Potential marine extension to Hamford Water Special Protection Area (SPA)

Report of Consultation by Natural England

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Version Control

Version & Date	Drafted by	Issued to	Comments by
V1: 16/05/2016	Zoe Ringwood Lead Marine Adviser	Ingrid Chudleigh Senior Marine Adviser	IC
V2: 19/05/2016	Zoe Ringwood Lead Marine Adviser	Aidan Lonergan Area Manager	AL: Signed off and will be notified of any significant material changes prior to submission
V3: 19/05/2016	Zoe Ringwood Lead Marine Adviser	Richard Cook Natura 2000 Senior Adviser	RC
V4: 10/06/2016	Zoe Ringwood Lead Marine Adviser	N2K Board	Jamie Davies (Natural England, Senior Responsible Officer) – comments provided Niall Malone (Defra) – no comments at this stage Kerstin Kober (JNCC) – no comments provided
V5: 17/06/2016	Zoe Ringwood Lead Marine Adviser	Jonathan Burney Marine Director	JB: Sign off provided based on pending revisions
V6: 01/07/2016	Zoe Ringwood Lead Marine Adviser	Senior Leadership Team	Approval provided by SLT on 8 ^h July 2016 for report to proceed to Natural England Board
V7: 11/07/2016	Zoe Ringwood Lead Marine Adviser	Natural England Board	Approval provided by NE Board on 20 th July 2016 to submit recommendations to Defra

Introduction

The purpose of this Consultation Report is to clearly set out all correspondence received by Natural England and the associated responses during the potential marine extension to Hamford Water SPA formal consultation which ran from 21st January 2016 to 21st April 2016.

Table 1: Summary of responses

Site Name	Hamford Water pSPA marine extension
Formal consultation period (13 weeks)	21 st January 2016 – 21 st April 2016
Total number of stakeholder responses	18
Organisations	6
Individuals/Unsolicited	3
Relevant/competent authorities	9
Number of supporting responses	1
Number of supportive responses which raise specific issues	1 ¹
Number of general enquiries/neutral responses	15
Number of objections	2
Scientific concerns/queries	0
Socio-economic concerns/queries	7
Both scientific and socio-economic concerns/queries	0
Number of consultees with outstanding objections	1

¹Consultation responses logged as being '*supportive of the proposals but raising specific issues*' are also logged as a supporting response (thereby counted twice in the table).

Details of Natural England's Non-Financial Scheme of Delegation (NFSoD) can be found in Appendix 1.

Background

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

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

Hamford Water pSPA consultation

Hamford Water is a large, shallow estuarine basin comprising tidal creeks and islands, intertidal mud and sand flats, as well as saltmarsh, shingle and areas of coastal grazing marsh. The SPA was designated in 1993 for a nationally important breeding population of little tern *Sternula albifrons*, a nationally important wintering population of avocet *Recurvirostra avosetta* and internationally or nationally important wintering populations of seven species of migratory waterfowl: dark-bellied brent goose *Branta bernicla bernicla*, black-tailed godwit *Limosa limosa*, redshank *Tringa totanus*, ringed plover *Charadrius hiaticula*, shelduck *Tadorna tadorna*, teal *Anas crecca* and grey plover *Pluvialis squatorola*. The existing SPA covers an area of 2,188.53ha.

The proposal is to extend the boundary of Hamford Water SPA to include marine foraging areas for little tern. The current boundary of the SPA encompasses nesting habitat (sand and shingle) for little terns and a substantial area (225.07ha) of sub-tidal habitat. The sub-tidal area within the existing SPA provides an important foraging resource for little terns and they are frequently recorded foraging in the shallower water along the edges and mouths of creeks and channels within the protected area. In 2014, a peak of 37 nesting pairs of little tern were recorded in Hamford Water.

It is proposed that the boundary of the SPA is extended by 1,776m out to sea to protect the most important areas of coastal water used by foraging little terns whilst they are breeding in Hamford Water. In addition it is proposed that the new boundary will encompass a marine extension to the southerly along-shore boundary and a small extension to the northerly along-shore boundary of the current SPA. Overall this will increase the site area by 1,344.02 ha resulting in a total site area of 3,532.56 ha.

The Consultation Process

There was a 13 week formal consultation carried out on the site proposals from 21 January 2016 to 21 April 2016.

