSI. The stay cable, blocks and stay lanes are parts of the infrastructure built on top of sleepers on the blanket bog or dug into the peat. To ensure the hydrological intactness of the blanket bog these areas are retained within the SSSI.

1.26.4 Officers' recommendation

With respect to the objection from Arqiva Ltd the Board is recommended to approve confirmation with modifications to the boundary to exclude four areas totalling 0.27 ha and, consequently, with a modification to the area figure on the citation.

1.27 Resolved objection from Ms E Berry

Ms Berry stated her objection in a letter dated 7 March 2017.

1.27.1 Objection

Ms Berry objects to the notification of a section of her garden.

1.27.2 Consideration of objection

An officer visited the site on 3 May 2017 and wrote to Ms Berry on 16 May 2017 concluding that the land in question is not of sufficient scientific interest and a recommendation will be made to remove this land. Ms Berry wrote on 20 June 2017 confirming that her objection is resolved subject to the Board agreeing the officers' recommended boundary modification.

1.27.3 Scientific justification

On visiting the site an officer found the area to be of no scientific value, being heavily dominated by mature rhododendron with no ground flora and few native trees, part of the informal grounds of their house. This is an error arising from the vegetation survey, 2012, which classified the land as upland oak wood.

1.27.4 Officers' recommendation

With respect to the objection from Ms Berry the Board is recommended to approve confirmation with a modification to the boundary to exclude one area of 0.15 ha and, consequently, with a modification to the area figure on the citation.

1.28 Resolved objection from Bolton Gun Club

Bolton Gun Club stated its objection in a letter dated 14 March 2017.

1.28.1 Objection

Bolton Gun Club objects to the notification because the quarry does not contain significant areas of the habitats identified as SSSI interest features and the SSSI boundary fails to recognise the current use of the land.

1.28.2 Consideration of objection

Following a site visit on 5 May 2017 to discuss the notification, officers formally responded to the objection on 1 June. A further visit on 8 June considered the SSSI boundary in detail. Officers sent recommended boundary modifications and draft consent on 23 June. Bolton Gun Club confirmed on 4 July that its objection is resolved subject to Board agreeing the recommend boundary modification.

1.28.3 Scientific justification

Parts of the quarry area support dry heath within a fenced exclusion area and along parts of the quarry face. On visiting the site, the officer found that some areas of the quarry, namely the access track leading up from Scout Road, the formal rifle ranges, amenity area and car park are not of sufficient scientific interest to justify inclusion in the SSSI.

1.28.4 Officers' recommendation

With respect to the objection from Bolton Gun Club the Board is recommended to approve confirmation with a modification to the boundary to exclude one area of 0.28 ha and, consequently, with a modification to the area figure on the citation.

1.29 Resolved objection from Mr T Foley

Mr Foley stated his objection in a letter dated 15 March 2017 from his agent.

1.29.1 Objection

Mr Foley objects to the notification because Natural England has:

- not followed the correct procedure and protocols in the notification process;
- not provided evidence to prove that the upland and in-bye breeding birds are present on his land and that the bogs meet minimum standards; and
- not allowed sufficient time for the landowner to provide detailed survey data to ascertain whether there is bird breeding habitat on the subject land.

Notwithstanding the above, Mr Foley's main priority is that an area of land hatched in blue on the plan enclosed with his objection should be excluded from the SSSI. The detailed points raised in support of Mr Foley's objection are presented in Table 14 (below).

1.29.2 Consideration of objection

An officer met Mr Foley and his agent, Fiona Patterson of Gary Hoerty Associates, at a NFU publicised meeting at Edgworth Cricket Club on 8 February 2017, where an individual meeting was requested. This was held on 17 February and officers explained the reasons for SSSI notification and our approach to consenting farming operations. Mr Foley explained the main areas of land he is concerned about and the reasons for his concerns. Officers visited the land with Mr Foley's permission on 5 April to assess the habitats in the areas subject to objection. Mr Foley explained his concerns and reasons for wanting certain land removed from the SSSI at a further site meeting with officers on 10 May 2017.

