



**Dungeness, Romney Marsh and Rye Bay
Consultation**

Review of Consultation Documents

for

Shepway District Council

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Executive Summary

Natural England have proposed extensions to the area covered by the existing Dungeness to Pett Level Special Protection Area (SPA), designated in response to the European Birds Directive 2009/147/EC. They are also seeking formal designation of the proposed Dungeness, Romney Marsh and Rye Bay Ramsar site under the Ramsar Convention. Natural England propose a new name for these designated areas to account for the changes – Dungeness, Romney Marsh and Rye Bay SPA and Ramsar sites.

As part of the public consultation stage, Shepway District Council (Shepway D.C.) has been consulted on the proposals. The majority of the proposed SPA/Ramsar site falls within Shepway Council's area of responsibility.

Jacobs has been commissioned by Shepway D.C. to review the documents supporting Natural England's proposals, including the Departmental Brief, which explains the scientific evidence justifying the need for the proposed extension, and the Impact Assessment of socio-economic implications.

Departmental Brief

It is recognised that many species, especially birds, are highly mobile, and it is often very difficult to fully ascertain usage of any particular site and discount the importance of others. The figures provided by Natural England in the Departmental Brief are presumably based on the best information available and it must be accepted that some anomalies may be found in the detail.

Taken as whole, the proposed SPA and Ramsar sites appear to qualify for designation. However, there remains an onus on Natural England to provide a more scientifically rigorous case for some of the proposed extensions/ inclusions. The key weakness of the document is that some of the proposed SPA extensions and some of the (currently internationally-undesigned) areas of proposed Ramsar designation are not fully supported by data that justifies *specifically* their addition to the whole designation, based on Natural England's own criteria. These areas include the following:

- Areas that require further evidence for both SPA extension and Ramsar inclusion:
 - *Rye Bay extensions* – species data for these various extensions are not provided separately.
 - *Lydd Watersports* – no % contribution provided for water birds under Stage 1(3), and Ramsar species data for these various extensions are not provided separately.
 - *Long Pit* – does not exceed the 5% contribution threshold for birds, and Ramsar species data for these various extensions are not provided separately.
- Areas that require further evidence for SPA extension only:
 - *Dungeness RSPB* – Data provided is not able to confirm 5% contribution.
 - *Lydd Ranges* – Data provided is not able to confirm 5% contribution.
- Areas that require further evidence for Ramsar inclusion only:

- *Royal Military Canal* - Ramsar species data not provided separately for this area.
- *Broomhill Levels* - Ramsar species data not provided separately for this area.

In summary, while the qualification of the proposed sites taken as a whole is accepted, there is current doubt over the strength of evidence presented to demonstrate that *all* of the additional areas of proposed designation qualify for inclusion. A more robust and specific justification for each of these areas, based on location-specific evidence, would be welcome.

In addition, it appears that this revision of the designated sites pre-empts the findings of the current (2009-10) SPA and Ramsar review being undertaken by the UK SPA and Ramsar Scientific Working Group (SPAR SWG). In the national Review's terms of reference, the first stage involves the consideration and development of further guidance to assist with applying the UK SPA Selection Guidelines (JNCC 1999). It also aims to consider the adequacy of the existing SPA network for certain species using insights provided by the SPAR SWG's Site Provision Index (when finalised). This work has not been reported yet. If the current proposals for the Dungeness, Romney Marsh and Rye Bay SPA/Ramsar are not informed by the results of the national SPAR SWG Review, then the proposals might be considered premature.

Impact Assessment

Overall, the Impact Assessment would appear to be deficient in a number of key respects.

Firstly, it potentially overstates the risks of maintaining the current designations (the 'do-nothing' option) by not providing evidence of recent or impending habitat degradation under the current regime, and by not providing detailed evidence for the risk of EU infraction proceedings for not extending the current SPA.

Secondly, the Impact Assessment does not take full account of the costs/impacts to the local and regional economy, with associated social impacts. The guidance used for this Impact Assessment (Department for Business Innovation & Skills 2010) requires a proportionate approach, but as a minimum it requires a description of who will be affected and a *full* description of the costs and benefits. Ideally for a proposal of this scale, the effects should also be quantified. This quantification has only been attempted, and in an apparently flawed way, for the additional administration costs for competent authorities. Thus, the potential impacts on the wider economy are mentioned but not given adequate analysis or description.

Therefore, the full impact on public services, business and employment in the region has not been given adequate treatment in the Impact Assessment and further work would be valuable to inform the process.

1 Introduction

1.1 Background

Natural England have proposed extensions to the area covered by the existing Dungeness to Pett Level Special Protection Area (SPA), designated in response to the European Birds Directive 2009/147/EC. They are also seeking formal designation of the proposed Dungeness, Romney Marsh and Rye Bay Ramsar site under the Ramsar Convention. Natural England proposes a new name for these designated areas to account for the changes – Dungeness, Romney Marsh and Rye Bay SPA and Ramsar sites.

Formal designation of these areas involves several stages. Once the areas for designation have been selected, the first stage is presenting the scientific evidence to DEFRA for approval. The second stage is a public consultation to allow everyone who might be affected by the designation, or who has relevant scientific information, an opportunity to comment. This includes land owners and occupiers, local planning authorities, other agencies and interested organisations. Natural England will collate these responses and report to the Secretary of State for a decision on whether to proceed with the designation.

As part of the public consultation stage, Shepway District Council (Shepway D.C.) has been consulted on the proposals. The majority of the proposed SPA/Ramsar site falls within Shepway Council's area of responsibility.

Jacobs has been commissioned by Shepway District Council to review the documents supporting Natural England's proposals, including the Departmental Brief, which explains the scientific evidence justifying the need for the proposed extension, and the Impact Assessment on socio-economic implications.

1.2 Objectives

The primary objectives of this review are to:

- *Assess the scientific evidence and conclusions presented by Natural England in support of the SPA extension and proposed designation of a Ramsar site in relation to the guidance on SPA site selection criteria and qualifying features for Ramsar sites ; and*
- *Assess the conclusions and supporting evidence of the Impact Assessment provided for information by Natural England.*

1.3 Limitations

It is important to note that the review reported here is not intended to make a judgement on the inherent merits of the land in question for furthering the conservation of habitats or species. It is assumed that all areas subject to Natural England's proposals are worthy sites for biodiversity conservation, as reflected in their designation as Sites of Special Scientific Interest (SSSI). Nor does this review attempt an independent analysis of the raw data to form its own conclusion on the merits of SPA extension and Ramsar designation. Rather, what is reported here is purely an independent critique of the two key consultation documents provided by

Natural England, to assess whether the information and arguments put forward withstand scrutiny.

This review therefore focuses on the documents' inherent logic, evidence-base, consistency, accuracy and adherence to published guidance.

With the time available to meet the consultation deadline (13th December 2010) it has not been possible to discuss the review findings with Natural England. Therefore Natural England have not yet had opportunity to examine any reported shortcomings, but have expressed a clear desire to do so. It is hoped that this document will provide a useful basis for ongoing discussion with Natural England.