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

• the scientific case for the classification of the Hamford Water pSPA

Socio-economic queries cannot be taken into consideration when deciding to classify the site. An assessment of socio-economic impacts for the site was undertaken before the consultation and is based on the current understanding of existing and planned activities occurring within the pSPA. As agreed by Defra, the assessment concluded that the socio-economic impacts resulting from the pSPA classification were relatively low. Therefore production of a full socio-economic impact assessment for the consultation was considered disproportionate and not developed.

However, to ensure all consultation responses have been considered, all socio-economic representations are reported briefly within this consultation report (Table 3) with further detail provided as an Addendum to the assessment of socio-economic impacts.

Raising awareness about the Consultation

Natural England contacted all major stakeholders with an interest in the area of the proposed SPA marine extension, as well as the two owner-occupiers and relevant MPs. A total of nearly 70 stakeholders were contacted by email announcing the start of formal consultation. Each stakeholder was provided with a covering letter and a link to the formal consultation pack, which contained a consultation summary

document, Departmental Brief and boundary maps of the proposed site extension. Stakeholders were also provided with the option to respond online via an online survey. Owner-occupiers were sent hard copies of the covering letter and formal consultation package by post. A meeting with Natural England staff to discuss the proposals was offered to major stakeholders. Provision was made to send hard copies of the consultation documents on request to anybody who was unable to access the documents online.

A press release was distributed to relevant media at the start of formal consultation, which contained details of the proposals and information about the consultation. A second press release was distributed four weeks before the end of formal consultation. At this stage a reminder email was also sent to all stakeholders consulted to remind them of the deadline for responses.

Prior to formal consultation, key stakeholders were invited to input into the process and provide any additional information or data related to the proposals as part of informal dialogue, which ran for an eight week period from 1 July to 26 August 2015.

Consultation Responses

A total of 18 stakeholders contacted Natural England during the formal consultation via email, online survey, letter or telephone. Ten of the consultation responses required detailed consideration and a detailed response.

One stakeholder was supportive of the proposals, but raised a specific query on use of data. Seven responses requested clarification on certain issues or provided general views. Responses from the majority of stakeholders (15) were either general enquires or neutral. There were two objections, both on socio-economic grounds, one of which has subsequently been resolved.

Of the two owner-occupiers (both relevant authorities) one was neutral to the proposals and provided information on an open tendering process, leases and activities in the area. The other was generally supportive of the proposals, but raised objection over the inclusion of the southern limit of the boundary extension and sought clarification on a number of related issues. This objection has now been resolved, as the landowner has confirmed that the information provided in Natural England's response has addressed the queries raised.

The second objection remains outstanding, but was not specific to the proposals at Hamford Water.

Other stakeholder comments and queries included the impacts of the proposals on recreational boat use, commercial fishing and beach maintenance activities.

Consultation Conclusion and Natural England's Advice to Defra

Natural England recommends that the site be classified in line with the Departmental Brief and supporting consultation documents. Site specific data collected in 2012, 2013 and 2015 provides evidence that the area is important for foraging little terns and this demonstrates that the proposed SPA marine extension meets the qualifying criteria. There were no scientific queries/concerns raised as a result of the consultation.

Issues for consideration by Defra

Natural England received one objection on the designation of the Hamford Water pSPA that we would like to highlight to Defra as unresolved. Further detail is provided below:

Natural England would like to highlight for Defra's consideration as an unresolved objection the issues raised by the **British Ports Association** with respect to the request to exclude all port and harbour limits from all pSPAs/SPAs. Natural England responded in writing to clarify the boundary and the modelling method used to define the boundary for this and other pSPAs was robust and supported by three site-specific verification surveys during 2015. Furthermore, clarification was provided that tern species are consistently scored as being amongst the least sensitive species to disturbance from vessel and helicopter traffic which, together with the verification survey findings, demonstrates that tern species forage in areas in which visual and noise disturbance occurs. For a summary of these issues and how Natural England responded to the concerns raised, please refer to page 11 in the Detail of Consultation Responses chapter.

Detail of Consultation Responses

Natural England replied in writing to each stakeholder who raised issues during the consultation, addressing each of the points raised. Each stakeholder's representation and Natural England's response is outlined in Table 3 in the Detail of Consultation Responses section below. Copies of stakeholder correspondence and meeting notes can be provided if necessary. Stakeholder response categories are explained in Table 2 below.

