

# UK reply to Northwest Waters Advisory Council (NWWAC) consultation response

23 May 2017

## Foreword

In January 2017 the UK consulted the NWWAC on proposals for fisheries management measures in 12 MPAs, in line with the provision outlined in Article 11 of the CFP. The UK also attended a meeting of the NWWAC on 28 February 2017 where the proposed measures were presented and discussed. On 30 March 2017 the UK received a response from the Secretariat covering general comments on the proposals as well as some specific comments on several of the proposals for the MPAs in question.

In the spirit of openness and engagement the UK has provided the following response.

## 1. General Comments

The UK would like to reiterate that it was noted at a workshop held in Exeter in May 2016 that no proposals were final and that all may be subject to change. As far as possible the UK has tried to keep the final proposals aligned with the proposals as they were following discussion at the workshop, however certain changes and adaptations have been made as additional information and understanding of the sites has become available.

The UK is also keen to note that all 10 MPAs in the Channel and the Southwest Approaches were discussed with those who attended the Exeter workshop. This is reflected in the summary note of the workshop which was circulated to all attendees and invitees following the workshop.

Concerns were raised with regard to the prohibition of towed gears across a variety of protected habitats despite these habitats potentially having differing levels of resilience to such activity.

Defra has worked with the statutory conservation body JNCC to develop an approach to protection that applies a precautionary principle balanced against principle of proportionality.

Our understanding of the sensitivities of habitats and species to the pressures associated with fishing activity is based on available literature focusing on evidence of gear impacts on MPA features (see [JNCC/NE advice on impacts](#)). Decisions on what management measures are therefore appropriate have taken this into account. For example where there is clear evidence of impacts from demersal gears (e.g. cold-water reef), or from demersal mobile gears (e.g. rocky features), a more precautionary approach has been taken. Where sensitivity is relatively lower, or less well understood, proposed measures take this into account. For instance for sandbank/sedimentary features, proposals are for a restriction on demersal trawls and dredges (with no restriction on demersal seines or static gears) over a proportion of the feature.

Concerns were raised by some of the NWWAC membership that proposals for several sites may not be compliant with Article 6 of the Habitats Directive. It was suggested that the

precautionary principle was not being applied as some fishing activities, such as demersal trawls and dredge activity, which are known to be damaging to certain species were being allowed to continue due to a lack of evidence demonstrating that the integrity of the site would not be affected. A specific concern along these lines was raised about the proposed measures for Bassurelle Sandbank SCI; as such both will be dealt with together.

Where uncertainty exists on the impacts of gears on features (e.g. mobile demersal gears on sandbanks), the UK has chosen to restrict certain gears over a proportion of the feature. The approach advocated by certain members of the advisory council would essentially require all sites to be closed so as to remove all doubt and elements of uncertainty, and could be seen as overly precautionary. The UK understands the integrity of a site to mean the coherence of its ecological structure and function across its whole area that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified. Whilst individual fishing events are likely to result in short-term modification, the risks from fishing activities on the physical characteristics of the habitats or on the levels of populations/species associated with the habitat are likely to be low. Notwithstanding the lower risk, a precautionary closure is proposed for the majority of the sites in question.

Concerns were also raised regarding the implementation of an adaptive management approach given the need for “extensive monitoring and the lack of flexibility in changes to management adopted in the process described in EC1380/2013 Article 11”. The UK recognises the potential difficulties associated with implementing an adaptive management approach given the process referenced, but is keen to note that it is possible to implement emergency measures as appropriate where there is evidence suggesting there is a “serious threat to the conservation of marine biological resources or to the marine ecosystem”<sup>1</sup>.

Some concerns were raised about the VMS data (reference period 2010-2013) that were utilised in the drafting of these proposals. The NWWAC “strongly suggests that the most recent VMS data are utilised to inform the final proposals, and the database behind the proposals should be available to comment on measures”. The UK can confirm that information from 2010-2015 will be included in the final Joint recommendation papers and whilst the most recent data (2014 and 2015) was being processed so could not be included in this consultation, it has been taken into consideration whilst developing management measures.

Industry members of the NWWAC suggested that a full economic and social impact assessment should be carried out for these proposals, taking into account the cumulative impacts (both positive and negative) of all MPAs in the region, as well as the direct and indirect effects of displacement of effort for the region (in particular the displacement of effort to areas currently not frequented by fishing vessels). Through the designation process of Marine Conservation Zones (MCZs) the UK has already taken into account socio-economic factors and has balanced these against environmental factors during the process of developing management measures.