Officers formally responded to the objection in a letter dated 17 May 2017, which included initial proposed boundary modification, extracts from relevant evidence and draft consent for general farming activities. The results of the 2017 bird survey commissioned by Natural England were sent to Fiona Patterson on 1 June, following which officers wrote to describe further recommended boundary modifications on Mr Foley's land in a letter dated 9 June 2017.

From 14 to 29 June 2017, officers and Fiona Patterson exchanged emails discussing further proposed boundary modifications from Mr Foley. Following a telephone conversation about the status of Mr Foley's objection, Fiona Patterson confirmed on 5 July that the latest version of the boundary provided by officers is acceptable to Mr Foley. Officers replied on 5 July to clarify that we understand Mr Foley's objection to be resolved subject to the Board agreeing the recommended boundary modifications.

1.29.3 Scientific justification

Mr Foley's land within the SSSI is a mixture of blanket bog, which was identified in the *Vegetation Survey of the West Pennine Moors SSSI* (produced for Natural England by Penny Anderson Associates in 2014), and additional upland breeding bird habitat. The area that Mr Foley identified as the highest priority for removal comprises a mixture of rough grass, rushes and more fertile areas. Some of these areas are considered particularly likely to contain breeding and feeding habitat for lapwing, curlew and linnet, as well as feeding habitat for buzzard and peregrine.

Parts of the 'additional breeding bird habitat' subject to objection are recommended for removal from the SSSI in light of the habitat assessment conducted on 5 April and the breeding bird survey received on 31 May 2017. The steep slopes, generally lower diversity of sward structures, smaller field size and overlooking features such as the adjacent plantation, old farm buildings and scattered trees mean the land has low value for use by lapwing, curlew and snipe. The land is also not considered to be of high enough value for use by other species such as reed bunting, wheatear and prey species of buzzard and peregrine falcon to justify its retention in the SSSI.

The evidence and habitat assessment show that the other land highlighted in the objection should be retained. It is mainly classified as additional upland breeding bird habitat, comprising open, damp, rough pasture with extensive areas of short grass, tussocky and rough grass and rushes; ideal habitat for lapwing, curlew, snipe and reed bunting.

1.29.4 Officers' recommendation

With respect to the objection from Mr Foley the Board is recommended to approve confirmation with a modification to the boundary to exclude one area of 21.36 ha and, consequently, with a modification to the area figure on the citation.

Table 14 Resolved objections from Mr T Foley

Grounds for objection	Consideration of objection
Natural England has not followed the correct procedure and protocols in the notification process. Mr Foley was never notified of surveys and has not received copies of any surveys carried out.	See section 1.8.4. In March 2012, officers wrote to Mr Foley seeking permission to conduct an ecological survey on his land. As we had not had any response, we obtained formal authorisation on 20 July to enter the land between 26 July and 31 August, which was subsequently extended from 3 to 14 September 2012. Officers wrote to Mr Foley on 19 December 2014, inviting him to contact us to discuss any concerns. Copies of the letters were sent to Fiona Patterson on 17 May 2017.
Not provided evidence to prove that the birds in the upland and in-bye bird assemblage are present on Mr Foleys land and that the blanket bog meets the minimum standards.	See section 1.29.3 for a summary of the scientific justification for notifying Mr Foley's land and section 1.8.1 for an overview of the approach to 'additional breeding bird habitat'. The relevant evidence relating to Mr Foley's land was set out in officers' letter to Fiona Patterson on 17 May, with additional data from Natural England's commissioned breeding bird survey on 1 June 2017. We explained our consideration of the bird survey report and assessment of the value of the habitats in question on 9 June 2017
Insufficient time for landowner to undertake detailed survey to ascertain whether there is bird breeding habitat on the subject land.	See section 1.8.1. Officers advised that Mr Foley could submit any additional evidence by 31 May and agreed to extend this to 15 June 2017. No report has been received.
Mr Foley believes certain areas of land should be excluded from the SSSI, in particular the area hatched blue on the plan enclosed with his objection.	Officers advised on 17 May 2017 that a farm yard area and land affected by tipping will be recommended for exclusion from the SSSI. Officers identified further exclusions in a letter dated 9 June following consideration of 2017 breeding bird survey, which were modified on 29 June after additional proposals from Mr Foley. Fiona Patterson confirmed on 5 July 2017 that Mr Foley accepts the recommended boundary.

