

# Marine Spatial Planning for the UK

## A Joint Wildlife, Countryside and Environment Links Discussion Paper



Wildlife and Countryside Link, Wales Environment Link, Scottish Environment Link and Northern Ireland Environment Link represent environmental NGOs working in the UK, England, Wales, Scotland and Northern Ireland.

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## Executive Summary

- The UK needs to adopt an effective spatial plan led system for the marine environment.
- This should be based on the ecosystem approach or physical areas where appropriate.
- This would improve protection and strategic integrated management of nationally and internationally important marine habitats, species and resources and introduce greater certainty and transparency in the decision making process.
- For marine spatial planning to be effective the co-ordinated collation and mapping of existing, and collection of necessary missing, data will be essential.
- Appropriate body/ies to take lead responsibility for marine spatial planning at UK and devolved levels should be identified, and will need to be resourced accordingly.
- The Government and devolved administrations will need to develop a UK marine policy.
- Principles and objectives for a marine planning system are proposed.

## **Introduction**

The Joint Wildlife, Countryside and Environment Links (Joint Links) believe that the UK urgently needs a strategic, plan-led approach in the marine environment to help avoid or reduce conflict, to identify and permit appropriate and compatible developments and to protect and enhance important environmental and social assets from inappropriate development. Marine spatial planning is fundamental to deliver the Government's vision as detailed in the Marine Stewardship Report:

“Our vision for the marine environment is clean healthy safe productive and biologically diverse oceans and seas. Within one generation we want to have made a real difference.”

Safeguarding Our Seas – the first Marine Stewardship Report. DEFRA (May 2002).

This discussion paper identifies the merits of such an approach and explores how such a system might operate in practice. This follows a number of government commitments and initiatives including:

- the Bergen Declaration commitments on spatial planning for the North Sea
- OSPAR's commitments on the ecosystem approach and spatial planning
- the Review of Marine Nature Conservation's Irish Sea Pilot Study
- the Regulatory Review of Developments in coastal and marine waters
- the EC Recommendation on ICZM
- the Marine Stewardship Report which states that the UK Government “... *will explore the role of spatial planning for the marine environment ...*”.

As development and activity increases in the marine environment, the sectoral approach is no longer an option. A plan-led system is now essential.

## 1. A Plan-led System

Effective spatial planning is an essential tool for managing the development and use of land. It is now widely supported as a vital component of planning in the UK. Throughout the 1980s, land use planning was dominated by a project-led approach. Unless an individual project, submitted as a planning application, gave rise to '*demonstrable harm to interests of acknowledged importance*<sup>1</sup>', then there was a presumption in favour of that project proceeding. This 'application-led' approach became widely discredited and increasingly unpopular with many interests, including businesses. It resulted in widespread uncertainty and militated against an integrated, or joined-up, approach to development and land use.

Consequently, in 1991 the 'plan-led system' was introduced through the Planning and Compensation Act, to widespread acclaim from all sectors. It established the certainty desired by so many diverse interests, it allowed a vision to be shaped for an area and, above all, it enabled joined-up thinking and action which added value to many developments. The plan-led approach is now the bedrock of terrestrial planning.

In many respects, 'planning' in the marine environment in 2002 resembles terrestrial planning in the 1980s. There is no clearly articulated spatial vision, no plan-led approach and, consequently, a lack of certainty for marine developers and users. This is exacerbated by the split responsibilities for determining development applications in the marine environment. The Joint Links believe that the time has now come for a strategic plan-led system for the marine environment, instead of the piecemeal view, not least so that commitments made in a number of important marine declarations are upheld.

"Below low water mark there is no equivalent to the Town and Country Planning system of development control that brings together much of the regulation over a wide range of activities in a common framework. (Nor is there any regulator who carries the breadth of duties and powers possessed by local authorities on land.) The management and consenting regimes for activities potentially damaging to the marine environment are largely sectoral and environmental considerations are predominantly incidental to the main purposes and powers of the bodies which operate them."