It should be noted that the majority of the proposed SPA extensions listed in Section 2 of the Departmental Brief fall within Shepway District Council. The main exceptions are those proposed extensions in the Rye Bay area that includes Pett Level and Camber Sands. Whilst these latter sites fall outside of the District and indeed the county, they are incorporated in this review as they form part of the same proposed designations.

The findings of this report represent the professional opinion of qualified ecologists but do not constitute professional legal advice. The client may wish to seek professional legal interpretation of the relevant wildlife legislation cited in this document.

2 Review of scientific evidence: Departmental Brief, Natural England, May 2010

2.1 An overview of SPA legislation and selection criteria

SPAs are designated under the EC Directive on the Conservation of Wild Birds (79/409/EEC as amended), known as the 'Birds Directive'. The Birds Directive requires member States to identify areas to be given special protection for the rare or vulnerable species listed in Annex I (Article 4.1) and for regularly occurring migratory species (Article 4.2) and for the protection of wetlands, especially wetlands of international importance.

No formal criteria for selecting SPAs can be found in the Birds Directive itself, so JNCC have provided a guidance document that is used in the UK for that purpose (<http://www.jncc.gov.uk/page-1405>). The selection criteria are as follows:

STAGE 1:

- *1. If the area is used regularly by 1% or more of the Great Britain population of a species listed in Annex 1 of the Directive.*
- *2. If the area is used regularly by 1% or more of the biogeographical population of a regularly occurring migratory species (other than those listed in Annex 1) in any season.*
- *3. If the area is used regularly by over 20,000 waterfowl or 20,000 seabirds in any season.*
- *4. An area which meets the requirements of one or more of the Stage 2 guidelines in any season, where the application of Stage 1 guidelines 1, 2 or 3 for a species does not identify an adequate suite of most suitable sites for the conservation of that species.*

STAGE 2:

- *1. Population size and density
Areas holding or supporting more birds than others and/or holding or supporting birds at higher concentrations are favoured for selection.*
- *2. Species range
Areas selected for a given species provide as wide a geographic coverage across the species' range as possible.*
- *3. Breeding success
Areas of higher breeding success than others are favoured for selection.*
- *4. History of occupancy
Areas known to have a longer history of occupation or use by the relevant species are favoured for selection.*
- *5. Multi-species areas
Areas holding or supporting the larger number of qualifying species under Article 4 of the Directive are favoured for selection.*
- *6. Naturalness
Areas comprising natural or semi-natural habitats are favoured for selection over those which do not.*
- *7. Severe weather refuges
Areas used at least once a decade by significant proportions of the biogeographical population of a species in periods of severe weather in any season, and which are vital to the survival of a viable population, are favoured for selection.*

All SPAs are also designated as Sites of Special Scientific Interest (SSSI).

The guidance document also states that the selection of SPAs in the UK has to have 'regard' to the conservation measures being taken for each species by other European Union Member States. It is not clear what this means and by what mechanism it is achieved.

In the mid-1990s, the JNCC and country agencies were requested by government to review the SPA network in the UK. This review process culminated with the publication of what is commonly known as the SPA Review (Stroud et al. 2001; The UK SPA network: its scope and content, JNCC).

As a result of the review the legal documents for many classified SPAs in the UK network now require amending to incorporate changes to qualifying species; this process will take some time to complete.

As a result of the SPA review, the SPA & Ramsar (Avian) Scientific Working Group (SPAR SWG) was established by Defra in November 2001 to provide scientific advice on matters relating to the UK Special Protection Area network. Matters relating to avian elements of the Ramsar network were added to the Group's remit in January 2004.

One of the current functions of the SPAR SWG considers whether new SPAs should be considered in the light of recommendations from the first phase of the review, and if so, their location and extent; similarly, whether existing SPAs should be extended either in spatial extent or through the addition of further qualifying species. It is expected that this process will be completed by 2012.

An interesting on-going debate in this working group relates to the sufficiency of the existing SPA network to protecting birds using cropped habitats. Information has been gathered on the ecological dependency of a range of species, including several that are relevant to the Dungeness, Romney Marsh and Rye Bay SPA (qualifying species - Bewick's swan, European white-fronted goose, breeding marsh harrier, hen harrier, non-qualifying species whooper swan, wigeon, mallard, teal, oystercatcher, curlew, black-headed gull, common gull, short eared owl). It is not clear from the web pages whether cropped habitats are currently excluded from current SPAs and a decision has not been published yet. The group concluded that future designation is likely to be on an individual species' needs basis.

It is not clear from the Departmental Brief how far the current SPA and Ramsar review by the SPAR SWG has informed or driven the current proposals for this site. In the Review's terms of reference, the first stage involves the consideration and development of further guidance to assist with applying the UK SPA Selection Guidelines (JNCC 1999). It also aims to consider the adequacy of the existing SPA network for certain species using insights provided by the SPAR SWG's Site Provision Index (when finalised). This work has not been reported yet. If the current proposals for the Dungeness, Romney Marsh and Rye Bay SPA/Ramsar are not informed by the results of the national SPAR SWG Review, then the proposals may be considered premature.

2.2 Review of introductory sections

There is no question that the Dungeness, Romney Marsh and Rye Bay area, taken as a whole, supports bird populations worthy of protection under the SPA network. The area’s unique wetland habitats are also clearly internationally important for nature conservation and are worthy of designation as a Ramsar site. This has been recognised for some considerable time.

The Departmental Brief successfully presents the features that qualify the site as a whole for both international conservation designations. This is provided as an overview in the summary section at the beginning of the report.

Chapter 1 gives a brief history of the designation of the site; The SPA was first proposed in 1993 and finally designated in 1999. It explains that the current proposed extensions to the SPA are submitted as a result of a *revision of the qualifying interests across the site*. For ease of interpretation, the differences in qualifying interests are listed in Table 2-A below:

Table 2-A: Comparison of qualifying interests in 1999 and 2010

1999 Qualifying Interests	2010 Qualifying Interests
Breeding Mediterranean gull (ANNEX 1)	As at the time of classification
Breeding common tern (ANNEX 1)	Breeding Mediterranean gull (ANNEX 1)
Breeding little tern (ANNEX 1)	Breeding common tern (ANNEX 1)
Wintering Bewick’s swan (ANNEX 1)	Breeding little tern (ANNEX 1)
Wintering/passage shoveler (regularly migrating biogeographic population)	Wintering Bewick’s swan (ANNEX 1)
	Wintering shoveler (regularly migrating biogeographic population)
	Additional qualifying interests
	Breeding marsh harrier (ANNEX 1)
	Breeding avocet (ANNEX 1)
	Breeding Sandwich tern (ANNEX 1)
	Wintering bittern (ANNEX 1)
	Wintering hen harrier (ANNEX 1)
	Wintering golden plover (ANNEX 1)
	Wintering ruff (ANNEX 1)
	Passage aquatic warbler (ANNEX 1)
	Over 20,000 regularly occurring in the non-breeding season.