1.30 Resolved objection from United Utilities

United Utilities submitted its objection via Citizenspace on 15 March 2017.

1.30.1 Objection

United Utilities objected to the notification because it was concerned about:

- land not notified as part of the SSSI adjacent to units 6 and 7;
- inclusion of farmyards and assets;
- inaccurate mapping of some properties and assets; and
- inclusion of three conifer plantations within SSSI.

The detailed points raised in support of United Utilities' objection are presented in Table 15 (below).

1.30.2 Consideration of objection

Discussions were held with United Utilities staff on 26 April 2017 to better understand their concerns. It transpired that the main focus of the objection was the inclusion of farmsteads within the boundary and mapping errors of some functional assets. A discussion was also held about three plantations included within the boundary, which will be commercially harvested when mature, and about the boundary mapping of units 6 and 7. United Utilities confirmed on 26 May 2017 that its objection is resolved subject to the Board agreeing the recommended boundary modifications.

1.30.3 Officers' recommendation

With respect to the objection from United Utilities the Board is recommended to approve confirmation with modifications to the boundary to exclude four areas totalling 1.54 ha and, consequently, with a modification to the area figure on the citation.

Table 15 Resolved objections from United Utilities

Grounds for objection	Consideration of objection
Boundary mapping of site units 6 and 7. Questioned why an area of land is excluded from the SSSI, especially as it is home to a large population of adders.	Reptiles are not a reason for notification, so the boundary in this area was not extended to incorporate the main area used by the adders.
Inclusion of a number of farmyards and assets.	Farmyards and assets referred to in the objection are of no scientific interest. Officers recommend exclusion of two farmsteads at Bradley's Farm and Moses Cocker and a domestic property and barn at Bromiley.
Some properties and assets mapped inaccurately: Winter Hill Mast; Rivington Terraced gardens; land at Lords Hall; Troy Quarry; and track and portion of sluice at Springs Reservoir.	Winter Hill Mast compounds and mast locations: raised by Arqiva (see section 1.26). Rivington Terraced Gardens, small area in SSSI: United Utilities staff to let Rivington Heritage Trust know we officers are happy to meet to them to discuss the notification. Land at Lords Hall: the landowners Mr & Mrs Oyston are aware this land is within the SSSI. Troy Quarry – officers noted that it supports the nationally scarce floating water-plantain. Track and portion of sluice at Springs Reservoir – agreed that maintenance would be addressed through consent and that officers would recommend exclusion of the concrete surround of the sluice from the SSSI.
Seeking exclusion of three conifer plantations from the SSSI which will be commercially harvested when mature. United Utilities was concerned Natural England would restrict harvesting operations.	United Utilities confirmed their intentions tend towards blanket bog restoration or replanting with broadleaf woodland after harvesting. Officers could not foresee any barriers to consent for harvesting the plantations. It was agreed they should remain within the SSSI.

1.31 Representations

We received 272 representations supporting the notification, representing 88% of all representations received, as well as ten representations (3% of all received) that were neutral to the notification. For comparison, the 26 objections received represent just 9% of the total.

94% of the supporting representations were received via Citizenspace, 89% of which were from people outside the SSSI in Greater Manchester or Lancashire. 2% were from people within the SSSI, 8% from elsewhere in the UK and 1% from people outside the UK who (based on comments made in their representations) may previously have lived in the West Pennine Moors area.

Support was received from:

- Four individuals who own or manage land within the SSSI;
- government agencies: Environment Agency (Greater Manchester & Lancashire Areas) and Historic England;
- 11 different local authority wards, parish and town councils;
- 15 voluntary bodies including two owners, Lancashire Wildlife Trust and the National Trust and:
    - Arnside & Silverdale Landscape Trust
    - Blackburn Naturalists' Field Club
    - Bolton North East Nature Trail
    - Chorley and District Natural History Society
    - Holcombe Society
    - Horwich First Community Group
    - Lancashire Botany Group
    - Lancashire and Cheshire Fauna Society
    - Lancashire Mountaineering Club
    - Leigh Ornithological Society
    - North West Field Club
    - Rochdale Field Naturalists
    - RSPB; and
- 240 other individuals, two of whom included breeding bird data as part of their representation.

