

## **Supporting Information**

# **Statutory Nature Conservation Advice JNCC/English Nature, 2004**

**NB The text of this document has not been altered only the format has been changed to standardise it with the rest of the Blueprint**

## Statutory Nature Conservation Advice

### Nature Conservation & Aggregate Extraction in the Eastern Channel Region: Statement of Advice

This advice has been formulated by JNCC and EN to address nature conservation issues and marine aggregate extraction in the Eastern Channel Region (ECR) and is provided for the ODPM (1). This advice is to inform cumulative and regional issues that are arising due to substantial aggregate extraction interest in the region and supplements that provided by Defra's framework for minerals dredging in the east English Channel (2). This advice is provided within the context of sustainable development (3).

The statutory conservation agencies need to ensure that all nature conservation advice is consistent both within and between industries and with other parts of UK waters.

To this effect, we wish to comply with:-

- **Obligations to implement the EU Habitats Directive (4) and Birds Directive (5) out to 200nm and the limits of the continental shelf**
- **Commitments under the Convention on Biological Diversity (CBD) in the form of Biodiversity Action Plans (BAPs) and Habitat Action Plans (HAPs)**
- **Future commitments for threatened and/or declining species and habitats under Annex V of the OSPAR Convention**
- **Consideration of other components of nature conservation interest**

### Focus of Advice

From the above obligations and commitments, the following habitats and species are currently relevant to this advice due to their presence (or potential presence) in the ECR:-

- **Reef (stony, bedrock and biogenic reef) as listed at Annex I of the Habitats Directive (6)**
- **Sandbanks slightly covered by seawater at all times- Annex I of the Habitats Directive**
- ***Sabellaria spinulosa* reefs – HAP from the UK Biodiversity Action Plan (and as reef above)**
- **Sublittoral sands and gravels - HAP from the UK Biodiversity Action Plan**
- **Threatened and/or declining habitats and species from the OSPAR Convention Annex V that are likely to be affected by aggregate extraction**

The above list represents our advice on the best available information at the time of issue however it is not meant to be exhaustive and baseline data at the individual application level may identify the presence of other habitats and/or species of conservation interest. BAPs for sharks and rays may need particular scrutiny, depending on the species identified as present. Additionally, we will continually review the status of protected species (7) or nationally rare and scarce species present or using any area of the ECR as sequential baseline data are provided for applications so we may determine their relative importance.

## Conservation Objectives

Under the Review of Marine Nature Conservation (8), Defra are currently considering a regional seas approach (9) to developing conservation objectives, with strategic goal setting. As that process develops, this advice statement may need to be amended to ensure nature conservation advice to the aggregate industry takes full account of this wider conservation strategy.

Conservation objectives and actions of relevance to this statement of advice listed in the *Sabellaria spinulosa* HAP and the Sublittoral sands and gravels HAP are:-

- **Protect the extent of a representative range of sublittoral sand and gravel habitats and communities;**
- **Protect the quality of a representative range of sublittoral sand and gravel habitats and communities;**
- **Ensure that the best examples of sublittoral sand and gravel habitats are protected from the adverse effects of fishing, dredging, aggregate extraction and other activities;**
- **Maintain the extent, distribution and quality of existing *S. spinulosa* reefs;**
- **Exclude important examples of *S. spinulosa* reef from aggregate extraction licence areas. Attach detailed monitoring and research requirements to other licences.**

## General Approach

We wish to ensure that the habitats and species listed above are not significantly impacted by aggregate extraction activities, either directly or indirectly. The conservation objectives and actions above are therefore integrated into this statement of advice, thus providing a framework for the nature conservation advice on individual applications as part of the Government View (GV) procedure (10).

As per Defra's 'Framework', we would also advocate a precautionary approach to nature conservation issues. This is because we feel our knowledge of habitat and species distribution within the ECR is relatively limited. Whilst survey data from individual applications are informing this knowledge, there is still much of the seabed of the region that is not adequately surveyed or mapped. With the uncertainty of what habitats and species are present within these unmapped areas, their potential presence should be taken into account when a GV is determined. Particular caution is needed on the potentially significant impact from cumulative applications in the region. However, cumulative assessments should become more detailed with the availability of more baseline data with the submission of sequential applications. Therefore, less caution would be needed as assessments become more rigorous.

