

Minutes

Title of meeting:	Protected Areas Committee meeting to decide whether to confirm or withdraw the notification of Coedwig Dyfi Site of Special Scientific Interest (SSSI)
Location:	National Library of Wales, Aberystwyth
Date of meeting:	11 July 2024
Committee Members present:	<p>Dr Rosie Plummer (NRW board member and Chair of PrAC)</p> <p>Dr Peter Fox (NRW board member)</p> <p>Lesley Jones (NRW board member and PrAC member))</p> <p>Professor Steve Ormerod (NRW board Deputy Chair and PrAC member)</p>
Attendees present:	<p>Ben Standing, Legal Advisor, Browne Jacobson</p> <p>Ceri Davies, Executive Director of Evidence, Policy and Permitting, NRW</p> <p>Ruth Jenkins, Head of Natural Resource Management Policy, NRW</p> <p>Ann Weedy, Operations Manager Mid, NRW</p> <p>Isobelle Hotchkiss, Officer 2 (Conservation Officer), North Powys Environment Team, NRW</p> <p>James Latham, Terrestrial Ecosystems Team Leader, NRW</p> <p>Sam Bosanquet, Specialist Advisor, Terrestrial Habitats and Species, NRW</p> <p>Holly York, Specialist Advisor, Protected Sites Programme, NRW</p> <p>Phil Williams – Head of Governance and Board Secretary, NRW</p> <p>Edryd Davies, Objector</p> <p>Rheinallt Davies, Objector</p> <p>Gwyndaf Jones, Objector</p> <p>Dafydd Pughe, Objector</p> <p>Debbie Pughe, Objector</p> <p>Thomas Edwards, Objector</p> <p>Ilan Jones, representative of Iwan Davies</p> <p>Elen Evans, Farmers Union of Wales</p>

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Observers present:	Helen Lewis, Member of Public Zoe Lowe, NRW observer
Apologies:	Richard Davies Gwilym Edward Davies Nia Edwards
Secretariat:	Sian Johnston, Board Secretariat Team, NRW Natalie Williams, Team Leader & Deputy Board Secretary, Board Secretariat, NRW

Item 1: Open Meeting

1. The Chair welcomed those present to the meeting of the Protected Areas Committee (the Committee) being held in public. All were reminded that contributions in Welsh or in English were equally appreciated. Notes would be taken by the Secretariat and the meeting would be sound recorded to provide a legal record. The Chair explained that only the NRW Board members present would act in the decision-making process. Introductions were made by the Board members, NRW staff, and Ben Standing.

Declarations of Interest

2. The Chair confirmed in addition that no members of the Committee or executive had any personal relationships with any of the objectors or representatives.

Steve Ormerod

- NRW's representative on the Joint Nature Conservation Committee (JNCC)
- Member of the Welsh Government Core Biodiversity Deep Dive Group
- Fellow of the Learned Society of Wales, Royal Society of Biology, Chartered Institute of Ecology and Environmental Management (CIEEM) and Freshwater Biological Association, not linked to the site itself.

Legal Statement

3. Ben Standing, Browne Jacobson referred to the written paper provided and advised the Committee of its duties and responsibilities in coming to a decision on whether or not to approve the confirmation, modification, or withdrawal of the notification. The Committee were reminded that they acted with the delegated authority of the NRW Board and had a statutory duty to confirm a Site of Special Scientific Interest (SSSI) if they felt, having scrutinised the evidence and case made for special interest, it was sufficient to do so.

The Committee were informed that they were to pay due consideration to the JNCC guidelines but not be constrained by them. The Committee were reminded its powers included the ability to correct textual errors in the documentation, delete areas of land from the designated site, and to make the Operations Likely to Damage the Special Interest (OLDSI) either less onerous or more appropriate.

4. The Chair confirmed that there had been no prior discussion of the case amongst the Board and Committee members so that all were coming to the matter afresh and open minded. The Committee would consider the Officer's Report, the objections, the representations and then consider and make a decision on whether or not to approve the confirmation Coedwig Dyfi as a SSSI.