Table 2: Response categories

Categorie	Categories of Responses					
Number	Туре					
1.	Simple acknowledgement/neutral response					
2.	Support					
3.	Do not understand the implications/request clarification/general views					
4.	Objection in principle to designation					
5.	Objection on scientific grounds to the boundary (seaward, landward or east-west)					
6.	Objection on scientific grounds regarding species or surveys					
7.	Objection on other scientific grounds					
8.	Objection on socio-economic grounds					
9.	Objection – other					

Consultees are categorised as follows:

- A Owner/Occupiers
- B Local authorities/other competent authorities
- C Interested parties/Organisations
- D Members of the public and unsolicited responses

Table 3: Consultation responses

CONSULTEE	REPRESENTATION	Type *	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
A. Owners	and occupiers			
Crown Estate	Neutral to the proposals.	1	Acknowledgement provided.	None raised
	Provided no comment regarding the scientific justification for extending the SPA.			
	Provided information on a marine aggregate tendering process and details of leases and outfalls in the area.			

CONSULTEE	REPRESENTATION	Type *	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Tendring District Council Further communication received 9 th June 2016	 Generally supportive of the proposals but raised objection to inclusion of the southern limit of the proposed boundary extension and sought clarification on a number of issues including socio-economic concerns, as follows: 1. The need to include the area to the south of the Naze Tower within the boundary. 2. Whether the boundary of this southern area could be set to the mean low water (MLW) mark rather than the mean high water (MHW) mark. 3. The effect the proposals would have on the use of the beach and coastal defence works. 4. How the inclusion of the southern beach area will help the little tern. 5. How the proposals will impact on Natural England's Coastal Access Scheme. 	3/8	 Acknowledgement provided and detailed response as follows: 1. Explained that according to the methodology adopted by JNCC the requirement to use the maximum alongshore distance at which the birds are recorded for setting the site boundary. Therefore based on data collected in 2013 and 2015 this area is included within the proposed boundary 2. Clarified that the decision to draw the landward boundary to mean high water (MHW) is consistent with UK SPA selection guidelines. 3. Clarified that it is unlikely the proposals would restrict current recreational activities or coastal defence works. 4. The proposed site extension will protect the marine and intertidal foraging areas identified as being most important to little tern populations. 5. An assessment of disturbance to little terns will be undertaken as part of the coastal access scheme at Hamford Water. Land owner confirmed the information provided by Natural England had resolved the issues raised. 	None

CONSULTEE	REPRESENTATION	Туре *	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
B. Local au British Ports Association	thorities/other competent authorities General modelling objections/queries Requested removal of port limits, marinas, shipping channels from all pSPAs/SPAs. Further discussion with BPA and other port stakeholders took place on 8 th June 2016. All points of concern were discussed.	4/3	Acknowledgement provided and detailed response as follows. Demonstrated the modelled approach indicates that usage by foraging terns of areas such as port limits exceeded the maximum curvature thresholds as outlined in the Departmental Brief. The adoption of a model-based approach is justified with a number of precedents. We are confident in the robustness of the models' predictions of patterns of tern usage (verified through three additional surveys in 2015) and satisfied with the objectivity that the application of the maximum curvature analysis approach has given to the boundary identification process. Clarified that tern species are consistently scored as being amongst the least sensitive species to disturbance from vessel and helicopter traffic which, together with the verification survey findings, demonstrates that tern species forage in areas in which visual and noise disturbance occurs.	BY DEFRA Not explicitly stated, but consultee may consider their issue to be current.

CONSULTEE	REPRESENTATION	Type *	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
Department of Energy and Climate Change (DECC)	Neutral response. Clarified that the site extension does not coincide with any of DECC's current activities.	1	Acknowledgement provided	None raised
Harwich Haven Authority	Neutral response (submitted online). Confirmed acceptance of the scientific explanation for the proposals. Provided no further comments on the scientific rationale behind the proposals.	1	Acknowledgement provided (online survey)	None raised
Historic England	Neutral response. Indicated that the proposals would not impact on responsibilities for protection and management of the historic environment and provided no additional comment.	1	Acknowledgement provided.	None raised
Little Oakley Parish Council	 Neutral response (telephone conversation). Asked for the following clarifications: 1. How the proposed SPA extension would impact on recreational boat use and fishing within the area. 2. Requested clarification regarding potential implications for maintenance activities for farm operations 	3	 Acknowledgement provided and detailed response as follows: 1. Provided clarification that restrictions on recreational boat use and fishing within the area would not be expected as a result of the proposals and that as long as there was assessed to be no impact on feeding little terns, activities could continue at the level they had been. 2. further clarification was provided to confirm that the new designation would 	None raised