### **Specific Approach to Aggregate Extraction in the ECR**

Applications for aggregate extraction should demonstrate as far as reasonably practical that activities are unlikely to have a significant impact on the species and habitats noted, either individually or in combination (including with non-aggregate activities). The above conservation objectives should also be considered within the GV procedure to ensure they are not compromised by the proposed activities either individually, in combination or cumulatively with other sector activities.

JNCC have committed to produce further guidance to the aggregates industry regarding approaches to nature conservation issues during the EIA process and information that should be contained in the Environmental Statement (ES). In the intervening period, consideration should be given to the following in respect of aggregate extraction activities:-

### **Habitats & Birds Directives**

Ahead of regulation and designation, habitats and species under the Habitats Directive and Birds Directive need to be safeguarded so that the appropriate selection may be made from the full range of sites. To this effect, applicants should demonstrate that their activities are unlikely to have an adverse effect on areas identified as potential Annex I habitat as noted by JNCC's Report 325, 'Natura 2000 in Offshore UK Waters' (or any subsequent data). Details of what information we would consider would fulfil this are discussed on a case-by-case basis. If an impact is thought to be significant, appropriate mitigation should be presented, which is also assessed on a case-by-case basis. However, one method of mitigation that could be used is to ensure that areas licensed for aggregate extraction are not coincident with any Annex I habitats likely to be impacted. Depending on circumstance, other mitigation may be available.

In the ECR, the habitats of concern are stony reef, bedrock reef, biogenic reef and possibly sandbanks slightly covered by seawater at all times. Although at this time, we consider it unlikely, if applications identify the potential for impacts on an area that is highlighted as important for Annex II species or as an important marine area for birds, we would wish to see evidence that impacts are unlikely to be significant.

Where individual applications coincide with, or may impact on, any of the above areas, we would advise the ODPM to undertake a screening exercise to determine the requirement for conducting an Appropriate Assessment for those applications. We would be likely to advise this in our response to the ES and the document should contain the information required by the ODPM to conduct such an exercise.

### ***Sabellaria spinulosa* reef**

To meet government commitments contained in the HAP, important examples of *Sabellaria spinulosa* reef should be excluded from aggregate extraction areas. To this effect, we are also endeavouring to 'maintain the extent, distribution and quality of existing *S. spinulosa* reef'. As biogenic reef under Annex I habitat, *S. spinulosa* reef is also covered by the obligations to the Habitats Directive and therefore subject to the advice in (1) above. As our understanding of the location of reefs is very limited, the precautionary approach is particularly relevant. Potential areas of biogenic reef must therefore be investigated to confirm as far as reasonably practical, their presence or absence. Although we are working on refinement of techniques identifying *S. spinulosa* reef, our current advice is that high resolution side scan sonar should be used to look for highly reflective or anomalous seabed areas which should then be investigated by non-destructive visual techniques.

Advice is given on a case-by-case basis. If the lack of significant impacts is not clearly demonstrated, potential areas of biogenic reef should be excluded from the aggregate extraction area in order to safeguard the Annex I habitat. An appropriate buffer zone should be determined according to evidence from previously monitored sites or other relevant studies for any occurrences of reef in close proximity to mitigate for any indirect effects caused. Where justified, we would recommend monitoring of reef to be included in licence conditions. As this must also be considered on a cumulative basis, we may advise several licences require specific conditions for a single *Sabellaria* reef. Where sufficient evidence is not available, we may recommend certain research in licence conditions with the intention of providing such evidence.

## Sublittoral sands and gravels

To meet HAP objectives, we endeavour to protect a representative range of sublittoral sand and gravel habitats and communities. We may therefore advise selected aggregate extraction take of different sand and gravel habitats in the ECR to ensure that a representative range and good examples are maintained within the UK. We will provide continuing advice as further applications are submitted to ensure there is no decline in the quality of the representative range of subtidal sand and gravels. This will be dealt with on a case-by-case basis.

Those best examples of sand and gravel habitats should not be adversely affected by aggregate dredging, either by individual application proposals or in combination. Should the extent and quality of sand and gravel habitats be identified through monitoring as being significantly impacted, we will likely advise ODPM of the need to review associated licences. We will address such issues through on-going discussions on collective monitoring with the Eastern Channel Association and monitoring conditions for individual applications.