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<sup>1</sup> [Article 12 and Article 13 of the CFP](#)

## 2. Specific management measures

Concerns were raised by certain members of the advisory council over the proposed control and enforcement requirements presented by the UK. The UK is keen to note that at present Member States are working together to develop a common approach to control and enforcement for MPAs in the North Sea and the Northwest Waters. This will create a standardised approach amongst Member States to control and enforcement but for the time being it is understood that the wording of this section of the Joint recommendation papers will remain until a time when an agreement has been reached. Noting this, the UK is however content to provide a response to some of the concerns raised.

Certain members of the advisory council noted that the proposals for increased reporting frequency (i.e. every 10 minutes) differ to the general reporting requirements for fishing restricted areas (i.e. a minimum of every 30 minutes under EC 1224/2009, Article 50). As such some members suggest that the authorities monitor vessels from their control centre by directly polling its VMS, rather than increasing the frequency of VMS transmission.

The UK notes that the control regulation referenced states reporting at a minimum of every 30 minutes; as such increasing the rate of reporting to every 10 minutes is allowed under the regulations. A number of reporting rate options have been considered and as stated above, a standardised approach is to be reached. However, the UK considers a reporting rate of 30 minutes would result in a larger expanse of an increased VMS reporting zone than these proposed.

The suggestion that the authorities should directly poll vessels is not possible. The UK FMC (control centre) can only poll UK vessels and therefore it would require strong collaboration with all member states in order to poll non UK vessels. This could also be perceived as discriminatory if these polling requests to FMCs are not delivered timely and correctly.

Certain members of the advisory council consider that the obligation to lash and stow prohibited gear when passing through an area to be an excessive demand on the crew, particularly in areas with high concentrations of MPAs, such as the Channel, and for multi-purpose vessels (e.g. bottom and midwater trawlers). The UK notes that “lashed and stowed” is the direct wording in the Control Regulations<sup>2</sup> and as such believes this to be an appropriate requirement.

Some members of the advisory council object that the minimum six knots speed requirement when traversing an MPA would in effect act to restrict sites to “small-scale, artisanal, fishing vessels that rarely reach speeds over six knots, which cannot be the aim of the measure. This is also a problem for multi-purpose trawlers, which could end up with an effective ban for all zones including those where they should be allowed to fish with part of their gear.” The UK notes that in the Joint Recommendation papers the regulations classifying 0-6 knots<sup>3</sup> as speeds determined to be fishing activity occurring are cited and referenced. This is direct wording from the Control Regulations.

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<sup>2</sup> [Article 50.4\(a\)](#)

<sup>3</sup> [Article 50.4\(b\)](#)

A proposed meeting with the French administration and fishing industry representatives was unable to go ahead and the UK apologises for this. The UK will aim to work directly with these advisory council members to further discuss their concerns. The UK will shortly be in contact with these members to find a suitable date for these discussions to take place.

### **3. Comments on specific sites**

*To note, the UK has only provided a response to sites where comments for clarification or suggested amendments were received.*

#### Bassurelle Sandbank SCI

Some members of the advisory council consider the prohibition of trawl gears to be “excessive given the limited impact of bottom trawls on sandbanks. In the Natura 2000 approach, measures must be taken according to the sensitivity of the habitat to the pressures exerted”. The UK notes that proposed measures restrict demersal trawls and dredges across approximately 50% of the Annex I feature (a restriction on demersal seining is not proposed as seines lack the heavier components of trawls such as doors and shoes). The UK Government are obliged to ensure that measures proposed are compliant with Article 6 of the Habitats Directive. There is evidence to suggest that mobile bottom contacting gears have the potential to impact sandy habitats resulting in modification of that feature. As such, given the uncertainties a precautionary closure over a proportion of the site is considered both compliant with the Directive and proportionate to the level of risk.

Conversely other members of the advisory council are of the opinion that partial closure does not afford adequate protection to the integrity of the site. This point was dealt with earlier in the reply under *General Comments*. Further to the information provided earlier it should be noted that the high energy environment of the shallow sandbank causes regular disturbance to the fauna present, preventing more sensitive species from being present<sup>4</sup>.

#### The Canyons MCZ

It was suggested the proposed measure would affect static gear fisheries and generate displacement. As such it was put forward by some members of the advisory council that to protect any vulnerable deep water marine ecosystem, fishing should be closed below 800m, but above any gear should be allowed.

