

**NWIFCA Technical, Science and Byelaw
Sub-Committee**

1 November 2013: 10:00am

**Report
Number**

5

LUNE DEEP EUROPEAN MARINE SITE – REPORT ON PROGRESS AND REVISED BYELAW

Aim of the report: To report further work in relation to the Lune Deep site and present a byelaw solution for agreement

Recommendation: That the proposed closed area and sunset clause amendment to Byelaw 6 is agreed and presented to Defra and MMO for approval

Background

The current NWIFCA Byelaw 6: Protection of European Marine Site Features does not include the reef feature in the Lune Deep SAC identified as red risk by the EMS project. This exclusion was decided upon at the 16 August 2013 TSB meeting and confirmed at the subsequent Authority meeting on 20 September.

This feature was omitted as, like other features in this byelaw, bottom towed fishing activity does not happen on the feature or pose any risk to the feature. However, unlike other features in the byelaw, fishing does occur close to the feature in the sandy bottom of Lune Deep. The nature of the tides in Lune Deep means that in order to place and tow fishing gear on the sand the vessel would often be directly above the reef and therefore within a closed area set around the reef feature. As the reef feature is not at risk of damage by the fishing activity (contact between reef and the light trawl gear used would be unsafe and result at the very least in damage to gear) and a closed area would prohibit legitimate fishing activity, this area was not included in the byelaw but referred back for further consideration.

The issues with this particular feature were highlighted to Natural England, MMO, Defra and the EMS project working group on a number of occasions over the summer 2013 period but no solutions were forthcoming. Following the TSB decision on 16 August, the site was reported to the EMS Project Board as an exception and discussed at a Project Board meeting on 20 September.

The byelaw was made by the Authority also on 20 September. Informal verbal feedback from the Project Board is unclear but suggested that failure to protect the Lune Deep reef feature may lead to questions over the NWIFCA meeting its duty to protect EMS features from damaging fishing activity. A formal report and instruction from the Project Board is awaited.

The NWIFCA has a copy of an MCS, Client Earth and Wildlife Trusts letter to Defra which includes criticism of NWIFCA for omitting the Lune Deep reef feature from the EMS byelaw but does not address the issues posed by the site.

Further work

Officers have been investigating alternative solutions to the issues highlighted above.

- Technology to track the position of fishing gear on the seabed (as opposed to the vessel) does not seem to exist, particularly within a reasonable budget.
- The buffer zone for the feature has been revised to more closely match the changing depth of the feature. This has allowed the closed area to be reduced in some places but would still preclude current fishing activity.

- Study and collection of further data on historical and current fishing activity on the site has been on going and may offer an acceptable solution allowing both protection of the reef from future changes to fishing activity and current fishing on the sandy bottom.

Further information on current fishing activity

Science Officers met with the single fisherman who regularly fishes the area: Mr Gary Mitchinson of Fleetwood to gather more information about how this area is fished and how a closed area would affect his interests.

The meeting with Mr Mitchinson revealed that his vessel only enters the proposed closed area (at the sea surface) when his fishing gear is fishing in the deep sandy hole (~65m) to the south west of the feature. The gear used is light otter trawl gear with small trawls doors of area approximately 1.5 x 1 m. Fishing in this area safely and productively requires specialised local expertise in winds, tides and timing the shooting and hauling of the gear so that it avoids contact with rocky ground. The only fisherman left who has these skills is Mr Mitchinson and it is unlikely that anyone else will express an interest in learning how to fish the area; mainly due to the demise of the Fleetwood fishing fleet. The area provides a significant proportion of the income of Mr Mitchinson.

Proposed amendment to the closed area byelaw

Officers propose the following course of action to ensure fulfilment of our duties in regard to the protection of EMS features from damaging fishing activity and also to allow an undamaging and legitimate activity to continue.

A closed area protecting the Lune Deep reef feature as proposed prohibiting all towed gear would significantly affect only a single fisherman. A 'sunset clause' could be included in this particular closure so that existing vessels could continue to fish the area as long as they remained under the existing beneficial ownership. This would allow Mr Mitchinson alone to continue to fish in the area.

A draft Lune Deep closed area to be added to Byelaw 6 with amendments to the text including a sunset clause is attached at Annex A.

Impact Assessment

The regulation 35 package for Lune Deep published by Natural England in 2012 concludes that current fishing activity on the site is so low that that the site is under 'low vulnerability of damage' from fishing activity.

A Habitats Regulations Assessment (HRA) specifically for this one vessel, using light otter trawl gear, fishing for a few days a year is being completed. Although a conclusion of No Likely Significant Effect could not be arrived at due to the very occasional possibility of accidental gear contact with rocky ground at the bottom of the reef an Appropriate Assessment will assess the type and scale of possible impacts in more detail. Officers consider that this Appropriate Assessment should be sufficient to allay concerns of other parties and be sufficient to allow Mr Mitchinson to continue fishing.

Next steps

Natural England will be approached for comments on this assessment which may be received by the date of the meeting. The amended byelaw will be sent to MMO for approval.

Subject to comments received, the byelaw will be remade at the December meeting of the NWIFCA.

**A Leadbeater and S Atkins
October 2013**