CONSULTEE	REPRESENTATION	Type *	Natural England response be considered as part of the MMO	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
			licence assessment process.	
ММО	Neutral response. Provided details of MMO's delivery functions and confirmed pSPA designations will be added to the marine planning evidence base.	1/3	Acknowledgement provided	None raised
Trinity House C. Interested parties/organis	 Neutral response. Requested clarification of duties as a relevant authority, requested assurances in terms of traditional practices and customary rights and requested removal of assets (rock lighthouses, navigation beacons etc) from pSPA boundaries on a maintenance/emergency procedure basis. 	1/3	 Acknowledgement provided and detailed response as follows 1. Provided clarification of statutory duties and customary rights. 2. Provided clarification regarding the justification for inclusion of the areas requested for removal. 3. Provided further clarity with respect to likely impacts to maintenance & emergency procedures which are considered to be minimal 	None raised
British Marine	Neutral response.	1/3	Acknowledgement provided and detailed	None raised
Aggregate Producers Association (BMAPA)	 Indicated that unpublished site- specific data could not be verified Suggested that the approach taken to assess the likely economic impact on the sector was less than transparent as a 		 Acknowledged that corroborating data had not been published at the start of the consultation. Explained that the procedure for assessing socio-economic impacts, as 	

CONSULTEE	REPRESENTATION	Type *	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
	detailed assessment was not published.		agreed by Defra, did not require the production or publication of a detailed economic assessment where the predicted impacts were considered to be below an agreed threshold.	
Essex Wildlife Trust	Neutral response (submitted online). Confirmed no further comments on the scientific rationale behind the proposals.	1	Acknowledgement provided (online survey)	None raised
Harwich Fisheries Association	Neutral response Requested information on whether commercial fishing will be restricted within the proposed area.	3	 Acknowledgement provided and detailed response as follows: Explained that most fishing activities will not impact on feeding little terns and no adverse impacts from current fishing practices have been highlighted. Clarified that NE is not advising any restrictions be imposed as a result of the SPA extension, but if issues were highlighted further assessment would be necessary. 	None raised
National Federation of Fishermen's Organisations (NFFO)	Neutral response. Assumed that no additional management measures for fisheries activities are expected to be proposed in the area.	1	Acknowledgement provided and detailed response as follows: Confirmed that the assessment of socio- economic impacts assumed no additional costs to the sector from the classification of the pSPAs. Whilst additional evidence may be required to confirm no impact on tern from	None raised

CONSULTEE	REPRESENTATION	Type *	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
			bycatch, this would be required whether the pSPA was classified or not due to existing SPA protection.	
Royal Society for the Protection of Birds (RSPB) Natural England Ornithologists met with RSPB on 10 th May 2016 to discuss issues raised. RSPB confirmed support for the proposals.	Supportive of the proposals. Sought clarification regarding the rationale for use of contemporary data for setting citation baselines.	2/3	Acknowledgement provided and detailed response as follows: Provided clarification on what the Departmental Brief seeks to do and NE's position on the application of contemporary data Vs historical data for citation and the use of WeBS data (See Appendix 3 for further information)	None raised
Royal Yachting Association (RYA)	Neutral response. No objections to the proposals across the sites in principle, although indicated would be very concerned if the designation or extension resulted in any additional proposals for management of recreational activities within and around the proposed SPAs, given the assurances set out in the consultation documents	1/3	Acknowledgement provided and detailed response as follows: Confirmed that there is no evidence that boating activities, at current levels, are restricting the ability of terns to forage within the pSPA.	None raised

CONSULTEE	REPRESENTATION	Type *	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
D. Members	s of the public and unsolicited respon	ises		
Anonymous	 Neutral response. Confirmed acceptance of the scientific explanation for the proposal. Provided information on other species within the SPA (not relevant to the proposed site extension). No further comments relevant to the scientific rationale for the proposed marine extension. 	1	No response provided (contact details unavailable)	None raised
(local user)	 Neutral response. Confirmed acceptance of the scientific explanation for the proposal Requested clarification on the following issues: 1. What will be achieved by extending the SPA. 2. Whether there would be restrictions to human activities, such as dog walking and walking on beaches as a consequence of the designation. 	3	 Acknowledgement provided and detailed response as follows: 1. Confirmed that the pSPA will ensure future plans or projects take into account the requirements of foraging little terns and with a defined boundary, it will be clear which areas are most important to these species 2. Acknowledged there are currently few activities in the area that would be likely to impact on feeding little terns. Clarified that the pSPA includes marine areas only and the majority of beach and other areas used by dog walkers, adjacent to the proposed extension, are already protected within the current 	None raised