There is a complete list of neutral and supporting representations in section 5.

1.31.1 Representation from Mr S Martin

Mr Martin supports the SSSI notification and provided additional information suggesting modifications to the citation and views about management.

<u>Citation:</u>

- to emphasise the key significance of the reservoir margins for birds within the wider upland breeding bird assemblage.

Views about management

- the importance of firebreaks to prevent destructive wildfires;
- rush cutting is the most important management tool of in-bye land and rush pastures to secure the condition of the breeding bird assemblage;
- the importance of bracken to the upland bird assemblage;
- the importance of woodland glades for redstarts and tree pipits;
- pied flycatchers almost exclusively nest within nest boxes in the West Pennine Moors and therefore continued nest box provision is important to their success in the area;
- a change to the stated bird breeding season to account for the earlier nesting of the gulls and based on his local knowledge that most waders start holding territory by late March; and
- more information on the management of the Belmont Reservoir area for the benefit of the gull and wader populations.

1.31.2 Officer's recommendation

With respect to the representation from Mr Martin the Board is recommended to approve confirmation with modifications to the citation and statement of Natural England's views about management. With respect to all other neutral and supporting representations the Board is recommended to approve confirmation without modification.

1.32 Additional area team recommendations

1.32.1 Boundary modifications

During visits to discuss the notification with owners and occupiers, officers identified the following proposed boundary modifications which have not been raised in any representation or objection. The recommended modifications have been agreed with the owners and occupiers.

Mr J Evans (Unit 34)

Mr Evans' land within the SSSI includes an unsurfaced yard and storage area adjacent to a barn, which is subject to frequent disturbance and supports no features of interest. The recommended boundary modification would remove 0.08 ha from the SSSI.

Rev Dr S and Rev A Edwards

The land to the immediate rear of the Edwards' house does not support the scientific interest of the adjacent moorland (dry heath), having been managed as a garden in the past. The suggested curtilage is in-keeping with the boundary around the neighbouring properties, and the precise location of the boundary has now been more accurately determined using a Global Positioning System. The recommended boundary modification would remove 0.25 ha from the SSSI.

Mrs J McCarthy, Cronkshaw Fold Farm

This land is recommended for removal because it is not part of the wider moorland habitat; it was previously part of a walk-way and yard-space around the farmhouse and, therefore, does not contain the scientific interest ascribed to the surrounding moorland (acid flush and additional upland breeding bird habitat).

The suggested curtilage follows the topography of the area, excluding all previously domesticated areas; the precise location of the boundary has been determined using a Global Positioning System. The recommended boundary modification would remove 0.02 ha from the SSSI.

Ms S Lindoe, Higher Whttaker House

This land is recommended for removal because it does not contain the scientific interest ascribed to it (additional upland breeding bird habitat) at notification for the following reasons:

- the land was subject to the tipping of waste by the previous owner prior to his leaving the property, which has altered the nature of the ground;
- although the land is part of a Biological Heritage Site for its grassland interest, this area is in poor condition and is not restorable to good quality grassland, unlike the remainder of the field within the SSSI, and;
- the area is too small and too close to houses and their gardens to be suitable for any of the birds within the upland and inbye assemblage for which the SSSI is notified.

The recommended boundary modification would remove 0.24 ha from the SSSI.

Mr A Painter and Ms Westhead, Horrocks Moor Farm

The area to be removed comprises mostly hard standing, surfaced tracks and unsurfaced yard, including a storage area for agricultural machinery and an area currently undergoing development where pre-existing planning permission is in place for a residential dwelling with garden. It is subject to frequent disturbance and is not of sufficient scientific interest to justify inclusion within the SSSI boundary.

The recommended boundary modification would remove two areas from the SSSI covering a total of 2.41 ha.

