



# Summary of responses to Natural England's consultation on the review of its guidance for assessing wildfowling consents on protected sites.

March 2018

## **1. Introduction**

- 1.1** Wildfowling is a largely solitary activity which involves the hunting of specific species of ducks, geese and waders with a smooth bore shotgun. It is undertaken primarily on estuaries and coastal marshes. In England the season runs from 1<sup>st</sup> September until 31<sup>st</sup> January above the high water mark and extends until February 20<sup>th</sup> below the high water mark. The majority of wildfowling is organised through a club structure but it can also be undertaken independently.
- 1.2** A large number of the sites where wildfowling takes place are protected due to their special interest in relation to flora, fauna or geological or physiographical features. Natural England, as the government's adviser for the natural environment in England, has many duties in relation to these sites, one such duty being the assessment of all proposals for activities undertaken by landowners/occupiers which may damage the special interest of the site.
- 1.3** The aim of the assessment process is to ensure that any activity which is being carried out on a designated site is undertaken in a sustainable manner and does not damage the special features so that the site can continue to support and sustain the habitats and/or species for which it was designated. Landowners/occupiers, such as wildfowling clubs, need to apply to Natural England for consent to undertake such activities, this provision does not exist for third parties undertaking activities on these sites.
- 1.4** In England there is no national bag monitoring or visit number recording for wildfowling nor any other hunting activity. However, for all wildfowling activity which takes place under a Crown Estate lease annual returns have to be made detailing the numbers of visits undertaken and number of birds shot.

## **2. Overview**

- 2.1** This document provides a summary of responses to Natural England's consultation on the review of its guidance for assessing wildfowling consents on protected sites. The consultation ran from Monday 2<sup>nd</sup> October 2017 to Friday 1<sup>st</sup> December 2017. The aim of this document is to provide a summary of the responses received. It does not offer a detailed opinion on the comments received.

## Background

- 2.2** A large proportion of wildfowling in England takes place on protected sites, which, if the features they support are of national interest are notified as Sites of Special Scientific Interest (SSSI). If the features are of European importance the sites will be classified as either a Special Protection Area (SPA) under the Birds Directive (2009/147/EC) and/or designated as a Special Area of Conservation (SAC) under European Habitats Directive (92/43/EEC) in addition to their SSSI status.
- 2.3** Natural England is the competent authority<sup>1</sup> in England for consenting wildfowling on European sites and therefore, is responsible for ensuring that the assessment of any activities meet the legal duties as set out under the Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017.
- 2.4** The consultation set out a number of proposals focusing on the relationship between Natural England and wildfowling clubs, the possibility of offering longer term agreements with review mechanisms, increasing opportunities for wildfowling clubs to contribute to the assessment process, closer alignment of assessments with the bird numbers on the site and greater potential for positive management to be incorporated into agreements. We invited views on the following topics;
- Question 7: Annual Liaison Meetings
- Question 9: Visit programme for Natural England staff
- Question 11: Site management plans
- Question 13: The linking of longer term plans to bird abundance
- Question 14: The linking of longer term plans to bag returns
- Question 18: Waterbird population declines
- Question 23: Sharing of information
- Question 25: Visit Numbers
- Question 26: Direct Mortality
- 2.5** In addition, views were also sought on two updated step-by-step guidance documents;

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<sup>1</sup> A competent authority includes any statutory body or public office exercising legislative powers, whether on land or at sea.

## Question 21: Assessment of Likely Significant Effect

## Question 22: Appropriate Assessment

- 2.6** The initial impetus to carry out a review of the wildfowling guidance came from an objective included within the Partnership Agreement between Natural England (NE) and British Association for Shooting and Conservation (BASC), which was to make the assessment process and supporting guidance more straight-forward. In particular, it was agreed that the guidance should clearly set out the information required from the applicant for the assessment process to be completed and also, that it should encourage the inclusion of any positive management being undertaken with any proposal so that it could be clearly factored in to the assessment process.
- 2.7** The purpose of gathering comments and evidence from wildfowling clubs, representative bodies and other interested parties on the proposals through this consultation process was to try and ensure the review of the wildfowling guidance was done in the most fair and transparent manner, securing the best environmental outcomes for the designated sites whilst ensuring the continuance of sustainable wildfowling.