The UK would like to be clear that the proposed measures have been designed to protect the designated features (cold water coral reefs and deep sea bed) of the site rather than being based on a depth limit. Much of the cold water coral reef feature within the site (including all known live records, species records and biogenic rubble) is located in areas above 800m and therefore the restriction zone extends to these areas.

#### Offshore Brighton

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<sup>4</sup> [JNCC, 2012](#)

Some members of the advisory raised concerns that the views of active fishermen have not been taken into consideration. The expansion of the zone where bottom trawls are intended to be restricted is currently an area with high concentrations of bottom trawling.

The UK notes that during discussions at the Exeter workshop in May 2016 it was recognised that measures would be subject to change and no measures were final. In this instance changes to the restricted activities within the two proposed zones were deemed necessary in order to provide adequate protection of the features for which the site was designated against potentially harmful activities. Regardless, a large proportion of the site remains open to bottom trawling activity<sup>5</sup>.

#### Offshore Overfalls MCZ

Concerns were raised that a larger area of the site than originally proposed, or discussed at the Exeter workshop, is now suggested being closed to bottom trawling activity. The UK would like to note that at that it has made clear throughout the process that proposals are subject to change as understanding develops. Following advice it was decided a slight increase<sup>6</sup> in the size of the closure would be necessary to provide the features for which the site has been designated the best possible opportunity to meet the conservation objectives.

#### North-west of Jones Bank MCZ

Concerns were put forward that the VMS data (2010 – 2013) included for the site does not consider the emerging fishery that has developed in the area since 2015, and as such this has not been taken into account in the process of developing management measures. The UK responds that there must be a cut-off date for when data can be considered for MPAs and associated management measures. The papers will contain VMS and fisheries data from 2010 to 2015, where received, as noted above in section 1.

#### South Dorset MCZ

It was suggested that this proposal was not discussed during the Exeter workshop. The UK would like to direct the NWWAC membership to the note produced following the workshop which details the discussions which took place on this site.

#### Southwest Deep West MCZ

Concerns were noted by some of the advisory council members regarding the requirement to lash and stow gear. The UK refers to the earlier response on this issue in the section two.

#### Wight-Barfleur Reef SCI

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<sup>5</sup> Current management measures propose restricting demersal seining activity in 40.73% of the site (including areas of rock feature) and restricting trawls and dredges over 53.82% of the site.

<sup>6</sup> The initial measures presented at the workshop proposed managing 28.40% of the site whereas the amended measures currently propose managing 35.51% of the site.

In the advisory council response some members stressed the need to remove the southern boundary of the site from management measures in order to allow the passage of bottom trawlers.

The UK notes that survey data showed evidence of bedrock reef distributed widely across the site, but the methodology used did not allow for the delineation of stony reef from the surrounding coarse sediment. In some areas of the site, where full coverage acoustic data is available it was possible to delineate stony reef. Extrapolating from these areas it is likely that stony reef, or a mosaic of stony reef and coarse sediment, is widespread throughout the site between areas of bedrock reef. As a result, the reef has been defined as potentially occurring anywhere within the site and therefore the entire site is being treated as Annex I feature. Defra's approach to management for Annex I features has been to remove mobile demersal gears from all areas of reef to reduce the risk of not achieving the conservation objectives to the lowest possible level, and therefore consider it is necessary to apply this restriction across the entire site.

#### Pisces Reef Complex SCI

It was suggested there is a need to include a small area of the SCI under management to create a buffer zone around the protected reef feature. Additionally, it was suggested that a full closure of the site would be much easier to enforce.

In response the UK notes that in PR1 and PR3 (the northern and southern most areas of the site), it is arguable that the Annex I bedrock reef feature is "self-protecting" in the sense that there is already a high incentive for the Nephrops fleet to avoid contact with the bedrock to avoid damage to their gears and associated risks to safety of their vessel. This is supported by VMS data which suggests that these areas are already avoided. Whilst this is also true for most of the feature within PR2 (the middle area of the site), the middle portion of PR2 does contain areas which are considered accessible to fishing activity. As such a risk of accidental incursion would remain as vessels would be able to fish closer to the closure boundary. It is not possible to quantify the risk posed by the reduced buffer zone provided by the proposed management in these areas, but increasing this buffer would decrease the risk of accidental incursion by fishing gears.

#### **Conclusions**

The UK thanks the Secretariat for its work coordinating responses from its members and looks forward to continuing to work together in the future.