Item 2: Coedwig Dyfi - Site information and Officer's report, including formal recommendation

5. The Operations Manager, Mid Wales introduced the Officer's Report, briefly outlining the location and situation of the site and its special interest. The site was notified on 11th December 2023 and six objections were received, remaining unresolved.
6. A presentation was provided regarding the Coedwig Dyfi site, highlighting information from the papers provided by the Officer 2 (Conservation Officer), North Powys Environment Team, the Terrestrial Ecosystems Team Leader, and the Specialist Advisor, Terrestrial Habitats and Species. The location and features of the site were explained, and further information was provided on the lichen and bryophyte features. The woodland feature was explained and the objections and NRW's responses summarised. It was recommended that the site should be confirmed, with a small boundary change from the notification made on 11 December 2023. It was also recommended that part of the original Coed Maes-mawr, Coed Esgairneiriau a Cheunant Caecenau SSSI should be denotified. NRW sympathised that this notification coincided with the Sustainable Farming Scheme (SFS) consultation, and they would look to support their contribution to the SSSI.
7. The Chair thanked the team for their presentation and invited PrAC member Professor Steve Ormerod to present the report of his visit to the site. The site visit had been conducted on Tuesday 2nd July 2024 and Professor Ormerod confirmed it was clear to him in terms of woodland composition and lichenology that this was an important location meriting special interest. The expertise of staff that had conducted the assessments was recognised.
8. The Committee discussed and probed the Officer's Report. In response to a query on the reliability of the scientific data, it was noted that members of the learned societies since the 1940s had documented the lichen and bryophyte assemblages across Wales and put them into a UK and international context. There was a good understanding of the distribution of lichens and bryophytes across Britain, and Wales was very thoroughly recorded, whilst woodlands were well understood following extensive National Vegetation Classification (NVC) surveys across Wales in the 1990s. Lichens were surviving around Coedwig Dyfi due to it being remote from industrial areas and the form of agricultural practices undertaken.

9. It was noted that there was an abundance of lichens found in the Coedwig Dyfi area but that this area was not well known by lichen specialists until recently, as few people could sufficiently identify these species. In respect of boundaries, it was noted that although other areas surrounding Coedwig Dyfi had been searched with landowner permission, surveys showed these areas did not support sufficient special interest features to be included in the SSSI notification.
10. The scale of the SSSI was queried, and whether the individual areas needed to be put together to be a SSSI or whether they qualified individually. Officers confirmed that each piece of land would qualify as a SSSI in its own right on the basis of special features, however the species repeated across each block made the wider site a cohesive whole in this instance. There was enough data to make an assessment that this area was better than anywhere else in Montgomeryshire for lichen features.
11. The Specialist Advisor, Terrestrial Habitats and Species explained how well the lichen features grew on this land and the conditions necessary for their survival. There was an important balance needed with grazing as this was both a fundamental management tool enabling the lichens to thrive, however could also damage the interest if grazing was insufficient or too intense.
12. The Terrestrial Ecosystems Team Leader explained that the woodland could be managed in a number of ways and clarified that woodland management would be key to the integrity and protection of the SSSI special features.
13. The Committee reviewed the points presented by officers in relation to the objections received from Landowners and occupiers and specifically recognised and noted the multiple frustrations expressed at the legislation that led to this meeting, resulting in a perception of challenge and antagonism.

Item 3: Objections and other representations

14. The Chair introduced the speakers and reminded those in attendance that each speaker would have ten minutes to speak.
15. In the absence of Mr Bloomfield and Ms Talbot, the Chair drew the Committee's attention to their written objection received by NRW during the consultation period.
16. The Chair invited Mr Edryd Davies to speak. Mr Edryd Davies noted that he was not opposed to the SSSI, but to the way it had been forced on the landowners. The uncertainties regarding the SFS and payments for SSSIs were also concerning. The Committee took note and agreed to discuss the objectors' concerns regarding the SFS altogether. The Chair thanked Mr Edryd Davies.
17. The Chair invited Mr Rheinallt Davies to speak. Mr Rheinallt Davies noted two key points from his written objection. He expressed concern at the renaming of the woodland, emphasising this would mean historic local names would be lost. Officer's comment was sought on the basis for naming and it was highlighted that Coedwig Dyfi referenced the whole forest rather than the individual parts, so did not substitute local names. Mr Rheinallt Davies also queried why NRW were pushing their agenda on to farmers and

landowners when they were not doing the same on the Welsh Government Woodland Estate (WGWE) in this area. Mr Rheinallt Davies was thanked for his contribution. The Committee then briefly clarified points arising from the objection.