## Methodology

- 2.8** The launch of the consultation was publicised through the BASC website. In addition, other organisations such as Royal Society for the Protection of Birds (RSPB), British Ornithological Trust (BTO), Game & Wildlife Conservation Trust (GWCT) and Wildfowl & Wetlands Trust (WWT) were contacted directly.
- 2.9** The consultation closed on 1<sup>st</sup> December 2017; although a small number of late responses were received.
- 2.10** All responses were considered. This document summarises the main points raised and the themes that arose. The consultation was not designed to be a representative survey and so the results cannot be statistically generalised. It is not intended to be an exhaustive record of all the points made and the absence of a particular issue does not indicate that it has been ignored or that it is of lesser importance.

## Summary of statistics

- 2.11** A total of 613 responses were received to the consultation, either on-line or through email direct to NE, of these 535 were from individuals and 78 were from individuals

answering on behalf of an organisation. The complete list of organisations that responded can be found in Annex A.

- 2.12** In terms of the individuals who responded, the vast majority, 92%, identified themselves principally as wildfowling, of the remaining respondents, 3% identified principally as birdwatchers or other amateur interest in nature, 2% as landowners, 1% as professional ecologists or conservationist, 1% as gamekeepers and 1% as land agents.
- 2.13** Many of the individuals did not set out their own responses instead they supported the submissions from either BASC and/or the Association of UK Wildfowling Clubs. For clarification, the Association of UK Wildfowling Clubs (AUKC), is a group set up by over 40 wildfowling clubs to engage with the wildfowling consultation and general review of the wildfowling guidance. They have employed a consultant to put forward their views through the consultation process.

### **3. Summary of Responses**

#### **Overview of responses**

- 3.1** The majority of respondents supported annual liaison meetings between Natural England and wildfowling clubs, many emphasising the opportunity that it would create to improve relationships and share knowledge. Many also supported the programme of wildfowling visits set up by the BASC for NE advisors to go out with their local club, for similar reasons. A common theme running through the responses from the wildfowling community was the lack of trust they thought existed between the wildfowling clubs and NE.
- 3.2** The positive and negative responses were very evenly split in relation to the use of site management plans encompassing all activities undertaken by a wildfowling club on a designated site. However, a slightly greater percentage supported their use with the caveat that they should be voluntary rather than a mandatory requirement.
- 3.3** There was little support for the linking of long term plans to either population abundance figures or bag returns, although the majority of respondents viewed both of these factors as important ones that should be incorporated into any assessment provided other elements such as short-stopping, change of migration patterns and trends on other sites were also considered.

- 3.4** The RSPB and WWT were both opposed to any proposal that suggested issuing any form of consent or agreement for longer than a ten year period even if review mechanisms were in place.
- 3.5** In terms of the questions relating to wildfowling visit numbers and direct mortality, the view put across by the majority of the wildfowling community was that wildfowling was a low impact activity which was largely self-regulating due to quarry availability and therefore, restrictions were not necessary.
- 3.6** There was support from both the wildfowling community and other organisations for the use of bag limits as a way of ensuring that wildfowling was carried out in a sustainable manner.

### **Question 7 – Annual Liaison Meeting**

- 3.7** The consultation asked for views on annual liaison meeting between Natural England and any wildfowling clubs who operate on designated sites.
- 3.8** Of the 612 responses to this question, 63% supported annual liaison meetings between Natural England and wildfowling clubs on designated sites, 22% did not support the idea and 15% were unsure.
- 3.9** The most common reason given for supporting annual meetings was the opportunity it provided to share knowledge and build relationships.
- 3.10** Of those who did not support the meetings, the idea was seen as an increase in bureaucracy and an opportunity to increase regulation.

### **Question 9 – Wildfowling Visits**

- 3.11** The consultation asked for views on the programme of visits which had been set up by BASC for NE advisors to go out with their local wildfowling club.
- 3.12** Of the 612 responses to this question, 68% supported the programme of visits, 20% did not support the visits and 12% were unsure.
- 3.13** Those who supported the programme saw it as an opportunity for NE advisors to learn about the activity of wildfowling, share knowledge and improve relationships.