However, this section is lacking in detail on the most recent revision and why significant changes to the qualifying interests have come about at this time. No reference is given in this section to the SPA review, the SPAR Scientific Working Group (SPAR SWG) or changes to the qualifying species (see above section in this report). It is unclear from the Departmental Brief whether these additional qualifying criteria are as a result of changing bird assemblages or changes to the Annex 1 list of species or the SPAR SWG’s findings. We can find no evidence of changes in the Annex 1 list on the internet sources which implies that the bird assemblages (or recording) at Dungeness, Romney Marsh and Rye Bay have improved since 1999. It would have been useful for the Departmental Brief to include this information to support the case for adding these qualifying interests.

Within the same introductory section on page 6, the overall case is summarised: that is that the whole SPA, including the proposed extensions, now qualifies by supporting the original qualifying features, plus additional features (see Table 2-A above). What is not mentioned is which of these qualifying features of the SPA would exist without the proposed extensions. It does not provide any breakdown of the importance of the additional areas proposed to the SPA and their contribution to these qualifying features, and this is a critical part of the arguments for the proposed extension to the SPA. As will be repeatedly noted below this omission is significant, given the stated need for extension, and pervades much of the Departmental Brief's analysis.

Section 1.1, 1.2 and 1.3 of the Brief give good detailed descriptions of the new boundaries of the SPA including the proposed extensions and proposed Ramsar site.

Chapter 2 gives a detailed description of the habitats present in the proposed designated sites, including a useful indication of the plant and animal communities, current management responsibilities and land ownership. The habitats in each of the SPA extensions are described separately in sub-sections 2.1-2.10.

2.3 Review of assessment of ornithological interest

The ornithological interest of the site is broken down into two main sections. The first (Chapter 3) gives a species by species account, starting logically with the current status of all the Annex 1 species present (Stage 1(1)), followed by species that fall into the regularly occurring migratory species (Stage 1(2)) and wintering water bird assemblages (Stage 1(3)). This is followed in chapter 4 by a description of the birds using each SPA extension in turn (reviewed in next section, this report).

As above, the descriptions only give figures for the proposed SPA site including extensions. The breakdown of this information is available for scrutiny in Table 9 of the Brief to some extent, based on the WeBS counts core areas. In some cases it is possible to assign counts solely to SPA extension areas, e.g. Cheyne Court, Fairfield, which are discrete areas of SPA extension. In other cases, it is not possible to separate the contribution of SPA extensions to the WeBS core counts because the extensions are small additions to existing designated SPA, e.g. Rye Bay, Pett Level and Panel Valley.

The text in Section 3 covering the qualifying species gives a qualitative indication of the main locations where they occur. It is apparent from an analysis of these descriptions that:

- *Four of these are mainly found in the existing SPA (Mediterranean gull, Sandwich tern, common tern and little tern, although they do use areas offshore that will not be protected under the proposed SPA extension);*
- *Two are mainly found in the proposed extensions to the SPA (Bewick's swan and golden plover); and*
- *It is not possible to determine from the text the relative importance of existing SPA versus proposed extensions for the remaining species, but the largest numbers may occur mainly in the existing SPA (e.g. avocet, bittern, aquatic warbler, ruff).*

For more detail on this and exceptions, see Table 2-B below.

Table 2-B Occurrence of qualifying bird species in different areas of the proposed SPA

Qualifying Species	Principle area (s) stated where they occur	Existing SPA or proposed extension or both ?
Marsh Harrier (breeding)	No site specific information provided. Qualification based on data from various data sources	This is not made clear; in reality they are likely to be both within and outside the SPA including extensions.
Avocet	Rye Bay, Dungeness RSPB reserve and Lydd Ranges	No figures given to determine relative importance of each. Rye Bay and Dungeness RSPB are within existing SPA, Lydd Ranges is proposed extension.
Mediterranean gull	Rye Harbour LNR	All within existing SPA.
Sandwich tern	Rye Harbour LNR	Nesting within existing SPA but foraging offshore, beyond proposed SPA boundary.
Common tern	Pett Level, Rye Harbour	Nesting within existing SPA but foraging offshore, beyond proposed SPA boundary.
Little tern	Rye Harbour LNR but numbers have declined since 1999.	Nesting within existing SPA but foraging offshore, beyond proposed SPA boundary.
Bewick's swan	Roost at Cheyne Court, but disperse widely across surrounding agricultural fields	Roost site is all proposed SPA extension, some arable fields beyond are designated SSSI but not included –see text in this report Section 2.1 regarding 'cropped lands'.
Bittern	Rye Harbour LNR, Dungeness RSPB reserve	Both existing SPA but species also regularly reported at Pett Level, Cheyne Court and occasionally elsewhere.
Hen harrier	Locations not published to maintain confidentiality.	Not known
Golden plover	'Widely distributed amongst grazing marshes... concentrations at Cheyne Court, Scotney Court, East Guildeford Levels'	All sites quoted are proposed SPA extension
Ruff	Dungeness RSPB reserve, Cheyne Court, Rye Harbour LNR, Pett Level	Mixture of both existing SPA and proposed SPA extension. Not possible to distinguish relative importance of each.
Aquatic warbler	Pett Level, likely to go undetected elsewhere in suitable habitat	Mixture of both existing SPA and proposed SPA extension. Not possible to distinguish relative importance of each. May also be found outside designated areas in region.

Shoveler	Widely distributed throughout SPA with concentrations at Dungeness RSPB reserve, Cheyne Court, Rye Bay	Mixture of both existing SPA and proposed SPA extension. Not possible to distinguish relative importance of each. May also be found outside designated areas in region.
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One shortcoming of this chapter is the lack of information regarding population trends for the various species. Apart from a mention of a decline in the numbers of little terns, there is no indication of whether the qualifying species' populations have increased, thereby explaining the proposed changes to the SPA qualifying features.

Section 3.5 gives information on the bird species that make up the Stage 1(3) qualification. It provides % GB wintering population estimates that the Dungeness, Romney Marsh and Rye Bay proposed SPA as a whole holds, which is useful for putting the site into national context. Given that the qualifying feature for these species relates to the total number of water-birds present it is not clear how relevant these figures are to the qualifying features. It would be more useful to have an estimate of the proportion each species contributes to the total count for the site, which would help in determining the importance of each proposed extension dealt with in Chapter 4.

Section 3.6 lists breeding bittern and kingfisher as Annex 1 species present in numbers of less than 1% importance for the proposed SPA including extensions. The following species are also known to occur in the existing SPA and have been omitted despite fitting the same category:

Great white egret; purple heron; whooper swan; smew; merlin; peregrine; bar-tailed godwit; short-eared owl.