Review of Marine Nature Conservation, Interim Report, 2001

"We see a pressing need for ... rationalising the overall system for environmental planning by introducing integrated spatial strategies covering all aspects of sustainable development."

Royal Commission on Environmental Pollution's Report. Environmental Planning. March 2002. p7.

## 2. Why the UK needs a strategic marine planning system

There are scores of reasons why a marine planning system is needed and supported by government bodies, industry and NGOs alike – here are some of the main ones:

- To contribute towards delivery of sustainable development objectives in the marine environment
- To provide a plan-led approach to sea use, rather than the current *ad hoc* arrangements
- To enable a strategic overview of developments in the coastal and marine environment
- To help assess the cumulative and in-combination effects of projects and policies
- To enable government, industry and conservationists to work together to identify suitable locations for development and uses and to identify sites where important assets need safeguarding and where conservation should take precedence.

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<sup>1</sup> DoE (1988) Planning Policy Guidance PPG1 – *General Policy and Principles* (para 15)

- To help reduce complexity and duplication and increase integrated, rather than sectoral management. This would utilise existing data to best effect, identify gaps and ensure that management decisions were based on sound science.
- To implement national objectives on spatial planning, the ecosystem approach and mapping as proposed in the Marine Stewardship Report
- To deliver international commitments on marine spatial planning and the ecosystem approach e.g. North Sea Conference Bergen Declaration, EU Marine Strategy, OSPAR Sintra Statement and WSSD Johannesburg Implementation Plan.
- To promote open and transparent governance, *ie* a planning process that is clearer, more accountable and more participative.
- To enable a Strategic Environmental Assessment (SEA) of all uses at the ecosystem level rather than the current sectoral SEA approach
- To inform industry of appropriate development sites and to enable them to undertake more effective forward planning
- To allow industry to manage their risk by increasing certainty in respect of development proposals
- To plan for the increasing number and scale of developments in the marine environment *eg* offshore renewables. The sectoral approach is no longer an option.
- To integrate the interests of different stakeholders, such as fishing interests and offshore renewables, and enable strategic conflict resolution, *eg* at a regional, rather than project, level.

### 3. Policy

#### 3.1 Marine Policy

The government needs to work with the devolved administrations to develop a UK marine policy (which should meet each administration's national policy requirements). A UK approach is required because the sea does not accord with existing geo-political boundaries. The UK marine policy provides the policy steer for developing marine spatial plans. The Government's Marine Stewardship Report is an important step to build on in developing such a UK marine policy. UK marine policy would need to be in keeping with the aims, objectives and principles detailed below (see Section 6), especially the need for sustainable use of the UK's marine resources, including conserving, restoring and, where appropriate, enhancing biodiversity and protecting the underwater cultural heritage.

The Government should provide a commitment to developing a UK marine policy at the earliest opportunity. A Marine Task Force should be established, consisting of all the government departments and national administrations, to develop such a policy. It could be chaired by the deputy Prime Minister.

#### 3.2 Marine Planning Policy Guidance

In addition to clear UK and national policy statements, Marine planning policy guidance should be established for all key sectors, such as marine wind power, in all countries, as have been established for minerals with Marine Minerals Guidance (MMG) in England.

### 4. What might a marine spatial plan (or strategy) look like?

**4.1 A marine spatial plan** would be based on the ecosystem approach (see 4.2 below). It would set out a vision for the marine area, identify potential sites for appropriate development and uses, those in which developments or activities should be managed or restricted, areas where important assets need to be protected and where there should be a presumption against damaging development or uses. Such areas would include European Marine Sites, nationally important features and important fish spawning or nursery grounds. At present there is no marine planning system like terrestrial planning that guides developers towards appropriate sites and away from inappropriate ones. However, a marine spatial plan must be different from a land-use plan, in that it must be multi-use planning, *ie* it would deal with multiple uses of the sea covering user activities such as fishing and discharges as well as development. It would be essential to determine how users and developments interact and the impact of cumulative and combined effects that

result on habitats and species and on the underwater cultural heritage. A marine spatial plan would also need to provide objectives for management.