1.32.2 Amendments to the citation

An amendment is recommended to refine the location of the lime-rich flushes within the SSSI, which are located at Belmont Head Flush.

1.32.3 Amendments to Views About Management

References to whinchat should be replaced with stonechat where applicable. Whilst whinchat does occur and has been known to breed within the SSSI, it is not currently present as part of the breeding bird assemblage. Stonechat, however, is and the species can occupy similar habitats. Should whinchats colonise the site or resume regular breeding, they will nevertheless fall within the scope of the notified breeding bird assemblage.

1.32.4 Officers' recommendation

With respect to the additional area team recommendations the Board is recommended to approve confirmation with modifications to:

- the boundary to exclude six areas totalling 3 ha and, consequently, with a modification to the area figure on the citation
- the citation to refine the description of the location of lime-rich flushes; and
- correct errors in the statement of Natural England's views about management.

1.33 Legal considerations

Natural England's functions in respect of the designation of SSSIs are set out in sections 28-28D of the Wildlife and Countryside Act 1981(as amended).

Section 28C (enlargement) enables an area to be notified as being of special interest which includes an existing area of special interest.

Section 28C(1) provides that:

"(1) Where Natural England are of the opinion that any area of land which includes, but also extends beyond, a site of special scientific interest ("the SSSI") is of special interest by reason of any of its flora, fauna, or geological or physiographical features, Natural England may decide to notify that fact."

To summarise, a notification under section 28C may be given where Natural England is of the opinion that an area of land is of special interest by reason of its flora, fauna or geological or physiographical features and that area includes, but extends beyond, an existing site of special scientific interest.

A notification under section 28C may identify different features by reason of which the larger area is of special interest; it may also identify different operations that appear likely in Natural England's view to damage the features by reason of which the area is of special interest; and it may contain a different statement of Natural England's views about the management of the land.

Where a SSSI is simply enlarged under section 28C, the original SSSI ceases to have effect when the notification for the larger site is served. The situation in this case however is slightly more complicated. Here we are not only enlarging one SSSI (White Coppice Flush SSSI) we are also subsuming one or more other previously notified sites (Oak Field SSSI and Longworth Clough SSSI). Whilst section 28C is clear that in the case of the enlargement the previous SSSI ceases to have effect when the 28C notification is served, it does not state that a wholly subsumed site ceases to have effect when the larger site is notified. What this means in this case is that if the enlargement is not confirmed then whilst the White Coppice Flush SSSI would disappear (as it ceased to exist on notification of the larger site) in fact Oak Field SSSI and Longworth Clough SSSI would not as they were not extinguished on notification.

It is the decision whether to confirm or withdraw this SSSI that the Board have to consider on 19 July 2017.

Section 28C appears to give Natural England a discretion as to whether it notifies the area or not. Natural England has sought Leading Counsel's advice on the scope of its discretion around SSSI confirmation decisions. The advice is clear that there is in effect no discretion if the Board is of the opinion that the site is of special interest.

In reaching its decision the Board must however also have regard to Natural England's other more general legislative duties, in particular:

Section 40 NERC Act which states that Natural England must in exercising its functions:

> "…have regard, so far as is consistent with a proper exercise of those functions, to the purpose of conserving biodiversity."

and section 37 Countryside Act 1968 which states that:

> "...it shall be the duty of Natural England to have due regard to the needs of agriculture and forestry and to the economic and social interests of rural areas."

Counsel has advised that section 37 considerations are irrelevant to the decision as to whether or not a site is of special interest.

Natural England has also taken Leading Counsel's advice on the scope it has to take account of socio-economic issues and the weight, if any, that should be attached to them as part of the designation process. The advice may be summarised as follows:

(1) There are four elements to the designation process which the Board must consider:

(i) whether the land is of special interest;

(ii) the specification of the features by which the site is of special interest;

(iii) the specification of those operations likely to damage the features; and

(iv) the statement about Natural England's views about the management of the land.