2.4 Review of qualifying bird species' use of proposed extensions

The information provided in this chapter is central to the justification of each extension to the SPA. The first paragraph describes the criteria for selecting the proposed SPA extension areas. This is based on the corresponding WeBS count sectors and introduces a threshold for inclusion of a particular area: a site qualifies for inclusion if it is 'regularly used' by at least 5% of the total SPA/Ramsar site population of a particular species.

It is acknowledged in the text that this threshold is arbitrary but consistent with assessments of the importance of extensions to other SPAs in England. No references are given to support this statement or the use of this threshold, and it is not clear from the text whether it has been applied across the whole SPA selection criteria Stages 1(1)-1(3). Importantly the 5% threshold is applied here to *each species*, even though many of the species highlighted are those that do not qualify on their own, but only form part of the qualifying *assemblage* of species under JNCC criteria Stage 1(3) (i.e. over 20,000 waterbirds). Therefore, the species noted (for each SPA extension) as exceeding a 5% contribution threshold would not necessarily exceed 5% of the overall 20,000 non-breeding waterbird criterion under Stage 1(3) of the JNCC guidance.

It is important to note at this point that the WeBS counts core areas do not necessarily match the geographical extent of the SPA extension areas listed in Chapter 4 of the Departmental Brief. Table 2-C provides a breakdown of the mismatch between the core areas, taken from the BTO WeBS website (<http://blx1.bto.org/websonline/public/public-area-site-list.jsp?area=24>). As a result, there is likely to be a significant margin of error when scrutinising the contributions made by SPA extensions and no allowance has been made for this in the Departmental Brief.

Table 2-C Use of proposed SPA extensions by qualifying birds

Sector	Current SSSI/SAC designations	WeBS core count boundaries	Comments on bird species present and justification for inclusion
Lade Sands	All SAC and SSSI	Core Sector 22403 covers smaller area than SPA extension, omits foreshore north of Greatstone.	The Entire Lade Sands sector is proposed SPA extension. This is justified on the basis that the area holds 8% of the SPA site assemblage of wintering birds, consisting of 88% great crested grebe and 70% of the sanderling (Sect 4.1 and Table 9 of the Brief) for the SPA taken as a whole unit. These species, neither of which qualify under Stage 1(1), or 1(2), are included because they contribute >5% of the total site assemblage for those species. Since the WeBS core sector covers a smaller area than the proposed extension and contiguous habitats along the foreshore, these figures are likely to be an underestimate, so it seems to be reasonable to include Lade Sands.
Lade Pit	Margin of pit SAC, all SSSI	Core Sector 22793 matches extent of SPA including extension	The original SPA covers half of Lade Pit and the proposed extension means that the whole site will be designated. This seems to be logical to the designation boundary with the coverage of the core counts data from which it is derived. The >1,300 waterbirds here would exceed an overall 5% of the 20,000 waterbird criteria under sage 1(3). The 14% contribution to the shoveler totals for the proposed SPA is also significant under stage 1(2).
Long Pit	All SSSI, not SAC	Core Sector 22795 covers extent of SPA extension plus shingle to Power Station access road.	This site does not exceed the stated 5% threshold for its contribution to qualifying interests, yet it is still included in the SPA extension. This is apparently justified because it forms a small component of the larger numbers using Dungeness gravel pits complex (already designated), and the regular use by bitterns. Nevertheless, it does not meet the criteria set out at the beginning of the chapter and its inclusion is therefore questionable.
Dungeness RSPB	All SSSI and most SAC. The SSSI extends much further west to the Denge Marsh Sewer. The SPA extension much smaller in extent.	Core Sector 22791 covers much larger area than SPA including extensions, also larger than SSSI and SPA as extends beyond Dengemarsh Sewer to Lydd.	The majority of this site is already designated SPA. Proposed extensions consist of a small area added to include pools and reed-beds in the grazing marsh to the north and west of the RSPB reserve, but this still does not cover the full extent of SSSI and SAC. Since the WeBS core area covers this extent and Denge Marsh further west, there appears to be no scientific justification for this. It is not clear why the current proposal does not cover full the extent of WeBS core area. There is no justification based on % bird numbers provided for the proposed extensions, so their contribution to the SPA cannot be tested or confirmed.
Lydd Watersports (Brett's Pits)	All SSSI, not SAC.	Core Sector 22794 covers extent of SPA extension plus large area of arable land across road to north and west.	There is a significant mismatch between WeBS Core count area and SPA extension although the proposed SPA boundary makes ecological sense. However, lapwing (2% of SPA), possibly Bewick's swan (4%) and possibly ruff (6%) may use arable land to the north and are still included in the WeBS core count for this location (see table 9 in the Brief). Logically the SPA could therefore include this arable land if ruff use it, as they exceed the 5% threshold. Justification for inclusion of the pits themselves largely based on cormorants (8% of SPA) seems tenuous but fits the 5% threshold for that species: No

			figure is given for the total for all species and therefore it is not possible to determine the % contribution to the total number of water birds under Stage 1(3).
Scotney Court	SSSI covers SPA plus an extensive area of arable land to the N and W. None is SAC.	Core Sector 22798 map is unavailable. However core sectors 22792 and 22796 cover most of the SPA extension but excluding gravel workings between Scotney Court and Derings Fm. 22792 also covers an extensive area of arable land to N and W roughly matching SSSI.	The justification for inclusion of this area in the SPA is strong – It holds 13% of the non-breeding water bird assemblage. European white-fronted goose (40% of SPA) regularly occurs here, plus shoveler (12% SPA) and Golden Plover ANNEX 1 sp. (15% SPA). However, the SPA covers a smaller area than the available WeBS core count and White-fronted goose and golden plover may regularly use arable land to the north. It is unclear why these two species were not mentioned and the arable land was excluded.
Lydd Ranges	All SSSI and SAC.	No WeBS data exist for this site due to a lack of public access. The proposal is based on MOD counts which may not be consistent with WeBS counts.	All of Lydd Ranges is proposed SPA extension. Unfortunately the bird counts are not presented in table 9. The text (Section 4.7) cites the presence of breeding Avocet (an Annex 1 species) as a qualifying interest, but no figures are given to confirm the site's % contribution. This may be because the wetland bird counts are not consistent with WeBS counts. Common scoters, velvet scoters and great crested grebe records are for coastal waters (O. Leysdon – no date provided) – it is not clear if these are within the SPA boundary and whether the numbers are regular or a one-off event.
Rye Bay	See below	Core Sector 21420 covers Rye Harbour LNR, Pett Level, Pannel Valley and Carter's Farm SPA areas including extension. Also covers River Rother to Scot's Float, halfway up Union Channel to Brooks Bridge, Camber Sands, Rye Golf Course (excluded from SPA) and part of Guldeford Levels (not clear if this matches SPA boundary). It does not cover Camber to Broomhill Foreshore, or Playden at the top of the Union Channel.	This complex area is split into sub-sections for descriptions. However, total counts and % SPA figures are given for the Rye Bay as a collective whole, including original SPA and proposed extensions to SPA together, which makes justification of each extension difficult to decipher. This lumping together relates to the WeBS count data, although it is possible that separate data exists for Pannel Valley and Pett Level, which are listed as Core Sectors 21363 and 21361. (See individual areas below)
Rye Bay (Camber to Broomhill foreshore)	All SSSI, not SAC	Not included in WeBS core sector 21420 or any other WeBS count.	Inclusion in the SPA extension is justified on the basis that, together with Camber Sands, it provides feeding grounds at low tide for the same birds that are recorded in the WeBS core areas at roost sites in Rye Harbour LNR and Lydd Ranges at high tide. This seems a logical argument to protect both separate areas for roosting and feeding used by the same birds, although it is not strictly known if this area exceeds the 5% threshold.
Rye Bay (North Point and Camber Pits)	All SSSI, not SAC	All included in the WeBS core sector 21420	No figures are given separately for this sector as it is all 'lumped' under the Rye Bay WeBS core sector. Therefore it cannot be determined if this area exceeds the 5% threshold as a stand-alone extension. No Annex 1 species are listed for this site.
Rye Bay (East Guldeford)	Part of much more extensive SSSI to N and	Western part of SSSI is included in sector 21420 but designated areas to N and E are not subject	The proposed SPA boundary probably reflects available data from the WeBS core area coverage. This area provides roosting and feeding habitat for golden plover (Annex 1 species), lapwing and curlew. As above, figures are not given separately so one cannot