A marine spatial plan would include information on the physical, chemical and biological marine environment. This would *inter alia* include details of important marine habitats; species; fish spawning areas; physical processes; areas with suitable geology and sedimentology to enable oil and gas or aggregate extraction; areas where wind speeds or marine currents would be sufficient for offshore renewables etc. The plan would need to incorporate geographic information on existing activities such as shipping lanes, important fisheries, water quality, naval exercise areas, cultural heritage sites, nature conservation designations, and pipelines. These could all be provided in the form of 'overlays' that help to identify key constraints. It would then be possible to identify new potential development sites or uses, along with areas where restricted development may be permitted and those areas where inappropriate uses should be avoided. While the marine environment knows no boundaries with regard to pollution and physical processes, zoning is still an essential tool for planning and management in the marine environment. A marine plan-led system should also place a strong emphasis on resource productivity, *ie* reducing the need to use resources, 'making more with less' and demand management.

The Review of Marine Nature Conservation (RMNC) is presently undertaking a pilot study of the Irish Sea, which will include a management scheme for conservation. A marine spatial plan would need to go further, considering the planning and management of all activities and developments.

## **4.2 Ecosystem Boundaries**

Marine spatial planning should be based on the ecosystem approach, or other meaningful geological units. Geo-political administrative boundaries are less relevant at sea.

### 4.2.1 Regional Seas

Marine plans need to be large scale. We believe that there may be merit in adopting a regional marine planning approach, as is being tested for the RMNC Irish Sea Pilot study and is proposed in the North Sea Conference Bergen commitments. Some Regional Marine Spatial Plans would cross national boundaries; for example an Irish Sea Plan would need to involve England, Scotland, Wales and Northern Ireland. This is why a UK marine policy is required for genuinely UK-wide issues - it is important that there is a common strategy and planning for such issues. Countries would refer to their national policies for development and activities with no UK implications, and a genuinely regional approach could be taken for regional seas within the UKCS. Plans, such as that for the Irish Sea, would also need to be co-ordinated with other European countries, in this case the Republic of Ireland, to ensure the spatial plan really adopted an ecosystem approach. For the North Sea, organisations such as the North Sea Conference and OSPAR are already co-ordinating such an approach.

### 4.2.2 Sub-regional Plans

In some cases, such as the intensively used coastal zone, more detailed sub-regional marine plans may be required, which could be defined by seascapes - such as estuaries, the western approaches, the Minches and/or habitats such as the Darwin Mounds - and/or intensity of use - such as the Eastern English Channel. At present coastal zone management strategies try to fill the need for strategic planning using the ecosystem approach in the coastal zone. However, because these plans are non-statutory, they are seldom used for guidance or followed by consenting bodies when considering development proposals.

The Joint Links believe that for estuaries, sea lochs, harbours and firths (defined by 'bay enclosing lines') there are a number of options that will need full consideration and consultation. These options include the development of sub-regional marine plans; the extension of local authority jurisdiction from low water mark (LWM) to the 'bay enclosing line'; or the adoption of CZM strategies within Local Development Frameworks or country equivalents. The Joint Links do not support the wholesale extension of local authority jurisdiction into the coastal zone, but it may be appropriate in estuaries and/or for certain activities such as mariculture.

### 4.2.3 High Water Mark to the UK continental shelf boundaries

Marine Spatial Planning needs to cover the whole sea, from the high water mark (HWM) over the whole UK continental shelf. Planning will require boundaries, but where these should be drawn is a difficult question

which will need to be consulted upon and determined by all users. Artificial boundaries such as 3 nautical miles, territorial waters etc are inappropriate for the ecosystem approach. However, it is notable that terrestrial boundaries are equally problematic, and indeed there may be more scope to provide meaningful boundaries for marine planning than in the terrestrial environment. We propose, therefore, that Marine Spatial Plans cover each regional sea (*ie* the appropriate marine ecosystem), from HWM (or the bay enclosing line for estuaries) to the continental shelf. As discussed, regional plans may require a sub-regional approach for seascapes, or intensively used coastal zone within them. The numerous issues that cross the land-sea divide will still need to be addressed, possibly through management initiatives such as ICZM and catchment management plans.