18. The Committee agreed that the importance of names, and how these were captured and recognised in the SSSI notification process was of cultural significance. The Chair reminded the committee that NRW had specific guidance on historic place names and liaises with the Royal Commission of Ancient and Historic Monuments as well as the Welsh Language Commission on their use.
19. It was noted by the committee that the Welsh Government Woodland Estate (WGWE) for which NRW is responsible on behalf of the Welsh Government, was in a transition period of considering how it could better contribute to biodiversity. It was highlighted that it was a priority to restore woodland to increase the proportion of native species. However, given timescales in forestry this was necessarily a long-term process. NRW had sustainable management of natural resources (SMNR) obligations which meant that transition was specifically being taken forward. It was confirmed that the WGWE included in the SSSI boundary was to be restored gradually even though it currently had some conifer crop.
20. The Committee were reminded by the legal advisor that whilst changes should not be made to the notification in this meeting unless minor, elements such as the name could be amended afterwards as long as nothing substantive in respect of the SSSI citation was changed. The name of the site was not critical to confirmation. The Committee agreed further thought on the name of the site could be considered.
21. The Chair invited Mr Gwyndaf Jones to speak. Mr Gwyndaf Jones noted his objection included the manner in which permission was sought from the landowners to conduct the initial survey taking the view that the implications of the survey were not explained. The second key point concerned the additional attention that would be drawn to the site and potential security implications, including by members of the public traveling to see the lichens. He also expressed concern at NRW's own operations posing a risk to the agricultural activities undertaken. Mr Gwyndaf Jones was thanked for his contribution. The Committee then briefly clarified points arising from the objection.
22. The Chair noted that in common with any private land, access to the site by the public could only occur where there were public rights of way. NRW visits would only be made when permission had been sought, or in the exceptional case of enforcement action being exercised. It was emphasised that it was the responsibility of the landowner to be clear with people that had accessed their land that they were required to leave. It was also noted that NRW could usefully consider the broader management of access and movement of people around all protected sites in relation to biosecurity implications, as well as the sensitivities of the site's special interest.
23. The Committee agreed the style and detail of communication to landowners, including clarity on the possible implications of a survey and the manner in which NRW asked for permission to enter the land merited further attention.

24. The Chair invited Mr Dafydd Pughe and Mrs Debbie Pughe to speak. Mrs Debbie Pughe noted that as landowners they had no problem with the importance of the species found but did not understand the reason why the site needed to be notified as a SSSI and why it couldn't stay as it was. She also asked how many NRW staff present in this meeting had visited the Coedwig Dyfi site. The Chair thanked Mr and Mrs Pughe for their contribution. The Committee then briefly clarified points arising from the objection.
25. The Chair reminded all that NRW were under statutory obligations, therefore bound by law, where evidence of special flora, fauna, geographical and physiographical features had been identified. Where there was sufficient evidence to notify a site, NRW were under a legal obligation to protect this by notification. It was emphasised that this was not to protect the site from the landowner but instead ensured protection of the site in perpetuity. It also brought specific powers of protection including on planning matters both on the site itself and on adjacent areas from where actions might cause damage to sites. Board members collectively recognised the frustrations both from the legislation and process but sought to emphasise that NRW and the landowners had the same aim of protecting the environment in the long term.
26. Committee members appreciated that landowners felt their ability to look after the land was being questioned. The Committee acknowledged the importance of better recognising the contribution and role of landowners for the special qualities that their management had given rise to and retained on the exceptional sites that had been notified. The Chair emphasised that if the notification was confirmed it was not expected that this would change what landowners were presently doing with the site. It was stressed that NRW were committed to working with the landowners, but they were under a legal obligation to notify a land where it met the threshold to be protected in perpetuity as a SSSI for future generations, irrespective of land ownership changes.
27. Mrs Debbie Pughe noted that they had also felt pressured into allowing NRW to conduct a site visit on their land and had not, at the outset, been sufficiently aware of the reasoning or the possible implications. She also raised concerns that NRW had entered their land without permission. Professor Ormerod stressed that he had only visited land where permission had been granted on his site visit. The Chair emphasised that there had been no general access on the site and that NRW representatives had only entered Mr and Mrs Pughe's land on occasions when permission had been given.
28. The Chair noted that officers had to assert their right to enter land where no permission had been granted. It was confirmed that NRW had used these legal access powers for Mr Iwan Davies' holding, because of evidence that it would contain outstanding scientific interest. Every effort was made to ask for permission, but Mr Davies refused and NRW did use their access powers in that case. If NRW needed to visit anyone's land again, this would only be done with the landowners' permission or if enforcement powers were deemed necessary. The Committee and NRW Officers gave assurance that lessons would be learnt on the way NRW communicated with landowners from the outset, including outlining what site visits would entail and the possible implications that might follow.