- 3.14** The respondents who either did not support the programme of visits or were unsure, focused on the lack of trust between NE and wildfowling and voiced suspicion about what the information gathered through the visits would be used for.
- 3.15** One suggestion which was made by nearly 10% of the respondents was that within each NE area there should be a specified advisor who dealt with all the wildfowling activities and therefore, built up knowledge of the activity, enabling better consistency across decisions to be achieved.
- 3.16** However, in the submission made by the AUKW, which was supported by over half of the respondents, it was stated that NE should guard against identifying a single officer to deal with wildfowling consents at a regional level as it would be disproportionate and could result in wildfowling being seen as an activity with a greater impact than other activities on the site.

### **Question 11 – Site Management Plans**

- 3.17** Views were sought on the use of site management plans which brought together activities on the Operations Requiring Natural England Consent list, which is a list of activities specified when the site was notified as operation likely to damage the special interest of the site, and activities necessary and directly linked to the management of the site and monitoring activities.
- 3.18** Of the 612 responses to this question, 38% supported the use of site management plans, 31% did not support them and 31% were unsure.
- 3.19** Many of those respondents who supported the use of site management plans felt that this approach was already in use. However, of these some argued that although positive management and monitoring was being undertaken on sites it was not being fully factored in to any assessment process by NE. There was also strong opposition to site management plans becoming mandatory and that they should only be undertaken on a voluntary basis. BASC made the additional point in their submission that wildfowling clubs should have the responsibility for producing the site management plans which should then be agreed with NE.
- 3.20** Of those who were unsure about the use of site management plans, some pointed out that some wildfowling clubs do not have management or ownership rights over the land that they shoot and therefore, their ability to undertake management activities would be very limited. Concern was also voiced that if plans were to be put in place they must be formed through a consultative process and based on evidence based mutually agreed objectives.

- 3.21** The main concern voiced by those respondents who did not support the use of site management plans was that they saw the plans as another layer of bureaucracy and one which could be used to curtail the activities of wildfowling clubs.
- 3.22** A number of respondents criticised the way in which the question was asked, in that by describing activities which needed consent such as wildfowling separately from conservation activities, the inference was made that the shooting element of wildfowling was itself intrinsically negative. Conversely, there was also criticism that the question should have made greater distinction between management necessary and directly connected to the conservation of the site, mitigation management and enhancement management as this implied that there was no difference between them.

### **Question 13 – Bird Population Abundance and longer term plans**

- 3.23** The consultation requested views on the proposal to link longer term plans to bird abundance figures at a site level combined with consideration of sector level trends to safeguard the integrity of the site.
- 3.24** Of the 612 responses, 64% did not support the use of bird abundance figures to inform longer term plans, 18% did support it and 17% were unsure.
- 3.25** The main concern raised by those respondents who did not support the use of bird abundance figures was that the figures should not be used in isolation, as they could be highly variable and influenced by natural and other non-site based factors. Many people responding on behalf of wildfowling clubs, stated that bird abundance numbers were already monitored by clubs and that if there were concerns about a particular species that voluntary restrictions were put in place and therefore, it was not necessary to incorporate them into any form of agreement which could enforce restrictions.
- 3.26** Even for those who supported the use bird abundance figures, concerns were raised about the reliability of the figures that were currently available and many stated that a stipulation should be made to ensure that all information should be shared with all relevant parties for comment to test its validity. Support was voiced for the re-introduction of [WeBS Alerts](#) (last published in 2013 based on data up to winter 2009/10; previously published every 3 years but not funded in recent years) and the use of that data in this context.



**3.27** The RSPB and WWT were both opposed to any proposal that suggested issuing any form of consent for longer than a ten year period even if review mechanisms were in place. A range of reasons were provided for this;

- Insufficiently precautionary (i.e. does not prevent damage from occurring) and therefore, failure to comply with Article 6(3) of the Habitats Directive.
- Difficult to modify or revoke a consent using bird abundance figures unless a direct link could be made between the consent and observed changes in bird abundance and this would be difficult to prove scientifically.
- The procedure to modify or revoke a consent is slow, time consuming and can lead to significant costs.
- The increasingly dynamic nature of wintering waterbird populations and the factors that limit them.