#### **4.3 Strategic Environmental Assessment**

A marine spatial plan should be subject to a strategic environmental assessment (SEA), including a full ecological and archaeological assessment. A socio-economic assessment of the plan may also be appropriate (sustainability appraisal). Environmental appraisal is now standard practice for terrestrial land use plans. The SEA will need to include a full ecological appraisal of each regional sea, to ensure that development and management decisions are based on sound science.

Until we know the extent and nature of the resource it is difficult to plan effectively for sustainable development, use and effective conservation. Much necessary data is already available but needs to be pulled together through mapping initiatives. For some habitats and species, data is lacking and new surveys will need to be undertaken to fill gaps. However, lack of data should not prevent an initial marine spatial plan being developed. The Adaptive Management Principle should be used which allows plans to change as knowledge and understanding increase over time and in different areas; the 'learn by doing' approach. This approach is used by local planning authorities that regularly review their plans and adapt policies in the light of experience, monitoring and new information – survey, plan, monitor and manage. For example, geological and surface sediments data can be used to determine where key habitats are likely to occur, until more detailed biotope mapping following ground truthing is possible. Other tools that might be used for the SEA might include risk and threats analysis and sensitivity mapping.

The DTI is well aware of the benefits of producing SEAs: it has produced three SEAs for Oil and Gas and intends to produce an SEA for Offshore Renewables. However, these SEAs are sectoral and do not highlight cumulative or in-combination effects that can help deliver more effective integrated planning and management of the marine environment. An SEA of a strategic Marine Spatial Plan would enable the assessment of cross-sectoral policies, for example targets for combating climate change and offshore renewables vs oil and gas exploitation. It would enable assessment of cumulative and in-combination effects. An SEA also enables the consideration of alternative policies, plans, sites, etc which is currently virtually impossible at the project stage.

Individual Environmental Impact Assessments and Appropriate Assessments will still be needed for individual projects. However, the costs to industry of Environmental Statements for projects will be much reduced because much of the data collection, mapping and scoping of a potential environmental assessment will already have been undertaken as part of the SEA of the Marine Spatial Plan. An increase in licence applications could reflect these cost cuts and help fund marine spatial planning.

#### **4.4 Marine Science and Mapping**

Maps are among the most useful tools available for strategic planning and management of the marine environment. The UK has a long tradition of map making and holds many of the best maps and mapping techniques in the world. There is much work that is already being undertaken that would inform a Marine Spatial Plan (and SEA) including CEFAS' mapping project of the North Sea for OSPAR, English Nature's work to map marine habitats and activities, the Crown Estate's WindBase, DTI's SEAs for oil and gas, JNCC's Marine Environmental Resource Mapping and Information Database (MERMAID), the marine components of the respective National Monuments Records and some local authority archaeological Sites and Monuments Records, the RMNC's Irish Sea Pilot and the Ordnance Survey and Admiralty chart mapping project. In fact, many of these initiatives replicate one another with Government paying repeatedly for the same data to be presented in different formats. What is missing is a national strategy to bring nationally significant information sources together in an accessible format, and likewise a plan where relevant information can be brought

together at the regional level. The Joint Links believe that marine spatial plans could provide the appropriate vehicles. This should utilise DEFRA's work to establish centres of excellence for data and mapping.

In addition to pulling existing data and mapping tools together, new surveys, data collection, habitat and species mapping and modelling will need to be undertaken for the Marine Spatial Plan to fill in gaps. Compared to land-use planning there are, perhaps, larger gaps in data and mapping that will need to be addressed, potentially through a more three-dimensional approach. While this will require initial investment from both government and industry, it will save all sectors money in the long term. In addition to modelling the potential impacts of developments and activities, existing and additional monitoring will need to be undertaken to assess the effects of activities using ecological, physical and chemical quality objectives.