Levels)	E, not SAC.	to regular counts.	determine if the area exceeds the 5% threshold. Areas of similar habitat designated as SSSI to the N and E may be equally important, but this is not known to date due to a lack of WeBS coverage. Whilst accurate data is not available for these areas, it appears to support a large proportion of golden plover (Stage 1(1)) and sufficient numbers of wetland birds (Stage 1(3)) to qualify for protection under the SPA. It is recommended that the boundary location for this site is re-considered, which could be extended to cover all of the SSSI on the basis that the qualifying interests may be dispersed over it. Further surveys would probably be required to back up such a claim.
Rye Bay (River Rother and Union Channel)	SPA extension follows SSSI boundary, but not SAC.	Included in the WeBS core sector 21420. Union Channel upstream Brooks Bridge and area of SPA extension marked on map as Playden is excluded from WeBS counts.	As above, figures are not given separately so it cannot be determined if the area exceeds the 5% threshold. It is also unclear why Playden has been included in the proposed SPA extension - the WeBS core sector does not include this area so it cannot contribute towards the total count.
Rye Bay (Rye Harbour LNR)	All matches SSSI. Grazing marsh around Camber Castle and coastal shingle are SAC.	This entire site including existing SPA and small extensions is included in WeBS core sector 21420.	Most of this area is existing SPA. Small extensions of shingle beach and grazing marsh mentioned in text are not apparent on maps although extensions along the tidal River Rother are visible. As above, figures are not given separately for each area so it cannot be determined if the proposed extensions exceed the 5% threshold. Given the extent of these, it seems unlikely.
Rye Bay (Pett Level and Pannel Valley)	All matches SSSI, including extensions. None is SAC.	All of SPA and extensions are included in WeBS core sector 21420.	Proposed extensions are small additions to existing SPA and WeBS counts cannot be separated for each area. As above figures are not given separately so cannot determine if the area exceeds the 5% threshold for the small extensions. The text on this section describes bird activity on Pett Level and Pannel Valley as one unit and does not specifically justify each extension to the existing SPA. The aquatic warbler, cited as one of the additional qualifying interests, was found in Pett Level and this provides some justification for the designation. Again it is not clear whether these birds were found on the existing site or proposed extensions. However, it seems common sense to include all areas of suitable habitat to 'tidy up' the SPA boundaries.
Rye Bay (Winchelsea Beach to Cliff End foreshore)	Pett Level SSSI terminates in line with western end of Pett Level. Proposed SPA extension extends beyond this into the Fairlight to Cliff End SSSI. None is SAC.	WeBS core sector 21420 appears to terminate in accordance with the SSSI and does not include the section covered by the Fairlight to Cliff End SSSI.	As above figures are not given separately so it cannot be determined if the area exceeds the 5% threshold for the SPA extensions. However, the text describes the foreshore outside the SSSI to support feeding and roost sites for a range of species including Golden Plover (Annex 1 species). As for Camber to Broomhill, it seems logical to include foraging and roosting habitats used by the same birds that are likely to use the existing SPA site.
Cheyne Court	SSSI extends beyond SPA extension into	WeBS core sector 22381 covers all SPA extension and includes arable land to south and east.	Inclusion of this entire area as new designated SPA is clearly justified by the large numbers of birds using the site. It clearly exceeds the 5% threshold (for 11 species) including four Annex 1 species. It is interesting to note that the proposed extension does

	arable land to west outside recently recreated grazing marsh habitat. None is SAC.	This does not match SSSI boundary.	not match the extent of the SSSI and the WeBS core area on which it is based and appears to exclude all arable habitat that would be used by the qualifying bird species. The departmental brief does not make it clear what the reasons are for this mis-match.
Fairfield	Matches SSSI, none is SAC	Matches SPA extension and SSSI	Fairfield does not support significant numbers of Annex 1 species. It is however clearly justified for inclusion in the extended SPA because it holds 6% of the total number of water-birds for the whole SPA, which is above the 5% threshold and contributes to the stage 1(3) qualifying interest.

2.5 Review of assessment against the SPA guidelines and comparison with other sites in England.

Chapter 5 documents the qualifying interests for the site as a whole, including extensions, under Stage 1 and Stage 2 of the SPA Selection Guidelines (JNCC 1999). Again no attempt is made to qualify each boundary extension.

Chapter 6 usefully puts the site, including extensions, into a national context, although in general there is little interpretation of the numbers provided in the text.

It can be seen from the figures that Dungeness, Romney Marsh and Rye Bay proposed SPA, whilst clearly important, does not contribute the highest proportion of any qualifying species' population and generally ranks towards the bottom or middle of the suite of UK sites for each species.

2.6 Review of the assessment of the Ramsar site interests.

When considering this proposal it is useful to list the criteria used to designate Ramsar sites (source: http://www.ramsar.org/cda/en/ramsar-about-faqs-what-are-criteria/main/ramsar/1-36-37%5E7726_4000_0). These criteria are:

- 1. if it contains a representative, rare, or unique example of a natural or near-natural wetland type found within the appropriate biogeographic region;**
- 2. if it supports vulnerable, endangered, or critically endangered species or threatened ecological communities;**
- 3. if it supports populations of plant and/or animal species important for maintaining the biological diversity of a particular biogeographic region;*
- 4. if it supports plant and/or animal species at a critical stage in their life cycles, or provides refuge during adverse conditions;*
- 5. if it regularly supports 20,000 or more water birds;**
- 6. if it regularly supports 1% of the individuals in a population of one species or subspecies of water bird;**
- 7. if it supports a significant proportion of indigenous fish subspecies, species or families, life-history stages, species interactions and/or populations that are representative of wetland benefits and/or values and thereby contributes to global biological diversity;*
- 8. if it is an important source of food for fishes, spawning ground, nursery and/or migration path on which fish stocks depend, either within the wetland or elsewhere;*
- 9. if it regularly supports 1% of the individuals in a population of one species or subspecies of wetland-dependent non-avian animal species.*

The Departmental Brief states that Dungeness, Romney Marsh and Rye Bay meets Criterion 1, 2, 5 and 6 (highlighted above in bold type).