### **Question 16 – Bag Return Figures**

**3.28** The consultation requested views on the proposal to link longer term plans to bag return figures.

**3.29** Of the 612 responses, 69% did not support the use of bag return figures to inform longer term plans, 19% did support it and 12% were unsure.

**3.30** A significant number of respondents who did not support the use of bag returns to inform longer term plans gave their reasoning as they did not see a demonstrable link between the wildfowling bag returns and positive or negative bird trends or populations on a site.

**3.31** Concern was voiced that bag return data was only submitted by responsible clubs and that they would therefore, be penalised for providing this information. It was also noted that the provision of bag returns is not a statutory requirement and therefore, clubs did not have to supply the information unless they shot on Crown Estate land where it is a stipulation of the lease agreement.

**3.32** For those who supported the use of bag returns to inform long term plans the information was seen as an element which could be used as part of a wider assessment rather than as a single determining factor.

**3.33** Respondents supplied some suggestions as to what other elements they consider should be included in assessments for long term plans;

- Inclusion of wider factors such as short-stopping, change of migration patterns, global warming, trends on other sites, new sites as part of an in combination assessment to put any subsequent decision in to proper context.
- Regular consultation with wildfowling clubs and greater acceptance of the local knowledge held by wildfowling clubs to improve NE's understanding and allow for more informed conclusions and decisions.
- Wider assessment which take into account site level bird population trends (including sector level trends), Country level bird population trends and Flyway level bird population trends and a consideration of wildfowling levels in the context of other recreational activities which are taking place.

### **Question 21 – Likely Significant Effect Guide**

- 3.34** A step-by-step guide was produced to work through the Likely Significant Effect process under Regulation 21 of The Conservation of Habitats and Species Regulations 2017. Respondents were asked to comment on whether they thought the guide was useful.
- 3.35** Of the 612 responses to this question, 59% did not see the document as useful, 15% thought it would be useful and 26% thought it might be useful.
- 3.36** The main points made by those who did not think the Likely Significant Effect guide was useful were as follows;
- a) It over-complicates the initial assessment process and did not provide sufficient emphasis on the inclusion of positive activities.
  - b) The guide sets out additional information requirements from wildfowling clubs which could result in costs to individual club administrators and the clubs themselves.
  - c) That the guide does not provide an impartial and clearly explained route to appeal against a regulatory decision.
- 3.37** The last two points suggest a misunderstanding in terms of the purpose of the guide and the advice that is set out within it. All assessments are carried out based on the best available data and therefore, there would be no expectation on wildfowling clubs to supply additional information if they do not already hold it. Also, the document was designed to be a guide through the specific assessment process not a guide to the whole consenting procedure. Both step-by-step guides are intended to sit alongside any other wider guidance not be a replacement therefore, considerations of the appeal process are included in the wider document.

**3.38** Those who were supportive of the Likely Significant Effect guide felt it set out the process quite clearly but that it needed to be applied sensitively and worked through by all parties.

## **Question 22 – Appropriate Assessment**

**3.39** A step-by-step guide was also produced to work through the Appropriate Assessment process under Regulation 24 of the Conservation of Habitats and Species Regulations 2017. Respondents were asked to comment on whether they thought the guide was useful.

**3.40** Of the 612 responses to this question, 60% did not see the document as useful, 12% thought it would be useful and 28% thought it might be useful.

**3.41** Many of those who did not support the appropriate assessment guide were critical of the high level of precaution which was applied, specifically in relation to the risk to the site that wildfowling represents.

**3.42** Conversely, some respondents felt that some of the thresholds suggested in the guide were not precautionary enough and that adherence to those levels could put bird populations at risk.

**3.43** Although, only a relatively small percentage of respondents thought the guide would be useful for them, a far greater percentage thought it would be useful for NE staff.