CONSULTEE	REPRESENTATION	Type *	Natural England response	OUTSTANDING ISSUES FOR CONSIDERATION BY DEFRA
			SPA boundary. Therefore, if the activity does not currently impact on little terns, it is unlikely that changes in the activity will be required as a result of the marine extension.	
Marine Space	Neutral response. Requested spatial coordinates of the proposed marine extension	1	Provided response with the data as requested.	None raised

Appendix 1: Non-Financial Scheme of Delegation

The Non-Financial Scheme of Delegation currently states the following for international site designation cases:

	Function	Delegation
A	Approval to submit formal advice (Departmental Brief ¹ or Selection Assessment Document ²) to Secretary of State on the selection of a pSAC, pSPA or pRamsar site or proposed amendments to an existing cSAC, SCI, SAC, SPA or Ramsar site.	Chief Executive
В	Following the consultation, approval of final advice, with or without modifications, and report on the consultation, where:	
	a) objections or representations are unresolved	Board or Chairman on behalf of the Board
	b) there are no outstanding objections or representations (i.e. where no objections or representations were made, or where representations or objections were withdrawn or resolved)	Appropriate Director

¹Departmental Briefs (for Special Protection Areas and Ramsar sites) ²Selection Assessment Documents (for Special Conservation Areas)

- Part A In the first instance the scientific case is developed and presented to the Chief Executive (and the Senior Leadership Team¹) who discuss the case and approve sign off as Natural England's formal scientific advice to Defra. Defra then seek Ministerial approval for Natural England to consult on these proposals on behalf of Government.
- Part B Once the formal consultation process has completed, Natural England considers any scientific objections to the proposals and endeavours to resolve any issues or concerns raised by stakeholders during the consultation. If, after a reasonable process of liaison with stakeholders, there are outstanding issues that cannot be resolved Natural England finalises the report on the consultation for Defra and sets out its final advice on the case in the report. There may be changes proposed as a result of the consultation and outstanding issues for Defra's consideration.
 - i) Where there are no outstanding objections, representations or issues with respect to the proposals the relevant Director can approve the consultation report for submission to Defra.
 - ii) Where there are outstanding issues which it has not been possible to resolve the responsibility for approval of the consultation report falls to Board, or Chairman on behalf of the Board.

¹For this marine pSPA, the Natural England Senior Leadership Team (SLT) has delegated the respons bility for approval of Natural England's formal scientific advice to the Chief Officer for Strategy & Reform. The Chief Officer for Strategy and Reform informs SLT when approval for Natural England's formal scientific advice has been provided.

Appendix 2: Consultation Questions

Online survey

- Q1: Do you accept the scientific explanation for the site proposal?
- Q2: Do you have any additional information that's not included in the departmental brief about the distribution and populations of: little tern.

If yes, please comment in the box below (or attach file)

Q3: Do you have any further comments on the scientific rationale behind the proposed marine extension to Hamford Water SPA?

If yes, please comment in the box below.

Q4: Is there a need for a new management group for the SPA?

Tick boxes: Yes or No

Q5: Will there be costs incurred by other relevant authorities to develop or implement a management plan?

Tick boxes: Yes or No

Appendix 3: RSPB contemporary data query

The Departmental Brief sets out the scientific case for classification of the SPA. Within those documents, where possible, we use contemporary data for those species that:

- Are being added to existing sites
- Are the basis for setting the boundary of the new/amended SPA
- Are the basis for the classification of an entirely new site
- Are a feature of the original SPA but the baseline has increased significantly solely due to a change in the size of the site
- Have seen significant increases in abundance since the classification of the original SPA and where the data that supports this meets our evidence standard

This applies to all new marine SPAs, including completely novel sites and those superseding or replacing existing SPA boundaries.

Where species have declined, or where selection thresholds have increased, or both, it is not always possible to demonstrate site qualification based on contemporary data. In such instances, where species were features of existing SPAs and where we cannot rule out site-specific factors for declines, we wish to preserve the ambition of the original SPA classification to support its features. In order to do this, we sometimes need to refer to data from an earlier time period to demonstrate the case for (re)classification of some features.

Once the site is classified, conservation advice packages will reflect our objectives for the site, including numerical targets for abundances of features, where we can establish them. For sites that have superseded existing SPAs but have witnessed declines in abundance in certain features over time, proposed objectives will usually reflect the original ambition of the SPA (i.e. the earlier citation value or some variant thereof). Natural England's Chief Scientist is responsible for signing off new conservation objectives, based on the evidence submitted by the relevant Area Team dealing with the site and with input from the ornithology specialists.