(2) The main question for the Board is a scientific one. The Board must be satisfied that the area of land notified is of special interest. If the Board is of that opinion, having heard the scientific case for notification, it has a duty to confirm the notification of that area as a SSSI. Counsel's advice is absolutely clear on this and points out that if Parliament had intended to confer a discretion on Natural England to withdraw a notification because it was undesirable given its consequences then Parliament could have chosen to do that but it did not. In the absence of any such discretion the scope to withdraw the notification is limited to where the Board is of the opinion that the area notified is not of special interest.

(3) The Board may not withdraw the notification if they remain of the opinion that the area, or any part of it, is of special interest.

(4) If it is not open to the Board to withdraw the notification because it is satisfied that the site is of special interest then the only other decision open to it is to confirm the notification with or without modification. In doing so the Board must consider each of the four elements of the notification in the light of any objections, representations or further information that has become available in addition to the information available at the time of the initial notification.

(5) In considering whether to confirm the specification of any operations likely to damage the special features, Natural England has to decide whether or not such operations are likely to damage those features and to confirm the list with or without modification. The list should be specific and relevant to the site. However where, as here, there is a large site it is recognised that not all the operations have to apply to every part of the site. The specification of the operations may engage a person's rights under the European Convention on Fundamental Rights and Freedoms but in Counsel's opinion the statutory regime which requires a person to apply for consent before carrying out an operation allows a fair balance to be struck, at that point, between likely harm to the nature conservation interests and any likely detriment to the owner/occupier. This coupled with the fact there is a right of appeal if consent is not granted means the regime is not disproportionate and does not infringe the owner/occupiers human right to quiet enjoyment of their possessions.

(6) When considering whether to confirm the views on management Natural England should seek to promote its general purpose whilst having regard to the purpose of conserving biodiversity (as required by section 40 of the NERC Act) and giving such regard as it considers appropriate in all the circumstances to the needs of agriculture and forestry and to the social and economic interests of any rural area (in accordance with section 37 of the Countryside Act 1968).

In this respect it may also bear in mind that the statement has no legal effect itself. It should have regard however to the Code of Guidance[3] issued by the Secretary of State which states:

> "the Secretary of State expects the [statement of views on management] to be a simple statement of the way in which the land needs to be managed in order to maintain its special interest"

(7) The notification of the fact that Natural England is of the opinion that an area is of special interest does not of itself interfere with a landowner's peaceful enjoyment of their possessions and therefore is not contrary to their human rights.

1.34 Additional Human Rights issues

In relation to human rights, from a procedural perspective the obligation is to undertake a fair and public hearing in determination of the civil rights and obligations of all of the owners and occupiers of this area of land. The courts have determined that the combination of the process followed by Natural England, to include this meeting today, in addition to the supervisory jurisdiction of the High Court by way of judicial review, is compatible with the requirements of the Human Rights Act.

1.35 SSSI which the Board is recommended to confirm

The SSSI notification that the Board is considering for confirmation is the subject of 22 objections, 17 of which remain unresolved and five which are resolved, subject to the Board agreeing the officers' recommendations. The SSSI notification is also the subject of 282 additional representations of which 272 support the notification.

With respect to:

- the resolved objections from Arqiva Ltd, Ms E Berry, Bolton Gun Club, Mr T Foley and United Utilities;
- the unresolved objections from the British Association for Shooting and Conservation, Mr A R Hargreaves, W Holden & Sons, Mr D Sharples and the Trustees of the Wheeler Property Trust;
- the representation from Mr S Martin; and
- the additional area team recommendations;

officers recommend that the Board approves confirmation with modifications to the SSSI boundary to exclude 19 areas of land totalling 41.15 ha, the citation (including the area figure as a result of the boundary modifications) and the statement of Natural England's views about management. The recommended confirmed area of the SSSI is 7,621.26 ha;

With respect to the unresolved objections from Ms E Batchelor, Mr I J Drinkall, Alex Fowler, Mr J A and Ms S M Holden, Mrs D Mares, Mr J Mares, Mr J Smith, E & G Tattersall, the Taylor Family, Mr N Teague, Urban Springside and Mr D R Wood, and all other neutral and supporting representations, officers recommend that the Board approves the confirmation without modification.