## **Question 23 – Sharing of Information**

**3.44** Views were requested on the sharing of a list of information with Natural England, as shown below;

- detailed maps
- clear indication of any areas that are managed as refuges
- historic bag returns divided up by species
- numbers of club members
- specific club rules on activity duration
- level of activity, historic and proposed
- access points,

**3.45** Of the 621 responses, 25% supported the sharing of all the information listed, 31% did not support the sharing of information and 44% were unsure.

- 3.46** The most common reason for not wanting to or uncertainty about sharing information was lack of trust. Many respondents questioned what NE would use the information for and whether it would be treated in confidence. Issues were also raised as to how small clubs or individuals could produce some of the information, in particular the detailed maps.
- 3.47** A number of respondents queried the purpose of the question as they believed the majority of the information was already provided by the clubs for which they had membership.
- 3.48** Even amongst those who supported the sharing of information most raised concerns about the usage of the information and the need for confidentiality. There was also strong support for the sharing of the information being voluntary rather than mandatory.
- 3.49** The view put forward by AUKW, which was supported by a large proportion of respondents, considered that the main aspects which should be used to assess the level of wildfowling activity were number and location of visits and that other information was not so relevant for the assessment process.

### **Question 25 – Visit Numbers**

- 3.50** Respondents were asked for their views on the concept of clubs being allocated wildfowling visit numbers over a longer period rather than on an annual basis, an approach which has been trialled with some wildfowling clubs. The approach has meant there is a set level of activity based on historical data for the whole period of the consent, for example 5 or 10 years, so that clubs have flexibility on a year by year basis depending on weather, membership and bird numbers.
- 3.51** Of the 621 responses, 46% opposed the proposal, 31% supported it and 23% were not sure.
- 3.52** BASC strongly opposed any form of restriction associated with visit numbers and this stance was supported by the majority of respondents. Many respondents outlined specific issues they saw with the use of visits numbers;
- Impossible to police and likely to encourage inaccurate data being submitted.
  - No other group of user of the designated site such as dog walkers, anglers or kite surfers are regulated in such a way and therefore, the process is

inconsistent and does not provide information on disturbance from all users. Particular emphasis was placed by the wildfowling community on the increased usage of designated sites which was being encouraged through the England Coast Path programme.

- Wildfowling activity varies hugely from year to year in relation to natural conditions including weather, tides and bird numbers and therefore, any form of control would need to be very flexible.

**3.53** Of those who were opposed to visit numbers a fair proportion suggested that bag limits would be a more effective way of ensuring that wildfowling was always carried out in a sustainable manner. This would concur with guidance provided by the EU Commission on the wise use and conservation of wetlands<sup>2</sup>, which was quoted in the response provided by the AUKW and supported by many of the respondents. The guidance recommends the setting of bag limits as an integral part of the sustainable use of the wildfowl resource, although it should be noted that the quoted guidance is over twenty years old.

**3.54** The setting up of a national bag monitoring scheme was strongly advocated by the RSPB and WWT.

**3.55** The majority of the respondents who supported the concept of visit numbers being allocated over a longer period did not provide additional information as to their reasoning. However, for those that did there was still opposition to the basic premise of visit numbers but an acceptance that if visit numbers were necessary, having them allocated over a longer period of time was preferable to an annual limit.

### **Question 26 – Direct Mortality**

**3.56** Views were requested on Natural England using direct mortality data to make a proportionate response to activity levels across the country.

**3.57** Of the 621 responses, 66% were opposed to the proposal, 21% were unsure and 13% supported it.

**3.58** The main arguments put forward for opposition to the proposal were as follows;

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<sup>2</sup> Wise use and conservation of wetlands. Communication from the Commission to the Council and the European Parliament. COM (95) 189 final, 29 May 1995

- No clear evidence of population impacts due to wildfowling alone.
- The recorded survival percentages already include the direct take from hunting across the flyway as hunting pre-dates any attempts at quantifying these life history characteristics.
- Any direct take issues should be dealt with on a site-by-site basis.

**3.59** Of those who supported the proposal the vast majority saw it as a way of providing evidence to confirm that wildfowling is a sustainable activity and one that does not have an impact on bird populations.