29. The Chair invited Mr Thomas Edwards to speak. Mr Thomas Edwards noted that he was also not objecting to the SSSI but expressed concern at the restrictions that came with it and the uncertainties of the SFS. He also raised concerns about NRW's relationship with the landowners and about internal communications between NRW staff. He raised specific questions on an instance of herbicide use and about the length of timber extraction routes where a shorter route was available, suggesting that NRW's own operations may breach good environmental practices.
30. The Committee agreed that the environmental implications of forestry operations, including emissions related to transport, needed to be included in considerations to ensure NRW itself was not breaching environmental standards. Improvements needed to be made for different teams working together within NRW.
31. The Chair invited Ilan Jones from the National Farmers Union (NFU) Cymru to speak on behalf of Mr Iwan Davies. Although Mr Iwan Davies did not object to the notification, recognising the scientific evidence presented, his written representation to NRW reflected his concerns about the impact of a SSSI. He acknowledged that farming required an ability to adapt to changing circumstances and he was concerned that NRW would not respond in a timely manner to grant consent for matters which may require adaptation. It was worrying that the current SFS did not provide funding for those with a SSSI on their land. It had been unfortunate timing that the SFS and the notification of this SSSI had coincided. NRW were asked to pause the notification until the final details of the SFS had been provided or until NRW could fund Land Management Agreements (LMAs) to recognise and support the SSSI. Mr Iwan Davies also noted frustrations that concerns about NRW fencing issues and boundary matters were being passed from one department to another within NRW.
32. The Chair confirmed the broad agreement that collaboration was the way forward however NRW could not pause the notification process as this was constrained by a statutory period. The Committee recognised the frustrating coincidence of timing with the Welsh Government (WG) SFS scheme consultation, and the financial situation of NRW which restricted its ability to enter into LMAs with landowners. The Chair stressed that NRW continued to seek to influence the development of the SFS and had specifically highlighted to WG the implications of SSSI funding not being included in the proposed Universal Layer payments, urging that this should be reconsidered.
33. WG had published their response to the consultation on the SFS and it was emphasised that no decisions on the design of the scheme had yet been made. NRW empathised with the uncertainty of the SFS but could not do anything except continue to work with WG to influence its development. NRW had also highlighted to WG that there was a gap between the Glastir scheme ending and the SFS beginning and were therefore advising what should happen in this gap.
34. Regarding the fencing issue, the Chair restated the legal obligation upon livestock owners of their own fencing to contain livestock. However, she acknowledged the concerns about feral stock ingress from the woodland estate for which NRW was responsible as well as the principle of good neighbourliness in maintaining boundaries.

The Chair undertook that she would specifically take landowners concerns about the fencing, and the pattern of communication on this, back to NRW.

35. Discussion took place around the list of OLDSEIs and the concerns expressed over NRW's response time for consent. It was confirmed that NRW staff would work with the landowners to review any consents needed both in the short and long-term so that consent could be provided promptly. Landowners were encouraged to contact NRW staff in the local team directly to discuss any consents needed and were assured that these would be dealt with as quickly as possible.
36. In response to a question on whether NRW believed there would be a risk to protected sites being damaged if the SFS were to stay as it was by not compensating landowners, NRW confirmed it had advised WG of the potential risks of adverse action should provision to support SSSI management not be forthcoming. The committee acknowledged this situation could significantly affect NRW's ability to protect sites from damage.
37. Elen Evans of Farmers Union of Wales highlighted that there was no focus on the risk of agricultural protection with the new SSSI regulations. She also noted that landowners would be losing financial support and would now lose income from not being able to grow food on their land. The Chair noted the points made but reminded all present that whilst the Committee were sympathetic, their duty at this meeting was to consider the scientific evidence for the notification.
38. The Chair thanked everyone for their contribution.