Criterion 1 and 2 are discussed in detail in chapter 7 of the Brief. The SPA selection criteria are relatively objective, being based on specific population thresholds which are matched or exceeded by bird populations. They are, however, heavily reliant on accurate datasets for bird populations; the UK has comprehensive bird datasets provided through the Wetland Bird Survey (WeBS). However, the Ramsar site selection Criteria 1 and 2 are much more qualitative and based on judgements of 'rarity', 'uniqueness' and vulnerability of species or communities to damage or destruction in a global context. These judgements are much more subjective because habitats are more difficult to categorise as they often form a continuum from one to another. The global status of many species is often unknown and it is not always possible to base judgements at that geographic level. Possibly as a result of these difficulties, there is a heavy reliance in the Departmental Brief on the rarity of habitat types and species at a national level, for which information is much more available and reliable.

The habitats, local species distribution and national context of the proposed site are described in detail in the Departmental Brief. Since this is a proposed designation of a new Ramsar site, rather than an extension to an existing designated area, there is no attempt to distinguish between new additions to the site when compared to the original proposed Ramsar site (1993) in the Departmental Brief. A breakdown of areas, as completed for the proposed SPA extensions in section 4 of the Brief, would be useful for making a quick assessment of the qualifying features that justify inclusion of each area within the proposed Ramsar site.

Ramsar Criterion 1

Section 7.1 of the Brief gives a very detailed description of the habitats that meet Criterion 1. It appears that this relates largely to land that is already designated as SAC.

Ramsar Criterion 2

Section 7.2 of the Brief provides detail on the threatened ecological communities present at the proposed site and gives comprehensive lists of species.

In the absence of selection guidelines, the areas selected for the proposed site are based on assemblages of many rare bryophytes, plants and invertebrates that have been recorded over the years, plus a suite of seven vulnerable and endangered species located in the area.

The unique habitats have attracted much interest by natural historians over the years and there is a wealth of information in the form of specialist reports, biological records and academic studies of the area that are referred to in the text.

With the exception of aquatic warbler and great crested newt, the categories for rarity/vulnerability are however based largely on a national context, in that species are listed on the UK BAP, Red Data Books and/or protected under the Wildlife and Countryside Act 1981 (as amended). The assumption that these species must also be internationally threatened does not necessarily follow. The justification of the proposed Ramsar site, based on these species may therefore fit better under the third selection criterion that the site supports "populations of plant and/or animal

species important for maintaining the biological diversity of a particular biogeographic region” rather than selection Criterion 2.

Criterion 5 and 6

These criteria correspond exactly to the JNCC SPA selection criteria stages 1(2) and 1(3). These are discussed in detail in the relevant chapters of the Departmental Brief and reviewed above. It can be concluded that there is no doubt that the proposed Ramsar site meets these criteria.

Overall Ramsar Qualification Anomalies

From an analysis of the text, the following parts of the proposed Ramsar site (which do not currently have international designation) appear to have rather ambiguous evidence to justify inclusion:

- Royal Military Canal
- Broomhill Levels
- Rye Bay (Winchelsea Beach to Cliff End foreshore)
- Rye Bay (River Rother and Union Channel)
- Rye Bay (Northpoint and Camber Pits)
- Lydd watersports (Brett’s Pits)
- Long Pit

From the suite of species interests used as Ramsar qualifying features by Natural England, in the Departmental brief’s text none are explicitly linked *specifically to these areas*. Therefore there is no clear evidence presented that they should definitely be included.

2.7 Overall conclusion on the Departmental Brief

It is important to remember that many species, especially birds, are highly mobile, and it is often very difficult to ‘pin down’ usage of any particular site and discount the importance of others. Wintering bird assemblages in particular must be viewed as dynamic systems prone to change as birds adapt to varying meteorological conditions, food availability and disturbance. The figures provided by Natural England in the Departmental Brief are based on the best information available and it must be accepted that some anomalies may be found in the detail.

Taken as whole, the proposed SPA and Ramsar sites appear to qualify for designation.

Despite this however, there remains an onus on Natural England to provide a more scientifically rigorous case for some of the ‘extensions’. The key weakness of the document is that some of the proposed SPA extensions and some of the (currently internationally-undesignated) areas of proposed Ramsar designation are not supported by robust data that justifies *specifically* their addition to the whole designation. These areas include the following:

- Areas that require further evidence for both SPA extension and Ramsar inclusion:

- *Rye Bay extensions* – species data for these various extensions are not provided separately.
- *Lydd Watersports* – no % contribution provided for water birds under Stage 1(3) and Ramsar species data for these various extensions are not provided separately.
- *Long Pit* – Does not exceed the 5% contribution threshold for birds and Ramsar species data for these various extensions are not provided separately.

- Areas that require further evidence for SPA extension only:

- *Dungeness RSPB* – No justification based on 5% contribution provided.
- *Lydd Ranges* – Data provided is not able to confirm 5% contribution.

- Areas that require further evidence for Ramsar inclusion only:

- *Royal Military Canal* - Ramsar species data not provided separately for this area.
- *Broomhill Levels* - Ramsar species data not provided separately for this area.

In other words, there is current doubt over the strength of evidence presented to demonstrate that all of the additional areas of proposed designation qualify for inclusion in the proposed designations. A more robust justification for each of these areas, based on location-specific evidence, would be welcome.

3 Review of Impact Assessment: Natural England 2010

3.1 The case for SPA extension and Ramsar designation

The justification for the extension of the SPA and the designation of a Ramsar site is based on the presumptions that:

1. the sites concerned qualify under the JNCC criteria for such designation; and
2. without such changes the UK would suffer in two respects:
 - (a) The avian and other wetland features of interest would suffer degradation.
 - (b) The UK would be in breach of its international agreements.

The evidence presented for the first presumption is contained in the Departmental Brief reviewed earlier in this report (Section 2 above). As described, the Departmental Brief provides useful evidence for the need for international designation in this area, but falls short in making the case that all areas of the proposed SPA extension and Ramsar specifically are necessary and integral to fulfilling the aims of designation at this site (see Section 2.7 of this report).