The Board is recommended to approve confirmation of the notification of West Pennine Moors SSSI with modifications to the SSSI boundary, citation and views about management.

[3] *Sites of special Scientific Interest: Encouraging Positive Partnerships – Code of Guidance, Defra, 2003*

Natural England Board

Meeting: 72
Date: 19 July 2017

Paper No: **NEBPU 72 15 – supplementary paper**

Title: **West Pennine Moors Site of Special Scientific Interest (SSSI) – confirmation of notification**

Lead/s: **Alan Law, Chief Strategy & Reform Officer/Mike Burke, Cheshire to Lancashire Area Manager**

1. Purpose

1.1 The purpose of this paper is to provide the Board with additional key correspondence, as well as revised officers' recommendations.

1.2 It is necessary to do this because some further objections have been resolved since the Board papers were circulated.

2. Recommendation

2.1 The Board is asked to **consider** the following recommendation in place of the recommendations in paragraph 1.35 of the main pack:

2.2 "The SSSI notification that the Board is considering for confirmation is the subject of 21 objections, of which 15 remain unresolved and six are resolved, subject to the Board agreeing the officers' recommendations. The SSSI notification is also the subject of 282 additional representations of which 272 support the notification.

With respect to:

- the resolved objections from Arqiva Ltd, Ms E Berry, Bolton Gun Club, Mr T Foley, Mr D Sharples and United Utilities;
- the unresolved objections from BASC, Mr A R Hargreaves, W Holden & Sons, Mrs D Mares, the Trustees of the Wheeler Property Trust and Mr D R Wood;
- the representation from Mr S Martin; and
- the additional area team recommendations;

officers recommend that the Board approves confirmation with modifications to the SSSI boundary to exclude 21 areas of land totalling 46.92 ha, to the citation (including the area figure as a result of the boundary modifications) and to the statement of Natural England's views about management. The recommended confirmed area of the SSSI is 7,615.49 ha.

With respect to the unresolved objections from Ms E Batchelor, Mr I J Drinkall, Alex Fowler, Mr J A and Ms S M Holden, Mr J Mares, Mr J Smith, E and G Tattersall, the Taylor Family and Mr N Teague, and all other neutral

and supporting representations, officers recommend that the Board approves the confirmation without modification.

The Board is recommended to approve confirmation of the notification of West Pennine Moors SSSI with modifications to the SSSI boundary, citation and views about management."

2 Report

3.1 Background

3.1.1 The following significant developments relating to objections and representations have taken place since the main Board packs were completed:

- Urban Springside has withdrawn its objection to the notification.
- Mr D Sharples has confirmed that his objection is resolved subject to the Board agreeing the officers' recommended boundary modification (reported in the main packs).
- Officers recommend additional boundary modifications to exclude 0.9 ha of Mrs D Mares' land and 4.87 ha of Mr D R Wood's land from the SSSI.
- Mr Neil Bland (representing Mr D R Wood, Mr I J Drinkall, Mr J Smith and E and G Tattersall) has written to confirm that each of his clients wishes to withdraw their objections on scientific grounds (subject in Mr Wood's case to the above boundary amendment) and their concerns about use of lead shot are resolved by the wording of suggested consents. Their concerns about the notification process remain as do their concerns about long term consents for farming activities, pending agreement of those consents.
- Officers wrote to the British Association for Shooting and Conservation (BASC) on 14 July 2017 to draw together our responses to its concerns.

3.1.2 The additional key correspondence relating to Mrs Mares, Mr Wood, Mr Drinkall, Mr Smith, E and G Tattersall and BASC is attached.

3.1.3 Officers recommend three additional modifications to the VAM with reference to the version at pages 5-9 in section 3 of the main packs:

- Delete "stonechat" from the third paragraph under 'Background' on p.5.
- Delete "ring ouzel" from the final sentence of the last paragraph under 'Upland habitats' on p.7.
- Delete "Recreational use of the woodland should be discouraged" from the final paragraph under 'Woodland' on p.9.

3.1.4 The Senior Leadership Team minutes of 18 October 2016 were omitted in error from section 4 of the main packs and are attached here.