Item 4: Committee Discussion and Decision

39. The Chair reminded members of the powers and duties explained to them previously and sought Board members' confirmation that there had been sufficient opportunity to review the information and ask questions of officers.
40. The Committee discussed the notification and acknowledged their legal duty to approve the site for protection if they considered the scientific evidence for special interest was sufficient to justify that conclusion. The Chair reiterated that the Committee had neither discussed this site nor made a decision on the case for notification prior to this meeting.
41. The Committee was unanimous in its agreement that a robust case had been presented, and this had been rigorously scrutinised in respect of meeting the criteria for protection.
42. The Committee noted that they would take away points made regarding the broader issues with the process, encouraged NRW staff to provide the letters of consent as quickly as possible and to continue to influence WG with the SFS. The Chair emphasised that the Committee had not discussed nor made a decision prior to this meeting.

43. The Protected Areas Committee approved the confirmation of Coedwig Dyfi SSSI, following consideration of the evidence presented by NRW officers and having given careful attention to the objections and representations received.
44. A small change to the boundary from the notification made on 11th December 2023 under section 28 (5) of the Wildlife and Countryside Act 1981 (as amended) was agreed as appropriate. The boundary change detail could be found in the Officer's Report.

DECISION: The Protected Areas Committee approved the confirmation of Coedwig Dyfi SSSI, with a small change to the boundary from the notification made on 11th December 2023 under section 28 (5) of the Wildlife and Countryside Act 1981 (as amended).

45. The Protected Areas Committee considered and approved the partial denotification of the original Coed Maes-mawr, Coed Esgairneiriau a Cheunant Caecenau SSSI as presented in the Officer's Report.

DECISION: The Protected Areas Committee approved the partial denotification of the original Coed Maes-mawr, Coed Esgairneiriau a Cheunant Caecenau SSSI.

46. Following the decision to approve the confirmation, the Committee reviewed the OLDSIs applied to the site. Objectors' comments about the broad formulation of the OLDSIs and the expediency with which applications for approval were dealt with. The Chair noted that long term consents would be granted, where possible, to give confidence to Landowners and to minimise the need to seek fresh consents unless there was a change. The Committee were reminded that if there were any new owners each would need to discuss the SSSI with NRW and receive appropriate consents.
47. Clarification on the relevance for this site of OLDSI 16a referring to freshwater fishing was considered specifically. It was noted that some lichens present on rocks within the river and that the river system was part of the site. The appropriateness of OLDSI 16a was accepted.
48. OLDSI 28 relating to game management was queried, and it was explained that pheasant pens within another SSSI in Powys had demonstrated damage to lichen. The appropriateness of OLDSI 28 was agreed.
49. The Protected Areas Committee confirmed its acceptance of the OLDSIs for Coedwig Dyfi.
50. In closing the discussion, the Chair confirmed that she and the Committee had taken careful note of the wider points made by Landowners, including those relating to the process, the issue on naming, disappointment at the lack of prospects for LMA support, and the concerns about fencing as well as surrounding internal NRW communication about this. The Committee encouraged NRW staff to provide the letters of consent as quickly as possible (once notice of intents were received) and to continue to influence WG with the SFS.

51. The Chair thanked the Landowners for the care and interest they had shown which had been critical to maintaining the biodiversity interest of the site, and for the passion and engagement they had demonstrated in raising their concerns with the Committee.

Item 5: Next Steps

52. The Operations Manager, Mid Wales summarised the Committee's decision to approve the confirmation of the notification, the partial denotification of the area previously notified and the small boundary change. The site would now be confirmed on a specified date before 10th September 2024. All landowners and occupiers would receive a confirmation letter and documentation to reflect modifications NRW would make to the site boundary.

53. The Chair summarised that the Committee had discharged their duty and would take away specific points separate from the notification to NRW, as discussed during the meeting. The Chair thanked all those in attendance and closed the meeting at 16:00.

Close meeting