The second presumption (presumption 2(a) above) is dealt with largely in the Impact Assessment (IA) prepared by Natural England using guidance from the Department for Business Innovation & Skills. In the IA, under Section 4 of the Evidence Base (page 6), it is stated that:

'sites like Dungeness, Romney Marsh and Rye Bay are at risk of degradation from human activities and development pressures'

Firstly, by using the qualification 'sites like' at the beginning of this claim, this statement appears to avoid the assertion that the Dungeness, Romney Marsh and Rye Bay site itself is suffering from degradation. This rather appears to be a generic statement about the rationale for designation generally, rather than specifically an SPA extension and Ramsar at this site. However, a cursory reading might give the impression that this site is under threat. If we assume this implied assertion for the moment, then such an assertion would require the following to substantiate:

- That the proposed site, being already partially designated as SPA and SAC, and fully designated as SSSI, is failing to protect the qualifying features of interest within the proposed SPA boundaries. In other words, there is clear evidence of degradation, or impending degradation, of the qualifying features since the original SPA designation in 1999, and that this degradation is directly linked to insufficient coverage by the existing SPA designation and a failure of the SSSI designation to protect such features alone.

There is a lack of evidence to support such a position in either the Departmental Brief or the Impact Assessment. In fact, the impression given by the Departmental Brief is that the status of the qualifying interests in the area have actually improved in the 11 years since the original SPA designation, hence the proposed revision of the qualifying features from the original five species to include an additional eight bird species and an assemblage of over 20,000 birds. Indeed the IA itself states

that the features of the SSSI 'now fulfil the criteria' for the proposed changes. These additions certainly do not reflect degradation when taken at face value, and might indicate that the current regime is working to a large extent.

At no point in either of the two key documents is there evidence of degradation presented, which seems a crucial omission to the argument put forward. The assertion in the IA also does not fully acknowledge the fact that a significant proportion of the area (and perhaps the key areas for many of the species) are already designated as SPA, and the whole of the site is SSSI.

The IA clearly acknowledges that the current SSSI designation in the areas of proposed SPA extension and Ramsar designation offers these habitats 'considerable legal protection' (page 2). On the same page, the document states that the SSSI interest features are in the majority of cases being favourably managed. Indeed, Natural England's website 'Nature on the Map' (www.natureonthemap.org.uk) shows the various SSSI units being in either 'favourable condition' or 'unfavourable but recovering'.

The benefit of the additional designation therefore would seem to rest on the statement that they would 'give a greater level of protection' to this site, and that development pressures and impacts would be better managed and mitigated (page 6). Again, no evidence that the current level of protection is failing to manage and mitigate development impacts has been provided.

Presumption 2(b) is equally lacking in evidence. The threat, or 'risk', of EU infraction proceedings is not assessed in detail, but simply presented as a bold assertion (including the words 'major risk' on page 2). Risk is often considered a product of two attributes: *likelihood* (of the harm occurring) and *severity* (of that harm). Any assertion of risk should ideally be supported by a quantitative or qualitative assessment of these two attributes of risk. This has not been done nor, has any evidence of a review by legal specialists been offered on this matter. Therefore, it is very difficult to assess the veracity of this stated risk.

Secondly, it is worth noting that the Birds Directive does not in itself provide criteria for designation of SPAs. The criteria come from the UK's JNCC as guidance, and therefore is a UK interpretation of what should qualify for SPA status, rather than an EU prescription. However, the Guidelines (JNCC 1999) have been derived from knowledge of common international practice and in particular the internationally agreed guidelines for selection of Ramsar sites.

Therefore, the Impact Assessment's consideration of the 'do nothing' option (notably the only other option considered), would appear to be deficient in its treatment of the main risk, as stated. Indeed the do nothing option is deemed not to be a 'genuine option' by Natural England on the strength of this argument (see Section 6 of the Evidence Base, page 7).

This same section then goes on to say that designation of the site 'is required under the Birds Directive'. Given that an SPA designation already exists, this 'requirement' under the EU Directive has not been adequately demonstrated for the proposed extension. It is important to note that EU infraction proceedings are unlikely to be applicable to the Ramsar Convention which is not EU legislation.

3.2 Assessment of social and economic costs

The social and economic impacts discussed in the IA, have a number of flaws. Firstly the analysis of the additional burden on administrative bodies is derived by taking a proportional approach, described in Annex 6 of the IA document. This highlights that '53%' of the existing SSSI will be subject to the additional international designations (SPA and Ramsar). This is compared to the current 31% of the SSSI currently covered by international designation (note the '36%' mistake on page 9 of the IA). This therefore represents an apparent 170% increase in internationally-designated SSSI.

However, it is notable that this percentage is not based on area of land under designation, but rather the number of SSSI units. Such units are of variable size, and therefore the percentage change in internationally designated *area* may be markedly different to the 53% figure quoted. In fact, using the rough area figures quoted in Section 1 of the Evidence Base, one can see that nearly 1,500 ha of SPA currently exists, and over 2500 ha will be added to this. This represents a 166% increase in SPA area alone. The extent of Ramsar designation proposed is much greater than the additional SPA, so overall the difference is significant.

Therefore, by using the number of SSSI units to derive proportionate additional costs, the result appears significantly lower than when the area of land is used instead. This has potential implications for the costs derived in the Impact Assessment.

The administration costs provided in the IA (page 9) are limited only to the additional administration and enforcement costs for competent authorities (such as Shepway District Council) associated with the assessment of future development proposals. The document is explicit (page 2) in stating that the additional costs to developers in providing detailed information to support planning applications and Appropriate Assessments under the Habitat Regulations is not included. Nor are the costs to the local economy of developer avoidance of this area due to the additional consenting burden and approval uncertainty. In addition, the cost of undertaking the required review of existing consents by competent authorities, plus any associated financial compensation for revoked consents, is not included in the calculations. Therefore, the estimated impact-costs provided in the IA may only be a small proportion of the overall costs to the public.

Setting aside these significant omissions, the analysis of costs on competent authorities relating to future development proposals is apparently based on 'case history' to establish a current baseline against which the additional, 'proportionate' burden can be estimated. This case history is not detailed or referenced in the IA document and so cannot be checked for accuracy or representativeness. The document does explain that this history is only from the last year. One year's administration work relating to a designation that has existed for 11 years is a relatively poor sample size and likely to be unrepresentative. This one year is then used to extrapolate to a ten year future period, thus magnifying any anomalous workloads during the sample year.

As already noted above, the increase in international designation based on Natural England's very conservative approach of using the number of SSSI units, is 170%. The additional 170% has been translated in their calculation to a 50% increase in time and cost, presumably due to the stated 'increase in marginal productivity'. The

basis for the scale of this assumed improvement in marginal productivity is not provided in the associated footnote on page 9.

Additionally, the calculations on page 9 do not appear to be accurate. For example, the total current administration costs are estimated at £234,327. It is not at all clear how this figure has been derived from the figures in the table on page 9. Furthermore when this figure is subtracted from the future estimated costs of £351,490 the result is £117,163, not the £93,722 stated on page 9. Therefore it appears that significant calculation mistakes have been made here which gives less confidence in the impact figures produced.