## 5. Who would develop a Marine Spatial Plan?

### 5.1 Marine Agency

To be truly effective, a Marine Spatial Plan needs to be the responsibility of/prepared by a single or overarching plan making body. There is no clear regional body in the marine environment, as there is on land (eg regional planning bodies, regional chambers and regional assemblies) and therefore lead responsibility for preparing a regional marine spatial plan would need to be clearly established. The lead body would co-ordinate input from all other bodies with an interest in the plan, such as government departments, agencies, etc – in a similar way to local planning authorities on land.

Which body is most appropriate to become the plan maker is a subject for further debate and consultation.

One potential approach would be to establish marine planning agencies in each devolved country. Another approach might be to establish a single regional sea planning authority. Such an authority would need to include appropriate representatives from each devolved country where the regional sea crosses national boundaries, similar to the Irish Sea Pilot Steering Group. Lessons could be learnt from the National Park Authorities' joint strategic planning approaches. A third option might be to develop a Marine Department, which would have considerable value beyond the achievement of marine spatial planning. The Joint Links have not yet taken a view on which would be the most appropriate regional marine spatial planning body and we believe an examination of the pros and cons of the above, and other, options would be a fruitful product of the current DfT marine planning and consents review. The Marine Consents Environment Unit (MCEU) is likely to be given an extended remit, which Joint Links supports. However, it still urgently needs a spatial plan and context within which to take consent decisions.

It may not be necessary for existing competent authorities' roles to change significantly. However, the additional work that would need to be undertaken by the country conservation agencies would need to be funded and their remit extended. It is difficult to see how the UK will ensure effective nature conservation in the marine environment, or meet its obligations under European Union directives and international conventions, unless it invests in its established structures and agencies (or develops new ones) that reflect the size and unprecedented nature of the task of conserving the marine environment.

<p>“Action is required to address nature conservation in the marine environment. Retention of the <i>status quo</i> is not an option.” MNCR Interim Report, 2001</p>
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### 5.2 Stakeholder Involvement

Implementation of the plan would be the responsibility of all sectoral interests, not just the plan-making authority (as with terrestrial planning), and partnership working would therefore be essential in developing the plan. Full consultation of all competent authorities and government departments would be necessary, and consensus and stakeholder involvement would be essential in developing a Marine Spatial Plan. Determination of consents could still rest with individual consenting authorities, as they would be taking planned decisions that would promote the joined-up vision of the plan. There are, of course, merits in considering a joined-up approach to consenting, but it is the marine plan that is the essential element required for better decision-making in the marine environment.

## 6. Principles, Aims and Objectives

The core principles, aims and objectives of a Marine Planning System should mirror the Government's national policies for the marine environment as well as sectoral policies. They would also need to meet international obligations, but should include the following:

### 6.1 Principles

The principles of a Marine Planning System must be the same as the principles set out by Government to underpin policy for the marine environment, as detailed in the Marine Stewardship Report:

- **Sustainable Development**
- **Integrated spatial planning and management**
- **Conservation of biological diversity**
- **Robust science**
- **Precautionary principle**
- **Polluter and user pays principles**
- **Stakeholder involvement and inclusive decision making**

In addition:

- **Protection and management of the Underwater Cultural Heritage** (as recognised in paragraph 3.18 of the Marine Stewardship Report)

### 6.2 Aim or vision

The aim of a Marine Planning System should be based on sustainability and be in keeping with the government's vision in the Marine Stewardship Report – *“Our vision for the marine environment is clean, healthy, safe, productive and biologically diverse oceans and seas. Within one generation we want to have made a real difference.”*

### 6.3 Objectives

There should be one over-riding ends objective such as:

- **Sustainable planning** – marine planning should have a statutory purpose to promote sustainable use – repeating the current Government commitment to a statutory purpose for terrestrial planning based on sustainability. In addition, a **duty of care** for the marine environment should be placed on all decision-makers.

