



Research Information Note

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How the scale of effects on internationally designated nature conservation sites in Britain has been considered in decision making: A review of authoritative decisions

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Introduction

The implementation of a wide range of plans or projects can affect the wildlife or habitats for which sites have been designated for their nature conservation importance. This report concentrates on internationally designated sites. Because of the level of protection afforded by law and policy to these sites, especially by the *Conservation (Natural Habitats &c) Regulations 1994* (here referred to as the Habitats Regulations) it is uncommon for them to be threatened by a project that would have major adverse effects on them. However, small scale effects are more common.

A problem that is frequently encountered is how to judge whether these small scale effects on a site may adversely affect the site's integrity, indeed whether they are even significant in light of the conservation objectives for the site. The issue also arises in the context of the review of outstanding consents, which is required in respect of internationally designated sites under the Habitats Regulations. Decisions need to be made as to the significance of the effects of many ongoing projects and incomplete developments, which alone may have very small effects but which, in combination with other projects could have significant effects.

Whilst there is some guidance available, there has been no definitive explanation as to the scale of effect that should be regarded as significant, or how large scale an effect needs to be before it may be regarded as potentially adversely affecting the integrity of a site. In order to assist in future case work, English Nature commissioned this research report to conduct a review of previous legal judgments and Inspectors' decisions and reports in cases where the spatial scale of impacts was material to the conclusions reached.

What was done

The researchers compiled a list of potentially relevant cases drawn from their own library of decisions, their empirical knowledge of case work and suggestions from officers in the Countryside Council for Wales (CCW), English Nature and Scottish Natural Heritage (SNH).

Each decision was examined and a summary prepared to standardise the information collated about each case. This included a description of the development and its location; the date of decision and decision maker; the area of the designated site, its habitats and sensitivities to the proposed change; the loss of habitat from the site and other relevant effects on the designated interest features; the decision and reasoning for it; whether there was considered to be a likely significant effect on the site,

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an adverse effect on the integrity of the site and, where relevant, whether there were considered to be alternative solutions or imperative reasons of overriding public interest; and, finally, whether any compensatory measures were proposed. Quotations were drawn from the decision letters and Inspectors' reports and points for discussion noted.

After consideration of each case a working table summarising the findings was generated and discussed before this report was drafted. Table 1 in the report is a modified version of that Table omitting some cases that were researched but not reported, as they did not contribute to the purpose of the study. It should be noted that the report only includes the cases where the loss of small areas of habitat in the designated sites were considered to be relevant to the decision. Cases involving only larger scale losses or indirect effects such as disturbance have not been included.

Results and conclusions

After a preliminary analysis of many cases, the study looked at thirteen cases in detail. These are summarised in Table 1 in the Summary of the report and assessed in more detail on an individual basis in Section 3.

The overall conclusion is that each case should continue to be determined on its merits, as it is rare for the Secretary of State or an Inspector to have to determine a simple case of a single, permanent land take from a site. However, it is equally clear that Secretaries of State have held that very small scale losses or changes in habitat are likely to be a significant effect. Indeed they have concluded that very small scale losses, substantially less than 1%, would be an adverse effect on integrity; or at least they could not ascertain there would be no adverse effect on integrity.

Guidelines to help decision-making in future casework are presented.

English Nature's viewpoint

So far as English Nature (EN) is concerned this report appears to have been based on relevant examples and reaches conclusions that are in line with EN's current thinking.

Further information

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