Beyond the administrative costs, there are a number of Specific Impact Tests required in the IA on page 3. These Impact Tests are explained in Annex 2 of the IA. It is very difficult to see how Natural England have determined there will be no economic impact on small firms. In fact, they state in Annex 2 that they are 'unable to completely rule out the possibility that small firms may be disproportionately impacted upon as a result of the proposed designations'. Therefore their 'no'-impact conclusion is questionable. Similarly, the rural proofing test and Natural England's conclusion of no impact is difficult to validate, as no clear explanation has been provided in Annex 2 of the IA. An increase in greenhouse gas emissions can also not be confidently ruled-out, as the projected 53% increase in administration activity and the un-quantified additional surveys, monitoring and meetings that may be required from developers, plus the review of existing consents will use a greater amount of vehicle mileage, office equipment and heating. Although likely to be relatively small contributions to the region's CO₂ emissions, they have not been accounted for in the IA.

The impact on the local economy of the new designations may be felt through developers' avoidance of the area or unsuccessful applications. In one sense an application that would fail on habitat regulations grounds, but which would have been successful under the current process, would prove the worth of the designation in offering a greater level of protection to the site's features of interest. However, this would still entail a potential cost to the local economy. There are a number of potential developments cited in Annex 5 of the IA that may have significant benefits to the local economy in terms of employment and business generation.

The proposed extension of Lydd Airport is cited as an example of a development proposal that may be affected by the proposed designations. This proposal is currently with the Secretary of State for consideration through Public Inquiry. Shepway Council, in undertaking its Appropriate Assessment of the impacts, relied on a 'shadow' Statement from the developer that already included the areas proposed for SPA extension and Ramsar designation. Therefore, Shepway Council are satisfied, in respect of the current two applications that their determination of no significant impact applies to the full proposed designations and therefore in their view the airport development should not be constrained by the proposed designations.

However, the proposed SPA extension and Ramsar designation could conceivably affect other future growth plans at the Airport (i.e. any future proposals not within the two current Applications), which could impact on the local economy in terms of reduced employment and business in the wider region.

The implementation of the Environment Agency's Folkestone to Cliff End Flood and Erosion Management Strategy may be made more difficult if the proposed

designations are approved. Both the National Grid (for the Power Station tsunami bund) and the Environment Agency (for their recharge operations) have apparently had difficulties in taking forward a current planning application for further extraction because of the presence of the SAC and SSSI. Consequently there are concerns that while coastal defence projects may already require Appropriate Assessment, the new international designations affecting this coastline are likely to require additional assessments to take account of the extended SPA and new Ramsar site. Indeed Annex 5 of the Impact Assessment states that ‘the majority of the Environment Agency’s proposals are likely to need additional surveys, mitigation and potentially compensation’. This could increase costs and further limit the ability of coastal defence agencies to respond effectively to climate change, potentially with adverse consequences for communities and businesses in flood risk areas. While these outcomes are difficult to quantify they do not appear to have been taken fully into account in Natural England’s Impact Assessment and to this extent the assessment could be criticised as being inadequate.

The potential impact of international designations on aspects of the local economy has already been felt in the case of Dungeness Power Station. The development of a potential new power station here (‘Dungeness C’) has, according to Shepway Council, been excluded from the Government’s Energy National Policy Statement primarily on the grounds of potential damage to the existing SAC. This example of the existing designations’ potential impact on the local and regional economy is not mentioned in the Impact Assessment.

3.3 Positive impacts

Aside from aforementioned benefits for biodiversity, the potential positive impacts on the local economy are identified in the IA as arising from an increase in tourism due to the higher ‘nature profile’ brought about by the designations. Natural England mention that such an effect is difficult to quantify. Given that the site is already an important designated site, and that the bird interests are presumably already well-known amongst the bird-watching community in the UK, it is difficult to measure how far the additional designations will bring about an increase in visitors.

Equally the potential benefits of improved ecosystem services such as biodiversity, flood alleviation and carbon sequestration and storage are difficult to measure. These benefits are likely to already be largely realised under the current designation regime. The whole of the area in question is already SSSI and is being managed relatively favourably. Therefore the improvements in any of these ecosystem services under the proposals are likely to be marginal, unless there is a demonstrable threat to the SSSI which has not been mentioned.

3.4 Overall conclusion on the Impact Assessment

Overall, the Impact Assessment would appear to be deficient in a number of key respects. In particular, it potentially overstates the risks of maintaining the current designations (the ‘do-nothing’ option) and does not take full account of the costs/dis-benefits to the local and regional economy, with associated social impacts. The guidance used for this Impact Assessment (Department for Business Innovation & Skills) requires a proportionate approach, but as a minimum it requires a description of who will be affected and a *full* description of the costs and benefits. Ideally for a proposal of this scale, the effects should also be quantified. This has only been done, and in an apparently flawed way, for the additional

administration costs for competent authorities. Thus, the potential impacts on the wider economy are mentioned but not given adequate treatment. Natural England explain that this is because providing meaningful data is very case specific and therefore difficult due to uncertainties, or because the impacts are likely to be minimal given the current level of designation. This latter reason is somewhat circular as without a detailed analysis of evidence the minimal-costs conclusion is difficult to support, so should not be used to justify lack of analysis.

Therefore, the full impacts on public services, business and employment in the region has not been adequately assessed and described in the Impact Assessment and further work would be valuable to inform the process.

- British Trust for Ornithology *Wetland Bird Survey website* visited at: <http://www.bto.org/volunteer-surveys/webs>
- Department for Business Innovation & Skills (2010) *Impact Assessment Guidance* <http://www.bis.gov.uk/ia-guidance>
- JNCC (1999) *SPA Selection Guidelines*. <http://www.jncc.gov.uk/page-1405>
- *Kent Landscape Information System (KLIS) website* visited at: <http://extranet7.kent.gov.uk/klis/home.htm>
- *Multi-Agency Geographic Information for the Countryside (MAGIC) website*, visited at <http://www.magic.gov.uk/>
- Natural England (2010) *Impact Assessment for Dungeness, Romney Marsh and Rye Bay – proposed extended Special Protection Area and new Ramsar site, East Sussex and Kent (Defra IA No. 1013)*.
- Natural England (2010) *Departmental Brief: Dungeness, Romney Marsh and Rye Bay*. Natural England, Peterborough.
- *Nature on the Map website* visited at: <http://www.natureonthemap.org.uk>
- Stroud, DA, Chambers, D, Cook, S, Buxton, N, Fraser, B, Clement, P, Lewis, P, McLean, I, Baker, H & Whitehead, S (eds). (2001) *The UK SPA network: its scope and content*. JNCC, Peterborough.
- UK SPA & Ramsar Scientific Working Group *2008 & 2009 Progress Report: http://www.jncc.gov.uk/pdf/sparswg_annualreport20082009_approved.pdf*
- UK SPA & Ramsar Scientific Working Group (2009) *2009-10 SPA Review Term of Reference*.