#### **Sustainable Planning:**

**In respect of land use planning the Government has recently committed itself to provide a statutory purpose for planning based on sustainability.** On 18 March 2002, the (then) Planning Minister Lord Falconer of Thoroton said *“I want to announce today that I intend to put sustainability at the heart of the planning system. I want planning to promote environmental quality, sustainable economic development and social inclusion... So I intend in our planning legislation to set out a statutory purpose for planning... I am not going to prejudge what it might be but I have in mind something that would clearly reflect the objective of planning to promote sustainable development”*.

On 18 July, in his announcement on *Sustainable Communities: Delivering through planning*, the Deputy Prime Minister confirmed that *“we propose to include a statutory purpose for planning in any proposals for legislation that are brought forward, subject to ensuring that this is done in a way that does not create additional complications for the way the system works”*.

And potential process objectives such as:

- To establish a marine planning system that provides improved understanding and protection for the marine environment using the ecosystem approach and a co-ordinated consents procedure.
- To plan ahead in the marine and coastal environment for present and future development and sustainable use of marine resources, while protecting and conserving our marine wildlife and habitats and underwater cultural heritage.

Other ends and process objectives or actions will also need to be developed. These must be in keeping with national and international commitments and should have an overall aim of reducing the decline in biodiversity. Examples of these objectives include:

- **Provide integrated/‘joined-up’ thinking** – bringing together and integrating various sectors and issues in one plan, so that conflicts are avoided and synergies optimised.
- **Long term and forward looking** – vision and direction is currently lacking in marine ‘planning’, which tends to deal with current developments and trends or, at best, the very near future.
- **Plan-led** – it should be the plan that establishes whether a development is acceptable or not in principle.
- Provide **spatial** context – plans should cover large geographical areas, include all of the sea to extreme high water mark, and zone areas for use and development, plus those to be avoided (see below). It should be carried out in a 3D interactive GIS which is widely available to all stakeholders and interested parties.
- Provide the opportunity to plan the marine environment, its biodiversity and resources in a **strategic manner** for the good of the nation and our future biodiversity.
- Map both **opportunities** for and **constraints** on development – a marine spatial plan should help developers to target areas where development *is* acceptable and desirable, and conversely avoid areas where development could result in problems, such as adverse environmental impacts, or conflicts with other incompatible developments or uses.
- Be subject to **clear national policy statements** (for development in coastal and marine waters) that set out principles for subsequent marine plans.
- Promote **resource efficiency** - planning should promote resource efficient development, *ie* ‘making more with less’.
- Promote **participation** and **conflict resolution** – marine planning should be participative and strive for consensus wherever possible.
- **Protect marine biotopes and underwater cultural heritage.**
- Be based on proper assessment of the **environmental capacity** of the marine environment to accommodate development. This may require enhanced **environmental information**.
- Be subject to **Strategic Environmental Assessment** (SEA).
- **Avoid ‘balance’ and compromise** - instead seeking solutions that genuinely contribute towards sustainable development.
- Have an **equitable balance** between the pressures and power of large business and the needs and preferences of local communities and the environment.
- **Restore** as well as protect and conserve the marine environment.
- Establish appropriate **sustainability indicators** including ecological quality indicators.
- These indicators would be the basis for **Monitoring and Review**.

## CONCLUSION

**We believe that strategic marine spatial planning based on natural ecosystem boundaries is essential, to begin to halt the decline in marine biodiversity, to protect our underwater cultural heritage and to promote and plan for sustainable development and use in the marine environment.**

**The Joint Links therefore call upon the Government to promote and develop a system of strategic Marine Spatial Planning as a product of the current DfT review. It should consider using the legislative opportunity presented by the proposed (terrestrial) Planning Bill to provide powers to create such a system, or identify how such a system will be established now.**

This paper has been prepared by the four country 'Links' - Wildlife and Countryside Link, Wales Environment Link, Scottish Environment LINK and Northern Ireland Environment Link. It is supported by the following organisations:

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