## OSPAR list of Threatened and Declining Species and Habitats

As commitments regarding these species and habitats are yet to be determined, we have reviewed OSPAR documentation on identifying threats to threatened and/or declining species and habitats to determine which are likely to be impacted by aggregate extraction/dredging. We would therefore advise that aggregate activities either individually or cumulatively should not further threaten any of the species listed in the appendix provided. However, this is not meant to exclude assessment of impacts on other habitats/species, at any stage of their life-history, on the threatened and/or declining list that may be identified at the EIA stage.

## Monitoring and Licence Review

Regular and appropriate monitoring for the nature conservation interests should be undertaken collectively for the region by all licence holders. Collaborative monitoring should ensure adequate auditing of the cumulative and wider impacts on the range of nature conservation interests. We recommend annual reporting of collaborative monitoring. Auditing of predicted impacts should also be completed by provision of annual monitoring reports. If such monitoring determines that actual impacts are divergent from those predicted, such that extraction is having a significant impact on features of nature conservation interest, immediate consideration should be given (outwith the suggested 5-year review cycle) to additional mitigation measures to reduce or remove these effects. Modification of licence conditions may be required or in a worst case, suspension of a licence. Depending on the nature and magnitude of the audited impacts, it could be necessary to modify or suspend more than one licence in parallel.

As our knowledge of habitats and species of particular concern progresses, we may advise revision to licence conditions and, as a worst case, revocation in order to ensure that the UK's nature conservation obligations are met.

## Supporting Information

### OSPAR List of Threatened and/or Declining Species and Habitats

#### Species

*Acipenser sturio* (Sturgeon)

*Alosa alosa* (Allis Shad)

*Coregonus lavaretus oxyrinchus* (Houting)

*Petromyzon marinus* (Sea lamprey)

*Salmo salar* (Salmon)

#### Habitats

None

Note: This list refers to those species and habitats occurring in Region II which are under threat and/or in decline (coastal habitats are excluded) in that Region and that may potentially occur in the ECR that are believed could be impacted by dredging.

Region II – the Greater North Sea: the North Sea, the English Channel, the Skagerrak and the Kattegat to the limits of the OSPAR maritime area, bounded on the north by latitude 62°N, on the west by longitude 5°W and the east coast of Great Britain, and on the south by latitude 48°N;

## Supporting References

- 1) Office of the Deputy Prime Minister
- 2) Contained in letter dated 11/2/04 from Defra (John Maslin) to ODPM (Brian Marker), 'Minerals Dredging in the East English Channel'
- 3) EN's position statement on aggregate extraction is available from <http://www.english-nature.org.uk/news/statement.asp?ID=2>
- 4) Council Directive (92/43/EEC) on the Conservation of Natural Habitats and of Wild Fauna and Flora (as amended). Annex I refers to the habitats listed in Annex I of the Habitats Directive whereas Annex II refers to the species listed in Annex II of the Directive for which areas may be identified as cSACs.
- 5) Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds
- 6) See JNCC Report 325, 'Natura 2000 in UK Offshore Waters' for definitions and UK interpretation. Available for download from <http://www.jncc.gov.uk/publications/jncc325/intro325.htm>
- 7) Protected under UK legislation, as per the Wildlife and Countryside Act, 1981
- 8) Defra 2004 Review of Marine Nature Conservation – Working Group report to Government, July 2004. Department of Environment, Food and Rural Affairs, London.
- 9) Vincent MA, Atkins SM, Lumb CM, Golding N, Lieberknecht LM and Webster M 2004 Marine Nature Conservation and Sustainable Development – the Irish Sea Pilot. Report to Defra by the Joint Nature Conservation Committee, Peterborough.
- 10) Government View: New Arrangements for the Licensing of Minerals Dredging, published by DETR1998.
- 11) As per 'Assessment of plans and projects significantly affecting Natura 2000 sites'-European Commission Environment DG, 2001
- 12) Appropriate Assessment is a specific term defined under the EU Habitats and Birds Directives-see footnotes 4 & 5
- 13) OSPAR BDC 03/03/4-E, 'Preliminary material on the implications that would follow from the adoption of the list of species and habitats for programmes and measures'