#### **4. Natural England's Response to the Consultation**

**4.1** Natural England is grateful to all those who took the time to respond to the consultation.

**4.2** The consultation responses will now be used, alongside further discussion with respondents, to inform changes to the Natural England guidance for assessing wildfowling consents on designated sites.

**4.3** Some specific points and themes have come out of the consultation and these are summarised below;

- The lack of trust between NE and some wildfowling clubs, a point which is voiced by a large percentage of the responses from the wildfowling community, is noted by NE, as is the majority support for annual liaison meetings and the wildfowling visits programme instigated by BASC as a way of improving the relationship.
- The general support for site management plans is recorded by NE but the various caveats set out by respondents in relation to that support is also noted, particularly in relation to the voluntary nature of the plans, how activities are assessed and the length of the plans.
- The concerns raised by many respondents in relation to way in which wildfowling activities are regulated in comparison to other recreational users of the same designated sites is noted. However, it is important to clarify, as set out earlier in the document at point 1.3, that wildfowling clubs are treated

as landowners or occupiers under SSSI legislation due to either them owning land and/or holding a shooting lease on a designated site. This means that they are required to apply to NE for consent to undertake their activities, this requirement does not apply to third parties such as dog walkers.

- The lack of support for the linking of population abundance figures or bag returns to longer term plans is recorded and consideration will be given to the alternative methods of assessment which have been detailed in the responses.
- The views in relation to the ineffectiveness of visit numbers are particularly noted, as is the suggestion that bag limits may be a more effective mechanism.

## **Annex A – Complete List of Organisations**

Alde & Ore Wildfowlers Association  
Anglian Wildfowlers Association  
Association of UK Wildfowling Clubs  
British Association of Shooting & Conservation  
British Trust for Ornithology (as a Wetland Bird Survey [WeBS] partner organisation)  
Chattenden Syndicate Ltd  
Chichester Wildfowlers' Association  
Clevedon Wildfowling Association  
Colchester Wildfowling and Conservation Club  
Consortium of Severn Estuary Wildfowling Clubs  
Cornwall Wildfowlers Association  
Dengie Hundred Wildfowling Club  
Devon Wildfowling and Conservation Association  
Dorset Wildfowlers Association  
Ely & District Wildfowlers Association  
Essex Joint Council Of wildfowling Clubs  
Grange & District Wildfowlers Association  
Gloucestershire Wildfowlers Association  
Halton Wildfowlers Association  
Heacham and Northwest Norfolk Wildfowler's Association  
Holderness and Humber Wildfowlers Association  
Hull & East Riding Wildfowlers' Association  
Fylde Wildfowlers Association  
Kent Wildfowling & Conservation Association  
Kirk Sandall Wildfowlers & Gun Club  
League against Cruel Sports  
Lancashire Wildfowlers Forum  
Little Oakley and District Wildfowlers Association  
Lytham and District Wildfowlers Association  
Midlands Woodpigeon Club  
National Trust  
Norfolk Wildlife Trust  
North Norfolk Advisory Group to Wash and North Norfolk Marine  
North Worcestershire Rough Shooting and Wildfowling Club.  
Norwich and District Wildfowlers Association  
Preston & District Wildfowlers Association  
Prince Albert Angling Society  
Royal Society for the Protection of Birds  
Skegness Wainfleet & District Wildfowling Club



South Cumberland Wildfowlers Association  
Southport & District Wildfowlers Association  
South Wales Joint Council  
Spalding & District Wildfowlers Association  
Taw & Torridge Wildfowling Club  
Tendring and Halstead Wildfowlers  
The Morecambe Bay Wildfowlers Association for Shooting and Conservation  
Tillingham Wildfowlers Association  
Tollersbury Wildfowlers Association  
Walney Island Wildfowlers Association  
Walton-on-Naze and District Wildfowlers Association  
Wells & District Wildfowlers Club  
Wentloog Wildfowling and Conservation Association  
Westmorland Wildfowlers Association  
West Riding Wildfowlers  
Wildfowl and Wetlands Trust  
Whittlesey Wildfowlers and Conservationists